



An  
Bord  
Pleanála

## Inspector's Report ABP 309534-21

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<b>Development</b>	The demolition of existing structures and construction of a part 4-storey and part 5-storey apartment building.
<b>Location</b>	6A Killeen Cottages, Killeen Road, Dublin 10.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3824/20.
<b>Applicant(s)</b>	Property Promotions Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellants(s)</b>	Martin and Paula Benson.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	4th February, 2022.
<b>Inspector</b>	Brendan Coyne.

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## 1.0 Site Location and Description

- 1.1.1. The site (0.076 ha) is located on the southern side of the Old Killeen Road and bound on its southern side by the Grand Canal. Irregular in shape, the site is currently vacant and was previously in use as a motor sales outlet. The site contains several shed structures along its southern and south-eastern boundaries and the remainder of the site comprises a tarmac and concrete surfaced yard. The roadside boundary is defined with a tall metal gate and the remainder of the site boundaries is defined with high blockwork walls.
- 1.1.2. Land adjoining the site to the west contains a 2-6 storey residential development known as Killeen Hall, and adjoining land to the north-east contains a semi-detached single-storey dwelling, no. 6 Killeen Road. Land adjoining the south-eastern boundary contains a 2-storey residential development known as Killeen Court Apartments. The Old Killeen Road serving the site is a cul-de-sac road, linking with the Killeen Road (L1014) to the northeast and providing pedestrian and cycle access over the Grand Canal to the southwest. There is on-street parking along both sides of the road. The surrounding area to the north and south comprises industrial and business parks.

## 2.0 Proposed Development

- 2.1. Permission sought for the following, as described in public notices;
- 1) The demolition of all existing buildings, structures and yard on site,
  - 2) Construction of a part 4-storey and part 5-storey apartment building to accommodate 13 no. apartments, comprising 10 no. 1-bed units and 3 no. 2-bed units with associated terraces,
  - 3) Vehicular and pedestrian access from Killeen Road,
  - 4) 8 no. car parking spaces at surface level,
  - 5) Landscaping, bicycle parking, refuse storage, boundary treatments and all associated site development works and services.

## 3.0 Planning Authority Decision

### 3.1. Decision

Dublin County Council GRANTED permission for the proposed development subject to 14 no. Conditions. Noted Conditions include:

- C. 2 A development contribution of €49,457.70 to be paid to the Planning Authority as a contribution towards expenditure that was and/or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority, in accordance with Dublin City Council's Section 48 Development Contribution Scheme.
- C. 3 A development contribution of €52,000.00 ( €4,000 x 13 units) shall be paid to the Planning Authority as a contribution in lieu of the public open space requirement in respect of public open space benefitting development in the area of the planning authority.
- C. 4 The apartments shall not be used for any short term residential letting.
- C. 5 Prior to commencement of development, provide for the written agreement of the Planning Authority, details of the proposed boundary treatment along the southern boundary of the site. Also, outline measures to protect the privacy and security of the residents within the ground floor apartments which adjoin the Grand Canal Towpath.

### 3.2. Planning Authority Report

3.2.1. The basis for the Planning Authority's decision includes the following:

- The proposal comprises a 4/5-storey residential block consisting of 13 no. apartments with associated balconies/terraces and ancillary parking consisting of the following:
  - 10 x 1-bed apartments
  - 3 x 2-bed apartments;
  - 8 x surface car parking spaces;

- 20 x bicycle parking spaces.
- The development will utilise the existing vehicular entrance onto the Old Killeen Road, a cul-de-sac road.
- The site is zoned Z1 with the objective "To protect, provide and improve residential amenities".
- The proposal, which comprises the development of 13 apartments, is consistent with the zoning objective of the site.
- The plot ratio is 1.18. This complies with Section 16.5 of the Dublin City Development Plan 2016-2022, which requires an indicative plot ratio standard of 0.5-2.0 for Z1 zoned lands.
- The site coverage is 35%. This complies with Section 16.6 of the Development Plan, which requires a site coverage of 45%-60% for Z1 zoned lands.
- The proposed apartment building is simple in form and design. It responds broadly to its surrounding context comprising residential development on three sides and is open to views from the south along the Grand Canal.
- The building has been appropriately sited along the southern portion of the site and immediately adjoins the Killeen Court apartment building to the east.
- The siting of the proposed development would extend an existing building line and contribute to a continuous built-up edge along the Grand Canal Towpath.
- The site's northern portion would remain essentially free of structures and given over to parking and landscaping. This arrangement is appropriate given the proximity of No.6 Killeen Road - a single storey dwelling backing onto the north-eastern boundary.
- The proposed building is primarily four storeys with a stepped back 5<sup>th</sup>-floor penthouse level giving a maximum height of 15m. This accords with the Dublin City Development Plan 2016-2022 height restriction of 16m.
- The proposed building's parapet height is c. 2m above the adjoining Killeen Court apartment complex to the east.

- To the west, the four-storey element of the proposed building is similar to the adjoining Killeen Hall apartment complex, which sits at four storeys where it adjoins the subject site but has an overall maximum height of six storeys.
- The recessed fifth storey element over 4-storeys provides an appropriate transition in scale.
- The proposed building is not overly bulky.
- The mass and height of the proposal appropriately address the Grand Canal waterway and take into account its visibility from various locations along the Canal.
- Along the Grand Canal, the massing of the proposed building is reduced with recessed balconies and a variation in materials which takes in five vertical banded groupings, with brickwork as the primary material.
- The northern elevation, which includes the building's entrance provides a projecting glazed stair/lift core element and a cantilevered metal-clad canopy over the proposed entrance.
- The design approach, which uses traditional finishes complemented by contemporary materials, is appropriate to the site's setting adjacent to established buildings and the Grand Canal.
- The subject development provides for 10 x 1-bed apartments and 3 x 2-bed apartments, which is appropriate regarding the infill nature of the scheme and its 0.07 ha size, as per SPPR2 of the Apartment Guidelines.
- The floor areas of the proposed apartments accord with the minimum floor area requirements set out in SPPR3 of the Guidelines for 1 & 2-bedroomed apartments.
- 77% of the proposed units are dual aspect, with each of the single aspect units south facing.
- The ground floor to ceiling height is 2.7m, in accordance with the Guidelines, which require a minimum of 2.7m.
- The proposal provides four apartments per floor, which accords with SPPR6 of the Guidelines.
- The bedrooms are sufficiently separated from the internal lift and stair core areas.

