



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310082-21

#### Development

Demolition of all structures on site and construction of a part 2 to part 5 storey over partial basement mixed-use development containing 3 commercial units and 50 build-to-rent apartments.

#### Location

No.'s 42-44 (including the former Quinn's Public House), 46, 48, 48B, 50 and 50A Drumcondra Road Lower, Dublin 9 (including a laneway access connecting to St. Joseph's Avenue).

#### Planning Authority

Dublin City Council

#### Planning Authority Reg. Ref.

2187/21

#### Applicant(s)

Discipulo Developments Limited

#### Type of Application

Permission

#### Planning Authority Decision

Refuse Permission

<b>Type of Appeal</b>	First Party vs. Refusal
<b>Appellant(s)</b>	Discipulo Developments Limited
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Shane McGeary &amp; Family</li><li>2. Iona &amp; District Residents' Association</li><li>3. Howard Mahon</li><li>4. Frank McDonald</li><li>5. Alfonso Bonilla</li><li>6. Neasa Hourigan TD</li><li>7. Alison Hay</li></ol>
<b>Date of Site Inspection</b>	8th March 2022
<b>Inspector</b>	Stephen Ward

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## 1.0 Site Location and Description

- 1.1. The site is located on the western side of Drumcondra Road Lower (DRL), close to its junction with Clonliffe Road to the southeast. It is distanced c. 1.5km north of O'Connell Street and forms the northern end of a cluster of mixed commercial uses at this location. Similar commercial clusters extend southwards to the city centre, while the area to the north is mainly characterised by residential uses. DRL functions as an important artery between the city centre and the M1/M50 motorway network.
- 1.2. The wider surrounding area mainly comprises a series of residential streets. There are a number of important recreational facilities, including Croke Park and Tolka Park. The Holy Cross College (former seminary) lands are located c. 200m east of the site along Clonliffe Road. These lands are the subject of a redevelopment masterplan and the Board has recently granted permission for developments including a Build-to-Rent residential scheme (1,614 units) and a hotel. An Irish Rail line runs through the area in an east-west direction providing commuter and regional services. The Drumcondra station is located c. 60m southwest of the site.
- 1.3. The site itself has a stated area of 0.194 hectares. It is reasonably flat but is of an irregular shape. It contains Quinn's Public House (No.'s 42-44), a landmark meeting place comprising a 3-storey building with a large single-storey rear return. Beside that is an active single-storey retail unit (No. 46, BoyleSports Betting Office). The northern end of the site has been subject to wholesale clearance and currently houses the remaining façades of 3 no. retail units (No.'s 48B, 50, and 50A). The facades are single-storey only and are currently subject to structural support. The rear (western) portion of the site gradually narrows to a service laneway which connects to St. Joseph's Avenue (SJA).
- 1.4. The site is bound to the east by DRL and to the north by Saint Alphonsus Avenue (SAA). To the south of the site is the former St Vincent's Centre for the Deaf, which now houses the Arts and Business Campus Drumcondra (ABCD) comprising a mix of community facilities and supporting commercial uses. To the northwest, the site bounds onto the rear of 6 properties along SAA. These include No. 1, a storey and half type detached dwelling, as well as a terrace of 5 single-storey dwellings (No.'s 2 - 6).

## 2.0 Proposed Development

2.1. Planning permission is sought for a mixed-use development of 50 no. Build-To-Rent (BTR) apartments and 3 no. commercial units. In summary, the main elements of the proposed development are comprised of the following:

- Demolition of all existing structures on site (1436m<sup>2</sup>)
- Construction of a part 2-storey to 5-storey mixed-use development comprising:
  - 50 no. Build-To-Rent apartments, comprising 11 no. studio units, 33 no. 1-bed units, 6 no. 2-bed units, and internal communal amenity/support facilities (224m<sup>2</sup>)
  - 3 no. commercial units at ground floor level comprising a bookmakers (131m<sup>2</sup>), a café (46m<sup>2</sup>), and a retail unit (84m<sup>2</sup>)
- The scheme has a gross floor area of 3157m<sup>2</sup> in addition to a part basement area measuring 338m<sup>2</sup>. It would be provided over 3 main elements as follows:
  - Building A – a 4/5-storey over basement section along DRL containing communal amenity/support facilities and plant at basement level, commercial units at ground floor, 21 no. apartments on the upper levels including a communal roof terrace at 4<sup>th</sup> floor level.
  - Building B – a 4-storey section along SAA containing the main residential access and 25 no. apartments.
  - Building C – a detached 2-storey building to the rear of the site containing 4 no. apartments.
- Bicycle store containing 78 no. secure bicycle parking spaces for residents and 8 no. visitor spaces located externally along SAA.
- Waste storage facilities to the rear of the site and along the access lane off SJA.
- Landscaping, including a communal courtyard (549m<sup>2</sup>).

2.2. Foul water from the residential units is to be connected to the existing 375mm combined sewer in DRL via a new 225mm diameter foul drain. Foul water from the 3 commercial units will be provided with separate connections to the existing 375mm combined sewer. The proposed surface water system would incorporate SUDS

measures for interception and attenuation and would also discharge to the combined sewer in DRL. Water supply for the residential units would be off the existing 125mm mains on SAA, while the commercial units would have individual connections to the 6" cast iron main on DRL.

2.3. Along with the standard drawings and information, the application included the following reports:

- Planning Report
- Verified Views and CGI
- Daylight & Sunlight Assessment Report
- Design Statement
- Architectural Heritage Impact Assessment
- Landscape Design Rationale
- Construction & Demolition Waste Management Plan
- Operational Waste Management Plan
- Engineering Planning Report
- Site-Specific Flood Risk Assessment
- Outline Travel Plan
- Operational Management Plan
- Building Lifecycle Report
- Screening Report for Appropriate Assessment
- Sustainability Report / Energy Statement
- Draft Deed of Covenant agreeing that no residential unit shall be sold separately.

2.4. The key figures for the proposed development are stated as follows:

<b>Site Area</b>	0.194 ha
<b>No. of apartments</b>	50 (comprising 11 studios (22%), 33 1-beds (66%), 6 2-beds (12%)).
<b>Dual Aspect</b>	43 units (86%)
<b>Residential Density</b>	263 units per ha
<b>Commercial Uses</b>	3 units (total 261m <sup>2</sup> )
<b>Gross Floor Area</b>	3495 m <sup>2</sup>
<b>Plot Ratio</b>	1 : 1.63
<b>Site Coverage</b>	46.8%
<b>Building Height</b>	Up to 5-storey (17.1m)
<b>Car Parking</b>	0 spaces
<b>Bicycle parking</b>	86 spaces (78 internal, 8 external visitors)
<b>Internal communal space</b>	224m <sup>2</sup>
<b>External communal Space</b>	632m <sup>2</sup>
<b>Total communal space</b>	856m <sup>2</sup>
<b>Public Open Space</b>	148m <sup>2</sup> (7.7%)

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. By Order dated 1<sup>st</sup> April 2021, Dublin City Council (DCC) issued notification of a decision to REFUSE permission for the following reasons:

1. *The proposed development would not provide appropriate residential amenity to future residents due to the lack of quality private open space accessible from living areas, in contravention of the Ministerial Guidelines Design Standards for New Apartments – Guidelines for Planning Authorities (2020), and the lack of*

*adequately sunlit well overlooked accessible communal amenity space. The provision of balconies or wintergardens that are accessible through bedrooms only compromises the function of both the bedroom and the private open space.*

- 2. The proposed development would have undue and unacceptable impacts on the residential amenity of neighbouring properties due to the combined impacts of overshadowing on 12 and 13 St Alphonsus Avenue and 52 Drumcondra Road Lower, loss of daylight to those properties and also to 1 and 11 St Alphonsus Avenue, and overlooking and overbearing impacts on 10-13 St Alphonsus Avenue and 52 Drumcondra Road Lower. The proposed development would therefore, seriously injure the amenities of property in the vicinity in contravention of the zoning objective 'to protect, provide and improve residential amenities'.*
  
- 3. Having regard to the location of the site, to the established built form and historic character of the area, and to the existing buildings on the site, it is considered that the proposed development would be incongruous in terms of its design, and by reason of its excessive height, bulk and mass, would be out of character with the streetscape. Additionally, the proposal to demolish Quinn's (no 42-44) and the adjoining building (no 46 Drumcondra Road Lower) and the retained shopfronts of the other previously demolished buildings would be contrary to Policy CHC1 of the Dublin City Development Plan 2016-22, To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city and contrary to Section 16.10.17, which states that the planning authority will actively seek the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.*



## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The planner's report is consistent with the decision of the planning authority and the assessment of the proposal can be summarised under the following headings:

#### Principle of Development

- The residential element is acceptable in accordance with the Z1 and Z4 zoning objectives for the site, and there are no provisions in national policy to monitor or suppress the build-to-rent residential model.
- The commercial uses are acceptable in accordance with the Z4 zoning objective. However, section 16.27 of the Development Plan seeks to control the extent of betting offices and previous applications (P.A. Reg. Ref.'s 2032/14 & 3999/16) have prevented the enlargement of such uses on site. No information has been submitted to support the expansion of the use, which could be addressed through further information.
- Permission has previously been granted for new development to the rear of the site subject to the restoration of units 48B, 50 and 50A (P.A. Reg. Ref.'s 2195/03 & 4810/03 refer).
- Permission was then granted in 2016 (P.A. Reg. Ref. 3999/16) for demolition of all but the front of units 48, 48B, 50, and 50A.
- Policy CHC1 outlines a presumption against the demolition of older buildings that make a positive contribution to the area. No justification has been submitted for the demolition of Quinn's (No. 42-44) or No. 46.

#### Height, Scale, Design, and Visual Impact

- The proposed building heights comply with the height strategy as per Section 16.7 of the Development Plan.
- The proposed development would be significantly taller than the existing buildings on site and adjoining the site and would be prominent when viewed from the south.
- The proposed height along SAA would be overbearing on such a narrow street.

- The Design Statement does not address the proximity of the site to Z2 conservation areas or the prevailing Victorian character of the area.
- Notwithstanding its height, the somewhat blocky square appearance is not a sensitive response to the site and the potential for arcading at ground floor level may attract anti-social behaviour.

#### Density, Site Coverage and Plot Ratio

- Increased density is appropriate in accordance with NPF objectives, but density is a blunt instrument and requires further assessment of other standards and qualitative criteria.
- The proposal would be in accordance with the indicative Development Plan standards for site coverage and plot ratio.

#### Residential Quality Standards

- The size, mix, and aspect of the units comply with the provisions of the Apartment Guidelines.
- Daylight/sunlight concerns are raised in relation to:
  - Windows enclosed by porches/balconies along SAA
  - Modest values are achieved for a number of rooms, notwithstanding the generous reflectance/transmittance figures applied
  - The impact of the planted deck trellis
  - The absence of information on sunlight hours to the new apartments
- There are concerns about the impact of the circulation deck on the privacy of adjoining units.
- The room dimensions are generally compliant with standards. There are general concerns about the layout of the apartments, with units having doors from bedrooms leading onto balconies and the courtyard.
- While the quantum of storage space is generally compliant, there are concerns about the layout including bedroom storage which precludes normal furniture.
- The quantum of private open space for each unit is acceptable but there are concerns about the quality of several balconies. All balconies to Block B are to

the north elevation with inadequate sunlight. There are also concerns that the south-facing deck break-out zones are inadequate and will impact on adjoining units.

- The proposed communal space exceeds the quantitative requirements. However, the courtyard would be heavily overshadowed and there are concerns about the roof terrace in terms of accessibility and the privacy of the adjoining unit. There are also concerns about privacy and surveillance at the interface of the ground floor bedrooms and adjoining spaces.
- The quantum of internal community facilities appears appropriate, although the basement location would limit the amenity value of the space.
- Cycle parking proposals do not meet security or weatherproofing standards and additional bicycle facilities should be provided.
- It is unclear whether the courtyard area is appropriately overlooked and the patios to the rear of Block C should be enclosed.

#### Impacts on Neighbouring Properties

- There would be privacy impacts along SAA as a result of overlooking from gardens/balconies in Block B.
- Balconies to Block C would overlook No. 2 SAA and would be difficult to mitigate.
- The development is likely to have overbearing impacts on housing directly opposite, as well as on No. 1 SAA.
- Regarding the applicant's daylight/sunlight assessment, it is unclear how the front windows of No. 52 Drumcondra Rd Lower were omitted. Daylight to a number of surrounding windows would fail to meet the BRE standards, even having regard to the alternative baseline standard proposed by the applicant. A number of windows would also fail to meet BRE sunlight standards and would be adversely affected. Sunlight impacts to adjoining gardens are not specifically stated but the properties at 1 SAA and 52 DRL would appear to be significantly affected. Overall, these impacts would be unacceptable effects on residential amenity.

### Transportation

- The area is well served by public transport and a car-free scheme could be considered in this area. However, the Transportation Division has raised concerns about inadequate supporting facilities for bicycles and other issues.

### Other Issues

- There are concerns about the useability of the proposed public open space along SAA.
- No social audit or school capacity assessment has been submitted, although it is acknowledged that such facilities may not be required, and the matter could be dealt with through further information.
- A Part V agreement has been reached in principle.
- The Conservation Officer (CO) has recommended refusal on the basis that the AHIA is inadequate and the demolition of a building of NIAH Regional rating (Quinn's) has not been justified. Other precedents suggested in the AHIA were not included on the NIAH for special interest. There are also concerns about the impact of the form, bulk, and appearance of the development on the prevailing character of the area.
- A full Appropriate Assessment of the project is not required.

