



An
Bord
Pleanála

Inspector's Report ABP-309498-21

Development

The demolition of existing derelict house on site, the construction of a new apartment complex consisting of 22 No. two-bedroom apartments over ancillary car parking at basement level, the provision of a new vehicular entrance, bin storage, bike storage, new connections to public services together with all ancillary site works.

Location

Nos. 51 & 53 The Faythe, Townparks, Wexford Urban, Co. Wexford.

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20201418

Applicant(s)

LHM Properties Holdings Ltd.

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party v. Decision

Appellant(s)

LHM Properties Holdings Ltd.

Observer(s)

The Faythe Residents

Date of Site Inspection

23rd July, 2021

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located at Nos. 51 & 53 The Faythe, Townparks, Wexford Urban, Co. Wexford, in a well-established and predominantly residential neighbourhood situated within the south-eastern quarter of Wexford town centre. The surrounding area is typically characterised by traditional, two-storey, terraced housing interspersed with a number of commercial uses, including public houses, a 'Bed & Breakfast', a fast food / takeaway outlet, and several small shop / retail units, although the northernmost end of The Faythe (alongside its characteristic green area) includes a well-composed group of three-storey period properties as well as two examples of four-storey industrial buildings / warehouses which have been converted into apartment accommodation ('The Maltings' and 'The Malthouse').
- 1.2. The site itself has a stated site area of 0.2829 hectares, is irregularly shaped, and comprises an infill site which extends north-eastwards to the rear of existing housing from an approximately 10.5m wide gap in the streetscape. It is presently occupied by a derelict two-storey dwelling house and an overgrown garden area. The site perimeter is generally defined by a combination of neighbouring buildings and assorted walling with some planting. To the immediate northwest and southeast, the site adjoins existing housing and a number of rear garden areas. The north-eastern boundary abuts a steep embankment which falls away from the site towards terraced housing at Seaview Avenue & Trinity Place to the northeast with Trinity Street beyond. The remaining roadside (south-western) boundary opens directly onto The Faythe and is framed by existing housing on both sides.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
- The demolition of the existing derelict dwelling house.
 - The construction of 2 No. apartment blocks extending up to three storeys over basement level and comprising a total of 22 No. two-bedroom apartments with ancillary car parking.
 - The provision of a new vehicular & pedestrian entrance onto The Faythe with a signal-controlled ramp to an underground car park.

- Associated site development works, including the provision of 28 No. car parking spaces, bicycle parking, bin storage, landscaping, boundary treatment, and connection to mains services.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 27th January, 2021 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:

- The proposed development would result in direct overlooking of the private open space of dwellings to the northwest and southeast of the site. Consequently, this would result in an invasion of privacy of the occupants of these dwellings and would be contrary to the proper planning and development of the area.
- A site analysis / design statement fails to identify and incorporate significant features on the site that could be incorporated into the overall design solution for the site. This fails to take account of the design guidance under Section 11.08.05 of the Wexford Town & Environs Development Plan, 2009-2015 (extended) and, therefore, would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports:*

States that the principle of higher density residential development (78 No. units per hectare) on 'Town Centre' lands is acceptable and that the proximity of the site to existing public transport corridors also presents an opportunity for car-free development, subject to adherence to certain safeguards e.g. compliance with the relevant public & private open space standards, the avoidance of any undue impact on the amenity of neighbouring property, and adherence to good internal space standards. Reference is made to the contemporary design proposed and while it is acknowledged that the two / three storey height of the construction will be greater than existing properties in The Faythe, the additional floor level on both blocks is

thought to be well considered to the rear of the site. Although the overall height of the proposal is not deemed problematic, concerns are raised that a number of the first and second floor windows in both the apartment blocks will directly overlook the rear gardens / private open space of neighbouring dwellings thereby resulting in a loss of privacy and residential amenity. With respect to the broader site layout and open space considerations, the report notes the presence of 2 No. mature trees along the south-eastern site boundary which were not considered as part of the site analysis and thus do not form part of the landscaping plan. It is subsequently stated that the incorporation of these features into the design of the scheme would significantly add to its character. The report concludes by recommending a refusal of permission for the reasons stated.

3.2.2. *Other Technical Reports:*

Housing: Confirms that there is an 'agreement in principle' for the transfer of 2 No. units to Wexford County Council with a view to satisfying the developer's Part V obligations.

Disability Access Officer: States that the Access Officer has been unable to assess the planning referral.

County Fire Service: Recommends that the applicant be advised of the requirement to obtain a Fire Safety Certificate in respect of the development and that no works should be carried out unless a certificate has been granted.

Borough District for Wexford Office: No objection, subject to conditions.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

- 3.4.1. A total of 2 No. submissions were received from interested third parties and the principal grounds of objection / areas of concern raised therein can be summarised as follows:

- There have been multiple planning applications lodged on site, the majority of which were refused permission, and inadequate cognisance has been taken of the historical precedent set by the planning history of the lands.

- The inappropriateness of the overall design, scale and density of the proposal having regard to the planning history of the site.
- The proposal is not in keeping with the vernacular architecture of the area and will detract from the existing streetscape.
- Detrimental impact on the residential amenity of neighbouring properties by reason of its excessive scale / height, visual impact / domineering appearance, proximity, overshadowing, loss of sunlight / daylight, and disruption / disturbance during construction works.
- The potential for damage to neighbouring properties due to the excavation & construction works.
- The overall design response to this infill site is inappropriate and will detract from the residential amenity of neighbouring properties.
- The location of this brownfield site does not lend itself to the type of infill development proposed due to the complex and confined nature of the building pattern to the rear of a well-established and historical street.
- The proposal constitutes an overdevelopment of the site which will adversely impact on the character and community of The Faythe.
- Concerns as regards the security of neighbouring properties, the potential for anti-social behaviour & trespass, and a lack of surveillance.
- The Traffic & Transport Assessment does not provide for an accurate reflection of peak traffic conditions (noting that the survey was carried out mid-week and at the start of the COVID-19 lockdown).
- The exacerbation of existing traffic congestion, speeding and parking difficulties in the area.
- The TTA does not allow for a statistically meaningful analysis of the traffic impact of the development.
- Traffic safety concerns as regards the siting of the proposed entrance arrangement at a point where the public road narrows, traffic converges, and sightlines are obstructed by roadside parking.

- A lack of consultation with local residents as regards the development proposal.

4.0 Planning History

4.1. On Site:

- 4.1.1. PA Ref. No. 20200604. Application by LHM Properties Holdings Ltd. for permission for the demolition of the existing derelict house on site; the construction of a new apartment complex consisting of 24 no. two-bedroom apartments over ancillary carparking at basement level; the provision of new vehicular entrance, bin storage, bike storage, new connections to public services together with all ancillary site works. This application was withdrawn.
- 4.1.2. PA Ref. No. W2010029. Application by Martin Sinnott for permission to erect 8 no. two-storey dwellings with associated site development works, provision of car parking and connection to existing public services in place of 6 no. dwellings previously granted under planning register no. W2008056. This application was declared withdrawn.
- 4.1.3. PA Ref. No. W2009113. Was refused on 21st October, 2009 refusing Martin Sinnott permission to erect 8 no. two-storey dwellings with associated site development works, provision of car parking and connection to existing public services in place of 6 no. dwellings previously granted under planning register no. W2008056.
 - Having regard to the appearance and density of the proposed development, the inappropriate and inadequate public and private open space, some of the parking arrangements, and the over dominant height and associated mass of the terrace on this confined space; the proposed development would represent an overdevelopment of the site which would injure the amenities of the area. Furthermore, the proposed development would establish a precedent for further similar inappropriate developments in the area which would have significantly detrimental cumulative impacts. As such the proposed development would be contrary to the proper planning and sustainable development of the area.

4.1.4. PA Ref. No. W2008252. Was refused on 24th February, 2009 refusing Martin Sinnott permission to erect 9 no. two-storey dwellings with associated site development works, provision of car parking and connection to existing public services in place of 6 no. dwellings previously granted under planning register no. W2008056.

- Having regard to the appearance and density of the proposed development, the inappropriate and inadequate public and private open space and parking arrangements, and the over dominant height and associated mass of the terrace on this confined space; the proposed development would represent an overdevelopment of the site which would injure the amenities of the area. Furthermore, the proposed development would establish a precedent for further similar inappropriate developments in the area which would have significantly detrimental cumulative impacts. As such the proposed development would be contrary to the proper planning and sustainable development of the area.

4.1.5. PA Ref. No. W2008056. Was granted on 21st May, 2008 permitting Martin Sinnott permission to erect 6 no. two-storey dwellings with associated site development works, provision of car parking, and connection to existing public services.

4.1.6. PA Ref. No. W2007031. Was refused on 16th May, 2007 refusing Martin Sinnott permission to erect 9 no. apartments with associated site development works, provision of car parking, and connection to existing public services.

4.1.7. PA Ref. No. W2006079. Was granted on 28th March, 2007 permitting Martin Sinnott permission for the following: 1. To erect a 2-storey extension to the side of the existing dwelling, to erect a first floor extension to the rear of the existing dwelling. Make alterations to and change the use of the existing dwelling from living accommodation to Medical Centre. 2. To demolish the existing habitable dwelling and erect a 2-storey building consisting of a pharmacy with first floor ancillary areas. 3. Provision of on site car parking, upgrading of existing vehicular entrance and connection to existing public services.

4.1.8. PA Ref. No. W0006106. Was refused on 10th October, 2005 refusing Martin Sinnott permission to demolish an existing detached dwelling and erect 8 no. 2-storey terraced dwellings and 8 no. 3-storey terraced dwellings with connection to existing public services

PA Ref. No. W0006105. Was refused on 10th October, 2005 permitting Martin Sinnott permission to demolish an existing dwelling and erect a ground floor retail unit with first floor living accommodation with connection to existing public services.