- Each apartment has internal storage in accordance with the Apartment Guidelines standards, set out in Appendix 1.
- The private amenity space balconies for each apartment meet minimum standards required in terms of area and depth.
- Each of the balconies serving the proposed apartments are south facing.
- There are concerns regarding the proximity of the balconies to the ground floor apartments adjoining the site boundary with the Canal public towpath. The Applicant should be requested to clarify if a boundary is proposed and provide measures to ensure the privacy and safety of residents.
- A communal open space area of 105 sq.m. is provided to the north of the development, adjacent to the front entrance and car parking area. This area exceeds the Apartment Guidelines' 71 sq.m. requirement.
- The layout and landscaping plan, which includes an 80 sq m lawn and tables/pergola, is appropriate in terms of function and design.
- There is a 10% requirement for public open space specifically for all residential schemes, as set out in Section 16.10.1. of the Development Plan. However, as the proposed development is an infill development on a tight and underutilised site, it is not feasible to provide public open space.
- The Development Plan states that "Public open space will normally be located on-site; however, in some instances, it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity."
- The Applicant indicates agreement to pay a development contribution instead of open space provision. This agreement is acceptable given the site adjoins the Grand Canal public watercourse and recreational towpath.
- The proposed bin storage area located adjacent to the communal open space is adequately housed to prevent odour and vermin issues and convenient access for loading and unloading on collection days.
- The living/dining/kitchen and bedrooms floor areas of the proposed apartments are generally in accordance with the standards set out in Appendix 1 of the Apartment Guidelines.

- The backland location of the site relative to development along the Killeen Road gives rise to overlooking conditions onto adjoining properties.
- The angled sitting of No.6 Killeen Road, its boundaries, and the subject site's overall form are noted.
- The proposed apartment building has been setback over 14m from the rear elevation of No. 6 Killeen Road (nearest points).
- The proposed building is positioned and orientated with circulation areas and windows towards the site entrance and away from the rear of the existing roadside property. Therefore opportunities for direct overlooking are limited.
- Where overlooking conditions exist, there is a distance of 12m from the rear boundary wall, and mitigation is provided by way of opaque windows.
- In terms of adjoining communal amenity space associated with the Killeen Hall apartment development to the west, the proposal does not include any high-level windows along its western elevation.
- Overall, the proposed development adequately addresses the possibility of overlooking and loss of privacy to adjoining occupiers.
- The proposal's scale is appropriate on the subject site, and some overshadowing/ loss of light on surrounding properties may be considered acceptable.
- The Applicant has submitted a Daylight/Sunlight assessment which concludes that the proposed development produces daylight levels that substantially align with the recommendations provided in the BRE guide and BS8206.
- Summary of the Daylight/Sunlight assessment provided.
- The proposed development would not result in unreasonable overlooking or overshadowing of adjoining properties or their private amenity spaces and future occupiers of the proposed development would obtain sufficient levels of daylight.
- The amenity of residents on adjoining land was considered in the context of the site's conditions and the extent of impacts arising from the proposed development. The extent of the impacts is marginal and fall within the recommendations provided in the BRE Guide and BS8206 Guidelines. Therefore, the proposal accords with the Z1 Zoning objective in these terms.

- Vehicular, cycle and pedestrian access to the site is proposed via the entrance onto the Old Killeen Road.
- The submitted documents refer to a cycle/ pedestrian access via an existing laneway to the site's southwest, but this is not apparent on the submitted drawings. Therefore, this is most likely an error in the submitted documents.
- There is no access proposed to the banks of the Canal. The canal path is located on the opposite (southern) side of the Canal.
- The dimensions of the entrance and internal road are acceptable in accordance with the Design Manual for Urban Streets and Roads (2019).
- Works and materials to the kerb at the vehicular entrance shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council.
- Servicing of the site from the Old Killeen Road is acceptable.
- The Waste Management Plan and Operational Waste Control Strategy submitted is acceptable.
- Regarding parking, the site is located in Zone 3. The Development Plan sets out car parking standards that permit a maximum of 1.5 spaces per residential unit in this zone. Therefore 20 car parking spaces would be the maximum permissible no. of spaces.
- The Applicant proposes 8 no. vehicular parking spaces to serve the proposed development. The proposed development comprises 3 no. two-bed and 10 no. one-bed apartments.
- The site is within approx. 600m of the proposed Core Bus Corridor (CBC) 8, Clondalkin to Drimnagh. The site is also within a 10-minute walk of two bus routes with 15-20 minute frequencies. The site is approx. 1.5km from the Kylemore station on the Luas Red Line.
- The city centre is within a 10-20 minute cycle band, and the site is located along the canal path.
- The closest Go Car station to the site is 900m away at Kylemore Park North.

- Given the site's location, the proposed unit types and the existing and proposed public transport in the vicinity, the proposed no. of parking spaces is acceptable.
- The proposal provides a secure bike shed at the northeast section of the site with 20 no. bicycle parking spaces. This complies with the City Development Plan and Apartment Guidelines requirements.
- The Applicant has submitted a Traffic and Transport Statement, which concludes the proposed development would have minimal impact on the surrounding streets, provide appropriate cycle and car parking spaces, and would be served by public transport.
- A Residential Travel Plan/ Mobility Management Plan should be conditioned in the event of a grant of permission.
- A draft Construction Management Plan (CMP) has been submitted with the application. A final CMP should be required by way of condition in the event of a grant of permission.
- An Environmental Impact Assessment Report and Nature Impact Statement are not required.

### 3.2.2. Other Technical Reports

**Transportation Planning Division:** No objection subject to Conditions.

**Drainage Division:** No objection subject to Conditions.

### 3.2.3. Prescribed Bodies

**Health and Safety Authority:** No objections.

## 4.0 Planning History

- 4.1.1. There is no relevant planning history on the subject site.

## 5.0 Policy and Context

### 5.1. Development Plan

**Dublin City Development Plan 2016-2022** is the statutory plan for the area.

5.1.1. The following objectives relating to zoning are noted:

**Zoning:** The site is zoned 'Z1: Sustainable Residential Neighbourhoods' with the objective "To protect, provide and improve residential amenities". Residential use is listed as a permissible use in the Development Plan.

Land adjoining the site to the south is zoned 'Z9: Amenity/Open Space Lands/Green Network' with the objective "To preserve, provide and improve recreational amenity and open space and green networks".

The site is within a Conservation Area, as hatched red on Zoning Map D.

