



An  
Bord  
Pleanála

## Inspector's Report ABP310457-21

### Development

Alterations to and reconfiguration of building to provide 2 self-contained apartments and the construction of a 3 storey extension to the rear of the building to accommodate 3 additional apartments.

### Location

45 North Strand Road, Dublin 3.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

2426/21.

### Applicant

Beau Homes Limited.

### Type of Application

Permission.

### Planning Authority Decision

Refuse.

### Type of Appeal

First Party -v- Refusal.

### Appellant

Beau Homes Limited.

### Observer

Conor Purcell

### Date of Site Inspection

21<sup>st</sup> September, 2021.

### Inspector

Paul Caprani.

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## 1.0 Introduction

ABP310457-21 relates to a first party appeal against the decision of Dublin City Council to issue notification to refuse planning permission for alterations and the reconfiguration of a building at North Strand Road, Dublin 3' together with the construction of a 3 storey extension to the rear of the building accommodating three separate apartments. Dublin City Council refused planning permission for two reasons on the basis that the proposed development constituted a substandard form of development and also constituted an overdevelopment of the subject site. An observation was submitted supporting the decision of the City Council.

## 2.0 Site Location and Description

- 2.1. The 190 square metre site is located on the north-western side of North Strand Road (the R105) a busy radial route linking the north-eastern suburbs of the city with the town centre. The site is located approximately 1.5 kilometres north-east of O'Connell Bridge. No. 45 forms part of a terrace of what appear to be late 19<sup>th</sup> century two storey dwellings incorporating small front gardens and a basement area facing south-eastwards onto the North Strand Road. The existing building is located c.30 metres south of the junction of North Strand Road and Charleville Avenue. The site incorporates an overgrown rear garden between 12 and 18 metres in length.
- 2.2. The existing structure at the time of site inspection was vacant. The drawings submitted indicate that currently the building incorporates a layout accommodating a self-contained flat at basement level with a single residential unit over the two floors above. The building to the immediate south of the subject site accommodates a retail unit which is currently vacant with a residential unit above. A café is located in the building further south.
- 2.3. The building to the immediate north appears to be in residential use beyond which two residential units are located. The rear of the site backs onto open undeveloped lands the northern portion of which is set out as allotments. To the rear of the two buildings to the south of the subject site (incorporating a café and vacant retail unit at ground floor level) a recently constructed two-storey residential block is located. This

block is accessed via Newcomen Court a small arched laneway located to the immediate south of the café.

### **3.0 Proposed Development**

#### **3.1. Proposal Submitted to Dublin City Council**

3.1.1. Planning permission is sought for the refurbishment and internal reconfiguration of the existing structure on site together with the construction of an extension to the rear of the existing building to accommodate the following:

- The provision of a one bedroomed apartment at basement level comprising of kitchen, living area, bedroom and small storage area together with a small courtyard area to the rear (unit 1).
- The provision of a separate two bedroomed unit to the front portion of the building comprising of living and kitchen accommodation at ground floor level (Unit 2) with two bedrooms and a shower room at first floor level.
- In the new extended area to the rear it is proposed to provide three separate one bedroomed apartments, one unit on each floor containing a living room, bedroom, en-suite bathroom and small balcony area facing onto the rear. Units 3, 4 and 5 are 45 square metres in size. Between the existing building and the proposed extension to the rear' it is proposed to provide a small area of communal open space (17 square metres). Bin storage and cycle parking facilities are to be provided within the front garden area at basement level.

### **4.0 Planning Authority's Decision**

#### **4.1. Decision**

4.1.1. Dublin City Council issued notification to refuse planning permission for the proposed development based on two reasons which are set out in full below.

