



An  
Bord  
Pleanála

## Inspector's Report ABP-311064-21

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<b>Development</b>	Construction of 4-level apartment block consisting of 9 apartments.
<b>Location</b>	3 Henrietta Lane, within the rear curtilage of 3 Henrietta Street (Protected Structure), Dublin 1.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3570/20
<b>Applicant(s)</b>	RSS Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Parties vs. Grant
<b>Appellant(s)</b>	1. Alice Hanratty 2. Fergus Flynn-Rogers
<b>Observer(s)</b>	1. Irish Georgian Society 2. Mannix Flynn
<b>Date of Site Inspection</b>	10 <sup>th</sup> February 2022
<b>Inspector</b>	Stephen Ward

## 1.0 Site Location and Description

- 1.1. The site is located along Henrietta Lane, which is predominantly a service access running to the rear (north) of a terrace of buildings that form the northern side of Henrietta Street. The site is within the curtilage of No. 3 Henrietta Street (a Protected Structure to the south) but is currently divided by a recently constructed concrete post and timber infill fence. All the other adjoining buildings in the Henrietta St terrace are protected structures and are included as part of a larger Conservation Area including the King's Inns property.
- 1.2. The site is relatively flat, has a stated area of 307m<sup>2</sup> and is distanced c. 500m west of the Parnell St/O'Connell Street junction. It has a gated vehicular entrance at the northeast corner and there were two cars parked on the site at the time of inspection. The eastern and northern site boundaries consist of a modern concrete block wall (c. 2m high) with metal railing above. The western site boundary adjoins the rear curtilage of No. 4 Henrietta St, which has been divided into two separate garage/storage units (No's 4a & 4b Henrietta Lane). This western party boundary consists of the extant remnants of the former stables/coach houses and adjoins No.'s 4a and 4b, both of which have been included as Proposed Protected Structures in the Draft Dublin City Development Plan 2022-2028. The Draft Plan RPS also contains a 'clarification' in relation to No. 4 Henrietta Street, which describes the protected structure as 'House including ancillary (sic) 18<sup>th</sup> century structures to the rear'.
- 1.3. Further west of the appeal site, the rear curtilages of No.'s 5-8 Henrietta St contain similar single storey garage/storage buildings with access onto Henrietta Lane. To the rear of No's 8-10 Henrietta St, there is a 3-storey building onto Henrietta Lane which provides community education and training services. To the north, between Henrietta Lane and Dominick Street, is a 2 to 5-storey social housing development (incorporating DCC maintenance facilities at street level) and a more recent 6-storey student accommodation development. To the east of the lane are the rear garage/storage facilities associated with properties on Bolton Street.

## 2.0 Proposed Development

2.1. In summary, the proposed development (as amended by a further information response) comprises the following:

- Construction of a 4-storey apartment building consisting of 9 apartments as follows:
  - 1 no. studio apartment
  - 7 no. one-bedroom apartments
  - 1 no. two-bedroom apartment
- Provision of communal bin storage and bicycle storage at ground floor level.
- Pedestrian/cycle entrance onto Henrietta Lane.
- Repairs to existing western site boundary wall.

2.2 The maximum height of the proposed building would be c. 13.3m. External wall finishes consist mainly of brick in a variety of shades with stone coping to all parapets. Steel bars are to be used as balcony railings and as privacy screening to openings at ground floor level. Anodized aluminium will be used in window framing and in screening panels for the proposed bin store and stair core on the west elevation. A 'green wall' is proposed on the southern elevation.

2.3 Water supply would be connected via the existing Irish Water infrastructure on Henrietta Lane. Surface water would be attenuated in the form of two blue roofs and would be discharged at a maximum of 2 litres per second. Foul and surface water drainage from the site would be completely separated until being combined in a final inspection chamber at the site boundary for discharge to the combined sewer in Henrietta Lane.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 14<sup>th</sup> July 2021, Dublin City Council (DCC) issued notification of the decision to grant planning permission subject to 18 conditions. The conditions are generally standard in nature.

## 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 14<sup>th</sup> December 2020. The information requested can be summarised as follows:

1. Request to consider the concerns raised by the Conservation Officer and a revised design to include the following:
  - Inclusion of the historic wall as part of a conservation-led strategy
  - Consideration for the Shaffrey Associates Henrietta Lane Study and architectural quality
  - Reduction in the bulk and massing of the proposal to a series of volumes rather than one large 'block'
  - Proposals to address the interface/boundary of the proposal and No. 3 Henrietta Street (Protected Structure)
  - Cognisance of the traditional north-south orientation of the plot and a reduction of the 'blank' appearance along Henrietta Lane.
  - Consideration of a 3-storey height to protect the hierarchy of the principal building (the Protected Structure).
2. Conservation requirements to include details of the existing boundary walls and proposals for repair/reinstatement.
3. Submission of a Residential Mobility Management Plan.
4. Proposals to address the type and quantum of cycle parking proposed.

### 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 'Z1' zoning objective and the redevelopment of this vacant site is welcomed by the planning authority.
- The proposal exceeds the indicative plot ratio and site coverage standards as per the Development Plan, but no actual upper limit applies for zoned lands. The proposal will be assessed with respect to the character and context of the urban form, as well as the standards of existing and future residential amenity.
- An appropriately designed three/four storey building could be considered subject to good design, and the streamlined approach of the original design and additional vibrancy on Henrietta Lane is welcomed. However, serious reservations were raised about the blank southern façade elevation facing the protected structure and the design response to the west elevation.
- The revised design submitted as further information significantly reduced the mass and scale of the proposal and would maintain a subordinate scale to the protected structure.
- The apartment standards of the original proposal were assessed against the Apartment Guidelines and Development Plan standards. The apartment sizes and mix appeared to be acceptable, but it was suggested that 2 studio units at ground floor level could be amalgamated to provide a higher level of residential amenity.
- The proposed development includes more than 33% dual aspect units which is acceptable.
- Proposals for private amenity space are acceptable in the form of balconies/terraces. The absence of communal or public open space can be considered in this case due to the limited site size and the standard of amenity proposed.
- The proximity of the site to public transport is acknowledged and the proposal for zero car parking was satisfactorily supported by the submission of a Residential Travel Plan as further information.
- The further information response included proposals to accommodate 17 no. cycle spaces near the entrance and within an undercroft, which is acceptable.

- The comments of the Conservation Officer are noted. The revised design submitted as further information significantly reduces the mass and bulk of the proposal. And while the Conservation Officer maintains that a 3-storey development would be preferable, there are existing higher buildings along the lane and the proposal will preserve the traditional hierarchy between the protected structure and the proposed mews development. The revised scheme includes acceptable proposals for the repair of the boundary wall.

