



An
Bord
Pleanála

Inspector's Report ABP-310073-21

Development	Change of use and extensions to existing commercial building to provide ground floor retail unit and 2 apartments, which will include an extra storey.
Location	296C, North Circular Road, Phibsborough, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3886/20
Applicant(s)	Iosif Gabor
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party vs. Grant
Appellant(s)	Brendan & Anne Curran
Observer(s)	None
Date of Site Inspection	8 th March 2022
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located along North Circular Road in Phibsborough, approximately 130m southwest of its junction with Cabra Road. It is part of a larger terrace of red-brick buildings with commercial/retail uses at ground floor level fronting onto North Circular Road. The plots have varying widths and have been the subject of various façade alterations and amalgamations. The block is bounded by Avondale Road to the east, Great Western Avenue to the west, and a rear service lane to the south.
- 1.2. The site is relatively flat and has a stated area of 118.6m². It has a gated entrance at the rear onto a service lane which leads into a small rear courtyard. The site currently comprises a 2-storey mid-terrace brick-fronted building. There are 2-storey and single-storey extension elements to the rear. The building is currently vacant and would appear to have been most recently used as commercial/office units.
- 1.3. The surrounding area is mainly dominated by residential uses. However, there is a strong commercial character along North Circular Road to the east and west of the site. To the north of the site is St. Peter's Church and grounds. The church is a protected structure and is part of the larger Phibsborough Centre Architectural Conservation Area (ACA). To the south, Great Western Square and environs is also an ACA.

2.0 Proposed Development

- 2.1. The application originally sought permission for changes of use and extensions to provide 3 apartments. This was reduced to 2 apartments as part of the applicant's response to a further information request. In summary, the proposed development (as amended by a further information response) comprises change of use, extensions, and alterations as follows:
 - Change of use of ground floor commercial unit to retail unit
 - Extensions to rear of ground floor to provide storage for shop, apartments, and bins
 - Change of use and extensions at 1st floor level to provide 2-bed apartment
 - Provision of additional 2nd floor level to provide 1-bed apartment

- Provision of 5 bicycle spaces and gate access in rear courtyard.

2.2 The additional 2nd floor level would be finished in a light grey zinc cladding. The rear extensions would be finished in render. The existing red-brick façade would be retained to the front. It is proposed to connect to the existing water and drainage services at this location.

3.0 Planning Authority Decision

3.1. Decision

By order dated 1st April 2021, Dublin City Council (DCC) issued notification of the decision to grant planning permission subject to 14 conditions. The conditions are generally standard in nature. Condition No. 5 requires obscured glass screening to balconies to be a minimum of 1.8m along the eastern boundary and 1.5m along the southern edges.

3.2. Planning Authority Reports

3.2.1. Further Information

Following the initial DCC reports and consideration of submissions, the Planning Authority issued a request for Further Information on 15th February 2021. The information requested can be summarised as follows:

1. Further details of the design/finishes of the 2nd floor extension
2. Applicant is requested to consider a reduced proposal for 2 apartments in the interests of future residential amenity. Any such revised proposal shall include an appropriately designed extension and roof level and screened terraces.
3. Further details regarding bin and refuse arrangements.

3.2.2. Planning Report

The Planner's Report forms the basis for the Planning Authority decision and can be summarised as follows:

- The proposed uses are permissible under the 'Z1' zoning objective and are acceptable in principle.
- A contemporary approach to the top floor is welcomed. The further information submitted regarding finishes has clarified that the roof extension will distinguish the old and new and would complement the red brick tones of the surrounding environment.
- The upper floor residential uses are welcomed and some flexibility on amenity standards can be applied for small development involving building refurbishment. The revised proposal for 2 apartments allows for appropriately scaled dual aspect apartments which are acceptable subject to balcony screening to prevent overlooking.
- The revised proposal has allowed for the provision of appropriate storage for the apartments, bins, and retail use.
- In conclusion, the proposal is welcomed, and the mix of uses is acceptable. It would add to the quality of housing stock and provide a valuable asset for both established and new communities.

