



An
Bord
Pleanála

Inspector's Report 311584-21

Development	23 no. apartments in 2 no. buildings of 3-4 storeys in height.
Location	Lands adjacent to 31 Jamestown Road, Finglas, Dublin 11
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3173/21
Applicant(s)	Real Estate Acquisitions and Sales Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Real Estate Acquisitions and Sales Limited
Observer(s)	(1) Jim Brady, (2) Richard Lidwell, (3) Robert and Debi Millar
Date of Site Inspection	19 th September 2022
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1326.16 m² and comprises land located adjacent to Nos. 29a and 31 Jamestown Road, Finglas, Dublin 11. The site is located on the north-eastern side of Jamestown Road and has an L-shaped configuration. The narrower part of the site fronts onto the public road, which widens to the rear, extending partially behind the rear property boundary of 31 Jamestown Road. The site is undeveloped and substantially overgrown, with some waste building material noted during the site inspection.
- 1.2. The site boundary adjacent to the public footpath comprises a rendered wall, with metal railings extending above it at the rear. No vehicular or pedestrian entrance is available into the site at this location. An ESB pole is in place on the footpath adjacent to the front boundary, with overhead wires extending across the front and middle portions of the site. The rear of the site is characterised by significant vegetation, which extends along the site boundaries to adjoining properties.
- 1.3. The property on the adjoining site to the north at 31 Jamestown Road is an end-of-terrace, single-storey cottage with a single-storey extension to the rear and side. This property has a vehicular entrance to the side adjacent the subject site. An undeveloped parcel of land adjoins the north/north-eastern boundary of the appeal site, to the rear of 31 Jamestown Road.
- 1.4. The property on the adjoining site to the south/south-east at 29a Jamestown Road is 2 storeys in height to the front and single-storey to the rear. This property accommodates a church use at the ground floor level, with residential uses above and has a roof garden over the single-storey extension to the rear. The rear of this site is characterised by surface car parking. The rear garden of the existing dwelling at No. 62 Clune Road adjoins the rear boundary of the appeal site. This garden extends to approx. 70 m in length, with the associated dwelling located furthest away from the subject site.
- 1.5. Jamestown Road is generally characterised by a variety of residential dwellings of 1-2 storeys in height, which are set back from the public road. There is no dedicated on-street parking in place to the front of the site.

2.0 Proposed Development

- 2.1. The proposed development will consist of 23 no. units (23 no. 1-bedroom units) in 2 no. apartment buildings ranging in height from 3-4 storeys (Building A part no. 3 storeys to part 4 no. storeys, Building B, 4 no. storeys). Building A provides 7 no. 1-bedroom units and Building B provides 16 no. 1-bedroom units. All units are intended to provide housing accommodation for an elderly population.
- 2.2. Access to the development will be from the existing site entrance on Jamestown Road. This will be a pedestrian entrance and provide access to the site for emergency vehicles.
- 2.3. The development also proposes 360 m² of communal open space, balconies / terraces associated with the individual apartment units, associated secure bicycle and bin storage, hard and soft landscaping and all other associated site works and services above and below ground, all on an overall site area of 1,326.16 m².

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission for the proposed development for 1 no. reason issued on 9th September 2021 as follows:
- 3.1.2. “The height, scale and massing of the proposed development is excessive and would detract from the visual amenities of the area. Furthermore, having regard to the orientation of the site and the close proximity of the proposal to site boundaries, it is considered that the proposed development would significantly detract from the amenities of adjacent properties by way of excessive overshadowing, undue overlooking, overbearing and potential noise and disturbance from external terraces. The layout and quality of the proposed communal open space is also unsatisfactory. The proposed development would, therefore, seriously injure the amenities of property in the vicinity, would be contrary to the Z1 zoning objective for the site and would be contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. Dublin City Council's Planning Officer considered that the height of the proposed development was excessive compared with the surrounding properties. It was also considered that the materials and finishes of the proposed development did not reflect the prominent location of the site.

3.2.3. The Planning Officer also had concerns regarding the proximity of some of the private amenity spaces to the internal access road and the shared walking path and it was considered that the communal open space would not provide an acceptable level of residential amenity.

3.2.4. The Planning Officer also considered that: (i) the balconies on the south-western façade of Block A would overlook the north-western façade of Block B and would result in an unacceptable level of overlooking and noise disturbance to 29a Jamestown Road; (ii) the windows on the north-eastern elevation of Block A would overlook 31 Jamestown Road; (iii) the balconies on the north-eastern elevation of Block B would overlook the back garden of 31 Jamestown Road and the rear garden of 62 Clune Road.

3.2.5. It was also considered that the proposed development would have an unacceptable overbearing impact on 29a, 31 and 33 Jamestown Road and 62 Clune Road by reason of inadequate set-backs from the site boundaries and that excessive overshadowing of 31 Jamestown Road would occur on foot of the proposed development.

3.2.6. Other Technical Reports

3.2.7. **Engineering Department – Drainage Division:** No objection to the proposed development subject to conditions.

3.2.8. **Transportation Planning Division:** Recommended that Further Information be requested in relation to the proposed development, which can be summarised as follows:

3.2.9. (1) Zero car parking provision is considered unacceptable in this location which is served by only limited public bus. The applicant shall submit:(i) revised plans which provide car parking for future residents and visitors / support staff, (ii) a Car Parking

Management Plan / Strategy providing information on the assignment and management of spaces and measures to prevent overspill parking, (iii) a Mobility Management Plan.

