



An
Bord
Pleanála

Inspector's Report ABP-310381-21.

Development	Demolition of 2 residential buildings and construction of a 4-storey building, with the fifth storey set back, to include 29 apartments.
Location	189-190, Rathgar Road, Rathmines, Dublin 6.
Planning Authority	Dublin City Council South.
Planning Authority Reg. Ref.	3381/20.
Applicant(s)	Frank McNerey
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Multiple Third Party
Appellant(s)	Philip O'Reilly Michael Hogan.
Observer(s)	None.
Date of Site Inspection	15/09/2021.
Inspector	A. Considine.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	7
4.0 Planning History.....	10
5.0 Policy and Context.....	11
5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018.....	11
5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):.....	12
5.3. Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2020):.....	13
5.4. Urban Development and Building Heights Guidelines for Planning Authorities December 2018.....	14
5.5. Development Plan.....	14
5.6. Natural Heritage Designations	15
5.7. EIA Screening	15
6.0 The Appeal	16
6.1. Grounds of Appeal	16
6.2. First Party Response to Third Party Appeals	20
6.3. Planning Authority Response	23
6.4. Other Responses	23
6.5. Third Party Response to First Party Response to Third Party Appeals.....	23
6.6. Observations	26

7.0 Planning Assessment	27
7.1. Procedural Matters.....	27
7.2. Principle of the development.....	28
7.3. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:	30
7.4. Visual Impacts & Residential Amenity.....	39
7.5. Roads & Traffic	50
7.6. Water Services & Flood Risk.....	52
7.7. Other Issues.....	54
8.0 Appropriate Assessment.....	55
8.1. Introduction	55
8.2. Consultations	56
8.3. Screening for Appropriate Assessment.....	56
8.4. Qualifying Interests for Natura 2000 Sites within Zone of Influence	59
8.5. Conservation Objectives:	62
8.6. Potential Significant Effects.....	64
8.7. In Combination / Cumulative Effects	65
8.8. Conclusion on Stage 1 Screening:	65
9.0 Recommendation.....	66
10.0 Reasons and Considerations	66

1.0 Site Location and Description

- 1.1. The appeal site lies to the east of the Rathgar Road, in close proximity to the junction of Grosvenor Road, Rathgar Road and Charleville Road and in close proximity to the district centre area of Rathmines. Rathgar Road comprises a variety of developments primarily two to three storeys in height including larger houses on large sites. Immediately to the north of the subject site, there is a two-storey villa style house which is occupied by the Legion of Mary. To the south, lies a similar style villa which is occupied by a dental practice. To the rear of the dental practice, there is a two-storey mews house constructed.
- 1.2. To the west, and across the Rathgar Road, is a petrol station which occupies a corner site providing access from both Rathgar Road and Grosvenor Road. To the east, and rear of the site, there is an apartment development which comprises 4 blocks rising to 5 storeys in height. Across from the site and located on Grosvenor Road there is a small apartment development comprising one block rising to 3 storeys in height.
- 1.3. The subject site has a stated area of 0.1253ha and is currently occupied by a pair of semi-detached Victorian villas, both of which have been extended and altered over the years. The southern building, no. 189 includes a set of stairs which access the front door at first floor level while no. 190 (northern building) is accessed from ground floor level. They are currently in multiple occupancy and the area between the public footpath and the building is used as carparking. There are two access points to the site which would have been the original access/egress points for each house. Both houses include large rear (east facing) gardens but on the date of my site inspection, I could not gain access to the rear.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for development which will consist of the demolition of the existing two residential buildings and construction of four storey with setback fifth storey apartment block at 189-190 Rathgar Road. The proposed development will comprise of 29 no. apartments with a unit mix of 4 no. studio units, 13 no. one bedroom units and 12 no. two bedroom units with a gross floor area of 2,367.19 sqm on a site of 0.1253 ha. The proposal includes: -

- The demolition of two no. storey residential buildings on site - No. 189 is divided into five apartments;
- The construction of 29 no. apartments comprising of 4 no. studio units, 13 no. 1-bed units and 12 no. 2-bed units in an apartment block ranging in height from 4 to 5 storeys with the 5th storey setback from Rathgar Road;
- All units will be provided with private open space in the form of balconies/terraces;
- A roof garden shall be provided at fourth floor level;
- 5 no. surface car parking spaces will be provided at surface level;
- 48 no. residential bicycle parking spaces and 14 no. visitor bicycle spaces, totalling 62 no. bicycle parking spaces;
- Bin storage, lockers, switch room and substation shall be located at the rear of the proposed development and plant at roof level, which shall be screened;
- The existing vehicular entrance at 190 Rathgar Road is to be closed;
 - two pedestrian entrances are to be widened;
 - the existing vehicular entrance at 189 Rathgar Road to be widened with a new front boundary treatment.
 - A new boundary wall will be provided along the rear of the site.
- The proposed development includes landscaping and all ancillary site works,

All at 189-190, Rathgar Road, Rathmines, Dublin 6, D06 E103, D06 C6P2.

2.2. The application included a number of supporting documents including as follows:

- Plans, particulars and completed planning application form,
- Part V Validation Letter from DCC
- Planning Report
- Architectural Design Statement
- Landscape Plan
- Sunlight, Daylight and Shadow Assessment

- Photomontages and CGIs
- Drainage Report & drawings
- Travel Plan & Car Parking Strategy

2.2.1. Following a request for further information, the Board will note that the scheme was altered as follows:

- The site area was increased to 0.1278ha.
- Public space area has increased to 128m².
- The third floor of the building has been redesigned to reduce the perceived height of the overall building.
- The roof terrace has been relocated.
- The substation is relocated.
- The internal changes have amended the number of proposed units from 29 to 26.
- The mix of units will now consist of 2 x studios, 13 x 1-bed units and 11 x 2-bed units.
- Balconies have been reorientated and windows altered.
- An additional car parking space is provided.

3.0 Planning Authority Decision

3.1. Decision

Following a request for further information, and the subsequent response, the Planning Authority decided to grant planning permission for the proposed development, subject to the amendments submitted on the 12th and 15th of April 2021 – including the reduction in residential unit numbers from 29 to 26 – subject to 18 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, the planning history of the site and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening section.

The Planning Report notes the proposed increased height and considers that the existing shoulder height established by neighbouring buildings should be respected and massing above this level should be set back in order to respond appropriately to the existing context. The report also notes the quality of the materials proposed but notes that the landscaping scheme should be revised to include a greater proportion of soft landscaping and ground floor level. Concerns are also raised with regard to the potential impact of the development on existing residential amenity of adjacent properties due to the proximity of the building to site boundaries and the location of windows and proposed proximity of balconies. The Planning Report notes the matters raised with regard to access, transport and parking concluding that further information is required in this regard.

The report concludes that further information is required with regard to the visual impact, additional drawings are required, impact on neighbouring properties, roads and traffic matters including parking, servicing of the development and the car parking strategy. In addition, further information is required in relation to the landscaping for the site.

Following the submission of the response to the FI request, the second Planning Officers Report noted that the revisions to the proposal included an area of the applicants' land within the original red boundary. The report also noted the amendments to the overall scheme which included the reduction in the number of residential units from 29 to 26 and a revision to the unit mix. The report notes the internal reports from the Transport and Planning Division of the Council and concludes that the information submitted in the response to the further information request has adequately addressed the issues raised.

Planning Officer recommends that permission be granted for the proposed development, subject to 18 conditions. This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to compliance with conditions.

Transportation Planning Division: The report notes the planning history of the site and the current proposal. The report raises concerns with the potential impact of the development on the Rathgar Road including the footpath and cycle lane as access for service vehicles has not been demonstrated. Other matters raised relate to the details of how refuse collection is to be managed and access for ESB vehicles (as the proposed ESB substation is to be located behind a gated car parking area).

While the report notes that adequate cycle parking is provided within the scheme, the division raises serious concerns with the lack of car parking provision and car storage for the proposed development. It is considered that the under provision of car parking is likely to result in overspill parking on surrounding streets giving rise to potential conflict with other users. It is further submitted that the Modal Split targets do not reflect the existing Census data and that the submission fails to demonstrate how the location can facilitate the proposed targets including access to employment centres.

The report further considers that the lack of car parking provision would result in increased service requirements. A 0.17 car parking ratio – down from the previously permitted 0.72 parking ratio – would set an unacceptable precedent for this location.

The report also notes the two scenarios in the Travel Plan and Car Parking Strategy submitted with the application and indicates a preference for the parking spaces to be retained by the management company to remove the option of selling car

parking spaces to individual apartments. A Construction Traffic Management Plan should be prepared for the development.

The division recommends that further information be sought with regard to the lack of car parking, the servicing of the development and a review of the car parking strategy.

Following the submission of the response to further information, the Division advised no objection to the proposed development subject to compliance with a number of conditions.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

There are 6 no. third party objections/submissions noted on the planning authority file. The issues raised are summarised as follows:

- The development is wholly unsuitable for this location on the restricted site.
- The development will act in direct contravention of the Z1 zoning objective and destroy the residential amenities and characteristics of Rathgar Road.
- There is no worthy precedent for a 5 storey development on the restricted site and will offer nothing but the lowest common denominator in terms of standard of residential amenity.
- Many units are single aspect towards the north.
- The development will dominate the area, dwarfing the adjacent two storey buildings.
- Issues raised with regard to roads and traffic matters including car parking being at capacity.
- Issues raised with the design of the building and the height is considered to facilitate overlooking.
- Lack of open space.
- Although not protected structures, the 140 year old building on the site should be preserved and refurbished.

- The development constitutes overdevelopment of the site.
- The proposed roof garden will facilitate overlooking of adjacent properties with serious implications for the residential amenity of the area due to anti-social behaviour and the generation of noise or other nuisance.
- Lack of car parking.
- The site already has permission for 22 apartments.
- The proposed removal of the previously permitted basement will reduce the number of car parking spaces within the proposed development from 16 to 5.
- The planning history of the site is noted and that each application increases the number of apartments at the site – original permission was for 9.
- There does not appear to be any restrictions on construction which will generate significant traffic, noise and dust on the busy and complicated junction.
- Proximity of building and balconies to site boundaries and private amenity spaces of adjacent houses and will prevent the redevelopment of adjacent properties.
- Impact of the development on daylight / sunlight

4.0 Planning History

4.1. There is extensive planning history associated with the subject site as follows:

ABP ref: PL29S.105692 (PA. Ref. 3106/97): Permission was refused for two townhouses to the rear of nos.189/190 Rathgar Road for reasons of substandard back land development and overdevelopment.

