



An
Bord
Pleanála

Inspector's Report ABP-310702-21

Development	Construction of a 3 and part 4-storey block consisting of 20 apartments.
Location	Accessed from Shea's Lane and to the rear of No. 27, 28 & 29 Manor Street, (all protected structures), Dublin 7.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3352/20
Applicant(s)	Wilex Developments Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Parties vs. Grant
Appellant(s)	<ol style="list-style-type: none">1. Eimear Brown2. Niamh Murphy3. Shea's Court Management CLG
Observer(s)	William Garnermann
Date of Site Inspection	15 th December 2021
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located to the rear (northeast) of Manor Street, which is a main thoroughfare consisting of a mixture of residential and small-scale commercial uses at the northeast end of Stoneybatter village. The site comprises the rear grounds of No.'s 27-28 Manor Street, which along with adjoining No.'s 26 & 29, comprise a terrace of 4 no. 2-bay 3-storey buildings, originally built in 1800 and partially reconstructed in 1880. No.'s 27-29 are Protected Structures, while No. 26 is included on the National Inventory of Architectural Heritage (NIAH). The site has a stated area of 0.1024ha and is distanced c. 1.5km west of O'Connell Street. It is largely underutilised, being mainly used for haphazard storage ancillary to No.'s 27-28.
- 1.2. The site is accessed via an existing gated rear entrance from Shea's Lane to the west. This access continues eastward via an existing wayleave over the northern portion of the appeal site to the rear of No. 26 Manor Street, which bounds the eastern side of the site. The site also bounds onto the rear garden area of No. 29 Manor Street to the west. To the north of the site is Shea's Court, a modern residential development containing a mix of apartments, houses, and duplex units.
- 1.3. In the wider context, the Kirwan Street area to the east contains a significant number of single storey artisan-type cottages and educational facilities. Further north of the site is a complex of playing pitches associated with the TUD Grangegorman campus, and to the west of Shea's Lane is Manor Street Business Park.

2.0 Proposed Development

- 2.1. In summary, the proposed development (as amended by a further information response) comprises the following:
 - Construction of 3 and part 4-storey apartment building (total internal area 1530 sq.m.) consisting of:
 - 9 no. one-bedroom apartments
 - 10 no. two-bedroom apartments
 - 1 no. studio apartment
 - Access road, turning area and visitor parking set-down area

- 2-tier bicycle lockers with storage for 30. No. bicycles, and visitor bicycle stands accommodating a total of 10 bicycle spaces
- Bin store and cargo bike storage unit at ground floor level
- Bike repair unit.

2.2 The maximum height of the proposed building would be c. 13.650m. External wall finishes consist mainly of a terracotta/brown coloured brick. The northern and southern elevations contain a significant extent of perforated metal, which is also used to a lesser extent on the eastern and western elevations. The roof level proposes a zinc/metal capping.

2.3 Foul waste and water supply would connect to the existing Irish Water infrastructure on Shea's Lane. The surface water drainage system would collect all rainwater from impervious surfaces and discharge to an attenuation tank and soil infiltration system, while porous permeable pavements will be provided to the new hardstanding area associated with the access road and car/bicycle parking.

3.0 Planning Authority Decision

3.1. Decision

By order dated 3rd June 2021, Dublin City Council (DCC) issued notification of the decision to grant planning permission subject to 18 conditions. Notable conditions can be summarised as follows:

Condition 4 – Payment of a development contribution (€80,000) in lieu of the public open space requirement.

Condition 5 – Requires amendment and agreement of proposals to alleviate the large blank expanses of brickwork on the flanking walls of the development.

Condition 12 – Requires agreement in relation to set down/turning areas, entrance arrangements, pedestrian connectivity, bicycle parking facilities and management, mobility management, construction management and materials.

Condition 13 – Requires agreement of conservation issues regarding the existing and proposed boundary treatments.

3.2. Planning Authority Reports

3.2.1. Further Information

Following the initial DCC reports and consideration of submissions, the Planning Authority issued a request for Further Information on 5th November 2020. The information requested can be summarised as follows:

1. An amended daylight and sunlight analysis to demonstrate impacts on surrounding properties and standards within the proposed accommodation.
2. A Landscape and Visual Impact Assessment (LVIA) illustrating a range of short and longer views from the surrounding area.
3. Submission of Verified Photomontages for assessment.
4. Proposals for public open space.
5. An Architectural Heritage Impact Assessment (AHIA).
6. A flood risk assessment and details of the proposed brown/green roof.
7. Information and proposals to support the 'zero parking approach; proposals to address accessibility, functionality and layout concerns; improved bicycle parking proposals; a Servicing Operation Plan; proposals to retain pedestrian/cyclist access to the rear of 27/28 Manor Street; and documentation demonstrating legal right of way over the adjacent laneway.

3.2.2. Planning Report

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

- The proposal is consistent with the 'Z3' zoning objective for the site and complies with density, plot ratio and site coverage standards.
- The proposed elevation strategy and material palette are acceptable.
- Privacy planting is required for the open space serving 2 ground floor units.

- Proposals satisfactorily meet requirements for unit mix, floor areas, aspect, ceiling heights and storage areas.
- Proposals meet the requirements for private and communal open space and the applicant has proposed to pay a financial contribution in lieu of public open space, which is acceptable.
- Adequate communal open space of 136m² will be retained for the existing properties in 27/28 Manor Street.
- Concerns regarding rights of way are not a matter for the planning authority to adjudicate on.
- No Appropriate Assessment issues arise.
- The applicant's daylight assessment indicates that the Vertical Sky Component (VSC) levels for some properties in Shea's Court and Kirwan's Street cottages will not meet BRE Guidelines. However, considering the marginal degree of failure, the level of retained daylight, and the inner-city location of the properties, no objection is raised in this regard. The sunlight assessment of properties and spaces within Shea's Court to the north of the site indicates compliance with BRE standards.
- The applicant's LVIA sets out the rationale for the development, including government policy to promote increased height in areas close to public transport. The planning authority concurs that view impacts from the north and south would be slight/imperceptible and neutral. Impacts from the west would be of high magnitude but would not overwhelm the adjoining protected structures. A revised western elevation is required with improved articulation and detailing. Views from the east (Kirwan Street Cottages) would be most significant due to the significant increase in height. However, this is supported by government policy to create compact high-density development at such locations, and it is not reasonable for the existing low scale dwellings to the east to predetermine the scale of surrounding development. The design of the proposed development is of a very high-quality and is acceptable in terms of visual impact.

- The applicant's AHIA concludes that the location, massing, and distance of the development from the protected structures will result in little or no significant visual impacts on character. It is acknowledged that the DCC Conservation Officer has raised concerns regarding overdevelopment of the site and the impact on the setting of protected structures and other buildings. However, given the significant separation distance from protected structures, together with the lack of coherence in architectural style/quality to the rear of Manor Street, it is considered that proposed development responds appropriately to its setting.
- A Flood Risk Assessment has been submitted and no objections have been raised by DCC Drainage Division.
- A Transportation Assessment satisfactorily supports the omission of parking.
- Proposals for 40 cycle parking spaces, 2 cargo bike parking spaces, and 1 e-cargo bike sharing scheme are acceptable. No car club vehicle will be provided but there is c. 12 such vehicles within 500m of the site. Clarification is required by condition in relation to vehicle/pedestrian movements at the entrance forecourt, as well as details of materials, management etc.
- The omission of rear access to No.'s 27/28 is acceptable.

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

3.2.3. **Other Technical Reports**

Transportation Planning Division: The report of 9th September 2020 requested further information including information and proposals to support the 'zero parking approach; proposals to address accessibility, functionality and layout concerns; improved bicycle parking proposals; a Servicing Operation Plan; proposals to retain pedestrian/cyclist access to the rear of 27/28 Manor Street; and documentation demonstrating legal right of way over the adjacent laneway.

The subsequent report (7th May 2021) recommended that clarification be sought in relation to set down/turning areas, entrance arrangements, pedestrian connectivity, bicycle parking facilities and management. In the event of granting permission, it

recommended the inclusion of a range of conditions aimed at agreeing the above issues and other matters relating to travel/traffic management.

Engineering Department – Drainage Division: The report of 2nd October 2020 requested the submission of a flood risk assessment and details of the proposed brown/green roof.

The subsequent report (24th May 2021) stated that there was no objection subject to conditions.

Conservation Officer: The original report of 2nd November 2020 requested further information to include reconsideration of the footprint, scale, massing and height of the development; drawings and images to illustrate the impact on protected structures along Manor Street; and an Architectural Heritage Impact Assessment.