5.1.2. The following policies relating to Conservation Areas are noted:

#### **Section 11.1.5.4** Architectural Conservation Areas and Conservation Areas

**Policy CHC4:** To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting...

5.1.3. The following policies relating to housing are noted:

**Policy QH5** To promote residential development addressing any shortfall in housing provision through active land management and a coordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.

**Policy QH7** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

**Policy QH8** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

**Policy QH18** To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

**Policy QH19** To promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive, sustainable, mixed-income, mixed-use neighbourhoods supported by appropriate social and other infrastructure.

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

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.5 - The Public Realm
- Section 4.5.9 - Urban Form & Architecture;
- Section 9.5.3 - Flood Management
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 16.2 - Design, Principles & Standards;
- Section 16.7 - Building Height in a Sustainable City
- Section 16.10 - Standards for Residential Accommodation
  - 16.10.1 Residential Quality Standards- Apartments •
- Section 16.38 - Car Parking Standards.
- Map J shows the site is located in Parking Zone 3.
- Table 16.1 – Maximum Car Parking Standards for Various Land-Uses

- Zone 3 - 1.5 car spaces per dwelling

## 5.2. Natural Heritage Designations

The site is c. 9.9 km west of the South Dublin Bay SAC (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024). The site is also c.9.2 km southwest of the North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006).

The southern section of the site is located within the Grand Canal Proposed Natural Heritage Area (Site Code: 002104).

## 5.3. EIA Screening

- 5.3.1. Notwithstanding the proximity of the proposed development to the Grand Canal Proposed Natural Heritage Area, given the limited nature and scale of the proposed development and its location within a fully serviced urban environment, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. A third-party appeal was received from Stephen Mason, Architectural & Planning Services Consultant representing the third-party Appellants' Martin and Paula Benson, who resides at No.6 Killeen Road, the house adjoining the site's north-eastern boundary. The main grounds of appeal are summarised under the headings below;

#### 6.1.2. Building Heights

- The proposed building has an overall height of 62.82 AOD and a parapet height of 58.10 - 60.75 AOD.

- The height of Killeen Court to the east of the site is 56.00 AOD, and the height of Killeen Hall to the west is 54.11-56.95 AD
- The proposed apartment building would be 1.15 - 4.75m higher than existing apartment buildings.
- The ridge height of the Appellants' dwelling is 50.66 AOD.
- The height of the proposed new 4-5 storey building, in close proximity to the rear of the Appellants single storey dwelling, would dominate the skyline and dwarf the Appellants 'dwelling and private amenity space.
- The height of the proposed building would have a considerable impact on the Appellant's dwelling regarding daylight and sunlight.
- The proposed 4-5 storey building would be inserted between two existing apartment buildings.
- The height of the proposed new building taken in conjunction with the apartment building to either side would create a high enclosure on three sides around the Appellants' property.
- The height of the proposed building is queried with reference to the 300mm depth of floor space required for floor construction and services void.

### 6.1.3. **Overlooking**

- The rear of the Appellants' property is south facing.
- There is a separation distance of c.17m between the upper floor bedroom windows of the proposed development and the Appellants' dwelling.
- Bedrooms are classified as habitable rooms.
- The windows serving the bedrooms within the proposed development are floor to ceiling in height and have widths of 2m, providing a large expanse of glass.
- From the upper floor bedroom windows of the apartment building, occupants would have clear visibility into the Appellants' dwelling and private amenity space.
- The separation distance between the proposal and the Appellants' private open space is c.12m.
- The proposal's third and fourth-floor bedroom windows would directly overlook the Appellants' dwelling and private rear garden.

- The submitted documents refer to the kitchen windows within the proposed building as having a 22m separation distance from the rear of No. 6 Killeen Road, to ensure no overlooking.
- Kitchen windows are not classified as habitable room windows, and therefore, should not be used for separation distance purposes.

#### 6.1.4. **Vehicular Access and Parking**

- The Appellants query the 5m width of the access road serving the proposed development.
- The proposal does not provide a pedestrian footpath, creating a potential safety issue for pedestrians.
- The proposal's access road does not provide a safe turning area for vehicles reversing from parking spaces marked nos. 2,3,4, and 5. The Appellants query if vehicles reversing from these spaces would be required to cross over the footpath around the building to safely exit the parking space and exit the site in a forward direction.
- The traffic movement to the existing car sales facility is considerably less than the expected traffic movement to the proposed new apartment building.
- The Appellants query whether the vehicle entrance to their dwelling, No. 6 Killeen Road, was considered in the application.
- The Appellants query where people would park when the proposed 8 no. car parking spaces serving the proposed development are occupied. The Appellants suggests this would lead to parking on the public road, thereby creating traffic safety issues and impacting sightlines at the entrances to the site and the Appellants' dwelling.
- The Appellants accepts that a reduced no. of car parking spaces is allowed as the proposed development is close to public transport. However, only 8 no. parking spaces are provided when 20 no. spaces are required. This no. of spaces is less than 50% of the minimum number required, or 1 no. space per apartment.
- The Appellants' query how 8 no. spaces would be allocated between the 13 apartments.

- With such a shortfall of car parking space and an unknown number of future occupants who own a vehicle, Dublin City Council should seek a Bond of c. €200,000 whereby if illegal parking occurs within 4 years after completion, this bond would be used by the Local Authority to provide parking within the vicinity.

#### 6.1.5. Existing Shed / Waste Area

- The proposed development seeks to demolish part of a shed that the appellants currently own to create the proposed new waste area.
- Any proposed demolition works should be carried out with due care and attention to not cause damage to the remaining part of the shed in the Appellant's ownership.
- The appellants shed should be left watertight, safe and secure, at the developer's expense, to the Appellant's satisfaction.
- The proposed waste area is located close to the Appellant's property and private amenity space.
- The waste management policies for the proposed development are unclear from the documentation submitted.
- Quality and type of bins to be provided queried.
- Concerns regarding odour and vermin may be a health and safety issue for the occupiers of the appellants dwelling.

#### 6.1.6. Backland Development

- The Appellants query if the proposed development is backland development, in accordance with the definition under Section 16.10.8 of the Dublin City Development Plan 2016-2022.
- The proposed development would cause a significant loss of amenity to the Appellant's property and other properties by way of overlooking, loss of privacy, noise disturbance and loss of mature vegetation or landscape screening.

#### 6.1.7. Supporting documentation lodged with the appeal include the following;

- Photographs of the existing apartment buildings Killeen Court and Killeen Hall and the view of the appeal site from the rear garden of the appellants dwelling.
- Site Plan.