ABP ref: PL29S.245893 (PA. Ref. 3308/15): Permission was granted for demolition of 2 existing houses, and construction of a 3-storey apartment building comprising 9 apartments with all associated site works.

ABP ref: PL29S.247874 (PA. Ref. 3963/16): Permission was granted for demolition of the existing buildings and erection of apartment building in 2 blocks containing 14 apartments, parking and works.

ABP ref: ABP-302989-18 (PA. Ref. 3207/18): Permission was granted for demolition of the existing buildings and construction of a 4 storey over basement apartment building with 19 apartments; widening of existing vehicular entrance, construction of new wall at southern boundary, 12 basement car parking spaces, 2 ground level parking spaces, 19 basement storage rooms and all associated site works.

PA. Ref. 3379/19: Permission granted on the 1st of October 2019 for the demolition of the existing buildings and construction of a 4 storey over basement apartment building with 22 apartments; widening of existing vehicular entrance, construction of new wall at southern boundary, 16 basement car parking spaces, 22 basement storage rooms and all associated site works.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
- National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

- 5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:
- quality homes and neighbourhoods,
 - places where people actually want to live, to work and to raise families, and
 - places that work – and will continue to work - and not just for us, but for our children and for our children's children.
- 5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.
- 5.2.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:
- compliance with the policies and standards of public and private open space adopted by development plans;
 - avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
 - good internal space standards of development;
 - conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
 - recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
 - compliance with plot ratio and site coverage standards adopted in development plans.

- 5.2.4. Section 5.7 deals with Brownfield lands and notes that where significant sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted, as should the potential for car-free developments at these locations.

5.3. Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2020):

- 5.3.1. These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines. Aspects of previous apartment guidance have been amended and new areas addressed in order to:
- Enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas;
 - Make better provision for building refurbishment and small-scale urban infill schemes;
 - Address the emerging 'build to rent' and 'shared accommodation' sectors; and
 - Remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.
- 5.3.2. The guidelines identify specific planning policy requirements in terms of apartments and Development Plans dealing with the mix of unit sizes, while Chapter 3 deals with Apartment Design Standards, including studio apartments, orientation of buildings and dual aspect ratios, storage provision, private amenity spaces and security

considerations. Chapter 4 deals with communal facilities, including car and bicycle parking.

- 5.3.3. The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children - over the medium to long term. These guidelines provide recommended minimum standards for:

- floor areas for different types of apartments,
- storage spaces,
- sizes for apartment balconies / patios, and
- room dimensions for certain rooms.

The appendix of the guidelines provides guidance in terms of recommended minimum floor areas and standards.

5.4. Urban Development and Building Heights Guidelines for Planning Authorities December 2018.

- 5.4.1. The guidelines encourage a more proactive and flexible approach in securing compact urban growth through a combination of both facilitating increased densities and heights, while also mindful of the quality of development and balancing the amenity and environmental considerations. Building height is identified as an important mechanism to delivering such compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

5.5. Development Plan

- 5.5.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site has the land use zoning objective Z1: Sustainable Residential Neighbourhoods where it is the stated objective of Z1:

To protect, provide and improve residential amenities.

5.6. Natural Heritage Designations

- 5.6.1. The site is an urban brownfield site and is not located within any designated site. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 4.1km to the east of the site. The North Dublin Bay SAC (& pNHA)(Site Code 000206), and North Bull Island SPA (Site Code 004006) lies approximately 7.4km to the north east.

5.7. EIA Screening

- 5.7.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 5.7.2. Item (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 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha 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.)

- 5.7.3. The proposed development comprises 29 residential units in the form of 4 no. studio units, 13no. 1 bed and 12 no. 2 bed apartments in one block on a site of 0.1253ha. The site is located in an urban area that may come within the above definition of a “business district” but having regard to the nature of the wider area, and the primary residential use, the area is more probably more akin to ‘other parts of a built-up area’. In any case, the site is below the threshold of 2 ha for a ‘business district’ location, and substantially below the 10ha threshold for ‘other parts of a built-up area’. In any case, the site is below the threshold of 2 ha for a ‘business district’ locations. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.7.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.7.5. Having regard to:

- (a) the nature and scale of the development,
- (b) the built nature and urban location of the site,
- (c) the zoning afforded to the site and the availability of public services and infrastructure,
- (d) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a multiple third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The grounds of appeal reflect those issues submitted to the Planning Authority during its assessment of the proposed development and are summarised as follows:

Mr. Philip O'Reilly:

- The 5-storey development will overwhelm surrounding period buildings and more modern residential builds to the west.
- The zoning objective of the area is to maintain or improve residential amenity. The development will dominate the area.
- Regardless of the set back of the top two floors, the size, height and mass of the proposal will destroy the character of the area.
- There have been previous bad developments in the area which have significantly adversely compromised the character of the area.
- Bad planning is going to create significant problems for the future.
- The historical buildings and character of the area appear to count for nothing.
- The standard of proposed residential units is poor and private open amenity space is inferior.
- Issues with parking for the proposed units raised given that there is no spare parking on the surrounding roads.
- Servicing issues will constitute a serious traffic hazard.
- The development constitutes overdevelopment of a restricted site.

Mr. Michael Hogan:

The third-party appeal includes an introduction to the proposed development and sets out the context of the site with the appellants home and surrounding area.

The submission also considers the details of the response to the further information request. The grounds of appeal are summarised as follows:

- The development will result in overlooking of The Mews-
 - The proposed development is 10.5m to the appellants boundary with balconies at 13m from the rear wall of the dwelling.
 - The proposed provision of 4m high mature trees along the boundary will not prevent overlooking.
- The development will have an overbearing impact on The Mews-

- The increased building height will have an overbearing impact when viewed from the rear of The Mews.
- The proposed trees will have a further enclosing impact and will detract from the residential amenity of the house.
- The impact of the development on the Vertical Sky Component and Daylight-
 - The applicant noted that Window W1-small in The Mews *'is a secondary window with the primary window W1-Main for this room to the front. When tested without the extensive and dense vegetation to the rear there is some theoretical impact here (results presented) but the reality is that the impact will be little given the current mature tall evergreen trees the currently existing on site'*.
 - It is submitted that window W1-small is important to the amenity of the dwelling and should be included as part of the overall assessment. It is also noted that the proposed development will result in the removal of the trees referred to – notwithstanding their replacement through FI.
 - The existing VSC is 30% which exceeds the 27% standard required to achieve enough sunlight. This level reduces to 16.5% and a ratio of 0.5 times lower than its former value as a consequence of the development.
 - The development will cause a reduction in the amount of skylight to the kitchen (of The Mews) and in this regard, the CSC report is factually incorrect to conclude that there is no deterioration in daylight arising from the proposed development.
 - The development will result in a reduction in the visible sky angle from 59° to 24°, which is less than 50% of the extent of visible sky angle currently enjoyed.
 - It is submitted that no additional space is being provided to The Mews as part of the application (as indicated in the CSC report).
- The development will limit the development potential of The Mews-
 - The appellant has developed proposals to demolish and construct a new three storey dwelling over basement with a view to enhance the residential

amenity of The Mews as a result of the permitted 4 storey development on the appeal site.

- It is submitted that it is not appropriate that the development potential of one site is undermined in favour of an adjoining site.
- It is submitted that the proposed development undermines the development potential of the appellants' site.
- The building height in the streetscape-
 - With regard to infill development, the Dublin City Development Plan notes that it is particularly important that proposed developments respect and enhance their context and that it is well integrated with its surroundings.
 - It is evident that the previously permitted development integrates and complements the existing streetscape as viewed from Rathgar Road. The proposed development and design changes has resulted in an overall uncoordinated and jarring composition that neither integrates nor complements the existing context.
- The quality of the proposed development-
 - The omission of the basement car park has resulted in surface level car parking, cycle parking, bin storage and service areas at ground floor.
 - The overall ground floor layout results in severely compromised ground floor dwellings and relationship with adjacent property.
 - While it is noted that the provision of the basement car park will impact on the viability of the development, its omission should not be permitted where the resultant design approach undermines the overall quality of the proposed development.

6.1.2. Both appeals conclude requesting that the Board overturn the decision of Dublin City Council and refuse permission for the development.

6.1.3. Both appeals also includes enclosures.

6.2. First Party Response to Third Party Appeals

6.2.1. The applicant submitted two separate responses to the third-party appeals both submissions set out a background to the proposed development as well as the planning history associated with the site. Both reports submit that the original design submitted to the Planning Authority (prior to amendments made following the FI request) and for 29 units is optimal for the site and should the Board prefer, the relevant drawings could be conditioned as part of a planning grant.

6.2.2. In terms of the response to Mr. O'Reilly's third-party appeal, the following is submitted:

- The design, height and mass of the development have been carefully considered with the parapet line of adjoining properties carried through at 1st floor level.
- The Architectural Design Statement outlines how the building has been sculpted to create the form, which relates to the eaves of neighbouring buildings.
- Rathgar Road has a range of different building heights, buildings of larger and smaller scale and is robust enough to absorb the proposed development.
- The mass and volume of the proposed development is more visually interesting and more respectful of the character of the general area than the permitted development.
- In terms of the demolition of the existing building, the Board has already permitted this element.
- In terms of future residential amenity, it is submitted that the proposed residential units are generally well in excess of the minimum standards in terms of area.
- All single aspect units will enjoy good aspects.
- All 61 rooms were tested for ADF, of which 80% achieved the recommended 1%. In terms of living/kitchen/dining rooms, 73% met an ADF of 2% and 96% met an ADF of 1.5%.

