



An
Bord
Pleanála

Inspector's Report ABP310686-21

Development	Demolition of existing mixed-use building and derelict dwelling. Construction of mixed-use development consisting of restaurant and café, 17 apartments, 2 buildings and the construction of townhouses.
Location	146-147 Phibsborough Road and Eglinton Terrace, Dublin 7.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3391/20.
Applicant	Winchurch Investment Limited.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Patrick Beakey.
Observers	(i) Christine Delany, (ii) St. Peter's Square OMC (No. 2) OCPM.
Date of Site Inspection	22/11/2021
Inspector	Paul Caprani.

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1.0 Introduction

ABP310686-21 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the demolition and redevelopment of an urban site at No. 146 to 147 Phibsborough Road and to develop a new mixed use development with commercial space at ground floor level including a restaurant and café and 17 apartments above in two blocks, 5 and 6 storeys in height. The grounds of appeal argue that the proposed development is excessive in size and scale and is contrary to many planning policy requirements set out in various guidelines. Two observations were also submitted objecting to the proposed development and supporting the grounds of appeal.

2.0 Site Location and Description

- 2.1. The appeal site occupies an area of 0.147 hectares (1,470 square metres). It is located in the inner residential suburban area of Phibsborough approximately 2 kilometres north of Dublin City Centre. The subject site is located on the eastern side of the Phibsborough Road (R108) just north of Doyle's Corner and opposite the Phibsborough Shopping Centre and Dalymount Park. The site is located to the immediate north of St. Peter's Square at 3/4 storey gated residential enclave facing directly onto Phibsborough Road. The north-western corner of the site which faces directly onto the Phibsborough Road accommodates an assembly of single storey and two-storey buildings. The single storey elements which front directly onto the road accommodate retail units which are currently vacant. The rear portion of the buildings which are two-storey appear to be vacant and previously accommodated residential flats. The site has a direct road frontage onto Phibsborough Road of approximately 16 metres. Lands to the immediate north of the subject site accommodate a McDonalds restaurant. The adjacent buildings to the side of the site fronting on Phibsborough Road accommodate retail development at ground floor level with residential accommodation above.
- 2.2. The remainder of the site accommodates some derelict structures as well as surface car parking and residual green open space. A small residential enclave of Victorian

style dwellings is located along the immediate northern boundary of the site and are accessed via Villa Park which is accessed from Eglinton Terrace which runs parallel to and to the immediate east of Phibsborough Road. Eglinton Terrace (also referred to as Royal Canal Bank and Villa Bank) comprise of a row of 2 storey dwellings set back from the road.

3.0 Proposed Development

- 3.1. Planning permission is sought for the demolition of the existing structures on site and the accommodation of a new mixed-use development 5 to 6 storeys in height together with amenity space and car parking.
- 3.2. The ground floor is to accommodate a large restaurant in the northern building and a smaller café to the immediate south. The ground floor also accommodates a storage area associated with the residential units above together with toilets and a kitchen preparation area. A plant room and waste management room are located to the rear of the building. Also located to the rear (eastern) part of the site it is proposed to provide 2 two storey townhouses each of these units accommodate three bedrooms and have three car parking spaces to the rear. These units are accessed separately from Eglinton Terrace.
- 3.3. At first floor level it is proposed to provide 2 no. two bedroomed units above the restaurant/café are directly facing directly onto Phibsborough Road. Two separate one bedroom units are located to the rear with eastern facing balconies. The same layout is proposed at second, third and fourth floor level. A fifth floor level is also proposed at the front section of the block accommodating two additional apartments. A total of 17 units are to be accommodated in the development.
- 3.4. A total of 8 car parking spaces to serve the overall development are located within the layout to the immediate south of the building and are accessed via the existing access road serving St. Peter's Square Apartments to the south. Communal amenity space serving the apartment developments together with bicycle parking is located to the rear of the apartment block adjacent to the private gardens associated with the two townhouses.

4.0 Planning Authority's Decision

4.1. Decision

Dublin City Council issued notification to grant planning permission subject to 24 conditions.

4.1.1. The planning application was accompanied by a covering letter which argued that the proposed development would be beneficial for street frontage on the urban streetscape. It is stated that the subject site is an urban brownfield site in need of redevelopment and that the subject site currently detracts from the visual environment and contributes to a relatively poor urban environment in the centre of Phibsborough. In terms of architecture, the applicants propose to clad the building in brick as the main building material as this is the dominant material in the buildings in the surrounding area. At upper level it is proposed to provide a zinc clad double mansard feature (later altered by way of additional information). The two proposed town houses incorporate a combination of white brick and render finish and will incorporate traditional pitched roofs. The covering letter refers to the Building Height Guidelines for Planning Authorities and notes that these guidelines generally support an increase in building height at appropriate locations.

4.1.2. The planning application was accompanied by the following documents. The application was accompanied by:

- A Building Lifecycle Report
- A Design Statement
- Architectural Visualisations
- A Daylight and Sunlight Assessment of the Proposed Development
- A Water Services and Flood Risk Assessment
- A Site Specific Flood Risk Assessment

4.2. Planning Authority's Assessment

- 4.2.1. A letter from Transport Infrastructure Ireland states that, if the application is successful and is not exempt, a financial contribution under the provisions of Section 49 of the Act in respect of the Luas Cross City should be applied in this instance.
- 4.2.2. A number of letters of objection have been submitted, the contents of which have been read and noted.
- 4.2.3. A report from the Environmental Health Officer recommends a number of conditions in relation to construction and demolition and further details in relation to the proposed ventilation arrangements of the proposed café/restaurant.
- 4.2.4. A report from the National Transport Authority notes that the foundation of the proposed development is located directly above the Metrolink Substrata limit of deviation at the approximate mid-point between the Mater Station and Glasnevin station. Additional information is sought from the applicant requiring liaison with the NTA in order to ensure that any proposed development facilitates the future design of foundations which are compatible with the Metrolink infrastructure.
- 4.2.5. A report from the Transportation Planning Division recommends further information with regard to car parking, cycle parking and the provision of a Preliminary Construction Management Plan. The report from the NTA with regard to the subjacent Metrolink route is also noted.
- 4.2.6. The initial planner's report requested further information in respect of the following:
- The Planning Authority has concerns in relation to the visual impact of the double height mansard roof onto Phibsborough Road. The applicant is requested to submit a revised proposal.
 - Concerns are expressed that the proposed apartment block including the balconies on the eastern elevation will have an overbearing impact and will give rise to overlooking and the applicant is requested to review this element of the proposal.
 - The applicant is advised that the potential impacts at No. 1 Villa Park has not been fully presented in the daylight and sunlight report submitted with the application.