4.1.9. *Derelict Sites Register:*

PA Ref. No. DER 2015/025 - The property in question has been entered on the Derelict Sites Register.

4.2. *Other Relevant Files:*

PA Ref. No. 20190664. Was granted on 10th July, 2019 permitting Thorgrove Developments Ltd. permission for the demolition of 2 No. existing dwelling houses and ancillary buildings on site and the construction of 7 No. units (2 x studio, 3 x two-bed & 2 x three-bed), together with all ancillary site works and connection to existing public services at No. 25 / 25A The Faythe, Wexford.

5.0 Policy and Context

5.1. National

5.1.1. Project Ireland 2040: National Planning Framework, 2018:

The National Planning Framework (NPF) is a long-term strategic planning framework intended to shape the future growth and development of Ireland out to the year 2040, a key objective of which is the move away from unsustainable “business as usual” development patterns and towards a more compact and sustainable model of urban development. It provides for a major new policy emphasis on renewing and developing existing settlements, rather than the continual expansion and sprawl of cities and towns out into the countryside at the expense of town centres and smaller villages. In this regard, it seeks to achieve compact urban growth by setting a target for at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.

A number of key ‘National Policy Objectives’ are as follows

- NPO 1(b): Southern Region: 340,000 - 380,000 additional people, i.e. a population of almost 2 million.

- NPO 3(a): Deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements.
- NPO 3(c): Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.
- NPO 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- NPO 9: In each Regional Assembly area, settlements not identified in Policy 2a or 2b of this Framework, may be identified for significant (i.e. 30% or more above 2016 population levels) rates of population growth at regional and local planning stages, provided this is subject to:
 - Agreement (regional assembly, metropolitan area and/or local authority as appropriate);
 - Balance with strategies for other urban and rural areas (regional assembly, metropolitan area and/or local authority as appropriate), which means that the totality of planned population growth has to be in line with the overall growth target.; and
 - A co-ordinated strategy that ensures alignment with investment in infrastructure and the provision of employment, together with supporting amenities and services
- NPO 13: 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.
- NPO 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling

accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2. Housing for All - A New Housing Plan for Ireland, 2021:

This a multi-annual, multi-billion euro plan to 2030 which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs (with Ireland needing an average of 33,000 No. homes to be constructed per annum until 2030 to meet the targets set out for additional households outlined in the NPF). The Plan itself is underpinned by four pathways:

1. Pathway to supporting homeownership and increasing affordability;
2. Pathway to eradicating homelessness, increasing social housing delivery and supporting inclusion;
3. Pathway to increasing new housing supply; and
4. Pathway to addressing vacancy and efficient use of existing stock.

5.1.3. Section 28 Ministerial Guidelines:

The following list of Section 28 Ministerial Guidelines are of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate:

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2020)

- Urban Development and Building Height, Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (December, 2013) (as updated) (including Interim Advice note Covid-19 May, 2020)
- Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities (2009).
- Architectural Heritage Protection, Guidelines for Planning Authorities (2011).

5.2. Regional

Regional Spatial and Economic Strategy (RSES) for the Southern Region, 2020:

The following Regional Policy Objectives (in part) are of note:

RPO 11: Key Towns:

- a) Local Authorities are supported in targeting growth of more than 30% for each Key Town subject to capacity analysis and sustainable criteria under Section 3.3 A Tailored Approach, RPO 3 Local Authority Core Strategies and the sustainable requirements under the following sub sections of RPO 11 Key Towns. The appropriate level of growth is to be determined by the Core Strategy of Development Plans.

RPO 16: Wexford:

- a) To strengthen the role of Wexford as a strategic location, a self-sustaining regional economic driver and Key Town on the Eastern Corridor. The RSES seeks to leverage its strategic location and accessibility to Rosslare Europort and to build upon its inherent strengths including digital connectivity, skills, innovation and enterprise, tourism, culture and retail services.

RPO 32: Rebuilding Ireland:

To support Government policy and targets of the Housing Agency under “Rebuilding Ireland: Action Plan for Housing and Homelessness” and local authority actions that contribute to progress under the key

pillars of addressing homelessness, accelerating social housing, building more homes, improving the rental sector and utilizing the existing building stock within our Region

RPO 34: *Regeneration, Brownfield and Infill Development:*

In pursuit of the NPF's NPO 3a, 3b & 3c, the Development Plan Core Strategy should be accompanied by specific objectives setting out the achievement of urban infill/brownfield development. Requirements for brownfield site remediation shall consider (incl):

- Seeking initiatives that enable site assembly for regeneration and initiatives that promote regeneration of brownfield lands over greenfield lands across all tiers of urban settlements including smaller towns and rural villages.

RPO 35: *Support for Compact Growth:*

- a) Local Authorities, through Development Plan and Local Area Plan policies, shall identify rejuvenation priorities within our Region's settlements which demonstrate achievement of National Strategic Outcome: Compact Growth;
- c) Development Plans shall set out a transitional minimum requirement to deliver at least 30% of all new homes that are targeted in settlements other than the cities and suburbs, within their existing built-up footprints in accordance with NPF National Policy Objective 3c. This will be evidence based on availability and deliverability of lands within the existing built-up footprints.

5.3. Development Plan

5.3.1. *Wexford County Development Plan, 2022-2028:*

Volume 1: Written Statement:

Chapter 3: Core Strategy:

Section 3.5: Core Strategy Settlement Hierarchy:

Table 3-2: County Wexford Settlement Hierarchy: Level 1 Key Town: Wexford Town

Section 3.6.1: *Level 1 Key Towns: Wexford Town: Development Approach:*

In order to fulfil its designation as a Key Town in the RSES and in line with RPO 11 and RPO 16, the Council will:

- 6) Prioritise the development of brownfield and infill sites in the town centre and close to public transport corridors, and ensure the efficient use of those central sites, achieving compact growth, commercial redevelopment, and higher residential densities, while also ensuring attractive and high-quality living environments.

Section 3.7: *Allocation of Population to the Settlement Hierarchy:*

Section 3.7.2: *Achieving NPF Brownfield/Infill Targets*

Core Strategy and Settlement Strategy Objectives:

- CS02: To ensure that new residential development in all settlements complies with the population and housing allocation targets and the principles set out in the Core Strategy and Settlement Development Strategy, in so far as practicable.
- CS04: To achieve more compact growth by promoting the development of infill and brownfield/ regeneration sites and the redevelopment of underutilised land within the existing built up footprint of existing settlements in preference to greenfield lands and to identify infill, brownfield and regeneration sites when preparing Local Area Plans, Settlement Plans and settlement boundaries.
- CS05: To ensure that at least 30% of all new homes that are targeted in settlements are delivered within the existing built-up footprint of the settlement.
- CS15: To prepare new local area plans for Wexford Town, Enniscorthy Town and New Ross Town and to ensure all future local area plans are prepared in accordance with the relevant aspects of the Development Plan Guidelines for Planning Authorities (2007), the Local Area Plan Guidelines for the Planning Authorities (2012) and all other relevant Section 28 Guidelines or any updated version of these guidelines.

CS19: To ensure the Key Towns of Wexford Town and Gorey Town continue to be drivers of economic growth and prosperity for the region, the county and their Municipal Districts by maximising their strategic location advantages to attract employment and population growth, developing their services and functions and protecting and enhancing their town centres, public realm and heritage and environmental quality making the towns high quality sustainable places to work, live and visit.

Wexford Town Strategic Objectives:

WT01: To strengthen the role of Wexford Town as a self-sustaining regional economic driver located on the Eastern Economic Corridor by leveraging this strategic location and accessibility to Rosslare Europort and building upon its inherent strengths including digital connectivity, skills, innovation and enterprise, tourism, culture and retail services.

WT05: To develop industrial, commercial, infrastructure and residential development in Wexford Town to support the port function at Rosslare Europort.

Chapter 4: Sustainable Housing:

Section 4.4: Sustainable Housing Strategy

Strategic Housing Objectives (incl.):

SH01: To ensure that new residential developments contribute to and represent sustainable neighbourhoods which are inclusive and responsive to the physical or cultural needs of those who use them, are well-located relative to the social, community, commercial and administrative services and are integrated with the community within which they will be located.

SH02: To ensure that all new residential developments provide a high quality living environment with attractive and efficient buildings which are located in a high quality public realm, are serviced and linked with pedestrian and cycle lanes to well-designed and located open spaces and nature and to the town or village centre and existing and planned services.

Section 4.6: *Locations for Future Housing:*

With regard to apartments, this type of development will generally be acceptable in town centres, at appropriate scales. Small apartment schemes may be considered in village centres and the scale will depend on the characteristics and size of the village. Locations for apartments will be assessed in accordance with The Sustainable Urban Housing - Apartment Guidelines (2020) and Chapter 6 of the Sustainable Residential Development in Urban Areas Guidelines in Villages and Towns with a population of 400 to 5000. However, in the Small Villages (Level 5 Settlement Hierarchy), the provision of apartments will be restricted to the conversion of an existing building e.g. the use of the first floor over a shop or hairdressers for an apartment.

SH06: To prioritise the provision of new housing in existing settlements and at an appropriate scale and density relative to the location in accordance with the National Planning Framework, the Regional Spatial and Economic Strategy for the Southern Region and the Core Strategy and the Settlement Strategy in the Plan.

SH08: To ensure that at least 30% of all new homes targeted to settlements are delivered within the existing built-up footprint of those settlements.

Section 4.7.2: *Housing Land Management:*

Section 4.7.2.1: *Density of Residential Developments:*

High-quality design is fundamental in creating sustainable residential neighbourhoods. Density is one of a number of key measures which helps to achieve this objective and it is also a measure to promote compact growth in towns and large villages. In order to maximise the use of public infrastructure, reduce travel, reduce energy consumption minimum density standards are recommended in the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009). Table 4.5 outlines the density requirements for settlements with populations above 5,000 persons and villages and towns which have populations between 400 and 5,000 persons.