### Conclusion

- The report concludes that there are several outstanding concerns that would benefit from further information. However, there are general concerns about the unjustified loss of Quinn's building and the impact of the development on the character of the area, as well as concerns about residential amenity that would require significant amendments to the design. It is recommended to refuse permission, and this forms the basis of the subsequent DCC decision.

#### 3.2.2. Other Technical Reports

- **Conservation Officer:** The report raises several concerns which can be summarised as follows:
  - No.'s 42-44, 46, 48, and 50 are included on the NIAH, as is the ABCD building to the south. In addition to the social interest of Quinn's, it is

also of cultural interest due to its long-standing use and sporting association with the nearby Croke Park.

- DCC has agreed that NIAH buildings with a 'regional' rating (i.e. Quinn's and ABCD building) would be considered for inclusion on the RPS, while those of a 'local' rating (i.e. No.'s 46, 48, 50) would be considered for ACAs.
- Previous permissions appropriately retained the historic shopfronts, and 2-4 storeys was more appropriate for the character of the area.
- The existing building stock should be prioritised for re-use as the 'greenest' approach.
- Demolition proposals are not supported from a sustainability and built heritage point of view. The applicant's assessment and justification for demolition of Quinn's is inadequate and no assessment has been provided for the other structures.
- No visual assessment has been submitted of the impact on the adjoining ABCD building.
- The Quinn's building is in good condition and could be suitably refurbished to provide high quality residential development. It makes a positive contribution to the wider streetscape and demolition is unwarranted.
- The remaining Victorian shopfront at No.'s 46-50 were determined to be of merit in 2017 as part of a previous grant of permission. Their retention would be preferable as they make a positive contribution to the streetscape.
- The proposal would be significantly higher than the prevailing streetscape, would be over-bearing, out of scale and character with the area, and would cause significant injury to the historic architectural context, particularly the ABCD building and the Victorian terraces to the north.
- It is recommended to refuse permission on the basis of section 16.10.17 of the Development Plan, the loss of a fine Victorian building

and the remaining shopfronts, and the seriously injurious impacts of the new 5-storey building on the amenities of the wider area.

- **Drainage Division:** No objections subject to conditions.
- **Environmental Health Officer:** Given the proximity to the rail line and a busy road, a detailed acoustics report should be requested to address potential effects and mitigation measures. The commercial and communal uses also have potential for noise nuisance. In the absence of such information the application should be refused. Recommended conditions are included for any grant of permission.
- **Transport Planning Division:** The issues raised can be summarised as follows:
  - Pedestrian movement on the proposed footpath along SAA will be impeded by proposed street trees and cycle stands.
  - A car free development can be considered at this location if supported by a proactive Travel Plan. The proposal does not include adequate supporting facilities such as e-bike charging, repair area, cargo bike sharing/parking, motorbike parking.
  - The quantum of bicycle parking is acceptable, but proposals do not meet standards for security and weatherproofing.
  - Short-stay bicycle parking proposals interfere with pedestrian movement and 10 no. existing spaces would be removed as part of BusConnects.
  - Insufficient information has been submitted in respect of servicing, deliveries and drop-off facilities. The existing loading bay would be removed as part of BusConnects.
  - Regarding the laneway to the west, clarification is required in relation to issues raised by TII; the provision of gated access and impacts on rights of way; and bin storage proposals.
  - A Construction Traffic Management Plan is required.
  - Clarification is required on lands to be taken in charge.

- The proposal should not prejudice TII plans for the future development of the site to the south.
- It is recommended that further information be requested on the above matters.

### 3.3. Prescribed Bodies

Irish Rail: The submission highlights the need to protect the railway in accordance with the Railway Safety Act 2005. The applicant should be made aware of the noise and vibration impacts associated with the operation of the railway, as well as the need to assess and mitigate any such impacts as necessary.

TII: A submission was received on behalf of TII, which is the owner of the adjoining site to the south and No.'s 2-6 SAA. These properties were acquired in anticipation of the Metro North project. There is no objection to the development of the lands in principle and more detailed observations may be made in due course. The following should be considered:

- Established rights of way over the access lane need to be protected
- The development should not prejudice the future development of the site to the south, whilst protecting the existing amenities of No's 2 – 6. In particular, Building C needs careful consideration.
- Refuse storage and collection requirements need careful consideration.
- The development should have due regard to the uses on the site to the south during construction and operational stages.

### 3.4. Third Party Observations

The Planner's report outlines that a large number of submissions were received. In summary, the following issues were raised:

- Non-compliance with the Z1 zoning objective
- Contravention of policy CHC1
- Overlooking and privacy impacts
- Inadequate sunlight/daylight assessment and adverse impacts on properties

- Overbearing impacts
- Noise nuisance from roof garden and deck
- Inadequate car-parking and vehicular drop-off/servicing proposals
- Need for junction realignment
- Prematurity pending public transport improvements
- Traffic Impact Assessment and Construction Traffic Management Plan should be submitted
- Excessive scale, height, and density, and the proposed design would be out of character with the area
- Inadequate standard of residential amenity, lack of larger units, and inadequate internal/external communal facilities
- Support for the redevelopment of the site and the design and appearance of the development
- Substandard building frontage and unsuitable betting office use
- Security and anti-social behaviour concerns
- Inadequate public open space
- Inadequate assessment of heritage and visual impact
- Transient nature of the development and the unsuitability of the BTR model
- Part V requirements
- Lack of consultation with neighbours
- Operational Management Plan is inadequate
- No wind assessment submitted for the roof terrace
- Retail Impact Assessment should be submitted
- Exacerbation of sewerage problems.



## 4.0 Planning History

### Appeal Site

**P.A. Reg. Ref. 3999/16:** Permission granted (March 2017) for partial demolition of the upper floors of 48, 48B, 50 and 50A and alterations to the existing ground floor shop units and shopfronts, demolition of existing buildings to rear and for the construction of new basement to rear of unit 50A and to construct a 2 to 4 storey building comprising 8 no. student accommodation units including communal rooms, storage, ancillary facilities, central broadband antenna and all associated site development works.

**P.A. Reg. Ref. 2032/14:** Permission refused (March 2014) for retention of change of use of 50 DRL, from commercial/retail use at ground floor level to bookmakers and permission to amalgamate 48B (existing bookmakers) and 50 DRL into one bookmaker's, new signage to 48B and 50 DRL, and all associated site development works. The reasons related to an undermining of the retail function of the street and the negative impact of signage and window treatments on the streetscape.

**P.A. Reg. Ref. 4810/03:** Permission granted (July 2004) for demolition of existing extensions and ancillary buildings to rear of No's 48 & 50, internal alterations to provide 3 No. One bed apartments at ground, first and second floor levels at No. 48 and 2 No. Two bed apartments at first and second floor levels at No. 50, together with basement and ground floor alterations to existing retail unit layouts at No's. 48, 50 and 50A, and to construct a new three storey over basement stair enclosure to rear of No. 48, and to provide a roof terrace recessed from the building line over existing flat roof to retail units at front of No's 48, 50 & 50A, including alterations to elevations and associated site works and landscaping.

**P.A. Reg. Ref. 2195/03 & ABP Ref PL29N.203852:** In November 2003, the Board upheld the decision of DCC to grant permission to demolish derelict structures, construct 2 storey building with set back storey at roof level for student apartments and associated works to the rear of 48 and 50, DRL. Condition No. 1 of the decision was as follows:

*Prior to commencement of development, the applicant shall submit to the planning authority a planning application for the adjoining lands in his ownership as outlined in*

*blue on the documentation submitted with the application and, subject to permission being granted, the applicant shall commence restoration/renewal works to numbers 48B, 50 and 50A, Drumcondra Road Lower, prior to the sale or occupation of the development authorised by this permission.*

**Reason:** *In the interest of the proper planning and sustainable development of the area*

Holy Cross College lands:

**ABP Ref. 310860-21:** SHD permission granted (November 2021) for 1,614 no. Built to Rent apartments and associated works. The High Court has granted permission for the pursuance of a judicial review of this case.

**ABP Ref. 308193-20:** Permission granted (April 2021) for a hotel development comprising of 7 storeys and associated works.

## 5.0 Policy 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 several 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 27 promotes the integration of safe and convenient alternatives to the car into the design of communities;
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location;
- NPO 35 encourages increased residential density through a range of measures, including site-based regeneration and increased height.

5.1.2 Following the theme of ‘compact urban growth’ and NPO 13 of the NPF, the 2018 **Urban Development and Building Heights, Guidelines for Planning Authorities** (hereafter referred to as the ‘Building Heights 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 The 2020 **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities** (hereafter referred to as the ‘Apartment 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. Dublin City Development Plan 2016-2022

5.2.1 The front portion of the site is zoned ‘Z4 District Centres (incorporating Key District Centres), the objective for which is ‘*To provide for and improve mixed-services facilities*’. District centres, which include urban villages, provide a far higher level of services over a wider catchment than neighbourhood centres. Chapter 7 and Appendix 3 sets out details of policies, standards and the retail strategy. The most important requirements for district centres are identified as:

- Increased density of development
- Viable retail and commercial core
- Comprehensive range of high-quality community and social services
- Distinctive spatial identity with a high-quality physical environment.

5.2.2 The rear portion of the site is zoned 'Z1 – Sustainable Residential Neighbourhoods', 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.

5.2.3 Chapter 4 outlines the shape and structure of the city. Section 4.5.3.1 relates to urban density and promotes sustainable density, compact development, and the efficient use of urban land. Relevant policies can be summarised as follows:

**SC13:** Promotes sustainable densities, particularly in public transport corridors, which are appropriate to their context and supported by community infrastructure.

**SC14:** Promotes a variety of housing and apartment types to create a distinctive sense of place.

5.2.4 The plan provides for taller buildings in designated areas. Outside these designated areas and SDRAs it is otherwise policy to retain the remaining areas of the city to a maximum height of between 16m and 28m depending on location. Section 4.5.4.1 (Approach to Taller Buildings) outlines that the spatial approach to taller buildings in the city is in essence to protect the vast majority of the city as a low-rise city, including established residential areas and conservation areas within the historic core, while also recognising the potential and the need for taller buildings to deliver the core strategy. Section 16.7.2 includes height limits for 'low-rise' residential development in the 'inner city' and 'rail hubs' (up to 24m), and in the 'outer city' (up to 16m). Relevant policies can be summarised as follows:

**SC7:** To protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence.

**SC17:** To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, including the demonstration of sensitivity to the historic city centre.

**SC28:** To promote understanding of the city’s historical architectural character to facilitate new development which is in harmony with the city’s historical spaces and structures.

5.2.5 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 for the existing and proposed residential properties.

5.2.6 Chapter 11 of the Plan deals with Built Heritage and Culture and section 11.1.4 outlines a strategic approach to protecting and enhancing built heritage based on the existing and ongoing review of Protected Structures, ACA’s, Conservation Areas and Conservation Zoning Objective Areas. The site is not located within a Conservation Area and does not contain any Protected Structures. Furthermore, none of the existing buildings are included as a proposed Protected Structure in the Draft Dublin City Development Plan 2022-2028. The terrace on the opposite side of DRL is a ‘Z2’ Conservation Area containing Protected Structures, while the terrace to the north is also a ‘Z2’ area. In summary, relevant policies include:

**CHC1** Seek the preservation of the built heritage of the city.

**CHC2** Ensure that protected structures and their curtilage is protected.

**CHC4** To protect the special interest and character of all Conservation Areas.

5.2.7 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. Sections 16.2.2.2 and 16.10.10 discuss infill development and highlight the importance that such development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape. Section 16.10.17 deals with older building of significance which are not protected and supports the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city. Section 16.27 deals with the control of betting offices.

### 5.3. Natural Heritage Designations

The Grand Canal Proposed Natural Heritage Area is located c. 250m south of the site. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA, located approximately 2km to the east. There are several other Natura 2000 sites in the wider Dublin Bay area to the east.

### 5.4. Preliminary Examination Screening for Environmental Impact Assessment

5.4.1. An Environmental Impact Assessment (EIA) Screening Report was not submitted with the application. 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 construct a mixed-use development containing 50 apartments and 3 commercial units. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.194 ha and is located within an existing built-up area and is, therefore, well below the applicable thresholds of 10 ha or 2 ha if the area is considered to be a ‘business district’.

5.4.3. The site is comprised of existing buildings and artificial surfaces and is largely surrounded by suburban housing and small-scale commercial developments. The introduction of mixed-use development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as 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).

5.4.4. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other development in the neighbourhood. It would not

give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be minimal.

5.4.5. Having regard to:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned 'Z4 District Centres' under the provisions of the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the Dublin City Development Plan 2016-2022, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to avoid significant effects by reason of connectivity to any sensitive location,
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (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 applicant has appealed the decision of DCC to refuse permission. The grounds of appeal can be summarised under the following headings:

#### Option 2 Layout

- The appeal includes an amended option design, and the applicant is happy to develop the scheme in accordance with this 'Option 2' layout.
- The amendment involves revisions to the internal layout of apartments at 1<sup>st</sup> and 2<sup>nd</sup> floor level of Block B. The layout of the units would effectively be reversed, so that all living spaces would be on the north side and all bedrooms would be to the south (onto the deck access).