## 6.2. Applicant Response

6.2.1. The response received from Simon Clear and Associates, representing the Applicants, is addressed under the headings below;

### 6.2.2. Building Height

- The Planning Authority noted that the proposed building is within the Dublin City Development Plan height guidance for this suburban location.
- The building's proposed floor to floor height of 3m is a commonplace industry-standard dimension in the design of new apartment buildings.
- The proposal provides sufficient space for floor and ceiling buildups (with a standard 0.2m structural space and 0.1m service zone) and required internal floor-to-ceiling heights.
- The 2020 Apartment Design Guidelines and the Building Regulations require internal floor to ceiling heights for apartments of 2.7m for ground floor units and 2.4m for upper floor units
- The 3m floor to floor space provided achieves the standards required.

### 6.2.3. Overlooking / Overshadowing

- The proposed new building is not located directly behind (to the south of) No. 6 Killeen Cottages.
- The proposed development is located between No. 6 Killeen Cottages and the 4-6 storey Killeen Hall development.
- A part of the application site is located directly behind part of No.6 Killeen Cottages, which is designed as a landscaped area.

- The rear of the appellants dwelling, No. 6 Killeen Cottages, is angled away from the proposed building and the outlook from the cottage windows is towards the Killeen Court, located directly behind (to the south of) No. 6 Killeen Cottages.
- The proposed building is designed so that most of the northern elevation is taken up by the stairs and lift core. This core would block any views towards the Appellant's property from the proposed apartment building's left (western) side.
- Care has been taken in the proposal's design to ensure overlooking would not occur towards the Appellant's dwelling, whereby the proposed building has been;
  - Positioned to align with the rear (southern) site boundary.
  - Orientated directly to the north towards the site's entrance rather than to the northeast towards No. 6 Killeen Cottages.
  - Positioned in an infill location between two existing apartment buildings on either side – Killeen Court to the east, a two-storey large, pitched roof building, and Killeen Hall To the west, 4-6 storeys in height.
  - Positioned at the southern end of the site to provide a considerable setback away from the rear of No. 6 Killeen Cottages.
  - Designed with most of the northern elevation occupied by the stairwell and lift areas, from which there can be no overlooking.
  - Designed so that the stairwell blocks any outlook from the apartments at the northwestern corner of the building.
  - Designed so all bedrooms and stairwell windows in the northern facade of the proposed building are orientated towards the site entrance and Killeen Road to the north, rather than towards the rear of No. 6 Killeen Cottages.
  - Designed to ensure that windows do not directly oppose the rear facade or side gable of No. 6 Killeen Cottages.
  - Designed so that the windows to the proposed kitchen areas at the northeast corner of the building maintain a minimum setback of 22 meters from the rear of No. 6 Killeen Cottages and are all fitted with obscure glazed windows.

- The proposed development does not overlook No. 6 Killeen Cottages to the northeast.
- The drawings submitted by the Appellant to suggest potential overlooking are misleading.
- Development Plan separation distance standards relate to directly opposing windows. The proposed bedroom windows are not directly opposing No. 6 Killeen Cottages.
- The appellants drawing submitted provides an arbitrary angle lateral line, which does not accord with the standard measurement method of assessing potential overlooking.
- A Daylight, Sunlight and Shadow Impact Analysis for the proposed development has been carried out by John Healy, (M.Sc. Environmental Design of Buildings), based on a 3-dimensional computer scale model of the site and context, to demonstrate the existing situation and model the shadows, daylighting and sun lighting levels that would be cast/altered by the proposed development.
- The Daylight, Sunlight and Shadow Impact Analysis conclude that, based on BRE Guidelines, the proposed development would not create adverse overshadowing, loss of daylight and sunlight or overbearing conditions on internal or external areas of adjacent buildings or within the development itself.

#### 6.2.4. **Modal Options and Parking**

- The new roads, sightlines and parking arrangements serving the proposed development all comply with DMURS standards and were designed by a specialist roads and transport consultancy practice - CS Consulting Engineers.
- The proposed development is located within Dublin city and served well by the existing public transport network.
- The level of parking provision is based on the high level of alternative modes of transport available and to meet the requirements of the Dublin City Development Plan 2016-2022, which seeks to reduce dependency on private car-based transport.

- The proposed development complies with Section 8.1 of the Development Plan, which seeks to promote sustainable forms of transport, such as public transport, walking, and cycling by taking a proactive approach to influencing travel behavior and effective traffic management.
- The proposal encourages a modal shift away from car-based transport in accordance with Section 8.5.2 of the Development Plan, which seeks to reduce the reliance on private car usage and provide opportunities for people to alter their travel behavior and increase modal shifts to more sustainable modes.
- National policy encourages a modal shift away from car-dependent transport.
- The proposal complies with Section 4.21 of the Sustainable Urban Housing Design Standards For New Apartments 2020 Guidelines, which states that for an intermediate urban/ suburban location such as the appeal site, "in suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net ( 18 per acre), planning authorities must consider a reduced overall car parking standard".
- The site is close to high-quality, high-capacity existing frequent public transport connections, as follows;
  - Within 500m of the New Nangor Road Quality Bus Corridor which has a dedicated bus lane serving high-frequency bus routes into and out of the city centre.
  - The nearest public bus stops are Stop Nos. 6154 and 6146, located at the junction of the New Nangor Rd and Killeen Rd on the dedicated New Nangor Rd bus lane, served by the high-frequency Nos. 151 and 68X bus routes.
  - Within 1500m of the nearest Luas redline tram stop at Kylemore on the Naas Road to the south-east.
  - Close to two new Bus Connects primary Spine routes – Spine Route D1 and Spine Route D3, which will both run along the New Nangor Rd Bus Lane Corridor and will be served by the existing bus stops numbers 6154 and 6146.

- Proposed Bus Connects Spine Route G1 will run through Park West within 950 meters of the site.
- The site is located alongside the Grand Canal "blue way" paved/tared dedicated cycling and pedestrian route, which runs along the Grand Canal.
- The Old Killeen Road leads to a bridge over the Canal to the southwest, which connects directly to the cycle and footpath which runs alongside the southern side of the Canal and gives access to public transport and to a direct cycling and walking route to the city centre to the east and Park West, Clondalkin and Lucan into the west.
- The proposed roads and parking provisions were acceptable to the Dublin City Council Traffic And Transport Division.
- Where parking reduction is achieved in an apartment scheme, it is normal that there will be a management company created to manage the development's common areas, including car parking, waste collection, grounds maintenance, and sinking fund for the long-term maintenance of the development. Within this context, the parking provision will be allocated and managed.
- The termination of the existing car sales use will eliminate a considerable amount of roadside car parking along the Old Killeen Road.

