



An
Bord
Pleanála

Inspector's Report

ABP-312444-22

Development	Construction of 8 apartments in five-storey building and all associated site works.
Location	Stable Lane, Off Clonmel Street, at rear of 87-91 Harcourt Street, Dublin 2
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2474/21
Applicant(s)	Talcvale Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	<ol style="list-style-type: none">1. First Party vs. Condition2. Third Parties vs. Grant
Appellant(s)	<ol style="list-style-type: none">1. Talcvale Ltd2. IPB Insurance CLG ByrneWallace LLP
Observer(s)	None
Date of Site Inspection	2 nd August 2022
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The appeal site is located on the edge of the city centre area, between Harcourt Street and Iveagh Gardens. It is bounded to the north by an existing office development; to the west by a backland office development off Harcourt Street; to the east by Iveagh Gardens; and to the south by an office building off Clonmel Street.
- 1.2. Land use in the surrounding area is predominantly characterised by commercial and office uses, mixed with some residential uses. St Stephen's Green and the Iveagh Gardens provide high-quality recreational spaces of significant scale, while the Grafton Street area contains an extensive retail/food offering. The LUAS line provides an important public transport link along Harcourt Street to the west.
- 1.3. The area includes development of a wide range of scale and character which has evolved significantly over time. The streetscapes around St Stephen's Green and along Harcourt Street include a significant presence of terraced period properties with a variety of brick finishes, heights and massing, some of which was subject to comprehensive redevelopment in the late 20th century. Development along Clonmel Street consists mainly of modern office buildings. There are also more substantial civic buildings in the wider area, including churches and educational establishments, as well as more modern office and retail developments. Building heights generally vary between 3-7 storeys.
- 1.4. The site itself has a stated area of 0.03ha and currently comprises an electricity sub-station, surface car-parking and circulation area, planters, and a shared car lift to existing basement levels. Access is provided at the southeast corner of the site via Stable Lane, which runs off Clonmel Street.

2.0 Proposed Development

- 2.1. In summary, the proposed development, as amended by the applicant's further information response, comprises the construction of a new 5-storey apartment building over the existing basement, substation, and car lift. The development would have a gross floor area of 1,103.74m² and would be comprised of the following:
 - 8 no. apartments (4 no. 3 beds, 4 no. 2 beds)

- a lobby and concierge/meeting room at ground floor level
- a communal roof terrace (139.85m²)
- provision for 24 no. cycle parking spaces, apartment storage, and bin storage area within the existing basement, and
- Internal alterations consisting of lifts and stairs at basement level.

2.2. The surface water drainage system incorporates SuDs measures including a green roof, rain garden, and attenuation. It is proposed to connect to the existing surface water drainage system in the shared basement. In the event that agreement cannot be reached with the owner of the shared basement, it is proposed to connect to the existing combined sewer on Clonmel Street. Similarly, it is proposed that foul drainage and water supply would connect to the existing services in the shared basement, or to the existing services on Clonmel Street if agreement cannot be reached.

2.3. In addition to the normal drawings and requirements, the application and appeal is supported by the following reports:

- Planning Report
- Conservation Method Statement
- Civil Engineering Infrastructure Report
- Construction Management Plan
- Residential Travel Plan / Mobility Management Plan
- Appropriate Assessment Screening Report
- Daylight, Sunlight and Overshadowing Study
- Landscape and Visual Statement
- Operational Waste & Recycling Management Plan
- Materials Statement.

3.0 Planning Authority Decision

3.1. Decision

By order dated 8th December 2021, Dublin City Council (DCC) issued notification of the decision to grant permission subject to 19 conditions. The conditions are generally standard in nature, with the exception of condition no. 6 which states as follows:

Prior to commencement of development the following amendments shall be submitted for the written agreement of the Planning Authority:

a) the eastern building line of the upper five floors (first floor – fourth floor mezzanine inclusive) of the proposed development shall be set back 2.5 metres from the site boundary with the Iveagh Gardens.

b) a set of detailed elevation drawings, visualisations and material samples shall be submitted for the written agreement of the planning authority.

c) The Developer shall submit revised drawings giving greater consideration to the breaking up of the substantial 27.5m x 18m red brick north wall in a considered manner.

Reason: In the interest of visual amenities.

3.2. Planning Authority Reports

3.2.1. Further Information

The planning authority issued a request for further information on 25th May 2021. The points raised can be summarised as follows:

1. A request to address the DCC concerns regarding the proximity of the proposed windows to site boundaries.
2. A request to address a current application (P.A. Reg. Ref. 2062/21) to the north of the site in respect of potential impacts on daylight and sunlight, overlooking, and separation distances.
3. Details and clarification regarding the proposed materials on the eastern elevation.

4. A visual impact assessment from Harcourt Street.
5. Written consent for the carrying out of the development above the existing substation and access to the basement car park.
6. Proposals to address the concerns of the Roads Division as follows:
 - a) Clarification of existing vehicle access and parking arrangements for Stable Lane and Clonmel Street, including auto-track assessment.
 - b) Clarification of construction access requirements and potential impacts on Stable Lane, Clonmel Street, and Harcourt Street.
 - c) Clarification of bin storage arrangements for residents.

3.2.2. Planning Reports

The assessment outlined in the planner's final report (8th December 2021) can be summarised as follows:

- Given the 'Z8' zoning of the site and the current housing crisis, the proposed residential development is welcome.
- The size, aspect, and mix of proposed units complies with 'Sustainable Urban Housing: Design Standards for New Apartments'. Private and communal open space is also provided in accordance with standards.
- The site is well served by public transport and the proposal would make more efficient use of the site in accordance with national planning policy.
- The proposal would not negatively impact on the character or appearance of the Iveagh Gardens conservation area. The proposal is appropriately scaled and sits comfortably in the context of surrounding development.
- The external amenity roof garden space meets the sunlight requirements as set out in BRE guidance. Most of the apartments meet the daylight (ADF) standards as per BRE guidance but three units do not meet the standards for combined kitchen, living, dining areas (2%). However, given the restricted nature of the site and its city centre location, the proposals for units with generous floor areas and ceiling heights are welcomed.

- The further information response has omitted windows on the north elevation and includes proposals to maintain the western elevation windows. Screens and shutters have also been incorporated into the windows.
- In order to ensure the success of the proposed design, detailed elevation drawings should be agreed with the planning authority.
- Given its proximity to the Iveagh Gardens, the proposed development should be setback 2.5m from the eastern boundary, similar to the setback of the proposed development on the adjoining site to the north. This will also address concerns raised in relation to the impact on boundary trees.
- Consideration should also be given to breaking up the substantial north-facing red-brick wall.
- Having regard to the existing constraints and access arrangements as well as the scale of the proposed development, the proposed access arrangements are considered acceptable.
- The report recommends a grant of permission subject conditions, and this forms the basis of the DCC decision.

3.2.3. Other Technical Reports

- Drainage Division: No objections subject to conditions.
- Conservation Officer: A report was prepared after further information had been received. It raises concerns about height and impacts on protected structures (Iveagh Gardens & 1 Clonmel St); the building line and impacts on Iveagh Gardens, including the boundary wall and trees; and architectural detailing and materiality, particularly the eastern and northern elevations. It recommends a grant of permission subject to the following conditions:
 - Conservation expertise and practice shall be employed to ensure the protection of the boundary wall with Iveagh Gardens.
 - Reduction in building height by at least one storey.
 - Setback of the eastern building line to align with the western edge of Stable Lane.

- Specialist measures to ensure the protection of trees with the adjoining Iveagh Gardens.
 - Detailed drawings, images, and samples of materials to be agreed.
 - An acceptable level of ventilation shall be provided.
 - Consideration to be given to breaking up the substantial red brick north wall.
- City Archaeologist: No objections subject to conditions.
 - Transportation Planning Division: The report requested further information on the issues outlined in section 3.2.1. of this report. There is no subsequent report on file.

3.3. Prescribed Bodies

Transport Infrastructure Ireland: Recommends conditions to ensure the protection of Luas infrastructure and states that Section 49 Supplementary Development Contribution Scheme applies (LUAS Cross City – St Stephen’s Green to Broombridge).