#### Pre-Planning Stage Consultation

- The design team has carefully considered and incorporated pre-planning advice into the subject scheme. It is highly regrettable that DCC decided to refuse permission for multiple reasons, including issues that had been discussed and agreed.
- The Planner's report does not reflect the positive nature of the second meeting and the significant efforts made to amend the scheme as recommended.

#### Response to Planner's Report

- Quinn's Pub ceased trading in 2020 as it was not a viable business. The buildings do not make a positive contribution to the streetscape and no concerns were raised about demolition at pre-planning stage.
- In accordance with national and regional policy, the proposal would achieve the appropriate densification of the site through a sensitively designed height increase at an accessible urban location.
- The plot ratio and site coverage would be within the indicative ranges of the Development Plan, which was prepared well in advance of recent national and regional policy to encourage compact growth.



- The scale of low-density housing in the area should not dictate the form of development on a key site in the city. The scheme provides planning gain and public realm improvements along SAA.

#### Refusal Reason No. 1

- The application followed the pre-planning advice of DCC by locating the living spaces in Block B to the south. The appeal includes an 'Option 2' layout with the living spaces relocated to the north adjoining the balconies.
- The as-lodged scheme is the preferable layout for Block B as it provides winter gardens adjacent to north-facing bedrooms and allows south-facing living spaces to benefit from the aspect and overlooking of the courtyard. The southern deck access also incorporates break-out amenity space.
- The proposed communal space (632m<sup>2</sup>) significantly exceeds requirements (251m<sup>2</sup>). The communal spaces have been designed to incorporate shade tolerant planting and will create high-quality, sheltered, enclosed spaces with a unique character.
- The limitations on sunlight to the courtyard are imposed by the 3-storey structure to the south. And while the space would not comply with BRE guidance for the 21<sup>st</sup> March, outdoor space is unlikely to be used at this time of the year and the courtyard would be an enjoyable, sunlit space during the summer months (receiving 7hrs 15mins sun on 21<sup>st</sup> June). The scheme includes compensatory design solutions in accordance with section 6.7 of the Apartment Guidelines, including the roof terrace with excellent sun access.
- The location of the roof terrace is appropriate and any potential noise impacts will be mitigated and monitored as outlined in the Operational Management Plan.
- The extant scheme (P.A. Reg. Ref. 3999/16) includes a smaller communal open space in the same location and under similar sunlight conditions. It is the only logical location for open space having regard to the urban design context.

## Refusal Reason No. 2

- The applicant's daylight/sunlight assessment found that impacts on No.'s 12-13 SAA and No. 52 DRL would range from 'imperceptible' to 'moderate', which is acceptable in this urban context. Given that the site is undeveloped, any development would impact on daylight access.
- The applicant has assessed Annual Probable Sunlight Hours (APSH) for surrounding properties, including Nos 1, 11, 12 and 13 SAA and 52 DRL. Of the 27 windows assessed, only 2 would experience 'significant' effects, which is to be expected in this urban context. The overall impact is not significant, and the current state of the site is totally inefficient in an urban environment.
- The importance of maintaining daylight to No. 52 DRL is outweighed by the need to provide housing on the site. The proposal would provide significant planning gain and public realm improvements along SAA. No. 52 has recently accommodated a 3-storey dwelling in its former rear garden, which would have compromised the light and amenity space for the property.
- The daylight/sunlight assessment was carried out in accordance with BRE Guidelines and the level of effects were assessed in accordance with 'Guidelines for Information to be contained in Environmental Impact Assessment Reports' (EPA, 2017) and relevant EU Directives.
- 96.3% of the assessed windows would experience daylight effects ranging between 'imperceptible' and 'slight'.
- The Board has previously accepted that some degree of daylight/sunlight impacts will occur and is acceptable in the urban environment and that there is a policy requirement for increased height and density at locations like this, which means that a degree of change would be expected in traditionally low-density and low-rise areas. Several precedents are cited, including one case that was permitted by DCC.

## Refusal Reason No. 3

The response to this reason includes a report from Rob Goodbody Historic Building Consultants, which can be summarised as follows:

- It is based on flawed policy given that section 51(1) of the Act of 2000 places an obligation on the planning authority to include buildings of heritage interest on the RPS. Section 16.10.17 of the Development Plan purports to contravene section 51(1) of the Act and is an unlawful provision that flies in the face of the democratic nature of the development plan.
- The CO's contention that inclusion on the NIAH makes a difference is a flawed argument given that, the NIAH survey was not published at the time of making the application or purchasing the property; it is not a democratic instrument; inclusion on the RPS is a reserved function; DCC has had ample opportunity to add the building to the RPS; the NIAH survey is not adequately detailed or informed.
- The interior of the Quinn's building has no redeeming features that would merit protection.
- DCC has granted permission for the demolition of other older, more prominent public houses, including Howl at the Moon in Mount Street Lower and Kiely's in Donnybrook.

In addition, the grounds of appeal for reason no. 3 can be summarised as follows:

- Part of the CO's rationale for retention of the Quinn's building appears to be based on its significance to GAA fans, which is a regrettable priority amid a national housing crisis.
- Management for the pub has reported that it is not a viable business, and the building is in need of significant improvements. It has been closed since January 2020.
- The Board has previously granted permission for the demolition of buildings on the NIAH.
- The demolition of Quinn's Pub is warranted as it is not a Protected Structure and would be replaced by a modern building of high-quality design and greater density.

## 6.2. Planning Authority Response

None.

### 6.3. Observations

Several observations on the first-party appeal were received. The submissions raise many common issues and can be collectively summarised under the headings below:

#### Principle of the development

- There is support for the regeneration of vacant/underutilised sites, but the proposed scheme is not of sufficient quality in terms of design, layout, and the protection of residential amenity.
- The extent of BTR schemes in the city is questioned. They have negative impacts on the community and promote transient tenure.
- The urban strategy for the country has been skewed by investors through the abuse of the provisions of SPPR7 & SPPR8 of the Apartment Guidelines and the 'financialization' of homes, which has dramatic consequences for the built environment, home ownership, local communities, and place-making.

#### Daylight/Sunlight

- The height and proximity of Block B to No. 1 SAA is excessive and should be amended to address VSC impacts.
- The ADF standard applied is low, and kitchens are disregarded in a lot of instances. A 2% ADF standard should be applied (including kitchens), all kitchens and studio bed areas should be measured, and daylight should be maximised to kitchen areas.
- It is unclear whether planting has been factored into assessments
- The excessive depth of rooms affects daylight, particularly kitchens
- The EN (17037 – Daylight in Buildings) standard is more up to date and should be applied.
- The Judicial Review decision (Atlantic Diamond Ltd (2021) IEHC 322 – (2020) No. 712 JR) should be considered in the context of section 3.2 of the Building Height Guidelines. The applicant has made no effort to balance shortfalls with the achievement of wider planning objectives.

- Properties along SAA would experience loss of light due to the proposed building height.
- No assessment of APSH has been carried out for the gardens of No. 1 SAA.
- Sunlight to the courtyard is extremely low and does not comply with BRE Guidelines. The approach could be improved through the removal of Block C and the roof garden, reconfiguration of Block B, and provision of buffer planting around No. 1 SAA.
- There are issues with both options proposed by the applicant and the scheme would benefit from introducing a 'dumbbell' layout 2-bed unit in the mix.
- A significant reduction in VSC and sunlight for properties along SAA.
- There would be a significant reduction in sunlight to No. 52 DRL, including the main living quarters and the rear windows of the house. Loss of light to the front of the house and the rear garden has not been assessed.
- The methodology and accuracy of the sunlight report is questioned

#### Visual Amenity and Built Heritage

- It is proposed to demolish the historic streetscape. Sympathetic treatment could be a great addition to the character of the area.
- The previously permitted development would be a more suitable approach
- The proposal makes little or no contribution to the streetscape
- Existing buildings should be retained in the interests of heritage and sustainability, even if not included on the RPS. The proposed demolition of buildings has not been adequately assessed or justified.
- No sensitivity has been shown to the heritage and character of the site and surrounding area.
- The setback at ground level onto DRL has the potential to lead to anti-social behaviour.
- The proposal is over-bearing, excessive in height and density, out of scale and out of character with existing development.
- The design and materials onto DRL is out of character and incohesive

- The white colour along SAA is jarring against the red-brick buildings opposite.
- Support for the DCC decision to refuse, particularly the third reason.
- The Quinn's building is rated as 'regional' importance on the NIAH and DCC has committed to considering all such structures on the RPS. The applicant has not properly considered the value and potential of its retention. It is the building that is important, not its former use as a public house.

#### Residential Amenity (Existing properties)

- There are concerns about the management of the roof garden and the potential for noise, overlooking, and anti-social behaviour
- The eastern façade and rear garden of No. 1 SAA will be overlooked by Blocks B & C and would unreasonably interfere with enjoyment of the property.
- Balconies will overlook properties along SAA.
- The deck access has potential for excessive noise. It and the external staircase would require intense management/maintenance to ensure safe/emergency access.
- Inadequate screening/boundary treatment proposals for site boundaries, particularly on the western side.
- The excessive scale and proximity of bin storage to adjoining houses, including noise, odour, and vermin impacts.
- Inadequate operational waste management details submitted.
- The proposed laneway access has inadequate surveillance and would lead to anti-social behaviour.
- A construction management plan (including traffic) is required.
- The windows and garden of No. 52 DRL will be overlooked.

#### Residential Standards (Proposed Development)

- There will be no daylight to the basement amenity spaces
- Inadequate security would be provided on site

- Inadequate communal/amenity facilities have been proposed and the proposal fails to address the importance of 'place making'.
- The entrance lobby is inadequate in size and design.
- The proposed mix of uses is inadequate, with an excess of smaller units
- The courtyard will not be appropriately overlooked
- The space along the north of Block B should be considered 'private open space' and the developer should be required to provide 10% 'public open space' exclusive of this.
- Improved private open space could be achieved through a reduction in units and addition of more stairwells and lifts.
- Wind impacts for the roof terrace have not been considered.

#### Traffic/Transport

- The absence of car-parking is not justified and will lead to public nuisance and parking limitations for residents in the area
- The travel plan has not addressed changed patterns of travel in the post-pandemic world
- The scheme should incorporate improvements to the SAA/DRL road junction.
- No interim measures have been proposed in advance of BusConnects and expansion to rail network. The Travel Plan should address the short-term existing scenario.
- Inadequate proposals have been included for car-dependant persons, e-cars, visitors, deliveries, taxis
- No Traffic Impact Assessment has been included and the proposal will lead to increased congestion

#### Other Issues

- The betting office would have excessive street frontage and would be an unsuitable use within a large residential scheme.

- The ground floor space should incorporate a community hub / co-working space that would be accessed from the east and west.
- The applicant has not addressed the cultural history of the site.
- A Retail Impact Assessment would be beneficial and there are concerns about the nature and design of the proposed commercial units.
- The ESB substation and meter room are inappropriately located on SAA.
- The suitability of the existing water services infrastructure is questioned.
- Option 2 should be the subject of a new application
- The appeal relies on the Board's willingness to adjudicate despite the Development Plan.
- References to pre-planning consultations should be ignored.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. This case relates to a first-party appeal against the decision of DCC to refuse permission for the proposed mixed-use development. The appeal has included an amended 'option 2' layout, which is not an uncommon practice in the appeal process. The amended layout would affect the internal layout only and would not alter the size or external appearance of the development. Such amendments would normally not give rise to material considerations for third parties, and I have no objection to the consideration of 'option 2' as part of the appeal.
- 7.1.2. Having inspected the site and examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, 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 development
  - The quantum of development proposed



- The quality of residential amenity proposed
- Impacts on surrounding properties
- Daylight and Sunlight
- Traffic and Transportation
- Built Heritage and Visual Amenity

## 7.2. The principle of development

### Zoning

- 7.2.1. The Development Plan outlines that the front portion of the site is zoned 'Z4' (District Centre) and the rear portion is zoned 'Z1' (Sustainable Residential Neighbourhood). In accordance with section 14.8 of the plan, 'residential' uses are 'permissible' in both zoning categories. Section 14.8.4 indicates that residential uses can be accommodated on the upper levels of district centres, including higher densities where appropriately served by public transport and social facilities. Accordingly, there is no objection to the principle of residential development.
- 7.2.2. The proposed development would retain commercial uses on the ground floor level, within the 'Z4' zone. The proposed retail unit, betting office, and café would be considered 'permissible uses' in the Z4 zone. Given the underutilised nature of the site, I consider that the proposal for commercial units would improve the range of services offered in the area which would be consistent with the policy for district centres. The units are of limited scale and would not require any further retail impact assessment as suggested in the observations.
- 7.2.3. I acknowledge that it would involve a significant increase in the size of the established betting office space and that section 16.27 of the Development Plan includes objectives to prevent a concentration of such units in the city. Development plan guidance largely relates to the number of such units (or similar uses) in a particular area. And while the current proposal would simply replace an existing unit, I would accept that the increased size of the unit would have consequences in terms of the street frontage space available for other more attractive uses. This matter will be considered further in the detailed assessment of the proposal.