#### 6.2.5. Existing Shed

- The existing structure to be demolished is within the Applicant's ownership, which Title Deeds confirm.
- The claim to ownership of part of a shed located within the site is entirely rejected by the Applicant.
- The issue of land ownership is separate from planning and is not a matter for An Bord Pleanála.
- The usual caution relating to Section 34(13) of the Planning Act applies to all permitted developments.
- As with any works adjacent to neighbouring structures, the development works will be carried out so as not to cause damage to adjacent structures.

- A Waste Management Plan was submitted with the application, prepared by CS Consulting, giving details about waste management at the construction and operational stage.

### 6.3. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

### 6.4. **Observations**

None

## 7.0 **Planning Assessment**

Having examined the application details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Building Height and Overshadowing,
- Overlooking,
- Access and Parking,
- Refuse Store,
- Appropriate Assessment.

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. Accordingly, the issues for consideration are addressed below.

### 7.1. **Building Height and Overshadowing**

- 7.1.1. The proposed development comprises the demolition of all existing buildings, structures and yards on the site and the construction of a part 4-storey, part 5-storey apartment building containing 13 no. apartments, comprising 10 no. 1-bed units and 3

no. 2-bed units with associated terraces. The proposal also provides 8 no. car parking spaces, 24 no. bicycle parking, refuse storage, landscaping, boundary treatments and all associated site development works and services. Vehicular and pedestrian access to the proposal is from Killeen Road.

- 7.1.2. The Appellants object to the proposed development on the grounds that the height of the proposed new apartment building would dominate the skyline and dwarf the Appellants' dwelling, No.6 Killeen Road. In addition, the Appellants express concern that the height of the proposal and its proximity to their dwelling and rear private amenity space would considerably impact their residential amenity regarding daylight and sunlight.
- 7.1.3. Regarding site layout, the Planning Authority consider the proposed building is positioned appropriately along the site's southern section. The Planning Authority reason that the siting of the proposed building would extend the existing building line of Killeen Court and contribute to a continuous built-up edge along the Grand Canal towpath. The Planning Authority report notes the northern section of the site would remain free of structures and given over to parking and landscaping and consider such appropriate given the proposal's proximity to No.6 Killeen Road - a single storey dwelling adjoining the site's north-eastern boundaries.
- 7.1.4. Regarding building height, the Planning Authority consider the proposed building accords with the Dublin City Development Plan building height restriction of 16m for the area. The Planning Authority considers the height of the 4-5 storey proposed building acceptable by reason that it rises only c. 2m above Killeen Court to the east and is similar in height to the 4-6 storey height of the Killeen Hall apartment complex to the west. The Planning Authority details how the recessed fifth floor of the proposal provides an appropriate transition and how the massing of the building is reduced with the provision of recessed balconies and variations in elevation materials. The Planning Authority concludes that the height and mass of the proposed building is not overly bulky and appropriately addresses the Grand Canal waterway, taking into account its visibility from various locations along the Canal.
- 7.1.5. The site is zoned 'Zone Z1: Sustainable Residential Neighbourhoods Zone' with the objective 'To protect, provide and improve residential amenities'. Residential use is listed as a permissible use under Z1 zoned lands, as detailed under Section 14.8.1 of

the Development Plan. As such, the proposed residential development is permitted in principle, in accordance with the zoning objective of the area subject to planning consideration, including policies and objectives outlined in the Dublin City Development Plan 2016-2022.

7.1.6. Single-storey semi-detached dwellings characterise the surrounding area to the north-east along Killeen Road, a two-storey apartment block known as Killeen Court to the east and a 2-6 storey apartment block known as Killeen Hall to the west. No. 6 Killeen Cottage which adjoins the site's north-eastern boundary, is a single storey semi-detached dwelling with a pitched roof profile and a ridge height of 50.66 AOD. Killeen Court has a pitched roof profile with an overall ridge height of 56.00 AOD. Killeen Hall has a flat roof profile with an overall height of 62.78 AOD and a parapet height of 54.11- 56.95 AOD along its eastern 3.4 storey elevations.

7.1.7. Under the subject appeal, the proposed apartment building is 5-storeys and flat-roofed, with the fifth storey recessed when viewed from the south and eastern and western sides. The proposal presents a five-storey elevation when viewed from the north. The overall height of the proposal at the fifth-floor level is 60.75 AOD, with a lift overrun height of 61.45 AOD. The parapet height of the four-storey element is 58.10 AOD.

7.1.8. Section 16.7.2 of the Dublin City Development Plan 2016-2022 refers to 'Height Limits and Areas for Low Rise, Mid- Rise and Taller Development'. This section and Figure 39, 'Building Height in Dublin Context', identifies a 16m height restriction (equating to 5 storeys) for residential development in the outer city. As per Zoning Map K, the appeal site is located in the outer city.

7.1.9. National Policy Objective 35 of the National Planning Framework (NPF) seeks to;

*'Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights'.*

7.1.10. Section 1.20 of the 'Urban Development and Building Heights Guidelines for Planning Authorities (2018)' details how;

*'A key objective of the NPF is therefore to see that greatly increased levels of residential development in our urban centres and significant increases in the building heights and overall density of development is not only facilitated but*

*actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels'.*

7.1.11. Section 3.1 of the Guidelines states that;

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

7.1.12. Section 3.2 of the Guidelines sets out development management criteria, which are addressed under the headings below, accordingly.

7.1.13. At the scale of the relevant city/town

- The site is served by public transport with Dublin Bus corridors along the New Nangor Road c. 850m (11 mins by foot) to the southwest at Stop No. 6146, and c. 1.1km (13 mins by foot) to the north-east along the Kylemore Road at Stop no. 2783. Park West and Cherry West train station is located c. 1.9km (22 mins by foot) to the north-west of the site, and the Kylemore Luas stop is located c. 1.8km by foot (24 mins by foot) to the south-east. In accordance with the guidelines, I am satisfied the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- The site is located within a Conservation Area, as identified on Zoning Map D of the Dublin City Development Plan 2016-2022. The Design Statement submitted with the application details how the proposal is designed to be of high architectural quality, recognising this site's visibility from the Grand Canal towpaths and the nearby canal bridges at the southern end. The Design Statement details how the building has been designed with high-quality facade materials and detailed elevational compositions to all sides allied to site landscaping to address the adjoining context and public realm appropriately and to act as an architectural benchmark for new development in this area. While the site is a sensitive area in the context of its location along the Grand Canal, I consider the height and design of the proposal can successfully integrate into and enhance the character of the existing area and, in particular, the site's location along the Grand Canal.