Section 4.7.5: *House Types: Apartments:*

All apartment developments in the county, where private or public, must comply with the new Apartments Guidelines. The Guidelines include nine SPPRs which must be complied with, and these have been incorporated where relevant into the Plan. The Guidelines also introduced two new concepts - 'Build to Rent' apartments and 'Shared Accommodation/Co-Living'.

Unit Mix in Apartment Developments:

Having regard to SPPR 1 in the Apartment Guidelines, the following standard shall be complied with in either an apartment only scheme or mixed residential schemes including both houses and apartments:

- 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 required for apartments with three or more bedrooms. Compliance with SPPR 1 of the Apartment Guidelines takes precedence over compliance with any other house mix standard in this Plan, save for the requirements relating to compliance with SPPR 2 in the Guidelines.

Building Refurbishment Schemes:

In line with SPPR 2 of the Apartment Guidelines, for all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha, the following standard shall be complied with:

- Where up to nine residential units are proposed, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units;
- Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first nine units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential unit to the 49th;
- For schemes of 50 or more units, SPPR 1 in the Apartment Guidelines shall apply to the entire development.

Compliance with SPPR 2 of the Apartment Guidelines takes precedence over compliance with any other house mix standard in this Plan, save for the requirements to comply with SPPR 1 of the Guidelines.

Future Housing Delivery Objectives (incl.):

- SH15:** To ensure the density of residential development is appropriate to the location of the proposed development having regard to the benefits of ensuring that land is efficiently used and in accordance with the Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual-A Best Practice Guide (DEHLG, 2009) and subject to compliance with normal planning and environmental criteria and the development management standards in Volume 2.
- SH16:** To require new apartment developments to comply with the Specific Planning Policy Requirements and standards set out in out in the Apartment Guidelines for Planning Authorities (Department of Housing, Environment and Local Government, 2020), where relevant. Proposals for apartment block developments in excess of 50 units will also be assessed having regard to the nature of existing developments in the area, existing and planned social facilities and the need to ensure that apartment developments contribute to the development of sustainable communities into the future. Generally, where the site permits it, each apartment should have its own door access to the external street/external communal access area.
- SH17:** To require new residential schemes to comply with the Urban Development and Building Height Guidelines for Planning Authorities (Department of Housing, Planning and Local Government) 2018 and the Specific Planning Policy Requirements set out therein where relevant and the considerations set out in Chapter 5 Design and Place-making in Towns and Villages.
- SH21:** To require new build house and apartment schemes and building refurbishment schemes to provide a mix of unit types in accordance with Section 4.7.5 House Types to ensure that there is a range of

house types available to suit the needs of the various households in the county.

Chapter 5: Design and Place-making in Towns and Villages:

Section 5.10.1: Infill, Brownfield and Greenfield Development

Section 5.10.6: Building Heights and Density

Compact Growth Objectives (incl.):

- TV33:* To pursue a compact growth policy in our existing settlements and maximise their potential as places to live, work and visit.
- TV41:* To identify infill and brownfield sites and provide details of the expected density, height and housing yield when preparing future local area plans and settlement plans.
- TV43:* To adopt a presumption in favour of the development of infill and brownfield sites and to apply flexibility in the application of development management standards allowing for the achievement of performance standards for issues such as the protection of adjoining residential amenities, privacy, light and amenity.
- TV44:* To ensure the scale of infill development reflects the location of the site and the characteristics of the settlement. The Council will consider the scale of infill development having regard to the need to make efficient use of centrally located sites and the prevailing scale in the area. The Council will encourage development which intensifies the use of the land to at minimum the intensity of adjoining uses but optimally, subject to the appropriate protection of amenities of adjoining residences to a higher intensity.

Volume 2: Development Management Manual

Section 2: Common Principles for All Developments

Section 3: Residential Developments:

Section 3.12: Multi-Unit Residential Schemes in Towns and Villages

Section 6: Transport and Mobility:

Section 6.3: *Car Parking*

5.3.2. ***Wexford Town & Environs Development Plan, 2009-2015:***

Pursuant to the provisions of Part 8 of the Electoral, Local Government and Planning and Development Act, 2013, the lifetime of the Wexford Town and Environs Development Plan, 2009-2015 has been extended and, therefore, the Plan will continue to have effect until 2019, or such time as a new County Development Plan is made. It should be read together with the Wexford County Development Plan, 2013-2019.

Land Use Zoning:

The proposed development site is located in an area zoned as ‘*Town Centre*’ with the stated land use zoning objective ‘*To protect and enhance the special physical and social character of the existing Town Centre and to provide for new and improved Town Centre facilities and uses*’.

In accordance with the Zoning Matrix Table included with Map No. 21: ‘*Master Plan Zones*’ it can be confirmed that ‘*residential*’ is ‘*Permitted in Principle*’ within this land use zoning.

Explanatory Note:

The purpose of this zone is to protect and enhance the special character of Wexford Town Centre and to provide for and improve retailing, commercial, office, cultural and other uses appropriate to the Town Centre which complement its historic setting. It will be the objective of the Council to encourage the full use of buildings and backlands especially the full use of upper floors, preferably for residential purposes, Certain uses are best located away from the principal shopping streets because of their extensive character and their need for large-scale building forms and space requirements.

Other Relevant Sections / Policies:

Chapter 3: Development Strategy:

Section 3.4: Masterplan Zones

The proposed development site is located within ‘*Zone 13B: Town Centre*’.

Chapter 5: Housing Strategy

Chapter 10: Design Guidance:

Chapter 11: Development Management Standards

Section 11.07: Sustainable Urban Design Guidelines

Section 11.08: Residential Development

Section 11.08.13: Apartments

5.4. Natural Heritage Designations

5.4.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 200m north-northeast of the site.
- The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 260m east of the site.
- The Wexford Slobbs and Harbour Proposed Natural Heritage Area (Site Code: 000712), approximately 315m east of the site.

5.5. EIA Screening

5.5.1. An Environmental Impact Assessment Screening Report was not submitted with the application.

5.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations, 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use).

5.5.3. It is proposed to demolish an existing derelict dwelling house and to construct 2 No. two / three storey apartment blocks comprising a total 22 No. two-bedroom

apartments over basement level car parking, all at Nos. 51 & 53 The Faythe, Townparks, Wexford Urban, Co. Wexford. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.2829 hectares and is located within an existing built-up area but not in a business district. The site area is therefore well below the applicable threshold of 10 hectares. The site is located in a predominantly residential area on the south-eastern fringe of Wexford Town Centre. It is presently occupied by a derelict dwelling house. The introduction of infill residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as discussed later in this report) and there is no hydrological connection present such as would give rise to significant impacts on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing 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 Wexford County Council, upon which its effects would be marginal.

5.5.4. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations, 2001 (as amended),
- The location of the site on serviced lands that are zoned as 'Town Centre' where residential development is permitted in principle under the provisions of the Wexford Town & Environs Development Plan, 2009-2015 (as extended) and the Wexford County Development Plan, 2022-2028, and the results of the strategic environmental assessments of the Wexford Town & Environs Development Plan, 2009-2015 (as extended) and the Wexford County Development Plan, 2022-2028 undertaken in accordance with the SEA Directive (2001/42/EC),

- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations, 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

- Other than in the most isolated locations, few households can claim not to be overlooked to some degree. Even in a suburban context, the rear gardens of properties are typically overlooked from the first floors of neighbouring houses.

In an urban environment, those private areas closer to a dwelling house are generally prioritised in terms of the need to avoid being overlooked. The overlooking of gardens may be considered unacceptable where it would result in an intrusive, direct and uninterrupted view from a main room to the most private area of the garden which serves as the main sitting out / patio area adjacent to the property. In general, this is the 3-4m of rear garden closest to the house which is not already overlooked by neighbouring property at first

floor level. The subject proposal has been designed to ensure that there is no overlooking of such spaces.

- The potential for overlooking from the proposed development has been minimised in a number of ways:
 - Balconies and windows that serve living areas have been orientated to face onto the site where necessary rather than outwards towards neighbouring properties.
 - A minimum separation distance of 22m has been provided between opposing windows.
 - The screening of windows where necessary to prevent overlooking where the separation distance is less than 22m.
- It is a requirement of the Development Plan that a minimum separation distance of 22m be provided between windows serving habitable rooms above ground floor level.
- Detailed guidance is not presently available in Ireland as to what is reasonable in terms of overlooking within urban areas and, therefore, the proposed development has been assessed against UK guidance which is the most relevant available in terms of the legal system (common law) and social & economic sensibilities. This UK guidance (incl. Planning Policy Statement PPS7) has been sourced from the Department of Infrastructure and is supplemented further by advice obtained from a number of individual councils. It ties in well with the primary metric used for suburban housing in Ireland i.e. a separation of 22m between opposing first floor windows.

In assessing a proposed development against the aforementioned guidance, it is necessary to define what is meant by 'Primary Sector' and 'Secondary Sector' and in this regard the Board is referred to the accompanying Drg. No. FFA-19023-P-02.1 Rev. A: '*Schematic Site Layout*' provided with the grounds of appeal.

- The rationale for the decision to refuse permission would appear to eliminate the possibility of redeveloping any urban infill / backland site given the

Council's desire to eliminate the overlooking of any part of a neighbouring property.

- With respect to the second reason for refusal, the Board is requested to impose a planning condition requiring the two mature trees in the south-eastern corner of the site to be retained as part of the proposed development (please refer to Drg. No. FFA-19023-P-02.2 Rev. A: '*Existing Site Survey & Proposed Landscaping Plan - Revised for An Bord Pleanala Submission*' as provided with the grounds of appeal).
- The subject proposal is an appropriate design response to this urban infill site which will provide for additional housing units.
- The submitted design prevents any excessive or unacceptable overlooking of neighbouring housing.
- The applicant is amenable to the imposition of a condition requiring the stairwell fenestration to be glazed in opaque glass so as to further reduce the potential for overlooking,

6.2. Planning Authority Response

None.