- The applicant is requested to ensure that all two bedroomed units are designed to accommodate four persons and achieve at least a minimum floor for private open space storage.
- The Planning Authority has serious concerns regarding the attractiveness and potential usability of the communal open space located to the rear of the apartment block. The applicant is requested to address this issue.
- The applicant is requested to address a number of design issues associated with the development including:
 - The provision of dedicated storage space.
 - The provision of balconies.
- The Planning Authority would strongly encourage the permeability between the Royal Canal Bank to the east of the site and the Phibsborough Road to the west of the site.
- The applicant was also requested to submit further drawings of the rear/east elevation of the proposed five storey block as well as details of proposed screening between the raised areas of open space/courtyard spaces at first floor level.
- Further details in relation to boundary walls and details of the ventilation and abstraction ducts proposed to serve the restaurant and café at ground floor level.
- The applicant is also requested to confirm that the two detached houses to the rear have been assessed for average daylight factor and the proposed development will not have any adverse impact on overshadowing.
- The applicant is requested to submit the design rationale for the white brick proposed for the two detached dwellings to the rear of the site.
- The applicant also has serious concerns regarding the parking provision for the proposed development and the applicant is requested to submit further details in this regard.

4.3. Additional Information Response

4.3.1. Further information was submitted and received by the Planning Authority on the 6th May, 2021. It included:

- Revised drawings which show the proposed development in the context of the subjacent proposed Metrolink tunnel route including the ground and first floor level load take of the foundations.
- Alterations were also included in the Site Layout Plan to the communal area of amenity open space.
- Details of the internal floor area including storage space are indicated in a separate report prepared. It indicates that the proposed apartment units fully comply with the minimum standards set out in the Apartment Guidelines for Planning Authorities.
- Alterations were also made to the double height mansard roof. Under the revised proposal it is sought to incorporate a single storey mansard roof. It is stated that it is not believed that there is any need to reduce the overall building height as six storeys is deemed to be appropriate at this location. It is argued that the increase in building height fully accords with current government policy. It is stated that the site's strategic location in close proximity to public transport routes makes it ideal to accommodate a building of the size and scale proposed.
- The rear blocks have been redesigned to address concerns in relation to the adjoining property at No. 1 Villa Park. Balconies have been relocated and incorporate 1.8 metre high vertical fins.
- Daylight, sunlight and overshadowing studies indicate that the proposed development will have no impact on the sunlight or ground level amenity space associated with No. 1 Villa Park. Thus, the proposal would not have any adverse impact. It is noted that No. 1 Villa Park has little or no external amenity space to the rear of the property.
- An updated Daylight and Sunlight Report reconfirms the conclusion that there will be no impact on the amenity space of No. 1 Villa Park.

- In relation to the two bedroomed apartments, it is stated that because of the site dimensions, it is not possible to get a double bedroom in the layout. It is also suggested that two of these units could be allocated to meet Part V requirements set out under the Act and it is noted that four of these units are a minimum of 73 square metres.
- The applicant has redesigned the communal open space and increased the overall area of it slightly in response to additional information request.
- Details of the amount of storage space contained in each of the apartment units is indicated in a separate report submitted (HQA plans). The revised roof profile has also resulted in a minimum balcony depth of 1,500 millimetres.
- In relation to permeability concerns, the applicant states that he is not fully in control of the overall site and therefore are not in a position to offer access through the overall site.
- The rear east elevation of the five-storey block has been submitted under Drawing Ref. 1904-PP-09.
- Details of the ventilation system is also indicated.
- A brick white finish was chosen on the two houses as a means of transitioning between the predominant use of brick as a building material and the white render finish of the apartment units on St. Peter's Square.
- In terms of car parking, it is noted that there are 11 car parking spaces within the site. Three will be allocated to the houses which are accessed off Royal Canal Bank and these are self-contained. Two spaces are allocated for the apartments and the remaining 8 are allocated to the existing commercial units. A mobility management plan including car parking strategy has been prepared which demonstrates that there is no under provision of car parking in the area. Details of the cycle parking provisions are also set out on site.

4.4. Further Assessment by the Planning Authority

- 4.4.1. A report from the Waste Regulation and Enforcement Unit set out a number of waste protocols that should be applied in the event that planning permission is granted.
- 4.4.2. A report from the Engineering Department Drainage Division stated that there was no objection subject to conditions.
- 4.4.3. A report from the Transportation Planning Division has no objection to the proposed development subject to 6 conditions. One of the conditions requires that a total of 4 car parking spaces only are hereby permitted to serve the development. One of the proposed car parking spaces adjacent to the detached dwelling shall be permanently removed with parking prohibited.
- 4.4.4. A further planner's report notes the additional information and considers the applicant's response on the whole, to provide positive amendments and considers overall the revised design to be acceptable. In relation to the two bedroomed apartments, it is recommended that two of the units be permitted as two bedroomed/three person units while two of the units be permitted as one bedroom + study unit. It is noted that the proposed layout meets minimum requirements in relation to balcony width and storage. It is recommended that a condition be attached stipulating that no storage room within any of the permitted apartments exceed 3.5 square metres in width. It is considered that the applicant has responded to the request for further information in a satisfactory manner and on this basis it is recommended that planning permission be granted for the proposed development.

5.0 Planning History

- 5.1. The Board will note that one planning appeal file is attached PL29S.214183. This relates to the provision of a new dwellinghouse at Inchicore, Dublin 8 and is not relevant to the current application and appeal before the Board.
- 5.2. The planner's report makes reference to a number of relevant planning applications and appeal which are briefly set out below.

Reg. Ref. 4131/03 (ABP Ref. PL29N.204978). Under this application planning permission was sought to demolish and redevelop Nos. 146 and 147 Phibsborough Road (for which planning permission was previously approved under Reg. Ref.

3385/99 for 12 one-bedroomed apartments). Under Application PL29N.204978 permission was sought to redevelop the site for three storey apartments overground level to provide for 9 two-bedroomed apartments and 3 one-bedroomed apartments.

The Board refused planning permission for this application on the basis that the proposal would seriously injure the amenities of existing properties in the vicinity by reason of overshadowing, loss of privacy and diminution of property value and that the proposal incorporated a substandard provision of public open space.

As referred to above under Reg. Ref. 3385/99 planning permission was granted for 12 one-bedroomed apartments on the subject site.

The planner's report also makes reference to other applications in the vicinity of the subject site.

