



An
Bord
Pleanála

Inspector's Report ABP310779-21

Development	Permission for modifications to existing planning permission to provide 2 additional floors to provide a 4 storey development containing 8 apartments.
Location	92A Prussia Street, Stoneybatter, Dublin 7.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2603/21.
Applicant	Goldboard Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant	Goldboard Limited.
Observer	Donato Vani.
Date of Site Inspection	December 8 th 2021
Inspector	Paul Caprani.

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1.0 Introduction

ABP310779-21 relates to a first party appeal against the decision of Dublin City Council to refuse planning permission for modifications to an existing planning permission to provide two additional floors and a total of four additional apartments creating an overall development of a four storey building containing 8 apartments at No. 92A Prussia Street, Stoneybatter. Dublin City Council issued notification to refuse planning permission for two reasons one of which argue that the proposal will result in an overdevelopment of a restricted backland site and would result in the loss of privacy. The second reason for refusal argued that the proposal would impact on the visual amenities of the area.

2.0 Site Location and Description

- 2.1. No. 92A Prussia Street comprises of a backland infill site located on the southern side of Prussia Street near its intersection with Aughrim Street and Manor Street c.2 kilometres north-west of O'Connell Bridge. The site is an irregularly shaped area of land to the rear of Nos. 88 to 92 Prussia Street. The site is located to the rear of a row of two-storey late 19th century/early 20th century red bricked dwellings which front directly onto Prussia Street.
- 2.2. A large four-storey apartment development together with two and three storey buildings back onto the southern boundary of the site facing onto Aughrim Street. The perimeter block surrounding the subject site is characterised by two and three storey late 19th century red brick building primarily containing commercial uses at ground floor level with more recent infill development three to four storeys in height.
- 2.3. Access to the site is provided via an existing archway located between 92 and 93 Prussia Street. Lands to the immediate west of the site have recently received the benefit of planning permission for the construction of four storey student accommodation.
- 2.4. The site itself has an area of 279 square metres and is currently undeveloped.

- 2.5. Under Reg. Ref. 2087/18 Dublin City Council issued notification to grant planning permission for a two-storey development comprising of 1 no. one-bedroomed apartment and 1 no. two-bedroomed apartment at ground floor level and 1 no. one-bedroomed apartment and 1 no. two-bedroomed apartment at first floor level with associated balconies. Dublin City Council granted planning permission for the proposed development on 23rd May, 2018.

3.0 Proposed Development

- 3.1. Under the current application it is proposed to reconfigure the internal layout of the apartments granted permission at ground and first floor level granted under Reg. Ref. 2087/18 with the two-bedroomed apartment slightly reduced in size and the one-bedroomed apartment slightly increased in size.
- 3.2. Under the current application the one-bedroomed apartment (Type A) at ground floor level amounts to 53.8 square metres and is to be located on the eastern portion of the site. The two-bedroomed apartment is 75.4 square metres and occupies the western portion of the site. A slightly altered internal configuration of the one-bedroomed apartments and two-bedroomed apartments are proposed at first, second and third floor level. At each level the balcony area is proposed at the south-eastern corner of the one-bedroomed apartment which provides natural daylight to the kitchen, living and dining area and the bedroomed. A similar arrangement is provided for the two-bedroomed apartment whereby the balcony is located at the south-western corner providing natural illumination to bedroomed no. 1 and the kitchen and dining room. The smaller bedroom no. 2 faces eastwards onto the ground floor circulation area.
- 3.3. A row of Sheffield stands is provided along the pedestrian entrance onto Prussia Street and separate bin storage is also provided at ground floor level. Small areas of incidental planting are also located at ground floor level. The building incorporates a flat roof with pressed metal flashing. It rises to a height of 11.68 metres. It incorporates an extensive brick finish.
- 3.4. Louvre screens are provided on the southern elevation of the private open space serving the one-bedroomed apartments on the south-eastern elevation.