3.4. Submissions / observations

Several third-party submissions were received, including a submission from the Office of Public Works (OPW). The issues raised can be summarised as follows:

- The OPW raises concerns about the proximity to Iveagh Gardens and the potential impacts on its amenity value and historic integrity. Concerns are also raised about the boundary wall, existing trees, and overlooking from the proposed development.
- A submission on behalf of the prospective developer of the adjoining site to the north (P.A. Reg. Ref. 2062/21) contends that the two applications are complimentary and confirms that there is no objection in principle to the proposed development.
- Concerns about access and parking at construction and operational stage, including impacts on access to the car lift.
- Overlooking of adjoining properties to the west and south.

- Excessive height and impacts on light/sunlight to properties to the west and south.
- Potential adverse construction impacts for neighbouring properties.
- Evidence of legal consent to carry out the proposed works.
- The application contains inaccuracies and/or inadequate information about the height of the proposed building and its distance from surrounding development.
- Inadequate structural details and concerns about buildability.

4.0 Planning History

4.1. The following planning history has been noted in relation to the appeal site:

P.A. Reg. Ref. 6019/05: Permission granted (March 2006) for modification to previously approved ABP Ref. No. PL29S.201122 to include reduction from 5 No. to 4 No. apartments, a change to all elevations, increasing the height of portions of the building by 1m and inclusion of additional suspended mezzanine floor plate at upper ground level.

ABP Ref. PL 29S.201122 (P.A. Reg. Ref. 0363/98): DCC decided to refuse permission for five apartments with roof terrace in a four storey new building over existing basement of office building, on grounds of overdevelopment, excessive height, the amenity of existing and proposed properties, and the visual amenities of Iveagh Gardens. The Board subsequently decided to grant permission in April 2003.

P.A. Reg. Ref. 0063/01: Permission refused by Dublin City Council for a residential development comprising a five storey building with four floors of apartments over ground floor entrance and storage area, with semi –public roof terrace and landscaping and access off Stable Lane. The reason for refusal related to over development of the site and visual obtrusiveness and impact on the amenities of adjoining property and Iveagh Gardens.

4.2. The following planning history is noted in relation to surrounding sites:

P.A. Reg. Ref. 2799/99: On the adjoining lands to the west, permission was granted for mixed use office and residential development comprising a new office building in five storeys over ground and basement floors and the change of use and internal alterations to listed buildings (No's 87-91 Harcourt St) to provide for office and residential use. Two vehicular accesses were proposed off Clonmel St and Stable Lane. The omission of the top floor of the building was required by condition so as to reduce the visual impact of the development on Clonmel St and to lessen the shadowing effect on adjoining property.

ABP Ref. 311618-21 (P.A. Reg. Ref. 2062/21): On the adjoining lands to the north, this is a current first-party and third-party appeal case against the DCC decision to grant permission for the demolition of the existing 5 to 7-storey office complex and the construction of a new 4 to 8-storey office development. The DCC decision required the removal of one storey.

5.0 Policy 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 several 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 that can encourage more people and generate more jobs/activity within existing settlements;

- 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 of the NPF, **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 The **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 operative Development Plan for the area is the Dublin City Development Plan 2016-2022. The site is zoned as Z8 ‘Georgian Conservation Areas’, the objective for which is ‘*To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*’.

5.2.2 Chapter 4 outlines the shape and structure of the City and provides for taller buildings in designated areas. Outside these designated areas and SDRAs it is

otherwise policy to retain the remaining areas of the city to a maximum height of between 16m and 28m depending on location. Section 4.5.4.1 (Approach to Taller Buildings) outlines that the spatial approach to taller buildings in the city is in essence to protect the vast majority of the city as a low-rise city, including established residential areas and conservation areas within the historic core, while also recognising the potential and the need for taller buildings to deliver the core strategy. Section 16.7.2 includes height limits for 'low-rise' residential development in the 'inner city' and 'rail hubs' (up to 24m) and the 'outer city' (up to 16m). Relevant policies can be summarised as follows:

SC7: To protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence.

SC13: Promotes sustainable densities, particularly in public transport corridors, which are appropriate to their context and supported by community infrastructure.

SC14: Promotes a variety of housing and apartment types to create a distinctive sense of place

SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, including the demonstration of sensitivity to the historic city centre.

SC28: To promote understanding of the city's historical architectural character to facilitate new development which is in harmony with the city's historical spaces and structures.

5.2.3 Chapter 5 of the Plan 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 for existing and proposed properties.

5.2.4 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. The site is not located within a designated ACA or Conservation Area and does not contain any Protected Structures. However, it is within the curtilage of a protected structure (87-91 Harcourt Street) and there are

several other protected structures along Harcourt St and Clonmel St. It also adjoins the Iveagh Gardens to the east, which is a protected structure and within a designated 'conservation area'. In summary, relevant policies of the current plan 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.

5.2.5 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. 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. 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.

5.3 **Natural Heritage Designations**

The Grand Canal Proposed Natural Heritage Area is located c. 650m to the south of the site. The nearest Natura 2000 sites are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC, both located in Dublin Bay at a distance of c. 3km from the site.

5.4. **EIA Screening – Preliminary Examination**

Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. First Party Appeal

The decision of DCC to grant permission is the subject of a First Party appeal requesting the removal of condition no. 6(a), which requires the setback of the upper floors 2.5 metres from the boundary with Iveagh Gardens. The grounds of appeal can be summarised under the following headings:

Existing buildings on site and surrounding area

- The existing substation and its foundations are already closer than 2.5m to the boundary wall.
- No new foundations are proposed, and the proposed new building will not physically impact the wall or existing trees. It will be 0.1m from the wall at its nearest point.
- The existing building line around the gardens is inconsistent and it is not clear what building line would be protected or how it would benefit views from the Iveagh Gardens.

Further Information Request

- The request did not raise the issue of proximity to the boundary wall, and it is surprising that the setback was required by conditions.
- Even with the setback, the proposal will still be visible from Iveagh Gardens and the level of privacy for the occupants will not be affected. However, there would be a detrimental impact on surveillance of the adjoining park.

Detrimental Impact on apartments

- The aim of the development is to provide attractive, luxury apartments in a central location, thereby providing an alternative to the usual offer.
- The setback will negatively impact on the layout and functionality of the units.
- The apartments would change from being large 2-bed units to only just exceeding the apartment guidelines, measuring 76.87m². The balconies would be substandard, only just exceeding 6m².

- The impact on the standard of accommodation would be unreasonable.

View from and security of Iveagh Gardens

- The proposal will improve the current view of the site from Clonmel St, Stable Lane, and Iveagh Gardens.
- The setback would reduce the visibility from Clonmel St and Stable Lane, thereby removing the opportunity to close the view with an attractive building.
- The setback will also reduce the presence of an attractive block when viewed from Iveagh Gardens, which is the only relief from the unattractive views of the rear of buildings.
- As acknowledged by the DCC Conservation Officer, the views to the rear of Harcourt Street have been altered for some time and the proposed development would not alter views of protected structures from Iveagh Gardens.

Previous permission

- If the Board requires a setback, a reduced setback should be considered.
- The previously permitted development (P.A. Reg. Ref. 6019/05) was c. 0.895m – c. 1.61m from the boundary wall at ground floor level and was c. 0.47m – 0.895m from the upper at upper floor levels.
- If a setback is required, it should be reduced to match that of the previously permitted development or the existing substation building.

6.2. Third Party Appeals

The DCC decision to grant permission has been appealed by two third parties. The grounds of appeal in each case are outlined in the following sections.

6.2.1. IPG Insurance CLG Appeal

The appellant is stated to be the owner of Nos. 2-3 Clonmel St. The appellants are not opposed to the development but are concerned about the impact on their property, which can be summarised as follows:

- The application or DCC has not responded to the concerns raised in the further information request about the impact of windows on the southwestern site boundary.
- The residential amenity value attached to the windows on the southern boundary line, including views and daylight directly across the roof of the appellant's property, will prejudice, restrict, and prevent the potential for future redevelopment, in particular no. 3 Clonmel St.
- It is requested that the Board address this by including a condition requiring the removal of the windows and openings along the southern boundary line. This would not have a material effect on the scheme as there would be sufficient openings for natural light.