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 23<sup>rd</sup> November 2020 outlined that a 'zero parking' approach may be acceptable but requested further information to support the approach, including a Residential Mobility Management Plan and details of the type and quantum of cycle parking.

The subsequent report (2<sup>nd</sup> July 2021) acknowledged the inclusion of a Residential Travel Plan and an increased provision of 17 no. bicycle spaces. It recommended the attachment of standard conditions to any permission.

Engineering Department – Drainage Division: No objection subject to conditions.

Conservation Officer: The original report of 7<sup>th</sup> December 2020 concluded that the proposal was not sufficiently developed nor satisfactorily articulated. It requested further information as outlined in points 1 and 2 of the DCC further information request.

The subsequent report (12<sup>th</sup> July 2021) welcomed the significant alterations submitted as further information. And while a 3-storey building would be preferable, it acknowledged that there are higher buildings along the lane and the volume and bulk of the proposal has been reduced. A detailed specification and methodology for the repair of the boundary wall has been included. It is recommended that permission be granted subject to conditions.

Archaeologist: Recommends that archaeological monitoring be required as part of any permission.

Waste Management Division: No objections subject to conditions.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland: No objections subject to conditions. Recommends the inclusion of a Section 49 Development Contribution towards the LUAS Cross City scheme (St. Stephen's Green to Broombridge Line).

Department of Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

The submission relates to the original design proposal and the issues raised can be summarised as follows:

- The importance of the Conservation Plan mechanism and the designation of Henrietta Street as an ACA as a heritage-led holistic approach towards protecting urban character.
- The proposed scale, hierarchy of spaces and relationship to the principal structure is contrary to policy and built heritage context. It breaks the precedent of the Tenement Museum and high-quality residential development to the rear of 9 & 10 Henrietta St.
- Consideration of the overall architectural significance of the street, which represents the arrival of Renaissance thinking and classical architecture.
- The proposal has little regard to its architectural context, does not integrate building fragments, does not recognise the hierarchy and formality of the plot, and does not respond to the scale/footprint of the former coach house.
- The approach needs to communicate an overall vision to respond to its exceptional context. The proposal detrimentally changes the character of the former mews lane and undermines its historic character.
- The design approach should be reconsidered to include an appropriate response to the Henrietta Street Conservation Plan and the Development Plan; surveying and recording of the original coach house and boundary walls; proposals to protected historic boundary walls; an archaeological dig of the garden plot; 3-D visualisations of the impact on the surviving historical terrace and principal/major reception spaces; information regarding the re-making and regeneration of the coach lane character; proposals for facilities, services and excavations; proposals for landscaping, access and

management of the garden between the proposed development and the principal structure.

### 3.4. Third-Party Observations

The planning authority received three observations in relation to the development. All three observers are parties to the current appeal and the issues raised are covered in section 6 of this report.

## 4.0 Planning History

### No. 3 Henrietta Street

**ABP Ref. No. 302809-18:** Permission Refused (25<sup>th</sup> March 2019) for the conservation, repair and adaptation of the lower ground floor, to facilitate a change of use from residential occupancy to use as Short Term Lease studio apartments. The reason for refusal was as follows:

*Having regard to the location of the site on Henrietta Street, which is a conservation area and a street of international importance in conservation terms, it is considered that the proposed intensification of use to accommodate two small studio units in addition to a one-bedroomed apartment at lower ground floor level would result in a loss of original fabric, especially in terms of the remaining elements of the historic floor plan of the basement, resulting in serious injury to the special architectural character and fabric of this protected structure of international significance. The proposed development would also set an undesirable precedent for similar developments along the street. The proposed development would, therefore, be contrary to the provisions of the Dublin City Development Plan 2016-2022 in respect of protected structures and development in conservation areas, and to the proper planning and sustainable development of the area.*

**P.A. Ref. 4322/17:** Permission granted (3<sup>rd</sup> May 2018) for the conservation, repair and adaption to facilitate a change of use from multiple residential occupancy to use as Short Term Lease Apartments.

**P.A. Ref. 2947/17:** Permission granted (6<sup>th</sup> October 2017) for the cleaning of brickwork, and stonework, removal of decayed pointing and brick, the insertion of structural ties, brickwork and stone repairs, the repointing in lime mortar to match



existing, of the facade facing onto Henrietta Street and the insertion of two new stairwell window sashes and frames into existing window openings, on the east facing gable wall, to match the original profiles, and associated works.

**P.A. Ref. 3208/17:** Permission granted (25<sup>th</sup> September 2017) for the removal of a partition inserted into the original open well stairs at ground floor level front room, the removal of a floor insertion at first floor in the same area and the reinstatement of the original open well stair and stairwell with gallery to first floor level, associated joinery repairs, restoration works and the restoration and repair of the existing tiled floor at ground floor level.

35/35A Bolton Street (backing onto Henrietta Lane to the east of appeal site)

**ABP Ref. PL 29N.301966-18 (P.A. Reg. Ref 4292/17):** In February 2019, the Board decided to ATTACH condition 4(a) of the DCC decision to grant permission for the demolition of commercial building and construction of residential/commercial development in 2 blocks. The condition required the omission of one floor of the block facing onto Henrietta Lane, thereby resulting in a block of three storeys plus a setback penthouse at 4<sup>th</sup> storey level.

**P.A. Reg. Ref. 2742/19:** Permission granted (October 2019) for the construction of a residential apartment development consisting of a four storey block to the rear with set back at upper floor fronting onto Henrietta Lane providing a total of 10 apartments with access through existing 3 storey building to be retained fronting onto Bolton Street and incorporating bicycle and refuse storage and ancillary site works.

8A Henrietta Lane

**P.A. Reg. Ref. 3224/22:** Current application for the demolition of the existing disused single storey building and the construction of a 4-storey building to accommodate 4 no. studios, 2 no. 2 bed apartments and 1 no. 2 bed duplex apartment.

## 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 'Z1 – Sustainable Residential Neighbourhoods' in the Dublin City Development Plan 2016-2022, the objective for which is '*To protect, provide and improve residential amenities.*' Section 14.8.1 of the Plan states that the vision for residential development in the city is one where a wide range of accommodation is available within sustainable communities where residents are within easy reach of services, open space and facilities such as shops, education, leisure, community facilities and amenities, on foot and by public transport and where adequate public transport provides good access to employment, the city centre and the key district centres.

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 16.10.16 deals with ‘Mews Dwellings’ and states that DCC will actively encourage scheme which provide a unified approach in preference to individual proposals. It outlined a range of criteria and guidance for the assessment of such proposals.
- 5.2.8 Section 16.7.2 includes height limits for development, including a 24m restriction for residential development in the Inner City and within 500m of rail hubs.