6.3. Observations

6.3.1. *The Faythe Residents:*

- The residents of The Faythe are not opposed to an appropriately scaled redevelopment of the application site which is in keeping with the local vernacular similar to that previously approved under PA Ref. No. W2008056.
- There are concerns that the proposal fails to promote continuity within the streetscape by not sufficiently considering the distinctive character and pattern of development within The Faythe.
- There have been multiple planning applications lodged on site, a significant number of which were refused permission, and therefore cognisance must be taken of the planning history of the lands.

- Although the design of the proposal has been deemed to accord with the provisions of the Development Plan, it is inconsiderate of the contextual setting and location of the development site.
- The overall scale, density and height of the proposal will have an adverse visual impact on the distinct physical and social character of The Faythe. It will dominate the distinctive vernacular with a contemporary style of architecture which could be objectively described as “*Architectural Fashion*” and “*clique to be avoided as to ensure a timeless and lasting aesthetic*” as referenced in Section 10.3: ‘*Architectural Guidance*’ of the Development Plan.
- The design of the entrance arrangement does little to protect or enhance the aesthetics of The Faythe with inadequate consideration having been given to the historical setting & character of the streetscape.
- The streetscape appearance of the proposal is detached, unrefined and lacks any element of context which would allow it to integrate with the area.
- The dominance of the open access to the underground car park fails to achieve any connection with the main street and lacks refinement. It negatively defines the space as a utility entrance with a contemporary backdrop in contrast to the well-considered streetscape previously approved on site under PA Ref. No. W2008056 or the infill development completed at the Granary Buildings a short distance away.
- The proposed development could potentially dominate surrounding properties given its elevated position overlooking Fisher’s Row, Seaview Avenue and Emmets Place.
- Inadequate consideration has been given to the visual impact of the proposal when viewed from Trinity Street (on travelling southbound).
- Due to the restricted nature of this backland site and the positioning of the proposed apartments relative to the site boundaries, there are concerns that the development will have a detrimental impact on the residential amenity of neighbouring properties by reason of overlooking with an associated loss of privacy.

- The scale and height of the proposed development will result in considerable overshadowing / shading of neighbouring housing and rear garden / amenity areas with a loss of residential amenity.
- The site layout will result in a series of 'dead zones' between the development and the boundaries shared with neighbouring properties. Accordingly, concerns arise as regards the security of adjacent properties, the potential for anti-social behaviour & trespass, and a lack of surveillance.
- With respect to the underground car park, no details have been provided as to how its design will address the potential for anti-social behaviour.
- Inadequate consideration has been given to the need for a restrictive and controlled access point / gates serving the development. Such an arrangement would limit access to the development itself as well as the rear of neighbouring properties.
- The proposed development would generate significant additional traffic movements along a relatively narrow section of roadway and would, therefore, endanger public safety by reason of traffic hazard (as previously noted in the assessment of PA Ref. No. W2007031).
- There are traffic safety concerns as regards the siting of the entrance arrangement at a point where traffic converges due to a narrowing of the carriageway and the presence of roadside parking.
- The Traffic & Transport Assessment does not provide for an accurate reflection of peak traffic conditions (noting that the survey was carried out mid-week and at the start of the COVID-19 lockdown).
- The TTA does not allow for a statistically meaningful analysis of the traffic impact of the development.
- No details have been provided as to how it is proposed to rectify the existing road infrastructure, the obstruction of sightlines by roadside parking, or the enclosed / hidden entrance positioned opposite the site entrance at a point where traffic converges.
- The exacerbation of existing traffic congestion, speeding and parking difficulties in the area.

- The adverse impact of construction works (including working hours, noise, dust, vibration, and traffic generation etc.) on the residential amenity of properties in the area.
- The potential for damage to neighbouring properties as a result of excavation & construction works (with particular reference to possible impacts arising from deep excavations, rock-breaking activities, and subsidence).

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Overall design and layout / visual impact
- Impact on residential amenity
- Traffic implications
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

- 7.2.1. The proposed development site is located in an area zoned as ‘*Town Centre*’ with the stated land use zoning objective ‘*To protect and enhance the special physical and social character of the existing Town Centre and to provide for new and improved Town Centre facilities and uses*’ wherein ‘*Residential*’ development is ‘*Permitted in Principle*’ pursuant to the Land Use Zoning Matrix Table included with Map No. 21: ‘*Master Plan Zones*’ of the Wexford Town & Environs Development Plan, 2009-2015.
- 7.2.2. Cognisance should also be taken of the fact that the subject proposal involves the redevelopment of an under-utilised and dilapidated property which detracts from the

surrounding area, particularly given its positioning within the streetscape of The Faythe, and that a suitably designed residential scheme would undoubtedly make a more positive contribution in land use planning terms to the vitality of the area and the rejuvenation of the wider site surrounds. Indeed, there are multiple policy provisions at both a national and local level which promote the re-use / redevelopment of under-utilised serviced sites with Section 3.3: '*Masterplan Development Strategy*' of the Town & Environs Development Plan specifically seeking to maximise the opportunity to create replacement and infill housing within the town while Section 11.08.10: '*Infill Housing*' aims to '*encourage and facilitate infill housing development including the redevelopment of vacant, derelict or underutilised sites*'.

7.2.3. The proposed development site could further be considered to comprise a potential infill site situated within an established residential quarter of Wexford town centre where public services are available, including public transport links i.e. the rail network and local bus services, and that the development of appropriately designed infill housing would typically be encouraged in such areas as per Ministerial guidance (including the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*', the '*Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*', and the '*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*') provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Such an approach would correlate with the wider national strategic outcomes set out in the National Planning Framework 'Project Ireland: 2040', including the securing of more compact and sustainable urban growth such as is expressed in National Policy Objective 35 which aims to '*increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights*'.

7.2.4. Therefore, it is my opinion that the subject proposal, which provides for a high-density redevelopment of an underutilised town centre site, complies with the 'town centre' land use zoning and further accords with the broader vision and policy provisions of the Town Development Plan, the County Development Plan, and

national guidance as regards the redevelopment of such areas. The overall principle of the proposed development is thus acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties.

7.3. Overall Design and Layout / Visual Impact:

7.3.1. *The Density of the Proposed Development:*

A key objective of the National Planning Framework: 'Project Ireland 2040' is the achievement of more compact and sustainable urban growth. In this regard, greatly increased levels of residential development in urban centres and significant increases in building heights and the density of development are not only to be facilitated but actively sought out and brought forward by the planning process and particularly so at local authority and An Bord Pleanála levels. Moreover, at least half of the future housing growth of the main cities is to be delivered within their existing built-up areas with a focus on reusing previously developed 'brownfield' land, building up infill sites, and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.

By way of context, I would advise the Board that Wexford Town is the largest town in the county and forms the centrepiece of the County's Settlement Strategy (as detailed in the Core Strategy of the County Development Plan) given its designation as a 'hub' in the previous National Spatial Strategy and its identification as a strategic location, a self-sustaining regional economic driver, and a 'Key Town' on the Eastern Corridor in the Regional Spatial & Economic Strategy for the Southern Region. The RSES further seeks to leverage Wexford Town's strategic location and accessibility to Rosslare Europort and to build upon its inherent strengths including digital connectivity, skills, innovation and enterprise, tourism, culture and retail services.

The proposed development site is located in a predominantly residential area within Wexford town centre where public services, including public transport links, and other local amenities / services are readily available. In this respect, it is of relevance to note that Section 11.08.01: '*Residential Density*' of the Town Development Plan states that it will be the policy of the Planning Authority to promote 'Higher Density

Residential' development in excess of 27 No. units per hectare at strategic locations such as the town centre (although densities in excess of this 'upper' limit may be considered on their merits). However, I would also draw the Board's attention to Objective SH15 of the County Development Plan and Section 11.08.01 of the Town & Environs Development Plan wherein it is stated that the Council will have regard to the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*' and the accompanying Design Manual when considering the appropriate density for residential schemes.

The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. In this regard, it is clear that the subject lands can be categorised as a 'town centre' location which offers the greatest potential for the creation of sustainable patterns of development and, therefore, there is, in principle, no upper limit on the number of dwellings that may be provided within any town or city centre site, subject to certain safeguards.

Consideration should also be given to the 'brownfield' nature of the site and the availability of public transport, including Wexford Train Station approximately 1.4km away and the site location proximate to local bus services along Trinity Street to the east (with the closest bus stop at Fishers Row allowing access to the WX1: 'Drinagh Loop' and WX2: 'Clonard Loop' town services). The '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*' further reiterate the need for increased housing supply and state that the scale and extent of apartment development should increase in relation to the proximity of core urban centres, while existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments. In this regard, the Guidelines state that central and accessible urban locations such as the subject site are generally suitable for higher density development that may wholly comprise apartments.

The proposed development provides for 22 No. apartments on a site area of 0.2829 hectares which equates to a density of c. 78 No. units per hectare and thus would

accord with both the Town Development Plan and the recommendations of the *‘Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009’*.

Therefore, having considered the available information, with particular reference to the site location within Wexford town centre and its proximity to local amenities, including public transport services, given the site context, I am satisfied that the density of development proposed accords with the requirements of the Development Plan and national guidance, subject to appropriate design and adherence to relevant amenity standards.

7.3.2. *Building Height:*

The *‘Urban Development and Building Heights, Guidelines for Planning Authorities, 2018’* aim to put into practice key National Policy Objectives of the NPF in order to move away from unsustainable “business as usual” development patterns and towards a more compact and sustainable model of urban development. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. In this regard, the Guidelines state that there is to be a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. More specifically, the Guidelines also state that within city and town centre areas it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective.