6.0 Grounds of Appeal

6.1. The decision of Dublin City Council to grant planning permission was the subject of a third-party appeal on behalf of Mr. Patrick Beakey of No. 1 Villa Park, Royal Canal bank. The third-party appeal was submitted by O'Neill Town Planning Consultants and the issues raised are set out below.

- The grounds of appeal state that the appellant is not opposed to the development in the area but considers the development to have serious design flaws and would represent a total unnecessary medium high apartment development in the middle of a low-rise precinct of commercial properties and family houses.
- It is argued that national guidelines can only be countenanced in the context of the overall vision and objectives of the Planning Authority strategy.
- It is considered that the height, scale and design of the proposed apartment block flies in the face of objectives and policies contained in the development plan and is therefore contrary to the statutory development plan for the area. It is submitted that the height strategy adopted by the applicant's architects is inappropriate having regard to the statutory development plan for the area.

- It is stated that the proposed development is not well served by public transport as suggested in the documentation submitted with the application.
- The proposal will result in a substantial loss of privacy and gross overshadowing of the appellant's property (No.1 Villa Park). In particular Block B and to a lesser extent House 2 would significantly disimprove the residential amenity of the appellant's house and diminish the value of it. It is suggested that the reduction in the overall height of the building to three storeys and the elimination of balconies would eliminate the worst aspects of the development.
- It is also stated that House No. 2 encroaches on the appellant's property and the boundary is incorrectly demarcated on the drawing submitted.
- It is also argued that the proposal would greatly impact on residents of St. Peter's Square to the south.
- There is also a concern that the proposed unregulated and uncontrolled construction traffic will impact on the amenity of homes in the area.
- The grounds of appeal go on to make reference to a number of national local documents which are relevant in considering the application.
- It is argued that the proposed development cannot rely on the policies and provisions contained in national documents including the National Planning Framework, the Regional Spatial and Economic Strategy for Midlands and the East, Rebuilding Ireland and Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas. It is argued that the site in question is too small to accommodate the density of development proposed. The density proposed is three times that recommended in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).
- The grounds of appeal go on to argue that the proposal does not meet most of the criteria set out in the Urban Design Manual A Best Practice Guide (2009).

- Nor does the proposal comply with many of the SPPRs and other guidance set out in the Urban Development and Building Height Guidelines for Planning Authorities (December 2018).
- The scale of the proposed development does not integrate appropriately with its surroundings and fails to respond to the existing built surroundings and makes a negative contribution to the Urban Neighbourhood and Streetscape.
- It is considered that the massing and height of the development has not been properly evaluated or has been informed by any landscape or visual assessment. The proposal will not assist modern placemaking nor improve the overall quality of the inner suburban environment. The subject site is defined as a low-rise area and as such, is not the type of development which would rely on SPPR3 of the Guidelines.
- The grounds of appeal go on to set out relevant policies, provisions and objectives contained in the development plan. It is argued that the development is contrary to many of the policies and provisions contained therein.
- It is argued that the car parking provision constitutes a significant shortfall in the required number of spaces which is a serious and significant breach of the development plan.
- It is considered that the proposed development in its current form significantly affects the residential amenity of most of the residents in the area and as such is a material contravention of the zoning objective in the statutory development plan for the area.
- Reference is made to the judgement of Justice Dennis McDonald involving Rita O'Neill versus An Bord Pleanála. The judgement notes that Planning Authorities shall have regard to the guidelines in the performance of its functions and this implies that Planning Authorities must take the guidelines into consideration but are not necessarily obliged to follow them. It is argued in this instance that the proposed development is a significant and material breach of all planning documents prepared for the area. For the above reasons An Bord Pleanála is requested to overturn the decision of the

Planning Authority and refuse planning permission for the proposed development.

7.0 Appeal Responses

7.1. Applicant's Response to the Grounds of Appeal

7.1.1. The response is set out in three parts namely:

- The response to the contents of the third-party appeal by O'Neill Town Planning.
- A synopsis of the proposed development as per the Dublin City Council Planner's Report.
- Addressing the issue of residential amenity of No. 1 Villa Park.

7.1.2. Firstly, the response highlights a number of perceived inaccuracies in the third-party submission. It is suggested that the appeal appears to be previous objection for a site in Lucan.

7.1.3. It is stated that the boundary of the subject site was delineated using digital OSI map. It is noted that the subject site is overgrown and that the company that undertook the topographical survey were unable to produce an accurate boundary line at this location. There is no intention to construct any of the project on neighbouring property. Proper surveys will be undertaken to ensure that there is no impact on the existing stone boundary wall.

7.1.4. With regard to the impact on the St. Peter's residential development to the south, it is stated that there were no third party observations from any of the residents on St. Peter's Square objecting to the proposal.

7.1.5. The grounds of appeal go on to quote extensively from the Dublin City Council planner's report and it is argued that this highlights the merits of the proposed development by an independent adjudicator whose job is to balance the need for redevelopment with existing residential amenity.

7.1.6. The planner's report also challenges many of the incorrect assertions and assumptions made in the appeal in respect of density, scale, permissible heights, proximity to public transport etc.

- 7.1.7. It is also clear from the additional information request that there was extensive interrogation and consultation in respect of the proposal by the Planning Authority.
- 7.1.8. Finally, the response sets out issues in relation to loss of privacy and impact on residential amenity of No. 1 Villa Park. In terms of loss of privacy, it is stated that the design was amended as part of the additional information, and this includes the reconfiguration of balconies including relocating some of the balconies onto the south façade. A series of vertical fins are introduced that obscure views from the balcony towards No. 1 Villa Park.
- 7.1.9. In terms of overshadowing a full daylight and sunlight assessment was conducted.
- 7.1.10. In terms of vertical sky component, it is stated that the majority of windows in the appellant's dwelling retain a vertical sky component in excess of 27% and in almost no cases are they reduced below 0.8 times of the former value. Where a small number of windows are marginally below the 0.8 times of the former value any impact will be minor and adverse and as such it is argued that the proposal meets the requirements of the BRE Guidelines. In the case of No. 1 Villa Park one bedroom was identified as having a minor impact.
- 7.1.11. All windows assessed exceed the target value set out for sunlight. The amenity value of No. 1 Villa Park would experience no change should the proposed development proceed. Thus, it is stated that the impact on adjacent residential structures would be minimal and imperceptible.
- 7.1.12. In conclusion, it is considered that the proposal constitutes a well-designed solution to an underutilised urban brownfield site. The proposed development provides an appropriate scale of development in order to provide much needed housing in the area while protecting the residential amenity of existing and adjoining neighbours including the appellant's dwelling at 1 Villa Park. On the basis of the above, it is argued that the proposed development is fully in accordance with the proper planning and sustainable development of the area and the decision of Dublin City Council should be upheld.
- 7.2. Dublin City Council have not submitted a response to the grounds of appeal.