6.2.2. ByrneWallace LLP Appeal

The appellant's offices are stated to be to the west of the subject site. It is stated that the appellant also has use of the car lift on the subject site. There are serious concerns about the impact of the development on access arrangements including the basement car park, parking along the access route, servicing arrangements, and pedestrian access/egress. The grounds of the appeal can be summarised under the following headings:

Vehicular access arrangements

- The access for construction vehicles and heavy machinery would conflict with current parking arrangements, access to the car lift, and the access rights currently enjoyed by the appellant under their lease agreement.
- The applicant has not demonstrated that they are the site owner or have legal consent to carry out the works and should be dismissed by the Board.
- The development is dependent on the use of shared areas without noting that agreements would be necessary to regulate use and financial contributions towards such areas.
- The impacts of the construction and operational phases on access/parking arrangements would be severe and prolonged and would severely and unacceptably effect business operations.

- The southern boundary of the proposed building would unduly interfere with safe turning and access into the existing car lift.
- The pedestrian foyer exit onto a shared vehicular access/egress is not suitable for pedestrians.
- No drop-off facilities or car-parking has been provided, which would conflict with the parking policies of the Development Plan.
- The provision of access and a footpath is not possible along Stable Lane for the reasons outlined. The proposal would generate serious conflict between construction traffic and existing traffic; would result in overspill parking, drop-off, and servicing traffic on nearby streets and footpaths; would obstruct pedestrians, cyclists, trams, and other road users; and would result in a traffic safety hazard which would be contrary to section 16.38 of the Development Plan and the proper planning and sustainable development of the area.

Negative effects on adjacent amenities

- The height and proximity of the proposed development would have materially negative impacts on surrounding amenities.
- The pedestrian access/egress route to the appellant's premises via the car lift is required on a 24/7 basis, especially for fire safety, and would likely be cut off during an extended construction period. The applicant's proposals have not addressed the matter as requested.
- The western boundary, including windows, would be just 11 metres from the appellant's property. The appellant has expressed serious concerns about overlooking of their offices and considers that the separation distance would provide a substandard level of privacy and residential amenity for the occupants of the proposed apartments.

Visual Impact, height, and conservation interests

- A setback of 2.5m from the boundary with Iveagh Gardens would be helpful but would be very short in the context of the height, scale, and massing of the proposal.
- The setback would not be sufficient to mitigate the very serious negative visual impacts on Iveagh Gardens and the historic boundary wall, as well as

the protected structures in the vicinity. It would not be in accordance with policies CHC 1 and CHC2 of the Development Plan and should be refused.

Poor standard of residential amenity – Daylight, Sunlight and Overshadowing

- Three of the proposed units have ADF values for combined kitchen/living/dining rooms ranging from 0.72% to 1.05%, which is well below the BRE / BS standard of 2%.
- The appeal refers to the case of *Atlantic Diamond Ltd v. An Bord Pleanala* and its judgement on the Building Height Guidelines, Apartments Guidelines, and BRE standards. The appellant contends that the proposed development does not provide adequately for any alternative, compensatory design solutions for the failure to meet the minimum 2% ADF standard. The planning authority has not satisfactorily justified or explained its decision to accept the proposed ADF standards.
- The proposal should also be assessed in relation to Annual Probable Sunlight Hours (APSH) and winter sunlight hours for all windows, and 'no skyline' and target illuminance in all habitable rooms in accordance with BRE guidance.
- The substandard levels of ADF and residential amenity are not outweighed by the need for higher density development and the proposal should be refused in accordance with section 16.10.1 of the Development Plan.
- The applicant's shadow analysis does not highlight the overshadowing impact on the appellant's building. The application should have included an assessment of Vertical Sky Component (VSC), APSH, and winter sunlight hours, on all surrounding windows.
- The proposed development should be refused based on inadequate assessment of sunlight, daylight, and overshadowing, and the identified and/or likely impacts of the standard of amenity for the proposed development and existing properties.

Conditions

- In the event of a grant of permission, it is requested that a condition be attached requiring the applicant to enter an agreement with the appellant (at the cost of the developer) for:

- Monitoring of the car lift and the buildings, structures, and services on the adjoining premises during all construction phases, and that any damage shall be made good by the applicant.
- Management and monitoring of the use of Stable Lane during the construction phase and long term to ensure safe and suitable access so as not to interfere with the established amenities.

6.3. Observations

None.

6.4 Planning Authority Response

None.

6.5 Applicant Response

- 6.5.1. The applicant's response to the Byrne Wallace LLP appeal can be summarised under the following headings:

Vehicular Access Arrangements

- As per Condition 10(a) of the DCC decision, a comprehensive best-practice Construction Management Plan (CMP) will ensure that access to Stable Lane and the car lift will be maintained during construction and operation.
- Parking is already prohibited along Stable Lane and the development will not alter this aspect of the appellant's lease.
- Solicitors' letters have confirmed that the applicant is the owner of the lands, a matter which could be considered a civil rather than a planning matter.
- The 'autotrack' drawings submitted as further information have demonstrated that the building will not affect vehicle manoeuvres into the car lift.
- Stable Lane has been a shared surface for over 20 years without incident. The pedestrian entrance is setback and cars can travel from one direction only at very low speeds. The 8 apartments would not result in a significant

increase in pedestrian traffic and the development would provide improved surveillance of the lane.

- The absence of car-parking in the development is wholly consistent with planning policy for central and/or accessible locations.

Effects on adjacent amenities

- The development will ensure that the fire route from ByrneWallace offices through the site will be maintained during construction and operation. The specific details will be addressed in the CMP.
- The separation distance of 11.6m refers to a blank wall where no overlooking occurs. At a separation distance of 16m there is a limited overlap of windows, which are angled, at a different level, and will experience different hours of operation. The proposed windows will have removable screens/shutters for the privacy of future occupants. These measures will ensure compliance with section 16.10.2 of the CDP.
- Section 16.10.3 of the CDP does not relate to overlooking as referenced by the appellant.

Visual Impact, Height, and Conservation Interests

- The development will provide a positive impact on Stable Lane and the view from Iveagh Gardens. It will blend with its surroundings and provide improved surveillance.
- The 2.5m setback required under condition 6 is unnecessary and the applicant strongly disagrees with the contention that it is insufficient.

Daylight, Sunlight, and Overshadowing

- A report has been prepared by IES limited which confirms that the development has a high standard of daylight with 27 of the 30 spaces passing recommendations.
- Of the three that are slightly below recommendations, all of the living areas meet the standards. The living areas are larger than the Apartment Guidelines standards and all apartments benefit from a range of compensatory measures

including attractive balconies facing east or south; 50% are dual aspect; maximised glazing; and 2 apartments have double height spaces.

- The Byrne Wallace building has very large windows and the building as a whole should still receive adequate daylight. The impact can be classed as a minor adverse impact.
- Although an Annual Probable Sunlight Hours test is not required for the ByrneWallace office building, a test has been completed and concludes that the impact would be classed as 'minor adverse'.
- The IES assessment concludes that the proposed development will have a low impact to its surroundings of urban high density. The proposed development itself will perform to a high standard with regards to daylight and sunlight.

6.5.2. The applicant's response to the IPG Insurance CLG appeal can be summarised as follows:

- The windows/openings on the southern boundary would serve apartment no. 8 and are not required to meet daylight/sunlight standards. However, they would provide remote views and increased daylight, which would improve residential amenity. It is requested that the windows/openings are not omitted by way of condition.
- The absence of recent planning applications suggests that the redevelopment of 2 & 3 Clonmel Street is not likely in the immediate future.
- The windows only overlook no. 3 and do not overlook the larger no. 2. Any future redevelopment of the buildings would have to respect the heritage of the area and the existing stepped back arrangement of no. 3, and any increased height may result in the demolition of building within a historic part of the city centre.
- If a suitable redevelopment proposal comes forward, the proposed windows could be removed as they are a secondary source of light.
- It is suggested that a condition could be attached giving a temporary 10-year permission for the windows.

7.0 Assessment

7.1. Introduction

7.1.1. This appeal case relates to a First-Party appeal against condition no. 6(a), as well as two Third-Party appeals against the DCC decision to grant permission. Therefore, notwithstanding the provisions of section 139 of the Planning and Development Act 2000 (as amended) regarding the limited consideration of appeals against conditions, the determination of the case as if it has been made to the Board in the first instance is required. Therefore, I will carry out a *de novo* assessment of this case, while also considering the provisions of condition no. 6(a), where relevant.

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

- The principle of the development
- Height, scale, and visual amenity
- Standard of residential accommodation proposed
- Daylight/Sunlight
- Impacts on surrounding properties
- Traffic, access, and parking.