- Compensatory measures have been applied including the use of saw-tooth windows and chamfering the balconies and dividers.
- The public and communal amenity spaces will achieve 94.7% and 80.1% of the space achieving at least 2hrs sunlight on March 21st, exceeding the BRE recommendations.
- The total communal open space required for the development is 150m². The development provides a roof garden of 189.92m² and a ground floor level area of 208.39m², giving a total of 398.31m².
- In terms of overlooking and noise, the applicant invites the Board to come to a similar conclusion as the Planning Authority.
- Having regard to the location of the site, the improvements following Bus Connects and bicycle infrastructure in the area, it is appropriate to provide limited car parking.
- The servicing of the site and collection of waste will not give rise to a traffic hazard.
- With regard to the issue of overdevelopment, it is submitted that the development is entirely appropriate in scale and has been designed to take account of the size and aspect of the site, the amenities of adjoining neighbours and the amenities of future residents.
- Given the central / accessible location of the site and the proximity to high frequency and capacity public transport and walking distance of the city centre the plot ratio of 1.7, density of 207 units per hectare and site coverage of 32% are within the indicative standards set out in the Dublin City Development Plan.

It is requested that the Board grant permission for the proposed development and a number of enclosures are included with the Response to the Third-Party (Mr. O'Reilly) appeal as follows:

- Landscape & Visual Impact Assessment
- Daylight / Sunlight Report
- Architectural Drawings

- Traffic Insight Response

6.2.3. In terms of the response to Mr. Hogan's third-party appeal, the following is submitted:

- In terms of the issue of overlooking, it is submitted that the existing views out of The Mews are very limited and similarly views and in and natural daylight is limited. The proposed development produces a 'like for like' situation.
- Following a request for FI, additional measures to prevent overlooking were introduced including saw-tooth windows and screened chamfered balconies. Semi-mature trees will be planted along the boundary further reducing any perception of overlooking.
- The submitted cutaway section shows that the proposed development is not overbearing on The Mews.
- In terms of daylight in The Mews, the rear kitchen window is the secondary window in the kitchen which is dual aspect. Daylight to the rear window is currently hindered by evergreen trees and the rear boundary wall, 2m from the window.
- The impact on the kitchen window is overstated and has been assessed by two consultants.
- In terms of the development potential of The Mews, any application when submitted will be judged on its own merits.
- In terms of the design, it is rejected that the proposed development represents a less considered approach than the current extant permission.
- Rathgar Road has a range of different building heights, buildings of larger and smaller scale and is robust enough to absorb the proposed development.
- The proposed development has been designed so that all apartments enjoy pleasant aspects.

It is requested that the Board grant permission for the proposed development and a number of enclosures are included with the Response to the Third-Party (Mr. Hogan's) appeal as follows:

- Landscape & Visual Impact Assessment

- Architectural Drawings
- Daylight / Sunlight Report
- Comment from Chris Shackelton Consulting.

6.3. Planning Authority Response

None.

6.4. Other Responses

- 6.4.1. Mr. O'Reilly submitted a response to Mr. Hogans third party appeal (submitted by Sheridan Woods) noting the content and raising concerns regarding the proposed development.

6.5. Third Party Response to First Party Response to Third Party Appeals

- 6.5.1. Mr. O'Reilly responded to the first party response to the third-party appeals, as follows:
- The submission comments in relation to the first party response to the third-party appeal by Sheridan Wood on behalf of Michael Hogan as follows:
 - The proposal will make the existing situation of The Mews worse.
 - None of the measures suggested will mitigate the overlooking that will occur. The trees will last for a few years and will then be removed as they will create more problems than they would be worth.
 - The axial drawings clearly show the overwhelming impact of the development on neighbouring properties.
 - A 5-storey building a few meters from a two storey building will be overbearing.
 - The development will impact on the redevelopment of The Mews.
 - The proposal is totally incompatible with the area and its surroundings.

- The area of the proposed development is primarily two storeys in height and is most certainly not robust enough to absorb the proposed development.
- An error in the letter from the Board dated July 26th is noted and it is requested that this matter be clarified.
- The submission comments in relation to the LVIA submitted:
 - The building does not follow the existing pattern of development in the area.
 - The change of character is totally unacceptable and inappropriate.
 - The development will take residential amenity from the area.
 - Conservation and preservation should be given priority over demolition. Not being on the RPS is no justification for the demolition of the historic buildings.
 - If the existing buildings were retained and restored, no issues would arise.
- The submission comments in relation to the Building Performance Consulting document as follows:
 - Does not agree with the document as the analysis is considered to be clearly wrong if it shows that the development will have minimal impact on surrounding buildings.
 - There will be severe shadowing to the west in the morning and to the east in the evenings.
 - The orientation of the building is questioned.
- The submission comments in relation to the first party response to the third-party appeal by Philip O'Reilly:
 - The 5-storey local authority apartment complex are not readily visible from, and is located remote from, Rathgar Road, accessed off Rathmines Ave and Upper Rathmines Road which is an entirely different area.

- Demolition issue raised and examples where non listed buildings have been refused permission for demolition included.
- Other examples of poor planning decisions in the area are identified.
- There have been many objections and appeals with regard to the development of this site over the years. The current proposal with the upper floors set back only make the roof more complicated and more visible on the skyline, incompatible with its neighbours.
- The submission does not agree with the comments made by the first party with regard to the design, height or scale of the proposed development.
- Minimum standards are barely being met and residential amenities could not be high with such concentrated development.
- Overlooking will not be mitigated as suggested.
- Traffic, parking and servicing issues are not addressed.
- Questions the figures presented in terms of site coverage and submits that the density of 207 units per hectare is too high for the prevailing densities in this area of Rathgar Road.

The response requests that the Board refuse permission for the development.

6.5.2. Sheridan Woods on behalf of their client Mr. Hogan, responded to the first party response to the third party appeals as follows:

- In terms of overlooking, the third-party concerns relate to the proposed balconies which will face their property and will provide direct and close proximate views to the rear of The Mews. The additional floor proposed exacerbates this. Modifications proposed to not address this issue.
- The existing context is as a result of the applicant allowing the existing vegetation to grow and mature to create a canopy over the third-party garden. Previous requests to address this issue have been to no avail. The lack of maintenance of the applicants' property has created a nuisance in relation to shedding of branches and the maintenance of Mr. Hogans property.

- The replacement of trees which are already a nuisance is not an appropriate means to address the issue of overlooking.
- The issue of overbearing is not appropriately addressed. The previously permitted development was set further back than the current proposal and a reduced height. The Mews was also to benefit from an increase rear garden depth.
- The second Sunlight and Daylight analysis reaffirms that the proposed development negatively impacts on the rear kitchen window. The information submitted indicates that the proposed development will cause a reduction in the amount of skylight to the kitchen.
- The submission discusses plans for the extension of The Mews and submits that the development as proposed will undermine the development potential of The Mews.
- The development does not respect or enhance the existing context nor makes a positive contribution to the urban neighbourhood and streetscape.
- It is not accepted that the design approach provides a high-quality residential environment for residents and the layout will negatively impact on the amenity of adjacent properties.
- Procedural issue noted in terms of the site notice and the extension of the site to include a strip of land which was outside the red line boundary, within their ownership. This was not readvertised. Nor were the proposed landscaping measures in this area. The application should be invalidated or refused.

6.6. **Observations**

None.

7.0 Planning Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Compliance with National Guidelines & Standards, the Development Plan & General Development Standards
3. Visual Impacts & Residential Amenity
4. Roads & Traffic
5. Water Services & Flood Risk
6. Other Issues
7. Appropriate Assessment

7.1. Procedural Matters

- 7.1.1. The Board will note that the applicant increased the overall site area by 25m² (approximately 2% of the original site area) following a request for further information by Dublin City Council. Third parties have suggested that as this matter was not readvertised, there was no opportunity for third parties to make an observation on the modifications to the boundary or the proposed landscaping measures. It is considered that the extending of the boundary of the application site to third party property, and the removal of existing trees for replacement represents significant information and Dublin City Council should have requested a notice of FI or Revised Plans under Article 35(1) of the Planning and Development Regulations 2001. It is submitted that Dublin City Council has erred in their procedure and acted contrary to the cited Regulation.
- 7.1.2. Article 35(1) of the P & D Regulations state as follows:

Where a planning authority receives further information or evidence following a request under article 33, or revised plans, drawings or particulars following a request under article 34, or otherwise receives further information, evidence, revised plans, drawings or particulars in relation to the application, and it considers that the information, evidence, revised plans, drawings or particulars received, as appropriate, contain significant additional data, including information in relation to effects on the environment, the authority shall-

- (a) require the applicant, within a specified period, to publish a notice in an approved newspaper, containing as a heading the name of the planning authority, marked "Further Information" or "Revised Plans", as appropriate, and stating -

7.1.3. The Board will note that the Planning Officer noted the increase in the site area, and the new red line, in their report. The report notes that as the change to the application site boundary relates to the inclusion of land shown within the applicants' ownership in the original submission (coloured blue), it was not considered significant and did not require re-notification.

7.1.4. The Board may wish to consider this matter further.

7.2. Principle of the development

7.2.1. The proposed development seeks to demolish the existing two houses and construct a 4-storey block of apartments, with the fifth floor set back at 189-190 Rathgar Road, Dublin on a site covering 0.1253ha and comprising 29 no. apartments. The Board will note that following a request for further information amendments were made to the scheme to address design issues with the two top floors set back. The building will rise to 5 storeys in total. The amended scheme provides for 26 units and the site area is increased to 0.1278ha. The site will be accessed from the Rathgar Road and the properties on either side comprise two storey detached Victorian style villas.

7.2.2. A number of planning permissions have previously been granted on the site for the construction of an apartment development, with the most recent permission PA. Ref. 3379/19 refers, granting permission, on the 1st of October 2019, for the demolition of the existing buildings and construction of a 4 storey over basement apartment

building with 22 apartments; widening of existing vehicular entrance, construction of new wall at southern boundary, 16 basement car parking spaces, 22 basement storage rooms and all associated site works.