The subsequent report (27th May 2021) highlighted concerns in relation to the extent of the building footprint occupying almost the entirety of the amalgamated plot, as well as the height, scale, bulk, and massing of the building and its unsatisfactory relationship with surrounding development and protected structures. It recommends that the proposed scheme should be refused on the basis of seriously injurious impacts on the architectural character, setting and amenities of protected structures and surrounding properties. In the event that permission is granted, it recommends conditions to agree details relating to the removal of 1-2 stories and reduction in the overall width of the building; boundary treatment; landscaping; bicycle storage, and materials.

Archaeologist: Recommends that an Archaeological Impact Assessment (including test trenching) be required as part of any permission.

3.3. Prescribed Bodies

Transport Infrastructure Ireland: Recommends the inclusion of a Section 49 Development Contribution towards the LUAS Cross City scheme (St. Stephen's Green to Broombridge Line).

3.4. Third-Party Observations

A total of 29 submissions were made in relation to the development. The issues raised are largely covered in the grounds of the appeals received. In summary, the submissions concern the following issues:

- Parking and traffic implications for the surrounding area
- Construction impacts, including traffic, structural, noise, and disturbance
- Rights of way concerns
- Inadequate and inaccurate information
- Inadequate Site Notice and lack of consultation
- Potential use as Student Accommodation and use of roof garden space
- Previous refusals on the site
- Separation from the host properties and out of character with protected structures and surrounding development
- Overdevelopment of the site, excessive height and proximity to boundaries
- Fire/emergency vehicle risk
- Overlooking/overshadowing/daylight impacts on adjoining properties and associated devaluation
- Poor standard of accommodation and open space
- Exacerbation of vermin issues
- Archaeological Impact Assessment.

4.0 Planning History

P.A. Ref. 4435/05: Permission granted (6th April 2006) for demolition of 2 no. existing single storey storage buildings and construction of a 2-storey mews type residential development, containing 2 no. 3 bedroom units, 2 no. 1 bedroom units and 1 no. 2 bedroom unit.

P.A. Ref. 1741/04: Permission refused (19th April 2004) for demolition of 2 no. existing single storey storage buildings and construction of a 3-storey apartment block with balconies and ancillary surface parking. The block will contain 11 units, one 1 bed and ten 2 bed apartments with 12 parking spaces, bicycles and bin store.

5.0 Policy and Context

5.1. National Policy / Guidance

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

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location

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

5.1.3 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as 'the Sustainable Residential

Development Guidelines’, sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

- 5.1.4 **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)**, hereafter referred to as ‘the Apartments Guidelines’, sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.
- 5.1.5 **Architectural Heritage Protection Guidelines for Planning Authorities**, hereafter referred to as the ‘Architectural Heritage Guidelines’, sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

5.2. Development Plan

- 5.2.1 The site is zoned ‘Z3 – Neighbourhood Centres’ in the Dublin City Development Plan 2016-2022, the objective for which is ‘*To provide for and improve neighbourhood facilities.*’ Section 14.8.3 states that these areas provide local facilities within a residential neighbourhood and that such centres may include an element of housing, particularly at higher densities and above ground level. Residential use is included as a ‘Permissible Use’ within this zoning objective.
- 5.2.2 Section 4.5.3.1 relates to urban density and promotes sustainable density, compact development, and the efficient use of urban land. Chapter 5 outlines the Council’s approach to the provision of quality housing and encourages a good mix of house types and sizes with a satisfactory level of residential amenity.
- 5.2.3 Chapter 11 of the Plan deals with Built Heritage and Culture and section 11.1.4 outlines a strategic approach to protecting and enhancing built heritage based on the existing and ongoing review of Protected Structures, ACA’s, Conservation Areas and Conservation Zoning Objective Areas. In summary, relevant policies include:
- CHC1** Seek the preservation of the built heritage of the city.
- CHC2** Ensure that protected structures and their curtilage is protected.

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

- 5.2.4 Chapter 16 sets out detailed policies and standards in respect of development proposals within the city. Section 16.2 “Design, Principles & Standards” provides design principles outlining that development should respect and enhance its context.
- 5.2.5 Section 16.2.2.2 discusses ‘Infill Development’ i.e. gap sites within existing areas of established urban form. It is particularly important that such development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.
- 5.2.6 Section 16.10.8 deals with ‘Backland Development’ and states that the Council will allow for comprehensive backland development where the opportunity exists. It acknowledges the potential negative impacts for surrounding properties and states that applications will be considered on their merits.
- 5.2.7 Section 16.7.2 includes height limits for development, including a 24m restriction for development in the Inner City and within 500m of rail hubs.

5.3. Natural Heritage Designations

The nearest designation to the site is the Royal Canal pNHA (c. 1.5km to the north). In terms of Natura 2000 sites, the South Dublin Bay and River Tolka Estuary SPA is located approximately 3.5km to the east, while South Dublin Bay SAC is located approximately 5km to the southeast. There are several other Natura 2000 sites in the wider Dublin Bay area to the east.

5.4. Environmental Impact Assessment - Preliminary Examination

- 5.4.1. With regard to EIA thresholds, Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
 - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

- 5.4.2. It is proposed to construct a residential development containing 20 dwelling units. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.1024ha and is not located within a 'business district'. The site area is therefore well below the applicable threshold of 10 hectares.
- 5.4.3. The site is largely surrounded by residential development and small-scale commercial uses. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. The site is not located within an Architectural Conservation Area. It adjoins a Zone of Archaeological Interest and adjoins 3 protected structures along Manor Street to the south. However, I am satisfied that the issues of archaeological and architectural heritage can be satisfactorily assessed through the normal planning process.
- 5.4.4. The proposed development is not likely to have a significant effect on any European Site (as outlined in Section 8.0 of this Report). There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).
- 5.4.5. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing/mixed-use development in the area. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and foul sewer services of Irish Water, upon which its effects would be minimal.
- 5.4.6. Having regard to the nature and scale of the proposed development and the location and nature of the subject site, together with the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

The decision of DCC to grant permission is the subject of three separate third-party appeals. The appellants are (1) Eimear Brown, 20 Shea's Court; (2) Niamh Murphy & Others of Kirwan Street Cottages; and (3) Shea's Court Management CLG. The grounds of each appeal raise many similar concerns and can be summarised on a themed basis as follows:

Height / Density

- Excessive scale, height, and out of character with the existing area
- Overdevelopment of the site and minimal private/communal open space
- Ministerial Guidelines can only be countenanced in the context of the overall vision and objectives set out in the Development Plan, which is materially contravened by the proposal.
- The site is not suitable for a standalone density due to its backland nature and limited size (less than 0.5ha)
- Excessive proximity to boundaries, protected structures, and other properties, with associated overbearing impacts.
- Compromises the development potential of adjoining lands.

Access, Traffic, and Parking

- Intensification of use would create a traffic hazard/congestion
- Lack of car parking provision on site and associated overspill impacts
- Inadequate car-sharing proposals
- Does not comply with Paragraph 4.20 of the Apartments Guidelines regarding the relaxation of standards subject to suitable location/connectivity
- Relaxed parking standards for Build To Rent / Student Accommodation do not apply
- On-site vehicle conflict and service/delivery vehicle constraints

- Inadequate evidence of right of way over Shea's Lane.

Visual and Heritage Impacts

- Fails to make a positive contribution to place making and a lack of variety fails to respond to the scale of surrounding development or to create visual interest
- Has not been informed by a detailed, accurate visual assessment
- Inconsistent with the existing streetscape
- The development would form an obtrusive or dominant form when viewed from Kirwan Street Cottages
- The existing Shea's Court development is respectful of its heritage setting, while the current proposal would materially conflict with Objectives CHC1, CHC2, and CHC4 of the Development Plan.

Residential Amenity

- Overlooking of properties and common/private spaces within Shea's Court and Kirwan Street Cottages
- Daylight and sunlight impact on properties and common/private spaces within Shea's Court and Kirwan Street Cottages
- Inaccurate assumptions that rooms to the rear of 36-38 Kirwan Street Cottages are bedrooms and omission of skylights in the daylight/sunlight assessment
- Construction phase disturbance, including working hours, noise, vibration and structural damage
- Has not been properly evaluated for daylight/sunlight impacts in accordance with BRE guidelines or BS 8206-2: 2008.
- Noise disturbance from bins and parking areas
- Diminution of communal space for No. 27, 28, and 29 Manor Street
- The residents of Kirwan Street Cottages would be profoundly affected due to their older age-profile and limited space availability

- Non-compliance with the 'Z2' conservation area zoning objective for Kirwan Street Cottages.

Other issues

- The proposal fails to address the reasons for refusal of P.A. Reg. 1741/04
- No supporting community facilities have been provided
- Potential use of the development as Student Accommodation, inadequate information to support such a proposal, and the overconcentration of such facilities in the area
- Loss of biodiversity and nesting sites, including those for protected birds
- Exacerbation of vermin problems through nest disturbance
- Site Notice was located on Shea's Lane, which is not a public road, and was not in a conspicuous position. The notice did not adequately inform surrounding residents and the application should be deemed invalid. There is no evidence that DCC inspected the notice within the 5-week period.
- The application has not been properly assessed by DCC, including consideration of third-party submissions; conditions applied; categorisation of the site as 'infill' instead of 'backland'; and publication of the DCC Conservation Report on the website.