(2) The existing and proposed layout of access arrangements serving the development is unclear on the submitted plans. (i) The applicant shall clarify the existing and proposed vehicular access arrangements, including fully dimensioned plans, including details of vehicle manoeuvres within the site; (ii) The applicant shall submit revised plans that annotate the existing street tree and street utilities adjacent to the existing vehicular access and provide information on the intended plans for same.

(3) The applicant shall provide revised plans of cycle parking, all to be of Sheffield type design. All cycle parking shall be fully sheltered with weather protection, lighting, safety and security and ease of access and egress.

(4) The applicant shall provide details of how the proposed development will be accessed and served by deliveries, including refuse and emergency vehicles.

(5) The applicant is requested to submit a preliminary Construction Management Plan for the proposal.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** None received.

3.4. Third Party Observations

3.4.1. A total of 4 no. third party observations were made on the application by: (1) Robert and Debi Millar, 29a Jamestown Road, Finglas, Dublin 11, (2) Philip (surname and address not provided), (3) Richard Lidwell, 50 Jamestown Road, Finglas, Dublin 11, and (4) Jacinta McCormac, 35 Jamestown Road, Finglas, Dublin 11.

3.4.2. The issues which are raised can be summarised as follows: (1) overlooking and overshadowing of adjoining properties, (2) zero car parking provision not appropriate, (3) a mix of housing is required in Finglas, (4) apartment blocks are out of character with the area, (5) negative visual impacts, (6) excessive building height and scale, (7) environmental impact on mature trees and wildlife, (8) overdevelopment, (9) sub-standard public and private open space, (10) substandard residential amenity for future occupants, (10) drainage impacts.

4.0 Planning History

4.1. None.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Land Use Zoning

5.2.1. The site is subject to land use zoning “Z1” (Sustainable Residential Neighbourhoods) which has the objective “to protect, provide and improve residential amenities”.

5.2.2. Residential land uses are permissible under this zoning objective.

5.3. Housing

5.3.1. The housing policies of Dublin City Council are set out in Chapter 5 of the development plan. The policies which are directly relevant to this appeal case are identified below.

5.3.2. **Policy QH1:** To have regard to the DEHLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007), ‘Delivering Homes Sustaining Communities – Statement on Housing Policy’ (2007), ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2015) and ‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual: A Best Practice Guide’ (2009).

5.3.3. **Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

5.3.4. **Policy QH8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

5.3.5. **Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

5.3.6. **Policy QH22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

5.4. **Quality Housing for All**

5.4.1. **Policy QH13:** To ensure that all new housing is designed in a way that is adaptable and flexible to the changing needs of the homeowner as set out in the Residential Quality Standards and with regard to the Lifetime Homes Guidance contained in Section 5.2 of the Department of Environment, Heritage and Local Government 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

5.4.2. **Policy QH14:** To support the concept of independent living and assisted living for older people, to support the provision of specific purpose-built accommodation, and to promote the opportunity for older people to avail of the option of 'downsizing'. To support the promotion of policies that will: - encourage/promote full usage of dwelling units, - incentivise property owners of underutilised dwellings to relocate to smaller age-friendly dwellings, - actively promote surrendering larger accommodation/financial contribution schemes without compulsion.

5.5. **Infill Housing**

5.5.1. The development standards concerning infill housing are set out in section 16.10.10 of the development plan. In general, infill housing should comply with all relevant development plan standards for residential development. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

5.5.2. Infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with the appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

5.6. Car Parking

- 5.6.1. The site is located in Area 3 of the city with respect to car parking and within which a max. standard of 1 space per 2 dwellings applies for elderly persons dwellings.

5.7. Sustainable Urban Housing: Design Standards for New Apartments (December, 2020)

- 5.7.1. **Specific Planning Policy Requirement 1:** Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

- 5.7.2. Section 2.20 of the Guidelines states that the mix parameters set out above do not apply to certain social housing schemes, such as sheltered housing. Development plans should also provide flexibility of dwelling mix in urban infill development schemes as follows:

- 5.7.3. **Specific Planning Policy Requirement 2:** For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha:

- Where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units.
- Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential unit to the 49th.
- For schemes of 50 or more units, SPPR 1 shall apply to the entire development.

All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope

for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.

5.7.4. The key development standards for apartment units in the context of this application are summarised below:

- **Overall floor area:** 1-bedroom unit - 45 m². The majority of the units in a scheme of more than 10 apartments shall exceed the minimum floor area standards by 10%.
- **Unit Mix:** Max. 50% 1-bedroom units, with no requirement for 3-bedroom units. The mix parameters do not apply to certain social housing schemes, such as sheltered accommodation.
- **Storage space:** 1-bedroom unit - 3 m². As a general rule, no individual storage room should exceed 3.5 m². Storage for bulky items should also be provided outside individual apartment units.
- **Dual Aspect Ratio:** Minimum 50% dual aspect units; where single aspect apartments are provided, the number of south facing units should be maximised, with east and west facing units also acceptable.
- **Floor to Ceiling Height:** Min. of 2.4 m required, but 2.7 m encouraged.
- **Lift and Stair Cores;** Max. of 12 apartments per floor per core.
- **Private amenity space:** 1-bedroom unit - 5 m². Gardens or patios/terraces shall be provided for ground floor units and balconies for upper levels. Balconies should have a minimum depth of 1.5m in one usable length and should adjoin and have a functional relationship with the main living areas.
- **Communal amenity space:** 1-bedroom unit - 5 m².