7.2. The principle of the development

7.2.1. The proposal involves the construction of a small residential development on a site within a 'Z8' zone as per the current Development Plan, the objective for which is '*To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*'. In this zone, 'residential' uses are specifically classified as 'permissible uses'.

7.2.2. Section 14.8.8 of the Plan further states that lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian Squares and streets. The aim is to protect the architectural character/design and overall setting of such areas. A range of uses is permitted in such zones, as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-

time. In the south Georgian core where residential levels are low, it is the aim to encourage more residential use in the area.

- 7.2.3. Having regard to the above, I consider that the proposal for a small residential scheme on this accessible city centre site would be acceptable in accordance with the Z8 zoning objective and local and national policy to promote compact, sustainable urban development. Therefore, I have no objection to the principle of the proposed development.

7.3. **Height, scale, and visual amenity**

Building Height Policy

- 7.3.1. I have previously outlined Development Plan policy in relation to building height in the city. In particular, I note that section 16.7.2 of the Plan includes height limits for 'low-rise' residential development in the 'inner city' of up to 24m. The appeal site is located within the 'inner city' and a 'rail hub' as defined in the Development Plan and, therefore, the 24m height policy applies.
- 7.3.2. The height of the proposed development varies depending on the adjoining ground levels and whether or not the existing basement levels are included. The applicant states that the maximum height is c.35m (which appears to include the basement levels) and accepts that this exceeds the Development Plan limit of 24m. Excluding the existing basement levels, I note that the proposed western elevation has a maximum height of c. 26.4m. Therefore, as has been accepted by the applicant, the proposed height exceeds the Development Plan policy limits.
- 7.3.3. Notwithstanding this and having regard to Ministerial Guidelines and specific planning policy requirements (SPPRs) under section 28 of the Act, the Board may grant permission in accordance with section 37(2)(a) of the Act, even if the proposed development materially contravenes the development plan.
- 7.3.4. In terms of national policy, the '*Urban Development and Building Heights Guidelines*' promotes Development Plan policy which supports increased building height and density in locations with good transport accessibility 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.

Quantum of Development

7.3.5. The application has a stated gross floor area of 1,649m² on a stated site area of 0.0331 ha. The Development Plan outlines that ‘plot ratio’ is a tool to help control the bulk and mass of buildings, and that it is calculated excluding basement floorspace (i.e. a nett area of 1,372m² in this case). It states that ‘site coverage’ is a control for the purpose of preventing the adverse effects of over-development. In this regard, I note that the largest floor plan coverage extends to 266m². An assessment of the Development Plan standards in relation to the proposed development is outlined below.

	Development Plan Standard for Z8 zone	Proposed Development
Plot Ratio	1.5	4.1
Site Coverage	50%	80%

7.3.6. It is acknowledged that the proposed development significantly exceeds these indicative standards. However, the development plan does not place a maximum threshold on these standards and allows for exceedances in certain circumstances depending on accessibility, the need for redevelopment, streetscape and existing site circumstances. The proposed quantum of development will therefore be considered on its merits in the following sections of this report.

Assessment

7.3.7. Section 3.1 of the Building Height Guidelines outlines the broad principles that planning authorities must apply in considering development proposals for taller building heights in urban areas. In this regard, I would generally concur that the proposal assists in securing the NPF objectives of focusing development on the inner city and fulfilling targets related to brownfield, infill development, and particularly in supporting the National Strategic Objective to deliver compact growth in our urban centres. In this case the proposed development is not in line with

building height policy of the development plan in force. The DCC Development Plan 2016-2022 pre-dates the Guidelines and, therefore, it must be considered whether the implementation of the pre-existing policies and objectives of the plan align with and support the objectives and policies of the NPF.

- 7.3.8. SPPR 3 of the Building Height Guidelines sets out that where a planning authority concurs that an application complies with the criteria outlined in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters, the planning authority may approve such development even where specific objectives of the relevant development plan may indicate otherwise. The proposal must therefore be assessed against the criteria outlined in Section 3.2 of the Guidelines, which sets out the criteria that a development proposal must satisfy at various scales.
- 7.3.9. ***At the scale of the city/town*** and with regard to public transport service, I note that the appeal site adjoins the LUAS line and there is a 'stop' at St Stephen's Green, within a c. 400m walk of the appeal site. The line operates at 3-5 min frequency during peak hours and at 12 – 15 mins in off-peak hours. It is also within a short walk of frequent bus services in the area, including the Rathmines – Rathgar – Terenure Line (No. 15) and the Moorehampton Rd – Merrion Road – Blackrock line (No.s 39a, 46a, and 145). These routes run at a frequency of 10 to 15 mins.
- 7.3.10. The site is on the edge of the city centre area and is within convenient walking distance of a wide variety of city centre amenities and services. There is a good network of cycle facilities in the surrounding area, including a Dublin Bike station at Clonmel St (35 stands) and 2 no. stations on St Stephen's Green South (total of 70 stands).
- 7.3.11. Having regard to the foregoing, I am satisfied that the site is currently well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- 7.3.12. In terms of integration with the character of the area, I note that the applicant has prepared a Conservation Method Statement and a Landscape and Visual Statement. The conservation report acknowledges the location of the site within the curtilage of protected structures 87-91 Harcourt Street, and I note that there are several other protected structures along Harcourt St and Clonmel St. However, I would concur that the appeal site has little or no relationship with any of these structures given the

separation distances and the extent of intervening modern development that has taken place to the rear of Harcourt St and along Clonmel St. Accordingly, I do not consider that the proposed development would adversely impact on the character, special interest, or setting of these structures.

- 7.3.13. I would concur with the applicant's view that the most pertinent relation is that of the proposed development and the Iveagh Gardens to the east, which is a protected structure and within a designated 'conservation area'. The application includes photomontage images showing this visual relationship during both winter and summer periods. It is clear that the proposed development will be largely screened by existing trees in the summer period. And while it will obviously be more visible in winter periods, I consider that the largely glazed eastern elevation to the park is well-considered and would provide an appropriate, contemporary interface in this urban park setting. Given that it is a public urban park that is already overlooked by surrounding buildings, I would not have any significant concerns in relation to overlooking of the park. I do not consider that the 2.5m setback required under condition 6(a) would result in any significant improvement on the visual relationship between the proposed development and the adjoining gardens.
- 7.3.14. The application clarifies that the existing boundary wall of the gardens (a protected structure) will not be affected by the proposed works. I acknowledge that some of the tree branches overhang the appeal site and will require trimming as part of the development. However, I am satisfied that this can be satisfactorily achieved subject to appropriate expertise and monitoring through the conditions of any grant of permission, and without the need for a 2.5m setback as required by DCC.
- 7.3.15. I note the concerns raised by the planning authority regarding the eastern building line and the historical pattern of development in the area. And while I can understand the logic in trying to maintain the historical route of Stable Lane, it must also be acknowledged that the existing substation building has already effectively terminated that route. Furthermore, the traditional pattern of development in the surrounding area has been drastically and long since altered. I do not consider that the 2.5m setback required by condition 6(a) would have any real tangible impact in terms of conserving the historical pattern of development.

- 7.3.16. Having regard to the foregoing, I do not consider that the proposed development would adversely impact on the character, special interest, or setting of the Iveagh Gardens. Furthermore, I do not consider that the 2.5m setback required under condition 6(a) of the DCC decision is warranted in this case.
- 7.3.17. The application documents also examine other landscape and visual impacts from Harcourt St, Clonmel St, and Stable Lane. From these views, I am satisfied that the proposed development would be largely screened by existing development to the north, south, and west of the site. Any limited visual impact of the development would satisfactorily integrate with the height, scale, and character of surrounding development.
- 7.3.18. The Guidelines also state that proposals on larger urban redevelopment sites should make a positive contribution towards place-making. In this regard I consider that the site size of 0.0331 hectares is not large for an urban redevelopment site. The size and configuration of the site is also one which does not have significant potential for the creation of new public streets and/or public spaces. However, I consider that the introduction of residential use will make a positive contribution to the vibrancy and identity of the area. The increased height and density will also provide improved definition to Stable Lane and will provide an improved interface with the Iveagh Gardens. The proposed design has sufficient variety in terms of scale and form to create a unique identity and I am satisfied that, overall, the proposed development will make a positive contribution to place-making and visual interest.
- 7.3.19. ***At the scale of district / neighbourhood / street***, the proposed development aims to respond to the surrounding natural and built environment. It mainly faces towards the impressive Iveagh Gardens to the east, providing an attractive, glazed, contemporary façade at its most important interface. As previously outlined, the development will ensure that the boundary wall and trees will not be compromised.
- 7.3.20. Otherwise, the development has only limited impact on the streetscape and surrounding areas due to the presence of substantial development to the north, south, and west of the site. The form, massing and materials are well articulated to avoid a monolithic appearance. I acknowledge that the north façade is blank to avoid any overlooking impacts and I have no objection in this regard given that it would not be visible from the public realm. The development is of limited scale and would

provide a more attractive and efficient use of the exiting site, thereby making a positive contribution to the urban neighbourhood.