8.0 Observations

8.1. Observation from Christine Delany

8.1.1. This observer lives in 7 Eglinton Terrace and makes the following points in the observation submitted.

- There is no objection in principle to residential and commercial development at the subject site facing onto Phibsborough Road.
- It is considered that the appellant has inappropriately described the location of the development. The rear of the site is Eglinton Terrace and not Eglington Terrace.
- It is considered that the building facing onto Phibsborough Road is one storey too high for the receiving streetscape. A reduction in the height of the building would result in less overshadowing of residential houses on Eglinton Terrace.
- Concerns are expressed that the white render finish on the proposed townhouses will attract graffiti.
- Due to the differential ground levels whereby the rear gardens on Eglinton Terrace are below that of the subject site, the proposed mews houses will create a significant visual impact to the rear.
- The proposed development will result in a significant amount of construction traffic entering and exiting the site via Eglinton Terrace and this will result in significant loss of amenity to dwellings in the vicinity. Construction work is intended to last for at least 24 months. It is requested that Dublin City Council (*sic*) seek to ensure that only vehicles capable of entering under the archway to St. Peter's Square access the construction site.
- It is requested that working hours on site be restricted to 0800 hours to 1700 hours weekdays, 0900 hours to 1400 hours on Saturdays and not at all on Sundays and bank holidays.
- Dublin City Council are asked to put in place a procedure where the Council can be contacted in the event of the building contractor failing to comply with commitments during the construction phase of the proposal.

- Dublin City Council are also asked to monitor the developer's construction parking arrangements in the vicinity of the site.
- It is noted that the revised house plans do not have a north point as required under the Planning Regulations.
- Concerns are expressed that the revised design of balconies at first, second and third floor levels will result in excessive overlooking and noise disturbance.
- Nowhere in the applicant's contextual drawings is Eglinton Terrace adequately identified or the impact of the development on the terrace made clear.
- The lack of car parking associated with the development indicates that the potential impact of the development of meeting the sole purpose of buy to rent. This is a lost opportunity to develop homes for families who will remain in the area longer term.

8.2. **Observation on behalf of St. Peter's Square Management Company**

8.2.1. This observation was submitted by O'Neill Town Planning Consultants. It expresses concerns in relation to:

- The height of the proposed development which will result in gross overlooking and gross overshadowing of the apartments and plinth area associated with St. Peter's Square.
- Concerns were expressed that the proposal will result in significant impacts on amenity during the operational phase through increased levels of vehicular movement to and from the site.
- Concerns are expressed that there is insufficient car parking to cater for the residents associated with the development.
- Concerns expressed that the access road to the apartment block will result in the residents of St. Peter's Square effectively living in a building site for an undetermined period of time. The access arrangements will also have a huge impact on security arrangements.

- Concerns are expressed in relation to health and safety issues arising from the increase in heavy vehicular traffic noise levels and construction works during the construction period of the development. The observation goes on to outline and reiterate many of the concerns raised in the third-party appeal on the basis that the proposal is contrary to many of the national and local policy objectives set out in various documents including:
 - The National Planning Framework.
 - The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.
 - The Urban Design Manual A Best Practice.
 - Urban Development and Building Height Guidelines for Planning Authorities and the Statutory Development Plan for the Area.
- On the basis of the above it is argued that the proposed development would be injurious to the residential amenity of the area due to its excessive height and scale and is therefore contrary to the proper planning and sustainable development of the area.

9.0 Planning Policy Context

9.1. National Planning Framework

9.1.1. 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.

9.1.2. 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.

9.1.3. 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.

9.2. **Rebuilding Ireland Action Plan for Housing and Homelessness**

9.2.1. 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.

9.3. Sustainable Urban Housing Design Standards for New Apartments

9.3.1. 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.

9.3.2. 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 principal 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.

9.4. **Urban Development and Building Heights - Guidelines for Planning Authorities**

- 9.4.1. These Guidelines again highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.
- 9.4.2. It is acknowledged that taller buildings will bring much needed additional housing and economic development to well-located urban areas and that they can also assist in reinforcing and contributing to a sense of place within the city or town centre.
- 9.4.3. The Guidelines note that statutory development plans have tended to be overtly restrictive in terms of maximum building heights in certain locations and crucially without the proper consideration of the wider planning potential of development sites. Such displacement presents a lost opportunity in key urban areas of high demand for new accommodation whether it is for living, working, leisure or other requirements in the built environment.
- 9.4.4. Planning policy must therefore become more proactive and more flexible in securing compact urban growth through a combination of facilitating increased densities and building heights while also being mindful of the quality of development and balancing amenity and environmental considerations. Appropriate identification and siting of areas suitable for increased densities and height will need to consider environmental sensitivities of the receiving environment as appropriate throughout the planning hierarchy.
- 9.4.5. Paragraph 2.8 notes that historic environments can be sensitive to largescale tall buildings. In that context Planning Authorities must determine if increased height buildings are appropriate in these particular settings.
- 9.4.6. Taking into account the foregoing, the specific planning policy requirement of the above guidelines under SPPR1 is

- *In accordance with government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, Planning Authorities shall explicitly identify through the statutory plans, areas where increased building heights will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.*

9.4.7. Special planning policy requirement SPPR2 states that in driving general increases in building heights, Planning Authorities shall also ensure appropriate mixtures of uses, such as housing, commercial and employment development, are provided for in the statutory plan context.

9.5. Development Plan Provision

9.5.1. The site is governed by the land use zoning objective District Centre Z4 with the lands use zoning objective to “*provide for and improve mixed service facilities*”. The most easterly portion of the site is also governed by the Z1 zoning objective. It is noted that residential and restaurant uses are permissible uses under these land use zoning objectives.

9.5.2. The subject site is also designated as a key district centre (KDC8 – Phibsborough) within the identified key district centres the following general principles shall apply.

- Population: establish significant residential population basis with diversity in unit types and tenures capable of establishing long-term integrated communities.
- Density: ensure the establishment of high-density development capable of sustaining quality public transport systems and supporting local services and activities. Account should be taken in any such development of any district or valuable architectural or historical features that influence the urban form, character and scale of the existing area.
- Transport: ensure provision is made for quality public transport systems. Provide improved access to these systems and incorporate travel plans,

which prioritise the primacy of pedestrian and cycle movement and address the issue of parking facilities and parking overflow.