5.7.5. Private and communal amenity space may adjoin each other, but there should be a clear distinction, with an appropriate boundary treatment and/or a 'privacy strip' between the two. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.

- **Public open space:** No requirement identified under the Guidelines.

- **Bicycle parking:** 1 cycle storage space per bedroom, with visitor parking required at a rate of 1 space per 2 residential units. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement / enlargement, etc.
- **Car parking:** In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.

5.7.6. Provision shall be made for the **storage and collection of waste** materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/ lift core and designed for the projected level of waste generation and types and quantities of receptacles required.

5.8. **Urban Development and Building Heights Guidelines for Planning Authorities (2018)**

5.8.1. It is Government policy that building heights must be generally increased in appropriate urban locations, with a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good public transport accessibility. Applicants shall demonstrate to the satisfaction of the Planning Authority or the Board, that the proposed development complies with a number of identified criteria at the scale of the city / town, district / neighbourhood / street and the site / building as per section 3.2 of the Guidelines.

5.9. **Natural Heritage Designations**

5.9.1. None.

5.10. **EIA Screening**

5.10.1. 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.)

5.10.2. It is proposed to construct 23 no. apartments which is significantly below the 500-unit threshold noted above. The site has an area of 0.1326 ha and is well below the applicable threshold in this case of 10 ha. The introduction of this residential scheme would have no adverse impact in environmental terms on surrounding land uses. The site comprises an infill site in a residential area and is located close to the village centre of Finglas. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not like to have a significant effect on any European site. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. 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 drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal.

5.10.3. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination, an environmental impact assessment report for the proposed development was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal against the Planning Authority’s decision has been lodged by Brock McClure Planning & Development Consultants on behalf of the applicant. The grounds of appeal can be summarised as follows:

- In the event An Bord Pleanála grants planning permission in this instance, the applicant would be happy to accept a condition restricting the use of the proposed development as social housing for the elderly.

- The applicant will also engage with the Local Authority regarding the replacement of the mature cherry tree that will be felled as part of the proposed development.
- The provision of frosted glass to windows at 1st, 2nd and 3rd floor levels of Block A and screening measures to the balconies at these levels adjacent to the roof garden of 29a Jamestown Road will remove the possibility of overlooking from the proposed development.
- The overshadowing of the rear garden of 31 Jamestown Road is contributed to by large, mature tree planting to the rear, which reduces existing sunlight. Therefore, the real-life impact of the proposed development will be less than shown.
- This amenity space is impacted by the proposed development and falls below BRE requirements. A large area of the space marginally fails the 2-hour requirement for sunlight on 21st March. If this marginal area is included in the calculations, the space compliant area would increase to 53% in accordance with BRE requirements.
- A zero-car parking strategy is appropriate for this development given its location, proximity to public transport and the intended end users.
- The proposed scale, mass and height of the development are in keeping with regional and national policies and the subject site is ideal for an infill scheme of this nature.
- The site is located within 150 m of Finglas village close to services and amenities and is ideally located to provide residential development for older people in line with national and regional policies and guidelines.
- The proposed development complies with the Urban Development and Building Height Guidelines (2018) which state that it is government policy to increase building heights in appropriate urban locations.
- The proposed development complies with the government's housing policy to 2030 as per "Housing for All – A New Housing Plan for Ireland", the housing strategy of the development plan and objective QH8 of the plan regarding higher residential densities on vacant or under-utilised infill sites.

- The proposed development complies with the permissible heights for the outer city as set out in the development plan.
- The design of the proposed development responds appropriately to the constraints and opportunities of this infill site and will offer a high-quality residential development for older people in a highly accessible location, close to services, amenities and transport links.
- The determination by Dublin City Council that the height, scale and massing of the proposed development is excessive is a subjective view, made without any supporting analysis.
- The height is reduced at the front of the site and is not considered excessive given that the existing residential amenity is protected.
- Block A is set back from 31 Jamestown Road by 15 m to the front and 11 m at the rear of the existing dwelling. This set-back is considered appropriate for a 4-storey building, with no overlooking features.
- Block B has been modified to include translucent window glass on all floors overlooking the proposed apartment units in Block A and on the south-east elevation of the building to prevent overlooking of the rear garden of 62 Clune Road.
- The end user and unit type proposed is not expected to present a negative impact in terms of noise and disturbance from external terraces.
- The communal amenity loop walk will ensure easy and comprehensive maintenance of the entire communal space, will reduce gardening maintenance requirements, and will enable gentle exercise by residents with regular seating and resting points.
- Defensive / barrier buffer planting is provided to ground floor windows for privacy and security. A sheltered garden has been provided reflecting the preference of the elderly for light shade rather than full sun.