7.2.3. The original proposal submitted to Dublin City Council for approval under this appeal provided for 29 residential units comprising 4 no. studio units, 13 no. one bedroom units and 12 no. two bedroom units with a gross floor area of 2,367.19 sqm, while the amended proposal will provide for 26 units comprising 2 x studios, 13 x 1-bed units and 11 x 2-bed units. The Board will also note that the current proposal for the site, when compared with the previously permitted development, now excludes the basement level which incorporated carparking and storage for a development of 22 apartments. In this regard, the current proposal will see an increase in the number of residential units and a reduction in the number of car parking spaces to serve the development. Storage lockers are proposed to be provided at ground level to the rear of the development with 6 additional storage units located at 4th floor level. In terms of amenity space, the development proposes to provide an area of public open space at ground floor level to the front of the building and a roof garden at 4th floor level, also to the front area of the building. The original proposal rises to 16.116m in total with the front parapet noted at 12.4m with the railings at this level rising a further 1.1m in height. The amended proposal (following the request for further information) provides for the top two floors to be set back from the western (front) elevation with the proposed storage units and roof garden relocated to the third-floor level. The overall height of the building is also reduced to 16.016m with the front parapet level reduced to 9.55m (10.4m to the top of the railing around the roof garden in this area).

7.2.4. In terms of the principle of the proposed development, the subject site is located on lands zoned 'R2' Zone Z1: Sustainable Residential Neighbourhoods in the Dublin City Development Plan. It is the stated objective of this zoning 'to protect, provide and improve residential amenities'. Residential development is permitted in principle on such zoned lands. I also note the location of the subject site, on serviced and zoned lands, together with the proximity to public transport, retail, community and social facilities. As such, it is reasonable to conclude that in principle, the development of the site for residential purposes is acceptable.

7.3. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:

- 7.3.1. Having regard to the location of the subject site within the city, together with the brownfield nature of the site and the recent planning history of the site, I am satisfied that the principle of high-density residential development can be considered acceptable and in accordance with the general thrust of national policy. For clarity, I proposed to consider the amended proposed development, submitted following a request for further information by Dublin City Council and as permitted by the Planning Authority.
- 7.3.2. The subject site has a stated area of 0.1278ha and proposes to provide 26 residential units on the site. In terms of the Dublin City Development Plan requirements, the following is relevant:

	Originally Proposed	Permitted	Development Plan
Site Coverage	50.3%	31.6%	45-60%
Plot Ratio	1:1.89	1:1.72	0.5-2.0
Density	231 units / ph	203 units / ph	50 units / ph
Public Open Space	126m ²	128m ²	129m ² (10% of permitted site)
Communal Open Space	353.16m ² = 4 th floor terrace 198.31m ² Ground floor CAS areas: Front (east): 47.34m ² North: 78.94m ² West: 28.57m ² (South: 24.23m ² area excluded from original site identified for transfer to third party)	398.31m ² = 3 rd floor terrace 189.92m ² Ground floor CAS areas: Front (east): 45.35m ² North: 78.94m ² West: 39.52m ² South: 45.32m ²	

The mix of units proposed:

Unit Type	Originally Proposed	Permitted by FI
Studio	4	2
1 bed	13	13
2 bed (4 person)	12	11
Total	29	26

- 7.3.3. The Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities suggest that there should be no upper limit to density on City Centre sites subject to qualitative safeguards. In areas close to public transport corridors minimum densities of 50 units per hectare should be applied subject to those safeguards. The density proposed in the permitted proposed development is approximately 203 units per hectare. In terms of compliance with the Dublin City Development Plan, the proposed development is acceptable with regard to the recommendations of the Plan in terms of site coverage, plot ratio and density. I will address issues in terms of the height under section 7.4 of this report in terms of visual impacts.

The Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2020

- 7.3.4. The 2018 guidelines update the guidelines from 2015 in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness, Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines, and specific policy objectives contained in these guidelines take precedence over policies and objectives of development plans. The aims of the guidelines are to enable a mix of apartment types, make better provisions for building refurbishment and small-scale urban infill schemes, address the emerging 'build to rent' and 'shared accommodation' sectors and to remove requirements for car-parking in certain circumstances.
- 7.3.5. The 2020 Guidelines update the 2018 Guidelines to include a new SPPR 9 which advises that there shall be a presumption against granting planning permission for shared accommodation / co-living development unless specific criteria have been

met. In terms of the subject appeal, the 2020 guidelines are the appropriate guidelines. Chapter 3 of the Guidelines provide for Apartment Design Standards, and I proposed to consider the proposed development against these requirements.

- 7.3.6. Having regard to the development before the Board, I consider it reasonable to deal with the permitted development as permitted by Dublin City Council. This is based on my consideration of other relevant matters including impacts on existing residential amenity and roads and traffic issues associated with the original proposal, which will be discussed further in the assessment in Sections 7.4 and 7.5 below.

a) *Apartment floor area:*

The Guidelines, Specific Planning Policy Requirement 3, require that the minimum floor areas be applied to apartment developments. I refer the Board to Drawing Number 19385-FI-10, which presents the schedule of accommodation and submitted following the request for further information and on which the PAs decision to grant planning permission is based. The proposed development provides for the following floor areas:

No of Unit Type	Minimum overall F/A	Proposed F/A	Total F/A
2 x Studio	37m ²	2 x 42.43m ²	84.86m ²
13 x One bedroom	45.0m ²	5 x 47.24m ² 1 x 49.68m ² 1 x 52.57m ² 1 x 54.73m ² 2 x 56.49m ² 1 x 58.80m ² 2 x 60.88m ²	686.72m ²
11 x Two bedroom (4 persons)	73.0m ²	4 x 81.15m ² 4 x 84.19m ² 2 x 87.93m ² 1 x 92.26m ²	929.48m ²
26 units in Total			1,701.06m²

The development proposes 26 x studio, 1 and 2 bedroom apartments. All apartments proposed achieve the minimum floor area required by the guidelines.

The guidelines also provide for the following minimum requirements in terms of the living / dining and kitchen room areas:

Minimum aggregate floor areas for living/dining/kitchen rooms

Minimum widths for the main living/dining rooms Apartment type	Width of living/dining room	Aggregate floor area of living / dining / kitchen area*
Studio	4m*	30.0m ²
One bedroom	3.3 m	23.0m ²
Two bedrooms (4 person)	3.6 m	30.0m ²

* Combined Living / Dining / Bedspace, also includes circulation.

All units generally accord with the above requirements, and I am satisfied that the development proposes bedrooms of a size which comply with the requirements in terms of width and floor areas.

b) *Safeguarding Higher Standards*

It is a requirement 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% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)'.

In this regard, the following is relevant:

Unit Mix	No of Apartments	Cumulative Min Floor Area
7.7% Studio units	2	2 x 37m ² = 74m ²
50% 1-bed units	13	13 x 45m ² = 585m ²
42.3% 2-bed units	11	11 x 73m ² = 803m ²
Total	26	1,462m²

+ 10%	No of Apartments	Cumulative Min Floor Area
1-bed units + 10%	13	13 x 4.5m ² = 58.5m ²
2-bed units + 10%	1	1 x 7.3m ² = 7.3m ²
Total	14	65.8m²

Total Required Minimum Floor Area therefore is 1,527.8m².

In terms of the allocation of +10% of majority by unit type, the following is relevant:

Unit Type	No of Apartments	Cumulative Min Floor Area
7.7% Studio units	2	2 x 37m ² = 74m ²
50% 1-bed units	13	13 x 49.5m ² = 643.5m ²
42.3% 2-bed units	1	1 x 80.3m ² = 80.3m ²
	10	10 x 73.0m ² = 730.0m ²
Total	26	1,527.8m²

The actual proposed floor area of the residential element of the overall development, is 1,701.06m². There is therefore an excess of 173.26m² in this regard. While I note Section 3.15 of the 2020 Apartment Guidelines which suggest that the 10% requirement can be applied with flexibility on urban infill schemes on sites of up to 0.25ha and on a case-by-case basis, I am satisfied that the proposed development is acceptable in this regard.

c) Dual aspect ratios:

This issue relates to the availability of daylighting and orientation of living spaces in order to maximise the amenity of occupants of the apartments. The proposed development provides for 26 apartments in a single block which will rise to between 3 and 5 storeys. Of the proposed 26 units, it is submitted that 18 are dual aspect. The Guidelines require, SPPR 4 refers, that at least 33% of units are dual aspect and, in this regard, the proposed development complies with the 2020 Apartment Guidelines. There are no units with a single northern aspect and all apartments are afforded private amenity spaces in the form of small balconies which meet the recommended 1.5m minimum depth required in the Guidelines.

d) Floor to Ceiling Height:

It is a specific policy requirement, SPPR 5, that ground level apartment floor to ceiling heights shall be a minimum of 2.7m, and 3m should be considered for multi-storey buildings. The sections submitted with the planning documents and appeal indicate that a floor to ceiling height of 2.7m at ground

to 3rd floor levels, and 2.5m on the top floor level. This is in accordance with the requirements of the guidelines.

e) *Lift & Stair Cores:*

The proposed development includes a stair core and lift area which are to be located centrally within the proposed building.. Having regard to the scale of the proposed development, I am satisfied that the proposed stairs and lift arrangement is acceptable.

f) *Internal Storage:*

The proposed development provides for storage within all apartments. Minimum storage requirements are indicated in the guidelines, and it is noted that said storage 'should be additional to kitchen presses and bedroom furniture but may be provided in these rooms. A hot press or boiler space will not count as general storage and no individual storage room within an apartment shall exceed 3.5m².'

The Guidelines also advise that storage for bulky items outside the individual units should also be provided, apart from bicycle parking requirements. The Board will note that the development proposes external storage facilities to serve the development. The minimum storage space requirements are identified as follows:

Minimum storage space requirements

Studio	3 sq m
One bedroom	3 sq m
Two bedrooms (4 person)	6 sq m

In the context of the proposed development, the Board will note that the submitted drawings indicate that storage is provided within each apartment, with additional storage facilities also provided remotely to the rear of the building and adjacent to the bike parking area. I would accept that proposed development appears to provide adequate storage provision for the units as proposed.

g) Private Amenity Space:

It is a specific planning policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels. The guidelines require the following minimum floor area for private amenity space:

Minimum floor area for private amenity space

Studio	4 sq m
One bedroom	5 sq m
Two bedrooms (4 person)	7 sq m

All apartments are provided with balconies or terraces, all of which appear to achieve the recommended area and 1.5m minimum depth required in the Guidelines. All private open spaces adjoin and have a functional relationship with the main living areas of the apartments and primarily have a southern, western or eastern aspect.

h) Security Considerations

The Guidelines require that apartment design should provide occupants and their visitors with a sense of safety and security by maximising natural surveillance of streets, open spaces, play areas and any surface bicycle or car parking. Entrance points should be clearly indicated, well lit, and overlooked by adjoining dwellings. Particular attention should be given to the security of ground floor apartments and access to internal and external communal areas.