In a local context, the predominant pattern of development in the immediate vicinity of the application site is typically characterised by traditional two-storey, terraced buildings, although the northernmost end of The Faythe (alongside its characteristic green area) includes a group of three-storey period properties as well as two examples of four-storey industrial buildings / warehouses which have been converted into apartment accommodation (*‘The Maltings’* and *‘The Malthouse’*). The Faythe itself is a long-established residential quarter which retains much of its traditional character with an urban form / grain emanating from streetside terraces of narrow house types (of varying design and height) and long rear plots. The subject

site is somewhat unusual in that it extends from an existing gap / break in the streetscape which is framed by terraced housing to both sides.

In terms of building height, the subject proposal involves the construction of 2 No. free-standing apartment blocks extending up to three storeys-over-basement with a maximum ridge height of 9.9m over ground level. The principle three-storey elements of the construction will be sited towards the rear of the scheme, however, the larger of the two buildings (Block 'A') will step down to two-storeys proximate to the rear of existing housing within The Faythe thereby providing for a gradual transition in building height on travelling through the development from the roadside.

While I am cognisant of the sensitivities of the site context, including the distinctive character of The Faythe and the need to preserve the residential amenity of neighbouring properties, as well as the potential impacts arising from the introduction of a three-storey construction into an area predominantly characterised by two-storey development, in my opinion, the site location in Wexford Town Centre, the proximity and availability of local services and amenities, and the overall size and shape of this infill site, would all be conducive to supporting the principle of developing a building of increased height in line with current policy provisions. While any such proposals will inevitably result in change, it must be acknowledged that the urban environment is not a static phenomenon and that townscapes are constantly evolving.

In an effort to mitigate any potential impact on the visual and residential amenities of the surrounding area, the design of the proposal is such that the apartment buildings will be set back from the site perimeter thereby increasing the separation distance from neighbouring housing. In addition, by recessing the three-storey element of the construction towards the rear of the site, approximately 42m behind the streetside, its overall height will be screened in large part by existing buildings and will not be overtly visible from street level within The Faythe other than through the existing gap in the streetscape (although some lesser views may be available from vantage points further northwest). In this regard, I would suggest that the contextual elevation shown on Drg. No. FFA-19023-P-02.3 Rev. A: '*Sightlines & Street Elevation*' should not be interpreted as a depiction of the broader visibility of the proposal as it can be determined by way of simple geometry (based on the existing and proposed building heights, the siting of the three-storey construction, and the distance to properties on the opposite side of The Faythe to the southwest) that the roof level of the proposed

three-storey development will not be visible from street level on the directly opposite side of The Faythe. I am similarly satisfied that in light of the separation distances involved and the level of screening provided by intervening buildings (and the wider topography to a lesser extent), the proposed development will not appear unduly prominent or obtrusive when viewed from Trinity Street to the north / northeast, although I would concede that the three-storey construction will be visible from Seaview Avenue and that this impact will be more overtly apparent due to the elevated nature of the site and the steep embankment / escarpment (combined with the change in levels) between the areas.

On balance, I am amenable to the building height as proposed. This is an underutilised town centre property, proximate to local services, including public transport, which affords the opportunity to provide an appropriately scaled redevelopment of an infill site. Furthermore, the site itself is of such a size and configuration as to allow for a greater flexibility in building design, including height, while taking account of the prevailing character of the surrounding area. Although the introduction of a building of the design and height proposed will undoubtedly have some visual impact, given the site context, it is my opinion that this is an appropriate location in principle for the three-storey construction proposed and that it will make a positive contribution to the revitalisation of the area and is acceptable from an urban design perspective. The proposal will further accord with the broader vision and policy provisions of the Town Development Plan, the County Development Plan, and national guidance as regards the redevelopment of such areas.

7.3.3. *Compliance with the Design Standards for New Apartments:*

It is necessary to consider the detailed design of the proposed apartment units having regard to the requirements of both local planning policy and the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*'. In this respect, it is of particular relevance to note that where specific planning policy requirements are stated in the Guidelines, these are to take precedence over any conflicting policies or objectives contained in the development plan. Therefore, in accordance with Section 3.0 of the Guidelines I propose to assess the subject scheme as regards compliance with the relevant planning policy requirements set out in the Guidelines in relation to the following:

- Apartment mix within apartment schemes
- Apartment floor areas
- Dual aspect ratios
- Floor to ceiling height
- Apartments to stair / lift core ratios
- Storage spaces
- Amenity spaces
- Aggregate floor areas / dimensions for certain rooms

7.3.4. *Apartment Mix within Apartment Schemes:*

Given that the proposed development provides for the construction of 22 No. two-apartments on a site area of 0.2829 hectares, it accords with the requirements of the Guidelines as regards apartment mix.

7.3.5. *Apartment Floor Areas:*

It is a specific planning policy requirement of the Guidelines that the minimum apartment floor areas previously specified in the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2007*' continue to apply as follows:

- 2 bedroom (3 person) apartment Minimum 63m²
- 2 bedroom (4 person) apartment Minimum 73m²

In this respect, I would advise the Board that each of the proposed apartments has a stated floor area which exceeds the minimum requirements of the Guidelines.

Furthermore, in the interest of safeguarding higher standards of accommodation by ensuring that apartment schemes do not provide for units being built down to a minimum standard (in reference to Section 3.8 of the Guidelines which states that the majority of all apartments in any scheme of 10 or more apartments should exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types by a minimum of 10%), from a review of the submitted details, I am satisfied that the subject proposal accords with the applicable requirements.

7.3.6. *Dual Aspect Ratios:*

The amount of sunlight reaching an apartment significantly affects the amenity of its occupants and therefore it is a specific planning policy requirement that in more central and accessible urban locations the minimum number of dual aspect apartments to be provided in any single apartment scheme will be 33% (where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate).

Given that all of the apartment units will be dual aspect (to varying extents), the proposal accords with Specific Planning Policy Requirement 4 of the Guidelines.

7.3.7. *Floor to Ceiling Height:*

The Guidelines state that floor-to-ceiling height affects the internal amenities of apartments (in terms of sunlight / daylight, storage space, and ventilation) and that this is of most significance at ground level where the potential for overshadowing is greatest, although it is also noted that ground level floor to ceiling height will also influence the future adaptability of individual apartments for potential alternative uses, depending on location. Whilst it is acknowledged that the Building Regulations suggest a minimum floor to ceiling height of 2.4m, the Guidelines also state that from a planning and amenity perspective, applicants and their designers may consider the potential for increasing the minimum apartment floor-to-ceiling height to 2.7m where height restrictions would not otherwise necessitate a reduction in the number of floors. In relation to ground floors, it is a specific planning policy requirement (SPPR5) that ground level apartment floor to ceiling heights are a minimum of 2.7m and increased in certain circumstances, particularly where necessary to facilitate a future change of use to a commercial use.

From a review of the submitted drawings, it can be ascertained that the residential accommodation proposed at first and second floor levels of the 2 No. apartment buildings will be provided with a floor to ceiling height in excess of 2.4m. With respect to the ground floor apartment units, it is regrettable that a clear floor to ceiling height has not been shown on the drawings provided. Although the floor levels provided would suggest that a minimum floor-to-ceiling height of 2.7m is achievable, it is not possible to verify this by way of crude measurement from the

drawings themselves. Therefore, I am not able to definitively confirm that the proposed development accords with SPPR5.

7.3.8. Apartments to Stair / Lift Core Ratios:

Given the design & scale of the development proposed, the proposal satisfies the requirements of the Guidelines in this regard.

7.3.9. Storage Spaces:

The Guidelines state that apartment developments should include adequate provision for general storage and utility requirements in order to accommodate household functions such as clothes washing and the storage of bulky personal or household items. I would refer the Board to the minimum requirements for storage areas set out in Appendix 1 of the Guidelines as follows:

- Two-bedroom (3 No. person) apartment: 5m²
- Two-bedroom (4 No. person) apartment: 6m²

Notably, this storage provision is to be in addition to kitchen presses and bedroom furniture (although it may be partly provided within these rooms provided it is in addition to the minimum aggregate living/dining/kitchen or bedroom floor areas). The Guidelines also state that no individual storage room within an apartment should exceed 3.5m².

From a review of the available information, it would appear that each of the proposed units has 2 No. double-bedrooms and thus would comprise a two-bedroom (4 No. person) apartment necessitating the provision of 6m² of storage space. In this regard, the 'Architectural Design Statement' submitted in support of the application has asserted that a minimum of 6m² of storage space will be provided in each of the apartments in accordance with the Guidelines, although neither the floor plans or the accompanying 'Accommodation Schedule' provide any further identification or verification of the storage space provision within each apartment.

7.3.10. Additional Storage:

Section 3.32 of the Guidelines states that apartment schemes should provide for the storage of bulky items outside of individual units (i.e. at ground or basement level) given that secure, ground floor storage space allocated to individual apartments and located close to the entrance to the apartment block or building is particularly useful

as it may be used for equipment such as bicycles, children's outdoor toys or buggies. However, whilst planning authorities are to be encouraged to seek the provision of such space in addition to the minimum apartment storage requirements, this would not appear to be mandatory, particularly as storage requirements may be relaxed in part, on a case-by-case basis (and subject to overall design quality), for building refurbishment schemes on sites of any size and for urban infill schemes on sites of up to 0.25ha.

Although the subject proposal does not include for any additional ground / basement level storage areas allocated for the specific use of individual apartments, provision has been made for communal refuse / bin storage and shared bicycle parking stands at ground and basement levels.

7.3.11. Private Amenity Space:

It is a policy requirement of the Guidelines that adequate private amenity space be provided in the form of gardens or patios / terraces for ground floor apartments and balconies at upper levels. In this respect, I would advise the Board that a two-bedroom (4 No. person) apartment is required to be provided with a minimum of 7m² of private amenity space. Consideration must also be given to certain qualitative criteria including the privacy and security of the space in question in addition to the need to optimise solar orientation and to minimise the potential for overshadowing and overlooking.