## Tenure and Typology

- 7.2.4. The proposed BTR development has been described as such in the public notices. The application includes a draft agreement which would restrict and regulate the development for the period of 15 years such that the development shall remain owned and operated by a single entity and no individual residential unit within the development may be sold separately. Accordingly, I am satisfied that the application has been made in accordance with the requirements of SPPR 7(a) of the *Apartments Guidelines*. The application also includes ‘residential support facilities’ and ‘residential services and amenities’ in compliance with SPPR 7(b) of the *Apartments Guidelines*. The suitability of these support services/amenities will be assessed in section 7.4 of this report.
- 7.2.5. Section 16.10.1 of the current Development Plan recognises the ‘build-to-let’ apartment scheme model, as well as its specific characteristics and suitability. Furthermore, the updated 2020 version of the *Apartments Guidelines* continues to recognise that BTR has a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs in Ireland. They can provide a viable long term housing solution to households where home ownership may not be a priority, such as people starting out on their careers and who frequently move between countries in the pursuance of career and skills development in the modern knowledge-based economy. The *Guidelines* highlight that a key aspect of BTR is its potential to accelerate the delivery of new housing at a significantly greater scale than at present, which can make a significant contribution to the required increase in housing supply nationally, as identified by ‘*Rebuilding Ireland – Action Plan for Housing and Homeless (Government of Ireland, 2016)*’, and the scale of increased urban housing provision envisaged by the National Planning Framework.
- 7.2.6. Having regard to the above, together with the location of the site in close proximity to the city centre and good public transport facilities, I am satisfied that the principle of a BTR scheme is acceptable at this location. The proposal would provide a balance to the existing housing stock in the area, which has traditionally been well served with larger / owner-occupied homes. I note that the Development Plan refers to the need to consider the concentration of such schemes within a 250-metre radius and that the Board has granted permission for c. 1,600 no. BTR units on the Holy Cross College site (c. 200m away at its closest point). However, having regard to the

significant separation distance involved and the limited scale of the proposed development in comparison to that already permitted, I do not consider that the proposed development would lead to an overconcentration of any particular type or tenure of housing in the area.

### Conclusion

- 7.2.7. Having regard to the above, I would have no objection in principle to the provision of a mixed-use development on this site with small-scale commercial units on the ground floor and BTR apartment units on the upper floors. Further detailed assessment of the suitability of individual units and the overall scheme will be outlined throughout this report.

## **7.3 Quantum of development proposed**

- 7.3.1. Consistent with national policy and guidance, the Development Plan seeks to encourage the redevelopment of underutilised lands in appropriate locations to achieve higher density sustainable development. Having regard to the prominent location of the appeal site and its vacant/brownfield state, I consider that the current nature and extent of development is an underutilisation of the site and that such redevelopment proposals should be supported in principle.
- 7.3.2. Section 2.4 of this report outlines the key quantum figures associated with the proposal. I calculate that the proposal for 50 apartments equates to a density of c. 257 units per hectare, while accepting that density is not always an accurate measure of the quantum of development. It would have a plot ratio of c. 1.8 and a site coverage of c. 44%, both of which generally comply with the Development Plan recommendations for plot ratio (1.5 – 2.0 for Z1, 2.0 for Z4) and site coverage (45-60% for Z1, 80% for Z4). Consistent with these recommendations, the figures would be higher for the Z4 portion of the site.
- 7.3.3. The Development Plan building height strategy allows for residential development up to 24m high within 'Rail Hubs', which are defined as being within 500m of existing and proposed LUAS, mainline, DART, DART underground and Metro stations. The site is within 500m of the Drumcondra mainline station and would be less than 24m high. Accordingly, the proposal would be consistent with the Development Plan building height strategy.

- 7.3.4. The 2009 guidelines on 'Sustainable Residential Development' recommend that increased densities (minimum 50 per hectare) should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station, with densities decreasing with distance from such nodes.
- 7.3.5. SPPR 1 of the 2018 Building Height Guidelines supports increased building height and density through statutory plans in locations with good transport accessibility and prohibits blanket numerical limitations on building height. It is also stated that suburban/edge locations can accommodate 4-storeys or more in appropriate circumstances, and SPPR 4 requires that development in such areas must secure the minimum densities set out in the 2009 guidelines and a greater mix of building heights and typologies.
- 7.3.6. Section 2 of the Apartment Guidelines outlines the types of location that may be suitable for apartment development. It describes 'central and/or accessible urban locations' as being generally suitable for large-scale higher-density development that may wholly comprise apartments. Subject to further consideration and assessment, such sites would include those that are:
- within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
  - within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas);
  - within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services
- 7.3.7. The appeal site is located within a designated district centre which provides a range of local services. It is within 1200m walking distance of the city centre and employment centres (i.e. the North City area as identified in Figure W of the Development Plan Housing Strategy). The site is within a short walking distance (c. 60m) of Drumcondra Rail Station, which serves commuter trains to Maynooth throughout the day and at peak times serves commuter services from the south west (Hazelhatch, Celbridge, Newbridge).
- 7.3.8. The adjoining road (DRL) is serviced by numerous bus routes (Services 1, 11, 13, 16, 33, 41, and 44). During peak hours, route 1 has a frequency of 10-12mins, route

11 is 10-15 mins, Routes 13 & 16 are 10-12 mins, and route 41 is every 20 mins. Furthermore, the appeal site adjoins or is in close proximity to proposed Bus Connects routes, including Spine Route A, which is expected to have bus frequencies of 3 mins during peak hours, and Radial Routes 19 & 22, which would have frequencies of 60mins and 15mins respectively.

7.3.9. On the basis of the foregoing, I consider that the site is within a 'Central and/or Accessible Urban Location' based on the criteria set out in the Apartment Guidelines. Given the site's prominent location and its proximity to the city centre, employment centres, and high frequency public transport services, I consider that the site can sustainably support higher density apartment development, even in advance of planned transport improvements such as BusConnects and rail expansion.

7.3.10. Increased density would also be appropriate at this location given the under-utilised nature of the site and the need to ensure efficient use of land and maximum use of existing and future public transport infrastructure. That being said, I acknowledge that the quantum of development proposed is significantly greater than the established scale of development in the area. Accordingly, the suitability of the proposed quantum requires further assessment on the basis of the various issues discussed throughout this report, including visual amenity, built heritage, residential amenity, and traffic/transport impacts.

#### **7.4. The quality of residential amenity proposed**

##### Mix of Units

7.4.1. The application for 50 apartments includes 11 studio units (22%), 33 no. 1-beds (66%) and 6 no. 2-beds (12%). I acknowledge that observations have raised concerns about the mix of units and a lack of larger units. However, while section 16.10.1 of the Development Plan outlines that apartment developments shall generally have a maximum of 25-30% 1-bed units, it also clarifies that this will not apply to 'build-to-let' apartment schemes. I have also previously outlined that this wider inner suburban area is generally characterised by larger units and that the proposed development would provide an improved diversity of housing.

7.4.2. In terms of national policy and guidance, the NPF acknowledges that apartments will need to become a more prevalent form of housing in Ireland's cities, noting that one,

two and three person households comprise 80 percent of all households in Dublin City. I also note that SPPR 8 (i) of the Apartment Guidelines states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development. Accordingly, I am satisfied that the proposed mix of units is consistent with local and national policy.

#### Floor Areas & ceiling height

- 7.4.3. All proposed units comply with the minimum overall apartment floor areas as set out in Appendix 1 of the Apartment Guidelines. Section 3.8 of the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. However, SPPR 8 (iv) of the Guidelines clarifies that this requirement does not apply to BTR developments. I have also reviewed the other requirements of Appendix 1 relating to living/kitchen/dining areas and bedrooms and I am satisfied that the proposal satisfactorily complies with the relevant room area/width standards. The proposed ceiling heights are 2.7m at ground floor level and 2.6m in upper floors, which exceeds the requirements of the Guidelines.

#### Storage

- 7.4.4. I note that the planning authority has raised concerns about the inclusion of storage space in bedrooms. However, section 3.31 of the Apartment Guidelines states that storage space can be partly provided in bedrooms if it is in addition to minimum floor areas. I am satisfied that the proposal satisfactorily complies with this provision and would not preclude additional bedroom furniture. Furthermore, the Guidelines outline that storage requirements may be relaxed on urban infill sites up to 0.25ha and SPPR 8(ii) further outlines that flexibility shall apply on the basis of alternative communal facilities. In this regard I note that 38.2m<sup>2</sup> of additional tenant storage is provided at basement level. Accordingly, I consider that storage proposals satisfactorily comply with the Apartment Guidelines standards.

#### Private Amenity Space

- 7.4.5. The proposed units would also be provided with private amenity spaces which comply with the minimum area and width requirements as per the Apartment Guidelines. However, the planning authority has raised concerns about the quality of

some private spaces, particularly north-facing spaces and those which are accessed off bedrooms (rather than living areas). I note that the Apartment Guidelines states that private amenity should be optimised for solar orientation and that it is preferable that they would primarily be accessed from living rooms. The Guidelines state that glass-screened 'winter gardens' may be provided in certain circumstances.

Requirements may be relaxed in part or whole on urban infill sites up to 0.25ha and SPPR 8(ii) further outlines that flexibility shall apply on the basis of alternative communal facilities/amenities.

- 7.4.6. All of the units in Blocks A & C (25 units) provide direct access between the living areas and the private amenity space, as would 6 of the remaining 25 units in Block B (a total of 31 out of 50 units). At ground floor level of Block B, I consider it reasonable that the private spaces should be south facing, adjoining a screened communal space, and that the living areas should be to the north for direct access and an active street front. At 1<sup>st</sup> and 2<sup>nd</sup> floor level of Block B, I can also understand the logic of achieving south facing living areas and increased surveillance of the central courtyard. The southern deck access appears to have largely informed the decision to locate the 'winter gardens' off the bedrooms on the northern side.
- 7.4.7. While I note that 'Option 2' proposes an alternative arrangement, I would ultimately accept that direct living area access is simply 'preferable' (not mandatory) and that there is a need for consideration of individual site circumstances. In this case, I note that the majority of units adopt this 'preferable' approach and there are logical reasons for the approach towards the other units. The remaining 19 units are all 1-bed units, in which I do not consider that direct living area access is as important given that the occupants would have autonomy of movement within the unit. Furthermore, the Apartment Guidelines allow for standards to be relaxed in part or whole (my emphasis) in this case and, accordingly, I do not consider that the private amenity proposals would warrant a refusal of permission, subject to further assessment of the overall quality of the scheme.

#### Aspect

- 7.4.8. SPPR 4 of the Apartment Guidelines outlines that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations such as this, a requirement which may be relaxed on urban infill sites up to 0.25ha. The proposal

includes 43 (or 86%) dual-aspect units, with none of the single-aspect units facing north. Accordingly, I consider that the proportion of dual-aspect units significantly exceeds the 33% requirement as per SPPR 4 (i) and I have no objection in this regard.

#### Lift and Stair Cores

- 7.4.9. As per SPPR 6 of the Guidelines, the maximum allowable apartments per floor per stair/lift core is generally 12. The application proposes a maximum of 15 apartments per floor (1<sup>st</sup> floor), albeit that Block C is separated and served by a separated stair core adjoining Block B. The 2<sup>nd</sup> floor would have 13 units, with Block B again being served by a secondary stair core to the west. However, SPPR 6 allows this provision to be relaxed on urban infill sites up to 0.25ha and SPPR 8(v) states that this requirement shall not apply to BTR schemes. Accordingly, the proposal is consistent with the provisions of the Apartments Guidelines.

#### Communal Open Space

- 7.4.10. In accordance with Appendix 1 of the Apartment Guidelines, the proposal requires a total communal open space area of 251m<sup>2</sup>. However, section 4.12 allows for a relaxation of communal space in part or whole on urban infill sites of up to 0.25ha, and SPPR 8(ii) allows flexibility in BTR schemes on the basis of provision of alternative, compensatory communal support facilities and amenities.
- 7.4.11. The application contains conflicting information about the size of the proposed central courtyard. I have measured that the area is c. 375m<sup>2</sup> (excluding bicycle storage). The 'secret garden' area would provide an additional 25m<sup>2</sup> and the rooftop terrace would provide 83m<sup>2</sup>. The total quantity (483m<sup>2</sup>) therefore clearly exceeds the normal requirement for 251m<sup>2</sup>.
- 7.4.12. In addition to the quantitative requirements, the Apartment Guidelines highlight the importance of providing well-designed communal outdoor space that is accessible, secure and usable, particularly for families with young children and less mobile older people. Section 4.11 highlights the importance of adequate levels of sunlight throughout the year and allows for the provision of roof gardens subject to accessibility, climatic factors, and safety.



- 7.4.13. The central courtyard is clearly the main communal space included in the proposal and I consider that it is conveniently accessible for all units. And while it may not be bound by immediately overlooking windows, I consider that there would be sufficient surveillance provided by the surrounding private amenity spaces, the south facing living units in Block B, and the circulation/'break out' spaces on the surrounding deck levels. Overall, I consider that the space forms a central and active part of the scheme, and I would have no objections in this regard.
- 7.4.14. The 'secret garden' is a secondary space that is largely enclosed and is not ideally suited at a peripheral location. In my opinion, it does not make a significant contribution to the overall offer, although I would have no fundamental objection to its inclusion.
- 7.4.15. I also note that concern has been raised about the proposed rooftop terrace, including its accessibility, its relationship with the adjoining apartment, and its potential exposure to wind impacts. Although the building would be taller than the existing context of development, it would not be an exceptionally tall building such as would be likely to give rise to an acceleration of wind speed or 'downdraft' effects. The proposed rooftop terrace would be at 4<sup>th</sup> floor level on the north-eastern side of the building and would be largely protected from the prevailing south-westerly winds. Accordingly, I do not consider that it would be significantly affected by wind.
- 7.4.16. However, I acknowledge that the rooftop space is quite peripheral and is only immediately adjoined by one apartment. And while the space should clearly be overlooked by that apartment in the interests of surveillance and security, there are clear and obvious consequences for the privacy and amenity of the adjoining apartment. Given the restricted size of the space there are also limited options to treat that interface with an adequate buffer of defensible space. Overall, I consider that there is an inherent imbalance in the provision of a rooftop communal space that would be adjoined and overlooked by just one apartment. I am not satisfied that the space would work successfully, and I consider that it should be omitted in the event of a grant of permission.
- 7.4.17. For schemes of 25+ units with two or more bedrooms, the Guidelines recommend that small play spaces (about 85 – 100 sq. metres) be provided for the specific needs of toddlers and children up to the age of six, with suitable play equipment,

seating for parents/guardians, and within sight of the apartment building. While the scheme includes only 6 no. 2-bed units, the central courtyard area includes a children's play area of 85m<sup>2</sup>. However, given the nature of the scheme, I am not convinced that this proposal is appropriate and that the space would not be better served as a conventional courtyard space. This matter could be resolved through condition in the event of a grant of permission.