1. *Having regard to the location of the proposed basement unit, below the natural ground level, the separation distance between the units within the main dwelling and the proposed extension, it is considered that the proposed development would constitute a substandard and unacceptable form of*

*residential accommodation that would have an unacceptably negative impact on the residential amenities of future occupants. The subject application is therefore considered contrary to Policy QH18 of the Dublin City Development Plan 2018 – 2022 which seeks to promote the provision of high-quality apartments within sustainable neighbourhoods by achieving sustainable levels of amenity within individual apartments as well as being contrary to the proper planning and sustainable development of the area.*

2. *The proposed development, due to the height, scale and massing of the extension, is considered to be overdevelopment of the subject site which would be incompatible with the established layout and design, would be seriously injurious to the amenity of neighbouring residents and would set a precedent for development which would be incompatible with the established character of the area and is contrary to Section 16.2.2.3 of the Dublin City Development Plan 2016 – 2022 and the proper planning and sustainable development of the area.*

#### **4.2. Document Submitted with the Planning Application**

- 4.2.1. The application was accompanied by a completed planning application form, plans and particulars and fees etc. and also a letter of consent from the existing landowners permitting the applicant to make the application is also contained on file.
- 4.2.2. A planning report prepared by Hughes Planning and Development Consultants sets out details of the site description and relevant planning history relating to the wider area. Particular reference is made to the grant of planning permission to the two-storey residential block to the rear of Nos. 43 and 44 North Strand Road, it is argued that this forms a relevant and appropriate precedent for the current application.
- 4.2.3. The report goes on to set out details of the planning context relating to the site. It is considered that the proposal complies with policies contained in the development plan, the design standards for new apartments, policies in relation to building height and infill development. It notes that the subject site does not have vehicular access and therefore it is not feasible to provide parking on site. It is noted however that the site is located in close proximity to high quality public transport infrastructure. The report goes on to assess the proposed development in terms of residential amenity

and floor areas etc. and it is concluded that the proposal is fully in accordance with the proper planning and sustainable development of the area.

#### **4.3. Planning Authority's Assessment of the Application**

- 4.3.1. A report from the Engineering Department Drainage Division stated that there was no objection to the proposed development subject to standard conditions.
- 4.3.2. A report from the Transportation Planning Division request further information regarding the relocation of cycle parking to a more secure location within the site. The applicant is also requested to submit a preliminary construction management plan demonstrating how it is proposed to access and construct the extension giving the inherent site constraints.
- 4.3.3. A number of letters of objection were submitted expressing concerns in relation to the size and scale of the proposed development and its impact on surrounding residential amenity. The contents of these letters have been read and noted.
- 4.3.4. The planner's report sets out details of the proposal and the planning policy context relating to the site. Notwithstanding the planning report submitted with the planning application, the Planning Authority do not accept that the proposal constitutes infill development but would be considered an extension to an existing dwellinghouse. It is considered that extensions should be subordinate in terms of the scale with the main unit. It is noted that the proposed two bed three person unit (at ground and first floor level to the front of the building) would only incorporate obscured windows on the northern façade which would result in a development being effectively single aspect. This is not considered acceptable. Serious concerns are also raised regarding the outlook and daylight penetration to the proposed basement unit. Concerns are also expressed with regard to the poor-quality outlook for the three one bed roomed apartments to the rear. It is not considered that the proposed units would have a standard of residential amenity which would be acceptable. The non-provision of car parking is deemed to be acceptable whereas the Traffic Planning Division's comments in relation to cycle parking is noted.
- 4.3.5. It is also considered that the three storey element to the rear would have a significant and overbearing impact on adjoining properties. The report considered that the proposal would have a potential impact on the development permitted at No. 1

Charleville Avenue. It is noted that no sunlight and daylight assessment has been submitted and had the development been deemed to be acceptable, this information could have been required by way of a further information request. Based on the above, Dublin City Council considered it appropriate to refuse planning permission as the application would involve the provision of development which is substandard in quality and would have a significant negative impact on surrounding properties.

## **5.0 Planning History**

There appears to be no planning history associated with the subject site. It is noted that planning permission was granted for the construction of 3 three storey terraced houses to the rear of No. 1 Charleville Avenue (a vacant site to the north-west of the subject site).