From a review of the submitted plans and particulars, it would appear that the private open space provision for each of the apartments exceeds the minimum requirements of the Guidelines.

7.3.12. Communal Amenity Space:

The Guidelines state that the provision and proper future maintenance of well-designed communal amenity space is critical in meeting the amenity needs of residents, with a particular emphasis being placed on the importance of accessible, secure and usable outdoor space for families with young children and for less mobile older people, and in this respect the minimum requirements set out in Appendix 1 of the guidance are as follows:

- One-bedroom apartment: 5m²

- Two-bedroom (3 No. person) apartment: 6m²
- Two-bedroom (4 No. person) apartment 7m²
- Three-bedroom apartment: 9m²

Accordingly, the proposed development will necessitate the provision of 154m² of communal open space in order to satisfy the minimum requirements of the Guidelines based on 22 No. two-bedroom (4 person) units. However, in accordance with Section 11.08.05: '*Public Open Space Area*' of the Development Plan (which specifies the provision of functional open space at a rate of 10% of the total site area), the proposed development would require the provision of 282.9m² of public open space.

The subject proposal includes for a primary landscaped courtyard (in excess of 300m²) positioned centrally within the scheme that will be accessible to all apartment residents in addition to a series of smaller ancillary open areas alongside the site perimeter and to the rear of the apartment blocks.

On the basis of the foregoing, it is clear that the overall provision of communal open space to serve the proposed development exceeds the minimum requirements of both the Development Plan and the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*'. Furthermore, I am satisfied that the overall quality of the space proposed will provide for a sufficiently high level of amenity for its users and that it will be suitably overlooked and distributed throughout the site.

7.3.13. *Aggregate Floor Areas / Dimensions for Certain Rooms:*

Regrettably, no details of the size and / or dimensions of individual rooms have been provided on the submitted floor plans or the accompanying '*Accommodation Schedule*'. While crude measurement from the submitted drawings would seem to suggest that the individual room sizes and / or dimensions broadly satisfy the minimum requirements, in the absence of further detailed information, I am unable to definitively confirm that the proposal adheres to the minimum floor areas and standards set out in Appendix 1 of the Guidelines.

7.3.14. Overall Design of the Proposed Apartment Scheme:

On the basis of the foregoing, it is my opinion that the broader design of the submitted proposal likely accords with the minimum requirements of the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*', however, it would be preferable if further clarity were to be provided by way of a more detailed schedule of accommodation demonstrating compliance with the minimum floor areas and room dimensions etc.

7.4. Overall Design & Layout of the Proposed Development

7.4.1. With respect to the broader design merits of the proposal, given the site context, with particular reference to its town centre location and the availability of local amenities / services, I would accept that the site is suitable in principle for the construction of a higher density format of development and an increased building height. Furthermore, although the contemporary design proposed is at variance with the prevailing pattern of development, in my opinion, the site itself is of such a size and configuration as to allow for a greater flexibility in building design while the recessed positioning of the scheme will reduce its immediate visual impact. In further support of the proposal, I would draw the Board's attention to the gradual evolution of the built form both within The Faythe and the surrounding area, with particular reference to the contemporary housing permitted under PA Ref. No. 20190664 and the associated demolition of existing roadside housing and ancillary buildings at No. 25 / 25A The Faythe, Wexford. Consideration should also be given to the development schemes previously permitted on appeal at Trinity Steet and Trinity Wharf under ABP Ref. Nos. ABP-304325-19 and ABP-303726-19 respectively.

7.4.2. In specific reference to the preference of the Planning Authority that 2 No. existing mature trees alongside the south-eastern site boundary be maintained and integrated into the scheme, the applicant has indicated that it is amenable to the imposition of a condition requiring the retention of these trees as part of the proposed development.

7.5. Impact on Residential Amenity:

7.5.1. Overlooking:

Given the site context, including its location within a built-up urban area, concerns have been raised that the proposed development may have a detrimental impact on

the residential amenity of neighbouring properties by reason of overlooking with an associated loss of privacy. In this respect, I am inclined to suggest at the outset that some degree of overlooking would not be entirely unexpected given the site location within a town centre, however, particular consideration should be given to the overall design, orientation and positioning of the proposed development and its relationship with adjacent housing to the immediate northwest and southeast.

- 7.5.2. The design of the scheme is such that the apartment blocks have been positioned towards the perimeter of the site so as to allow for a maximum separation between the inward facing balcony areas (with the exception of Unit Nos. 13, 14, 21 & 22). However, as a direct consequence of the layout proposed, there will be only limited separation between the first and second floor bedroom windows on the rear elevations of the apartment buildings and the intervening boundaries shared with the rear garden / amenity areas of neighbouring housing to the northwest and southeast. In reference to Block 'A', the 'L' - shaped design of its construction will result in a separation distance of between c. 4.169m – 6.894m between the upper-level bedroom windows and the elongated rear gardens of the two adjacent properties to the immediate northwest. With respect to Block 'B', the equivalent separation between it and the rear garden area of a neighbouring dwelling will only be c. 1.99m.
- 7.5.3. While I would acknowledge the argument put forward in the grounds of appeal that some degree of overlooking would not be unexpected given the site context, this should perhaps be balanced against the number of individual apartments / rooms that will have views towards the private amenity space of neighbouring dwellings and the number of properties likely to experience undue overlooking. In this regard, the rear bedroom windows in Apartment Nos. 13, 16, 17, 21 & 24 (Block 'A') and Nos. 11, 12, 19 & 20 (Block 'B') will be positioned within 7m (or less) of the perimeter site boundary and be orientated so as to have direct views over much of the private rear garden of at least three neighbouring dwellings. Although the applicant has suggested that it is only that area to the immediate rear of a dwelling house which should be afforded an increased level of protection in terms of preserving privacy, in my opinion, it would be reasonable to draw a comparison between the level of privacy enjoyed by neighbouring residences at present and that likely to be experienced should the development proceed. In this respect, I am satisfied that the construction of the two / three storey apartment blocks as proposed would result in

significant additional overlooking of the rear amenity space of several neighbouring dwellings and that this would give rise to an associated loss of residential amenity. In addition, considering the current context of adjacent housing, the likelihood is that its occupants would at least consider themselves as being overlooked by the apartment blocks with a perceived loss of privacy which could potentially impact on the value of their property.

- 7.5.4. On balance, I am inclined to concur with the Planning Authority that the level of overlooking of neighbouring housing consequent on the proposed development (both in terms of the number of affected properties and the number of apartments concerned) would be such of such magnitude as to detract from the residential amenity of those dwellings.

7.5.5. *Daylight, Sunlight & Overshadowing:*

In advance of assessing the impact of the proposed development on the amenity of adjacent properties by reason of overshadowing, it is prudent at the outset to consider the proposal's adherence to the applicable standards as regards the levels of daylight & sunlight received by the individual apartments. In this respect, I would advise the Board that Section 11.07: '*Sustainable Urban Design Guidelines*' of the Development Plan states that developers should take account of the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*' and the accompanying '*Urban Design Manual: A Best Practice Guide*'. These Guidelines note that the orientation of a dwelling and its internal layout can affect the levels of daylight & sunlight and will thus influence not only the amenity of occupants but the energy demand for heat and light. They also state that overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. Accordingly, it is stated that planning authorities are to require the submission of daylight and shadow projection diagrams prepared in accordance with the recommendations of "*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*" (B.R.E. 1991) or B.S. 8206 "*Lighting for Buildings, Part 2 1992: Code of Practice for Daylighting*".

- 7.5.6. In addition to the foregoing, Section 3.2 of the '*Urban Development and Building Heights, Guidelines for Planning Authorities*' requires an applicant to demonstrate that a proposal satisfies certain development management criteria. At the scale of

the site / building, it is stated that the form, massing and height of the proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation, and views, and to minimise overshadowing and loss of light. Moreover, appropriate and reasonable regard is to be taken of the quantitative performance approaches to daylight provision outlined in guides such as the Building Research Establishment's *'Site Layout Planning for Daylight and Sunlight'* (2nd Edition) or BS 8206-2: 2008 – *'Lighting for Buildings – Part 2: Code of Practice for Daylighting'*. In the event that a proposal cannot fully meet all of the required daylight provisions, the Guidelines state that it will be necessary for this to be clearly identified with a rationale set out for any alternative, compensatory design solutions. The acceptance of any such alternative measures will be at the discretion of the planning authority which shall have regard to local factors, including specific site constraints, while balancing its assessment against the desirability of achieving wider planning objectives (e.g. securing comprehensive urban regeneration and / or an effective urban design and streetscape solution).

7.5.7. At this point, I would draw the Board's attention to Specific Planning Policy Requirement 3 (SPPR3) of the *'Urban Development and Building Heights, Guidelines for Planning Authorities'* which states that where *'an applicant for planning permission sets out how a development proposal complies with the criteria above'* (i.e. the specified development management criteria); and *'the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines'*; in such circumstances *'the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise'*.

7.5.8. Similar provisions are contained in the *'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020'* which emphasise that the provision of acceptable levels of natural light in new apartment developments is an important planning consideration as it contributes to the liveability and amenity enjoyed by residents. It is further stated that in assessing development proposals, planning authorities are to weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of

urban residential development. Any such assessment is again to have regard to quantitative performance approaches to daylight provision as outlined in guides like '*Site Layout Planning for Daylight and Sunlight*' (2nd Edition) or '*BS 8206-2: 2008 – Lighting for Buildings – Part 2: Code of Practice for Daylighting*' with any failings in satisfying the required daylight provisions to be clearly identified and a rationale set out for any alternative, compensatory design solutions, in respect of which the planning authority or An Bord Pleanála should apply their discretion.