A grant of permission was recommended in accordance with the terms of the DCC notification of decision.

3.2.3. Other Technical Reports

Transportation Planning Division: The absence of car-parking is acceptable having regard to policy provisions and the nature and location of the site. The 5 proposed cycle spaces are acceptable. It recommended the attachment of standard conditions to any permission.

Engineering Department – Drainage Division: No objection subject to conditions.

3.3. Prescribed Bodies

Transport Infrastructure Ireland: No objections subject to consideration of a Section 49 Development Contribution towards Light Rail.

3.4. Third-Party Observations

The planning authority received one observation on behalf of the appellants. The issues raised are largely covered in section 6 of this report. The submission also raised concerns about the lack of car-parking and noise nuisance associated with the rear access.

4.0 Planning History

There would not appear to be any relevant planning history for the appeal site. The following applies to surrounding sites:

296A North Circular Road

P.A. Reg. Ref. 4452/19: Permission granted (February 2020) for a change of use from offices to 3 no. two bedroom residential apartments, with a total of 6 bedrooms on first and second floors of existing premises, including new ground floor bin store and all associated site works.

ABP Ref 301673-18: Permission refused (November 2018) for a change of use from offices to 2 no. student accommodation apartments with a total of 9 student bedrooms on first and second floors of existing premises to include new extension on first floor. The reason for refusal was as follows:

Having regard to the relevant provisions in the Dublin City Development Plan 2016-2022 and, in particular, section 16.10.7 in relation to the provision of student accommodation, it is considered that the proposed development would not meet the general principles of sufficient high quality design, professionally managed, purpose-built student accommodation. Furthermore, it is considered that, by reason of the cramped nature of the accommodation, the disposition of bedrooms and common areas, the lack of adequate daylight and outlook from the common areas, and the lack of adequate facilities, the proposed development would seriously injure the residential amenities of future occupants. The proposed development would,

therefore, be contrary to the proper planning and sustainable development of the area.

P.A. Reg. Ref. 3929/17: Permission refused (November 2017) for change of use from offices to 2 no. student accommodation apartments with a total of 9 student bedrooms on first and second floors of existing premises. The reason was for its lack of adequate recreational facilities and on-site facilities for reception, security or management, contrary to the Section 16.10.7 of the Development Plan.

P.A. Reg. Ref. 5361/04: Permission granted (March 2005) for three storey extension to the side of existing offices with an existing retail unit at ground floor and a two storey extension to the rear.

25 Avondale Road

P.A. Reg. Ref. 3281/10: Permission granted for construction of 2-storey extension to rear of existing house.

5.0 Policy and Context

5.1. National Policy / Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking

- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location

5.1.2 Following the theme of ‘compact urban growth’ and NPO 13, **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**, hereafter referred to as ‘the Building Height Guidelines’, outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as ‘the Sustainable Residential Development Guidelines’, sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.1.4 **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)**, hereafter referred to as ‘the Apartments Guidelines’, sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.

5.2. Development Plan

5.2.1 The site is zoned ‘Z1 – Sustainable Residential Neighbourhoods’ in the Dublin City Development Plan 2016-2022, the objective for which is ‘*To protect, provide and improve residential amenities.*’ Section 14.8.1 of the Plan states that the vision for residential development in the city is one where a wide range of accommodation is available within sustainable communities where residents are within easy reach of services, open space and facilities such as shops, education, leisure, community facilities and amenities, on foot and by public transport and where adequate public transport provides good access to employment, the city centre and the key district centres.

5.2.2 Section 4.5.3.1 relates to urban density and promotes sustainable density, compact development, and the efficient use of urban land. Chapter 5 outlines the Council’s approach to the provision of quality housing and encourages a good mix of house types and sizes with a satisfactory level of residential amenity.