## **6.0 Grounds of Appeal**

- 6.1. The decision of Dublin City Council to refuse planning permission for the proposed residential development was the subject of a first party appeal on behalf of the applicants. This appeal was submitted by Hughes Planning and Development Consultants.
- 6.2. By way of introduction, it is stated that the proposed development has been appropriately designed to provide for 5 high quality homes. Currently the two existing residential units on site do not meet the Building and Fire Safety Regulations.
- 6.3. In adjudicating on the application, the Board are requested to note that the applicants are seeking full planning permission for the proposal as originally submitted to Dublin City Council. However, a revised alternative design has also been submitted for the Board's deliberations. The alternative design comprises of a reconfiguration of the proposed apartment units within the existing building. It accommodates a two-bedroom duplex apartment from basement to ground level together with a separate studio unit at first floor level. This alternative design allows for the improvement of a residential amenity of the basement level with regard to outlook and daylight and sunlight.

- 6.4. Also submitted with the appeal is a daylight analysis and overshadowing report which concludes that the kitchen, living and bedroom spaces in the basement level meet BRE standards in respect of average daylight factor (ADF). The above findings clearly indicate that the development would meet the standard and would not result in a disamenity to both neighbouring developments and future occupants of the scheme. The site's strategic location in relation to the city centre and high-quality public transport corridors is set out.
- 6.5. Section 4 of the submission specifically sets out details of the grounds of appeal. It is noted that the first reason for refusal specifically referred to the substandard nature of the basement unit. It is noted that the existing building currently comprises of two residential units which are split over basement, ground and first floor level. The subject application is seeking to reconfigure the existing residential building in order to comply with the Design Standards for New Apartments and comply with the Building and Fire Regulations. The concerns of the Planning Authority are noted with regard to the outlook and daylight and sunlight of the basement level unit. However, it is noted that the development plan promotes regeneration of vacant buildings in order to utilise available units within the city centre. Both the development plan and the Apartment Guidelines (2020) envisage some level of flexibility in refurbishing applications such as that currently before the Board. The basement and ground floor duplex unit proposed as per the grounds of appeal now enable the provision of a dual aspect unit. This it is argued significantly increases the standard of amenity for the units proposed in the existing building.
- 6.6. With regard to the three units proposed in the rear extension, it is argued that the layout of these units are similar to the residential development on the adjoining sites to the rear of Nos. 43 and 44 North Strand Road. The three proposed apartments will provide high quality units which will comply with the internal standards set out in the Apartment Guidelines. The grounds of appeal set out details as to how the proposed development complies with various policy statements contained in both the Dublin City Development Plan and the Internal Room Standards as set out in the Apartment Guidelines (2020). Specific reference is made to:
- Internal floor areas.
  - Internal storage.



- Minimum open space requirements.
- Communal open requirements.
- Bicycle parking and car parking.

6.7. In relation to the second reason for refusal, it is noted that Dublin City Centre has an abundance of available land that is prime for providing additional residential units on serviced lands. It is stated that present decisions have been set on North Strand Road for substantial development within large rear amenity spaces. Specific reference is made to the development to the rear of Nos. 43 and 44.

6.8. It is noted that the subject development will not give rise to significant overshadowing and fronts onto the “Mud Island Community Gardens” to the rear.

6.9. Should the Board have any concerns in respect of overlooking, appropriate conditions can be attached to incorporate internal screens to address issues of overlooking between units within the development and neighbouring properties. Reference is made to various developments in the vicinity which have incorporate significant infill developments to the rear. It is noted that a large development to the rear of No. 42 North Strand Avenue on the southern side of Newcomen Court has recently been granted planning permission. This also incorporated a three-storey extension to the rear. Planning permission was also granted for three terraced town houses which are three storeys in height fronting onto Charleville Avenue to the immediate north of the subject site. Reference is also made to the two-storey development to the rear of No. 43 and 44 North Strand Road immediately adjacent to the rear of the site. And numerous other developments in the immediate area and it is argued that these represent appropriate precedents for the development of the size and scale proposed under the current application.

## 7.0 **Appeal Responses**

Dublin City Council have not submitted a response to the grounds of appeal.

## 8.0 **Observation**

8.1. An observation was submitted by Conor Purcell of No. 46 Strand Road. It is stated that the applicant is a resident of the adjoining dwellinghouse at No. 46 North Strand.