The Board will note that the main entrance to the apartment building is located directly facing the Rathgar Road elevation, with an additional entrance proposed on the western elevation and adjacent to the car parking spaces. Two further entrances are proposed, one at the rear of the building directly from the bike parking area and a further entrance to the eastern elevation.

The layout of the site proposes that a footpath will be provided around the building with incidental areas of communal open space primarily located along the boundaries of the site. I am generally satisfied that the access to the building and matters of security are acceptable.

- 7.3.7. Chapter 4 of the Guidelines seeks to deal with communal facilities in apartments and deals with access & services, communal facilities, refuse storage, communal amenity space, children's play, bicycle parking and storage and car parking. Given the nominal scale of the proposed apartment development, I am satisfied that the communal areas proposed are adequately sized.
- 7.3.8. In terms of the provision of refuse storage, the Board will note that a bin storage area to service the apartments is proposed to the rear of the building and along the north-eastern boundary wall. The refuse area proposed covers 31.6m². I note that the plans also provide for a bin set-down area to the front of the proposed building for bin day collection. The Board will note that the proposed development does not intend that refuse collection trucks will enter the site and that refuse collection will be from the adjoining Rathgar Road. It is submitted that this arrangement is consistent with the local practice and is deemed reasonable, considering the scale of the proposed development and the constrained nature of the site. I note that the Transportation Planning Division of Dublin City Council has raised no objections to this proposal, with the report on file noting the current practice for similar developments within the city.
- 7.3.9. I accept the principle of the location of the proposed bin storage area within the development, noting that the Guidelines advise that 'Waste storage areas should not be on the public street, and should not be visible to or accessible by the general public'. In acknowledging the concerns raised by the third parties in terms of the servicing of the site, I am satisfied that the impact of waste collection can be considered as being reasonable at this city centre location. The period of impact associated with bin collection is short, and likely only once or twice a week. I also note that there are other properties and developments in the immediate vicinity of the site which also require refuse collection. The level of impact associated with the proposed development in this regard is considered minimal and acceptable.
- 7.3.10. In relation to communal amenity spaces, the development proposes a landscaped roof terrace, with an area of 189.92m², at level 3 to serve the apartment residents. In addition, the proposal includes an area of public open space with an area of 128m² to the front of the proposed building. The site layout also includes a number of small incidental areas of amenity space along the site boundaries. It is proposed to remove a number of existing mature trees along the site boundaries and replace same with

semi-mature trees. I am generally satisfied that the proposed communal open space proposed is acceptable in the context of the site location.

- 7.3.11. Limited car parking is proposed within the development, with the provision of 5 car parking spaces and a disabled access space to the rear of the site. The Guidelines promote the location of apartments which have access to public transport and other sustainable transport modes. Where it is appropriate to reduce car parking provisions, high quality cycle parking and storage facilities should be provided. The guidelines require that 1 cycle storage space per bedroom is applied. The proposed development therefore requires 37 bicycle parking spaces for residents. The Board will note that the development proposes to provide secure parking for 48 bicycles within the bike parking area at ground floor level to the rear of the building, with an additional 14 surface spaces proposed for visitors throughout the site and including provision for two cargo bikes. The development, therefore, proposes an appropriate quantum of bicycle parking spaces, and the development therefore accords with the guideline requirements as they relate to the provision of cycle parking.
- 7.3.12. In terms of car parking, the Guidelines notes that the quantum or requirement for car parking will vary in terms of the location of the site. Section 4.19 suggest that the car parking provision can be minimised, substantially reduced or wholly eliminated in certain circumstances. Such policies are applicable in highly accessible areas in or adjoining city cores or at a confluence of public transport systems. Where it is sought to eliminate or reduce car parking provision, it is necessary to ensure the provision of an appropriate drop off, service, visitor parking and parking for the mobility impaired.
- 7.3.13. The Board will note the initial concerns raised by the Dublin City Transport Planning Division in relation to the car parking proposals at the site, as well as the concerns of existing residents in the area. I note that this issue was raised as an issue in the PAs further information request. The applicant submitted a response to the FI request setting out a logical argument for the reduction in car parking space numbers to serve the development including details of proximity to public transport modes, car-share options and the bicycle infrastructure present in the wider area. The PA accepted the reduced car parking space numbers and recommended the inclusion of conditions in terms of the management of same.

- 7.3.14. The Travel Plan and Car Parking Strategy Report submitted with the application seeks to demonstrate that the proposed development location benefits from very good proximity to sustainable transport connections in the form of bus stops along Rathgar Road and Rathmines Road Lower within 100m of the site and Luas stop (Broombridge-Brides Glen Stop on Luas Line 1.1km from the site (15-minute walk) in close proximity, as well as good walking and cycling options. It is also noted that as part of the BusConnects Core Bus Corridor Project, it is proposed to upgrade the existing bus lanes along Rathgar Road and Rathmines Road Lower to enable uninterrupted and rapid bus transit along the corridor.

Conclusion:

- 7.3.15. I would note that I fully acknowledge the third-party submissions in terms of the restricted car parking in place in the vicinity of the site. However, in terms of the principle of the proposed development, I am generally satisfied that the principle of the development is acceptable in terms of compliance with the guidelines. In addition, I am satisfied that the principle of the proposed development is acceptable in terms of the location of the site within Dublin City and the zoning objective afforded to the site.

7.4. Visual Impacts & Residential Amenity

- 7.4.1. The Urban Development and Building Height Guidelines for Planning Authorities (Dec 2018), builds on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. Increased building heights is identified as having a critical role in addressing the delivery of more compact growth in urban areas, particularly cities and larger towns. Specific Planning Policy Requirements (SPPRs) of the height guidelines take precedence over any conflicting policies, and objectives of the Dublin City Development Plan.
- 7.4.2. The Dublin City Development Plan, 2016-2022, at Section 16.7, provides guidance and standards for building height limits within the city. The subject site is located within a low-rise outer city area which has been identified as having a building height cap of 16m for residential development. Having regard to the information submitted, the Board will note that the overall height of the permitted development on the site is

16.016m to the top of the lift shaft, with the main bulk of the building rising to 15.217m in height.

- 7.4.3. While the issue of height was raised by third parties, the Planning Authority concluded that the development was acceptable in terms of height. Concerns raised in relation to the visual impact of the originally proposed building on the streetscape in terms of scale relative to adjacent buildings were addressed following a request for further information. In addressing the concerns in terms of visual impact, the applicant set back the fourth and fifth floors with the corners of the third floor reflecting the shoulder height of the adjacent buildings on either side. The result has minimised the bulk of the front elevation in the Rathgar Road streetscape and in support of the proposed development, the applicant submitted contextual elevations and a number of photomontages as part of the Architectural Design Assessment, to depict the development as proposed. Having regard to the previously permitted development on the site, I have no objections to the design, height or scale of the development as permitted by Dublin City Council.

Overlooking

- 7.4.4. The proposed building will be constructed with upper floor windows located within 8 – 10m from the southern boundary of the site (adjacent to The Mews located to the rear of 188 Rathgar Road). The two windows on each of the upper floors (8 windows in total) have been redesigned to provide an angled bay style window in order to reduce the risk of overlooking. In addition, this elevation of the building includes proposals to provide balconies to 8 units (2 per upper floor) on this elevation which will be located approximately 12m from the southern boundary with The Mews. In order to minimise overlooking from the balconies, the applicant has proposed opaque glass balustrades to replace the previously proposed mild steel railings. Landscaping along the site boundary is also proposed to include the planting of the space adjacent to 188b, the neighbouring Mews.

While I accept that the proposed development is not located the general 22 metres from the adjacent residential properties, a standard applied to directly opposing above ground floor windows in order to maintain privacy, I note the location of The Mews in terms of proximity to the site boundary. I also note that the rear windows in The Mews serve a landing and a bathroom. Given the above, and together with

compliance with a landscaping plan, I am generally satisfied that the proposed development would give rise to any significant overlooking of adjoining properties.

Overbearingance

- 7.4.5. The Board will note that third parties have considered that the development if permitted, would appear significantly overbearing from the surrounding properties and would be out of context in the streetscape. Certainly, the proposed development will be visible from the private areas of adjacent properties, as well as the wider area, and will change the outlook from these properties. However, in the context of the existing and permitted development on the site, I would note that permission for change has already been facilitated at this location.
- 7.4.6. I would note that the already permitted development for the site (PA ref 3379/19 refers) which proposed a 4 storey over basement apartment building with 22 apartments. This extant permission provides for a similar building footprint and an overall height of 13.225m in height. I have addressed above the design issues which were amended following a request for further information and I am satisfied that the amended proposals for the development have minimised any potential overbearing impacts on the streetscape or adjoining properties. As such, I have no objections in terms of the height and scale of the proposed development, at this location and that the overall design can be considered acceptable at this urban location.

Daylight/Sunlight/Overshadowing

- 7.4.7. Section 3.2 of the Urban Development and Building Height Guidelines (2018), in terms of the at scale of the site/building, states as follows:
- 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.
 - 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.