4.0 Planning Authority's Decision

4.1. Decision

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

- 1. Having regard to the reduction in separation distances between the proposed development and the site boundary, the minimum separation distance between the proposed balcony and the boundary and the lack of additional communal open space for the proposed new apartments, the proposed amendments would result in an overdevelopment of this restricted backland site, which would result in serious injury to the residential amenities of adjoining occupiers by reason of loss of privacy, loss of light and overbearing visual impact, thus being contrary to the provisions of the current Dublin City Development Plan, including the zoning objective which is Z1 – “to protect, provide and improve residential amenities” and the proper planning and sustainable development of the area.*
- 2. The proposed increase in height of the permitted development two to four storeys would result in a proposed development being visually incongruous when viewed in the context of existing two-storey streetscape on Prussia Street. The proposal would therefore be seriously injurious to the visual amenities of the area, thus being contrary to the proper planning and sustainable development of the area.*

4.2. Documentation Submitted with Planning Application

4.2.1. A covering letter submitted by NDBA states that the applicants have recently purchased this development site with the benefit of planning permission for four apartments over two storeys. On analysis it became apparent that the development could not be completed in compliance with current Building Regulations without the inclusion of a passenger lift and an ambulant disabled compliant stairs and this has necessitated general revisions to the overall layout. The client proposes to complete the entire development as social housing to be operated by the Clanmil Housing

Association and the applicant seeks permission for an additional four apartments on two additional storeys.

4.2.2. The application was accompanied by a support letter confirming the need for social housing in the area.

4.2.3. A separate shadow analysis undertaken by Digital Dimensions together with the planning application form, fees, notices and drawings etc were submitted with the application.

4.3. Assessment by the Planning Authority

4.3.1. A letter from Transport Infrastructure Ireland request that in the event that planning permission is granted, a contribution be levied for the Luas Crosscity Line as a condition in any grant of permission.

4.3.2. A report from the Engineering Department Drainage Division stated that there was no objection subject to conditions.

4.3.3. Observations were submitted both for and against the proposed development, the contents of which have been read and noted.

4.3.4. A report from the Roads, Streets and Traffic Department stated that there is no objection to the proposed development subject to conditions.

4.3.5. The planner's report sets out the detailed requirements for apartments as set out in the Apartment Guidelines and the policies and provisions contained in the development plan. It notes that the principle of residential development on this backland site with access from Prussia Street via the archway has previously been accepted. It is noted that no public open space was provided as part of the previous development. However, a levy condition was attached in lieu of this. It also notes that the requirement of a lift and wider staircase will reduce the overall size of the two-bedroomed apartment by c.13 square metres. It was noted that the bedroomed in the proposed one-bedroomed apartment was previously setback c.1.8 to 2.8 metres from the eastern boundary but would not extend to the boundary. It is considered that the mixture of 4 one-bedroomed and 4 two-bedroomed apartments is appropriate.

4.3.6. Concern is expressed that the location and orientation of the proposed balconies would not be sufficient to prevent overlooking and would also have an overbearing impact when viewed from No. 47 (dwellings fronting onto the area of public open space to the east of the subject site). There are also concerns with regard to the lack of separation distance of the opaque glass block area serving the kitchen and facing westwards towards the rear of the apartments on Aughrim Street. In addition, concerns are expressed that the south elevation would consist mainly of a four-storey blank façade and this would have an adverse visual impact on the amenities of the area. The incorporation of screens would compromise natural light to both the balconies and the habitable rooms beside them. On the basis of the above it is considered that the proposal constitutes overdevelopment and would negatively impact on adjoining amenity. On this basis it is recommended that planning permission be refused for the proposed development based on the reasons set out at the beginning of this section.