6.2. Applicant Response

The applicant's response to the grounds of appeal can be summarised as follows:

- The planning authority did not raise any concerns about the site notice. The laneway reads as being a public laneway and is accessed as such, as is evidenced by the extent of submission received on the application.
- The proposal complies with the NPF, the Z3 zoning for the site, and the Development Plan standards for plot ratio and site coverage.
- There is a considerable separation distance from Kirwan Cottages and the impacts on these properties have been considered by the planning authority.
- A comprehensive LVIA and Sunlight and Daylight Analysis has been prepared and reviewed by DCC.

- The building massing has been modelled to ensure that it is largely invisible from Manor Street. While views from Shea's Lane and Kirwan Cottages show more of a contrast between existing and proposed development, the development facilitates future expansion on the adjoining sites to incorporate a 'step down' to neighbouring buildings.
- The site is a prime example of appropriate development on a serviced, under-utilised city centre site.
- The parking strategy is supported by the location of the site, proximity to frequent bus routes and car clubs, other recently permitted schemes, and the propensity of residents to walk/cycle in accordance with Development Plan policies.
- Detailed consideration has been given to daily transport operations, including service/delivery vehicles and bicycle parking/repair.
- References to previous planning decisions are of little merit given the changed policy context.
- The proposal is for residential units/apartments, not student accommodation.
- Construction works will be carried out in accordance with best practice and the conditions of any permission.

6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

6.4. Other Responses

A response to the other appeals has been made on behalf of Eimear Brown (appellant). The submission supports the points made by the other appellants, in particular those raised about the likely impacts on the Kirwan Street properties, as well as other concerns raised about construction operating hours and potential property damage. It requests that the Board refuses permission consistent with the previous DCC reasons for refusal under P.A. Reg. Ref. 1741/04.

6.5. Observations

An observation by William Garnermann, 29 Manor Street, contends that the application contravenes Development Plan guidelines for mews developments as follows:

- Would be out of character with the traditional pattern of two-storey mews houses to the rear of this and adjoining gardens
- Does not comply with guidance for three-storey mews buildings
- The proposed flat roof is inappropriate, and the development does not have a laneway location
- Does not complement the character of the main building
- No provision for car parking
- The objective of 10m² private open space per bedspace is not met
- Open space does not meet the requirements of multi-occupancy of the main house and the proposed development
- The development is less than 22m from the rear of the existing buildings on Manor Street
- The garden of no. 29 will be overlooked and overshadowed.

7.0 Assessment

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

- The nature and principle of the development
- Height, Density and Visual Impacts
- Standard of residential development proposed
- Impacts on adjoining properties

- Daylight/Sunlight
- Traffic and parking

7.2 The nature and principle of the development

- 7.2.1. The appeals raise questions regarding the nature of the site itself, more particularly whether it is an 'infill' or 'backland' site. I acknowledge that the site alone comprises parts of the rear gardens of an established terrace along Manor Street and, as such, exhibits characteristics of 'backland' development as defined in section 16.10.9 of the Development Plan. However, the site must be seen in the wider context, which includes an established urban form to the east, west and north of the site, and would be consistent with 'infill development' as described in section 16.2.2.2 of the Development Plan. Accordingly, I am satisfied that the provisions relating to infill development should apply to the site as contained in the Development Plan and the national policy/guidelines outlined in section 5.1 of this report.
- 7.2.2. The appeal raises concerns about the potential use of the development as student accommodation. However, despite any previous intentions that the applicant may have had or any references to student accommodation within the application (e.g. the LVIA refers to 'student housing'), the applicant has clarified that the development is not intended as student accommodation. I am satisfied that the development has been designed to meet the requirements of standard residential apartments and that the terms of any permission would suitably exclude use as purpose-built student accommodation.
- 7.2.3. An observation on the appeal contends that the proposed development does not comply with the Development Plan policies for mews developments. However, I do not consider that the appeal relates a 'mews dwelling' proposal and, accordingly, the provisions of section 16.10.16 do not apply.
- 7.2.4. The proposal involves the construction of a residential apartment development on lands zoned 'Z3 – Neighbourhood Centres' in the current Development Plan. The objective for this zone is '*To provide for and improve neighbourhood facilities*', and section 14.8.3 of the Plan outlines that these areas may include an element of higher density housing. Consistent with national policy and guidance, the Development Plan also seeks to encourage the development of underutilised lands in appropriate

locations. The site comprises parts of two large, underutilised garden spaces and, as such, I consider that the development of the site would be appropriate at this attractive inner-city location.

7.2.5. In terms of zoning and the larger 'Z3' zone as a whole, it should be noted that it is mainly concentrated along the northeast side of Manor Street and its junction with Aughrim Street. This existing streetscape contains a mix of residential and commercial uses at an appropriate neighbourhood scale, and it is important that this character is retained and strengthened in accordance with the Z3 zoning objective. In that context, I do not consider it appropriate to encourage commercial or community facilities on the appeal site as it does not have an appropriate streetscape presence and such uses would not positively contribute to the vitality and viability of the existing centre. Therefore, I consider that the provision of solely residential development is acceptable in this case and is consistent with the Z3 zoning objective for the area as a whole.

7.2.6. I acknowledge that the Kirwan Street Cottages to the east are zoned as 'Z2', with the objective *'To protect and/or improve the amenities of residential conservation areas'*. The impact of the development on the amenities of these properties will be considered in sections 7.3 and 7.5 of this report.

7.2.7. Having regard to the foregoing, I consider that the proposed residential development complies with the 'Z3' zoning and would maintain a suitable mix of uses in this neighbourhood centre. Accordingly, I have no objection to the development in principle, subject to further assessment as outlined in the following sections.

7.3. Height, Density and Visual Impacts

7.3.1. A block of 20 apartments is proposed on a stated site area of 0.1024 hectares. While this equates to a high density of c. 195 units per hectare, it must be noted that this density is proposed at a limited scale. The proposed gross floor area of 1530m² equates to a plot ratio of c. 1.5:1, which is consistent with the lower end of the indicative Development Plan range for 'Z3' sites of 1.5 – 2.0. The proposed site coverage (39%) is also significantly lower than the indicative standard set out for 'Z3' areas (i.e. 60%). The proposed maximum height is c. 13.65m, which is significantly lower than the 24m restriction for 'low-rise' residential development in the Inner City as per section 16.7.2 of the Development Plan.

7.3.2. The Development Plan (section 16.4) states that sustainable residential densities will be promoted in accordance with the guidance of the 'Sustainable Residential Development Guidelines' and that all proposals for higher densities must demonstrate how the proposal contributes to place-making. Section 5.6 of the Guidelines states that, in order to maximise inner city population growth, there should be no upper limit on the number of dwellings that may be provided within any city centre site, subject to design standards and safeguards. Section 5.8 also recommends that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station (minimum 50 per hectare, with highest densities at rail/bus stops). This inner-city site is located within 3 minutes' walk of 3 bus stops within the Manor Steet/Aughrim Street area and is within 1km walking distance of the LUAS stops at Smithfield, Museum (both Red Line), and Grangegorman (Green Line). There are also a wide range of commercial and community facilities in the area, including primary, secondary and 3rd level education facilities. Accordingly, I consider that the appeal site is suitable for higher densities in accordance with the provisions of the Sustainable Residential Development Guidelines.

7.3.3. The '*Urban Development and Building Heights Guidelines*' also supports increased building height and density in locations with good transport accessibility, particularly city cores, and prohibits blanket numerical limitations on building height. The appeal by Niamh Murphy & others contends that SPPR1 of the Guidelines does not apply on the basis that it is a 'backland' site rather than 'infill'. I have previously outlined my satisfaction that the site would be consistent with infill development and I would highlight that SPPR1 applies to the identification of suitable areas for increased height through the statutory plan process, rather than individual applications/appeals.

7.3.4 Section 3 of the Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights. In this case, I note that the surrounding area contains a mixture of building heights, with single storey cottages to the east, 3-storey buildings to the north and south, and 2-storey dwellings to the west. Therefore, I consider that the proposed 3/4-storey building would not be a significant departure from the

prevailing heights. Furthermore, the proposed height is well below the Development Plan 24m height restriction and I am not, therefore, relying on the provisions of SPPR 3 of the Building Height Guidelines regarding the contravention of Development Plan objectives. Nonetheless, I will consider the relevant provisions of Section 3 of the Guidelines in order to ensure a comprehensive assessment.

7.3.5. Section 3.1 relates to broad principles and compliance with the objectives of the NPF and local statutory plans. I have previously outlined my opinion that the subject site is suitable for higher densities and compact urban development in accordance with the relevant national and local policies and I have no objection in this regard.