6.1.2. The appeal also includes a revised design option for the subject site in the event the original proposal is considered unacceptable to An Bord Pleanála. It is submitted that the revised proposal retains an appropriate density for the site and provides further mitigation through a height modification to the proposed development, without

significantly altering the layout and nature of the proposed development. The revised proposals include the following:

- Reduced unit total from 23 to 15 no. 1-bedroom units which has been achieved by the removal of the 2nd and 3rd storey of Block A fronting onto Jamestown Road and the removal of part of the 2nd storey and the entire 3rd storey of Block B to the rear. It is submitted that these amendments address the Planning Authority's concerns regarding the height, scale and massing of the development.
- Frosted glass and privacy screens have been provided to balconies which had been identified by the Planning Authority as overlooking adjacent properties.
- An alternative landscaping plan and design rationale has been prepared. The loop walk has been removed and replaced with individual gardens for ground floor units in Block B, with a raised planter in each.
- 3 no. cycle shelters have been removed from the courtyard space and replaced with a single shelter to the north-east of Block B. This allows the courtyard to be opened up substantially and provides a higher quality of shared amenity space for residents.
- More space is available to provide sculptural sensory and gentle exercise equipment and additional seating elements and planter beds have been incorporated into the design.
- 2 no. car parking spaces are provided to address concerns regarding an increase in traffic congestion.
- A Daylight, Sunlight and Shadow Assessment of the revised scheme concludes that: (i) all neighbouring buildings pass relevant VSC checks, annual APSH, winter WPSH and overall sunlight checks, (ii) both neighbouring amenity spaces at 29a and 31 Jamestown Road comply with the 2-hour requirement for sunlight on 21st March, (iii) all tested rooms on the ground floor of the development comply with the relevant requirement for ADF, (iv) all living room / kitchen / dining rooms comply with the 2% BRE target.

- 6.1.3. The appeal submission includes separate submissions from Studio Aula Landscape Architects in support of the development as originally proposed and the revised design proposals. A submission is also included from NRB Consulting Engineers in relation to the traffic, transport and road issues relating to the proposed development. A revised Sunlight, Daylight and Shadow Assessment is also provided as prepared by CSC Consulting. The contents of these submissions have been reviewed and taken into consideration in the assessment of this appeal case.
- 6.1.4. Planning drawings of the revised design proposals also accompany the appeal submission.

6.2. Planning Authority Response

- 6.2.1. A response to the appeal was received from the Planning Authority on 1st December 2021, which includes commentary from both the Planning Department and the Transportation Planning Division.
- 6.2.2. The response from the Planning Department can be summarised as follows:
- The amendments which are proposed to the development by way of the appeal submission are material and would be most appropriately addressed by way of a revised planning application.
 - In the event An Bord Pleanála considers granting planning permission for the revised proposal, the application should be readvertised to the public.
 - The Planning Authority generally welcomes the revised scheme. The reduced building height would allow a more positive interaction with the surrounding context and would reduce the overall massing of the proposed development.
 - The revised communal open space may provide an improved outcome for residents.
 - The incorporation of 2 no. car parking spaces into what was previously considered to form the most comprehensive communal open space, may not be a favourable outcome from an amenity viewpoint.
 - The screening of balconies to Blocks A and B would reduce concerns regarding the overlooking of 29a Jamestown Road and the back garden of 62 Clune Road.

- The use of obscured windows on the north-eastern elevation of Block A and on the south-eastern elevation of Block B would reduce overlooking of 31 Jamestown Road and the back garden of 62 Clune Road respectively.
- The use of obscure glazing is only considered an appropriate design response by the Planning Authority where it is used for non-habitable rooms.
- The Planning Authority has a number of remaining concerns, including: (1) the planning application has not been made by an approved housing body and the concerns regarding the proposed unit mix remain, (2) proximity of 1st floor balconies to boundary of 29a Jamestown Road, (3) potential overlooking of 33 Jamestown Road from balconies at north-eastern corner of Block B, (4) the updated Sunlight, Daylight and Shadow Assessment does not consider the impact of balcony screens on light entering living rooms.

6.2.3. The response from the Transportation Planning Division can be summarised as follows:

- The reduced unit numbers and introduction of managed parking is welcomed.
- There is no capacity for overspill parking on the adjoining road network.
- The increase in the access road / entrance as a result of the reduced quantum of units is also welcomed.
- Concerns regarding the access road for the originally proposed 23 no. units (3.1 m at the entrance) as an emergency vehicle could not access directly onto the site, if required.

6.3. Observations

6.3.1. A total of 3 no. observations has been made on the appeal by: (1) Robert and Debi Millar, 29a Jamestown Road, Finglas, Dublin 11, (2) Jim Brady, 33 Jamestown Road, Finglas, Dublin 11, (3) Richard Lidwell, 50 Jamestown Road, Finglas, Dublin 11.

6.3.2. The observation from Robert and Debi Millar welcomes the development of the site for accommodation for the elderly and notes that the proposed development will improve the visual appearance of the site. The observers are satisfied that their concerns regarding impacts on their privacy have been addressed by the revised

design proposal and submit that planning permission should be granted for the proposed development.

- 6.3.3. The observation from Jim Brady also supports the proposed development, which will regenerate a dilapidated site, provide an appropriate type and density of development, will impact positively on the surrounding area and will contribute towards an increased sense of community. The observer is happy with the mitigation measures which have been implemented to retain a high standard of residential amenity and address overlooking concerns. The observer requests that planning permission be granted for the proposed development.
- 6.3.4. The observation from Richard Lidwell notes concerns in relation to the scale of the proposed development, its gated nature, the setting of a precedent for further high-rise development and overlooking. It is noted that there is no clause to prevent the development from being used other than for retired persons. It is submitted that a terrace of 2-storey, 2-bedroom dwellings facing the road would be a reasonable, alternative design outcome on the site.