- 5.2.3 Chapter 16 sets out detailed policies and standards in respect of development proposals within the city. Section 16.2 “Design, Principles & Standards” provides design principles outlining that development should respect and enhance its context.
- 5.2.4 Section 16.2.2.2 discusses ‘Infill Development’ i.e. gap sites within existing areas of established urban form. It is particularly important that such development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.
- 5.2.5 Section 16.10 sets out ‘standards for residential accommodation’ in new build schemes. While the minimum standards set within these sections will be sought in relation to refurbishment schemes it is acknowledged that this may not always be possible, particularly in relation to historic buildings, ‘living over the shop’ projects, tight urban infill developments, and in the city regeneration area designated under the Living City Initiative. In such cases the standards may be relaxed subject to the provision of good quality accommodation, and where the proposal secures the effective usage of underutilised accommodation.

5.3. **Natural Heritage Designations**

The nearest designation to the site is the Royal Canal pNHA (c. 600m to the north). In terms of Natura 2000 sites, the South Dublin Bay and River Tolka Estuary SPA is located approximately 3km to the east, while South Dublin Bay SAC is located approximately 4km to the southeast. There are several other Natura 2000 sites in the wider Dublin Bay area to the east.

5.4. **Environmental Impact Assessment - Preliminary Examination**

- 5.4.1. With regard to EIA thresholds, 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.)

- 5.4.2. It is proposed to provide a mixed-use development containing 2 dwelling units. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.0118ha and is also therefore well below the applicable site area thresholds, even if the site is deemed to be within a 'business district'.
- 5.4.3. The site is largely surrounded by residential development and small-scale commercial uses. The introduction of the development will not have an adverse impact in environmental terms on surrounding land uses. It is acknowledged that the site is located between two Architectural Conservation Areas and that there are protected structures in the surrounding area. However, I am satisfied that the issue of architectural heritage can be satisfactorily assessed through the normal planning process.
- 5.4.4. The proposed development is not likely to have a significant effect on any European Site (as outlined in Section 8.0 of this Report). There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).
- 5.4.5. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing/mixed-use development in the area. 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 foul sewer services of Irish Water, upon which its effects would be minimal.
- 5.4.6. Having regard to the nature and scale of the proposed development and the location and nature of the subject site, together with the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

The decision of DCC to grant permission has been appealed by Brendan & Anne Curran of 25 Avondale Road, which is located to the south of the appeal site. The grounds of appeal can be summarised as follows:

Built heritage

- The building is part of a group of three well-crafted buildings that form a terraced façade. The terrace and St Peter's Church frame the western approach to Phibsborough and its ACA. The terrace buildings include carefully considered elevational details and a symmetry which contribute to the ACA.
- The crude design of the additional storey would completely interrupt the visual composition and architectural symmetry of the terrace. It would be on top of and overhanging the existing parapet and the unspecified finish is further evidence of failure to properly consider the urban context.
- The submitted drawings fail to demonstrate the full context of the building and the profound impact on the streetscape.
- The development would negatively impact on St Peter's Church and the ACA, and it is requested that permission be refused for the 2nd floor extension.

Overlooking of their property

- The balconies at 1st and 2nd floor level will be less than 11m from the north boundary of their garden and will directly overlook the rear garden and other adjoining gardens.
- The 2nd floor balcony is of particular concern as it would allow views of the rear windows of their property.
- The residents of the 2nd floor unit could use the adjoining flat roof (above the 1st floor unit) as an additional terrace.

Floor area of top floor unit

- The unit only barely meets the requirements for a 1-bed apartment. As a result, the front wall has been pushed onto the line of the existing parapet wall, with very significant visual impacts for the streetscape.

Refuse storage and cycle parking

- The access gate onto the laneway will create an unnecessary nuisance.
- There is a long history of nuisance associated with poor management of refuse associated with the adjoining buildings.
- The narrow open area to the south of the bin store will become a trap for refuse and would potentially give rise to rodent infestations.
- The rear yard should be redesigned to facilitate appropriate management and maintenance of waste.