7.3.21. As previously outlined, I am satisfied that the proposal responds appropriately and positively to the Iveagh Gardens, thereby enhancing the urban design context for this important public space. The site does not adjoin any key thoroughfares but would provide an enhanced context to Stable Lane, which would improve its legibility and linkages to the surrounding public realm.

7.3.22. There is no waterway/marine frontage on the site. However, consistent with the requirements of the Building Height Guidelines, a Flood Risk Assessment (FRA) is included with the Civil Engineering Infrastructure Report. The FRA outlines that:

- There are no records of flooding on the site
- It is located within OPW Flood Zone C, where the probability of flooding from rivers and sea is low
- The nearest watercourses are not at risk of flooding the site
- According to the GDSDS, the storm and combined drainage network surrounding the site will not flood in a 30-year storm event
- According to OPW classifications, this 'highly vulnerable' development would be 'appropriate' within Flood Zone C
- No significant flood risks are identified from pluvial, fluvial, or tidal sources
- Through site drainage and attenuation, the flow of water from the site will be reduced and the risk of flooding will be reduced
- The FFL of all units will be at least 150mm above adjacent ground level in accordance with good practice.

7.3.23. I would concur with the applicant's assessment, and I am satisfied that there is a negligible flood risk. I do not consider that further assessment of this issue is required.

7.3.24. As previously outlined, I am satisfied that a well-considered architectural design is proposed to provide a strong façade to the Iveagh Gardens and Stable Lane, thereby improving the urban legibility of the area. The scale and design of the

proposed development will integrate with surrounding development in a cohesive manner.

7.3.25. Uses in the area are predominantly office or commercial and building typologies consist of a mix of the period terraces and larger scale modern interpretations of the Georgian style. The proposed development would introduce a welcome residential mix to the area, provided in a building of distinctive contemporary character.

Accordingly, I am satisfied that the proposal would positively contribute to the mix of uses and building typology in the area.

7.3.26. **At the scale of the site/building**, the Guidelines outline 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. In terms of the detailed design and layout of the building, I am satisfied that substantial glazing and balconies have been provided to maximise ventilation and views, including those of the high-quality open space at Iveagh Gardens. The other requirements in relation to daylight and overshadowing are considered separately in section 7.5 of this report.

7.3.27. The Guidelines also outline that **specific assessments** may be required to support such proposals, including assessments of micro-climatic effects, bird/bat impacts, telecommunication channels, air navigation, urban design and the historic built environment, and relevant environmental assessment.

7.3.28. In this regard, it should be noted that, although the height of the proposed development exceeds the 24m height standard in some respects, it is generally consistent with the prevailing building height to the north and west of the site. Accordingly, the proposed height is not considered unusual in this edge-of-city centre site. In that context, I do not consider that the proposed development would significantly impact on micro-climatic effects, the flight lines of birds/bats, important telecommunications channels, or safe air navigation. I am satisfied that adequate assessment has been submitted in relation to urban design and the historic built environment, and I do not consider that further environmental assessment is required.

Conclusion

7.3.29. In conclusion regarding height, scale, and visual amenity, I consider that the height and quantum of development proposed would comply with the provisions of the Building Height Guidelines and NPF policies regarding the provision of increased height and density at accessible urban locations. And while the proposed development is of a height and scale that is greater than stated Development Plan standards, I consider that the massing, form and detailing of the proposal has been suitably designed to ensure that the proposed development will successfully integrate with the traditional and emerging character of development in the area. I have considered condition no. 6(a) of the DCC decision but I do not consider that the setback of the eastern building line would result in any significant reduction of visual impact or improvement to the proposed design and layout. Therefore, subject to further assessment of other matters, I would have no objection to the proposed development on grounds of height, scale, and visual amenity.

7.4. Standard of residential accommodation proposed

Mix of units

7.4.1. It is proposed to provide 4 no. 3-bed units and 4 no. 2-bed units. 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 no studio units are included, I have no objection to the dwelling mix proposed. The applicant has been granted a Section 97 Exemption Certificate regarding the provision of social housing (P.A. Reg. Ref. 0112/21 refers).

Floor areas and dimensions

7.4.2. I have reviewed the gross floor areas for each individual unit, and I am satisfied that the generous floor areas significantly exceed 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 8 units, although it should be noted that the proposal would comply in any case.

7.4.3. I have also examined the internal room areas and widths and consider that they comply with the minimum requirements for living/kitchen/dining spaces and bedrooms as set out in Appendix 1 of the Guidelines. The storage space provision is not entirely clear, but I am satisfied that these requirements can be comfortably achieved and agreed by condition. The proposed ceiling heights are 3.1m at ground floor level and generally range from 2.5m to 3.1m above ground floor, which exceeds the minimum recommendations of the Apartments Guidelines for 2.7m and 2.4m respectively.

Aspect

7.4.4. The Apartments Guidelines (SPPR 4) require that a minimum of 33% dual aspect units be provided in central and accessible urban locations, 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 of the proposed units can be considered dual aspect in some form and no units are north-facing. Accordingly, I consider that the dual-aspect arrangements significantly exceed the requirements and I have no objections in this regard.

Amenity Space

7.4.5. Each of the proposed units has direct access off living areas to a private amenity space that exceeds the minimum requirements of the Apartments Guidelines. The quality of the spaces is generally high, with most providing a dual-aspect outlook including attractive views over Iveagh Gardens. The spaces are also provided with adequate privacy and separation from surrounding properties. 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.

7.4.6. Regarding communal open space and the standards outlined in Appendix 1 of the Apartments Guidelines, the proposed development would require a minimum communal open space area of 64m². 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. However, the proposed development includes a large

communal rooftop garden which extends to 139.85m², thereby significantly exceeding quantitative requirements. Again, it is a high-quality space with attractive views over Iveagh Gardens to the east.

- 7.4.7. 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

- 7.4.8. A communal bin store is proposed at upper basement level, which will cater for a 4-bin system as outlined in the applicant's Operational Waste & Recycling Management Plan. The facility will be designed in accordance with relevant standards. It is easily accessible for the occupants of the units and collection can be facilitated on Stable Lane. Secure bicycle storage facilities (24 no. spaces) would also be provided at the upper basement level for the convenience of residents. At ground floor level, there is a large communal entrance foyer and concierge office / meeting room for the benefit 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

- 7.4.9. None of the proposed apartments are accessible from ground level, which provides added security to the residents. Otherwise, access is largely confined to Stable Lane, which would be suitably overlooked by the proposed apartments to provide adequate levels of surveillance.

Conclusion on residential standards

- 7.4.10. Having regard to the foregoing, I am satisfied that the proposed development provides a suitable mix of generously sized dual-aspect apartment units. The units would benefit from a generous high-quality provision of private and communal open space areas, along with a suitable range of other communal services and facilities. Accordingly, I am satisfied that the development would provide a high standard of

residential amenity for the prospective occupants. The issue of daylight/sunlight within the proposed development is addressed in the following section of this report.

7.5. Daylight/Sunlight

Policy

- 7.5.1. I have previously outlined the provisions of SPPR 3 of the Urban Development and Building Height Guidelines (2018) with regard to the departure from development plan building height provisions, and the criteria outlined in Section 3.2 of the Guidelines regarding maximising access to natural daylight and minimising 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.
- 7.5.2. 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.