7.4.18. Notwithstanding the above concerns, I am satisfied that the central courtyard would provide a communal open space of an adequate quantity to comply with the Apartment Guidelines standards. Furthermore, I am satisfied that it is appropriately located and accessible to all units, and that it would be securely integrated and overlooked by surrounding development.

#### Communal Facilities

7.4.19. The main access to the proposed apartments would be via a central ground floor lobby off SAA. The entrance lobby would be appropriately lit and overlooked by the public realm. It immediately adjoins the main stair/lift core, from where all units can be accessed. Internal and external (deck) circulation areas are appropriate in scale and width and are easily legible with good visibility.

7.4.20. The application includes an Operational Waste Management Plan which has estimated waste requirements based on floor area and use combined with other data including Irish and US EPA waste generation rates. The proposed scheme accommodates the estimated requirements at the western side of the site in the form of a communal residential bin store and separate bin stores for each commercial unit. I would accept that the bin stores are located peripherally and are not ideally accessible, particularly for the commercial units. However, the proposed locations are suitably distanced from the central courtyard and are convenient for collection via the lane to the west. On balance, I consider that the proposed residential store is acceptable at this location but that the commercial stores would be better contained within the units themselves to minimise conflict with the residential element. Proposals in this regard could be agreed by condition.

7.4.21. The *Planning Guidelines for Childcare Facilities* (2001) recommend the provision of one child-care facility (equivalent to a minimum of 20 child places) for every 75 dwelling units. Section 4.7 of the Apartment Guidelines outline that one-bedroom or

studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms. Having regard to the total no. of units proposed (50) and the no. of 2-bed units proposed (6), I am satisfied that childcare facilities are not required in this case.

7.4.22. Section 5.5. of the *Apartments Guidelines* states that the provision of dedicated amenities and facilities specifically for residents is usually a characteristic element of BTR. The provision of such facilities contributes to the creation of a shared environment where individual renters become more integrated and develop a sense of belonging with their neighbours in the scheme. SPPR 7 (b) of the Guidelines outlines that BTR developments must be accompanied by detailed proposals for supporting communal and recreational amenities, to be categorised as 'resident support facilities' and 'resident services and amenities'

7.4.23. The application includes a gym, laundry, storage facility, and cinema / multi-purpose room. The scheme would be supported by a management team and the application includes an operational management plan. The lobby area would facilitate reception facilities and postal services, and the multi-purpose room would be available for bookings. I consider that the proposals would provide a suitable range of recreational, utility, and social/entertainment services, which would be appropriate and acceptable for the scale of the proposed development. I acknowledge that concerns have been raised about the basement location of these services, but I do not consider that this factor would significantly detract from the nature and quality of the facilities offered.

7.4.24. In terms of the wider community and its supporting infrastructure, I note the provisions of the section 16.10.4 of the Development Plan regarding a social/community infrastructure audit for proposals in excess of 50 units or 5,000m<sup>2</sup>. The proposed development would not exceed these thresholds and is located within an existing district centre which already has a wide range of social infrastructure including schools, sports and recreation facilities and medical facilities. The site is also proximate to amenities in the wider city area including third level institutions, hospitals, and retail facilities. Therefore, having regard to the central location of the site, the limited scale of the proposal, and the good range of other services already

provided in the area, I am satisfied that a no further assessment of social/community capacity in the area is required.

### Public Open Space

7.4.25. In addition to the foregoing, the Development Plan requires a provision of 10% of the site area as accessible public open space, or otherwise a payment in lieu of such provision. The applicant has proposed a setback area along SAA to the north of the site as public open space, stating that it constitutes 7.7% of the site area and the shortfall can be covered by a financial contribution in lieu. Concerns have been raised about the usability of this space and I would consider that much of the area would function as private 'defensible space' to the front of ground floor units. The remaining area would effectively be a footpath ranging in width from 1.5m to 3m. It would be planted with trees, which would clearly compromise circulation.

7.4.26. Overall, I do not consider that this area would function successfully as a 'public open space'. However, given the constrained nature of the site and the need to achieve higher density, I would accept that the provision of significant on-site public open space is not reasonably feasible in this case. In the event of granting permission, I consider that a financial payment in lieu would be acceptable. I note that the DCC Development Contribution Scheme already covers the requirement for a contribution of €4,000 per unit in such cases. Accordingly, section 48 (2)(c) of the Act need not apply.

### Noise

7.4.27. Concerns have been raised by the Planning Authority about the noise impacts on prospective residents as a result of the proximity of the apartments to the rail line and adjoining road, as well from the proposed ground floor commercial units. The proposed units would be significantly distanced at least 50m from the rail line. The SAA and SJA roads to the north and west are relatively quiet, but I would accept that the DRL to the east is a busy thoroughfare. However, I consider that residential development should be encouraged in close proximity to major public transport routes, particularly given that this under-utilised site is located within a 'district centre'. Accordingly, its redevelopment with ground floor commercial units and upper floor residential units is considered appropriate in accordance with planning policy. I

am satisfied that no further noise assessment is required and that a refusal of permission would not be warranted on these grounds.

#### Conclusion on quality and amenity value

7.4.28. The proposed development would provide an appropriate mix of units, which would benefit from attractive aspects and would be sized and designed in accordance with the requirements of the Apartment Guidelines. Accessible private and communal amenity space has been provided for the development in excess of the normal minimum area requirements, notwithstanding that such normal requirements can be relaxed in part or whole in the case BTR developments and small urban infill sites such as this. I am also satisfied that appropriate communal facilities, services, and amenities would be provided to support this BTR development in accordance with the requirements of the Apartment Guidelines. Further assessment of the quality and amenity standards within the development, including daylight/sunlight and traffic/transport issues, is outlined in later sections of this report.

#### **7.5. Impacts on surrounding properties**

7.5.1. The DCC decision and observations received have raised concerns that the proposed development would give rise to adverse impacts on surrounding properties along SAA and at No. 52 DRL. The issues raised generally relate to traffic congestion, overlooking, overshadowing, overbearing, waste management, construction, and the laneway access. The questions of sunlight/daylight and traffic congestion will be dealt with separately in later sections of this report.

#### Overlooking

7.5.2. The appeal site is bounded by a wide road network to the east, and generally by established commercial/community uses to the southwest. I am satisfied that these are not particularly sensitive interfaces and that adequate separation distances would be maintained to prevent any significant overlooking impacts. To the north and northwest of the site are the existing residential properties along SAA and its junction with DRL. On the northern side of SAA is several properties (No.'s 10-13) which directly face the proposed development and have amenity spaces to the rear, while No. 52 DRL would be side-on to the development with a private yard area to the rear.

7.5.3. Block B of the proposed development would include upper floor winter gardens and balconies which would directly face these properties. The winter gardens (1<sup>st</sup>/2<sup>nd</sup> floor) would be setback c. 9-10 metres, while the balconies at 3<sup>rd</sup> floor level would be setback c. 10-11m. I consider that this generally provides a suitable separation distance for opposing properties on an urban street and I would have no objection to any overlooking that may occur between the proposed development and the opposing south-facing windows in No.'s 10-13. In my opinion, the highest level of overlooking would occur for the private area to the rear of No. 52 DRL. However, this would be mitigated given that the winter gardens would be screened at 1<sup>st</sup> and 2<sup>nd</sup> floor level. At 3<sup>rd</sup> floor level I consider that the balconies would be sufficiently elevated so that any overlooking would be over the private space, rather than into it. Any overlooking concerns from the roof garden space on Block A could be adequately addressed by screening. Accordingly, while there would be some degree of overlooking to the rear of No. 52, I consider that this would be reasonably acceptable given the design measures incorporated and the need to develop this underutilised urban infill site.

7.5.4. To the northwest, the site bounds onto a small substation site and No.'s 1-6 on the southern side of SAA. No. 1 faces east-west, with a small, enclosed yard to the rear (east) and a larger enclosed front garden to the west. No.'s 2-6 face north-south, with the rear (south) spaces being largely developed already. The west elevation of Block B contains only small windows which would not result in overlooking. The winter gardens are enclosed to prevent overlooking to the west, and I am satisfied that the 3<sup>rd</sup> floor balconies could be adequately screened. Regarding Block C, I note that the west-facing 1<sup>st</sup> floor windows and balconies would be setback c. 9 metres from the rear garden of No. 2 SAA, which is already largely developed with a full-length rear extension. I note the proposal for external deck access and a stair core between Blocks B & C, but I consider that this type of circulation space would not be subject to intensive usage and would be suitably separated from surrounding properties.

7.5.5. Having regard to the above and the inner urban location of the site, wherein underutilised infill sites such as this should be developed with higher density, I do not consider that the proposed development would result in any unacceptable overlooking impacts on surrounding properties.

## Overbearing

- 7.5.6. Overbearing impacts are mainly derived from the relationship between the height / scale of a development and its separation distance and orientation in relation to adjoining properties. Again, I do not consider that the nature and position of development to the east and south of the site would be particularly sensitive to overbearing impacts.
- 7.5.7. As previously outlined, Block B would be setback c. 9-11m from the properties along the northern side of SAA, with the recessed 4<sup>th</sup> storey level being setback c. 13m. The front façade would have a 3-storey height of c. 10m, with the 4<sup>th</sup> storey level at c. 12.5m. Given the height and separation distances involved and the angle of view available, I am satisfied that the setback 4<sup>th</sup> storey level would effectively not be visible street level on SAA. The impact would therefore be that of a 3-storey 10m high façade, which I do not consider to be inappropriate or excessive at this location.
- 7.5.8. To the northwest of the site, No.'s 2-6 SAA do not generally face towards the development and the rear garden spaces are adequately distanced/obscured from the taller elements of the proposed development. Block C is only 2-storey in height and would not have any overbearing impacts on the surrounding properties. The rear of No. 1 SAA faces towards Block B at a distance of c. 6.5m. The front façade of Block B is well setback however, with the 4<sup>th</sup> storey set back even further. This prevents direct and complete opposition with the rear façade of No. 1 SAA, and importantly does not obstruct the outlook from the main ground floor patio doors. Accordingly, I am satisfied that the proposal would not result in any unacceptable overbearing impacts on this property.
- 7.5.9. Having regard to the above, I consider that the proposed development would largely appear 3-storey when viewed from the surrounding dwellings to the north and west. Given the orientation of existing dwellings and their separation distance from the proposed development, I am satisfied that the height and scale of the proposed development would not unacceptably affect the outlook from these properties or cause any excessive overbearing impacts.

## Nuisance

- 7.5.10. Concerns have been raised by local residents about alleged undesirable elements associated with the proposed development. This includes concerns about noise, anti-social behaviour, construction impacts, waste management, and intensified use of the access lane off St Joseph's Avenue (SJA).
- 7.5.11. At the outset I would highlight that the appeal site has a history of late-night operation and commercial uses. It is also currently in an underutilised and unsatisfactory state which detracts from the attractiveness of the area. Such situations can attract anti-social behaviour and other undesirable effects. In the wider context, the site is part of a busy district centre and is in close proximity to major transport routes.
- 7.5.12. Having regard to the above, I consider that the redevelopment of the site should be welcomed as an improvement to the area. I consider that the proposed mix of residential and commercial uses is appropriate and consistent with the wider area, and there would be no reasonable expectation that it would result in unacceptable noise or other nuisance impacts for the area.
- 7.5.13. I acknowledge it is proposed to store waste at the rear of the site adjoining No.'s 1-6 SAA. I have previously outlined my recommendations regarding the relocation of the commercial storage at this location, which may address some of the residents' concerns. The remaining storage would be limited to residential waste in the purpose-built enclosed bin-store. Such facilities are clearly an integral and acceptable element of urban residential development, and I am satisfied that the proposal is acceptable subject to suitable design (ventilation and drainage) and management. These matters could be satisfactorily agreed by condition.
- 7.5.14. In terms of the use of the access lane, it would appear that it has an established use as a service access for both the previous commercial use and the existing dwellings along SAA. I would have no objection in principle to the intensification of use of the laneway. By increasing use of this access, it would improve passive surveillance of the area and there is no reasonable indication that it would disturb or detract from existing residential amenities. It would also improve the permeability of the area and there is no indication that it would affect any rights of way, a matter which would ultimately be for resolution between the relevant parties having regard to the



provisions of s. 34(13) of the Act. However, it would appear that there are no proposals to upgrade this laneway and I consider that significant hard and soft landscaping proposals would be required to successfully integrate this element of the development.