6.2. **Applicant Response**

None.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

7.0 **Assessment**

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

- The principle of the development
- Visual Amenity and Built Heritage
- Standard of residential development proposed

- Impacts on adjoining properties
- Traffic and transport

7.2 The principle of the development

- 7.2.1. The proposal involves change of use, extensions, and alterations to an existing commercial building to provide a ground floor retail unit and 2 upper floor apartments. The site is located on lands zoned 'Z1', the objective for which is '*To protect, provide and improve residential amenities.*' Section 14.8.1 of the Plan further outlines the vision for such areas, whereby a wide range of accommodation is available within sustainable communities in close proximity to services and facilities. It also clarifies that 'residential' and 'shop (local)' uses are 'permissible uses' within this zoning category.
- 7.2.2. The proposal would involve the refurbishment and occupation of an existing vacant building and would include an active retail street frontage and upper floor residential uses, which are encouraged in accordance with policies SC30 and QH24 of the Development Plan. It would also be consistent with national policy and guidance regarding the promotion of compact development and the regeneration of underutilised buildings.
- 7.2.3. Having regard to the foregoing, I consider that the proposed mixed-use development complies with the 'Z1' zoning and would be consistent with local and national policies to support compact development on underutilised sites. Accordingly, I have no objection to the development in principle, subject to further assessment as outlined in the following sections.

7.3 Visual Amenity and Built Heritage

- 7.3.1. It is important that new development successfully integrates with the character of the area, particularly in architecturally sensitive areas. And while the subject building is not a protected structure or within an ACA, I am conscious of its location between the Phibsborough ACA (to the north) and Great Western Square ACA (to the south), as well as the protected structures within the grounds of St. Peter's Church to the north. I note that the Architectural Heritage Protection Guidelines acknowledge that the setting of an ACA or Protected Structure can be adversely affected by

development proposals, even if outside the curtilage and attendant grounds of Protected Structure or outside an ACA, and that the impact of proposals will depend on location; the character and quality of the protected structure / ACA; its designed landscape and its setting.

- 7.3.2. The applicant's Architectural Report contends that the existing building is likely of mid-twentieth century construction and of no architectural or historical import. In response, the appeal highlights the value of the building, both as part of a group of three and the larger terrace. It contends that it is a modest but important exemplar of the art deco style, with valuable symmetry and elevational details.
- 7.3.3. From a review of Ordnance Survey mapping, it would appear to me that the buildings date to the inter-war period. It is clear that the terrace would have had a symmetry formed by the three central 2-storey units being flanked by 3-storey elements at either side. However, this has been somewhat compromised by the addition of an extra 3-storey bay at the eastern end of the terrace. The terrace façade also retains some interesting elevational details, including raised parapets, stone lintels, and red-brick finishes. Again however, the façade has been devalued through a variety of inappropriate interventions. This would include the insertion of modern windows, advertising, and shopfronts, as well as portions of the terrace being refaced with varying types on red brick. Furthermore, the rooftop at the eastern end of the terrace supports a telecommunications structure with a variety of antennae. I note that none of the buildings in the terrace have been included in the National Inventory of Architectural Heritage (NIAH) survey for Dublin.
- 7.3.4. The main impact on visual amenity and built heritage would relate to the additional 2nd floor level. This involves the insertion of a contemporary zinc-clad element. A significant portion of this level would be screened behind the existing parapet, meaning that the front facade height would be increased by only 1.6m and would remain c. 400mm below the 3-storey unit to the east. The proposed windows would vertically align with the existing openings at 1st floor level.
- 7.3.5. I note the concerns raised in the appeal and I accept that the setback of modern rooftop additions from the existing façade is a design tool commonly used to maintain the visual primacy of the existing building. However, there would not appear to be sufficient space to achieve such a setback in this case, and I acknowledge that

the existing parapet screens much of the proposed 2nd floor. The overhang of the 2nd floor windows could be recessed c. 350mm, which would help to reinforce the existing parapet level. On balance, having regard to the significant alterations that have already taken place to this terrace, I do not consider that the proposed addition would seriously detract from the streetscape or built heritage at this location. Accordingly, I do not consider that a refusal of permission would be warranted on this basis. However, If the Board deems the 2nd floor level to be unacceptable, I recommend that it should be omitted by condition rather than a refusal of permission.