- 8.2. It is questioned that if the existing residential units within the building do not meet fire Regulations, how will the provision of an additional three units to the rear meet the same Regulations?
- 8.3. It is stated that the 3 one-bedroomed apartments are below the minimum private amenity space requirement and likewise the two-bedroomed apartment does not have sufficient private amenity space. The provision of a total of 17 square metres of communal amenity space for five bedroomed apartments is 9 square metres below the minimum requirements.
- 8.4. It is argued that the proposal consists of a total of 80% one-bedroomed apartments which is in breach of SPPI of the Apartment Guidelines. The proposal would offer substandard living conditions for future tenants. It is stated that there is an overprovision of studio and one-bedroomed apartments in this stretch of North Strand.
- 8.5. The height, scale and massing of the proposed development represents a significant overdevelopment of the subject site. The plot ratio is deemed to be excessively high and the proposal results in severe overlooking and overshadowing which is hugely injurious to the appellant's property. It is suggested that the daylight and overshadowing analysis submitted with the application are very vague and it is argued that the proposal would have a profound impact on the observer's property in relation to overshadowing. The development will completely block out all sunlight from the appellant's rear garden and result in a total loss of privacy to the back of the house. The applicant would also have to move of the house during the period of construction as the applicant works from home. The proposal would result in the construction of a 11.7 metre high wall a mere 2.3 metres from the observer's window.
- 8.6. The applicant has failed to disclose any details in relation to construction including noise and vibration and traffic impacts which may arise as a result of the proposed development.
- 8.7. While it is acknowledged that there is a significant housing crisis in the state at present, the proposed development is nonetheless substandard and should be refused planning permission because of the high proportion of one-bedroomed apartments, the minimum communal open space requirements and the minimum

private amenity space requirements have not been adhered to. The proposal would also have an unacceptable impact on the observer's private and amenity.

#### **8.8. Natural Heritage Designations**

The subject site is not located within or adjacent to a Natura 2000 site. The closest Natura 2000 site is located 1 kilometre to the east (South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024)).

#### **9.0 EIAR Screening**

- 9.1. On the issue of environmental impact assessment screening, I note that the relevant classes for consideration for the purposes of EIA are Class 10(b)(i) "construction of more than 500 dwelling units" and Class 10(b)(iv) "urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of the built up area and 20 hectares elsewhere".
- 9.2. Having regard to the size of the development at 0.019 hectares and the number of units to be provided is considered to be considerably below the threshold set out in the above classes. Therefore, having regard to the nature and scale of the proposed development, and the location of the development on an urban brownfield site together with the characteristics and likely duration of potential impacts, that the proposal is not likely to have a significant effect on the environment and that the submission of an environmental impact statement is not required. The need for an environmental impact statement therefore can be excluded by way of preliminary examination.

#### **10.0 Development Plan Provision**

##### **10.1. Development Plan Provision**

- 10.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is zoned Z1 '*to protect, provide and improve residential amenities*'. Residential use is a permissible use under this zoning.
- 10.1.2. Chapter 5 of the development plan relates to Quality Housing.

- 10.1.3. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision through active land management and co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and underutilised sites.
- 10.1.4. Policy QH6 seeks to encourage and foster the creation of attractive mixed use, sustainable neighbourhoods which contain a variety of housing types, tenures with supporting community facilities, public realm and residential amenities which are socially mixed in order to achieve a socially inclusive city.
- 10.1.5. Policy QH7 seeks to promote residential development at sustainable urban densities throughout the city in accordance with the core strategy having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 10.1.6. Policy QH8 seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area.
- 10.1.7. Policy QH18 seeks to promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and with each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with standards for residential accommodation.
- 10.1.8. Policy QH19 seeks to promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive sustainable mixed income, mixed use neighbourhoods supported by appropriate social and other infrastructure.
- 10.1.9. Section 16.7 relates to building height in a sustainable city. Dublin City Council acknowledges the intrinsic quality of Dublin as a low-rise city and its policy is that it should predominantly remain so. There was a recognised need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic civic or historic importance. In particular, any new proposal must be sensitive to the historic city centre, the River Liffey and Quays, Trinity College, Dublin Castle, the historic squares and the canals.