7.5.15. Concerns have also been raised about boundary treatment proposals, particularly on the western perimeter of the site. I am satisfied that this matter could be satisfactorily addressed by condition. I also note the relationship with the adjoining lands to the south, which are owned by the TII. I am satisfied that the proposed development is adequately separated from the lands so that the future development potential of the lands would not be compromised.

7.5.16. In relation to construction impacts, I consider that the temporary disturbance impacts associated with any urban construction project are generally common and unavoidable. Having regard to the need to facilitate the redevelopment of the site, I consider that any such temporary impacts would be acceptable and can be satisfactorily mitigated through the agreement of a construction management plan in accordance with standard practice.

#### Conclusion on impacts on surrounding properties

7.5.17. While daylight/sunlight and traffic/transport impacts will be outlined later in this report, the other potential impacts of the proposed development on the residential amenities of surrounding properties have been outlined above. I have acknowledged that the proposed development will result in significant changes to the existing environment, but I consider that the proposed development would be of a scale and distance from existing properties that would avoid any unacceptable overlooking or overbearing impacts. And while it would involve an intensification of activity and development at both construction and operational stages, I consider that the impacts would be acceptable having regard to the established character of the area and the need to facilitate the redevelopment of the site in accordance with local and national planning policies.

## 7.6. Daylight/Sunlight

### Policy

- 7.6.1. Section 3.2 of the Urban Development and Building Height Guidelines (2018), states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.
- 7.6.2. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to these BRE or BS standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.
- 7.6.3. The Sustainable Residential Development Guidelines acknowledge that orientation of the dwelling and its internal layout can affect levels of daylight and sunlight and will influence not only the amenity of the occupants but the energy demand for heat and light. It states that the efficiency gains derived from passive solar layouts can be

enhanced by designing individual dwellings so that solar collection is maximised, i.e. when living rooms, dining rooms and main bedrooms have a southerly aspect. In relation to adjoining properties, it states that overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. It states that planning authorities should require that daylight and shadow projection diagrams be submitted in all such proposals and the recommendations of BRE or BS guidance *'should be followed in this regard'*.

7.6.4. The Development Plan also highlights the value of daylight and sunlight and states that development *'shall be guided by the principles of'* the BRE Guide. It states that a sunlight/daylight analysis of the different units may be required and modifications to the scheme put in place where appropriate.

7.6.5. At the outset I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that *'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'*. It 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.

#### Information & Assessment

7.6.6. The application includes a 'Daylight and Sunlight Assessment Report' prepared by 3D Design Bureau. The report outlines how Irish practitioners tend to refer to the British Standard (BS 8206-2:2008) and the BRE Guide, which are used as the reference standards in this report. However, it highlights that the recommendations in these publications are not suitable for rigid application, which is particularly important in the context of policy for densification of urban areas or when dealing with highly constrained sites.

7.6.7. I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice

for daylighting). I acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK) but I consider that this updated guidance does not have a material bearing on the outcome of the assessment and that the applicable guidance documents remain those referred to in the relevant policy outlined in sections 7.6.1 – 7.6.4 above. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the DCC decision and the third-party observations which have raised concerns in relation to daylight and sunlight.

#### Daylight within the proposed apartments

- 7.6.8. Average Daylight Factor (ADF) is the ratio of total daylight flux incident on the working plane to the area of the working, expressed as a percentage of the outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky. The BRE and the BS guidance sets out minimum values for ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The BRE guide does not give any advice on the targets to be achieved within a combined living/kitchen/dining (LKD) area. However, BS guidance outlines that where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and kitchen the minimum ADF should be 2%.
- 7.6.9. The applicant's study considers the predicted ADF to the proposed units across the ground and 1<sup>st</sup> floors, which I consider to be a reasonable worst-case scenario given that values would be expected to be higher for the upper floors. It outlines that all LKD areas are assessed with a target value of 2% and winter gardens have been included in the assessed area of the room. Bedrooms have a target value of 1% and studios have been assessed as one space with a target value of 2%.
- 7.6.10. However, it recognises that LKD areas in high density developments often include kitchen areas to the rear of the room without a window to the external area, which are unlikely to achieve the recommended 2% value. Accordingly, in units where kitchens are 'completely internal and not serviced by window on the external façade', an additional calculation has been completed whereby the kitchens are omitted and the living/dining (LD) areas have a target value of 1.5%. It should be noted that the

kitchens described as 'completely internal' are not enclosed or galley-type kitchens, rather they are part of the open-plan LKD area but simply located to the 'internal' rear part of the room. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room.

- 7.6.11. The study assesses 24 units and a total of 60 spaces (4 studios, 20 no. LKDs (with 15 no. alternative LDs), and 21 no. bedrooms). It shows that all studio spaces would exceed the 2% target and all bedrooms would exceed the 1% target. 9 out of the 20 combined LKD areas would exceed the 2% target. The 11 units that would not meet the target are within Block B and the level of compliance for these units ranges from 62% to 97%, with most units being in the 62-73% range. However, all of these units would comply with the alternative 1.5% target for the LD area. The study accepts that some kitchen areas of some units may need supplementary lighting for periods of the day, but states that all LD areas should be in receipt of adequate daylight.
- 7.6.12. Given that these results represent a worst-case scenario at ground and 1<sup>st</sup> floor level, it is likely that the upper floors would have improved ADF values and would comply with the 2% target for LKD areas. I would also consider that the higher 2% ADF is more appropriate in a traditional house layout, and that in apartment developments, it is a significant challenge for large open plan kitchen/living/dining rooms to achieve 2% ADF, and even more so when higher density and balconies are included. Often in urban schemes there are challenges in meeting the 2% ADF in all instances. To do so may unduly compromise the design/streetscape quality and an alternate 1.5% ADF target is generally considered to be more appropriate.
- 7.6.13. Having regard to the information outlined above I am satisfied that the majority of apartments are likely to comply with the ADF target of 2% for LKD rooms, and that all apartments would comply with the alternative ADF target of 1.5% for LD areas. All proposed bedrooms would comply with the 1% ADF target and all studios would comply with the 2% target. Despite the non-compliance with the 2% target for 11 LKD areas in Block B, I consider that the overall scheme as a whole would provide reasonable compliance with the BRE standards, particularly given that they allow for a flexible and reasonable alternative for ADFs and do not specifically stipulate standards for kitchen/living/dining areas.

- 7.6.14. I acknowledge that Section 3.2 of the Building Height Guidelines outlines that where a proposal may not be able to fully meet all the requirements of the BRE and BS daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the Board should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.
- 7.6.15. In this case it has been clearly identified that the proposal does not comply with the 2% ADF value for LKD areas. And while the applicant has not referred to alternative, compensatory design solutions in specific response to Section 3.2 of the Building Height Guidelines, I consider that it is open to the Board to consider the overall quality of the scheme based on the information submitted. In this regard, I would highlight the absence of any single-aspect north-facing units and the high proportion of dual aspect units proposed (86%). Only 33% of units are normally required to be dual-aspect and even this 33% requirement can be relaxed in BTR developments and on urban infill sites less than 0.25ha such as this. The scheme also includes a communal open space area which significantly exceeds the normal requirements and, again, such requirements can be relaxed in BTR developments and in part or whole on urban infill sites less than 0.25ha such as this. These factors provide compensation within the overall scheme for any daylight shortfalls that may apply to individual units. With specific reference to the units with Block B which would be below the 2% ADF target for LKD areas, I note that they all benefit from a north-south dual aspect. The ground floor units would benefit from large south-facing patios and the 1<sup>st</sup> floor units have a south-facing 'break-out' area on the external deck. I am satisfied that these factors adequately compensate for the shortfalls within these units as compared to the higher 2% ADF requirement.
- 7.6.16. Having regard to the proposed density and urban location of the site, I consider that the proposal contributes to wider planning aims such as the delivery of housing and regeneration of an underutilised brownfield site. I consider that the shortfalls would not be significant in number or magnitude and in redevelopment sites such as this full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. The ADF for rooms is only one

measure of residential amenity and in my opinion the design team have maximised access to daylight and sunlight for all apartments and I am satisfied that the proposed standards would provide a satisfactory level of amenity for occupiers.

#### Sunlight to proposed amenity spaces

- 7.6.17. Section 6.3 of the applicant's report deals with sunlight to the proposed external amenity spaces in the central courtyard and on the 4<sup>th</sup> floor rooftop. It is based on BRE guidance that in order to appear adequately sunlit through the year, at least 50% of such areas should receive at least 2 hours sunlight on the 21<sup>st</sup> March. Images have been produced for the proposed amenity areas showing that 20.1% of the central courtyard and 94.5% of the rooftop space would comply with this standard. In total, based on respective areas of 375m<sup>2</sup> and 83m<sup>2</sup>, I estimate that 41% of the total communal area (458m<sup>2</sup>) would comply with the BRE standard. I accept that this would still fall short of the required 50%. Furthermore, I have previously outlined my recommendation that the rooftop space is inappropriate and should be omitted as communal space, even though it has been proposed as a compensatory measure. In such a situation, the standard for the remaining central courtyard (20.1%) would be significantly below the recommended 50%.
- 7.6.18. I have previously outlined that the policy context (including the BRE Guide itself) recognises the need for flexible application of standards depending on the site context/constraints and the overall quality of the scheme. In this regard, I would accept that the site demands a strong frontage to the east and north and that the proposed location of the courtyard is a logical approach which would be consistent with the approach of the previous permission for the site. I would also acknowledge that sunlight to the space is largely compromised by the height, scale and proximity of the ABCD building to the southern boundary. These factors are significant constraints which would be expected to have significant effects on sunlight availability.
- 7.6.19. Notwithstanding this, it should be noted that the courtyard space alone (375m<sup>2</sup>) significantly exceeds the normal communal space requirement (251m<sup>2</sup>), even though such requirements can be relaxed in BTR developments and in part or whole on urban infill sites less than 0.25ha such as this. I also note that the applicant has prepared an additional study showing that the courtyard area would receive an

average of 7hrs 15mins sunlight on June 21<sup>st</sup>, which gives an indication of good sunlight availability at other times of the year. On balance, despite that the central courtyard would receive reduced levels of sunlight and that the rooftop space is unsuitable for other reasons, I am satisfied that the level of sunlight to courtyard area would be acceptable having regard to the particular site constraints and the generous size of the space.

#### Sunlight to existing amenity areas

7.6.20. The BRE Guide states that, if as a result of new development, an existing garden/amenity space would not receive 2 hrs of sunlight for half the space on 21<sup>st</sup> March, and the area which can comply with this requirement is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. I note that the surrounding gardens are largely developed with extensions/outbuildings and there is limited amenity space available. The spaces serving No. 52 DRL (to the rear) and No. 1 SAA (to the front (west)) are most likely to be affected.

7.6.21. The applicant's report does not specifically assess this matter, although I have reviewed the shadow study submitted. For No. 1 SAA, sunlight to the front garden space would appear to be reduced in the morning hours of 21<sup>st</sup> March but would be increased in the afternoon due to the removal of existing buildings to the southwest. Overall, I would not consider this to be a significant impact. For No. 52 DRL, there would be a reduction in sunlight between the hours of 10am and 3pm on 21<sup>st</sup> March. However, given that the majority of any usable part of this space would already be in shadow under baseline conditions, I do not consider that the impact of the proposed development would be unacceptable. I am satisfied that the front garden of No. 52 would continue to comply with BRE standards.

#### Daylight to existing buildings

7.6.22. The BRE guide acknowledges that, in designing new development, it is important to safeguard the daylight to nearby buildings, and I note that the Development Plan also outlines the need to avoid excessive impacts on existing properties. The applicant's assessment contains a 'light from the sky' (VSC) analysis for the windows of surrounding properties. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a



structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight

- 7.6.23. The applicant's assessment considers the VSC impacts on surrounding residential properties with reference to the standards outlined above. It also includes an additional study using alternative baseline VSC values based on the conditions prior to demolition of buildings on site. I consider that this is a reasonable approach given that the current baseline situation presents somewhat enhanced conditions due to the vacant nature of the site.
- 7.6.24. The applicant's study assesses a total of 54 no. windows in the surrounding properties on SAA, No. 52 DRL and the ABCD building (St Vincent's) to the south. Using an alternative BRE target value of 0.8 times the alternative baseline value, the report shows that 36 of the 54 windows comply with BRE standards. Based on the level of compliance for the other 18 windows, the report classified the effect for the other windows as being 'not significant' (i.e. 90-99%) in 6 cases, 'slight' in 10 cases (i.e. 75-90%), and 'moderate' in 2 cases (i.e. 50-75%).
- 7.6.25. I would agree that the 'not significant' cases involve marginal shortfalls, and I would have no objection in this regard. For No. 1 SAA, moderate and slight impacts are predicted for 2 small windows, which I do not consider to unacceptably affect the overall daylight levels to this property. 'Slight' impacts are also predicted to 3 ground floor windows in the ABCD building, albeit that BRE compliance levels would exceed 86% and VSC values would exceed 21.85%. Given that this is not a residential building I consider these impacts to be acceptable.
- 7.6.26. For No.'s 12-13 SAA, the impacts can be generally described as 'slight' even though one window (13A) falls marginally into the 'moderate' category at 74.8% compliance. These windows would still retain a VSC value that would generally be within the 17-27%, which is described in the BRE guide as being capable of receiving adequate daylight with special measures such as larger windows and changes to room layout. The BRE guide also suggests an alternative target of 18% for mews-type lane locations, which I would consider to be relevant and applicable to SAA given its

narrow width. I would also contend that, even with the alternative baseline scenario, the current VSC values for Nos. 12 & 13 is still quite high (27-35%) due to the historical absence of significant development on the opposite (southern) side of SAA. These figures are somewhat elevated for this urban context, and accordingly it would be expected that these properties would be disproportionately affected. I consider that the effects on these properties would not be inconsistent with the urban context, and I do not consider that refusal would be warranted on these grounds.