- Commercial/retail: the creation of a vibrant retail and commercial core within animated streetscapes.
- Community and social services: the centres will be encouraged to become the focal point for integrated delivery of community and social services.
- Employment: encourage the provision of mixed-use developments incorporating retail, office, residential and live work units, and the creation of small start up units.
- Built environment: the creation of high quality, mixed use urban districts with distinctive spatial identity and coherent urban structure of interconnected streets and child friendly public spaces and urban parks. Development should have regard to the existing urban form, scale and character and be consistent with the built heritage of the area.
- Capacity for development: Encourage the development/redevelopment of underutilised sites.

9.5.3. Chapter 5 of the development plan relates to Quality Housing.

9.5.4. 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.

9.5.5. Policy QH6 seeks to encourage and foster the creation of attractive mixed use, sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities which are socially mixed in order to achieve a socially inclusive city.

9.5.6. 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.

- 9.5.7. 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.
- 9.5.8. 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.
- 9.5.9. 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.
- 9.5.10. 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.
- 9.5.11. It is important to protect and enhance the skyline of the inner city and to ensure that any proposals for high buildings make a positive contribution to the urban character of the city and create opportunities for place making and identity. In the case of low-rise areas (which the subject site is located) a maximum height of 28 metres may be permissible.
- 9.5.12. 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.
- 9.5.13. 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%.

10.0 EIA Screening Determination

- 10.1.1. On the issue of environmental impact assessment screening, I note that the relevant classes for consideration are Class 10(b)(i) “construction of more than 500 dwelling units” and Class 10(b)(iv).
- 10.1.2. Under 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 a built-up area and 20 hectares elsewhere.
- 10.1.3. Having regard to the modest size of the site at 0.147 hectares, and the overall provision of 19 residential units, which is considerably below the 500 dwelling threshold, it is considered that, having regard to the nature and scale of the proposed development, 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 significant effects on the environment and the submission of an environmental impact assessment report is therefore not required. The need for an environmental impact assessment report can therefore be excluded by way of preliminary examination.

10.2. Environmental Designations

- 10.2.1. The subject site is not located within or contiguous to a designated Natura 2000 site. The South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) is located, at its nearest point, 3 kilometres to the east of the subject site.

11.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the planning policy relating to the proposal, the Dublin City Council Planning Report, the issues raised in the grounds of appeal and observations objecting to the proposed development. I consider the critical issues in determining the current application and appeal are as follows:

- Principle of Development in the Context of Strategic Housing Delivery Considerations
- National Planning Policy versus Local Planning Policy

- Height and Scale of the Proposed Development
- Impact on Surrounding Residential Amenity
- Parking Considerations
- Other/Miscellaneous Issues

Each of these issues are dealt with under separate headings set out below.

11.1. Principle of Development in the Context of Strategic Housing Delivery Considerations

11.1.1. A fundamental consideration in adjudicating on the current application is the zoning provisions pertaining to the site. While the subject site is zoned District Centre (Z4) I note that both restaurant use, and residential use is permitted in principle. The nature of the proposed development therefore is wholly compatible with the zoning provisions relating to the site. Furthermore, the site being located within the boundary of a key district centre I note that the Dublin City Development Plan seeks to establish significant residential population basis with a diversity of unit types and tenures capable of establishing long-term integrated residential communities. As the appellant points out in the grounds of appeal, the area is predominantly characterised by two-storey residential development with some apartment type 3/4 storey buildings in the immediate area particular to the south of the site. The provision of additional smaller apartment units will contribute to the residential population base and provide a wider diversity of unit types and tenures in the Phibsborough area.

11.1.2. Furthermore, there are numerous National Planning Guidelines which have been adopted in recent years and, with the exception of Rebuilding Ireland, the guidance above referred to were all adopted subsequent to the Statutory Dublin City Development Plan. The Board will be cognisant of the fact many of the policy statements contained in these National Planning Guidelines would supersede or at the very least augment policy statements contained in the Dublin City Development Plan.

11.1.3. It is clear from these guidelines that there is an increased emphasis on maximising the development potential sites particularly in relation to housing development given the current housing crisis within existing urban footprints. A major thrust of the

National Planning Framework seeks a preferred approach to a more compact development that focuses on reusing previously developed brownfield land and building on infill sites within existing built-up areas. The development plan reinforces this strategy particularly in key district centres where the plan seeks to encourage the development/redevelopment of underutilised sites in the city centre. The National Planning Framework seeks to encourage more people, jobs and activity within the footprint of existing urban areas so that high quality development can encourage more people to work and live in close proximity. The plan seeks to deliver at least half of new homes in the five main cities of the State and in particular 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 the more prevalent form of housing particularly in Ireland’s cities”*. National Policy 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, the reuse of existing buildings, infill development schemes, area or site-based regeneration including increased building heights.

11.1.4. The Apartment Guidelines also seek to highlight the need to provide higher density development in central or accessible urban locations and to identify the need to provide more than 30,000 units within Dublin and its suburbs. The need to provide more housing is also reflected in the Rebuilding Ireland Action Plan, the recently published Urban Development and Building Heights and the most recently adopted National Housing Strategy entitled “Housing for All”. These plans all highlight the need for Planning Authorities to become more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights subject to the need to be cognisant of any surrounding sensitive environments be it environmental or historic. The Board will note that there are no protected structures in the immediate vicinity of the site. Doyle’s Corner to the south of the site is located within an Architectural Conservation Area. However, the subject site is not contiguous to, or indeed adjacent to the designated Architectural Conservation Area. The Architectural Conservation Area is located to the south of St. Peter’s Square.

11.1.5. From a sustainable land use point of view, secure and compact growth in urban areas as espoused in the various policy documents referred to above would significantly reduce adverse impacts on the environment by:

- Reducing the land take and preserving agricultural lands and habitats outside the urban area and creating a more distinctive urban/rural divide.
- Enabling the utilisation of existing infrastructure currently available to serve the site in terms of foul drainage, water supply, roads and footpaths, lighting and other such infrastructure.
- Incorporating residential development in close proximity to existing centres of employment which will reduce the need to travel long distances particularly by the private car and therefore reduce energy consumption and carbon emissions.
- The provision of high-density residential development within urban areas improves the viability of public transport services and enables and facilitates the provision of more frequent services. High density compact development also encourages and facilitates more active lifestyles by creating more walkable and cycle friendly urban environment.

11.1.6. It is considered that notwithstanding its modest size the subject site has many of the attributes to accommodate higher density development which would achieve many of these wider strategy land use goals.

11.1.7. On the basis of the above, I consider the principle of high density development on the subject site, notwithstanding the fact that it departs somewhat from the prevailing density in the immediate area, it is nonetheless appropriate. Strategic considerations set out in the various documentation referred to above dictate that the provision of a high quantum of development is necessary and appropriate on the subject site. The site offers a good opportunity to provide a scale of development which is more reflective of the policies, provisions and objectives set out in the National Planning Guidelines.