### 5.3. **Henrietta Street Conservation Plan**

- 5.3.1 This Plan was commissioned by DCC as an action of the Dublin City heritage Plan. It highlights its unique architectural significance, identified issues undermining the street (including the vulnerability of No. 3), and sets out policies to protect its important aspects. Relevant policies can be summarised as follows:

*Policy 14: That the area around Henrietta Street, comprising house Nos. 3 to 15, the Kings Inns and Registry of Deeds buildings and the buildings and structures on the south side of Henrietta Lane, be assessed for suitability as an Architectural Conservation Area, as defined in the Planning and Development Act 2000*

*Policy 15: That Henrietta Street as an entity and not just a collection of buildings is given due consideration when assessing the impact of any proposed development either within the street or the immediate surroundings.*

*Policy 18: That a full assessment of the structures on the former mews sites on Henrietta Lane be carried out to determine their architectural significance and, where appropriate, statutory protection be put in place.*

*Policy 26: That the precarious condition of Nos. 3 and 14 be tackled as a priority, that the buildings be repaired in accordance with the conservation issues report included in Appendix F and that a sustainable new use and tenure be secured. The Plan suggests that if No. 3 is to be retained in public ownership, then it would also be desirable to retain and lease the mews site, so that the unity of the historic plot would be protected.*

5.3.2 Section 6.3 of the Conservation Plan highlights how the redevelopment of light industrial/storage buildings along Henrietta Lane should stitch into the physical and cultural/social grain of the area, which will be important in ensuring the protection of the overall character of Henrietta Street. It also highlights the mews structure to No.4 and the existence of notable historic fabric.

#### **5.4. Natural Heritage Designations**

The nearest designation to the site is the Royal Canal pNHA (c. 1km to the north). In terms of Natura 2000 sites, the South Dublin Bay and River Tolka Estuary SPA is located approximately 3km to the northeast, while South Dublin Bay SAC is located approximately 4km to the southeast. There are several other Natura 2000 sites in the wider Dublin Bay area to the east.

#### **5.5. Environmental Impact Assessment - Preliminary Examination**

5.5.1. 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.)

- 5.5.2. It is proposed to construct a residential development containing 9 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. 0.0307ha and is also therefore well below the applicable site area thresholds, even if the site is deemed to be within a 'business district'.
- 5.5.3. 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. It is acknowledged that the site is located Conservation Area and is within the curtilage of a protected structure. It is also within a Zone of Archaeological Interest (as per the Development Plan) and is within the Zone of Archaeological Constraint for the Recorded Monument of Dublin City. However, I am satisfied that the issues of archaeological and architectural heritage can be satisfactorily assessed through the normal planning process.
- 5.5.4. 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).
- 5.5.5. 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.
- 5.5.6. 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 two separate third-party appeals. The appellants are (1) Alice Hanratty of 4 Henrietta Street; and (2) Fergus Flynn-Rogers (B. Arch) of Omra Park, Omeath, Co. Louth. The grounds of each appeal are summarised below.

#### Alice Hanratty

- Failure to consider the proper integrated development of Henrietta Lane, including the Shaffrey Associates Architects report of 2009. The proposal would never fit aesthetically in its context and would destroy any hope of retaining the ambience of this unique and historic part of the 18<sup>th</sup> century city.
- Visual intrusion on No. 4 Henrietta Street by reason of the bulk, scale, facades and finish of the proposal. It would result in overlooking and would interfere with the peaceful enjoyment of the property.
- Potential damage to the mews/supper room at No. 4, the curtilage of which is included in the Record of Protected Structures (RPS).
- The observation refers to the submission to DCC by the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, and the lack of an appropriate DCC response. It highlights relevant sections as follows:
  - The importance of designation of Henrietta Street as an ACA as a heritage-led holistic approach towards protecting urban character.
  - The proposed scale, hierarchy of spaces and relationship to the principal structure is contrary to policy and built heritage context. It breaks the precedent of the Tenement Museum and high-quality residential development to the rear of 9 & 10 Henrietta St.
  - The proposal has little regard to its special architectural context, does not integrate building fragments, does not recognise the hierarchy and formality of the plot, and does not respond to the scale/footprint of the former coach house.

- The approach needs to communicate an overall vision to respond to its exceptional context. The proposal detrimentally changes the character of the former mews lane and undermines its historic character.
  - The design approach should be reconsidered to include an appropriate response to the Henrietta Street Conservation Plan and the Development Plan; surveying and recording of the original coach house and boundary walls; proposals to protected historic boundary walls; an archaeological dig of the garden plot; 3-D visualisations of the impact on the surviving historical terrace and principal/major reception spaces; information regarding the re-making and regeneration of the coach lane character; proposals for facilities, services and excavations; proposals for landscaping, access and management of the garden between the proposed development and the principal structure.
- The submission refers to the DCC Planner's report and the Conservation Officer's comments therein. It contends that there has been a lack of consideration for the protection of the environs of the site and highlights the following points:
  - The 3<sup>rd</sup> party objections received
  - Development Plan policy for Mew Dwellings (16.10.16), Infill Housing (16.10.10), and Protected Structures (CHC1, CHC2)
  - The planner's assessment of visual impact and apartment standards is not appropriate.
  - The need for conservation assessment, as opposed to archaeological assessment.
  - The need to liaise with the owners of the shared boundary wall to agree a high-quality conservation strategy.
  - The need for the design to respond to the Shaffrey Associates study, pre-planning advice, and the issues raised in the further information request.
  - The relationship between the proposed development the Protected Structure.



- The site is not really 'brownfield' and the 'vibrancy' that would be introduced to the lane would be the movement and parking of vehicles.
- The conditions of the permission (including condition no. 16) side-step the central issue, i.e. the possible destruction of the Henrietta St./Lane enclave. The appeal highlights the importance of protecting our built heritage and questions the failure of DCC to implement their stated aims in this regard.

It should be noted that this appeal includes images of the original design (prior to revision through further information response) and much of the content of the appeal concerns reports/submissions prepared in response to the original design.