5.0 Planning History

- 5.1. As referred to above planning permission was granted under Reg. Ref. 2087/18 for a two-storey block containing four apartments on the subject site.
- 5.2. On the adjacent site to the north Under Reg. Ref. 4035/16 planning permission was granted for a four-storey commercial building accommodating student accommodation with 203 bedspaces in 32 units. This was reduced to 193 student accommodation units under Reg. Ref. 2683/19.
- 5.3. Under 3403/16 planning permission was granted for a living room/bathroom extension at first floor level to the rear of No. 47 Manor Street. Condition No. 2 states that the three external walls of the patio element of the development shall be all 1.8 metres in height and shall consist of a sand/cement render finish to match the existing building with the lower wall element incorporating a glass block screen with obscure finish on top.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council to issue notification to refuse planning permission was the subject of a first party appeal submitted on behalf of the applicant by Tom Phillips and Associates. The grounds of appeal are outlined below.
- 6.2. By way of a preliminary matter, it is respectfully suggested that the issues raised by the Planning Authority in its reasons for refusal could have been adequately addressed by way of an additional information request.
- 6.3. Also submitted is an alternative scheme for the Board's consideration. The proposal involves reducing the eastern portion of the building which accommodates the one-bedroomed apartments from four storey to two-storey reducing the overall height of the building from c.11.6 metres to just over 6 metres in height. The number of one-bedroomed units will therefore be reduced from four units to two units. Likewise, it is proposed to reduce the western portion of the building from four storeys to three storeys reducing the number of two-bedroomed apartments from four units to three units incorporating a three-storey elements 8.88 metres in height. Hence the number of units proposed will be reduced from 8 to 5.
- 6.4. Notwithstanding the alternative design submitted by way of the grounds of appeal, the Board are requested to consider the original application as submitted by the Planning Authority. In this regard it is argued that there is a minimal change in the separation distance between the original two-storey development granted under Reg. Ref. 2087/18 and the separation distance proposed under the current application. It is argued that there is no appreciable distance between the setbacks of the two-storey development which has the benefit of planning permission and that proposed under the current application.
- 6.5. Likewise, in relation to communal open space it is argued that a precedent has been set under Reg. Ref. 2087/18 which included a financial contribution in lieu. The applicant has no objection to the attachment of a similar condition requiring a financial contribution in lieu of public open space provision should the Board consider it appropriate to grant planning permission.
- 6.6. In terms of loss of privacy, the grounds of appeal set out details of changes in fenestration and orientation between the existing development which has the benefit

of the grant of planning permission under Reg. Ref. 2087/18 and the current application before the Board. The grounds of appeal assess the proposed development in terms of changes in the north/east elevation, south/west elevation, south/east elevation and north/west elevation and it is submitted that there is no further loss of privacy or overlooking as a result of the proposed development particularly having regard to the precedent has been set with the parent permission.

- 6.7. With regard to loss of light, an analysis carried out in relation to shadow casting by Digital Dimensions, it present shadow diagrams for the site as it currently exists with the permitted two-storey development and the proposed alternative scheme (part two, part three storey). Also contained in the grounds of appeal are shadow casting diagrams comparing the extant two-storey development and the proposed four-storey scenario. It is argued that the proposed development will have a negligible impact in comparison with the permitted development on residential amenity. It is argued that the permitted two-storey development and the proposed four-storey development will not cause any significant diminution in amenity of the neighbouring properties by reason of shadow cast. Furthermore, it is highlighted that any development on site being in a city centre built up area will cast some level of overshadowing.
- 6.8. With regard to the overbearing visual impact, it is argued that the proposal complies with strategic planning policy of providing more residential units at more sustainable densities in the area. Reference is made to Urban Development and Building Height Guidelines for Planning Authorities noting that the site is strategically located in the north inner city proximate to high frequency public transport provision. It is argued that the subject site inherently suitable for compact development. Any impacts on neighbouring properties must be balanced against the strategic considerations. A balance has to be struck in delivering more sustainable use of the lands while protecting the amenity of adjoining uses.
- 6.9. In relation to the second reason for refusal which states that the proposal would be visually incongruous it is noted that four storey student accommodation scheme is permitted on the adjoining site. Reference is also made to computer generated images of the student accommodation scheme will impact on the prevailing height along this section of Prussia Street. The backland nature of the site means that the subject proposal will not be visible from Prussia Street looking south-east as it will be

screened by the student accommodation. The narrowness of Prussia Street will also ensure that the backland nature of the development will not be readily visible.

Furthermore the street rises as one moves north-west from Manor Street up Prussia Street and this will also help screen views.