#### Sunlight to existing buildings

- 7.6.27. The applicant has also included a sunlight analysis for windows using measurements of annual probable sunlight hours (APSH) and annual probable sunlight hours for the winter period (Winter APSH). The BRE guide states that living room windows facing within 90° of due south may be adversely affected if the centre of the window receives less than 25% of APSH or less than 5% of WPSH; and receives less than 0.8 times its former sunlight hours during either period; and has a reduction in sunlight received over the whole year greater than 4% of APSH.
- 7.6.28. The applicant has identified that 27 windows in the surrounding properties are facing within 90° of due south and these have been assessed for APSH and WPSH. Using alternative BRE target values based on the alternative baseline value, the report shows that 21 of the 27 windows comply with BRE standards. Based on the level of compliance for the other 6 windows, the report classified the effect for the other windows as being 'not significant' in 1 case, 'slight' in 3 cases, and 'significant' in 2 cases.
- 7.6.29. I would agree that Nos. 12 & 13 SAA would experience slight effects given that they would not comply with the winter APSH target but would exceed the overall APSH target. Significant effects are predicted for No. 52 DRL given that 2 ground floor windows would fall significantly short of the winter APSH target. I note that these windows would also fall short of the APSH target, albeit not to a significant extent (82.6% - 94.4%). A further summer APSH study has been done to demonstrate that sunlight levels for these windows would not be reduced to less than 0.8 times their baseline value, and therefore impacts would be imperceptible at this time. Overall, despite the significant winter APSH shortfall, I consider that impacts would be acceptable in this urban context.

## Other Issues

- 7.6.30. I note that concerns have been raised about the accuracy of the applicant's assessment regarding the consideration of factors such as the proposed landscaping and planted trellis screens. However, section 5.0 of the applicant's report outlines that the proposal has been assessed as if constructed in accordance with the planning application, taking into account planted screens with an indicative transmissive value of 67%. I have also previously outlined my concerns about the effect of the proposed tree planting along SAA on circulation and would advise that the extent of tree planting would likely need to be reduced, albeit that the proposed tree species would not result in significant cover in any case. Accordingly, I am satisfied that the report is accurate and that the proposed planting is not likely to affect the results therein.
- 7.6.31. I note that no sunlight assessment has been completed for the windows of the proposed units. However, it should be noted that the Apartment Guidelines and the Building height Guidelines refer to the need to have regard to the daylight provisions of the BRE and BS standards, and do not refer to sunlight provisions. Furthermore, given the high proportion of dual aspect units and the absence of single aspect north-facing units, I am satisfied that adequate sunlight levels would apply to the proposed development.
- 7.6.32. I note that the front windows of No. 52 have been omitted from the applicant's assessments, and that the rear (east-facing) windows of No. 1 SAA have been omitted from the sunlight assessment. The front façade of No. 52 includes a bay window, but the windows generally face onto DRL and would not be opposed by the proposed development. Therefore, I do not consider that there would be a significant impact on the VSC values for daylight. And although the windows to both No. 52 DRL and No. 1 SAA generally face east, they do still face within 90° of due south, a factor which would normally mean inclusion in the APSH assessment. The applicant's shadow study would appear to show additional overshadowing to these windows, particularly during the March 21<sup>st</sup> study. Again however, I consider that this would be reasonably expected given the vacant nature of the site and the need to redevelop this prominent urban site along a major transport corridor.

### Conclusions on Daylight/Sunlight

- 7.6.33. In conclusion, I would again highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application. And while the Apartment Guidelines and the Building Height Guidelines outline that regard should be had to the quantitative approaches as set out in guides like the BRE and BS publications, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives. I would also highlight that this proposal is consistent with the Building Height Strategy of the Development Plan and does not rely on SPPR 3 or section 3.2 of the Building Height Guidelines regarding the contravention of Development Plan objectives. I have also considered the issues raised by 3<sup>rd</sup> parties in carrying out this daylight/sunlight assessment.
- 7.6.34. I have acknowledged the ADF standards applied for the proposed units, and I am satisfied that they are reasonable. I also note that the main communal space would not meet the BRE standards for sunlight, but I am satisfied that this would be adequately compensated by the generous size of the space. On balance, having regard to the particular site constraints and the overall quality of amenity proposed for individual units and the scheme as a whole, I am satisfied that adequate daylight and sunlight standards would exist for prospective occupants and that a refusal on this basis would not be warranted.
- 7.6.35. I would also accept that the proposed development would result in significant changes to daylight and sunlight availability for surrounding properties. However, I consider that this is largely due to the historical absence of substantial development on this site, which has resulted in somewhat elevated baseline conditions for these properties, even in the pre-demolition scenario. The impacts of the development are also somewhat dictated by the site constraints and, in the cases of No. 1 SAA and No. 52 DRL, the east-west alignment of these properties. Despite the impacts of the proposed development, I consider that the surrounding properties would still achieve daylight/sunlight conditions that would be consistent with an urban location such as this. Accordingly, I do not consider that there would be unacceptable impacts, and I am satisfied that the predicted impacts are justified given the wider planning objectives to facilitate the redevelopment of this prominent, under-utilised, accessible site.

## **7.7. Traffic and Transportation**

- 7.7.1. The application is supported by an Outline Travel Plan which outlines the existing and proposed public transport, pedestrian, and cycling services in the area. It also analyses 2016 Census data which recorded that 30% of households in this Electoral Division do not own a car and that 67.85% of the commuters travelled to work or college by walking, cycling, public transport or car-sharing. Having regard to the above and national policy regarding planning and transportation, including the Apartment Guidelines, the applicant's report contends that car parking provisions are not required in this case.
- 7.7.2. In considering the proposal for zero car-parking I am conscious of NPO13 of the NPF and the Building Height Guidelines of 2018, which support a performance-driven approach towards land use and transportation. Section 4.19 of the Apartment Guidelines also states that in higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. This is particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such as rail and bus stations located in close proximity. Section 4.27 of the Guidelines outlines that car-parking provision may be relaxed on part or in whole on urban infill sites up to 0.25ha such as the appeal site. Furthermore, SPPR 8(iii) of the Guidelines states that there shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. In this regard, I have already concluded in section 7.3 of this report that the site is within a 'central and/or accessible urban location' as described in the Apartment Guidelines, and that it is an urban infill site less than 0.25ha. Accordingly, I consider that the proposal for zero car parking would be acceptable in principle.
- 7.7.3. Where such an approach is adopted, the Apartment Guidelines states that it is necessary to ensure, where possible, the provision of an appropriate number of spaces for drop-off, servicing, visitors, and mobility impaired. Provision is also to be made for alternative mobility solutions including car-sharing and cycle facilities, and specific measures should demonstrate that car parking can be avoided.

- 7.7.4. I would acknowledge that site is located within a challenging environment with limited opportunities to facilitate drop-off, servicing and other short-term parking requirements. It is bound to the east by DRL, which is a busy transport corridor, and to the north by SAA which is limited in width and capacity. The matter is further complicated by the planned changes to the existing road/footpath layout as a result of BusConnects proposals.
- 7.7.5. The applicant's 'Engineering Planning Report' indicates that servicing requirements for the commercial units would be accommodated by the existing loading bay adjoining the site along DRL. I note that there are also a number of car-parking spaces opposite the site along DRL. Otherwise, the applicant does not include any provision to facilitate drop-off facilities for the proposed commercial or residential units. I also note that the latest BusConnects proposals would involve the removal of the existing loading bay and car-parking to the front of the site.
- 7.7.6. Ultimately, I accept that there are inherent challenges associated with servicing and drop-off as a result of the existing and planned road/footpath network surrounding the site. However, I consider that this would be an inevitable issue for any redevelopment proposal of the site involving mixed commercial/residential uses and the provision of a strong urban edge along the adjoining roads, concepts which I have concluded are appropriate and desirable for the site. There is a long history of commercial use on the site, and it would be reasonable to expect that traffic arrangements for continued commercial use should be facilitated. I have also previously outlined my opinion that the proposed setback along SAA is not suitable as a 'public open space', and I feel that there is scope to provide appropriate 'drop-off' facilities at this location. Accordingly, while the proposal requires further consideration in this regard, I do not consider that a refusal would be warranted.
- 7.7.7. With regard to cycle parking, Section 4.17 of the Apartment Guidelines recommends that spaces should generally be provided at a minimum of 1 space per bedroom and visitor spaces should be provided at a rate of 1 space per 2 units. On this basis, I calculate that the proposed apartments would require 56 no. spaces for residents and 25 no. spaces for visitors (total 81 spaces). I note that there would also be cycle requirements associated with proposed commercial units, but these would not result in a net increase over the requirements for the existing commercial space on site. The application proposes a total of 86 cycle spaces, including 78 internal store

spaces and 8 no. visitor spaces along SAA. It also refers to the existence of 10 existing spaces along DRL, although I acknowledge that these may be removed as a result of BusConnects. Generally, I am satisfied that an adequate number of spaces has been provided for the residential units. I acknowledge that DCC has raised concerns about the design of the storage enclosure, the absence of supporting facilities, and interference with circulation along SAA, but I consider that these matters could be satisfactorily agreed. Consistent with my previous advice, there may be scope for improved visitor provision along SAA.

7.7.8. The Outline Travel Plan aims to reduce the number of trips generated and to increase public transport use. The 'action plan' includes infrastructural measures (proposed cycle facilities) and promotional measures such as car-sharing; journey planning; information on 'smarter travel' funding and workplace initiatives; promotion and marketing; information on walking and cycling options; and travel packs. A Mobility Manager will be appointed to oversee the implementation of the Travel Plan, including monitoring and review on an annual basis. I am satisfied that the implementation of the plan will help to promote alternative sustainable mobility solutions in preference to reliance on private car transport.

7.7.9. In conclusion, I acknowledge the concerns raised by the planning authority and observers regarding the absence of car-parking and potential overspill effects on the surrounding road/footpath network. However, I am satisfied that this is an appropriate location for a 'car-free' scheme and that it is reasonable to expect that it would not attract residents that would be overly dependent on car transport. There are suitable and sufficient alternative mobility solutions in this central/accessible location, and I am satisfied that appropriate cycle-parking, set-down and servicing arrangements could be provided subject to agreement. I also consider that any temporary traffic impacts at construction stage could be satisfactorily addressed through the agreement of a construction traffic management plan by condition. Accordingly, I do not consider that the proposed development would have any unacceptable impacts on the safety and convenience of traffic or the movements of pedestrians, cyclists and other vulnerable road users.

## 7.8. Built Heritage and Visual Amenity

### Demolition of existing structures

- 7.8.1. Concerns about the demolition of the existing buildings on site form a key basis for the DCC decision to refuse permission, with reason no. 3 stating that the demolition of Quinn's building (42-44), the adjoining building (no. 46) and the other retained shopfronts would be contrary to policy CHC1 and section 16.10.17 of the Development Plan. The observations on the appeal also form strong objections to the proposal.
- 7.8.2. The site is not located within a Conservation Area and does not contain any Protected Structures. I note that the DCC Conservation Officer (CO) report refers to the inclusion of No.'s 46, 48 and 50 on the NIAH with a 'local' rating. However, having searched the NIAH mapping and survey information ([www.buildingsofireland.ie](http://www.buildingsofireland.ie)), I can find no current record of these structures being included. The Quinn's building is included with a 'Regional' rating and its description and appraisal is as follows:

#### Description

*Attached four-bay three-storey public house over cellar, built c. 1880, with replacement timber pub front to front (east) elevation. Hipped roof with clay ridge tiles, bracketed eaves course, rendered chimneystack, and with square-profile cast-iron downpipe to south end. Rendered walling with raised rendered block-and-start quoins to front and side elevations, and raised timber fascia with applied lettering to front. Camber-arch window openings with moulded render surrounds, masonry sills and replacement uPVC frames to first and second floors. Cellar opening with granite surround to pavement to front. Rendered walls with timber panelling to interior.*

#### Appraisal

*This public house retains its early form and character. Render detailing is used to good effect in the quoins and window surrounds, adding textural interest to the façade. Street directories indicate that the site has been occupied by vintners and provision dealers since the middle of the nineteenth century.*

- 7.8.3. I also note the CO comments regarding the methodology for assessing NIAH structures of a 'regional' rating for inclusion on the RPS. The RPS has since been



reviewed by DCC as part of the preparation of the Draft Dublin City Development Plan 2022-2028, which was on public consultation until 14<sup>th</sup> February 2022. I have reviewed the Draft Plan, including the proposed additions to the RPS as per Volume 4 (Part 2) and the zoning map for the site. I can confirm that the Quinn's building has not been included as a proposed Protected Structure.