### Fergus Flynn-Rogers

- The proposal for 9 apartments represents a massive bulk and an overdevelopment of the site. The subdivision of Henrietta Street properties should be consigned to the past. The result is cramped, with refuse storage adjacent to the unit 4 entrance and inaccessible service runs. It is questioned whether condition no. 5 (g) can be adhered to, i.e., the inclusion of all private drainage within the site boundary.
- There is a need to recognise the value of precincts such as Henrietta Street, as is done by No. 14 Henrietta St. and the Shaffrey Report.
- The blank wall to the south reflects the inappropriate subdivision of the site. Means of escape and distance to boundaries would be easily resolved if the site had not been subdivided. An easement could still resolve the matter and there are lots of examples of alternative approaches.
- All the rears of 4-8 Henrietta Street are single storey and present an opportunity to be retained as such, an arrangement which all residents would enjoy. The blank wall could be along the west boundary and open space to the north.
- The permission fails to appreciate the imperative for an integrated design and the inappropriate employment of a blank wall to the south.
- The potential precedent for 4-storey development with minimally sized apartments to the rear of No.'s 4-7.

- The potential for varied uses of the fabric along the lane as highlighted by the Shaffrey report, with all users recognising that they are in historic Henrietta Street with the sun and prospect to the south, and with services access restored and their sad and wonderful histories illuminated into the future for posterity.

## 6.2. Applicant Response

None.

## 6.3. Planning Authority Response

None.

## 6.4. Observations

Two observations have been received on the appeal. The issues raised in each observation are summarised below.

### Cllr. Mannix Flynn

- Failure to consider the integrated development of Henrietta Lane in accordance with guidance reports and statutory DCC reports. The area is a national monument and cannot be developed in such a laissez faire manner.
- There is an ongoing process to include the lane and its environs on the RPS and the proposal should have been refused on these grounds alone. The decision undermines national monuments, the obligation to protect built heritage, DCC conservation advice, and common sense.
- The proposal disregards the previous studies by Shaffrey Architects and Dublin Civic Trust and would destroy the architectural and historical significance of the area. It would be contradictory of previous efforts by DCC to protect the character of No.'s 3 & 14 Henrietta St.
- The visual impact would seriously undermine No. 4 Henrietta St., including sunlight and enjoyment, and would affect all properties on the north side of Henrietta St and set a precedent for further overdevelopment.

- The present reuse of No. Henrietta St as short-stay apartments is cautiously welcomed, but that success cannot ethically stand if the owners are to support the subdivision and development of the rear garden.
- Sustainable housing solutions to the housing crisis cannot be at the expense of the living community of unique areas/buildings or cultural/social amenities.
- It is disappointing that An Taisce have not participated in this case.

### Irish Georgian Society

- The Society supports the appeal by Mr Flynn-Rogers and contends that the scheme fails to meet appropriate standards or respond to DCC guidance.
- The site is to the rear of No. 3 Henrietta St, a component of one of Dublin's finest Georgian architectural set pieces.
- The distinct Z1 zoning for the backlands allows for new development on Henrietta Lane. It is also clear that the main houses (Protected Structures) are defined by their historic plots and new development is required to have due regard to the special architectural character of the main structures.
- The Henrietta St Conservation Plan and the Shaffrey report provide non-statutory guidance for new development, which has been taken into account by DCC and the applicant. However, the revised scheme still represents overdevelopment in terms of height, density, and the number/type of units.
- The layout of some units is unsatisfactory with regard to daylight and aspect, particularly units 4 & 6.
- The height of the building has not been reduced to 3-storey as suggested in the DCC further information request. And while the re-modelling of the block has improved its overall appearance and alleviated its impact on the protected structure, the 4-storey section proposed is still excessive and is particularly apparent from the north of the site.
- The proposed height would set an undesirable precedent and it is the view of the society that development should be limited to 3 storeys. The proposal should be redesigned accordingly to have fewer, larger units, all of which could be fully dual aspect.

## 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 principle of the development
- The quantum of development proposed
- Visual Amenity and Built Heritage
- Standard of residential development proposed
- Impacts on adjoining properties
- Daylight/Sunlight
- Traffic and transport

### 7.2 The principle of the development

7.2.1. The proposal involves the construction of a residential apartment development on lands zoned 'Z1', the objective for which is '*To protect, provide and improve residential amenities.*' Section 14.8.1 of the Plan further outlines the vision for such areas, whereby a wide range of accommodation is available within sustainable communities in close proximity to services and facilities. Consistent with national policy and guidance regarding the promotion of brownfield/infill development, the Development Plan also seeks to encourage the development of underutilised lands in appropriate locations. The site comprises an underutilised part of the curtilage of No. 3 Henrietta Street and, as such, I consider that the development of the site would be appropriate at this convenient inner-city location.

7.2.2. The Development Plan also supports the principle of 'Backland Development' and 'Mews Dwellings', and I consider that the proposed development would be consistent with these principles. I acknowledge that the plan guidance advocates 'comprehensive' and 'unified' approaches to such developments, and this will be taken into consideration in the detailed assessment of the proposal.

7.2.3. I acknowledge that the Henrietta Street protected structures to the southwest are within a designated 'conservation area' zoned as 'Z8', with the objective '*To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*'. The impact of the development on the character of these properties will be considered in section 7.4 of this report.

7.2.4. Having regard to the foregoing, I consider that the proposed residential development complies with the 'Z1' zoning and would be consistent with local and national policies to support compact development on underutilised sites. Accordingly, I have no objection to the development in principle, subject to further assessment as outlined in the following sections.

### 7.3. **Quantum of development proposed**

7.3.1. The proposed building would have a maximum height of 13.3m, which would be well below the 24m restriction for residential development in the Inner City. A total of 9 apartments is proposed on a stated site area of 0.0307 hectares. While this equates to a high density of c. 293 units per hectare, it must be noted that this density is proposed at a limited scale. The proposed gross floor area of 637m<sup>2</sup> equates to a plot ratio of c. 2.1:1, which marginally exceeds the indicative Development Plan range for 'Z1' inner city sites of 0.5 – 2.0. The proposed site coverage (76%) also exceeds the indicative standard set out for 'Z1' areas (i.e. 45% - 60%). However, the Development Plan indicates that higher plot ratios and site coverage may be permitted based on certain circumstances such as proximity to public transport, the need for urban renewal, maintaining streetscape profiles, and existing higher site coverage/plot ratio.

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 5.7 outlines that the redevelopment of city-centre brownfield lands with higher densities should be

promoted, as should the potential for car-free developments. 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 units per hectare, with highest densities at rail/bus stops).

7.3.3. This inner-city site is located less than a 500m walk of a range of bus stops on Constitution Hill to the west and Ganby Row to the east and is also within 500m of the Dominick Street and Broadstone LUAS stops. The site is effectively on the edge of the city centre area where a wide range of employment, commercial and community facilities are available. Accordingly, I consider that the appeal site is suitable for higher densities in accordance with the provisions of the Sustainable Residential Development Guidelines.

7.3.4. 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. 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.