7.0 Assessment

- 7.1. A first-party appeal has been lodged against the Planning Authority's Notification of the Decision to Refuse Permission for the proposed development. The applicant has suggested minor design modifications to the proposed development to address the Planning Authority's overlooking concerns. In my opinion, these amendments are not material and can be considered in the assessment of this appeal case.
- 7.2. The applicant has also submitted a revised design proposal for the site, which reduces the total number of apartments from 23 to 15. The height of Block A has been reduced to 2 storeys and that of Block B has been reduced to part 2-storeys, part 3-storeys. In my opinion, the changes which are proposed are material and would be more appropriately addressed by way of a revised planning application. I note that this position is supported by the Planning Authority. Notwithstanding the foregoing, the amended scheme has been considered as part of my assessment. In the event An Bord Pleanála considers granting permission for the amended scheme, I consider that the application should be readvertised to the public.

7.3. I am satisfied that the main issues for consideration in this case include the following:

- Height, Scale and Massing
- Impact on Neighbouring Properties
- Access / Car Parking
- Compliance with Development Management Standards
- Revised Scheme
- Appropriate Assessment

7.4. Each of these issues is addressed in turn below.

7.5. **Height, Scale and Massing**

7.5.1. The Planning Authority's refusal reason states, inter alia, that the height, scale and massing of the proposed development is excessive and would detract from the visual amenities of the area. In response, the applicant's agent submits that Dublin City Council's determination is a subjective view, made without any supporting analysis. It is also submitted that the proposed development complies with the Urban Development and Building Height Guidelines (2018) which state that it is government policy to increase building heights in appropriate urban locations. It is also submitted that the proposed development complies with the permissible heights for the outer city as provided for under the development plan and that the height is not excessive given that existing residential amenities are protected.

7.5.2. In considering the foregoing, I note that proposed Block A is 3-storeys (9.65 m) in height fronting onto Jamestown Road, stepping up to 4-storeys (12.2 m) to the rear. This block is set back from the side / rear extension of 31 Jamestown Road by between 10.5 m and 10.8 m. Block B at the rear of the site is 4-storeys (12.2 m) in height. Separation distances of between 15 m and 22 m arise between the rear elevation of 31 Jamestown Road and the front and side elevations of Block B. The relationship of the proposed development to the adjoining residential properties on Jamestown Road is illustrated on Drawing No. PL-004 (Context Elevations) and the photomontages which accompany the planning application.

7.5.3. In my opinion, the proposed development would comprise an inappropriate and abrupt transition in height, scale and massing on the subject site, particularly in the

context of the adjoining single-storey cottages to the north, including 31 Jamestown Road immediately adjoining. While I acknowledge that building heights increase further to the south-west within the village centre at the junction of Jamestown Road and Seamus Ennis Road, the building heights along this part of Jamestown Road extend from 1-2 storeys. In my opinion, the insertion of a residential block of 3-4 storeys at this location, would not comply with development plan policy in relation to infill housing as set out in Section 16.10.10 of the plan which requires, inter alia, that such development have regard to the existing character of the street, including the height of surrounding buildings. As such, I consider that planning permission should be refused on this basis.

7.6. Impact on Neighbouring Properties

7.6.1. The Planning Authority's refusal reason states, inter alia, that having regard to the orientation of the site and the close proximity of the proposal to the site boundaries, the proposed development would significantly detract from the amenities of adjacent properties by way of excessive overshadowing, undue overlooking, overbearing and potential noise and disturbance from the external terraces.

- Overbearing Impacts

7.6.2. The proposed development will introduce a new building line to the rear of the site in the location of Block B. While I consider that rear portion of the site is suitable for development, I consider that the proposed scale and massing of Block B would be inappropriate, given the proximity of the development to the shared property boundaries. In this regard I note that a set-back of 4 m arises to 29a Jamestown Road to the south-west and 62 Clune Road to the south-east, with an increased set-back of between 15 m and 22 m arising to 31 Jamestown Road. In my opinion, the proposed development would have an overbearing impact on 29a and 31 Jamestown Road on foot of the proposed building heights and the proximity of the development to these neighbouring properties. The extent of impact which would arise to 62 Clune Road would be reduced given the length of the rear garden serving this property, and the location of this existing dwelling approx. 38 m to the north-east of the appeal site boundary.

- Overlooking Impacts

7.6.3. Dublin City Council's Planning Officer considered that the balconies on the south-eastern façade of Block A would overlook the north-western façade of Block B and the adjoining residential development at 29a Jamestown Road. The Planning Officer also considered that overlooking of 31 Jamestown Road would occur from the kitchen / living / dining room windows on the north-eastern façade of Block A at ground, 1st and 2nd floors. It was also considered that an unacceptable level of overlooking of the rear gardens of 31 Jamestown Road and 62 Clune Road would occur from the balconies at the north-eastern corner of Block B. The Planning Officer recommended that planning permission be refused on this basis. I agree with the Planning Authority's assessment in this instance, and I consider that an unacceptable level of overlooking of the adjoining properties would arise on foot of the proposed development.

7.6.4. The applicant has proposed design modifications to address the Planning Authority's overlooking concerns as illustrated on the updated drawings which accompany the appeal (see drawing series entitled "Planning Appeal"). The following alterations are proposed to **Block A**:

- The provision of translucent glazing to the kitchen / living / dining room of the apartment units on the north-eastern elevation at 1st, 2nd and 3rd floors.
- The provision of 2.2 m high privacy screens to the balconies at the south-western corner of the block at 1st, 2nd and 3rd floors.