7.3.6. Section 3.2 outlines development management criteria for various scales. At the scale of the city/town, I again confirm that I am satisfied that the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport. However, the appeal site is small in scale and does not offer the opportunity to significantly contribute to place-making through the incorporation of new streets/spaces or otherwise.

7.3.7. The Guidelines also highlight the importance of successful integration with the character and public realm of the area, particularly in architecturally sensitive areas. In this context, I am conscious of the location of the appeal site relevant to No.'s 27-29 Manor Street (Protected Structures) and Kirwan Street Cottages (Z2 conservation area). The application includes an AHIA which acknowledges the value of the front terrace of 26-29 Manor Street but concludes that the rear of all 4 houses have been subjected to some insensitive modern alterations, plot amalgamation (No.'s 27-28), and that the curtilage no longer retains any original boundary walls or features of note. It concludes that the proposal will not impact on Manor Street due to its height and relative setback, and that it would sit comfortably in the less coherent context to the rear by reading distinctly from the historic context. Furthermore, the AHIA contends that there would be no visual impact on the Kirwan Street Cottages due to the separation distance involved. The AHIA contends that there is a limited extent and value to the outlook from the protected structures along Manor Street and that the proposed development reflects and respects the original plot geometries through alignment, layout and separation from the Manor Street terrace.

- 7.3.8. The application also includes a LVIA and associated photomontages taken from 8 locations in the surrounding area. Views 1&2 are from within Kirwan Street Cottages and the LVIA concludes that the long-term impact would be 'slight neutral'. While I would accept that the impact from View 1 is somewhat softened by the higher ridges of Shea's Court to the rear of the cottages, I would disagree with this assessment regarding View 2, from where the proposed development would significantly exceed the height of the existing cottages. That being said, I would also acknowledge that the development would be setback at a significant distance, and I would concur that the low-profile nature of the existing cottages would be an inappropriate level from which to adjudicate development in the area. Having inspected the site and surrounds, I am satisfied that View 2 generally represents a worst-case impact from within the public realm of the cottages. And while it would be a significant visual impact, I consider that it would be acceptable given its localised scope, and that the character of the wider Z2 would not be seriously affected by the proposed development.
- 7.3.9. Views 3, 4 and 5 are from Manor Street and its junction with Aughrim Street. I would concur with the conclusion that the existing Manor Street terrace would screen the development from views 3 & 5 and that impacts would be imperceptible. I accept that the development would be visible from View 4 along Shea's Lane, but I consider that the impact would be localised, and that the height and scale of the development would not significantly detract from the character or heritage value of the area.
- 7.3.10. View 6 is from Shea's Lane in close proximity to the development, with the rear of the Manor Street terrace in the background. The assessment may have benefited from other views showing the direct relationship between the proposal and the rear of the terrace, but I acknowledge that the site is constrained and that a direct visual relationship is not readily available, particularly not from the public realm. However, having inspected the site and considered the AHIA details showing the limited value of the rear of the terrace, I am satisfied that the proposed development will be appropriately scaled and distanced from the Manor Street terrace.
- 7.3.11. Views 7 & 8 are from more distant locations to the north and west of the appeal site and I am satisfied that impacts would be negligible from these locations.

7.3.12. Regarding the criteria for assessing proposals at the scale of the relevant neighbourhood or street, the guidelines generally state that developments should:

- Respond to the overall natural and built environment;
- Avoid monolithic appearance in terms of form and materials;
- Improve legibility and integrate in a cohesive manner;
- Contribute to the mix of uses and/or building/dwelling typologies.

7.3.13. Given the inner-city site location, the surrounding area retains little value in terms of the natural environment. As previously outlined, the built environment has developed from the original Manor Street terrace to include the cottages to the east and the more modern residential developments to the north and west. The resulting pattern of development effectively surrounds the rear gardens of the Manor Street properties. In that context the current scheme proposes to bring improved focus and order to an underutilised and incoherent area while respecting the geometry and tradition of the Manor Street plots and rear coach lane. The application suggests that this pattern of development could extend further onto the rear gardens of No.'s 26 and 29 and I consider that this would, in principle, be a suitable response to the built environment and a positive contribution to the urban neighbourhood.

7.3.14. The proposed building design adopts a stepped approach to levels with a variety of heights. A varied approach also applies to the building perimeter, with varying planes providing a depth to the building which, combined with the varying heights, helps to break down the scale and massing of the building. The north and south elevations are highly articulated, combining a wide variation in fenestration and materials, including zinc/metal cladding, brick, glazing, and perforated metal. I acknowledge that the east and west elevations are less detailed and contain some expanses of blank walls. However, this is to be expected given the need to protect the development potential of the adjoining sites and it is reasonable to expect that the visibility of these east/west elevations would be temporary pending future adjoining development. I also note that the east/west elevations do not face onto particularly prominent spaces, and that the planning authority attached a condition regarding the agreement of proposals for the treatment of these walls. Having regard to the above, and subject to the agreement of such details by condition, I am satisfied that the proposal would not be monolithic in appearance.

- 7.3.15. The site does not adjoin any public spaces or key thoroughfares. However, given the current underutilisation of the site and the proposal to respect the traditional site layout and plot configurations, I consider that the proposal would make a positive contribution to the legibility of the site and adjoining lands, and would integrate with the existing/emerging pattern of development.
- 7.3.16. As previously outlined in section 7.2 of this report, I am satisfied that the proposed residential use would contribute towards an appropriate mix of uses within this neighbourhood centre. The neighbourhood contains a diverse mix of dwelling typologies that include older multi-occupancy units within the terraced buildings along Manor Street and small cottages within the Kirwan Street area. More modern development to the north and west of the site (i.e. Shea's Court) comprises a mix of apartments, duplex units and townhouses, mainly arranged around a central courtyard and parking. The proposed development would provide a contemporary apartment block designed to current standards with a mix of mainly 1 & 2-bed units, with an emphasis on sustainable transportation. I consider that the proposal would bring a new type of accommodation offer to this neighbourhood centre and would positively contribute to the mix of dwelling typologies available.
- 7.3.17. At the scale of the site/building, the Guidelines address daylight provisions. This issue will be addressed in section 7.6 of this report. The Guidelines also outline that specific assessments may be required in relation to micro-climatic effects; bird and/or bat flight lines and / or collision; impacts on telecommunications channels; air navigation; urban design; and environmental assessments. The requirements of these assessments have been incorporated into this report where relevant.
- 7.3.18. In conclusion, I consider that the proposed development complies with Development Plan standards in relation to height/density and would be located on an inner-city site with good transport accessibility, which would be suitable for increased density/height in accordance with the Sustainable Residential Development Guidelines and the Urban Development and Building Heights Guidelines.
- 7.3.19. Notwithstanding this, I acknowledge the importance of integration with the character of the area, particularly in relation to the setting of the Manor Street protected structures and the Kirwan Street conservation area. While Kirwan Street is not designated as an Architectural Conservation Area (ACA), I note that the Architectural

Heritage Protection Guidelines acknowledge that the setting of an ACA or Protected Structure can be adversely affected by development proposals, even if outside the curtilage and attendant grounds of Protected Structure, and that the impact of proposals will depend on location; the character and quality of the protected structure / ACA; its designed landscape and its setting. Having considered the scale, height and massing of the proposed development, together with its distance and interface with protected structures and the Kirwan Street cottages, I consider that the proposal will satisfactorily integrate with these heritage buildings, as well as the more modern development to the north and west of the site. I consider that the proposed contemporary design approach is the appropriate response to the site context, and that the proposal would provide an appropriate juxtaposition of character to suitably distinguish between the historic and contemporary, avoiding any suggestion of pastiche. The building is of a high architectural quality and will make a positive contribution towards the ongoing evolution of the character of the area. Accordingly, I have no objections in relation to the height and density of the proposal and its impacts on the visual character and architectural heritage of the area.

7.4 Standard of residential development proposed

Mix of Units

- 7.4.1 It is proposed to provide 10 no. 2-bed units, 9 no. 1-bed units and 1 no. studio units. SPPR 1 of the Apartments Guidelines sets out a requirement for a mix of apartment sizes / types, including a maximum 50% for 1-bed/studio units. The proposal for 10 no. 1-bed/studio units would not exceed 50% of the overall units. Only 2 of the proposed units are 3-person 2-bed units, which does not exceed the 10% maximum as per section 3.7 of the Guidelines. Accordingly, I have no objection to the dwelling mix proposed.