#### 7.1.14. At the scale of district/ neighbourhood/ street

- The Applicant has submitted three-dimensional perspective drawings of the proposed development within the site's context, adjoining land, buildings and the Grand Canal. These and the other drawings and submission with the application demonstrate how the proposed development's design, massing and height is designed to transition from the existing adjacent buildings on either side while achieving increased densities with variety in the overall design. In my view, the proposal responds well to the scale of adjoining development, providing an appropriate transition from the adjacent two-storey pitched roof Killeen Court apartment building to the east and the overall six-storey height of the Killeen Hall apartment complex to the west. In addition, the proposal's mass and height appropriately address the Grand Canal to the south, on a site that is visible on approach along the Canal and the Killeen Road Canal Bridge to the southwest.
- The proposed apartment building is located along the southern section of the site, with its southern elevation addressing the Grand Canal. The southern building line of the proposal aligns with and continues the southern building line of the Killeen Court development, creating a continuous building line along the Grand Canal bank to the south. By reason of the proposals frontage along the Grand Canal and its filling in of an unused site, it is my view that the proposal comprises an appropriate form of infill development and does not constitute backland development as put forward by the appellants.
- The form of the proposed apartment block is varied, with the fifth-floor setback behind its main four-storey elevation when viewed from the south, east and west. The southern canal-side elevation is punctuated with double balconies, and inset window opes serving each apartment. Proposed elevation materials comprise brickwork as the primary material at ground to third-floor level, with the setback fourth-floor elevation comprising grey pressed metal cladding. Glazed balustrades, double-height terraces and banded brickwork add variety to the elevation treatment. I am satisfied that the proposal responds to the surrounding natural and built environment alongside the Grand Canal and would positively contribute to the neighbourhood and visual amenity.

#### 7.1.15. At the scale of the site/building

- The application is accompanied by a Daylight and Sunlight Assessment, prepared by John Healy (MSc Environmental Design of Buildings). The report assesses the impact of the proposed development for daylight and sunlight on neighbouring buildings and the quality of daylight and sunlight within the proposed development.
- Regarding daylight to existing dwellings, the report details how following a preliminary analysis, relevant windows in Killeen Hall, Killeen Court, and No. 6 Killeen Road were assessed with a calculation of Vertical Sky Component (VSC). Test point locations used in the generated model are indicated in Figures 4-9 of the report, and the results are displayed in Table 1. The VSC results found that of the 31 windows assessed, the two worst-case bedrooms at ground floor level within Killeen Hall will exceed the minimum levels set out in the BRE guidelines and retain good daylight levels. The report details how all the bedroom windows on the floors above will have greater daylight availability and exceed the recommended levels. All the remaining windows will retain a VSC in excess of 27% or are not reduced below 80% of their former value. The VSC found that a small number of bedroom windows will reduce below 80% of the former value but exceed the minimum ADF, and any impact will be minor. Therefore, the report concludes the proposed development meets the BRE Guidelines.
- Regarding daylight within the proposed development, the daylight and sunlight assessment provides an assessment of the Average Daylight Factor (ADF) in habitable rooms of the proposed development. The report details how the development design is optimised for good quality daylight whereby all living rooms are oriented to the south. The report concludes that all the rooms to the ground floor of the proposed development exceed the minimum ADF set out in the BRE guidelines and that the proposal meets the recommendations of the BRE Guidelines and BS8208 Part 2:2008 Lighting for Buildings, Code of Practice for Daylighting.
- Regarding sunlight to gardens and amenity space, the Daylight and Sunlight study assesses amenity spaces in Killeen Hall, No.6 Killeen Road and the proposed development itself to quantify the percentage of sunlight on the ground on the 21<sup>st</sup> March. Amenity space in Killeen Court was excluded as it is mainly used for car parking. Radiation maps and results found that the proposal would not impact the availability of sunlight to the amenity space in Killeen Hall and No.6 Killeen Road,

and in excess of 50% of the amenity areas within the proposed development itself would have sun on the ground for more than of 2 hours of sunlight on March 21st. The report concludes that the proposed development meets the recommendations of the BRE guidelines for gardens and open spaces.

- Having reviewed the Daylight and Sunlight Assessment submitted, I am satisfied that the form, massing and height of the proposed development would not adversely impact the residential amenity of adjacent property by way of overshadowing or loss of daylight and sunlight. Appropriate and reasonable regard has been taken of quantitative performance approaches to daylight provision outlined in the Building Research Establishment's guide 'Site Layout Planning for Daylight and Sunlight' and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

#### 7.1.16. Specific Assessment

- The site is not a Protected Structure and is not located within an Architectural Conservation Area. Having visited the site, inspected structures to be demolished and reviewed the documentation submitted with the application, I consider the demolition of the existing structures would have a negligible impact on the Conservation Area in which it is located.
- The site is not located within a Zone of Archaeological Interest.
- In terms of environmental assessments, these are considered separately in sections 5.2, 5.3 and 8.0 of this report.

#### 7.1.17. Conclusion

Having considered the proposed building's height, scale and design in the context of the Urban Development and Building Heights Guidelines for Planning Authorities (2018), and in particular Section 3.2, I consider the outlined criteria have been appropriately incorporated into the development proposal. It is my view that the proposed development is in accordance with Strategic Planning Policy Requirement 3A as set out in the Guidelines and Section 16.7 - 'Building Height in a Sustainable City' as set out in the Dublin City Development Plan. Accordingly, I am satisfied the proposed building height, and design is acceptable in this context.