11.1.8. The wider strategic considerations are in my view of critical importance for the Board in determining the current application. It is acknowledged however that any wider strategic considerations must be balanced against the impact on surrounding residential amenity. These qualitative impacts are assessed in more detail in my evaluation below.

11.2. National Planning Policy versus Local Planning Policy

- 11.2.1. The grounds of appeal suggest that the Board should set aside many of the strategic objectives set out in National Planning Policy in relation to higher densities and buildings heights. This is predicated on the view that the local city development plan should take precedence over any national policy on the basis of its local policies which are more tailor-made and relevant to local sites within the city than these wider blanket type policies relating to the State in general. I would disagree with the arguments set out in the grounds of appeal.
- 11.2.2. Some of the guidelines referred to above were adopted under Section 28 of the Planning and Development Act 2000 (as amended). This section of the Act states that the Minister may at any time issue guidelines to Planning Authorities regarding any of their functions under the Act and the Act clearly and unambiguously states that Planning Authorities shall have regard to those guidelines in the performance of its functions. While it is acknowledged that there may be specific circumstances where the guidelines may to be applicable at a local level it would in my view be inappropriate to restrict the implementation these guidelines purely on the basis that they relate to national rather than local policy. National policy is required to be implemented through local planning projects such as currently before the Board and therefore I consider that the guidelines referred to above are equally applicable in the evaluation and determination of any planning application as relevant policies in the current local development plan. Furthermore, the Board will be fully aware that with the exception Rebuilding Ireland (July 2016) all other planning policy documents referred to above were adopted subsequent to the Dublin City Development Plan and therefore constitute the most recent adopted strategies and plans in relation to land use planning for urban areas. While it is acknowledged that the Board is not required to slavishly adhere to all aspects of national policy in relation to local development projects it would be in my view totally inappropriate and out of place to dismiss such policy guidelines outright.

11.3. Height and scale of the Proposed Development

- 11.3.1. What is proposed in this instance is a six storey residential development fronting onto Phibsborough Road. Phibsborough Road is a relatively wide radial route linking

the North Dublin suburbs with the city centre. The building steps progressively downwards as one moves to the rear of the site terminating in 2 two storey townhouses which are of a similar size and scale to the surrounding houses on Eglinton Terrace/Royal Canal Bank. It is not accepted that development in the immediate vicinity is predominantly two-storey. St. Peter's Square is a four-storey structure to the south while likewise the building to the immediate south is also four storeys with a top storey penthouse. The Phibsborough Shopping Centre directly opposite the site incorporates a seven-storey structure. It is therefore reasonable to argue in my opinion that there is more variety in building height in the vicinity of the subject than that suggested in the grounds of appeal. The provision of a six-storey building facing directly onto a busy radial route on the periphery of the city centre is an appropriate intervention in terms of scale and mass having particular regard to the strategic land use policies referred to above.

- 11.3.2. It is also my view that the applicant in this instance seeks to place the tallest elements of the structure on the most appropriate location within the site directly fronting onto this busy thoroughfare. The height and scale and mass of the structures progressively decrease moving eastwards across the site towards the two storey residential houses along Eglinton Terrace. It is my considered opinion that a balance must be struck between developing sites at appropriate densities and ensuring that the surrounding impacts and amenity are minimised to the greatest extent possible.
- 11.3.3. In terms of overbearance, it is acknowledged that the proposed development will alter the relationship between No. 1 Villa Park and the scale and density of development that currently exists on site. However, it is my view that the overall impact would be acceptable, and this issue is dealt with in more detail in the subsequent section below.
- 11.3.4. It is not a reasonable expectation in my view that there would be no material change in the overall size, scale and bulk of any development on the subject site having regard to the National Guidelines and the site's central location in the northern periphery of the city. I note that the National Planning Framework highlights the need for performance based design standards "*to enable brownfield development to take place planning policies and standards need to be flexible focussing on design led performance based outcomes rather than specifying absolute requirements in all*

cases. Although sometimes necessary to safeguard against poor quality designs, planning standards should be flexibly applied in response to well-designed development proposal that can achieve urban infill and brownfield development objectives in settlements of all sizes. This is in recognition of the fact that many of the current urban planning standards were devised for application to greenfield development sites and cannot account for the evolved layers of complexity in existing built-up areas”.

11.3.5. With this point in mind, I consider the provision of a six-storey building on the subject site to be acceptable and that cognisance of surrounding residential amenity has been taken into consideration in the design rationale for the proposed development while seeking to develop subject sites at appropriate densities.

11.4. Impact on Surrounding Residential Amenity

11.4.1. The main concern expressed in the grounds of appeal relates to the impact on amenity of the dwellinghouse to the immediate north of the subject site 1 Villa Park. The rear portion of the apartment block is located 10 to 15 metres to the south-west of No. 1 Villa Park. The issue of the impact on privacy on adjoining residential amenity including No. 1 Villa Park was raised by the Planning Authority in its request for additional information. In order to address the concerns, the applicant reconfigured the residential units to the rear, and this included relocating the balconies on the southern elevation in order to reduce the potential for overlooking. It is still proposed to incorporate a balcony on the eastern elevation which would face towards the rear of No. 1 Villa Park. However, it is apparent from the additional information submission that it is proposed to incorporate vertical fins 1.8 metres in height and proposed to be constructed along the perimeter of the balcony. The spacing of the fins are such that they become more generously spaced along the southern portion of the balcony in order to provide an appropriate level of amenity for future occupants while reducing the potential for oblique overlooking northwards into the rear portion of No. 1 Villa Park. I consider the relocation of balconies from the eastern elevation to the southern elevation together with the incorporation of appropriately spaced vertical fins along the perimeter of the balcony will effectively reduce the potential for overlooking while not overly comprising the amenity afforded to future occupants of the apartments. The applicant therefore in my view has taken

reasonable and appropriate steps to ensure that the impact on the adjoining residential amenity at No. 1 Villa Park is minimised.