- 7.4.8. In addition to the Building Height Guidelines, the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020 also require at Section 6.6, that planning authorities' should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Where an applicant cannot fully meet all of 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, which planning authorities should apply their discretion in accepting taking account of its assessment of specifics.
- 7.4.9. The applicant's initial Sunlight, Daylight and Shadow Assessment – Impact Neighbours (submitted with the application to Dublin City Council), is based on the BRE Report "Site Layout Planning for Daylight and Sunlight" and the analysis performed, considered the potential impact of the proposed development on the closest neighbouring houses to the north and west, testing for the following:
- Existing facing windows for:
 - Impact / Change for Skylight – VSC
 - Impact / Change for Probable Sunlight Hours – APSH and QPSH
 - Existing amenity spaces for:
 - Impact / Change on Sunlight / Shadow
- 7.4.10. The Board will also note that a second Daylight, Sunlight & Overshadowing Assessment was prepared by BPC Engineers in response to the third-party appeals, which considered the potential impact of the amended development on the neighbouring properties, testing:

- Impact on Existing Neighbouring Properties
- Impact on Sunlight in Existing Neighbouring Gardens
- Daylight Analysis for Proposed Development
- Sunlight to Open Spaces in Proposed Development

7.4.11. I have considered the report submitted by the applicant with the original application prepared by Chris Shackleton Consulting, and the second Daylight, Sunlight & Overshadowing Assessment report prepared by BPC Engineers and included as part of the first party response to the third-party appeals documentation. I note that both reports have had regard to BRE 209 – 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) – the documents referenced in Section 28 Ministerial Guidelines. I also note and 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 that this updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines. The concerns raised in the third-party submissions as they relate to the potential impact on light in their homes and amenity spaces are also noted.

7.4.12. In terms of the potential impacts on existing dwellings, I consider that there are two elements to be considered, including loss of sunlight to amenity spaces and overshadowing, as well as the impact of loss of light within existing homes due to the development. In the context of the subject site, the Board will note that the site lies to the north of an existing two storey Mews home and the Dental Practice at 188 Rathgar Road and to the west of the Rathmines Avenue Apartments. The property to the north of the subject site includes the building occupied by the Legion of Mary and the rear gardens of two houses at 192 and 193 Rathgar Road.

Sunlight to Existing Amenity Spaces / Overshadowing

7.4.13. With regard to sunlight to amenity spaces, Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Section 3.3.17 of the guidance document provides that for a space to appear adequately sunlit throughout the year,

at least half of the garden or amenity area should receive at least 2 hours of sunlight on the 21st March.

- 7.4.14. In terms of existing private amenity spaces, Section 5.2.3 of the BPC Engineers report identifies the amenity spaces of the adjacent Legion of Mary property (Am.1), and the rear garden spaces associated with nos. 192 and 193 Rathgar Road (Am.2 and Am.3), which lie to the north of the subject site. It is noted that the Mews property lies to the south of the site and therefore, it is determined not to have any impact in terms of the availability of sunlight to the private amenity space. It is noted that the primary impact with regard to sunlight to the identified existing amenity spaces is expressed as follows:

Existing Amenity Areas - March 21st			
	Existing	With Scheme (Permitted)	Ratio
	Area Receiving >2hrs (%)	Area Receiving >2hrs (%)	
Am.1	75	51	0.68
Am.2	90	81	0.90
Am.3	93	90	0.98

- 7.4.15. In addition to the above, the initial assessment considered the impact of the proposed development in relation the private amenity space associated with a ground floor apartment in the Rathmines Avenue development, the Mews property and the Dental Practice. Given the orientation of these three properties, the impacts arising as a result of the proposed development are included in the Table on page 9 of the Chris Shackleton Consulting report.
- 7.4.16. I have considered the information presented in support of the proposed development, and I would agree that the potential overshadowing and impacts to sunlight to existing private amenity spaces is generally restricted to the above identified properties. The existing amenity spaces associated with other properties in the vicinity of the site are located such that it is unlikely that the development will give rise to significant overshadowing to these spaces.
- 7.4.17. The 2011 BRE Guidance indicates that any loss of sunlight as a result of a new development should not be greater than 0.8 times its former size. The submitted Daylight, Sunlight & Overshadowing Report includes an assessment of impact on existing neighbouring gardens with the existing buildings in place, and with the

proposed development. Section 3.3.11 of the BRE guidance states that if an existing garden or outdoor space is already heavily obstructed then any further loss of sunlight should be kept to a minimum. In such instances, the guidelines recommend that the sun hitting the ground in the garden/amenity space should not be less than 0.8 times its former value with the development in place. All properties pass the BRE requirement relating to greater than 50% of the amenity spaces receiving 2 hours of sunlight on the 21st of March, or do not breach the 0.8 times its former value limit.

- 7.4.18. Having regard to the provisions of national and local policies and objectives with regard to urban development including increased densities and regeneration within Dublin City, together with the constraints associated by the subject site in terms of its proximity to adjacent properties, planning history of the site and my assessment with regard to the impact that arises in respect of the impact to sunlight to and overshadowing of existing amenity spaces, I consider that the potential for undue impacts on the amenities of the neighbouring residential properties can be reasonably discounted and that the discretion offered by Section 3.2 of the Sustainable Urban Development and Building Height Guidelines and Section 6.6 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) is such that, a refusal of permission is not warranted with regard to Sunlight to Amenity Spaces / Overshadowing of existing properties.

Sunlight to Proposed Amenity Spaces / Overshadowing

- 7.4.19. With regard to the proposed development, Section 5.2.3 of the BPC Engineers report indicates that the public and private open spaces to the front (west) of the development on the ground and third floors were assessed with respect to their access to sunlight. The results indicates that the 94.7% of the ground floor public amenity space, and 80% of the proposed third floor roof garden communal space will receive at least 2 hours of sunlight on the 21st of March. The combined area of these two spaces exceed the minimum communal open space required for the development as proposed and in this regard, the smaller areas of incidental communal areas at ground floor level were not analysed.
- 7.4.20. I would acknowledge that the proposed amenity spaces represent a fully compliant scheme in the context of the BRE Guidelines, with over 50% of the area complying with the stated requirements.

Loss of Light within Existing Homes

7.4.21. The BRE guidance for daylight and sunlight is intended to advise on site layout to provide good natural lighting within a new development, safeguarding daylight and sunlight within existing buildings nearby and protecting daylight of adjoining properties. Section 2 of the document deals with Light from the Sky and Section 2.2 of the guidelines set out the criteria for considering the impact of new development on existing buildings. The guidance in this regard is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms, and include as follows:

- Consideration of the separation distance – if it is three or more times its height, the loss of light will be small.
- Consideration of the angle to the horizontal subtended by the new development at the level of the centre of the lowest window – if the angle is less than 25° it is unlikely to have a substantial effect on the diffuse skylight in existing buildings.
- Consideration of the Vertical Sky Component (VSC) - If VSC is >27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum.
- If the VSC is both less than 27% and less than 0.8 of its former value, occupants of the existing building will notice the reduction in the amount of skylight.

The Guidelines suggest that the above considerations need to be applied sensibly and flexibly.

7.4.22. In the context of the above, the Board will note that I have employed all of the relevant Guidance documents in order to present a rational assessment of the proposed development, identifying potential impacts arising and consideration on the reasonableness or otherwise of identified potential impacts. My assessment is based on the identified national and local policies which support the increase in density of development within Dublin City on appropriately zoned and serviced lands and the need to provide new homes while considering the potential impacts on existing residents.

7.4.23. The submitted Daylight, Sunlight and Overshadowing Reports noted that the adjacent properties, with the initial report assessing 10 windows and the subsequent report assessing 17 windows between the houses on Rathgar Road, the Mews, and the two blocks associated with Rathmines Avenue apartments. Both reports conclude that all but one of the tested points have a Proposed VSC greater than either 27 or 80% of the existing, thereby exceeding BRE recommendations. The rear window on the ground floor of The Mews has an existing VSC value of 30.85 which will reduce to 16.09 with the development in place. As such, it is likely to be impacted by the proposed development in terms of loss of light. This rear window, which serves the kitchen area of the Mews, is described in the reports as a 'smaller secondary window', with the existing window to the front of the Mews building, facing south, is larger and the main window in terms of analysing the rooms needs. Given the orientation of this front window (main window) it is submitted that the proposed development will have no impact on this room. The third-party appellants raise concerns that the kitchen area of The Mews will be impacted on by the development. The Board will also note the proximity of the rear wall of the Mews building to the site boundary, and the existing evergreen vegetation which has not been accounted for in the analysis.

7.4.24. I note that the Guidance document provides for judgement and balance of considerations to be applied. In this regard, I acknowledge the established need to provide new homes within Dublin City and to increase residential densities on zoned and serviced lands. I also note the planning history associated with the subject site, together with the extant permission for a development of similar proximity to the site boundaries and I am generally satisfied that the impact of the proposed development can be reasonably considered to be not so significant as to warrant outright refusal of permission.

Light within proposed homes:

7.4.25. The submitted Daylight, Sunlight & Overshadowing Report considers the potential daylight to the proposed development in Section 5.3. The study considers the predicted average daylight factor to the proposed units and the analysis was carried out using the MBS Waldram Tools v5.0 software to perform the daylight calculations within the AutoCAD environment. This software performs analysis by running calculations from a 3D CAD Model and meets all relevant guidelines.

7.4.26. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. BRE and the Table 2 of BS8206 guidance recommends that for new dwellings daylight to habitable rooms should exceed a calculated Average Daylight Factor (ADF) of 2% for a kitchen, 1.5% for a living room and 1% for a bedroom. Where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value, eg. in a space which combines a living room and a kitchen the minimum ADF should be 2%. 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. The Board will note that the proposed apartment layouts include a combined living/kitchen/dining room. As these rooms serve more than one function, the 2% ADF value is applicable.

7.4.27. The applicant has undertaken a calculation of the amount of daylight received by rooms on all floors in accordance with BRE guidelines and presented the results as Average Daylight Factor in tabular form for each floor (Section 5.3 of the BPC Engineers report). The assessment submitted has been undertaken with a 1% ADF for bedrooms and two sets of results are included for the living/kitchen/dining room, with regard to the 1.5% ADF and 2% for these rooms. Using these figures, the applicant submits as follows:

Space	Total Tested	Passing		Pass %	
		1.5%	2%	1.5%	2%
Bedroom	35	30	30	86	86
Living/Kitchen/ Dining room	26	25	19	96	73
Total	21	55	49	90	80

7.4.28. The applicant has stated that, as with many of the target values set in the BRE guide, the 2% threshold recommendation for open plan spaces that include both a living room and a kitchen, is based on low density suburban housing and is generally not achievable for higher density developments such as apartments. It is submitted that it is reasonable to assess the open plan living spaces against the target

associated with the rooms predominant use. It is submitted that the internal kitchens in the proposed development function primarily as food preparation areas with most of the open plan rooms occupied by dining and living room space. It is also noted that for certain developments, such as apartments, non-daylit internal kitchens are inevitable. The BRE Guidelines recommend that the kitchen should be directly linked to a well daylit living room, as is the case in the current scheme.