Floor areas and dimensions

- 7.4.2 I have reviewed the gross floor areas for each individual unit, and I am satisfied that they meet the minimum areas as per the Apartments Guidelines. Section 3.8 (a) of the Guidelines sets out that the majority of apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1-, 2- or 3-bedroom unit types, by a minimum of 10%. However, section 3.15 also outlines that urban infill schemes on sites of up to

0.25ha, where between 10 to 49 residential units are proposed, this requirement shall generally apply, but in order to allow for flexibility, may be assessed on a case-by-case basis and if considered appropriate, reduced in part or a whole, subject to overall design quality. Notwithstanding this, and using the example as set out in section 3.13 of the Guidelines, the cumulative minimum floor area requirements as per section 3.8(a) of the Apartments Guidelines are exceeded as follows:

Unit Mix:	No. of Apartments	Cumulative Min. Floor Area (m²)
5% studio	1	1 x 37 = 37
45% 1-bed	9	9 x 45 = 405
10% 2-bed (3P)	2	2 x 63 = 126
40% 2-bed (4P)	8	8 x 73 = 584
100%	20	Total = 1,152
1-bed + 10%	9	9 x 4.5 = 40.5
2-bed (3P) + 10%	2	2 x 6.3 = 12.6
Total + 10% of Majority (11 apts)		40.5 + 12.6 = 53.1
Total Required Minimum Floor Area = 1,152 + 53.1 = 1205.1m²		
Total Floor Area Proposed = 1214m²		

7.4.3 I have also examined the internal room areas and widths and consider that they comply with the minimum requirements for living/kitchen/dining spaces, bedrooms, and storage as set out in Appendix 1 of the Guidelines. I acknowledge that there are minor instances where the area/width of living/dining/kitchen rooms do not comply, but I am satisfied that the deficiencies are within the scope of the allowable 5% variation. The proposed ceiling heights are 3m at ground floor level and 2.7m above ground floor, which satisfactorily complies with the provisions of the Apartments Guidelines.

Aspect

7.4.4 The Apartments Guidelines (SPPR 4) require that a minimum of 33% dual aspect units be provided in central and accessible urban locations. I consider that at least 80% of the proposed units can be considered dual aspect and that there is only 1 north-facing single aspect unit (i.e apt 22 on the 2nd floor). Accordingly, I consider that the dual-aspect ratio significantly exceeds requirements and I have no objections in this regard.

Amenity Space

7.4.5 Each of the proposed units has direct access off living areas to a private amenity space that exceeds the minimum requirements of the Apartments Guidelines, with proposals significantly exceeding requirements in many cases. In terms of communal amenity space, based on Appendix 1 of the Apartments Guidelines, the proposed development requires a minimum communal open space area of 117 sq.m., albeit that section 4.12 of the Guidelines also allows for relaxation of this requirement in the case of small urban infill sites less than 0.25ha. The proposed site layout drawing indicates a shared amenity space of 182 sq.m. This would appear to include narrow marginal portions along the eastern and western site boundary. However, even excluding these spaces I estimate the area of space to the south (rear) of the site to be c. 140m² and significantly in excess of the required 117m². In the event of a grant of permission, I consider that an additional private amenity space should be provided to the front (north) of apartment no. 02 and that proposals for screening at the interface of the private/communal spaces at ground floor level should be agreed by condition.

Communal Facilities

7.4.6 A bin store is proposed at ground floor level in the northwest corner of the site. The store has adequate capacity to cater for the 3-bin system and is easily accessible for the occupants of the units and waste collectors. Subject to adequate ventilation proposals, I have no objections in this regard. Bicycle/cargo-bike storage and repair facilities are included for the convenience of residents. The communal access and stair/lift cores are also appropriately designed and laid out and are acceptable in accordance with the provisions of the Apartments Guidelines.

Conclusion on residential standards

7.4.7 Having regard to the above, I am satisfied that the proposed development provides a suitable mix of units with appropriately designed and sized internal and external spaces. The development generally benefits from an attractive dual aspect and the design and extent of communal facilities is acceptable given the limited scale of the proposed development. Accordingly, I am satisfied that it would provide a suitable standard of residential amenity for the prospective occupants. The issue of daylight/sunlight within the proposed development is addressed further in section 7.6 of this report.

7.5 Impacts on adjoining properties

Overlooking and privacy

7.5.1 To the north of the site, I note that the adjoining Shea's Court development (No.'s 25-30) includes south-facing windows and balcony areas at 1st and 2nd floor level. There is a high boundary wall separating the sites and I am satisfied that this negates any privacy impacts between opposing ground floor levels. The minimum separation distance would occur at the northwest corner of the site, where apartments 11 and 21 would be a minimum of 10 metres from the rear building line of Shea's Court. This 10m distance refers to building line separation (i.e. including balconies), and it should be noted that this would increase to 11-12m when considering opposing windows only. Furthermore, the proposed north-facing windows include perforated metal screening which would suitably assist in mitigating any overlooking impacts.

7.5.2 In addition to windows and balconies, I note that Shea's Court includes private garden/open spaces to the north of the appeal site. However, these spaces are already overlooked by the upper floors of no.'s 25-30 and no.'s 23-24 to the east. I do not consider that the proposed development would significantly exacerbate the existing situation for these spaces.

7.5.3 To the south, the main rear facades of the Manor Street terrace are significantly distanced in excess of 25m from the proposed development. There are long returns to the rear of the terrace, but I note that no.'s 26 & 29 do not include north-facing windows. The ground floor northeast-facing windows in the returns of no.'s 27-28

would be adequately protected through boundary treatment, which leaves only 2 above-ground windows facing north-east. These 2 windows are quite limited in size and would be located at least 11m from the proposed development. Furthermore, they would be at a significant angle in relation to the proposed development, which again includes sliding perforated metal screening to suitably mitigate any overlooking impacts.

- 7.5.4 To the west, the proposed development would be in excess of 23m from the front façade of 1-2 Shea's Court, and to the east any proposed windows would be c. 14m from the rear boundaries of no.'s 35-40 Kirwan Street Cottages, the rear gardens of which are already largely developed and have limited potential for direct overlooking. Having regard to the separation distances involved and the limited extent of potential intervisibility between windows and/or private garden spaces, I consider that there will be no significant overlooking/privacy issues for these properties.
- 7.5.5 I acknowledge that the impacts on the adjoining Manor Street rear gardens to the east (No.26) and west (No.'s 29 & 30) must also be considered, including impacts on their development potential. I would highlight that these spaces are generally comprised of long, narrow plots, which are either overgrown or used for haphazard storage of vehicles and other items. Therefore, the spaces immediately adjoining the proposed development do not function as amenity facilities that would be sensitive to overlooking/privacy impacts and are not likely to do so in the future given the distance from the Manor Street properties.
- 7.5.6 Regarding future development potential, I acknowledge the proximity of the proposal to the east/west site boundaries, including (above ground floor) balconies that almost immediately adjoin the boundaries. Regarding the balconies at 2nd floor level, it is unclear whether the west-facing area adjoining apartment 26 and the east-facing area adjoining apartment 24 are proposed as accessible amenity spaces. The drawings indicate a residual amenity space of 10m² to the south of both units. I am satisfied that this is sufficient and that access to the east/west-facing spaces could be omitted by condition. At third-floor level, a west-facing balcony space is proposed to adjoin apartment 33. Again however, I am satisfied that this could be omitted as it is additional to a sizeable 15m² space serving the south side of this apartment. Accordingly, the proposal could be amended by condition to ensure that there are no east/west-facing balconies above ground floor level.

- 7.5.7 The proposal also includes windows (above ground floor) within c. 2.5m of the east/west site boundaries. These windows mainly serve bedroom/bathroom spaces, and most are centrally aligned on the east/west elevations. The applicant has demonstrated that development on the adjoining sites could be facilitated through the insertion of a core opposite these windows, thereby avoiding potential future overlooking impacts.
- 7.5.8 There are a limited number of east/west-facing windows serving kitchen/living areas (apts 24, 26, 32, and 33). However, in all cases these kitchen/living areas also benefit from south-facing windows. Therefore, the proposed development could be amended by condition to omit the east/west-facing kitchen/living room windows and ensure that only bathroom/bedroom windows would face east or west. These windows would be at least 2.5m from the boundary and additional screening could also be required by condition if the Board deems it appropriate.
- 7.5.9 In conclusion, I acknowledge that the provisions of the Development Plan seek to protect the amenities of existing properties and minimise overlooking. However, having regard to this inner-city location and the need to achieve higher densities in accessible locations in accordance with the principles of the NPF, there is a need to achieve an appropriate balance with the reasonable protection of residential amenity. I consider that the design and layout of the proposed development achieves a suitable separation and interface relating to all existing surrounding properties. And while the Board may consider that the proposal includes east/west-facing balconies and windows that may impact on the future development potential of the adjoining sites, I consider that these can be suitably amended/omitted by condition and that the proposal has suitably demonstrated the potential to facilitate future adjoining developments. On this basis I consider that any overlooking/privacy impacts would not be exceptional for inner-city development and, on balance, are acceptable in this case.