- 10.1.10. In terms of aspect natural lighting and sunlight penetration the development plan notes that daylight animates the interior and makes it attractive and interesting as well as providing light to work or read by. Good daylight and sunlight contribute to making a building energy efficient, it reduces the need for electronic lighting while winter solar gain and reduce heating requirements.
- 10.1.11. The indicative plot ratio for Z1 zonings in the inner city is 0.5 to 2.0 and the indicative site coverage for sites governed by the Z1 zoning objective is 45 to 60%.

## 10.2. National Planning Framework

10.2.1. One of the key overarching goals set out in the National Planning Framework is to achieve compact growth. This is sought by carefully managing the sustainable growth of compact cities, towns and villages. It is noted that the physical format of urban development in Ireland is one of the greatest national development challenges. Presently the fastest growing areas are the edges and outside our cities and towns meaning:

- A constant process of infrastructure and services catch up in building new roads, new schools, services and amenities and a struggle to bring jobs and homes together meaning that there were remarkably high levels of car dependents and that it is difficult to provide good quality transport.
- A gradual process of rundown of the city and town centre.
- Development which takes places in the form of greenfield sprawl extends the physical footprint of the urban area and works against the creation of attractive liveable high quality urban spaces in which people are increasingly wishing to live, work and invest.

10.2.2. A preferred approach would be the compact development that focuses on reusing previously developed brownfield land building up infill sites which may not have been built on before and reusing and redeveloping existing sites and buildings. National Policy Objective 3B seeks to deliver at least half of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick and Galway within their existing built up footprints. National Policy Objective 13 seeks that in urban areas planning and related standards including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high-quality

outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes provided public safety is not compromised and the environment is suitably protected.

10.2.3. National Policy Objective 35 seeks to increase residential density in settlements, to a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### **10.3. Rebuilding Ireland Action Plan for Housing and Homelessness**

10.3.1. Pillar 3 of this national strategy seeks to build more homes by increasing the output of private housing to meet demand at affordable prices. In terms of housing supply requirements, it is noted that current completion levels must double in the next four years. It is also noted that there is a significant requirement to expand the build to rent sector which is not being catered for in the current construction levels. There is also a need to increase the level of social housing. The Rebuilding Ireland Policy emphasises the need to supply and build more homes with delivery of housing across the four Dublin Local Authorities.

### **10.4. Sustainable Urban Housing Design Standards for New Apartments**

10.4.1. These guidelines note that in the short term to 2020 the Housing Agency has identified a need for at least 45,000 new homes in Ireland's five major cities more than 30,000 of which are required in Dublin City and suburbs. This does not include the additional pent-up demand arising from undersupply of new housing in recent years. In broader terms there is a need for an absolute minimum of 275,000 new homes in Ireland's cities up to 2040 with half of these located within built up areas. This necessitates a significant and sustained increase in housing output and apartment type development in particular. Specifically, there is a need:

- 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.
- Remove requirements for car parking in certain circumstances where there are better mobility solutions to reduce costs.

10.4.2. In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following:

- In central and/or accessible urban locations such locations are generally suitable for small to large scale higher density development that may wholly comprise of apartments. These include
  - sites within walking distance of the principle city centres or significant employment locations that may include hospitals and third level institutions,
  - sites within reasonable walking distance (i.e. up to 10 minutes or 800 metres to 1,000 metres) to or from high capacity urban public transport stops such as Dart or Luas, and
  - sites within easy walking distance i.e. up to five minutes to and from high frequency urban bus services.