7.5.9. While I would acknowledge that the guidance contained in '*Site Layout Planning for Daylight and Sunlight*' is only advisory and that its numerical guidelines are to be interpreted flexibly, the pertinent issue as clarified in *Atlantic Diamond Ltd. v. An Bord Pleanála* is that the '*Urban Development and Building Heights, Guidelines for Planning Authorities*' are binding mandatory statutory guidelines which require as a matter of legal obligation that the decision-maker have "*appropriate and reasonable regard*" to identified standards i.e. guides like '*Site Layout Planning for Daylight and Sunlight*' (2nd Edition) or *BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'*. Accordingly, I propose to assess the subject proposal in this context. Furthermore, there are clear analytical steps set out in the '*Urban Development and Building Heights, Guidelines for Planning Authorities*' to the effect that if a developer is not able to fully meet all the requirements regarding daylight provision, then there are three very specific consequences (as per *Atlantic Diamond Ltd. v. An Bord Pleanála*):

- i. this must be clearly identified;
- ii. a rationale for any alternative compensatory design solutions must be set out; and
- iii. a discretion and balancing exercise is to be applied.

7.5.10. The guidance contained in '*Site Layout Planning for Daylight and Sunlight*' advocates the use of the Average Daylight Factor (ADF) as a check for the adequacy of daylight provision in new rooms / developments (the ADF is a measure of the overall amount of daylight in a space). Reference is subsequently made to the '*BS: 8206-2 Code of Practice for Daylighting*' which recommends an ADF of 5% for a well daylit space and 2% for a partly daylit space (below 2% a room would look dull and likely require electric lighting to be turned on) before also recommending

minimum ADF values of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. With respect to rooms which serve more than one purpose, such as combined kitchen / living / dining areas, it is stated that the minimum average daylight factor should be that for the room type with the highest value e.g. in a space which combines a living room and a kitchen the minimum average daylight factor should be 2% (a similar approach is advocated in '*BS EN 17037: 2018 Daylight in Buildings*' which has replaced BS: 8206-2 Code of Practice for Daylighting).

7.5.11. Regrettably, no analysis has been provided within the application particulars as regards the quantitative performance of the proposed development in terms of daylight provision. By failing to identify the rate of compliance with the applicable daylight provisions and whether any of the individual rooms / apartments fail to achieve the required standard, it is unclear whether there has been any divergence from the guidance or if any alternative compensatory solutions have been incorporated into the final design. Moreover, in the absence of the aforementioned information, it is not possible for the Board to determine whether it would be appropriate to afford any degree of discretion as part of a balancing exercise as regards the inclusion of any compensatory design solutions and the desirability of achieving wider planning objectives. Therefore, on the basis of the information provided, it cannot be determined if the proposed development provides for a satisfactory level of amenity within each of the apartments or if it complies with the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*' and the '*Urban Development and Building Heights, Guidelines for Planning Authorities*' in terms of daylight / sunlight provision.

(The Board is advised that this would constitute a new issue in the context of the subject appeal).

7.5.12. *Daylight & Sunlight: Open Space:*

From a review of Drg. No. 3 of 5 (Aug20): '*Daylight and Communal Open Space*' prepared by Dara Hilliard (Landscape Consultant), it would appear that at least 50% of the landscaped courtyard will receive at least 2 hours of sunlight on 21st March thereby exceeding the 50% requirement recommended at Para 3.3.17 of '*Site Layout Planning for Daylight and Sunlight*'.

7.5.13. *Daylight & Sunlight: Impact on Adjacent Residential Properties:*

In assessing the potential impact of the proposed development from an overshadowing / loss of light perspective on the amenity of neighbouring residential property, I would draw the Board's attention to Section 2.2 of '*Site Layout Planning for Daylight and Sunlight*' which emphasises the importance of safeguarding the daylight to nearby buildings when designing new development. It proceeds to state that loss of light to existing windows need not be analysed if the distance of each part of the new development from the window in question is three or more times its height above the centre of the window (e.g. if the new development were 10m tall, and a typical ground floor window would be 1.5m above the ground, the effect on existing buildings more than $3 \times (10 - 1.5) = 25.5\text{m}$ away need not be analysed). If the proposed development is taller or closer than this, a modified form of the procedure adopted for new buildings can be used to determine whether an existing building still receives enough skylight.

7.5.14. A more detailed methodology would involve determining the Vertical Sky Component (VSC) received at the windows of neighbouring properties. Any reduction in the total amount of skylight can be calculated by finding the VSC at the centre of each main window (windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed). If the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. If the VSC with the development in place is both less than 27% and less than 0.8 times its former (existing) value, then occupants of the existing building will notice the reduction in the amount of skylight i.e. the diffuse level of daylighting in affected rooms may be adversely affected by the proposed development.

7.5.15. With respect to the potential for neighbouring residences to experience a loss of sunlight consequent on the proposed development, I would refer the Board to the guidance contained in Section 3.2 of '*Site Layout Planning for Daylight and Sunlight*' which states that in order to assess loss of sunlight to an existing building, all main living areas of dwellings should be checked if they have a window facing within 90° of due south. If any of the identified windows can receive more than 25% of Annual Probable Sunlight Hours (APSH), including at least 5% of APSH in the winter months between 21st September and 21st March, then the room in question should still receive enough sunlight. In this regard, the shadow projection diagrams shown on

Drg. No. 3 of 5 (Aug20): '*Daylight and Communal Open Space*' would suggest that there would be limited, if any, impact on the levels of sunlight received by neighbouring housing on 20th March & 23rd September, although it should be noted that this is not equivalent to an assessment of the APSH during the winter months between 21st September and 21st March. Notwithstanding the limitations of the data presented, having regard to the site context, the separation distances concerned, and the particulars of the development proposed, including its height and positioning relative to neighbouring dwellings, it is my opinion that the proposal is unlikely to result in any significant reduction in the level of sunlight received by surrounding housing.

- 7.5.16. In relation to the potential for overshadowing of the private rear garden areas of neighbouring housing, with particular reference to those properties to the northeast and northwest, I would reiterate that Para 3.3.17 of '*Site Layout Planning for Daylight and Sunlight*' recommends that at least half of a garden or amenity area should receive a minimum of 2 hours of sunlight on 21st March. Regrettably, the subject application has not been accompanied by a detailed analysis of the overshadowing implications of the proposed development. The information provided is lacking in detail (e.g. the identification of individual properties etc.) and does not allow for a comparison between any existing overshadowing attributable to features such as boundary walls etc. and overshadowing likely to result from the proposed development. By extension, it is difficult to quantify the overshadowing / shading impact, if any, of the proposed works on the amenity areas of neighbouring dwellings. While it is likely that the proposal will result in some additional overshadowing of parts of the rear garden areas to the northwest which serve properties within The Faythe, cognisance should be given to the limited duration of any such impacts as well as the proportion of the individual garden areas affected. The potential for a loss of sunlight within those garden areas to the northeast also arises, however, I am mindful that No. 12 Seaview Terrace is situated at a considerably lower elevation than the subject site and that the difference in levels, when combined with the existing walling atop the intervening escarpment / embankment, may already contribute to its rear garden area experiencing lower levels of evening sunlight.

7.5.17. Daylight, Sunlight & Overshadowing: Conclusions:

On the basis of the foregoing, it is not possible to determine whether the proposed development satisfies the quantitative performance approaches to daylight provision set out in '*Site Layout Planning for Daylight and Sunlight*' (2nd Edition) and BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*'.

Accordingly, it cannot be ascertained if the proposed development provides for a satisfactory level of amenity within each of the apartments or if it complies with the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*' and the '*Urban Development and Building Heights, Guidelines for Planning Authorities*' (with particular reference to SPPR 3) in terms of daylight / sunlight provision.

7.5.18. Furthermore, in the absence of more detailed information, concerns also arise as regards the potential impact of the proposed development on the levels of daylight and sunlight received by neighbouring dwellings, including their rear garden & amenity spaces.

7.5.19. Overbearing Appearance:

In relation to the suggestion that the development will have an unacceptably overbearing or negative visual impact on neighbouring housing, while I would acknowledge that the proposal involves the construction of three-storey buildings of an increased height and that this will undoubtedly change the outlook available from surrounding properties, in my opinion, the significance of any such impact must be considered in light of the site context, including its location in a built-up urban area on lands which have been identified for development. In this respect, I am satisfied that the overall design, scale, height and siting of the proposed development, including the separation distances available, has taken sufficient cognisance of the infill nature of the site and its relationship with surrounding residences to the effect that the subject proposal will not unduly detract from the residential amenity of properties by reason of an excessively overbearing or visually intrusive appearance.

7.5.20. Construction Impacts:

With regard to the potential impact of the construction of the proposed development on the residential amenities of surrounding property, while I would acknowledge that the subject site is proximate to existing housing and that construction works,

including the movement of vehicles etc., could give rise to the disturbance / inconvenience of local residents, given the limited scale of the development proposed, and as any constructional impacts arising will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition through the submission of a Construction and Environmental Management Plan for written agreement with the Local Authority prior to the commencement of development.

- 7.5.21. In addition, it is my opinion that any damage to neighbouring property attributable to the proposed development would amount to a civil matter for resolution between the parties concerned. In this respect, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property. It is not the function of the Board to adjudicate on property disputes or to act as an arbitrator in the assessment of damages and thus I do not propose to comment further on this matter.