- 11.4.2. With regard to the impact on the privacy of apartments of St. Peter's Square, I note that there are a number of apartments which incorporate windows which face northwards onto the area of public car parking between the subject site and St. Peter's Square. The apartments of St. Peter's Square do not incorporate balconies on the northern elevation. The separation distance between the northern façade of the existing apartment block and the proposed development is in the order of 23 to 26 metres. This in my view is a generous and acceptable separation distance in an inner-city urban location and will not in my opinion give rise to any undue overlooking.
- 11.4.3. Concern was also expressed in one of the observations submitted that, due to the differential ground levels the proposed townhouses to the rear of the site would have an unacceptable impact on the existing dwellings to the east. The townhouses in question rise to a ridge height of just over 7 metres. These townhouses are only marginally (less than half a metre) above the ridge height of the existing dwellings facing onto Royal Canal Bank/Eglinton Terrace. The separation distance between the dwellings in question is in excess of 27 metres. Having regard to the marginal difference in ridge height between the existing houses and the proposed two townhouses together with the separation distance between the buildings, I do not consider that it can be reasonably argued that the townhouses in question would have an overbearing impact on the existing dwellings particularly having regard to the urban location of the site.
- 11.4.4. With regard to the impact of the proposed development on overshadowing the Board will note that No. 1 Villa Park is located to the north/north-east of the subject site and therefore is unlikely to be significantly or materially affected in terms of overshadowing. As the applicant points out in the grounds of appeal with the exception of the north-western corner, No. 1 Villa Park is almost completely covered from the footprint of the building. This north-western corner due to the proximity of structures and boundary walls will not receive significant and extensive levels of sunlight penetration under existing conditions.

- 11.4.5. The shadow casting diagram submitted as part of the daylight and sunlight assessment clearly indicates that the proposed development will have no discernible impact on the small yard associated with No. 1 Villa Park throughout most of the year. The only diagram contained in the assessment which indicates a slight impact relates to the early afternoon period and the vernal equinox. This impact is negligible. It would be totally disproportionate in my view to refuse planning permission for the proposed development on the basis of the impact which would arise in terms of overshadowing for buildings to the north and north-east of the site. The shadow casting diagrams also clearly indicate that the proposal will have a negligible impact in terms of overshadowing on the existing dwellings at Villa Park or the dwellings to the east at Eglinton Terrace. There will be some impact as can be expected during the winter months and during the late afternoon in respect of the rear gardens of the houses facing on to Eglinton Terrace to the east. However, the impact would be not significant and would be acceptable in my view in terms of amenity. The Board will be fully aware that private areas of open space are less used in the wintertime than the summertime and there would be virtually no impact on any surroundings areas of private amenity space during the summer months
- 11.4.6. St. Peter's Square lying to the south of the subject site will not in any way be impacted by the proposed development in terms of overshadowing.
- 11.4.7. Finally, in relation to amenity issues, I am satisfied on the basis of the daylight and sunlight assessment submitted with the planning application, daylight penetration into existing rooms will not be significantly impacted upon as a result of the proposed development. The analysis submitted provides details in relation to the vertical sky component on each of the existing rooms surrounding the subject site. With the exception of two bedrooms of units at St. Peter's Square and one bedroom unit at Villa Park all other rooms either meet the criteria of 27% vertical sky component or will not be reduced to less than 80% of the existing value. It is noted where minor impacts occur (i.e. where the vertical sky component does not meet 80% of the existing value the impact is very marginal and in the three bedrooms concerned the vertical sky component achieves over 76% of its former existing value).
- 11.4.8. In terms of average daylight factor for future occupants of the proposed apartments all rooms meet the criteria in respect of average daylight factor. This in my view can be expected as the layout incorporates an appropriate orientation with all units

incorporating a dual aspect and none of the units incorporate northward facing windows.

11.4.9. It is also clear from the analysis undertaken submitted with the planning application that the community amenity space meets BRE criteria which requires that half of the communal space would receive at least two hours of sunlight on the 21st March. It is clear from the analysis undertaken that over 80% of the area would receive direct sunlight penetration in excess of four hours on the vernal equinox.

11.4.10. Arising from my assessment above therefore I am satisfied that the proposed development would not have a significant or material adverse impact on surrounding residential amenity or on the amenity of future occupants residing at the proposed development.

11.5. Parking Considerations

11.5.1. Concerns are expressed that there is insufficient parking to cater for the future occupants of the development. It is further argued that the site is not well served by public transport. The subject site is located within close proximity to the city centre. It is less than 2 kilometres from Usher's Quay and 2 kilometres (c.20 to 25 minute walk) from O'Connell Bridge. The site therefore is a suitable distance to both encourage and facilitate more sustainable transport modes in terms of walking and to the city centre. Furthermore, the site is located circa half a kilometre from the Luas stop at Phibsborough and is served by a number of bus routes including bus routes 4, 9 and 46A in the vicinity of the subject site. I would therefore not agree with the third party's contention that the site is not well served by public transport. The site in my view is eminently suitable to avail of more sustainable transport modes (cycling, walking, public transport) to and from the city centre.

11.5.2. On the basis of the above, I consider that the subject site can be classed as a central and/or accessible urban location under the criteria set out in the Apartment Guidelines. In such areas the Guidelines indicate that the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.

11.5.3. In this instance it is proposed to provide three car parking spaces to serve the townhouses and 2 designated car parking spaces to serve the apartment block. It is noted that the Planning Authority in granting planning permission under Condition

15(a) reduce the number of car parking spaces to serve the townhouses from 3 to 2. This reduces the overall number of car parking spaces to be provided to serve the scheme to four car parking spaces. It is evident that Dublin City Council did not have any significant concerns with regard to the car parking provision to serve the apartment block. On the basis of the site's central location and proximity to public transport together with the increased emphasis to encourage more sustainable transportation options, I consider the provision of two car parking spaces to serve the 17 apartment is appropriate.

11.6. Other/Miscellaneous Issues

- 11.6.1. The third-party appeal expresses concerns that the boundary line along the northern boundary of the site was misrepresented in the drawings submitted. The applicant in the response to the grounds of appeal states that the boundary between the properties were delineated using the digital OSI map. It is acknowledged that there may be some inaccuracies as the survey company that undertook the topographical survey were unable to produce an accurate boundary line due to the overgrown and derelict nature of the property along the northern boundary. Any boundary disputes between the parties concerned are a civil matter and a matter for the Courts and not An Bord Pleanála. The applicant has indicated that if a minor adjustment is required to the boundary that can be addressed. Having regard to the provisions of Section 34(13) I do not consider that the Board is precluded from granting planning permission on the basis boundaries have been depicted inaccurately on the drawings submitted .
- 11.6.2. With regard to the protection of boundary walls, this issue can be adequately addressed by way of a detailed construction management plan.
- 11.6.3. With regard to construction traffic issues again I consider these issues can be adequately dealt with by way of a construction management plan. Section 3 of the preliminary construction management report submitted with the application provides details of traffic management. The plan reasonably in my view suggests that access to the site should be available through St. Peter's Square and the exit route will be via Eglinton Terrace. A detailed traffic management plan will be prepared which will identify any risk to general public from local construction vehicles. This plan will include details of traffic volumes, speed limits, warning signs, provision of banksman

traffic safety measures etc. Any impact arising from traffic is temporary in nature and relatively short term. All development projects involve some increased levels of construction traffic activity during the course of the construction phase. To refuse planning permission on the basis that that the proposed development will give rise to increased levels of construction traffic is in my view untenable and disproportionate. Any adverse impacts can be mitigated to an acceptable extent through the provision of a construction management plan. The construction management plan would also address concerns in relation to more general health and safety issues and the requirement to keep the surrounding area clear from dust, debris and rubbish etc.