7.3.5. In this case, I note that the surrounding area contains a mixture of building heights, with single storey storage/workshop units to the west and east along Henrietta Lane, 5/6-storey residential buildings to the north along Dominick Street, and the 4/5-storey terrace on Henrietta Street to the south. The proposed 4-storey building would not be a significant departure from the prevailing heights and would be well below the 24m Development Plan height restriction. Therefore, I am not relying on the provisions of SPPR 3 of the Building Height Guidelines regarding the contravention of Development Plan objectives.

7.3.6. Having regard to the above, I consider that proposed building height would not be excessive in the context of policy guidance and prevailing building heights in the wider surrounding area. I also consider that higher densities would be appropriate at this central and accessible site. However, the suitability of the proposed building

height and quantum of development requires further detailed assessment in respect of visual amenity and residential amenity, as outlined in the following sections.

#### **7.4 Visual Amenity and Built Heritage**

7.4.1. Notwithstanding local and national policies to increase building height and density, it is important that new development successfully integrates with the character of the area, particularly in architecturally sensitive areas. This is a key issue in this appeal. In this context, I am conscious of the location of the appeal site within the curtilage of No. 3 Henrietta Street (Protected Structure) and adjoining No. 4 Henrietta Street (including the ancillary structures referred to in the Draft Development Plan 2022-2028). 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. I have also considered the conservation value of the overall Henrietta Street area and the Conservation Plan (non-statutory) for the area. I note the references in the appeal file to a Shaffrey Associates study that has been prepared for Henrietta Lane. However, I can find no record of its publication and I do not consider that it forms part of statutory policy.

7.4.2. The applicant's further information response included a report by David Slattery (Architect, Historic Buildings Consultant) regarding the impact of the proposed development on the adjoining properties at No. 3 & 4 Henrietta Street. The report records the significant variations of mews/coach buildings that have existed on the subject site over the years up to the demolition of all structures prior to 1970. The remaining fabric of interest is the party wall with No. 4, for which a repair proposal has been included.

7.4.3. The applicant's assessment acknowledges the architectural significance of the wall as a party wall to an adjoining protected structure, as well as some historic significance as part of the former coach house structures which changed substantially during the 19<sup>th</sup> century. In terms of 'group significance' the assessment contends that the contribution to the streetscape has been lost through demolition, although the wall remnant still has a visual impact on the lane.

- 7.4.4. The applicant proposes to repair and consolidate the party wall as a feature within a proposed linear atrium amenity zone along the western site boundary and contends that this is consistent with the Architectural Heritage Guidelines. The further information response also addresses the Shaffrey Associates Draft Henrietta Lane Study (2009) and highlights the specific characteristics of the site, including its vacant state, its dual aspect nature, and its relationship with the recently conserved main house. It also contends that the proposed scheme will be subservient to the main house, while providing a contemporary architectural composition which takes cognisance of the form and materials of surrounding structures.
- 7.4.5. I would accept that the form and massing of the revised design (i.e. as per further information response) is a significant reduction on the scale of the original proposal. The footprint of each floor gradually reduces from the 1<sup>st</sup> floor upwards, thereby providing setbacks around the building perimeter. This significantly reduces the impact of the building on the main house and along the adjoining lane and is more consistent with a residential scale.
- 7.4.6. I also consider that the interface with the main house has been significantly improved at the southern boundary of the proposed building. A southern wall of 2-storey height would form the boundary on an alignment that reflects one of the historical iterations of mews/coach house development on the site, as well as reflecting the height/scale of the existing party wall and surrounding development on the east side of Henrietta Lane. The southern wall would be landscaped as a green/living wall, with the setback upper levels using different types of brick to emphasise distance and reduce the scale. The revised design provides a north-south emphasis to reflect the historic plot. It also provides a vertical emphasis on the north elevation, and the upper-level setbacks provide increased separation and amenity space along the western boundary with No. 4
- 7.4.7. In terms of building height, the applicant has suggested that the original coach houses would have been equivalent to three stories (including pitched roofs, just one storey lower than the proposed development), and that the main house would still appear two stories higher than the proposed building. The applicant has also calculated view lines from the rear principal room at ground floor level to the top of the proposed building, contending that the 20° angle would not be significant and would be well below winter sun angles (27.5°).



- 7.4.8. The applicant's further information response included a visual impact assessment from a number of viewpoints in the surrounding area. Having reviewed the images submitted, I consider that the development would be only marginally visible from Henrietta Street. From this position, the setback nature of the upper floors helps to reduce the visual impact and the proposed development would be consistent with the scale of the existing development along Dominick Street to the rear. Views are also presented from along Henrietta Lane, which generally demonstrate that the articulated form and massing of the development achieves an acceptable scale that is subservient to surrounding development. Styled brick panelling and a subtle variation of brick colours will also be used to provide more interesting and articulated façades along the lane. However, I do consider that the 4-storey element along Henrietta Lane to the north is excessive in height. This should be setback in keeping with the other sides of the building and the permitted development to the east (P.A. Reg. Refs. 2742/19 & 4292/17). Under ABP Ref. PL 29N.301966-18, the Board has previously confirmed that this height strategy is appropriate for the lane i.e. 3 storey with setback 4<sup>th</sup> storey. Unit 9 on the top floor is a large unit (86m<sup>2</sup>) and could still be maintained as 2-bed (3 or 4-person) unit to facilitate this amendment.
- 7.4.9. Having reviewed the historical mapping information accompanying the application, I am satisfied that the proposed footprint would be generally consistent with the varied historical coverage on the site, including the separation distance from the main house. The depth of the proposal is also consistent with the established building lines for the existing development to the west along Henrietta Lane. The proposed increase in building height and scale is therefore the main issue for assessment. In this regard, I consider that the proposed height would remain significantly below that of prevailing development in the surrounding area, including the main house and the adjoining terrace along Henrietta Street. It would, therefore, appear appropriately subordinate to the conservation area.
- 7.4.10. Having regard to the level differences and separation distances, I am also satisfied that the outlook from within the principal rooms in the main house would not be significantly affected by the proposed development. The proposed southern façade treatment, including a stepped building height and the 'green' wall, would facilitate an appropriate transition between the proposed development and the Henrietta Street terrace. The western façade also provides an appropriate separation for the

remnants of the historic wall, and I am satisfied that the applicant has included suitable proposals for its consolidation and incorporation into the scheme. I have acknowledged the proposed addition of No.'s 4a & 4b to the RPS and have reviewed the RPS 'additions report' accompanying the Draft Development Plan. I consider that the application includes a detailed 'Specification & Method Statement' to ensure that the character and integrity of these structures will not be compromised.