7.6.5. In considering the proposed amendments I note that the kitchen / living / dining room windows with translucent glazing are orientated towards 31 Jamestown Road. These windows are secondary windows serving the relevant internal rooms, with a second, larger window provided to each apartment unit facing either Jamestown Road to the front or Block B to the rear. In my opinion, the provision of translucent glazing to these openings would be acceptable and would not have a significant negative impact on the residential amenity within these units.

7.6.6. I also consider that the proposed screening to the balconies to the rear of the block would be appropriate given the proximity of these spaces to the shared property boundary with 29a Jamestown Road. However, I consider that a reduced screen height of 1.8 m would be sufficient and that a lightweight / translucent treatment

should be used in order that the availability of light within the adjoining bedroom is not unduly restricted. These matters can be addressed by planning condition should the Board decide to grant planning permission for the proposed development.

7.6.7. Amendments are also proposed to **Block B** as follows:

- The provision of translucent glazing to the secondary bedroom windows on the rear (south-eastern) elevation at each floor level.
- The provision of translucent glazing to the kitchen / living / dining room window on the front (north-western) elevation at 1st, 2nd and 3rd floor level.
- The provision of privacy screens of 2.2 m in height to the balconies at either end of the rear elevation of the block at 1st, 2nd and 3rd floor level and between the apartment units at 1st, 2nd and 3rd floors on the western elevation.

7.6.8. In my opinion, the amendments which are proposed to the block are appropriate and would address the Planning Authority's concerns regarding overlooking between Blocks A and B and the rear garden of 62 Clune Road. I also consider that the provision of privacy screens between apartment units on the western elevation is appropriate in the interests of safeguarding the residential amenity of the occupants of these units. As recommended in relation to the privacy screens on Block A, I consider that a reduced height of 1.8 m would be sufficient, with the use of a lightweight, translucent material recommended. This matter can be addressed by condition should the Board decide to grant planning permission for the proposed development.

- Overshadowing

7.6.9. In reviewing the applicant's overshadowing analysis, Dublin City Council's Planning Officer noted that the percentage of area in sunlight in the back garden of 31 Jamestown Road would be significantly reduced on foot of the proposed development. As such, it was considered that the proposed development would have a detrimental impact on the residential amenity of this dwelling, and it was recommended that planning permission be refused on this basis.

7.6.10. In responding to the foregoing, the applicant's agent submits that the overshadowing of 31 Jamestown Road is contributed to by large, mature tree planting to the rear of this site, which reduces existing sunlight in the garden. It is contended that the real-

life impact of the proposed development will be less than shown. It is also noted that a large area of the amenity space marginally fails the 2-hour requirement for sunlight on 21st March. If this area is included in the calculations, it is submitted that the space compliant area would increase to 53% in accordance with BRE requirements.

- 7.6.11. The applicant's Sunlight, Daylight and Shadow Assessment examines the impact of the proposed development on the existing dwellings on the opposite (western) side of Jamestown Road and 29a and 31 Jamestown Road adjoining the site. With the proposed development in place, all tested windows meet BRE Guideline requirements in relation to skylight availability (VSC). The proposed development also complies with the requirements in relation to annual and winter sunlight availability to the neighbouring dwellings.
- 7.6.12. The results of the assessment of sunlight availability in amenity spaces indicates that the space to the side/rear of 31 Jamestown Road will be impacted by the proposed development as identified by the Planning Officer. The availability of 2-hours of sunlight in this space on 21st March would be reduced from 76% to 37% on foot of the proposed development. While the assessment notes that the mature tree planting to the rear of this space serves to reduce existing sunlight levels and that 16% of the tested area is marginal on reaching BRE standards, in my opinion, this result further confirms that the scale of the proposed development is excessive at this location in the context of this neighbouring residential dwelling.
- 7.6.13. In conclusion, while I consider that some of the Planning Authority's concerns in relation to overlooking impacts on neighbouring properties could be mitigated by the design amendments which have been suggested in the appeal submission, on balance, I further consider that the scale, height and massing of the proposed development is unacceptable at this location. As such, the proposed development would be contrary to the Z1 zoning objective of the subject site and surrounding area and the proper planning and sustainable development of the area. I recommend that planning permission be refused on this basis.

7.7. Access / Car Parking

- 7.7.1. The proposed development does not include any on-site car parking. The Transportation Planning Division of Dublin City Council recommended that Further Information be requested in relation to the proposed development and considered

the provision of zero car parking to be unacceptable in a location which is served by only limited public bus services. It was also considered that the existing and proposed layout of the access arrangements was unclear on the submitted plans, that all cycle parking should be of Sheffield type design, that details were required of how the proposed development will be accessed and serviced by deliveries, including refuse and emergency vehicles, and that a preliminary Construction Management Plan was required. The applicant's agent submits that a zero-car parking strategy is appropriate for this development given its location, proximity to public transport and the intended end users.