- 11.6.4. With regard to construction hours one of the observations submitted requested that the hours would be altered to allow for works to commence at 8 a.m. instead of 7 a.m. on weekdays and 9 a.m. instead of 8 a.m. on Saturdays. If the Board, consider it appropriate, it could in my view alter the commencement times of construction works from 7 a.m. to 8 a.m. in order to protect surrounding residential amenity.
- 11.6.5. In relation to the external treatments of the townhouses, the townhouses in question are somewhat secluded and setback from the main thoroughfare. The use of white external render is in my view appropriate from the visual amenity perspective. It will be up to the owner/occupiers of the dwellings in question to ensure that the external elevations of the dwellings are not subject to graffiti.
- 11.6.6. Concerns are expressed in one of the observations submitted that Eglinton Terrace was incorrectly spelt in the public notices. The Board will be aware that the road to the immediate east (rear of the site) is referred to as Royal Canal Bank or Eglinton Terrace, I noted from my site inspection that the road plaque refers to the row of houses as 'Villa Bank'. It appears from the site notice and a planning application form that Eglinton Terrace was spelt correctly. I do not consider that any third-party rights have been jeopardised or prejudiced as a result of the advertisements prepared in respect of the proposed application.

12.0 **Appropriate Assessment Issues**

Having regard to the nature of the proposed development in an urban area which is served by public infrastructure including water supply and foul drainage arrangements together with the separation distance between the appeal site and the

nearest Natura 2000 site at c.3 kilometres, it is considered that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

13.0 Conclusions and Recommendation

Arising from my assessment above I consider that the proposed development will result in the appropriate regeneration of an underutilised and derelict infill brownfield site for the provision of much needed housing supply in the city centre. I am also satisfied based on my assessment above, that the proposed development will not have a significant adverse impact on surrounding residential amenity, will not result in a building of excessive size, scale and mass particularly having regard to national guidelines to increase densities at appropriate locations and therefore the proposed development would be in accordance with the proper planning and sustainable development of the area. I therefore recommend that the Board uphold the decision of Dublin City Council and grant planning permission for the proposed development.

14.0 Decision

Grant planning permission for the proposed development based on the reasons and considerations set out below.

15.0 Reasons and Considerations

Having regard to the zoning objectives for the site which permits both residential and commercial development, together with the policies and provisions contained in the National Planning Framework, the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (December 2020) which seeks to provide urban development including residential development at more compact and sustainable densities to enable people to live nearer to where jobs and services are located, it is considered that the proposed development, subject to compliance with conditions set out below, would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would be generally acceptable in terms of traffic safety and convenience. The

proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged by the application, as amended by the plans and particulars received by the planning authority on the 6th day of May, 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development hereby approved shall be as follows:
 - The provision of 2 no. three-bedroom two-storey townhouses.
 - The provision of 9 one-bedroomed apartment.
 - The provision of 4 two-bedroomed/4 person apartments.
 - The provision of 2 two-bedroomed/3 person apartments.
 - The provision of 2 one-bedroomed plus study apartments.

Details of the designation of each of the unit types shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In order to comply with the Sustainable Urban Housing Design Standards for New Apartments (2020).

3. Details of the materials, colours and textures of all external finishes to the proposed apartment blocks shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

5. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to commencement of this development.

Reason: In the interest of orderly development.

6. Prior to the commencement of development, the applicant shall agree in writing with the planning authority those areas to be taken in charge within the scheme. In relation to those areas not taken in charge a management company shall be set up. The management company shall provide adequate measures for the future maintenance and repair in the satisfactory manner of all private open spaces, roads, footpaths, car parking and all services together with soft and hard landscaping areas not taken in charge by the local authority.

Reason: In the interest of residential amenity, the provision of appropriate community facilities and in the interest of orderly development.

7. 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 the commencement of development. This plan shall be prepared in accordance with "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases and details of the methods and location to be employed in the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the region in which the site is situated.

Reason: In the interest of sustainable waste management.

8. No additional development including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennae shall take place above roof level without the benefit of planning permission.

Reason: In the interest of visual amenity.

9. Details of the car parking provision shall be agreed in writing with the planning authority prior to the commencement of development. The car parking provision agreed shall be retained for ancillary and associated use by the occupiers of the apartments and shall not be sold, rented or otherwise sublet or leased to other parties.

Reason: In the interest of sustainable transportation.

10. Only one car parking space will be provided for each of the townhouses. Details of the residual area not used for car parking will be the subject of appropriate landscaping details of which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The car parking space associated with the townhouses shall be permanently allocated to each house and shall not be sold, rented or sublet or otherwise to any other parties.

Reason: In the interest of orderly development.

11. Prior to the commencement of development on site final details of the proposed development in the context of its interface with any proposed Metrolink tunnel subjacent to the site shall be agreed in writing with the planning authority and with the National Transport Authority.

Reason: To ensure that any future alignment for the Metrolink tunnel is in no way compromised by the proposed development.

12. All cycle parking to be provided as part of the facility shall be secure, well lit and sheltered. Details of the provision of cycle parking shall be agreed in writing with the planning authority prior to the commencement of development.

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

13. Any public lighting scheme shall be provided in accordance with a scheme details of which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

15. Site development and building works shall be carried out only between the hours of 0800 hours 18.00 hours Monday to Fridays inclusive and between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviations 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.

16. Prior to the commencement of development, a construction management plan detailing all traffic management, waste management, general site works including dust management and noise management shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

17. All site development and construction works shall be carried out in such a manner so as to ensure that adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public road, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept clean and safe during construction works in the interest of orderly development.

18. The naming and numbering of the scheme shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

19. 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.

20. 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.

21. The developer shall pay to the planning authority a financial contribution of €38,000 (thirty eight thousand euro) in respect of the Luas Cross City scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.

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

22. 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.

Paul Caprani,
Senior Planning Inspector.

7th December, 2021.