- 6.10. Although the applicants are fully in favour of the original proposed scheme submitted the Board are invited to exercise its power under Section 137 of the Planning and Development Act and consider an alternative scheme described above which omits the third-floor level of the two-bedroomed apartment element on the western side of the site and the removal of the one-bedroomed apartment at second floor. The revised scheme has also been the subject of a shadow cast analysis which is appended to the grounds of appeal. It is argued that both schemes before the Board respect the amenity of neighbouring property, provide additional residential units in a city centre location and results in sustainable development of a backland infill site.

7.0 Appeal Responses

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

7.2. Observations

- 7.2.1. An observation was submitted on behalf of Donato Vani of No. 47 Manor Street. It states that if the laneway is excluded from the area, the site at approximately 220 square metres is an equivalent floor area of a big house. Concerns are expressed that it is proposed to build a four-storey apartment block tight against the observers boundary and other properties on Prussia Street which will have significant impacts in terms of overlooking, overshadowing and other amenities. It is noted that the proposed four-storey block on the boundary is within 2 metres of the observer's boundary. It is stated that no effort was made whatsoever in the four-storey apartment block to prevent overlooking which would take away the observer's privacy.
- 7.2.2. It is suggested that any revised scheme would have to have regard to due process and be subject of a new planning application requiring public notices to inform people of such a proposal. The residents of Prussia Street would have the equivalent of a back garden wall approximately 12 metres in height on the southern boundary. This would have a serious visual impact on the amenities of the area and would

conflict with the Z1 zoning. The apartments are considered to be substandard due to the lack of aspect and proper open space.

7.3. **Natural Heritage Designations**

- 7.3.1. The subject site is not located within or adjacent to a Natura 2000 site. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024). This Natura 2000 site is located 4 kilometres to the east of the subject site. The South Dublin Bay SAC (Site Code: 00210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) are located 5.5 kilometres to the south-east of the subject site.

7.4. **EIAR Screening**

- 7.4.1. On the issue of environmental impact screening, I note that the classes for considerations for the purpose of EIA are Class 10(b)(i) "construction of more than 500 dwelling units" and Class 10(b)(iv) "urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere". Having regard to the number of units proposed and the relatively modest size of the site within an urban area, it is considered that the development is considerably below any of the mandatory thresholds for the above classes. Thus, having regard to the nature and scale of the development, together with the characteristics and likely duration of impacts, it is reasonable to conclude that the proposal is not likely to have a significant effect on the environment and that the submission of an environmental impact statement is not required. The need for an environmental impact statement therefore can be excluded by way of preliminary examination.

8.0 **Development Plan Provision**

8.1. **Development Plan Provision**

- 8.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is zoned Z1 '*to protect, provide and improve residential amenities*'. Residential use is a permissible use under this zoning. Notwithstanding what is stated in the Dublin City Council Planner's Report that there are two separate zoning objectives relating to the site, it appears that the

entire subject site is governed by the Z1 zoning objective. There are no protected structures contiguous to the subject site. Nos. 1 to 2 Aughrim Street to the south-east (Kavanagh's Public House) is a protected structure.

- 8.1.2. Chapter 5 of the development plan relates to Quality Housing.
- 8.1.3. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision through active land management and co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and underutilised sites.
- 8.1.4. Policy QH6 seeks to encourage and foster the creation of attractive mixed use, sustainable neighbourhoods which contain a variety of housing types, tenures with supporting community facilities, public realm and residential amenities which are socially mixed in order to achieve a socially inclusive city.
- 8.1.5. Policy QH7 seeks to promote residential development at sustainable urban densities throughout the city in accordance with the core strategy having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 8.1.6. Policy QH8 seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area.
- 8.1.7. Policy QH18 seeks to promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with standards for residential accommodation.
- 8.1.8. Policy QH19 seeks to promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive sustainable mixed income, mixed use neighbourhoods supported by appropriate social and other infrastructure.
- 8.1.9. In terms of aspect natural lighting and sunlight penetration the development plan notes that daylight animates the interior and makes it attractive and interesting as well as providing light to work or read by. Good daylight and sunlight contribute to

making a building energy efficient, it reduces the need for electronic lighting while winter solar gain and reduce heating requirements.

- 8.1.10. The indicative plot ratio for Z1 zonings in the inner city is 0.5 to 2.0 and the indicative site coverage for sites governed by the Z1 zoning objective is 45 to 60%.