7.3.6. Otherwise, it is proposed to construct extensions and additions to the rear at 1st floor and 2nd floor levels. The rear of the site is generally well concealed from the public realm as it is largely screened by existing development. The proposed additions would be in keeping with the scale and character of other development to the rear of the terrace and would not detract from the visual amenities of the area.

7.3.7. Having regard to the above, I consider that the design of the proposed development is acceptable in the context of the existing building and surrounding development. It would not seriously detract from the visual amenity or built heritage of the area, including the surrounding ACAs and protected structures.

7.4 Standard of residential development proposed

Mix of Units

7.4.1 SPPR 2 of the Apartments Guidelines outlines that for building refurbishment schemes and on urban infill sites of up to 0.25 ha where up to 9 units are proposed, there shall be no restriction on dwelling mix, provided no more than 50% of units comprise studio-type units. Given that no studio units are included, I have no objection to the dwelling mix proposed.

Floor areas and dimensions

7.4.2 I have reviewed the gross floor areas for each unit, and I am satisfied that they meet the minimum areas as per the Apartments Guidelines. Section 3.8 (a) of the Guidelines sets out that the majority of apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1-, 2- or 3-bedroom unit types, by a minimum of 10%. This clearly does not apply to the current proposal for 2 units.

7.4.3 I have also examined the internal room areas and widths and consider that they comply with the minimum requirements for living/kitchen/dining spaces, bedrooms, and storage as set out in Appendix 1 of the Guidelines. The proposed ceiling heights are 2.7m at 1st floor level and 2.4m at 2nd floor, which exceeds the minimum recommendations of the Apartments Guidelines.

Aspect

7.4.4 The Apartments Guidelines (SPPR 4) require that a minimum of 33% dual aspect units be provided in central and accessible urban locations, albeit that this may be relaxed on building refurbishment/urban infill sites up to 0.25ha. I am satisfied that the site is within a central/accessible urban location having regard to the criteria outlined in section 2.4 of the Apartment Guidelines and the proximity of the site to the city centre, significant employment locations, and public transport services including the LUAS. Both apartments would be dual-aspect and I have no objections in this regard.

Amenity Space

7.4.5 Each of the proposed units has direct access to balcony areas as private amenity space, which exceed the minimum requirements of the Apartments Guidelines. Both balconies are south-facing and would provide an acceptable quality of amenity for the prospective occupants. Section 3.39 of the Guidelines also states that private amenity standards on building refurbishment/urban infill sites of up to 0.25ha may be relaxed in part or whole, subject to overall design quality. Accordingly, private amenity spaces are not necessarily mandatory in this case.

7.4.6 No communal open space is proposed. Again however, section 4.12 of the Guidelines also allows for relaxation of this requirement in part or whole in the case of building refurbishment/small urban infill sites less than 0.25ha. Having regard to the limited size and restricted nature of the site, the inclusion of private amenity spaces for both units, and the proximity of the site to a wide range of public open spaces and amenities, I have no objection to the omission of communal amenity space.

7.4.7 I acknowledge that the application also does not include any proposals for the provision of public open space, which is generally required at a rate of 10% of the site area as per the Development Plan. However, as per section 16.3.4 of the

Development Plan, I am satisfied that this can be satisfactorily addressed by means of a financial contribution in lieu as per section 10 of the DCC Development Contribution Scheme 2020-2023.