7.6. Traffic Implications:

- 7.6.1. The proposed development includes for the construction of a new vehicular (and pedestrian) access arrangement directly onto a two-way road within The Faythe which will serve as a replacement for the entrance to the existing dwelling. In this regard, the subject application has been accompanied by a Traffic and Transport Assessment in support of the proposal which has analysed the potential traffic impact of the trip generation attributable to the proposed development (while also taking account of likely traffic volumes associated with the future development of 46 (45) No. apartment units previously approved at Parnell Street / Trinity Street under ABP Ref. No. ABP-304325-10) on the surrounding road network. The TTA details that automated traffic counts were undertaken at 4 No. junctions in the vicinity of the development between 07:00 & 19:00 hours on Wednesday, 11th March, 2020 in order to establish the existing baseline peak traffic flows on the network (although unforeseen road works at Site No. 1 on the day of the survey necessitated the use of additional data from a 2018 traffic count for comparison purposes in order to establish reasonable traffic assumptions for analysis). The predicted trip generation rates consequent on the proposed development were subsequently ascertained by

reference to the TRICS database. Having established the total number and distribution of trips likely to be generated by the proposed development, the TTA proceeds to assess the impact of same on existing traffic conditions and concludes that the levels of traffic attributable to the proposed development will be very low / minimal throughout the day and, when considered alongside the existing traffic patterns in the vicinity, would fall below Transport Infrastructure Ireland's guideline thresholds for detailed capacity analysis / traffic modelling at the measured locations. Accordingly, it has been submitted that the proposed development will generate very low relative levels of traffic in the area and thus will not have an adverse impact on the operation of the local road to which it connects or the wider regional road network.

- 7.6.2. In response to the grounds of appeal, a third party observation lodged on behalf of local residents of The Faythe has asserted that the applicant's Traffic & Transport Assessment does not reflect existing (peak) traffic conditions in the area and thus does not allow for a statistically meaningful analysis of the traffic impact of the development. In this regard, it has been submitted that the traffic survey counts were undertaken mid-week during a 'lockdown' imposed in response to the COVID-19 pandemic and thus the traffic volumes recorded may be lower than would normally be expected.
- 7.6.3. While I would acknowledge the concerns raised as regards the reliability and timing of the traffic counts used to inform the TTA, I am cognisant that schools, childcare facilities and cultural institutions etc. were only ordered to close on 12th March, 2020 while the first 'stay-at-home' order banning all non-essential travel and contact was only announced on 27th March, 2020. Therefore, it is my opinion that the traffic volumes recorded in the surveys can be considered as reasonably representative and are unlikely to have been unduly influenced by any COVID-19 restrictions that had yet to be announced. Furthermore, it is of relevance to note that additional data from a 2018 traffic count was utilised for comparison purposes in response to unforeseen road works at Site No. 1 on the day of the survey which allowed the applicant to verify / establish reasonable traffic assumptions for analysis purposes. In this respect, I would suggest that had any COVID-19 restrictions influenced the traffic survey counts, the likelihood is that account would have been taken of same

with historical data being used to inform the TTA (in a manner similar to that applied in response to the road works at Traffic Survey Site No, 1).

- 7.6.4. In any event, given the limited scale of the development proposed, and the comparatively low trip generation rates derived from the TRICS database (which are unaffected by the influence of any COVID-19 restrictions), it is my opinion that the traffic volumes associated with the proposal will not be of such magnitude as to significantly impact on the surrounding road network.
- 7.6.5. On balance, I am satisfied that the proposed development will not result in any significant exacerbation of traffic congestion at this town centre location and that the local road network (including the carriageway within The Faythe that provides access to the site) has sufficient capacity to accommodate the comparatively low increase in traffic volumes likely attributable to the proposal.
- 7.6.6. In relation to the proposed access arrangement, this will entail the provision of a new vehicular and pedestrian entrance onto The Faythe which will allow for access to a traffic signal-controlled ramp leading to the underground car park as well as a secondary surface roadway that will cater for emergency access to the apartment blocks. Dedicated pedestrian access will extend from the public footpath through the development site with three separate stairwells and 2 No. lift shafts providing access to the basement level car park (*N.B.* While Block 'B' will be served by a self-contained stairwell and lift shaft, the majority of units within Block 'A' will be reliant on a stairwell & lift arrangement detached from that building for access to the basement level). Although the ramp and the emergency access will each have a carriageway width of 2.9m, the proposed layout allows for the on-site turning of vehicles (either within the basement car park itself or via the circulatory route around the perimeter of the courtyard area), while the junction arrangement with the public road will provide for a carriageway width of 6m.
- 7.6.7. In terms of sight distance, I would refer the Board to Drg No. FFA-19023-P-02.3 Rev. A which illustrates the availability of sightlines of 65m in each direction from the proposed junction to a centre-point within the left-hand side carriageway of the approach road (measured from a position set back 2m from the near edge of the public road). In this regard, although it is regrettable that the sightlines have not been shown to the near edge of the carriageway with no account having been taken of any

obstruction likely to be caused by cars parked along the roadway to either side of the junction, I am cognisant that the subject proposal will replace an existing and well-established entrance arrangement and that it represents the only viable means of accessing the lands. Moreover, this is a town centre site within a 50kph speed limit at a location where there are public footpaths and on-street parking along both sides of the roadway and where traffic speeds would be expected to be lower in response to the urban environment. It is of further relevance to note that the proposal will not result in any significant loss of roadside parking (arising from its replacement of the existing site entrance) while any issues pertaining to the enforcement of parking controls would be a matter for the local authority. Accordingly, in my opinion, the available sightlines are adequate and would not endanger public safety by reason of traffic hazard.

7.6.8. In accordance with Table 4: '*Car Parking Standards*' of the Development Plan, car parking for the proposed development is to be provided at the following rate:

- Apartments: 1.5 No. spaces per unit

7.6.9. Therefore, on the basis that the proposed development comprises 22 No. apartments, it would generate a demand for c. 33 No. parking spaces

7.6.10. The proposed development provides for a total of 30 No. spaces (including 2 No accessible spaces) by way of basement car parking and thus there is a shortfall in the general parking requirement. However, given the site location within Wexford town centre and its proximity to local services and amenities, including public transport, I am amenable to a relaxation in the applicable parking standards by reference to the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*' which state that in larger scale and higher density apartment developments 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. Within more intermediate urban locations, such as those served by public transport or close to town centres, the Guidelines also state that consideration must be given to a reduced overall car parking standard and the application of an appropriate maximum car parking standard. On balance, I would concur with the assessment by the Planning Authority that the site location would warrant a relaxation in the applicable

parking standard to 1 No. space per apartment. This would have the effect of necessitating a total of 22 No. parking spaces for the proposed development and thus the proposal as submitted would provide for adequate on site parking.

- 7.6.11. Remaining issues of concern such as the gating of the ramped access to the basement parking for security reasons can be satisfactorily addressed by way of condition in the event of a grant of permission.

7.7. Appropriate Assessment:

- 7.7.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, there are a number of protected sites within the wider area, with the closest such sites being the Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 300m east of the site, and the Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 300m east-northeast of the site. In this respect, it is of relevance to note that it is an objective of the Planning Authority, as set out in Chapter 8: '*Conservation and Heritage*' of the Wexford Town & Environs Development Plan, 2009-15 (as extended) to conserve, protect and enhance in general the character of Wexford as defined by its natural heritage and biodiversity, built environment, landscape and culture. Furthermore, Objective NH7 of the Plan aims to prohibit development which would damage or threaten the integrity of sites of international or national importance, designated for their habitat / wildlife or geological / geomorphological importance, including the proposed Natural Heritage Areas, candidate Special Areas of Conservation, Special Protection Areas, Ramsar sites and Statutory Nature Reserves. In addition, Objective NH8 requires any project that has the potential to significantly impact on the Slaney River Valley and Wexford Harbour to be subjected to an appropriate ecological assessment
- 7.7.2. By way of further clarity, I would refer the Board to Chapter 13: '*Heritage and Conservation*' of the Wexford County Development Plan, 2022-2028 wherein it is stated that the Plan provides objectives to protect designated ecological sites, protected species, ecological connectivity, and non-designated habitats. In specific reference to Natura 2000 sites, Section 13.2.2 (incl. Objective Nos. NH05 & NH08) further states that in accordance with Articles 6(3) and 6(4) of the Habitats Directive,

the Council will ensure that all plans and projects are screened to assess, in the view of best scientific knowledge, if the plan or project, individually or in combination with another plan or project is likely to have a significant effect on a Natura 2000 site(s). In assessing such applications, regard will be had to the detailed conservation management plans and data reports prepared by the NPWS, where available, to the identified features of interest of the site, the identified conservation objectives to ensure the maintenance or restoration of the features of interests to favourable conservation status, the NPWS Article 17 current conservation status reports, the underlying site specific conditions, and the known threats to achieving the conservation objectives of the site. In the event that the screening indicates that the plan or project will, either directly or indirectly, on its own or in combination with other plans and projects, have a significant effect on a Natura 2000 site(s), the plan or project must be the subject of a full Appropriate Assessment. Furthermore, having considered the conclusions of the Appropriate Assessment, the Planning Authority will agree to the plan or project only if it is satisfied that it will not adversely affect the integrity of the site concerned or, where in the absence of alternative solutions, the plan or project is deemed imperative for reasons of overriding public interest pursuant to Article 6(4) of the Habitats Directive.

- 7.7.3. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.
- 7.7.4. Having regard to the limited nature, scale and the duration of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, the proximity of the lands in question to the nearest European site, and the lack of any ecological or hydrological connections, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to the pattern of development in the area and the scale of the development proposed, it is considered that the proposed development, by reason of its design, orientation, positioning and proximity to site boundaries, would seriously injure the residential amenities, and depreciate the value of adjoining properties, by reason of overlooking. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020' and Specific Planning Policy Requirement 3 of the 'Urban Development and Building Heights, Guidelines for Planning Authorities' issued by the Department of Housing, Planning and Local Government in December, 2018, on the basis of the information provided, it is not possible to determine whether the proposed development satisfies the quantitative performance approaches with respect to daylight / sunlight provision or the potential impact on the levels of daylight and sunlight received by neighbouring dwellings, including their rear garden & amenity spaces. Therefore, the Board is not satisfied that the proposed development would not be contrary to the Ministerial Guidelines which have been issued to planning authorities under Section 28 of the Planning and Development Act 2000, as amended, or that it would provide for a satisfactory standard of residential amenity for future residents of the scheme. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

(N.B. Refusal Reason No. 2 amounts to a new issue in the context of the appeal).

Robert Speer
Planning Inspector

17th August, 2022