Construction Impacts

- 7.5.10 The appeal has raised concerns about construction-related disturbance impacts, including the suitability of working hours, noise, vibration and potential structural damage to existing properties. I consider that any such impacts will be only temporary and are inevitable and unavoidable aspects associated with urban

development. I am satisfied that the matters can be satisfactorily agreed by conditions requiring the submission of construction management proposals to address these issues. Furthermore, the question of structural damage to adjoining property would be a civil matter for resolution between the relevant parties and would be outside the scope of this appeal.

Amenity space for No.'s 27-28 Manor Street

- 7.5.11 I acknowledge that the appeal site would annex a significant portion of the existing curtilage to the rear of these properties. However, as previously outlined, the site area appears to have been overgrown and unkept for quite some time. It is used for the haphazard storage of various items and there is evidence of dumping in the northwest corner of the site. I do not consider that the appeal site currently provides an amenity of any significance for the residents of 27/28.
- 7.5.12 Furthermore, the appendix to the application 'cover letter' details that the properties currently comprise 12 residential units that would theoretically require a total of 128m² private/communal space in accordance with the Apartments Guidelines standards. The application retains a space of c. 130m² to the rear of 27/28. Accordingly, I am satisfied that the loss of the appeal site area would not significantly detract from the residential amenities of these properties.

7.6 Daylight/Sunlight

Policy

- 7.6.1 Although the proposal does not rely on SPPR 3 of the Urban Development and Building Height Guidelines (2018), I note that Section 3.2 of the Guidelines states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in

respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

7.6.2 The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to these BRE or BS standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.

7.6.3 The Sustainable Residential Development Guidelines acknowledge that orientation of the dwelling and its internal layout can affect levels of daylight and sunlight and will influence not only the amenity of the occupants but the energy demand for heat and light. It states that the efficiency gains derived from passive solar layouts can be enhanced by designing individual dwellings so that solar collection is maximised, i.e. when living rooms, dining rooms and main bedrooms have a southerly aspect. In relation to adjoining properties, it states that overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. It states that planning authorities should require that daylight and shadow projection diagrams be submitted in all such proposals and the recommendations of BRE or BS guidance '*should be followed in this regard*'.

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

7.6.5 At the outset I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that *‘Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design’*. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

Information & Assessment

7.6.6 The applicant’s further information response included a ‘Daylight & Sunlight Assessments’ report prepared by John Healy (MSc Environmental Design of Buildings) of ‘Digital Dimensions’. The report references the BRE guide ‘Site Layout Planning for Daylight and Sunlight’ and BS 8206 ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’ and highlights that the recommendations are not suitable for rigid application in all contexts, and particularly in the context of local and national policy for consolidation and densification in urban areas.

7.6.7 I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). I acknowledge the publication of the updated British Standard (BS EN 17037:2018 ‘Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK) but I consider that this updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party appeals/observations which have raised concerns in relation to daylight and sunlight.

Standards within the proposed development

7.6.8 Section 5 of the applicant’s report deals with sunlight to gardens/open spaces and is based on BRE guidance that 50% of such areas should receive in excess of 2 hours sunlight on the 21st March. A radiation map has been produced for the proposed

communal area to the rear (south) of the development, showing that 97.3% of the space would comply with this standard. Accordingly, I am satisfied that this south-facing communal space will benefit from a high level of sunlight availability.

- 7.6.9 With regard to daylight within internal rooms, I note that BRE Guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that designers/developers should strive to achieve, which are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 1.1 (Introduction) of the applicant's report states that all units will exceed the recommendations of BRE Guidelines for daylight, with apartment layouts optimised for daylight and sunlight. Section 2.7 (Methodology) also states that the rooms are assessed for Average Daylight Factor (ADF). Notwithstanding these statements, the remainder of the report does not contain any evidence or commentary on the ADF assessment results for the rooms.
- 7.6.10 However, having regard to the provisions of the Development Plan and the Section 28 guidance outlined in paragraphs 7.6.1 to 7.6.4 above, I do not consider that a daylight/sunlight assessment of the proposed units is a mandatory requirement in this case. The application does not rely on the 'material contravention' provisions in SPPR 3 of the Building Height Guidelines and, accordingly, there is no mandatory requirement to demonstrate compliance with the BRE or BS standards. I acknowledge that the Apartments Guidelines recommend consideration of the standards when undertaken by development proposers, but do not require that assessments must be undertaken. And while section 7.2 of the Sustainable Residential Development Guidelines recommends following the BRE or BS standards in relation to impacts on neighbouring properties, it does not require an assessment for the proposed development itself. Finally, the Development Plan states only that a sunlight/daylight analysis of the different units may be required, but not that it is mandatory.
- 7.6.11 In the absence of an ADF assessment, I have considered the specifics of the design and layout of the development and the factors that effectively influence daylight/sunlight levels, as set out in the Apartments Guidelines. As previously outlined, the scheme includes 16 (or 80%) dual-aspect units, which significantly exceeds the 33% standard as per SPPR 4. Furthermore, section 3.19 allows for a relaxation of the 33% requirement on small urban infill sites such as this, which highlights a particularly high standard of dual-aspect provision in this scheme. Where

single-aspect units are included, I note that apartment no.'s 04, 15, and 25 are south-facing studio/single-bed units. I accept that apartment 22 is a single-aspect north-facing unit. However, at this 2nd floor level it would benefit from views over and above the 2-storey level of no.'s 25-26 Shea's Court towards the open playing fields of the TUD campus, which would provide significant visual relief/amenity. Accordingly, I am satisfied that the single-aspect units would be of an appropriate standard having regard to the provisions of section 3.18 of the Apartments Guidelines.

- 7.6.12 Ceiling heights and glazing are also important factors in daylight/sunlight availability. In this regard, the ground floor ceiling heights (3m) and upper floor heights (2.7m) all exceed the recommended heights as per the Guidelines (2.7m and 2.4m respectively). Extensive glazing is proposed to serve the individual rooms and I am satisfied that this will make a significant contribution towards daylight/sunlight standards, notwithstanding any requirement to amend some glazing arrangements as discussed in section 7.5 of this report.
- 7.6.13 In considering the site context, I note that there is no obstructive high-rise development in close proximity to the development that would significantly reduce daylight/sunlight standards. Therefore, given that the foregoing factors have been well addressed by the design team, I am satisfied that the proposed development will provide units with an acceptable level of daylight/sunlight and that no further assessment is required in this regard.

Impacts on neighbouring properties

- 7.6.14 The impact of the proposed development on the daylight/sunlight available to surrounding properties is one of the grounds of appeal in this case. The BRE guide acknowledges that, in designing new development, it is important to safeguard the daylight to nearby buildings and I note that the Development Plan also outlines the need to avoid excessive impacts on existing properties.
- 7.6.15 The applicant's assessment contains a 'light from the sky' (VSC) and sunlight (APSH and WPSH) analysis for the windows of surrounding properties. It also includes a sunlight analysis of impacts of the open spaces/gardens of neighbouring properties.
- 7.6.16 In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE

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

- 7.6.17 The applicant's preliminary assessment of adjoining properties established the windows that required further assessment on the basis of the impact of the development within a 25° angle from each window. I am satisfied that this approach is consistent with the BRE Guidelines and has appropriately captured the relevant windows of neighbouring properties.
- 7.6.18 Of the 44 windows assessed under existing conditions, I note that 39 (or 88%) exceed the recommended 27% VSC standard. With the proposed development in place, the assessment predicts that 30 of the windows (or 68%) would retain a VSC greater than 27%. However, as per the BRE guidance, the ratio of change must also be considered to assess the impact on properties. In this regard, it is predicted that 13 (or 29%) of the windows will experience a reduction to less than 0.8 times their former value, which would be a noticeable reduction in skylight. Of those windows that experience such a reduction, it should be noted that the vast majority are marginally below the 0.8 standard, with only 3 windows (or 7%) being less than 0.7 times the former value. These are the 3 windows at ground floor level in No. 25 Shea's Court, which have an average value of 0.65 times their former value. It should also be noted that 2 of these windows (i.e. no.'s 8 & 9) still retain reasonably high VSC values ranging from 22-24%.
- 7.6.19 Consistent with the BRE guidance about the flexible application of standards, I note that section 2.2.3 of the guide confirms that the numerical values given regarding daylight impacts on existing buildings are purely advisory, and that different criteria may be used based on the requirements for daylighting in an area viewed against other site layout constraints. Having regard to this flexibility, I consider that the number of windows experiencing a reduction to significantly less than 0.8 times the former value (i.e. 3 windows or 7%, excluding marginal deficiencies above 0.7 times) is a relatively minor proportion. I acknowledge that further assessment on the 'working plan' areas of rooms can be carried out in such circumstances where the layouts of existing rooms are known. That information is not available for the existing

properties in this case, and I do not consider that further assessment is required given the minor nature of the identified shortfalls overall.