- 7.5.3. The Development Plan also highlights the value of daylight and sunlight in 'Standards for Residential Accommodation' (Section 16.10) 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 be put in place where appropriate.
- 7.5.4. 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

- 7.5.5. The original application included a 'Daylight, Sunlight and Overshadowing Study' prepared by Integrated Environmental Solutions (IES) Limited. The report was subsequently updated and submitted as further information. It references the BRE guide 'Site Layout Planning for Daylight and Sunlight' and BS 8206-2:2008 guidelines, and highlights that the recommendations should be interpreted flexibly as natural lighting is only one of many factors in site layout design. The applicant's response to the third-party appeals also includes an additional report from IES addressing the sunlight/daylight concerns raised.
- 7.5.6. I have considered the reports 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.

Daylight within the proposed apartments

- 7.5.7. Average Daylight Factor (ADF) is the ratio of total daylight flux incident on the working plane to the area of the working plane, expressed as a percentage of the outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky. The BRE and the BS guidance sets out minimum values for ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The BRE guide does not give any advice on the targets to be achieved within a combined living/dining/kitchen (LDK) 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 which combines a living room and kitchen the minimum ADF should be 2%.
- 7.5.8. The applicant's study considers the predicted ADF to the proposed units based on the recommended BRE values. However, noting that the BRE guide does not provide guidance for a LDK space, it applies an 'initial target value' of 2% for such spaces (based on BS standards) as well as a secondary 'living room' target of 1.5%. The rationale for the lower 1.5% target is based on several points, including the opinion that the 'living area' is the main activity in these combined spaces; the inclusion of balconies which lower daylight levels but provide valued outdoor amenity space; and the need to maximise the benefits of open plan spaces. The study assesses all 30 rooms included within the proposed development.
- 7.5.9. The ADF values for all of the proposed bedrooms are shown to exceed the 1% target value, with the vast majority of rooms (15 out of 20) significantly exceeding that target with values of more than 3%. The two designated recreation or 'living' rooms also significantly exceed the applicable 1.5% target.
- 7.5.10. The remaining 8 rooms are the combined LDK spaces. Five of these spaces significantly exceed the 2% target value, with ADF values in excess of 5%. It is acknowledged that the values for the remaining three spaces do not meet the 2% standard, with values ranging from 0.72% to 1.05%. The applicant's study includes a secondary value for the 'living area only' portions of the LDK spaces, which shows that the ADF values for all three living areas would exceed the 1.5% target.

- 7.5.11. I consider that the higher 2% ADF is more appropriate in a traditional house layout, and that in apartment developments, it is a significant challenge for large open plan LDK spaces to achieve 2% ADF, and even more so when higher density and balconies are included. Often in urban schemes there are challenges in meeting the 2% ADF in all instances. To do so may unduly compromise the design/streetscape quality and an alternate 1.5% ADF target is generally considered to be more appropriate.
- 7.5.12. Having regard to the information outlined above, I am satisfied that the majority of apartments would significantly exceed with the ADF target of 2% for LDK rooms, and that all apartments would comply with the alternative ADF target of 1.5%. All proposed bedrooms would significantly exceed the 1% ADF target. Therefore, despite the non-compliance with the primary targets for 3 of the 30 spaces (i.e 10%), I consider that the overall scheme as a whole would provide reasonable compliance with the BRE and BS standards, particularly given that BRE standards allow for a flexible and reasonable alternative for ADFs and do not specifically stipulate standards for kitchen/living/dining areas.
- 7.5.13. I acknowledge that Section 3.2 of the Building Height Guidelines outlines that where a proposal may not be able to fully meet all the requirements of the BRE and BS daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the Board 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.
- 7.5.14. In this case it has been clearly identified that the proposal does not fully comply with the 2% ADF value for kitchen/living/dining areas and compensatory measures have been proposed. In this regard, I would highlight the point that all proposed units can be considered dual-aspect, whereas only 33% of units are normally required to be dual-aspect and even this 33% requirement can be relaxed on urban infill sites less than 0.25ha such as this. The scheme also includes a high-quality communal open space area which significantly exceeds the normal requirements and, again, such requirements can be relaxed in part or whole on urban infill sites less than 0.25ha

such as this. These factors provide compensation within the overall scheme for any daylight shortfalls that may apply to individual units.

- 7.5.15. With specific reference to the 3 no. LDK spaces which are below the 2% ADF target, I note that they are all served by attractive balcony spaces. The LDK spaces all exceed an area of 48m², which is at least 41% larger than the minimum requirement of 34m², and the ceiling heights are generally 3m, which is significantly higher than the minimum requirement of 2.4m. I am satisfied that these factors adequately compensate for the shortfalls within these units as compared to the higher 2% ADF standard.
- 7.5.16. Having regard to the proposed density and the central and accessible location of the site, I consider that the proposal contributes to wider planning aims such as the delivery of housing and regeneration of an underutilised brownfield site. I consider that the ADF shortfalls would not be significant in number or magnitude and, in redevelopment sites such as this, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. The ADF for rooms is only one measure of residential amenity and in my opinion the design team have maximised access to daylight for all apartments and I am satisfied that all of the rooms within the apartments would receive adequate daylight. As such, the proposal complies with the daylight criteria as set out under Section 3.2 of the Building Height Guidelines and would provide a satisfactory level of amenity for future occupiers.

Sunlight to the proposed apartments

- 7.5.17. Section 3.1 of the BRE guide highlights the main requirement for sunlight is in living rooms. In general, a dwelling will appear reasonable sunlit if at least one main window wall faces within 90° of due south and the centre of at least one window to a main living room can receive 25% of annual probable sunlight hours (APSH), including at least 5% of APSH between 21st September and 21st March (WAPSH).
- 7.5.18. In response to the third-party appeals, the applicant has included an assessment of sunlight to the proposed apartments. It demonstrates that the proposed main living room spaces will receive well in excess of the required APSH and WAPSH hours, with all but one of those assessed being in excess of 50% APSH and 20% WAPSH.

Sunlight to amenity spaces

- 7.5.19. Section 5 of the original IES report deals with sunlight to existing and proposed external amenity spaces, i.e. the existing ground floor amenity space to the west of the site and the proposed rooftop amenity space. It is based on BRE guidance that 50% of such areas should receive in excess of 2 hours sunlight on the 21st March, and that, if the proportion of such an existing area is not reduced to less than 0.8 times its former value, the impact is not likely to be noticeable.
- 7.5.20. The study shows that none of the existing ground floor amenity space received 2 hours of sunshine on the 21st March, either in the existing or proposed scheme. Therefore, given the substandard performance of the existing space, I would concur that the proposed development would not have any unacceptable adverse impacts. For the proposed rooftop amenity area, the applicant demonstrates that 97% of the floor space would comply with the 2hr standard on the 21st March, which significantly exceeds the 50% requirement.
- 7.5.21. The updated IES report submitted at further information stage considers the potential impacts on the amenity areas of the proposed development on the neighbouring site to the north. It considers three rooftop spaces and confirms that at least 75% of each space would receive 2 hrs of sunlight on 21st March and would not be affected in any way by the proposed development. I accept that only 5% of another ground floor space will comply with the 2hr requirement. However, under the existing situation only 16% of this area would comply, which represents an already substandard performance. Furthermore, I consider that this space is largely peripheral to the proposed scheme and any impacts would not significantly detract from the amenity value of this proposed space.
- 7.5.22. Having regard to the foregoing, I consider that the proposed development is acceptable in terms of the sunlight levels to the existing and proposed external amenity areas.

Sunlight to existing buildings

- 7.5.23. Section 3.2 of the BRE Guidelines highlights the need for care in safeguarding sunlight to existing dwellings and any non-domestic buildings where there is a particular requirement for sunlight. In non-domestic buildings, any spaces which are deemed to have a special requirement for sunlight should be checked, which will

normally involve windows facing within 90° of due south. The BRE guide states that sunlight to such windows will be adversely affected if they would receive less than 25% of Annual Probable Sunlight Hours (APSH) or less than 5% of APSH between 21st September and 21st March (WAPSH), and receive less than 0.8 times its former APSH or WAPSH values, and has a reduction in sunlight over the whole year greater than 4% of APSH.