8.2. National Planning Framework

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

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

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

stated outcomes provided public safety is not compromised and the environment is suitably protected.

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

8.3. Rebuilding Ireland Action Plan for Housing and Homelessness

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

8.4. Sustainable Urban Housing Design Standards for New Apartments

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

- To enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas.
- Make better provision for building refurbishment and small-scale urban infill schemes.

- Address the emerging build to rent and shared accommodation sectors.
- Remove requirements for car parking in certain circumstances where there are better mobility solutions to reduce costs.

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

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

9.0 Planning Assessment

9.1. I have read the entire contents of the file, visited the subject site and its surroundings, and have had particular regard to the Planning Authority's reasons for refusal, the first party's appeal and the arguments set out in the rebuttal together with the issues raised in the observation. I have also examined the revised drawings submitted by the applicant for the Board to consider in its deliberation on the application before it. I consider the critical issues in determining the current application and appeal are as follows:

- Principle of Development
- Separation Distances from the Boundary
- Communal Open Space
- Overdevelopment of the Subject Site

- Loss of Privacy
- Overbearing Issues
- Visual Impact
- Revised Drawings Submitted with the Appeal

9.2. Principle of Development

9.2.1. The principle of residential development has already been established on the subject site with the grant of planning permission for a two-storey, 4 unit residential development granted by Dublin City Council under Reg. Ref. 2087/18. The current application before the Board seeks to increase the size and scale of the proposed development doubling the number of units from 4 to 8 (4 two-bedroomed and 4 one-bedroomed units). It is argued that a reconfiguration of the internal layout to accommodate a lift and ambulant disabled compliant stairs is necessary in order to comply with the Building Regulations.

9.2.2. The provision of two additional storeys in order to increase the number of residential units, is subject to qualitative safeguards, fully in accordance with local development plan policy and national policy both of which seek to ensure that urban infill brownfield sites close to the city centre with good quality public transport should be developed at more sustainable densities in order to create more compact development within urban areas where people can live closer to work and can utilise more sustainable forms of transport including public transport, cycling and walking. It is my considered opinion on the basis of the prevailing land use strategies adopted nationally and locally, that the principle of increased development on the subject site, again subject to qualitative safeguards is acceptable in principle. The issue of qualitative safeguards and impact on surrounding amenity is dealt with in more detail under separate headings below.

9.3. Separation Distances from the Boundary

9.3.1. There is no material change in the position of the footprint of the building under the current application to that granted under 2087/18. The overall change in height and scale of the building materially alters the relationship between the proposed development and surrounding residential amenity in terms of the potential of the

building to give rise to greater levels of overlooking and greater levels of being overbearing on surrounding sites. These two issues are dealt with under separate headings below. It is sufficient to state at this point that the fact that there is no changes in the location and layout of the footprint of the building in the context of surrounding boundaries does not in itself imply that a building of a greater mass and scale will not have a material impact on surrounding amenity in terms of overlooking, being overbearing and giving rise to greater overshadowing etc.

9.4. Communal Open Space

- 9.4.1. Issues in relation to the provision of communal space, are not strictly applicable to the subject site. A precedent has already been set with a grant of planning permission for 4 units in the absence of communal open space on the subject site. The site itself is back land infill development of a very modest size. It is not practical to provide meaningful usable open space on such a small infill site. Any shortfall in communal open space can be addressed with the attachment of a condition requiring a financial contribution in lieu of open space provision.

9.5. Overdevelopment of the Subject Site

- 9.5.1. The Planning Authority's reason for refusal makes specific reference to the proposed apartment block constituting an overdevelopment of the subject site. Again, this issue in my view needs to be assessed in the context of its impact on surrounding residential amenity. Buildings that may incorporate site coverage or a plot ratio greater than the indicative standards set out in the development plan should not in itself constitute reasonable grounds for refusal having regard to national and local policy to develop urban brownfield sites at more sustainable residential densities. Furthermore, the Board should note that the proposal before it only marginally exceeds the indicative site coverage for lands governed by the Z1 zoning objective of 45 to 60%. The proposed site coverage in this instance is 65%. In terms of plot ratio, the proposed development with a plot ratio of 1.85 complies with the indicative plot ratio standards set out in the development plan for a Z1 land uses of between 0.5 and 2.0. On the basis of the above indicative standards and policies to facilitate a greater quantum of development on urban infill sites. I do not consider that the proposed development should be refused on the basis that it constitutes an overdevelopment of the subject site.