- 7.6.20 The applicant has also included a sunlight analysis for windows using measurements of annual probable sunlight hours (APSH) and annual probable sunlight hours for the winter period (WPSH). The BRE guide states that living room windows facing within 90° of due south may be adversely affected if the centre of the window receives less than 25% of APSH or less than 5% of WPSH; and receives less than 0.8 times its former sunlight hours during either period; and has a reduction in sunlight received over the whole year greater than 4% of APSH.
- 7.6.21 The applicant has identified 12 living room windows facing within 90° of due south and these have been assessed for APSH and WPSH. The assessment finds that all of these windows currently significantly exceed the 25% APSH standard and that this would be maintained after the proposed development. The lowest value would be c. 35%, but the majority of windows would exceed 50%. For the winter period (WPSH), all of the windows currently significantly exceed the 5% standard, and this would remain unchanged as a result of the proposed development, with 9 (or 75%) windows maintaining a value in excess of 10%. Given that all post-development impacts would maintain a 25% APSH and 5% WPSH standard, I am satisfied that the impacts would be acceptable in accordance with BRE recommendations.
- 7.6.22 The applicant has also carried out a shadow/sunlight assessment for the gardens of surrounding properties. The BRE guide recommends that for it to appear adequately sunlit throughout the year, at least half of the space should receive at least 2 hours of sunshine on 21st March. If as a result of new development this cannot be met, and the area which can comply is less than 0.8 times its former value, then loss of sunlight is likely to be noticeable.
- 7.6.23 The applicant has assessed the surrounding rear gardens/open spaces facing within 90° of due south, i.e. S1-S4 within Shea's Court to the north of the appeal site. The assessment demonstrates that spaces S1, S3, and S4 would exceed the requirement for half of the space to receive at least 2 hours of sunshine on 21st March. And while S2 would only achieve a standard of 44%, it should be noted that it would still retain 0.82 times its former value, meaning that the loss of sunlight is not likely to be noticeable as per BRE guidance.

3rd Party appeals / observations

- 7.6.24 I have considered the issues raised by 3rd parties in carrying out this daylight/sunlight assessment. The appeal by Niamh Murphy & others is concerned that rooms to the rear of 36-38 have been inaccurately assumed as 'bedrooms', while the rooms are actually multi-purpose including use as living rooms. However, it should be noted that Table 2 of the applicant's report actually assumes that these rooms are living rooms and, as such, they have been adequately assessed with reference to the need for higher daylight/sunlight standards. This appeal also contends that the existing skylights in the Kirwan Street properties have not been adequately assessed. However, I would highlight that these skylights exist on the roof plane at a very acute angle to the horizontal, facing, as one would expect, the sky. Therefore, I am satisfied that the proposed development would not provide any significant obstruction of daylight/sunlight for these windows.
- 7.6.25 The Shea's Court Management CLG appeal also raises some inaccuracies regarding the annotations within the report. I accept that figures 8-10 of the applicant's report contain inaccuracies between the image and the caption. However, I am satisfied that the captions simply contain typographical errors and that this does not compromise the veracity of the assessment in any significant way.

Conclusions on Daylight/Sunlight

- 7.6.26 I again highlight that the mandatory application of the BRE standards is not required in this case by the Development Plan or by Section 28 Ministerial guidelines. Consistent with that approach, the BRE guide itself highlights further the need for flexible interpretation in the context of many other design factors.
- 7.6.27 I acknowledge that no assessment has been submitted for daylight/sunlight standards within the internal rooms of the proposed development. However, having considered the design/layout of the proposal and the context of surrounding development, I consider that the proposal appropriately addresses the requirements through suitable provisions relating to aspect, openings, and ceiling heights. The scheme also includes a south-facing communal space with a high level of sunlight availability. Accordingly, I am satisfied that an acceptable standard of daylight/sunlight will be provided within the proposed development.

- 7.6.28 I am satisfied that the applicant has carried out an assessment of impacts on neighbouring properties and that it has been competently prepared in accordance with the BRE / BS guidance and methodology. While the impacts of the proposed development are generally in accordance with the recommended standards, I acknowledge that daylight levels to some windows will be reduced to levels less than 0.8 times their former values. However, I am satisfied that these mainly constitute marginal shortfalls and that the BRE guidance allows sufficient flexibility in the application of standards. In the worst-case daylight scenario (i.e. No. 25 Shea's Court) it should be noted that the property would still retain adequate levels of sunlight internally and externally, as would all other neighbouring properties.
- 7.6.29 The appeal site is located in a well-connected inner-city area and as previously outlined, increased height and density should be encouraged at such locations in order to achieve wider NPF planning objectives relating to compact development and brownfield redevelopment. Accordingly, I am satisfied that the proposed development is acceptable at this location and that it will not excessively detract from the amenities of surrounding properties by reason of daylight/sunlight impacts.

7.7 Traffic and parking

- 7.7.1 The applicant's response to the further information request included a Mobility Management Plan (MMP); a Servicing Operation Plan (SOP); and a Parking Report (PR). The MMP highlights the location of the site within 3 minutes' walk of 3 bus stops (4 major routes) within the Manor Steet/Aughrim Street area and within 1km walking distances of the LUAS stops at Smithfield, Museum (both Red Line), and Grangegorman (Green Line). Cycling facilities mainly comprise cycle lanes within bus lanes and there is continuous pedestrian access to the city centre.
- 7.7.2 The MMP includes a target profile for future travel patterns, consisting of bus (24%), LUAS (11%), Cycle (18%), and Walk (47%), as well as planned transport improvements to include:
- GDA Cycle Plan routes 4D (radial) and NO1 (orbital)
 - The Bus Connects 'B Spine' with service every 5 mins
- 7.7.3 A Residential Travel Plan (RTP) Manager will be appointed to implement the RTP, with objectives to manage car availability for residents (for non-work journeys);

encourage greater use of public transport for work journeys; and encourage more residents to walk and cycle to work. Section 8 of the MMP contains an Action Plan with measures for the implementation of the RTP to include:

- Minimising single occupancy private car usage through the promotion of car-sharing services. It is indicated that there are 16 car-sharing locations within c. 500m of the site.
- Promotion of public transport, cycling, and walking through improved information on services, availability, events, tax-savings, benefits etc.
- Provision of e-cargo cycle hire within the development.
- Ongoing monitoring and inspection of the RTP.
- Marketing and promotion of the RTP.

7.7.4 In terms of parking requirements, the Parking Report (PR) sets out the Development Plan standards for the proposed scheme as a maximum of 20 car spaces and a minimum of 20 bicycle spaces, and states that it is proposed to provide 2 car spaces and 30 bicycle spaces (excluding 10 visitor spaces). I note that Chapter 4 of the Apartments Guidelines addresses car-parking requirements and states that requirements should be minimised, substantially reduced or wholly eliminated in certain circumstances for higher density apartment developments in 'central and/or accessible urban locations'. Section 4.20 states that these locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.

7.7.5 I consider that the appeal site is within 15 minutes' walk of the city centre and within c. 1km and c. 10 minutes' walk of the LUAS stops at Smithfield, Museum and Grangegorman. It is within 10 minutes' walk of the no. 45 bus route on the North Circular Road and a further 18 routes at Ellis Quay, and the high-frequency 'B-Spine' route will be provided along Manor Street in the future as part of Bus Connects. Having regard to the above, I am satisfied that the site falls within the 'central and/or accessible urban locations' category and is suitable for reduced car-parking provision.

- 7.7.6 The PR outlines census data (2016) showing that only 14% of residents in the area use the private car for work journeys and contends that improvements to public transport and walking/cycling facilities would assist in maintaining a low proportion of car usage in the area. In considering the absence of car-parking facilities, I am conscious of NPO13 of the NPF and the Building Height Guidelines of 2018, which support a performance-driven approach towards land use and transportation. The Apartments Guidelines also outline a default policy that car-parking should be minimised, substantially reduced or wholly eliminated in highly accessible area close to city cores or public transport systems. Section 16.38 of the Development Plan takes a similar approach by applying a maximum allowance of 1 car-parking space per apartment, while allowing for reductions in inner-city areas where other modes of transport are sufficient for the needs of residents.
- 7.7.7 Having regard to the above policy provisions and the accessible inner-city location of the site in close proximity to existing and planned walking/cycling and public transport connections, I have no objection to the absence of car-parking within the proposed development. I consider that the proposal will encourage more sustainable modes of transport and will not result in additional traffic or parking congestion at this location. The applicant has provided suitable bicycle parking spaces in lieu of car-parking and has committed to the preparation and implementation of a Residential Travel Plan for the operational stage of the scheme. Accordingly, I have no objection in relation to the traffic and transport impacts associated with parking and access for the proposed residents.
- 7.7.8 The application includes vehicle tracking drawings for various vehicles, including an SUV, a 3.5 tonne van, a furniture van, and a refuse vehicle. I note that the DCC Transportation Planning Division required further clarification in relation to set down/turning areas, entrance arrangements, pedestrian connectivity, bicycle parking facilities and management, and that the 3rd party appeals also raised concerns about vehicular conflict and servicing constraints. However, I consider that the vehicular movements associated with the development will be minimal and that any outstanding issues could be appropriately addressed by agreement through a suitable condition.
- 7.7.9 I note that the appeal raises concerns regarding the applicant's legal right of way for access via Shea's Lane. In response to the DCC further information request, the

applicant submitted a solicitor's letter to confirm that there is a legal right of way over and along Shea's Lane between the public road (Manor Street) and the rear of no's 27 & 28 Manor Street. I am satisfied that the applicant has provided sufficient evidence of legal interest for the purposes of the planning application and decision. Furthermore, any such access dispute would be a matter to be resolved between the relevant parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000 (as amended).