Communal Facilities

7.4.8 A bin store is proposed at ground floor level adjoining the shared rear access. It would have adequate capacity to cater for the 3-bin system, would be easily accessible for the occupants of the units, and collection can be facilitated on the adjoining lane. Bicycle parking facilities would also be provided at the rear access for the convenience of residents. The communal access and stair cores are also acceptable in terms of convenience and security in accordance with the provisions of the Apartments Guidelines. Given the limited scale of the development I am satisfied that no other communal facilities are required.

Daylight/Sunlight

7.4.9 Having regard to the dual aspect nature of the proposed units, the adequate ceiling heights proposed, and the extent of glazing that would serve the proposed units, I am satisfied that the occupants would receive an adequate level of daylight and sunlight, and that no further assessment is required in this regard.

Conclusion on residential standards

7.4.10 Having regard to the above, I am satisfied that the proposed development would provide appropriately designed and sized internal and external spaces. The scheme is acceptable in accordance with the Apartments Guidelines provisions, including those for building refurbishment schemes and infill sites of less than 0.25ha., and would provide a suitable standard of residential amenity for the prospective occupants.

7.5 Impacts on adjoining properties

Overlooking and privacy

7.5.1 The appeal has raised concerns about the overlooking of properties to the south of the site. The proposed development would include two south-facing bedroom windows and two balconies to the rear. The windows would be c. 12m from the

nearest boundary of the properties to the south, while the balconies would be c. 10m away at their closest point.

- 7.5.2 There is no specified minimum separation distance for such cases. The Development Plan acknowledges that a separation distance of c. 22m was traditionally sought between the rear of opposing 2-storey dwellings, which can be relaxed depending on circumstances. This has been interpreted by some as a requirement for a minimum depth of 11m between the rear of houses and adjoining gardens.
- 7.5.3 I am satisfied that the windows would clearly comply with any such requirement. And while the balcony distance would fall marginally short, I consider that it would be acceptable in this case given the inner-city location of the site and the need to facilitate more compact forms of development. The relevant windows and balconies would also have a relatively narrow outlook and any overlooking impacts to the south would be minimal. I am satisfied that the use of the rear flat roof element as a terrace is unlikely, but this matter can be clarified by condition if the Board feels it is necessary.
- 7.5.4 The proposal also includes east-facing windows at the rear of the site, as does the existing building. The 2nd floor bathroom window would be suitably fitted with obscured glazing to prevent overlooking. I also note that the 1st floor east-facing window would simply overlook an adjoining flat-roof surface and would not adversely impact on privacy. Furthermore, I am satisfied that any potential overlooking from the proposed balconies can be adequately dealt with through screening.
- 7.5.5 Having regard to the above, and subject to appropriate conditions, I do not consider that the proposed development would seriously detract from the privacy of surrounding properties by reason of overlooking or otherwise.

Daylight/Sunlight

- 7.5.6 Section 16.10.2 of the Development Plan states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment (BRE) Report, 2011). I would highlight that the BRE guidelines allow for flexibility in their application, stating in paragraph 1.6 that '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The BRE

Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

- 7.5.7 The residential properties to the south (i.e. along Avondale Road and Great Western Avenue) are generally based on an east-west alignment and the windows therein do not face directly towards the proposed development. They are also separated by a significant distance. Accordingly, I do not consider that the limited scale of the proposed development would significantly impact on daylight to these properties. Furthermore, given that the appeal site is to the north of these properties, I am satisfied that there would be no significant obstruction of sunlight to these dwellings or the associated gardens.
- 7.5.8 I consider that any potential for impacts is limited to the adjoining properties within this terrace. These properties are limited to commercial use at ground floor level. However, the extent of residential use on the upper levels is unclear. The adjoining unit to the southwest (No. 296D) would appear to have a 1st floor apartment and roof garden above. The upper floor use of No. 296B to the northeast is unclear.
- 7.5.9 The daylight/sunlight impacts of the proposed above-roof extension are limited to the impact on the adjoining roof garden (No. 296D). Section 3.3 of the BRE Guide states that existing gardens and open spaces would be adequately sunlit if at least half of the space receives at least 2 hours of sunshine on 21st March, and that if, as a result of the new development, an existing space does not meet the above and the area which receives 2 hours of sunshine on 21st March is reduced to less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. Having regard to the limited extent and height of the proposed 2nd floor level, and its location to the northeast of the roof garden on No. 296D, I am satisfied that the proposed development would comply with the BRE standards outlined above and that the roof garden would not be unacceptably affected by loss of light.
- 7.5.10 Regarding the extensions to the rear of the property, I note that there are no other amenity spaces/gardens serving the potential residential uses on the upper floors of the adjoining terrace buildings. With regard to potential impacts on adjoining

residential windows to the rear of the terrace, I note that section 2.2.14 of the BRE Guide recommends the '45° approach', whereby the 45° angle is measured from both the top of the new extension (in elevation) and the end of the new extension (in plan). If the centre of the existing window lies on the extension side of both these 45° lines, then the extension may well cause a significant reduction in the skylight received. I have applied this approach to both upper floor rear extensions and am satisfied that none of the adjoining upper floor windows would come within both of the relevant 45° lines. Accordingly, they are not likely to experience a significant reduction of light.

7.5.11 Having regard to the above and the BRE Guide recommendations, I am satisfied that the proposed development would not significantly impact upon the daylight/sunlight availability to surrounding properties.

Nuisance

7.5.12 The appeal raises concerns about nuisance impacts for the area, particularly in relation to the rear access/yard and associated noise and waste management. I note that there is an established rear access to the site at this point. It would be reduced in width and access would be limited to pedestrian/cycle use and waste collection. This would not constitute a significant intensification of use and I do not consider that there would be any unacceptable associated impacts by reason of noise or other nuisance.

7.5.13 I consider that the application would provide for adequate, secure, and segregated waste storage. As previously outlined, I would have no objection in principle to this proposal. However, I would accept that the design is somewhat unsatisfactory by reason of the creation of a narrow passageway adjoining the waste store at the southern site boundary. Unresolved, peripheral spaces like this can facilitate undesirable waste storage and sometimes dumping, particularly at a location like this along a rear service lane. Accordingly, I consider that the design should be amended by condition to remove this space.

Conclusion on adjoining properties

7.5.14 Having regard to the above, I am satisfied that, subject to conditions, the proposed development can be satisfactorily accommodated at this location and would not seriously detract from the amenities of surrounding properties.

7.6 Traffic and Transport

- 7.6.1 No car-parking or vehicular access is included within the proposed development. I note that Chapter 4 of the Apartments Guidelines addresses car-parking requirements and states that requirements should be minimised, substantially reduced or wholly eliminated in certain circumstances for higher density apartment developments in 'central and/or accessible urban locations'. Section 4.20 states that these locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services. Section 16.38 of the Development Plan takes a similar approach by applying a maximum allowance of 1 car-parking space per apartment, while allowing for reductions in inner-city areas where other modes of transport are sufficient for the needs of residents.
- 7.6.2 I consider that the appeal site is within 15 minutes' walk of the city centre. It is also within c. 5 minutes' walk of the Phibsborough LUAS stop and numerous frequent bus routes along North Circular Road, Cabra Road, and Phibsborough Road. Therefore, I am satisfied that the site comfortably falls within the 'central and/or accessible urban locations' category. The development is limited in scale, contains small units, and is unlikely to attract car-dependant residents. Accordingly, I have no objection to the absence of car-parking within the proposed development.
- 7.6.3 The applicant has provided 5 bicycle parking spaces in lieu of car-parking. This exceeds the minimum Development Plan requirement of 1 space per unit and facilitates adequate space for visitors. The spaces would be conveniently and securely located within the gated access yard to the rear. Accordingly, I consider that the cycle parking proposals are acceptable.
- 7.6.4 Having regard to the foregoing, I consider that, subject to appropriate conditions, there would be no objection to the proposed development on grounds of access, traffic, parking or transportation issues.