- 7.4.11. To the east of the site, it should also be noted that permission has already been granted for a similar 4-storey residential development onto Henrietta Lane to the rear of 35/35A Bolton Street (see section 4 of this report for details). The 4<sup>th</sup> storey of the proposed development would align with this development in a southeast – northwest direction, thereby potentially consolidating an emerging pattern of development in the area. I consider that this would, in principle, be a suitable response to the built environment and a positive contribution to the urban neighbourhood.
- 7.4.12. 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 elevations are well articulated, combining a wide variation in fenestration, materials, and colours. Therefore, I am satisfied that the proposal would not be monolithic in appearance.
- 7.4.13. It is important to acknowledge the substandard quality of the environment along the lane at present. Its predominant use as a service access for storage/workshop uses has meant that the area is lacking in active frontage and passive surveillance, which has contributed to a generally unattractive cul-de-sac. However, this can be incrementally addressed through the regeneration of backland sites with more appropriate uses and higher-quality urban design. The proposed re-development of the site with a residential building would be a significant improvement to the existing environment. It would provide a much-improved façade onto the lane and the residential use of the building would provide added vibrancy and surveillance to a neglected area. It would result in improved legibility and a better mix of uses in the area, which may facilitate more appropriate development in the future, including street-level activity.

7.4.14. In conclusion, having considered the scale, height and massing of the proposed development, together with its distance and interface with protected structures and the Henrietta Street conservation area, I consider that the proposal will satisfactorily integrate with these heritage buildings, as well as the more modern development to the north 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 good architectural quality and will make a positive contribution towards the ongoing evolution of the character of the area. Accordingly, subject to conditions, I have no objections in relation to the visual impact of the development and its impact on the built heritage of the area.

## 7.5 Standard of residential development proposed

### Mix of Units

7.5.1 It is proposed to provide 1 no. 2-bed unit, 7 no. 1-bed units and 1 no. studio unit. SPPR 2 of the Apartments Guidelines outlines that on urban infill sites of up to 0.25 ha where up to 9 units are proposed, there shall be no restriction on dwelling mix, provided no more than 50% of units comprise studio-type units. Given that only 1 studio unit is proposed, I have no objection to the dwelling mix proposed.

### Floor areas and dimensions

7.5.2 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%. This clearly does not apply to the current proposal for 9 units.

7.5.3 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. The proposed ceiling heights are 3m at ground floor level and 2.7m above ground floor, which exceeds the

minimum recommendations of the Apartments Guidelines for 2.7m and 2.4m respectively.

#### Aspect

7.5.4 The Apartments Guidelines (SPPR 4) require that a minimum of 33% dual aspect units be provided in central and accessible urban locations, albeit that this may be relaxed on urban infill sites up to 0.25ha. I am satisfied that the site is within a central/accessible urban location having regard to the criteria outlined in section 2.4 of the Apartment Guidelines and the proximity of the site to the city centre, significant employment locations, and public transport services. I consider that all but one (i.e. 88%) of the proposed units can be considered dual aspect. Only the studio unit (No.6) is single aspect. However, it is not north-facing and includes a dual aspect terrace to the east and south. Accordingly, I consider that the dual-aspect ratio significantly exceeds requirements and I have no objections in this regard.

#### Amenity Space

7.5.5 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. The quality of the spaces is generally acceptable, with most providing a dual-aspect outlook. I accept that the terrace to unit No. 1 is quite enclosed due to the need for privacy screening. However, I consider that this is satisfactorily mitigated by the generous sizes of the terrace (7m<sup>2</sup>); the kitchen/living/dining area (29m<sup>2</sup>); and the overall unit (51.5m<sup>2</sup>); which comfortably exceed the minimum requirements as per the Apartments Guidelines (i.e. 5m<sup>2</sup>, 23m<sup>2</sup>, and 45m<sup>2</sup> respectively). Section 3.39 of the Guidelines also states that private amenity standards on urban infill sites of up to 0.25ha may be relaxed in part or whole, subject to overall design quality. Accordingly, private amenity spaces are not necessarily mandatory in this case.

7.5.6 No communal open space is proposed. Based on Appendix 1 of the Apartments Guidelines, the proposed development would require a minimum communal open space area of 46m<sup>2</sup>. Again, section 4.12 of the Guidelines also allows for relaxation of this requirement in part or whole in the case of small urban infill sites less than 0.25ha. Having regard to the limited size and restricted nature of the site, the inclusion of private amenity spaces for all units, and the proximity of the site to a

wide range of public open spaces and amenities, I have no objection to the omission of communal amenity space.

7.5.7 I acknowledge that the application also does not include any proposals for the provision of public open space, which is generally 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.

#### Communal Facilities

7.5.8 A bin store is proposed at ground floor level adjoining the shared access. It would have adequate capacity to cater for the 3-bin system and would be ventilated through the use of perforated panels. It is easily accessible for the occupants of the units and collection can be facilitated on the adjoining lane. Sheltered bicycle storage facilities would be provided at the ground floor access 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. Given the limited scale of the development I am satisfied that no other communal facilities are required.

#### Security

7.5.9 Due to the restricted nature of the site, any development would have an inherently challenging interface with the laneway at ground floor level. The challenge is to ensure sufficient levels of security and amenity for the residents, while also introducing an appropriate level of surveillance and activity at street level. It is proposed that the ground floor level would consist almost exclusively of screened bedroom spaces, with the living areas (apart from unit 1) benefiting from elevated upper-level positions. Having regard to the particular circumstances of the site, I consider that this approach achieves an acceptable balance. Otherwise, secure gated access is provided along the western site boundary.

#### Conclusion on residential standards

7.5.10 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. And while I have identified some limitations in respect of amenity spaces, I

am satisfied that the proposals can be accepted in accordance with the Apartments Guidelines provisions for small sites of less than 0.25ha. 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 7.7 of this report.

## 7.6 Impacts on adjoining properties

### Overlooking and privacy

- 7.6.1 The proposed development would front onto Henrietta Lane to the north and east, including a range of windows and balconies overlooking that space. On the opposite side of the lane, I acknowledge that there are a number of similar existing and permitted arrangements. The separation distance over the lane ranges from c. 6.5m to c. 10.5m. Therefore, there would inevitably be some extent of overlooking between the proposed development and existing/permitted dwellings. However, I consider that the development of the lane in this fashion is appropriate, and that on balance, the inevitable overlooking impacts would be acceptable given the inner-city location of the site and the need to improve the amenity of the area through the regeneration of sites along the laneway.
- 7.6.2 To the west of the site are the properties 4a and 4b, which are almost entirely covered by lean-to roofing. These properties appear to be used for storage and the properties further west are similar in form and use. I do not consider that this type of development would be sensitive to overlooking/privacy impacts. Nonetheless, the future development potential of these sites must also be considered. Given that the western boundary wall would be retained at a height of c.5.3m, I am satisfied that it would effectively screen any potential future overlooking impacts at ground and 1<sup>st</sup> floor level. At the 2<sup>nd</sup> and 3<sup>rd</sup> floor levels, glazing on the west elevation is largely limited to circulation space, which I consider to be acceptable. Otherwise, glazing is limited to a small high-level window serving unit 9, which is appropriately setback 6m from the western boundary to prevent any undue overlooking. There is a west-facing terrace area serving unit 7 and appropriate privacy screening could be provided to prevent overlooking to the west.