7.4.29. In this regard, compensatory design solutions were explored and implemented throughout the design of the scheme and changes were made to ensure that the maximum number of spaces achieved daylight levels in line with the BRE recommendations including as follows:

- Increased number and / or size of windows.
- Changes to the orientation of windows – the inclusion of saw-tooth protrusions on the south façade on first to fourth floors.
- Corners of balcony dividers were chamfered to allow increased levels of daylight into rooms.
- The reflectance of the internal and external materials were assessed and brighter (higher reflectance) materials were chosen where possible.

7.4.30. In terms of applying the 2% ADF for the kitchen/living rooms (rather than the 1.5% used by the applicant), I am satisfied that the rooms tested represent the worst-case scenario and that it is reasonable to conclude that these rooms adequately meet the ADF requirements. Therefore, I am satisfied that the permitted development can be deemed acceptable in respect of daylight, as measured by the % of rooms meeting standards, and that the proposed amended development adequately meets residential amenity levels for future residents.

Conclusion

7.4.31. The Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale

for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution. Overall, I am generally satisfied that the level of residential amenity is acceptable, having regard to internal daylight provision and overshadowing impacts.

7.5. Roads & Traffic

- 7.5.1. In terms of the provision of car parking, the Board will note the submitted Travel Plan and Car Parking Strategy Report seeks to demonstrate that the proposed development location benefits from very good proximity to sustainable transport connections in the form of bus stops along Rathgar Road and Rathmines Road Lower within 100m of the site and Luas stop (Broombridge-Brides Glen Stop on Luas Line 1.1km from the site (15-minute walk) in close proximity, as well as good walking and cycling options. It is also noted that as part of the BusConnects Core Bus Corridor Project, it is proposed to upgrade the existing bus lanes along Rathgar Road and Rathmines Road Lower to enable uninterrupted and rapid bus transit along the corridor.
- 7.5.2. I note national policy in this regard, and in particular Objective 13 of the National Planning Framework, which allows for a 'range of tolerance' for car parking standards in urban areas in order to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected. In addition, Section 4.19 of the Apartment Guidelines suggests that the car parking provision can be minimised, substantially reduced or wholly eliminated in certain circumstances. Such policies are applicable in highly accessible areas in or adjoining city cores or at a confluence of public transport systems. Where it is sought to eliminate or reduce car parking provision, it is necessary to ensure the provision of an appropriate drop off, service, visitor parking and parking for the mobility impaired, Section 4.23 of the Apartment Guidelines refer.
- 7.5.3. The Board will note that the Transport Planning Division of Dublin City Council initially raised concerns regarding the limited car parking proposed for the site, in addition to the third-party concerns in relation to car parking provision. However, I would note the location of the subject site in terms of the proximity to public transport

modes and consider that the reduction in car parking provision can be considered acceptable. The scheme proposes to provide 6 car parking spaces, including 1 accessible space, to the rear of the development and within the proposed inner courtyard area of the development. The management of the parking spaces will be the responsibility of the Management Company and the Transport Planning Division of the Planning Authority has advised no objection to the development in this regard, subject to compliance with conditions.

- 7.5.4. The proposed development site is currently occupied by two semi-detached houses, each of which has a vehicular access. The existing vehicular entrance at 190 Rathgar Road (closest to the junction with Grosvenor Road) is to be closed as part of the development with the existing vehicular entrance at 189 Rathgar Road to be widened as part of the proposals for a new front boundary treatment. Two pedestrian entrances are also proposed, one to be located centrally and in line with the main entrance to the building, with a second to be located to the north-western corner of the site, also from Rathgar Road. Vehicular access to the site accords with the previously permitted access arrangements for the site.
- 7.5.5. The proposed layout of the scheme provides for a set-down area for service vehicles to the front of the proposed building, and off the public road. The swept path analysis submitted in response to the PAs FI request indicates that the site layout can satisfactorily accommodate vans and other service vehicles within the site. Refuse collection will be managed from the public road, with provision on-site for the temporary storage of bins on refuse collection days. I would note that this practice is commonplace across the city and is acceptable in this regard. Section 16.10.10 of the Dublin City Development Plan requires that development should 'have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard'. I am satisfied that the proposed development is acceptable in this regard.
- 7.5.6. I have addressed the bicycle parking provision previously in this assessment. the proposed development provides secure parking for 48 bicycles within the bike parking area at ground floor level to the rear of the building, with an additional 14 surface spaces proposed for visitors throughout the site and including provision for two cargo bikes. The development, therefore, proposes an appropriate quantum of

bicycle parking spaces, and the development therefore accords with the guideline requirements as they relate to the provision of cycle parking.

- 7.5.7. The Travel Plan & Car Parking Strategy Report submitted with the application includes, in Chapter 5, details of a Travel Plan Objectives & Action Plan for the scheme, including a monitoring and management strategy. A Travel Plan Co-ordinator will be appointed to oversee all aspects of the implementation of the Travel Plan and to monitor its performance during the residency of the apartments. A number of other measures are identified to promote the objectives and principles of the Travel Plan. Section 5.5 of the submitted Strategy Report sets out the framework Action Plan and it is submitted that the Framework Action Plan will be further developed and will remain a 'living' document thereafter.
- 7.5.8. I am satisfied that the proposed development is acceptable in terms of roads and traffic matters. A condition should be included in any grant of planning permission requiring the submission of an updated Travel Framework Action Plan (Mobility Management Plan) to the planning authority for approval prior to the occupation of the development.

7.6. Water Services & Flood Risk

- 7.6.1. In terms of water services, the Board will note that the applicant submitted a Drainage Report, prepared by The McKenna Pearce Practice, Consulting Structural and Civil Engineers, in support of the proposed development. This report sought to address how the development will be catered for in terms of water and drainage infrastructure.

Foul Water:

- 7.6.2. The report notes that all foul water generated from the site will discharge to the existing trunk sewer on Rathgar Road. The proposed calculated maximum peak flow for the new development will be approximately 10.96l/s and average flow of 0.136l/s. The proposed foul water will be collected in a new manhole, fitted with a broadstrap, near the boundary of the site with the Rathgar Road. From this point, it will fall by gravity into the trunk sewer. The connections are to be agreed with Irish Water.
- 7.6.3. The Board will note that full proposals for the foul water drainage infrastructure and routing plan are presented in the drawings submitted in support of the proposed

development. I note no correspondence with Irish Water but equally, I note the planning history of the site, including the extant permission as well as noting no objection to the development in terms of the proposed connections to the public sewer.

Potable Water:

7.6.4. The report states that a new 80mm nominal bore diameter connection will be made to the public water mains pipe on Rathgar Road. The predicted volume of water usage is based on 2.7 people per dwelling at a rate of 150l/person/day. The development, therefore, has a water demand of 12.92m³/day, based on

- Average demand of 0.15l/s
- Peak demand of 0.19l/s

7.6.5. The Board will note that the above figures relate to the original proposal sought by the applicant and therefore, the demand will be reduced should permission issue for the amended proposal. I note no correspondence with Irish Water but equally, I note no objection to the development in terms of the proposed connections to the public water mains.

Storm Water Drainage:

7.6.6. The stormwater drainage proposals for the site indicate that stormwater will be collected within the proposed development and managed within the site. It is submitted that there will be no discharge to the public system. It is submitted that this will be achieved by:

- Installing a soakaway to cater for run-off from all the roofs,
- The soakaway is designed to cater for a 100-year storm with 20% rainfall increase due to climate change. It is proposed to install a 1.5m wide x 18m long x 2m deep Aquacell soakaway.
- All road and pavement hard standing areas will be paved with permeable paving.
- The rest of the site including boundaries and entrance features will be landscaped.

- 7.6.7. Full details of the surface water management plan are included with the application drawings. I am generally satisfied that the proposed development is acceptable in this regard.

Flooding:

- 7.6.8. In terms of flood risk, the McKenna report includes a section noting that the site is situated high enough over sea not to be subject to coastal sources of flooding. The site is located approximately 1km away from the nearest river, the River Poddle, and is deemed to be sufficiently remote not to be subject to fluvial sources of flooding. The report notes that the nearest predicted pluvial flooding 1% AEP event is 300m to the south of the site. The OPW reports no history of flooding at the site and it is noted that the closest flood to the site was in Rathmines Road Lower in 1963. This location lies approximately 700m from the site and it is noted that the ground level of the subject site is 6m higher than this flooding area.
- 7.6.9. Having regard to the information available, together with the planning history of the subject site, I am satisfied that the potential for flooding at the site is low.

7.7. Other Issues

7.7.1. Part V

The proposed development application included a letter from Dublin City Council advising that the applicant has engaged in Part V discussions with the Council. I note that an agreement in principle to comply with Part V requirements has been reached. No details of the agreement are provided. I am satisfied however, that this matter can be appropriately dealt with by way of condition of planning permission.

7.7.2. Development Contribution

The subject development is liable to pay development contribution under Section 48 of the Planning and Development Act 2000, as amended. A condition to this effect should be included in any grant of planning permission.

8.0 Appropriate Assessment

8.1. Introduction

- 8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The applicant did not submit a Natura Impact Statement with the application but did include an Ecological Impact Statement.
- 8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
 - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

8.2. Consultations

- 8.2.1. With regard to consultations, the Board will note that no party has made reference to matters relating to AA. I note that the planning application itself is silent on the matter and no AA Screening appears to have been undertaken by the applicant.