- 7.5.24. The surrounding development would appear to consist of offices of a standard nature. Therefore, I do not consider that there is any demonstrable special requirement for sunlight levels to be checked. However, in response to the ByrneWallace appeal the applicant has included an assessment of the southeast-facing windows in their office building.
- 7.5.25. The assessment considers 18 large windows which would appear to serve shared spaces. Under existing conditions, I note that 11 out of the 18 windows comply with APSH and WAPSH standards of 25% and 5% respectively. After completion of the proposed development, it is predicted that 6 of the windows will comply with the APSH and WAPSH standards, although the APSH standard for window no. 9 would be only marginally deficient (24.35%) and is therefore considered effectively compliant. The values for the remaining 11 windows would be reduced to less than 0.8 times their former value and would, therefore, not comply with the BRE standards.
- 7.5.26. In conclusion, I would again highlight that there is no apparent special requirement for sunlight to surrounding development. I note that 4 of the 18 existing windows would not comply with BRE standards as a result of the proposed development. However, I consider that this constitutes a relatively small proportion of non-compliance, which is greater again when considered in the context of the overall building. I would also consider that some of the windows would serve larger shared spaces and I would accept that BRE standards should be flexibly applied, particularly in an edge-of-city centre area such as this. Accordingly, I would have no objection in relation to sunlight impacts on existing buildings.

Daylight to existing buildings

- 7.5.27. Section 2.2 of the BRE guide outlines that the guidelines are intended for light-dependent rooms in adjoining dwellings but may also be applied to existing non-

domestic buildings where the occupants have a reasonable expectation of daylight, which would normally include schools, hospitals, hotels and hostels, small workshops and some offices. It states that the diffuse daylighting of the existing building will be adversely affected if the Vertical Sky Component (VSC) measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value, or if the area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value. In general, VSC is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure.

- 7.5.28. As outlined above, I note these BRE standards can be applied to some offices. The surrounding developments would appear to consist of standard offices, which would have no apparent special requirement for daylight over and above any other office development. Notwithstanding this, the applicant's appeal response includes a VSC assessment of 18 windows within the ByrneWallace building facing towards the proposed development.
- 7.5.29. The assessment shows that 9 of the 18 windows would have a VSC greater than 27% or greater than 0.8 times its former value in a post-development situation. A further 4 windows have a VSC between 15% and 27% and in such circumstances the BRE guide indicates that larger windows are usually needed, which have clearly been provided in this case. The remaining 5 windows have a VSC value between 5% and 15% and the BRE guide indicates that it is very difficult to provide adequate daylight unless very large windows are used. Again, I would concur that the subject windows are unusually large and would help significantly to mitigate the low VSC values.
- 7.5.30. In conclusion, I would again highlight that there is no apparent special requirement for daylight to the surrounding office developments. I note that, under the existing baseline conditions, 12 of the 18 windows would not comply with BRE VSC standards (i.e. 27%). And while this would be increased by two additional windows as a result of the proposed development, none of those 2 windows would be reduced to less than 0.8 times their former VSC values. Ultimately, I consider that the impact of the development would result in a relatively small proportion of non-compliance for the 18 windows, which is lower again when considered in the context of the overall building. I would also consider that the large size of the non-compliant windows

would mitigate the potential daylight impacts, that some of the windows would serve larger shared spaces, and I would accept that BRE standards should be flexibly applied, particularly in an edge-of-city centre area such as this. Accordingly, I would have no objection in relation to daylight impacts on existing buildings.

Conclusions on Daylight/Sunlight

- 7.5.31. I again highlight that the standards outlined in the BRE guide allow for flexible interpretation in the context of many other design factors. And while the Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the BRE and BS 8206-2: 2008 publications, where it has been identified that a proposal does not fully meet the requirements of the daylight provisions and a rationale for alternative, compensatory design solutions has been set out, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives.
- 7.5.32. I am satisfied that the applicant has carried out an assessment of impacts on the proposed development and neighbouring properties and that it has been competently prepared in accordance with the BRE guidance and methodology. I note that the BryneWallace appeal suggests the need for further assessment, including a 'no sky line' assessment. However, the room layouts of adjoining buildings are not known to facilitate such an assessment, and in any case, I do not consider it necessary for the proposed development.
- 7.5.33. I have acknowledged that there will be some deficiencies with daylight to the proposed units, but I consider that this is adequately compensated by the overall standard and quality of residential amenity provided, both in the individual units affected and the overall scheme as a whole. I have also acknowledged some impacts in relation to sunlight and daylight levels to neighbouring properties. However, I am satisfied that these constitute acceptable impacts in the wider context of the overall assessment and that the BRE guidance allows sufficient flexibility in the application of standards.
- 7.5.34. The appeal site is located in a well-connected edge-of-city centre 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 height and scale of development is appropriate at this location and that, on balance, the impacts on the proposed units and surrounding properties are acceptable having regard to the need to achieve wider planning objectives.

7.5.35. I have considered the issues raised by 3rd parties in carrying out this daylight/sunlight assessment. However, as outlined above, I consider that the impacts of the proposed development on the availability of sunlight and daylight to existing properties would be acceptable having regard to BRE recommendations and would not result in any unacceptable impacts.

7.5.36. Accordingly, I have no objections in relation to sunlight and daylight standards for both the proposed development and neighbouring properties.

7.6. Impacts on surrounding properties

7.6.1. Apart from daylight/sunlight impacts, the appeals have also raised concerns about impacts relating to overlooking and future development potential of adjoining lands. Given the public open space nature of the Iveagh Gardens, I do not consider that these concerns apply to the east of the development.

Overlooking and overbearing impacts

7.6.2. To the north of the site, the proposed development would be separated from the existing KPMG office development by a distance ranging from c. 7 to 9 metres. It is acknowledged that this distance would be reduced to c. 2 metres in accordance with the redevelopment proposals for the KPMG site under P.A. Reg. Ref. 2062/21 (ABP Ref 311618-21). It is also noted that there was a submission on behalf of the prospective developer of this site stating that the two applications are complimentary and that there is no objection in principle to the proposed development.

7.6.3. The proposed design has omitted any windows on the north-facing elevation, thereby alleviating any potential for overlooking impacts. And while this results in a largely blank façade, I consider that it is of relatively limited scale and height and would not result in any unacceptable overbearing impacts for the existing or proposed office development to the north.

7.6.4. To the south of the site, the proposed development would directly adjoin the blank rear wall of the offices on Clonmel Street. The extreme western portion of the

development would oppose some windows at a separation distance of c. 3 metres, but only for a limited length of c. 2.5 metres. The proposed development contains only one opening at this interface, which is the southern side of the balcony serving apartment no. 8. I consider it reasonable that this opening should be removed, particularly given the further concerns as outlined in section 7.6.12 of this report.

- 7.6.5. Having regard to the limited extent of overlap between the proposed development and the north-facing outlook of the windows in the Clonmel St offices, I do not consider that the proposed development would result in any unacceptable overbearing impacts.
- 7.6.6. To the west of the site, the proposed development would be separated from the ByrneWallace offices by distances ranging from c. 11.5m to 17.5m. However, the closest proximity relates to the existing staircase to the rear of the offices, which I do not consider to be sensitive to overlooking impacts. Otherwise, the southeast-facing office windows to the rear of the building would oppose the bedroom windows serving apartment nos. 2, 4, 6, and 8, as well as the ground floor concierge/meeting room and balcony, albeit for a limited overlap distance of c. 3 metres. The separation distance would be at least 16 metres and it is acknowledged that there is an oblique relationship between the existing and proposed development, both horizontally (building lines) and vertically (floor levels).
- 7.6.7. I acknowledge that section 16.10.2 of the Development Plan recognises a traditional separation distance of 22 metres between the rear of 2-storey dwellings, with an allowance for a relaxation of this distance subject to suitable design measures. However, I consider it reasonable that a lesser separation distance would be required between office and residential uses given that there is unlikely to be significant overlap in terms of hours of occupation etc. I also consider that reduced separation distances are desirable in the interests of achieving higher density mixed-use development in urban locations such as this. Accordingly, I consider that the proposed separation distances to the west are acceptable and would not seriously detract from the privacy of the existing offices. The applicant has also included screening measures within the proposed apartments to protect the privacy of residents and I have no objections in this regard.

7.6.8. Furthermore, having regard to the limited extent of overlap between the proposed development and the southeast-facing outlook of the windows in the ByrneWallace offices, the limited height and scale of the proposed development, and the proposed separation distance in excess of 16 metres, I do not consider that the proposed development would result in any unacceptable overbearing impacts.

Impacts on future development potential

7.6.9. The likely development potential of the KPMG site to the north has been outlined under P.A. Reg. Ref. 2062/21. I am satisfied that the proposed development would not compromise this proposal, as has also been confirmed by the prospective developers.