## 7.2. Overlooking

- 7.2.1. The appellants object to the proposed development on the grounds that it would result in overlooking of their property, No. 6 Killeen Cottage. The Appellants put forward that the floor to ceiling bedroom windows on the northern elevation of the proposed development would have clear views of the rear of their dwelling and private amenity space. Furthermore, the Appellants put forward that kitchen windows are not classified as habitable room windows and therefore should not be used for separation distance assessment purposes. The Applicant contests these grounds of appeal, as detailed in Section 6.2.3 above.
- 7.2.2. The Planning Authority report notes the backland location of the site relative to development along the Killeen Road, which could give rise to overlooking of adjoining properties. However, given the angled position of the proposed development towards the site entrance and its setback of over 14m from the rear elevation and 12m from the rear boundary wall of No. 6 Killeen Road (nearest points), the Planning Authority considers the opportunities for direct overlooking are limited. The Planning Authority notes that where overlooking conditions exist, mitigation has been provided by way of opaque windows.
- 7.2.3. The northern elevation of the proposed development is orientated in a northerly direction. The rear elevation of the Appellants dwelling No. 6 Killeen Cottages is orientated in a south-easterly direction. A separation distance of 24.2m would be maintained between the north-eastern corner of the proposal (serving bedrooms) within the proposed apartment building and the closest directly opposing north-western side corner of No. 6 Killeen Cottages. An eastern wing element of the proposal containing windows serving kitchens or a dressing room would be located directly to the south of No. 6 Killeen Cottage and would maintain a separation distance of 22m from the rear south-eastern elevation of this dwelling. The Applicant has submitted a Design Statement addressing this issue. The Design Statement states that 'where there are windows to kitchen areas at the north-east of the building, which are opposite the rear of No.6 Killeen Cottages, these windows are set back a minimum of 22m from the rear of No.6 Killeen Cottages and are all opaque glazed windows to actively ensure no overlooking conditions are created'. I am satisfied that the opaque glazed treatment of these window opes would prevent overlooking of No. 6 Killeen Cottage. The window

opes serving the stair and lift core and bedroom window opes on the northern elevation of the proposal are not located directly opposite first-floor window opes. While oblique viewing may be available of the rear of No. 6 Killeen Cottage, I do not consider this sufficient reason to warrant the refusal of permission of the proposed development. The Dublin City Development Plan 2016-2022 makes specific provisions for separation distances between directly opposing first floor rear windows of residential development under Section 16.10.2. There are no provisions to prevent oblique overlooking from adjacent or adjoining property. There are no window opes on the eastern side elevation of Killeen Hall Apartments development. Thereby, overlooking of residential units within Killeen Hall is not an issue.

7.2.4. Having regard to the above, I am satisfied that the proposed development would not result in direct overlooking of neighbouring property and complies with the Dublin City Development Plan 2016-2022 policy regarding overlooking. I recommend, therefore, that the proposed development not be refused permission in relation to these grounds of appeal.

### 7.3. Access and Parking

7.3.1. The Appellants object to the proposed development on the grounds that the 8 no. car parking spaces serving the proposed 13 no. apartments do not comply with the 20 no. car parking space standard required under the Dublin City Development Plan 2016-2022. The Appellants express concern that the shortfall in parking spaces would lead to cars parking on the public road, thereby creating road safety issues and impacting sightlines at the entrance to the site and the Appellants' dwelling. The Appellants suggest Dublin City Council should seek a bond of c. €200,000 whereby if illegal parking occurs within 4 years after completion, the bond would be used by the Local Authority to provide parking within the vicinity. Furthermore, the Appellants express concern about the 5m width of the access road serving the proposed development and the absence of a safe turning area for vehicles reversing from parking spaces marked nos. 2,3,4, and 5.

7.3.2. The Applicant contests these grounds of appeal, as detailed in Section 6.2.4 above. A Traffic and Transport Design Statement was submitted with the application, prepared by Cronin & Sutton Consulting Engineers. Proposed measures within the Statement include implementing an ongoing mobility management plan for the proposed

development to assist residents and their visitors in making the most of sustainable transport opportunities and avoiding single-occupant car journeys.

- 7.3.3. Regarding access, the Planning Authority report states the entrance and internal road dimensions serving the proposal are acceptable, in accordance with the Design Manual for Urban Streets and Roads (DMURS) (2019).
- 7.3.4. Regarding parking, the Planning Authority note the site is located in Zone 3, where Dublin City Development Plan 2016-2022 car parking standards require a maximum of 1.5 spaces per residential unit in this zone. The Planning Authority note that the site is located within c. 600m of proposed Core Bus Corridor (CBC) No. 8, Clondalkin to Drimnagh, a 10-minute walk of two bus routes with 15-20 minute frequencies and 1.5 km from the Kylemore station on the Luas Red Line. Furthermore, the Planning Authority note the site is located along the Grand Canal cycle path and within the city centre's 10-20 minute cycle band. On this basis, given the site's location, the proposed unit types, and the existing and proposed public transport in the vicinity, the Planning Authority considers the proposed number of parking spaces acceptable.
- 7.3.5. The proposed development provides shared vehicular, pedestrian and cyclist access from Killeen Road, 8 no. car parking spaces and a secure bicycle storage facility for residents, accommodating 20 no. bicycles.
- 7.3.6. Map J of the Dublin City Development Plan 2016-2022 shows the site is located in Parking Zone 3. Table 16.1 of the Development Plan refers to 'maximum car parking standards for various land-uses' and requires a maximum of 1.5 car spaces per dwelling in Zone 3. On this basis, a maximum of 20. car parking spaces is permissible for the proposed 13 apartments. I note, however, that Policy MT2 of the Development Plan seeks 'to promote modal shift from private car use towards increased use of more sustainable forms of transport such as cycling, walking and public transport'. Furthermore, Section 4.19 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020) refers to car parking in 'Intermediate Urban Locations' and recommends that;

*"in suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a*

*reduced overall car parking standard and apply an appropriate maximum car parking standard".*

7.3.7. Section 2.4 (2) of the Guidelines defines 'Intermediate Urban Locations' as

*"sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided".*

Regarding the site's distance from high capacity urban public transport stops (LUAS and rail) and high-frequency urban bus services, as detailed in Section 7.1.12 above, I consider the appeal site to fall within this category.

7.3.8. Having regard to (i) the proximity of the site to 'Z6 - Employment and Enterprise' zoned lands to the north within the administrative area of Dublin City Council and 'EE' zoned lands further to the south within the administrative area of South Dublin County Council with the objective 'to provide for enterprise and employment related uses', (ii) the proximity of the site within walking distance of high capacity urban public transport stops and high-frequency bus stops and (iii) the location of the site adjoining the cycleway along the Grand Canal within 2.3km (8 min cycle) of the Blackhorse Luas Stop to the east, it is my view that the reduced number of car parking proposed at this location is acceptable in this instance. Such development would be in accordance with Policy MT2 of the Dublin City Development Plan 2016-2022 and Section 4.19 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020), as detailed above.