7.8.4. Notwithstanding that the building has not been included as a protected structure or a proposed protected structure, and is not included within a designated conservation area, I acknowledge that Policy CHC1 and section 16.10.17 of the Development Plan support the preservation of built heritage and the retention and reuse of older buildings of significance which are not protected and which are of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city. I do not accept the appellant's assertion that this provision somehow contravenes or circumvents the RPS process. The question of whether or not it is appropriate to demolish a structure is a valid issue in any application for demolition.

7.8.5. I have reviewed the Architectural Heritage Impact Assessment (AHIA) submitted with the application and the further comments submitted with the appeal. While the AHIA is limited in scope and detail, it contends that there is nothing in the interior or external appearance of the building to distinguish it from other licensed premises of the period. Regarding its location opposite Clonliffe Road, it states that the building is not seen until the junction and that the adjoining ABCD building dominates the view. It concludes that Quinn's is not of special architectural heritage significance to warrant retention. I note that the AHIA did not have full access to the Quinn's building, and it does not assess the significance of the other remaining structures.

7.8.6. I accept that inclusion on the NIAH is not a determining factor on the question of demolition, even if the building is given a 'regional' rating. At the same time, I consider that the Development Plan outlines a reasonable approach towards the protection of buildings of significance, even if they are not Protected Structures. In this case, I consider that the Quinn's building does retain its early form and character, and that it includes elevational detailing around the windows, quoins, and eaves which add visual and textural interest to the front façade. While not being over-elaborate in terms of architectural interest, it is nonetheless a fine vernacular

example of a building of its type and era, and it remains in good condition. And while the building may not be centred on the approach from Clonliffe Road, I would not accept the applicant's contention that the adjoining St Vincent's (ABCD) building dominates the vista. As two three-storey buildings of similar scale adjoining either of the intervening single storey former chapel, I consider that both the Quinn's and St Vincent's buildings cumulatively form a strong and prominent focal point at the termination of Clonliffe Road, and this forms an important and attractive part of the streetscape.

7.8.7. Apart from the issues of architectural value and built character, the appeal raises questions about the social and cultural importance of the Quinn's building as a long-standing public house. The social interest of a building is a relevant factor in built heritage protection, as is recognised in the Architectural Heritage Protection Guidelines. In this case, it would appear that the building has been used as a public house in excess of 100 years, and it is difficult to ignore the fact that it is known nationwide as a landmark meeting place. Accordingly, I consider that it makes a significant contribution to the identity of the Drumcondra area.

7.8.8. I acknowledge the applicant's view that the importance of heritage and culture needs to be balanced against the pressing housing needs for the area. And in this regard, whilst acknowledging the social interest of the building, I consider that it would be unreasonable to insist on the protection of the use of the building as a public house. However, this is of secondary importance in my opinion. The primary importance is the retention of the building itself as an important part of the streetscape and the identity of the area. In my view, there is no reasonable impediment to this, be that whether it would be retained as a public house or repurposed to another suitable use as part of the redevelopment of the overall site.

7.8.9. I would acknowledge that the remaining structures on site have been substantially demolished, particularly No's 48-50. I also note that the Board previously supported the retention of the facades of these buildings by imposing condition no. 1 of ABP Ref PL29N.203852, which required the submission of a planning application for the restoration/renewal of these structures. I accept that this decision was made in 2003 and that the condition of the structures may have deteriorated since then. This is difficult to assess given that the facades are largely obscured by shopfronts and supporting structures, but it is clear that some fine features remain such as the

decorative eaves detail. As previously outlined, the application does not provide any substantive assessment of these buildings and I consider that further examination would be required to justify their removal.

#### The proposed new development

- 7.8.10. The DCC decision raised concerns about the incongruous appearance of the proposed design in the streetscape, primarily because of its excessive height, bulk and mass. These concerns have also been generally supported in the observations received on the appeal.
- 7.8.11. I have previously outlined that the Building Height Guidelines supports increased height and density in locations such as this. Section 3 of the Guidelines sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights. In this case, I note that the immediate surrounding area contains a mixture of building heights. There are single storey cottages along SAA and SJA to the west. The north side of SAA and DRL mainly comprises 2-storey terraced houses and commercial units. To the south of the site, I acknowledge that the ABCD building is a 3-storey over basement building of significant height and scale. And while the proposed building height would be only c. 2m above the ABCD building, it would be larger in overall scale and would certainly be of a significantly larger scale and height than the prevailing 1 to 2-storey development in the area. Accordingly, while the proposed height is below the Development Plan 24m height restriction and does not rely on SPPR 3 of the Building Height Guidelines regarding the contravention of Development Plan objectives, I nonetheless consider that the provisions of Section 3 of the Guidelines are relevant to this assessment.
- 7.8.12. Section 3.1 relates to broad principles and compliance with the objectives of the NPF and local statutory plans. I have previously outlined my opinion that the subject site is suitable for higher densities and compact urban development in accordance with the relevant national and local policies and I have no objection in this regard. Section 3.2 of the Guidelines then sets out the criteria that a development proposal must satisfy at various scales.
- 7.8.13. *At the scale of the city/town*, I have concluded that the site is within a central/accessible location on several existing bus routes with high frequency and capacity. It is in close proximity to the Drumcondra Rail Station and there are taxi

and car-sharing opportunities in the area. Furthermore, the bus services and walking/cycling infrastructure will be improved by the Bus Connects project. I am, therefore, satisfied that the site is well served by public transport with high capacity, frequent services and good links to other modes of public transport, even in advance of planned transport infrastructure improvements.

- 7.8.14. In terms of integration with the character and public realm of the area, I acknowledge the location of the site within an architecturally sensitive area. I have already outlined that the proposal to demolish the existing buildings on site is not appropriate to the built heritage and cultural context of the site. To the north and east of the site, the entire streetscape along both sides of DRL is zoned as a 'conservation area' and the majority of buildings are protected structures. To the south, the ABCD building and the Bank of Ireland building (No. 43 DRL) are both included on the NIAH with a 'regional' rating.
- 7.8.15. The Guidelines states that such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect. In this case, I note that the application includes a 'Verified Views and CGI' report, and a Design Statement has been prepared based on the 'Urban Design Manual – A best Practice Guide'. The verified views demonstrate the visual impact from 3 positions along DRL and 1 position along SAA. It does not consider the approach to the site from Clonliffe Road, which I would consider to be a key view.
- 7.8.16. While I accept that increased height and density is appropriate on this site, and that this could be achieved through a contemporary design approach, I have concerns about the overall bulk and massing of the proposed development. While the approach uses varying brick finishes, setbacks, and height, I do not consider that these measures achieve an appropriate scale to successfully integrate with the character of the area. The proposal would result in a harsh and incongruous form which would detract from the quality of the streetscape at this important, prominent site along DRL.
- 7.8.17. I accept that the site is small and has limited potential to incorporate new streets for place-making. The use of the access lane off SJA would improve permeability in the area but no proposals have been included to upgrade this lane to a suitable

standard. And while a public space has been proposed along SAA, I have previously outlined my concerns that the area would not function successfully as a public space and would not facilitate appropriate circulation along SAA. Ultimately, the increased height and density would not be delivered with sufficient variety in scale and form to integrate with existing development, and I do not consider that the proposal would make a positive contribution towards place-making.

7.8.18. *At the scale of district / neighbourhood*, I have previously outlined the architecturally sensitive context for the site and my opinion that the proposed scale and massing of the development would be an inappropriate response to the built environment. While Block A onto DRL incorporates varying brick and small setbacks both horizontally and vertically, I do not consider that these features adequately distinguish separate forms to achieve an appropriate massing or to reflect the finer urban grain of the area. The proposal makes no reference to the historic plot widths or the rhythm of the streetscape.

7.8.19. I accept that increased height and density could be achieved along this key thoroughfare and that the proposed development would contribute to the mix of uses and dwelling typologies in the area. However, I do not consider that the urban design context or legibility of the area would be enhanced by the demolition of landmark structures and their replacement with this proposal of inappropriate scale and form. In particular, the replacement of the Quinn's building would result in less cohesive integration with the ABCD building to the south.

7.8.20. The proposed relationship at street level is of particular concern. This is a prominent site within a district centre, where the inclusion of appropriate street level activity is important for the vitality and attractiveness of the area. The scheme proposes a significant setback at ground floor level along DRL. This setback area would be overhung by the upper floors and would be truncated by a series of imposing columns. The retail unit also includes a projecting element with a largely blank façade. The northern (side) façade of Block A is also quite prominent at the junction between DRL and SAA, and it would include an ESB substation at street level.

7.8.21. In addition to these inappropriate design features, I also note that the proposed bookmakers unit accounts for a significant extent of the façade. Notwithstanding the established use on site, I consider that the significant increase in the scale of this

presence on the streetscape is inappropriate and would not contribute to the vitality and viability of this district centre. Together with the design features outlined above, I consider that this approach would create a substandard and unacceptable relationship with the adjoining public realm.

- 7.8.22. *At the scale of the site/building*, the Guidelines outline that the form, massing and height of the development should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. I have already covered these issues in section 7.6 of this report.
- 7.8.23. In relation to further *specific assessments*, section 3.2 of the Guidelines also states that to support proposals at some or all of these scales, specific assessments may be required.
- 7.8.24. With regard to micro-climatic effects, I consider that, although the building is taller than the prevailing context of development, it is not an exceptionally tall building such as would be likely to give rise to an acceleration of wind speed or 'downdraft' effects. I have previously addressed noise issues in section 7.4 of this report and daylight/sunlight in section 7.6, and I am satisfied that no unacceptable impacts arise. Accordingly, I am satisfied that no further assessment of micro-climatic effects is required.
- 7.8.25. The site is located within an urban environment and does not contain any significant vegetation. The site is not in proximity to any sensitive bird and/or bat areas and I am satisfied that no further assessment of impacts on flight lines and/or collision is required. There are no designated sites in close proximity to the appeal site or evidence of ecological sensitivity on the site or in the surrounding area. Accordingly, I am satisfied that an Ecological Impact Assessment is not required. Furthermore, section 8 of this report outlines that Appropriate Assessment is not required.
- 7.8.26. The application includes a Design Statement and an Architectural Heritage Impact Assessment, which outline the design strategy and its impact on the built environment. I have already outlined my opinion that there would be unacceptable impacts in this regard.
- 7.8.27. The proposed building height (17.1m) would not impact on safe air navigation and further assessment is not required in this regard. I note that there appears to be a cluster of telecommunication antennae at the roof level of the adjoining ABCD

building to the south. The applicant has not submitted an assessment of impacts on telecommunications channels and no observations have raised the matter. However, this is not a statutory requirement given that the development does not rely on the material contravention provisions of SPPR 3 of the Guidelines.

#### Conclusion on Built Heritage and Visual Amenity

- 7.8.28. In conclusion, I consider that the Quinn's building forms an important part of the streetscape and the identity of the Drumcondra area, primarily because of its built form and character, but also because of its historical use as a public house and a social meeting place of national renown. I consider that its demolition would not be acceptable in accordance with the provisions of Policy CHC1 and section 16.10.17 of the Development Plan, provisions which I consider to be reasonable and appropriate. Furthermore, I am not satisfied that adequate evidence has been submitted to justify the demolition of the remaining structures on the site.
- 7.8.29. Notwithstanding these concerns, I consider that the proposed new development is of an inappropriate design, scale, massing and form, and fails to integrate successfully within the existing built environment. The proposal fails to provide appropriate circulation space in the adjoining public realm and would result in a lack of street level activity, which would detract from the vitality and viability of this district centre.
- 7.8.30. Accordingly, the proposal would be seriously injurious to the built heritage and character of the area and would be contrary to the proper planning and sustainable development of the area.

### **8.0. Appropriate Assessment**

- 8.1. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA, located approximately 2km to the east. There are several other Natura 2000 sites in the inner Dublin Bay area including South Dublin Bay SAC, 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 the proposed surface water system would incorporate SUDS measures for interception and attenuation and would discharge to the combined sewer in DRL. Given that the site is already largely developed, and the proposed development would incorporate improved surface water management measures, I do not consider that there is potential for significant effects as a result of surface water discharges.
- 8.4. The wastewater 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.
- 8.5. The construction phase can result in the emissions of dust, sediment and other pollutants, which can be indirectly linked to Natura 2000 sites. However, given the limited scale of the development and the significant separation distances that exist, I do not consider that there is any potential for such effects in this case.
- 8.6. 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 or the submission of a Natura Impact Statement is not required.



## 9.0 Recommendation

Having regard to the above, it is recommended that permission should be refused based on the following reasons and considerations.

## 10.0 Reasons and Considerations

The Dublin City Development Plan 2016-2022 (Policy CHC1 and Section 16.10.17) seeks the preservation of the built heritage of the city and the retention and re-use of older buildings of significance, even if those buildings are not included on the Record of Protected Structures. These provisions are considered reasonable. It is considered that the former Quinn's building (No.'s 42-44) makes a positive contribution to the streetscape character and the identity of the area. Its demolition would detract from the built heritage of the area, and it is considered that inadequate justification has been provided for the demolition of the remaining structures on the site (No.'s 46 – 50). Furthermore, having regard to the prominent location of the site and the established built form and character of Drumcondra Road Lower, it is considered that the proposed new development, consisting of a four to five-storey building of excessive scale over a significant length of site frontage, would be incongruous in terms of its form and design and would not create an appropriate interface with the public realm at street level. The proposed development would seriously injure the visual amenities and character of the area, would be contrary to the stated policy of the planning authority, as set out in the current Development Plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Stephen Ward  
Senior Planning Inspector

28<sup>th</sup> March 2022