7.6.3 To the south of the development is the rear of the Henrietta Street terrace. The separation distance from the rear building line would generally be c. 20m at ground & 1<sup>st</sup> floor level, increasing to c. 22m (2<sup>nd</sup> floor) and c. 24m (at 3<sup>rd</sup> floor). No. 4 protrudes slightly to the rear, thereby reducing the separation distance. The proposed development does not include any windows on the south elevation, although there would be a terrace in the southeast corner at 1<sup>st</sup> floor level. However, given the separation distance involved and the use of No. 3 Henrietta Street as short-stay lease apartments, I do not consider that any unacceptable overlooking impacts will occur for No. 3. I am also satisfied that any overlooking of No. 4 Henrietta Street from the terrace could only occur at a significant distance and an acute angle, and that there would be no unacceptable overlooking impacts.

7.6.4 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 would also facilitate the future development of surrounding sites. 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.

#### Overbearing Impacts

7.6.5 The appeals raise concerns about the scale and bulk of the proposed development and the intrusive visual impacts that it would have on the Henrietta Street properties. It should be noted that the lower ground floors of the adjoining Henrietta Street properties (with the exception of No.3) are effectively underground and have no real visual relationship with the proposed development. The upper ground floor levels are quite elevated and largely coincide with the 1<sup>st</sup> floor level of the proposed development, meaning that it is effectively only the 2 upper levels of the proposed development which rise above the lowest rear levels of the terrace. The two closest rear ground floor windows in No. 4 are small and somewhat screened from the proposed development by the single storey rear return. I would estimate that the 2 larger ground floor rear windows in No. 4 would be c. 22m from the 4th storey level

of the proposed development, and that there would be a height difference of c. 9m between the centre point of those windows and the top parapet of the proposed building. This would result in a viewing angle of approximately 24°, which I would not consider to be excessive. In fact, this angle of obstruction would be significantly less than that which has already been established through the 6-storey student accommodation block on Dominick Street. Accordingly, I do not consider that the proposed development would introduce an excessive scale or bulk that would be out of character with established development at this location, or that the proposed development would have any unacceptable overbearing impacts on the Henrietta Street properties.

### Construction Impacts

7.6.6 I consider that any construction disturbance impacts on adjoining properties will be only temporary and are inevitable and unavoidable aspects associated with urban development. I am satisfied that this matter can be satisfactorily agreed by conditions requiring the submission of construction management proposals to address any impacts. Furthermore, regarding potential structural damage, I note that the applicant has submitted a detailed specification and method statement to ensure the repair and consolidation of the boundary wall. In the unlikely event of structural damage to adjoining property, it would be a civil matter for resolution between the relevant parties and the planning authority (in the event of unauthorised works to a Protected Structure). However, I am satisfied that suitable mitigation measures have been submitted in this regard and the question of any other structural damage would be outside the scope of this appeal.

## 7.7 Daylight/Sunlight

### Policy

7.7.1 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.

7.7.2 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.

7.7.3 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*'.

- 7.7.4 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.
- 7.7.5 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

- 7.7.6 The application included a 'Daylight Analysis and Overshadowing' report prepared by Heffernan3D. The report states that it has been carried out in accordance with the methodology of 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 the advisory nature of the guidelines. The report was based on the original proposal submitted and was not updated to reflect the revised proposal submitted as further information. However, given that the report was based on the original proposal of larger scale, I consider that it serves as a useful reference to compare the lesser impacts on surrounding development of the smaller permitted development.
- 7.7.7 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

- 7.7.8 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. Average Daylight Factor (ADF) is the ratio of total daylight flux incident on the working plane to the area of the working, expressed as a percentage of the outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky. The BRE guide does not give any advice on the targets to be achieved within a combined living/dining/kitchen area. However, BS guidance outlines that where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space combining a living room and kitchen, the minimum ADF should be 2%.
- 7.7.9 Section 6 of the applicant's report outlines that all of the units in the original scheme would significantly exceed the recommendations of BRE Guidelines for daylight in kitchen/living rooms and bedrooms. Although the 1.5% target for kitchen/living rooms was used in the report, I note that all such rooms would also comfortably exceed the higher 2% target, the lowest value being 2.9%. While this provides a useful context for the site, I acknowledge that the figures cannot be translated to the revised proposal.
- 7.7.10 Having regard to the provisions of the Development Plan and the Section 28 guidance outlined previously in this section, I do not consider that a daylight/sunlight assessment of the revised proposal 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.

- 7.7.11 In the absence of an updated 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 8 (or 88%) 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. The only single-aspect unit proposed would not face north and would have dual-aspect terrace adjoining the living area.
- 7.7.12 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 generally proposed to serve the individual rooms and I am satisfied that this will make a significant contribution towards daylight/sunlight standards. The appeal has raised concerns specifically about units 4 & 6. However, I consider that unit 4 would benefit from a large, glazed western aspect onto an open garden space. And while glazing to unit 6 may be limited in comparison to other units, I consider that this could be easily mitigated through the provision of a rooflight.
- 7.7.13 In considering the site context, I note that there is no obstructive high-rise development immediately adjoining 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

- 7.7.14 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.

- 7.7.15 The applicant's assessment of the original proposal 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. And while it is based on the larger original proposal, I consider that the results can be used to establish that any impacts from the permitted development would be less significant.
- 7.7.16 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.
- 7.7.17 The applicant's assessment considers the impact of the development on 13 openings in the 2-storey element of the DCC development to the north. All of these windows would significantly exceed the 27% target. To the south of the development, the applicant has assessed a total of 35 openings in No. 3 & 4 Henrietta Street. These windows would generally significantly exceed the 27% target. Only one window would be marginally below the target at 26.12%. This is a lower ground floor window which was permitted as a maintenance/storage room according to P.A. Reg Ref. 4322/17. Accordingly, the impact is considered acceptable given the non-sensitive nature of the affected room, its marginal failure, and the inner-city location of the site.
- 7.7.18 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.
- 7.7.19 The applicant has identified that the 13 windows to the immediate north of site are facing within 90° of due south and these have been assessed for APSH and WPSH.