## 11.0 Planning Assessment

11.1. I have read the entire contents of the file visited the subject site and its surroundings and have had particular regard to the issues raised in the Planning Authority's reasons for refusal, the first party's rebuttal of these reasons and the issues raised in the observation on file. I have also had particular regard to national local and planning policy. I consider the issues to be determined in the case of the current application and appeal are as follows:

- Principle of Development
- The Nature of the Proposed Development (Infill v. Residential Extension)

- Compliance with Development Plan Standards
- Impact on Residential Amenity
- Appropriate Assessment Issues

## 11.2. Principle of Development

11.2.1. A fundamental consideration in adjudicating on the current application is the zoning provisions pertaining to the site. The subject site is zoned for residential development. The nature of the proposal incorporating five residential units is therefore wholly compatible with the zoning provisions. Furthermore, the zoning provisions must be coupled with national and local planning guidelines. The Board will be cognisant of the fact having regard to the grounds of appeal and the various policy documents referred to in the previous section above, that these guidelines emphasise maximising the development potential of sites particularly in relation to house developments within existing urban footprints. A major thrust of the National Planning Framework seeks a preferred approach for a more compact development that focuses on reusing previously developed brownfield land and building on infill sites within existing built-up areas. The National Planning Framework seeks to encourage more people, jobs and activities to be located within existing urban areas so as to be in close proximity to centres of employment and utilising existing infrastructure where possible. The plan seeks to deliver at least half of new homes to be located in the five main cities, particularly Dublin. The strategy concludes that *“it is clear that we need to build inwards and upwards rather than outwards. This means that apartments will need to become a more prevalent form of housing particularly in Ireland’s cities”*. National Policy Objective 35 seeks to increase residential developments in settlements through a range of measures including reductions in vacancy, the reuse of existing buildings, the provision of more infill development schemes and the increase in building heights. The Apartment Guidelines also emphasise the need to provide higher density development in central and accessible urban locations with an identified need to provide more than 30,000 units within Dublin City and its suburbs. The more recently published ‘Housing for All’ emphasises the need to stimulate supply for more housing and there is an increased emphasis for Planning Authorities to become more proactive and flexible in securing compact urban growth.



11.2.2. It is therefore clear and unequivocal that government policy seeks to support more compact development at higher densities in locations with good public transport close to the city centre. On the basis of the above I consider that the principle of higher density development on the subject site to be appropriate and wider national strategic considerations would dictate that the provision of a high quantum of development is necessary on sites such as the subject site. These wider strategic considerations are of critical importance for the Board in its deliberation of the current application. I also note that there are numerous precedents referred to in the grounds of appeal which would support considerations for higher density development on the subject site. However, any such higher density development must be balanced against qualitative safeguards in terms of (a) protection of the amenity of any future occupants and protection of the amenity of adjoining residential properties such as the observer's property to the immediate north. These issues are assessed in more detail below.

### **11.3. The Nature of the Proposed Development (Infill v. Residential Extension)**

11.3.1. It appears from the planning report prepared on behalf of Dublin City Council that the Planning Officer places considerable emphasis in adjudicating on the application on the premise that the site in question is not an infill development site but is rather an extension to an existing residential dwelling.

11.3.2. On this basis the Planning Officer concluded that any extension to the rear of the proposed dwelling should be regarded as an extension to the existing structure and therefore should be ancillary and subsidiary in size and scale. I would reject the above premise as it is not proposed in this instance to extend an existing domestic dwelling for the purposes of extending domestic residential accommodation for a single family. What is proposed in this instance is to create a separate small infill development on an urban brownfield site to increase the number of independent residential units within the site and therefore any infill development should be evaluated in accordance with the policies set out in the development plan in relation to infill development and housing as set out in Section 16.10.10 of the Development Plan. In particular, the development plan notes that infill development should have regard to the existing character of the street by paying attention to the established building line, proportion heights and parapet levels and materials of surrounding buildings. The proposed extension to the rear will in my opinion have no impact on

the existing character of the street having regard to its location to the rear of the development.

- 11.3.3. The grounds of appeal point out that the proposed development is fully in compliance with the minimum room standards as set out in the Apartment Guidelines.
- 11.3.4. With regard to the issue of a safe means of access to and egress from the site which does not result in the creation of a traffic hazard, I note that no parking is proposed on site.
- 11.3.5. On the basis of the criteria set out under Section 16.10.10 of the development plan, it is considered that the proposed development does not contravene the development plan policy in relation to infill housing.