9.6. Loss of Privacy

- 9.6.1. It is my considered opinion having examined the drawings submitted that this is a relevant pertinent issue in determining the current application before the Board. The applicant has endeavoured to address these concerns by carefully placing the fenestration arrangements on the facades of the building in order to minimise any potential overlooking. The use of glass blocks to serve the dual aspect kitchen and living room areas associated with the one-bedroomed apartments together with the incorporation of selected louvre screens on the southern elevation are laudable attempts to successfully mitigate against the potential of overlooking. However, the four-storey nature of the development submitted to the Planning Authority which incorporate balconies overlooking lands to the west and particularly to the east of the subject site is particularly problematic. Of particular concern is the impact of the proposed development on the lands to the rear of No. 147 Manor Street. The extent of overlooking is likely to arise from the upper floor balconies on the south-eastern elevation of the proposed development is illustrated in the drawings attached to the observation. The observer argues that the proposal will compromise his ability to carry out development of the living room/bathroom extension to the rear of No. 47 Manor Street granted under Reg. Ref. 3403/16 without the rear area of No. 147 being significantly overlooked.¹
- 9.6.2. There is in my view a somewhat problematic relationship between the provision of balconies at floors 2 and 3 two metres from the eastern boundary of the subject site. It is considered that the provision of balconies at this location will significantly and adversely affect the amenity of property to the east of the subject site. It may also affect the potential to redevelop any lands to the east of the subject site by giving rise to significant overlooking of these backlands.
- 9.6.3. The arguments set out in the grounds of appeal that a precedent has already been set with the provision of a balcony at first floor level is not in my view justifiable. It is clear from the cross-sections submitted in the observation that the potential for overlooking increases exponentially from the proposed upper floor balconies on the surrounding lands below.

¹ The Board will note that the grant of planning permission under Reg. Ref. 3403/16 expired in September, 2021.

9.6.4. The reduction in height along the eastern boundary of the site and the omission of the upper two one-bedroomed apartment indicated in the revised drawings are acceptable from an overlooking point of view. The revised drawings submitted with the appeal essentially mirror the south-eastern elevation as per the permitted development under Reg. Ref. 2087/18. The revised plans as submitted as part of the grounds of appeal for the Board's deliberation would in my view be acceptable in terms of protecting privacy in adjoining residential amenity.

9.7. **Overbearing Issues**

- 9.7.1. In terms of the proposal having an overbearing impact, I would again note the relationship between the buildings proposed and the site boundaries. The proximity of the buildings to the site boundary with the proposed increase in height is somewhat problematic as per the drawings submitted to the Planning Authority. Blank brick gable walls almost 12 metres in height along the northern boundary would have a material impact in terms of being overbearing on the rear yards and rear elevations of buildings fronting onto Prussia Street to the immediate north of the site. It will also have implications in terms of overshadowing and blocking direct sunlight into the rear elevation of buildings fronting onto Prussia Street. This is illustrated in the overshadowing diagram submitted with the planning application. The relationship between the proposed development and the buildings to the south are less problematic due to the more generous separation distances between the buildings in question and the significant reduction in the potential for overshadowing.
- 9.7.2. Again, I consider that the reduction in height of the proposed development by way of the revised drawings submitted with the appeal would successfully address the issue of overbearing by reducing the overall size and scale of the development which creates a better relationship between all buildings being in such close proximity.

9.8. **Visual Impact**

- 9.8.1. I consider that the Board can discard any concerns regarding visual amenity even in respect of the application submitted to Dublin City Council which sought the provision of a four-storey structure on the subject site. There are numerous examples of infill development in the surrounding area which are of a similar size and scale to that proposed on the subject site. Specifically, I would refer to the construction of student accommodation to the immediate north of the site to four

storeys in height and the provision of apartment developments on Aughrim Street both of which are four storeys in height (albeit in one instance the fourth floor being set back from the building line and in the other instance the fourth storey being located within the attic space of the building).