7.6.10. To the west of the site, the ByrneWallace building is an extension of substantial scale to the rear of protected structures on Harcourt St. Given its sensitive context, there would be limitations on future development potential and there are no indications of intentions for same. In any case, the proposed development is of a smaller scale, is adequately distanced, and would not exceed the height of the existing building to the west in any significant way. Accordingly, I do not consider that it would adversely affect the development potential of the adjoining property to the west.

7.6.11. Regarding the Clonmel St. property to the south, I note that the IPG Insurance CLG appeal raises concerns about impacts on its future development potential, particularly given the proposal to include openings on the south-facing elevation. I note that the proposed windows would face over the roof of the Clonmel St property as it currently exists. And while there would not appear to be any current planning applications for its redevelopment, this should not preclude the possibility of future proposals, particularly given the national policy context supporting increased density and height at such locations.

7.6.12. Having regard to the above, I would agree with the appellant's contention that the inclusion of openings on the southern boundary is inappropriate and may prejudice any proposal for increased height/density on the adjoining site. I acknowledge that the openings are mainly high-level and do not directly serve main living rooms. However, I would be concerned that they may establish certain rights to light etc, which may be contested in the future and may militate against future higher density development. I do not consider that a temporary permission for the openings would

be appropriate, and I am satisfied that their omission would not unacceptably detract from the levels of light or amenity value provided to the large double-height spaces they would serve. Furthermore, there is potential for the provision of additional rooflights to serve apartment no. 8.

7.7. Traffic, access, & parking

- 7.7.1. As previously outlined in this report, the appeal site benefits from a central and accessible location (as described in section 2.4 of the Apartment Guidelines) in close proximity to the city centre and significant employment locations, as well as a range of public transport and pedestrian/cycling options. Section 4.19 of the Guidelines allows for the elimination of car-parking for high-density developments in such areas, an approach which has been adopted in the proposed development. The application is supported by a Residential Travel Plan / Mobility Management Plan which outlines the existing and predicted travel patterns as well as measures to achieve a sustainable travel culture for residents.
- 7.7.2. Having regard to the central and accessible location of the site, I have no objection to the elimination of car-parking, which would be consistent with national and local policy for transportation and land use. I consider that Stable Lane provides adequate capacity and manoeuvrability for drop-off traffic and the nearby Clonmel St. provides significant visitor parking capacity, including spaces for the mobility impaired. Furthermore, given its central and accessible location and its limited scale, I do not consider that any additional facilities such as car-sharing etc. would be warranted in this case.
- 7.7.3. The applicant has proposed 24 no. secure bicycle storage facilities, which would comply with resident and visitor requirements as per section 4.17 of the Apartment Guidelines. I am also satisfied that the bicycle storage would be appropriately located, designed, and managed.
- 7.7.4. I note that Stable Lane is currently used for parking on both sides. However, this appears to be a haphazard arrangement given that there are double yellow lines prohibiting parking on both sides of the lane. Therefore, I would not raise any concerns about impacts on these existing arrangements, particularly given that the proposed development would generate minimal volumes of extra traffic. I also

consider that the predicted traffic volumes and speed using this short, shared surface lane would be limited and would not interfere with the safety and free flow of traffic, including cyclists, pedestrians and vulnerable road users. The 'autotrack' drawings submitted as further information have also demonstrated adequate capacity to facilitate access to the car lift, construction vehicles, fire tenders, and refuse vehicles.

- 7.7.5. Regarding construction stage impacts, I acknowledge that the ByrneWallace appeal raises concerns about the maintenance of existing parking and access arrangements (including fire access) and the potential adverse impacts on the convenience and safety of road users. In response, the applicant has confirmed that all existing access rights will be maintained during the construction and operation phases, and that the details would be agreed in accordance with the terms of condition 10(a) of the DCC decision.
- 7.7.6. I accept that construction-related traffic often has implications for existing access arrangements. However, these impacts are temporary and are generally an unavoidable consequence of urban development, which should be facilitated in the interests of higher-density compact development in central and accessible locations.
- 7.7.7. The application includes an outline Construction Management Plan (CMP), including traffic management proposals which highlight the need to maintain existing access arrangements at all times. I would accept that a detailed CMP can only reasonably be completed when a contractor is appointed. Therefore, consistent with established practice, I am satisfied that the specific details of traffic management can be agreed with the planning authority as a condition of any permission.
- 7.7.8. Having regard to the foregoing, I am satisfied that the proposed development is based on a sustainable transport strategy which would not adversely impact on local transport infrastructure by reason of congestion, safety or otherwise. I am also satisfied that the detail of any outstanding construction-related traffic issues can be satisfactorily addressed by condition.

7.8. Other Issues

- 7.8.1. The ByrneWallace appeal raises concerns about the legal consent of the applicant to develop the site, including any potential impacts on established access rights to the

car lift and fire access during construction and operational stages. I am satisfied that the applicant has provided sufficient evidence of legal interest for the purposes of the planning application and decision. In any case, the questions of consent and impacts on established access rights are matters to be resolved between the parties, having regard to the provisions of section 34(13) of the Planning and Development Act 2000 (as amended).

8.0 Appropriate Assessment Screening – Preliminary Examination

- 8.1.1. The application includes an ‘Appropriate Assessment Screening’ report prepared by McGill Planning, Chartered Town Planners. It concludes that the proposed development will not have a significant impact on the Natura 2000 network.
- 8.1.2. I note that the nearest Natura 2000 sites are in the Dublin Bay area and include the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC (both c. 3km from the appeal site). I acknowledge that there are several other Natura 2000 sites in the wider surrounding area, including more distant sites within Dublin Bay as identified in the applicant’s AA Screening Report. There are no direct pathways between the appeal site and any of these Natura 2000 sites, although I acknowledge that there are indirect connections via surface water and foul water drainage.
- 8.1.3. 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. The proposed development is of limited scale. It is significantly distanced from Natura 2000 sites and there is only minimal potential for indirect connections. Accordingly, 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

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

10.0 Reasons and Considerations

Having regard to the location of the site on the edge of the city centre and in close proximity to a wide range of public transport options and other services, the provisions of the Dublin City Council Development Plan 2016-2022, the Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2018, 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, 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 and quality of residential development in this accessible urban location, would not seriously injure the amenities of surrounding properties or detract from the character or built heritage of the area, which would be consistent with the Z8 Development Plan zoning objective, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 11th day of November, 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 openings to the southern elevation of apartment no. 8 shall be omitted and shall be suitably blocked up. Additional openings in the form of rooflights above apartment no. 8 may be provided. Proposals in this respect, including revised plans and elevation drawings, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of protecting the development potential of the adjoining property to the south in accordance with the proper planning and sustainable development 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 the maintenance of access to adjoining properties, 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 car-sharing by residents 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 eastern site boundary shall be retained and protected from damage during construction in accordance with the specifications, conservation method statement and drawings submitted to the planning authority.
- (b) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the historic fabric during the works. In this regard, all permitted works shall be designed to cause no interference to the boundary wall.
- (c) All works in the vicinity of 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 protected structure is maintained and that the structure is protected from any damage or loss of fabric.

17. The existing trees in the Iveagh Gardens property to the east of the site shall be protected from damage. A tree survey shall be carried out by an arborist or landscape architect of the existing trees, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and shall include the following:

- (a) A plan to scale of not less than 1:100 showing the location and crown spread of, and allocating a reference number to, each existing tree adjoining the eastern site boundary.
- (b) A separate document detailing the following information in respect of each numbered tree –
- (i) common and scientific name of the species and variety
 - (ii) diameter, measured in accordance with paragraph (a) above
 - (iii) approximate height

- (iv) crown spread
 - (v) condition, including a general statement of health and stability
 - (vi) the extent of works, if any, proposed to each tree.
- (c) Details of any proposed alterations in existing ground levels throughout the site and of the position of any proposed excavation within the crown spread of any existing tree.
- (d) Details of the measures proposed for the protection of each tree from damage before and during the course of construction, as well as ongoing protection measures at operational stage.

Reason: To facilitate the identification and subsequent protection of existing trees on the adjoining property, which represent an important amenity and should be protected and maintained.

18. Details of the full extent of storage provision for each individual apartment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

19. 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.

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

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

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

An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Stephen Ward
Senior Planning Inspector

26th August 2022