8.3. Screening for Appropriate Assessment

- 8.3.1. The applicant did not prepare an Appropriate Assessment Screening Report as part of the planning application documentation. I would note that the development is not directly connected or necessary to the management of a European Site. In terms of the Natura 2000 Sites occurring within a 15km radius of the site, I would note that there are 15 sites identified. I have considered the qualifying interests / Special Conservation Interests for which each site is designated. Each site was examined in the context of location in terms of the zone of Influence of effect from the proposed development and is considered in terms of AA requirements.
- 8.3.2. The site is an urban brownfield site and is not located within any designated site. The site is not located within any designated site. The closest Natura 2000 sites, and those located within the likely zone of influence, are the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 4.1km to the east of the site. The North Dublin Bay SAC (& pNHA)(Site Code 000206), and North Bull Island SPA (Site Code 004006) lies approximately 7.4km to the north east.
- 8.3.3. In terms of AA Screening Assessment, I conclude that the following sites can be screened out in the first instance, as they are located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, it is concluded that no significant impacts on the sites is reasonably foreseeable. I am satisfied that the potential for impacts on the following 11 Natura 2000 sites can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Baldoyle Bay SAC	000199	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Baldoyle Bay SPA	004016	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Howth Head SAC	000202	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Howth Head Coast SPA	004113	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Rockabill to Dalkey Island SAC	003000	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p>

		<p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Dalkey Island SPA	004172	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Glenasmole Valley SAC	001209	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Knocksink Wood SAC	000725	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Ballyman Glen SAC	000713	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Wicklow Mountains SAC	002122	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p>

		<p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Wicklow Mountains SPA	004040	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>

8.3.4. This determined, I am satisfied that the following Natura 2000 sites lie within the zone of influence of the project, for the purposes of AA Screening, include as follows:

- North Dublin Bay SAC (Site Code: 000206)
- North Bull Island SPA (004006)
- South Dublin Bay SAC (000210)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Poulaphuca Reservoir SPA (004063) - This SPA is considered to be within the zone of influence of the development as the Poulaphuca Reservoir is the source of drinking water for Dublin City, including the proposed development site.

8.4. Qualifying Interests for Natura 2000 Sites within Zone of Influence

8.4.1. The subject development site is an urban brownfield site and is not located within any designated site. The site does not contain any of the intertidal habitats or species associated with any Natura 2000 site. The existing site is composed entirely of artificial surfaces within a built-up area of Dublin City. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 4.1km to

the east of the site. The North Dublin Bay SAC (& pNHA)(Site Code 000206), and North Bull Island SPA (Site Code 004006) lie approximately 7.4km to the north-east.

8.4.2. The following table sets out the qualifying interests for each of these sites:

European Site	Qualifying Interests
<p>South Dublin Bay SAC (Site Code: 000210)</p> <p>Located approx. 4.1km to the east of the site</p>	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140]
<p>South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024)</p> <p>Located approx. 4.1km to the east of the site.</p>	<ul style="list-style-type: none"> • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Redshank (<i>Tringa totanus</i>) [A162] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Roseate Tern (<i>Sterna dougallii</i>) [A192] • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] • Wetland and Waterbirds [A999]
<p>North Dublin Bay SAC (Site Code: 000206)</p> <p>Located approx. 7.4km to the north east of the site.</p>	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]

	<ul style="list-style-type: none"> • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] • <i>Petalophyllum ralfsii</i> (Petalwort) [1395]
<p>North Bull Island SPA (Site Code: 004006)</p> <p>Located approx. 7.4km to the north-east of the site.</p>	<ul style="list-style-type: none"> • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Teal (<i>Anas crecca</i>) [A052] • Pintail (<i>Anas acuta</i>) [A054] • Shoveler (<i>Anas clypeata</i>) [A056] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Turnstone (<i>Arenaria interpres</i>) [A169] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Wetland and Waterbirds [A999]
<p>Poulaphouca Reservoir SPA (Site Code: 004063)</p> <p>Located approx. 21km to the south of the site</p>	<ul style="list-style-type: none"> • Greylag Goose (<i>Anser anser</i>) [A043] • Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]

8.4.3. It is noted that the subject development site is located outside all of the Natura 2000 sites identified above, and therefore there is no potential for direct effects to any designated site. The subject site is already developed, and is generally composed of buildings and artificial surfaces, with garden areas to the rear of the site, which include a number of trees. These trees may provide some wildlife and natural value in an otherwise urbanised setting. No survey or assessment was undertaken by the applicant in this regard. Having regard to the extant permission on the site, together with the nature of the subject proposed development, and the urban location of the site, previous assessments it is unlikely that habitats and species protected under the Natura 2000 sites identified above occur within the vicinity of the site.

8.4.4. There is no direct hydrological connection from the site to Dublin Bay, which includes a number of SAC and SPA designations. It is noted, however, that the development will connect to public services and therefore, there is a pathway to a number of Natura 2000 sites via the Ringsend WWTP. Therefore, there are hydrological links to the above-mentioned sites.

8.5. Conservation Objectives:

8.5.1. The Conservation Objectives for the relevant designated sites are as follows:

European Site	Conservation Objectives
South Dublin Bay SAC (Site Code: 000210) Located approx. 4.3km to the east of the site	<ul style="list-style-type: none"> The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets
South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) Located approx. 4.3km to the east of the site.	<ul style="list-style-type: none"> The NPWS has identified site-specific conservation objectives to maintain the favourable conservation condition of the bird species listed as Qualifying Interests, as defined by a list of attributes and targets. No site-specific objective has been set for the Grey Plover and it is proposed for removal from the list of Special Conservation Interest for the SPA.
North Dublin Bay SAC (Site Code: 000206)	<ul style="list-style-type: none"> The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the following Annex I

<p>Located approx. 6.9km to the east of the site.</p>	<p>habitat listed as a Qualifying Interest, as defined by a list of attributes and targets:</p> <ul style="list-style-type: none"> ○ Mudflats and sandflats not covered by seawater at low tide [1140] ○ Petalophyllum ralfsii (Petalwort) [1395] <ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to restore the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ Annual vegetation of drift lines [1210] ○ Salicornia and other annuals colonising mud and sand [1310] ○ Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] ○ Mediterranean salt meadows (Juncetalia maritimi) [1410] ○ Embryonic shifting dunes [2110] ○ Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] ○ Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] ○ Humid dune slacks [2190]
<p>North Bull Island SPA (Site Code: 004006)</p> <p>Located approx. 6.9km to the east of the site.</p>	<ul style="list-style-type: none"> • The NPWS has identified site-specific conservation objectives to maintain the favourable conservation condition of the bird species listed as Qualifying Interests, as defined by a list of attributes and targets.
<p>Poulaphouca Reservoir SPA (Site Code: 004063)</p> <p>Located approx. 25km to the south of the site</p>	<ul style="list-style-type: none"> • There is a generic conservation objective to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA: <ul style="list-style-type: none"> ○ Greylag Goose (Anser anser) [A043] ○ Lesser Black-backed Gull (Larus fuscus) [A183]

8.6. Potential Significant Effects

8.6.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- Habitat loss / alteration / fragmentation: The subject site lies at a remove of some 4.3km from the boundary of any designated site. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- Disturbance and / or displacement of species: The site lies within an urbanised environment. No qualifying species or habitats of interest, for which the designated sites are so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 sites have been designated.

Water Quality: The proposed development is to connect to existing public water services and ultimately, the Ringsend Wastewater Treatment Plant. It is noted that the Ringsend Treatment Plant is not currently compliant with its emission limit standards, but that work is underway to increase capacity. I also note that notwithstanding the current issues with the WWTP, evidence suggests that no negative impacts to the Natura 2000 sites in Dublin Bay, and the habitats and species they support, are occurring from water quality. Having regard to the nominal scale of the proposed development in the context of the overall licenced discharge at the Ringsend WWTP, I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality within Dublin Bay.

I am satisfied that the pollution control measures to be undertaken at the site are standard practices for development within urban sites in order to protect

local receiving waters, even without the potential for hydrological connection to Natura 2000 sites. In any case, I am generally satisfied that in the absence of the measures indicated, the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay can be excluded given the distance to such sites, the nature and scale of the development and the dilution factor associated with the hydrological connection.

8.7. In Combination / Cumulative Effects

- 8.7.1. In relation to in-combination impacts, I would note the relevant policy framework which applies in the Greater Dublin Area, including the Water Framework Directive and the 2005 Greater Dublin Strategic Drainage Study policy document which gave direction for the design of future drainage infrastructure. In terms of in-combination with other 'brown-field' or infill sites, in Dublin City, and given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. In addition, I would note that all other projects within the Dublin Area which may influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA.

8.8. Conclusion on Stage 1 Screening:

- 8.8.1. I have considered the submitted information, the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

9.0 Recommendation

I recommend that planning permission be Granted for the proposed development for the following stated reason.

10.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and to the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December, 2015 and having regard to the pattern of development in the area and the planning history of the subject site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be detrimental to the character of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12th and 15th day of April 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Proposals for the development name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all

signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements or marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

- 3(a) Cycle parking shall be secure, conveniently located, sheltered and well lit. Electric bike charging facilities shall be provided. Full details of access to the bike parking area and cycle parking stands shall be submitted for the written agreement of the Planning Authority, prior to the commencement of development.
- (b) The car parking spaces shall not be sold with apartments and shall be retained in the ownership of the Management Company to be leased separately to residents only. A minimum of 3 parking spaces shall be fitted with electric vehicle charging points with the remaining spaces future proofed. 1 parking space shall be retained for permanent allocation to Car Club use.

Reason: In the interests of clarity, road safety and the proper planning and sustainable development of the area and the promotion of sustainable transport.

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

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

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan should include details of a programme of works that amongst other items provides for interception containment and treatment of construction runoff. No construction runoff should be diverted to the proposed Sustainable Drainage System measures such as the permeable paving or attenuation system. Any surface water sewer pipes used to convey construction runoff should be thoroughly cleaned before subsequent connection to Sustainable Drainage System elements.

This plan shall be prepared in accordance with the provisions of the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

6. Details of the materials, colours and textures of all the external finishes to the proposed building, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

7. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 8(a) In addition to the submitted landscaping proposal, a scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the rear southern boundary consisting predominantly of mature trees, capable of growing to the minimum height of three metres. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.
- (b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development, in the interest of visual amenity.

9. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

10. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

11. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and water quality.

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

Reason: In the interest of public health.

13. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

14. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

15. Prior to the making available by the developer for occupation of the residential units of the proposed development, a Mobility Management Strategy shall be

submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

16. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open spaces, roads, parking spaces and circulation areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

Reason: To ensure the satisfactory completion of the development.

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

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

A. Considine

Planning Inspector

28th September 2021