- 9.8.2. Furthermore, I would again refer to strategic policy objectives which seek to provide more compact development and in the case of urban areas to build “upwards” rather than “outwards”. In order to realise this objective, it is imperative that Planning Authorities seek more flexible approach in allowing buildings of greater height than the prevailing character of the area. This is particularly the case in an area that does not attract any architectural or conservation status such as the area in which the subject site is located. I would further agree with the appellant’s assertion that having regard to the topography of surrounding lands and the general narrowness of the thoroughfares of Prussia Street and Aughrim Street that the proposal being located behind the building line will in no way impact on the visual amenities of the area to any material extent. I therefore consider that even if the Board are minded to refuse planning permission for the proposed development it should not rely on any concerns in respect of visual amenity.

9.9. Revised Drawings Submitted with the Appeal

- 9.9.1. Arising from my assessment above I consider that the proposed four-storey structure as submitted to the Planning Authority for its deliberation is fully in accordance with recently adopted policies which seeks to develop urban infill sites at more sustainable densities and is therefore acceptable in principle. However, a more detailed evaluation of the proposal leads to the conclusion that the modest size of the site and the surrounding nature of the immediate built environment results in a building that is four storeys in height having a problematic relationship with surrounding lands in terms of protecting residential amenity primarily through loss of privacy and having an overbearing impact. However, I consider the revised drawings submitted by way of appeal successfully addresses these concerns and results in a building which would not give rise to material and adverse impacts on surrounding residential amenity. I note that the observation submitted expresses concerns that any revised drawings submitted by way of the grounds of appeal should be rejected by the Board and any such proposal should be the subject of a new and separate planning application. I consider that the applicant in this instance is entitled to submit

a revised more modest proposal to the Board for consideration without the requirement to submit a new application. It would in my view be appropriate that the Board could alter the development by way of condition in order to ensure that surrounding amenities are protected. I have assessed the revised drawings in the context of surrounding residential amenity and in accordance with the proper planning and sustainable development of the area. And it is my considered opinion that the revised drawings successfully address any such concerns. I therefore recommend that the Board grant planning permission for the proposed development as per the revised drawings submitted to it on the 7th July, 2021.

10.0 **Appropriate Assessment**

The nearest designated Natura 2000 site at its closest point is c.3 kilometres to the east. I note the urban location of the site and the lack of direct connections with regard to the source – pathway – receptor model and have had particular regard to the modest scale of the proposed development which relates to an urban infill development on a site c.0.02 hectares in size. On this basis it is reasonable to conclude based on the information available, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site in the wider area in view of those site's conservation objectives and therefore a Stage 2 Appropriate Assessment (and the submission of an NIS) is therefore not required.

11.0 **Decision**

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

12.0 Reasons and Considerations

Having regard to the Z1 zoning objective pertaining to the site and the policies and provisions contained in the National Planning Framework, the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018) which seek to provide urban development including residential development at more compact and sustainable densities in order to enable people to live nearer where jobs and services are located, it is considered that the proposed development, subject to conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 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 plans and particulars received by An Bord Pleanála on the 7th day of July, 2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

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

works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. The applicant or developer shall enter into water and/or wastewater connection agreements with Irish Water prior to the commencement of this development.

Reason: In the interest of orderly development.

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

6. Prior to the commencement of development, and on the appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures, off-site disposal of construction/demolition waste and access arrangements for labour, plant and materials, including the location of plant and machinery compounds.

Reason: In the interest of orderly development and to protect residential

amenity.

7. Cycle parking shall be secure, well lit and sheltered. Cycle parking shall be in situ prior to the occupation of the development details of which shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To provide adequate and usable cycle parking.

8. 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.

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

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

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

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

11. The naming and numbering of the scheme shall be agreed in writing with the planning authority prior to the occupation of the units.

Reason: In the interest of orderly street numbering.

12. 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.

13. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

14. 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.

15. The developer shall pay to the planning authority a financial contribution in respect of the Luas Crosscity 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.

Paul Caprani,
Senior Planning Inspector.

December 15th, 2021.