- 7.7.2. The appeal submission includes an analysis of the Planning Authority's decision as prepared by NRB Consulting Engineers. It is submitted that the shared surface at the front of the site facilitates 'aided' emergency or service vehicular entry / exit to this surface as necessary, and that the location of the bins adjacent to the site entrance eliminates the need for refuse vehicles to enter the site. Bins will be removed from the roadside, which is noted to be consistent with the other residences along Jamestown Road. It is also submitted that a zero car parking strategy has been employed for similar schemes operating in the city, including at Fr. Scully House on Gardiner Street Middle, Dublin 1 and Focus Ireland housing at John's Lane West and Basin Lane, Dublin 8 and at George's Hill and Stanhope Street, Dublin 7.
- 7.7.3. In my opinion, a zero car parking strategy could be considered in this instance. As identified by the applicant's agent, the site is within easy walking distance of existing services in the village centre of Finglas and I acknowledge the likely lower levels of car ownership amongst future residents. While there is no dedicated parking to the front of the site, I also note that there are no double yellow lines at this location, with informal on-street parking observed during the site inspection. Given the limited number of units which is proposed in this instance, I consider that it would be unreasonable to refuse planning permission on the absence of on-site car parking and I note that this has not been included as a refusal reason in the Planning Authority's decision.

7.8. Compliance with Development Management Standards

- 7.8.1. The proposed development comprises 100% 1-bedroom units. SPPR1 of the 2020 Apartment Design Guidelines states that developments may include up to 50% 1-bedroom units, with no minimum requirement for apartments with 3 or more bedrooms. Section 2.21 of the Guidelines provides further guidance in relation to this matter, wherein it is stated that these **unit mix** parameters do not apply to certain social housing schemes, such as sheltered housing. Flexibility with regard to unit mix is also provided for urban infill schemes on sites of up to 0.25 ha under SPPR2.
- 7.8.2. The proposed development comprises housing accommodation for an elderly population as described in the statutory planning notices. The planning application has been made by Real Estate Acquisitions and Sales Limited, with a letter of consent from the legal representative of the site owner provided with the application. The planning application documentation also includes a letter of support from Clanmil Housing Association, which intends to acquire the proposed development subject to funding through the Rebuilding Ireland Government programme.
- 7.8.3. The applicant is relying on the flexibility provided under SPPR1 of the Apartment Design Guidelines with respect to the unit mix and notes that the proposed development is supported by Dublin City Council Housing Department. I note that the Planning Department has remaining concerns regarding the unit mix. The appeal submission states that negotiations between the applicant and Clanmil Housing Association have now been completed and that contract execution and exchange will occur subject to a grant of planning permission. While the applicant's agent notes that an updated letter from Clanmil confirming this position has been provided with the appeal, I cannot locate any such correspondence in the submission. The applicant will accept a planning condition restricting the use of the proposed development to social housing for the elderly.
- 7.8.4. In considering the foregoing, I note the provisions of SPPR1 of the 2020 Apartment Guidelines and while a Housing Need and Demand and Assessment does not form part of the 2016-222 development plan, I further refer to Section 2.21 of the Apartment Guidelines which restates that the unit mix requirements of SPPR1 do not apply to sheltered housing. I also note that Policy QH14 of the development plan supports the provision of purpose-built accommodation for older people.

- 7.8.5. Having regard to the foregoing, the description of the development as “housing accommodation for an elderly population” as set out in the statutory planning notices and the applicant’s willingness to accept a condition restricting the use of the proposed development on this basis, I am satisfied that the proposed housing mix would be acceptable and that this matter could reasonably be addressed by planning condition should the Board decide to grant planning permission for the proposed development.
- 7.8.6. In the interests of clarity, I note that all the units exceed the minimum **floor area** and **private amenity space** requirements for 1-bedroom apartment units. I also note that 74% of the units are **dual aspect**, which exceeds the minimum requirements of the 2020 Apartment Guidelines.
- 7.8.7. I further note that Dublin City Council’s Planning Officer had concerns in relation to the proposed **communal open space**, which includes hard and soft landscaped spaces to the north of the site and between Blocks A and B and a walking route which extends around the northern, eastern and southern façades of Block B. These spaces have a combined area of 360 m², which exceeds the minimum requirement of 115 m². The Planning Officer considered the proposed walking route to be of limited recreational / amenity value, with concerns noted in relation to the quality of the remaining hard/soft landscaped spaces and sitting areas. It was considered that these spaces do not include any facilities for meaningful passive recreation.
- 7.8.8. In responding to the Planning Authority’s concerns, the applicant’s agent submits that the communal amenity loop walk will ensure easy and comprehensive maintenance of the entire communal space, will reduce gardening maintenance requirements, and will enable gentle exercise by residents with regular seating and resting points. It is also submitted that defensive / barrier buffer planting is provided to ground floor windows for privacy and security and that a sheltered garden has been provided reflecting the preference of the elderly for light shade rather than full sun.
- 7.8.9. In my opinion, the communal open space which is proposed is somewhat piecemeal in nature and comprises disjointed spaces, which in some instances, also act as circulation routes to the proposed on-site cycle parking facilities. I also share the

Planning Authority's concerns that the walking route is of limited amenity value, and I note its proximity to the ground floor residential units. I consider that a single, centrally located communal space would comprise a more successful landscaping approach within the site, and that the spaces now proposed would not provide a high-quality outdoor environment for future residents.