#### **11.4. Compliance with Development Plan Standards**

- 11.4.1. With regard to the minimum overall apartment floor areas it is noted that the size of the units proposed comply with the minimum standards set out in the Apartment Guidelines. The two bedroomed apartment at 67 square metres is 4 metres above the minimum standards set out in the Guidelines. The one bedroomed apartment to be located within the existing structure amounts to just over 48 square metres which is 3 metres above the minimum standards whereas the 3 units in the new extension to the rear all amount to 45 square metres which is the minimum standard set out for one bedroomed apartments in the guidelines.
- 11.4.2. The observer's submission on file takes issue with the fact that 80% (4 out of the 5 units) are one bedroomed apartment units. This it is argued is contrary to Specific Planning Policy Requirement 1 where apartment developments may include up to 50% one bedroomed or studio type units (with no more than 20 to 25% of the total proposed development as studios). The proposal would appear to be contrary to this specific planning policy requirement 1 and this is a material consideration that the Board should have regard to in determining the application before it. There appears to be an overprovision of one bedroomed apartments and that the scheme would in my view benefit from a greater unit mix. Although it is acknowledged that the scheme constitutes a small infill scheme and therefore SPPR 1mat not apply.
- 11.4.3. Likewise, as pointed out in the observation contained on file, the proposed development does not meet the private amenity space standards for apartment units

as set out in the Guidelines. While Unit No. 1 (the one bedroomed apartment) accommodates an area of 11.5 square metres in the basement courtyard to the rear of the house no private amenity space is afforded to Unit No. 2 which comprises of a two bedroomed unit. It is further noted that Unit No. 2 for all intents and purposes constitutes a studio apartment as the bedroom/kitchen/living area appear to be open plan.

- 11.4.4. A 4.8 square metre area of private amenity space in the form of a balcony is provided to each of the three one bedroomed units to the rear. This is slightly below the minimum requirement of 5 square metres and would on balance in my view be acceptable. In terms of the communal open space a minimum of 26 square metres would be required on the basis of 5 square metres for each of the one bedroomed apartments and 6 square metres for the two bedroomed three person apartment. The applicant in this instance has provided a central courtyard of communal open space amounting to 17 square metres which is less than two thirds of the required area. Perhaps of greater concern is the fact that this area of communal open space is located to the rear of the existing building and to the front of the proposed extension and is unlikely to receive little if any direct sunlight penetration throughout the year. Its effective useability therefore as an area of communal open space would in my view be very limited.
- 11.4.5. The overshadowing diagram submitted with the grounds of appeal clearly indicate that the communal open space area will receive very limited amounts of direct sunlight. It appears that no analysis has been undertaken as to whether or not the proposal meets BRE Guidance in respect of 50% of the amenity area should be received in excess of two hours of sunlight on the 21<sup>st</sup> March in any given year. The overshadowing analysis carried out from March would indicate that this standard would be unlikely to be achieved in the current application.
- 11.4.6. With regard to the issue of the internal illumination of rooms, the appeal included a separate daylight and overshadowing study which in relation to average daylight factor (ADF) concluded that the kitchen/living/bedroom spaces in the basement area would represent a worse case scenario in relation to daylight penetration for the entire building. This in my view is a reasonable conclusion on the basis that the lower level of the building is likely to receive the lowest levels of daylight and sunlight penetration. On foot of the analysis undertaken, the study indicates that the average

daylight factor for the living/dining room area is predicted to be 2.0 which just meets the minimum requirements. The bedroom to the rear comfortably meets the minimum average daylight factor of 1.9.