8.0 Appropriate Assessment

- 8.1. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA (approximately 3km to the east), while South Dublin Bay SAC is located approximately 4km to the southeast. There are several other Natura 2000 sites in the wider Dublin Bay area to the east, including North Bull Island SPA and North Dublin Bay SAC. The site is not, therefore, located within or adjoining any Natura 2000 Sites, and there are no direct pathways between the site and the Natura 2000 network.
- 8.2. I am aware that there are potential indirect connections to the Natura 2000 sites within Dublin Bay via watercourses, groundwater discharge, and the wider drainage network. There is also an indirect connection via the wastewater network which outfalls to Dublin Bay via the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.
- 8.3. There are no surface watercourses in the immediate vicinity of the site that would provide a pathway to the Natura 2000 network. I note that surface water will be collected and discharged to the combined sewer system at this location and will not discharge to groundwater. The combined storm/foul water emissions from the development would result in an increased loading on the Ringsend WWTP. However, there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Therefore, having regard to the limited scale of the development and the associated discharges; the 'unpolluted' EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; and the capacity of the Ringsend WWTP; I am satisfied that there is no possibility that the additional loading resulting from the development will result in significant effects on European sites within Dublin Bay.
- 8.4. GSI mapping indicates that groundwater vulnerability is low at this location, and I am satisfied that any limited extent of excavation or ground disturbance would not be likely to impact on the quality of groundwater. Furthermore, there is a significant separation distance between the appeal site and the nearest Natura 2000 sites, which would provide significant dilution capacity in the unlikely event of any such impacts on groundwater quality.

8.5. I am satisfied that any proposals incorporated within the development, including surface water management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening. Having regard to the above preliminary examination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required.

9.0 Recommendation

I recommend that planning permission for the proposed development should be **granted**, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the inner-city location of the site in close proximity to a wide range of public transport options and community and social facilities, the provisions of the Dublin City Council Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2020, and the National Planning Framework, which seeks to direct new residential development in cities into built-up serviced areas and underutilised buildings, the pattern and character of development in the area and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and mix of development in this accessible urban location, would not seriously injure the amenities of surrounding properties or seriously detract from the character or built heritage of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 5th day of March, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The narrow open passage along the rear (southeast) site boundary shall be omitted. The space shall be securely enclosed and incorporated as part of the proposed extensions.
 - (b) The proposed window overhang at 2nd floor level shall be omitted so that all new development will be recessed behind the existing parapet.

Proposals in respect of (a) and (b) above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of protecting the residential amenity of existing and proposed properties and the visual amenity of the area.

3. (a) Privacy screening shall be provided along the north-eastern edge of the proposed balconies to a height of 1.8 metres.
(b) The flat roof area above the 1st floor apartment shall not be used as a balcony/terrace amenity space.

Reason: In the interest of protecting residential amenity

4. 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.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health

6. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health

7. Site development and building works shall be carried out only between the hours of 0700 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 subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.

8. 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 hours of working, management measures for noise, dust and dirt, and construction traffic management proposals.

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

9. 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 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.

Reason: In the interest of sustainable waste management.

10. (a) 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 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.

(b) The plan shall provide for screened communal bin stores, which shall be adequately ventilated, drained and illuminated. The design and location of same shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

11. 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.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

Reason: In the interests of visual and residential amenity.

13. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interests of visual and residential amenities.

14. No signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected on the building or within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

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

Reason: To ensure the satisfactory completion of the development.

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

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

17. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City (St. Stephen's Green to Broombridge Line), in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Stephen Ward
Senior Planning Inspector
8th March 2022