7.9. Revised Scheme

- 7.9.1. An alternative design scenario has been proposed on the subject site for the consideration of the Board (see drawing series entitled "Planning Appeal – Alternative Design"). The amended scheme includes 15 no. 1-bedroom apartments arranged across 2 blocks, which largely reflect the footprint of the development as originally proposed. Block A to the front of the site is reduced to 2-storeys in height, while Block B to the rear is part 2-storeys, part 3-storeys in height. All the units exceed the minimum floor area requirements, while 80% of the units are stated to be dual aspect.
- 7.9.2. Block A at the front of the site accommodates 2 no. apartment units at both the ground and 1st floor levels. Obscure glazing is proposed at 1st floor level on the north-eastern elevation of the building which is orientated towards the neighbouring property at 31 Jamestown Road. Separation distances of between 10.8 m and 15.12 m arise to side elevation of this neighbouring property. In my opinion, these separation distances would be acceptable given the proposed 2-storey height of the block and the proposed fenestration treatment on the north-western elevation. No windows are proposed on the south-western elevation of the block adjacent to 29a Jamestown Road, while a privacy screen is proposed to the rear, western corner of the block at 1st floor level to mitigate overlooking of this property. As such, I am satisfied that Block A would have no unacceptable impact on 29a Jamestown Road. I note in this regard that the owners of the aforementioned property have submitted an observation on the appeal, which confirms that their concerns regarding impacts on their privacy have been addressed by the revised design proposal and that planning permission should be granted for the proposed development.
- 7.9.3. Block B at the rear of the site is 2-storeys in height to the front, increasing to 3-storeys to the rear and accommodates 11 no. apartment units. In my opinion, the

proposed building heights represent a more appropriate transition in scale in the context of the neighbouring single-storey cottage at 31 Jamestown Road.

- 7.9.4. A separation distance of approx. 9.8 m arises between Block A and Block B. The north-western elevation of Block B facing towards the rear of Block A contains a small bedroom window at the ground and 1st floor levels, which will be finished in translucent glazing. Having regard to the foregoing, I am satisfied that no overlooking would occur between the proposed blocks. Small windows with translucent glazing are also proposed to the bedroom windows on the rear elevation of Block B facing 62 Clune Road, while privacy screens are proposed to the balconies at 1st and 2nd floor levels. As such, I am satisfied that no undue overlooking of the rear garden of this adjoining property would occur.
- 7.9.5. The primary fenestration to Block B is arranged along the side elevations of the building, facing towards the rear of 29a Jamestown at a set-back of approx. 3 m to the south-west and the undeveloped parcel of land adjoining the site to the north-east at set-backs of between approx. 5 m and 6.5 m. These windows serve combined kitchen / living / dining rooms and bedrooms. Balconies are also proposed at the 1st and 2nd floor levels facing towards the adjoining properties.
- 7.9.6. The windows on the north-eastern elevation of Block B do not overlook any existing residential development. However, the windows and balconies on the south-western elevation of Block B at 1st and 2nd floor levels, would directly overlook the rear of 29a Jamestown Road. While I acknowledge the property owners have expressed their support of the amended design proposals, I consider that the granting of planning permission for such an arrangement would set an inappropriate precedent in this instance.
- 7.9.7. The proposed private and communal open space arrangements have also been revised. The communal open space comprises a single hard/soft landscaped space in the northern corner of the site. This space has a stated area of 114.10 m², which exceeds the minimum area required of 75 m². In my opinion, the layout and configuration of the communal open space represents an improvement on that proposed under the original application and would provide a more usable amenity space for future residents.

- 7.9.8. The remaining space at ground floor level, apart from the internal circulation route and the bike and bin store locations, has been reconfigured as private terraces for the ground floor apartment units, with balconies provided for the upper floor units. These spaces range in size from 5.15 m² to 103.43 m² and as such, meet or significantly exceed the minimum requirements of the 2020 Apartment Guidelines.
- 7.9.9. The proposed site layout has also been revised to accommodate 2 no. on-site car parking spaces located between Block A and Block B. The site access has been widened to facilitate same, which would require the removal of the existing tree and utility column to the front of the site. It is confirmed that these spaces will serve staff, deliveries or visitors. Autotrack drawings have been provided which demonstrate a saloon car entering and leaving each of the spaces. No drawings have been provided demonstrating emergency vehicle access to the site. In my opinion, the proposed on-site car parking arrangements would be acceptable.
- 7.9.10. A total of 24 no. cycle parking spaces are also proposed in the form of traditional Sheffield stands. I am satisfied that the level of provision complies with the standards of the 2020 Apartment Design Guidelines.

7.10. Appropriate Assessment

- 7.10.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

7.11. Conclusion

- 7.11.1. The site is zoned for residential purposes and the proposal to provide residential accommodation for elderly persons is supported in principle at this location. However, it is considered that the mass, height and scale of the development as proposed would have an unacceptable impact on the adjoining residential properties, and as such, the proposed development would be contrary to the Z1 zoning objective of the site and the proper planning and sustainable development of the area.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the proposed development for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

- 9.1. The proposed development, by reason of its height relative to surrounding residential properties, its bulk and its massing, would be out of character with the pattern of development in the vicinity and would constitute a visually discordant feature in the streetscape which would be contrary to the Z1 land use zoning of the site and surrounding area. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.
- 9.2. The proposed development, by reason of its proximity to the shared property boundaries, would seriously injure the amenities of adjoining residential properties by reason of overlooking, overbearing and overshadowing impacts. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Louise Treacy
Senior Planning Inspector

27th September 2022