The assessment finds that all but one (i.e. opening no. 1) of these openings would maintain the 25% APSH standard. However, it should be noted that opening no. 1 serves the DCC municipal maintenance facilities at street level and should not therefore be included for assessment. For the winter period (WPSH), all of the windows would significantly exceed the 5% standard. Given that all post-development impacts would maintain a 25% APSH and 5% WPSH standard for relevant openings, I am satisfied that the impacts would be acceptable in accordance with BRE recommendations.

7.7.20 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 21<sup>st</sup> 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.

7.7.21 The applicant has assessed the surrounding rear gardens/open spaces serving No. 3 & 4 Henrietta Street. The assessment demonstrates that the spaces would significantly exceed the requirement for half of the space to receive at least 2 hours of sunshine on 21<sup>st</sup> March would still retain at least 0.835 times their former value. Accordingly, the loss of sunlight is not likely to be noticeable as per BRE guidance.

#### 3<sup>rd</sup> Party appeals / observations

7.7.22 The appeals have raised concerns about light to both existing and proposed properties. I have considered the issues raised by 3<sup>rd</sup> parties in carrying out this daylight/sunlight assessment.

#### Conclusions on Daylight/Sunlight

7.7.23 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.

7.7.24 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. Accordingly, I am satisfied that an acceptable standard of daylight/sunlight will be provided within the proposed development.

7.7.25 In relation to impacts on neighbouring windows and open spaces, I am satisfied that the applicant's assessment of the original proposal has been competently prepared in accordance with the BRE / BS guidance and methodology. The assessment demonstrates that the impacts would be acceptable in accordance with recommended flexible interpretation of BRE guidance. And while the assessment relates to the larger original proposal, I am satisfied that the impacts of the permitted development will be even less significant.

7.7.26 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.

## **7.8 Traffic and parking**

7.8.1 No car-parking or vehicular access is included within the proposed development. 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.

7.8.2 I consider that the appeal site is comfortably within 15 minutes' walk of the city centre and within c. 1km and c. 10 minutes' walk of the LUAS stops at Broadstone and Dominick Street. It is also within 10 minutes' walk of numerous bus routes along Constitution Hill and Ganby Row. The applicant's Residential Travel Plan (RTP) also outlines that the area is well served by bicycle and car-sharing schemes. Therefore, I

am satisfied that the site comfortably falls within the 'central and/or accessible urban locations' category.

- 7.8.3 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.
- 7.8.4 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. The development is limited in scale, contains mainly studio/1-bed units, and is unlikely to attract car-dependant residents. 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.
- 7.8.5 The applicant has provided 17 bicycle parking spaces in lieu of car-parking. This exceeds the minimum Development Plan requirement of 1 space per unit and facilitates adequate space for visitors. The spaces would be provided within an undercroft and would be conveniently and securely located within the gated access lane. Accordingly, I consider that the cycle parking proposals are acceptable.
- 7.8.6 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.

## 7.9 **Other Issues**

### Flooding and drainage

- 7.9.1. The application includes a 'Flood Risk Assessment and Drainage Design Report'. The report outlines that the risk of tidal or fluvial flooding is low according to the Development Plan flood risk mapping for the River Liffey. The Development Plan



mapping also indicates the site is within a 'moderate hazard area' for a 1 in 100-year pluvial (rain) event, and that the flood depth lies at c. 0.5m for the same event. The report reviews GSI data and concludes that the risk of flooding from groundwater within the bedrock aquifer and subsoil is not a concern for the site or surrounds. The report also states that the site is not affected by any flood defence infrastructure and drainage infrastructure would be assessed by DCC/Irish Water.

7.9.2. 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'. The applicant also allows for an increased flood depth of 20% for climate change. Therefore, the predicted 500mm flood depth at the site is increased by 20% to 600mm. A further 150mm freeboard is proposed to provide a finished floor level of 10.0mOD, i.e. 750mm above the existing low-point at the corner of the site. A non-return valve will also be incorporated in the combined sewer.

7.9.3. The applicant has calculated a storage capacity requirement of 7.1m<sup>3</sup> for a worst-case storm event allowing for 20% climate change. This will be implemented through two blue roofs and will discharge at 2 litres per second. All storm and foul drainage will be separated prior to being combined in a final inspection chamber at the site boundary for discharge to the combined sewer.

7.9.4. I note that the DCC Drainage Division has reviewed this information and has no objections subject to conditions. I consider that the applicant has comprehensively assessed the flooding and drainage issues affecting the site and has incorporated appropriate mitigation measures to address any risks. Accordingly, I have no objection to proposals in this regard.

#### Archaeology

7.9.5. 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. The application includes an 'Archaeological and Built Heritage Assessment' prepared by Faith Bailey and Ross Waters. It concludes that ground disturbances could adversely impact on previously unrecorded features, including the remains of post-medieval structures associated

with the former mews building. It recommends that ground disturbances should be monitored by a suitably qualified archaeologist. 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.

## 8.0 **Appropriate Assessment**

- 8.1. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA (approximately 3km to the northeast), while South Dublin Bay SAC is located approximately 4km 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 the combined sewer system at this location and will not discharge to groundwater. The combined storm/foul water 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 '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.

- 8.4. GSI mapping indicates that groundwater vulnerability is low at this location, and I am satisfied that any excavation or ground disturbance 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.
- 8.5. 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 17<sup>th</sup> day of June, 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 rooflight shall be installed to Unit No. 6.
  - (b) Privacy screening shall be erected along the western boundary of the terrace serving Unit No. 7.
  - (c) The 4<sup>th</sup> storey shall be setback a distance of 1.5 metres from the northern site boundary along Henrietta Lane.

Proposals in respect of (a), (b) and (c) 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 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. (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 plan shall provide for screened communal bin stores, which shall be adequately ventilated, drained and illuminated. The design and location of same shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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. Any alterations to the public road shall be in accordance with the requirements of the planning authority and where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the applicant's expense.

**Reason:** In the interests of clarity, public safety and amenity.

13. 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.

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



**Reason:** In the interests of visual and residential amenity.

15. 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.

16. (a) The historic wall along the western site boundary shall be retained and protected from damage during construction, and shall be repaired in accordance with the specifications, method statement and drawings submitted to the planning authority on the 17<sup>th</sup> day of June 2021.

(b) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

(c) All repair works to the boundary wall shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011.

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

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any archaeological remains that may exist within the site.

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

**Reason:** To ensure the satisfactory completion of the development.

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

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

20. 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.

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Stephen Ward  
Senior Planning Inspector  
24th February 2022