- 7.7.10 Having regard to the foregoing, I consider that, subject to appropriate conditions, there would be no objection to the proposed development on grounds of access, traffic, parking or transportation issues.

7.8 Other Issues

Flooding and drainage

- 7.8.1. The application includes a Site Specific Flood Risk Assessment. The report reviews OPW historic flood information and outlines that the site has not been subject to flooding in recent history. It also confirms that flood risk for the site is low given its location outside the 0.1% AEP as per OPW coastal and fluvial flood extent mapping. Furthermore, previous borehole/trial pit records and the GSI groundwater vulnerability mapping indicates that the risk of flooding due to groundwater ingress is low.
- 7.8.2. The report has reviewed the DCC 'FloodResilienCity' project, which considers the appeal site to be at low risk of pluvial flooding as it is not located in a low-lying area. A new surface water system is proposed to collect rainwater from impervious areas and a 'green roof' is included to reduce impacts on existing surface water drainage systems. All storm water will be discharged to a Pluvial Cube Attenuation Tank and Soil Infiltration system. The system has been designed to take climate change into consideration and will accommodate the 1 in 100-year storm plus 20% extra for climate change.
- 7.8.3. Based on the risks identified, the report concludes that the appeal site can be categorised as 'Flood Zone C' (where flood probability is low) and that the proposed development would be 'appropriate' without the need for a 'Justification Test' and/or 'Detailed Flood Risk Assessment'. I note that the DCC Drainage Division has

reviewed this information and has no objections subject to conditions. I consider that this would satisfactorily address the flooding and drainage issues associated with the development.

Site Notice

7.8.4. The appeal raises concerns that the site notice was located on Shea's Lane, which is not a public road, and was not in a conspicuous position to adequately inform surrounding residents. I note that the DCC planner's report of 3rd November 2020 confirms that the site notice was inspected and was in situ and legible on 1st October 2020 (i.e. within the statutory 5-week from the making of the application on 9th September 2020). The planning authority did not raise any objections in this regard, and it can be taken that the timing and erection of the site notice was considered acceptable.

7.8.5. The details on file would suggest that it is accepted that Shea's Lane is not a public road. However, I would accept the comments in the applicant's appeal response, which effectively contend that access along the lane is not restricted in any tangible or perceptual manner. I am satisfied that the matter has not prevented the concerned parties from making representations and the above assessment represents my *de novo* consideration of all planning issues material to the proposed development.

Archaeology

7.8.6. I note that the appeal site adjoins the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Historic City) and the Zone of Archaeological Interest as per the Development Plan. Consistent with the DCC approach, I am satisfied that this can be satisfactorily addressed through a condition requiring suitable assessment / monitoring during the construction stage.

Biodiversity and vermin

7.8.7. The site is of a typical inner-city garden nature and is of negligible biodiversity value. There are no nature conservation designations pertaining to the site and I am satisfied that any impacts on birds/wildlife would be satisfactorily addressed by existing legislation covering the disturbance of nests etc.

- 7.8.8. Regarding vermin concerns, I consider that the orderly development of the site would result in improved maintenance and management of the area and would be likely to reduce the potential for vermin presence on the site and surrounding lands.

Public Open Space

- 7.8.9. I acknowledge that the application does not include any proposals for the provision of public open space, which is required at a rate of 10% of the site area as per the Development Plan. However, as per section 16.3.4 of the Development Plan, I am satisfied that this can be satisfactorily addressed by means of a financial contribution in lieu as per section 10 of the DCC Development Contribution Scheme 2020-2023.

8.0 Appropriate Assessment

- 8.1. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA (approximately 3.5km to the east), while South Dublin Bay SAC is located approximately 5km to the southeast. There are several other Natura 2000 sites in the wider Dublin Bay area to the east, including North Bull Island SPA and North Dublin Bay SAC. The site is not, therefore, located within or adjoining any Natura 2000 Sites, and there are no direct pathways between the site and the Natura 2000 network.
- 8.2. I am aware that there are potential indirect connections to the Natura 2000 sites within Dublin Bay via watercourses, groundwater discharge, and the wider drainage network. There is also an indirect connection via the wastewater network which outfalls to Dublin Bay via the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.
- 8.3. There are no surface watercourses in the immediate vicinity of the site that would provide a pathway to the Natura 2000 network. I note that surface water will be collected and discharged to a Pluvial Cube Attenuation Tank and Soil Infiltration system. However, GSI mapping indicates that groundwater vulnerability is low at this location and I am satisfied that the surface water proposals would not be likely to impact on the quality of groundwater. Furthermore, there is a significant separation distance between the appeal site and the nearest Natura 2000 sites, which would

provide significant dilution capacity in the unlikely event of any such impacts on groundwater quality.

- 8.4. The wastewater emissions from the development would result in an increased loading on the Ringsend WWTP. However, there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Therefore, having regard to the limited scale of the development and the associated discharges; the small scale of the site the 'unpolluted' EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; and the capacity of the Ringsend WWTP; I am satisfied that there is no possibility that the additional loading resulting from the development will result in significant effects on European sites within Dublin Bay.
- 8.5. I am satisfied that any proposals incorporated within the development, including surface water management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening. Having regard to the above preliminary examination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the inner-city location of the site in close proximity to a wide range of public transport options and community and social facilities, the provisions of the Dublin City Council Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2020, the Urban Development and Building Heights - Guidelines for Planning Authorities

issued by the Department of Housing, Local Government and Heritage in December, 2018, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of Environment, Heritage and Local Government in 2009, and the National Planning Framework, which seeks to direct new residential development in cities into built-up serviced areas, the pattern and character of development in the area and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development in this accessible urban location, would not seriously injure the amenities of surrounding properties or seriously detract from the character or built heritage of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 7th 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) A private amenity space shall be provided to north side of Apartment number 02 and privacy screening shall be provided between all such ground floor private amenity spaces and the adjoining communal spaces.
- (b) The east and west-facing Kitchen/Living room windows in Apartment numbers 24, 26, 32, and 33 shall be omitted. Additional glazing may be installed in the south-facing walls of these units.
- (c) Additional screening shall be provided for the east and west-facing bedroom windows above ground floor level.
- (d) East and west-facing balcony spaces associated with Apartment numbers 24, 26, and 33 shall be omitted and replaced with inaccessible landscaped spaces.
- (e) The blank expanses of brickwork on the east and west side elevations shall be provided with enhanced detailing.

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

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

3. Details of the materials, colours and textures of all the external finishes to the proposed development, including details of the functionality of the proposed perforated metal screens, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health

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

Reason: In the interest of public health

6. Proposals for a development name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements / marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, management measures for noise, dust and dirt, and construction traffic management proposals.

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

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. Operational waste management measures shall comply with the following:

- (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) The proposed bin store shall be adequately ventilated, drained and illuminated.
- (c) Appropriate waste management/storage facilities shall be retained for the existing properties in numbers 27 and 28 Manor Street.

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

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

11. Prior to the occupation of the development, a Mobility Management Plan / Residential Travel Plan shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The plan shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists.

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

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

13. 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.

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

Reason: In the interests of visual and residential amenities.

15. A plan containing details for the landscaping of all external communal spaces within the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenities

16. Prior to the commencement of the development, proposals for the design and management of the forecourt area at the northern end of the site shall be submitted to and agreed in writing with the planning authority. This shall include details of set down and turning areas; signage and lining; landscaping; management of parking and conflict between vehicular, pedestrian and cycle movements; site entrance details and connectivity with existing development; and bicycle parking and repair facilities/management.

Reason: In the interest of traffic safety and management

17. Prior to the commencement of the development, proposals for the east and west site boundary treatments shall be submitted to and agreed in writing with the planning authority. This shall include details of height, materials, and finishes, along with proposals for the protection and repair of historic fabric within the western site boundary with No. 29 Manor Street.

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

18. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site

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

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

Stephen Ward
Senior Planning Inspector
5th January 2022