#### **11.5. Impact on Residential Amenity**

- 11.5.1. I would in addition to concerns in respect of open space, I would have greater concerns in respect of the proposed development in terms of overlooking. While the applicant has endeavoured to minimise the potential threat for overlooking by incorporating obscure glazing in the two bedroomed apartment to the front of the building at ground floor level, problems in my view still remain at other floors levels. It is noted that the separation distance between the kitchen living area in the three one bedroomed apartments to the rear is less than 8 metres from the bedrooms at Unit No. 1 at basement level and Unit No. 2 at first floor level. Both the development plan and the National Planning Framework suggest that some flexibility can be undertaken in interpreting planning standards. It is my considered opinion that a separation distance of less than 8 metres between two habitable rooms would give rise to significant privacy issues and therefore amenity problems for the future occupants of the development.
- 11.5.2. With regard to impact on adjoining amenity, I am satisfied that the proposed development will have some impact on the observer's dwelling to the north in terms of overlooking and overshadowing. However, the impact will not be overly excessive in my considered opinion. The fenestration arrangements of the rear of the existing building at No. 45 are similar to those which currently exist on site. In fact the incorporation of obscure glazing to serve the proposed bathroom at ground floor level will have an effect of reducing any potential overlooking of the observer's rear garden. I note that the existing ground floor plan incorporates a window serving a kitchen which in itself would give rise to significant levels of overlooking. The windows facing the observer's rear garden proposed in the rear extension also serve a kitchen/living area and it is acknowledged that this will to additional levels of overlooking. However, any introduction of residential use in the existing building will result in some obscure overlooking of the observer's rear garden. I do not consider that the level of increased overlooking of the observer's garden in this instance would in itself constitute reasonable grounds for refusal. This overlooking relates to an outdoor area within an existing urban area and increases in potential overlooking

should be balanced against the need to develop urban brownfield infill sites at higher densities in order to achieve the national land use policy objectives set out and referred to in the various guidelines above. The Board will also note that the only increased levels of overlooking would relate to the observer's rear garden. The apartments to the rear including the balconies incorporated therein would overlook a disused area of undeveloped open space part of which is currently used as a community garden.

11.5.3. With regard to overshadowing, it is clear from both the photographs attached to this report and the overshadowing analysis submitted with the grounds of appeal that the observer's garden currently experiences significant levels of overshadowing having regard to the presence of large buildings including the building to the rear of the observer's main house and the fact that the garden in question is lower than the surrounding lands. The proposed three storey element to the rear therefore will not have disproportionate effect on the observer's amenity in terms of overshadowing on this basis.

#### **11.6. Appropriate Assessment Issues**

11.6.1. The nearest designated Natura 2000 site at its closest point is c.1 kilometre to the east. That is the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024). I note the urban location of the site and the lack of direct connections with regard to the source pathway receptor model and having regard to the modest scale of the proposed development which relates to a relatively small site at 0.019 hectares it is reasonable to conclude on the basis of the information available, which I consider adequate to issues a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site in the wider area and therefore a Stage 2 Appropriate Assessment and the submission of an NIS is not required.

## **12.0 Conclusions and Recommendation**

12.1. Arising from my assessment above I would concur with the planning authority's concerns, notwithstanding the revised design submitted with the grounds of appeal, that the proposed development in its current form would constitute an unacceptable

and substandard form of residential accommodation which would have an unacceptable impact on the residential amenities of future occupants.

- 12.2. I would not accept the planning authority's second reason for refusal that the proposed development due to its height, scale, design and massing would constitute an overdevelopment of the site which would seriously injure the amenity of adjoining residents. Having regard to national and local planning policy objectives which seek to increase the density of development in urban areas and the fact that the maximum height of the proposal at three storeys (8.2 metres) cannot be considered excessive in an existing urban area. Notwithstanding the latter conclusion I would recommend that the Board refuse planning permission for the single reason set out below.

### **13.0 Reasons and Considerations**

It is considered the proposed development in its current design and layout would result in a substandard and unacceptable form of residential accommodation which would negatively impact on the residential amenities of future occupants particularly by reason of substandard private and communal amenity space and particularly through excessive overlooking between apartments. The proposed development would, therefore, be contrary to Policy QH18 of the Dublin City Development Plan 2016 – 2022 which seeks to promote the provision of high-quality apartments by achieving suitable levels of amenity within individual apartments in accordance with standards for residential accommodation. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Paul Caprani,  
Senior Planning Inspector

17th November, 2021.