7.3.9. Regarding access, the proposed development would be accessed via the existing vehicular entrance along the Old Killeen Road, which is a cul-de-sac. A raised footpath is located along the southern side of Old Killeen Road serving the site, and on-street parking is available along both sides of the road. The proposed development would not affect existing sightlines at the appeal site, adjoining site entrances, or existing on-street parking on both sides of the cul-de-sac Old Killeen Road. Unauthorised on-street parking is a function of the Planning Authority.

- 7.3.10. The vehicular entrance serving the site has a width of 5.79m, and the vehicular driveway serving the proposal has a width of 5m. The proposed access provides a shared surface, serving vehicles, pedestrians and cyclists.
- 7.3.11. The Council's Transportation Planning Division report addresses the issue of 'access' and states the width of the entrance and internal road serving the proposed development are acceptable and in compliance with the Design Manual for Urban Streets and Roads (2019). Having reviewed the drawings submitted, I concur with the Council's Transportation Planning Division that the width of the carriageway serving the proposal generally accords with Section 4.4.1 of Design Manual for Urban Streets and Roads (2019), which states that the '*total carriageway width on local streets where a shared surface is provided should not exceed 4.8m*'. The shared surface serving the proposal for vehicles, pedestrians and cyclists accords with Section 4.3.4 of DMURS which encourages shared surfaces where movement priorities are low. The 6m width of the carriageway to the rear of the proposed parking spaces would enable adequate manoeuvrability, in accordance with Section 4.4.9 and of the Design Manual for Urban Streets and Roads (2019). Having reviewed the Traffic and Transport Design Statement submitted, and given the number of parking spaces proposed, I do not consider the traffic generated by the proposed development would significantly impact the surrounding road network.
- 7.3.12. Having regard to the above, I consider the development as proposed complies with the Dublin City Development Plan 2016-2022 and the Design Manual for Urban Streets and Roads (2019) regarding access and parking and would be acceptable in terms of traffic and pedestrian safety and convenience. I recommend, therefore, that the proposed development should not be refused permission in relation to these grounds of appeal.

#### **7.4. Refuse Store**

- 7.4.1. The Appellants express concern the proposed refuse store at the north-eastern corner of the site, to the rear/south of their dwelling No. 6 Killeen Road, would create a health and safety issue regarding odour and vermin. The Appellants put forward that waste management policies for the proposed development are unclear from the documentation submitted. The Appellants also express concern that the proposed development seeks to demolish part of a shed which the appellants currently own, to

create the proposed refuse store and that the proposed works may cause damage to the shed within the Appellant's ownership.

- 7.4.2. The Applicant contests this, stating that a Waste Management Plan was submitted with the application, prepared by CS Consulting, giving details about waste management at the construction and operational stage.
- 7.4.3. The Design Statement submitted details the proposed refuse storage comprises a purpose-built ventilated storage area which will accommodate separate storage bins for segregate storage and disposal of general waste, organic waste and recyclable categories of waste. The Statement states that the refuse storage area will be accessible to all apartments and to waste collection operators. It is proposed that a concierge service will operate so that waste operatives will retrieve and return the bins from the dedicated bin stores at the time of collection. Under this arrangement, no bins will be left on the side of the street and the entire collection and return operation will be undertaken in a short period of time with safe access/ egress facilitated from Killeen Road for operatives. Details in relation to development servicing/ waste management proposals are set out in Section 6.1 of the Waste Management Plan submitted.
- 7.4.4. Having regard to the above, it is my view that the management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. Concerns regarding odour and vermin can be dealt with by way of Condition in the event of a grant of permission requiring the submission for the agreement of the Planning Authority details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste.
- 7.4.5. Regarding works to and possible damage of third-party property, Section 5.13 of the Development Management Guidelines (2007) refers to 'Issues relating to title to land' and states that the planning system is not designed as a mechanism for resolving disputes about title to or rights over land and that these are ultimately matters for resolution in the Courts. The Guidelines advise that where there is doubt in relation to the legal title of the Applicant, the Planning Authority may decide to grant permission, however a grant of permission is the subject of Section 34(13) of the Planning and

Development Act 2000 (as amended). Section 34(13) of the Act states that 'a person is not entitled solely by reason of permission to carry out any development'.

7.4.6. I conclude, therefore, that the proposed development should not be refused permission on these grounds of appeal.

## **8.0 Appropriate Assessment**

8.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced settlement, and having regard to its separation distance from any European site, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

9.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

## **10.0 Reasons and Considerations**

10.1.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022 and the zoning of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenity of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree to such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"><li>(a) Location of the site and materials compound(s) including areas identified for the storage of construction refuse;</li><li>(b) Location of areas for construction site offices and staff facilities;</li><li>(c) Details of site security fencing and hoardings;</li><li>(d) Details of on-site car parking facilities for site workers during the course of construction;</li><li>(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</li></ul>

	<p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(i) Provision of parking for existing properties during the construction period;</p> <p>(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers, drains or the Grand Canal.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p><b>Reason:</b> In the interest of amenities, public health and safety.</p>
4.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the</p>

	<p>Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>Prior to commencement of development, the developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
8.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p>

	<p>(a) A plan to scale of not less than 1:500 showing -</p> <p>(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.</p> <p>(ii) Details of screen planting which shall not include cupressocyparis x leylandii.</p> <p>(iii) Details of roadside/street planting which shall not include prunus species.</p> <p>(iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.</p> <p>(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.</p> <p>(c) A timescale for implementation .</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
9.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the planning authority details of the proposed boundary treatment along the southern boundary of the site. Details to be submitted shall outline measures to protect the privacy and security of the residents within the ground floor apartments which adjoin the Grand Canal Towpath.</p>

	<p><b>Reason:</b> In the interest of visual and residential amenity.</p>
10.	<p>Proposals for an estate name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features or alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
11.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of the development.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
12.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>

13.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>
14.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
15.	<p>Prior to commencement of development, the Applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p>

	<p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
16.	<p>Prior to the commencement of the development as permitted, the Applicant or any person with interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all units permitted, to first occupation by individual purchasers, i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p><b>Reason:</b> To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
17.	<p>The apartments shall not be used for any short term residential letting.</p> <p><b>Reason:</b> In the interests of the proper planning and sustainable development of the area.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the Local Authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p>

	<p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
19.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the Authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Brendan Coyne  
 Planning Inspector

11<sup>th</sup> February 2022