



An
Bord
Pleanála

Inspector's Report ABP-312916-22

Development	Construction of a part-2, part-5 storey apartment block comprising 12 residential units.
Location	Site of 0.128 hectares to the south-east of The Sheldon Park Hotel, along Old Naas Road, Bluebell, Dublin 12.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4002/21
Applicant(s)	Arcourt Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Arcourt Limited
Observer(s)	None
Date of Site Inspection	4 th November 2022
Inspector	Stephen Ward

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1.0 Site Location and Description

- 1.1. The site is distanced c. 6km southwest of Dublin City Centre on a parcel of land along the Old Naas Road, Bluebell, Dublin 12. It is c.70m east of the junction of the Old Naas Road and the Kylemore Road (R112). The Luas red line and Kylemore Luas Stop is located c. 200m to the south of the site.
- 1.2. The application site has a stated area of 0.128 ha and bounds onto the eastern side of a significant residential development site that is nearing completion on foot of recent planning permissions (P.A. Reg. Refs. 3404/20, 4637/18, and 2158/17 refer). The existing development consists of 2 no. 8-storey blocks which wrap around the northeast corner of the Kylemore Road / Old Naas Road junction. To the north of the site is the Sheldon Park Hotel and Bluebell Business Park.
- 1.3. The site bounds the Old Naas Road to the south and there is construction hoarding along the boundary with the adjoining footpath. The site includes an existing single storey semi-detached house (No. 8 Old Naas Road), which is 'paired' with No. 7 to the east (not included within the application site). No.'s 7-8 form part of four similar pairs of single storey semi-detached houses along this stretch of Old Naas Road. There is a cul-de-sac road between No. 6 and No. 7 which serves three modern terraced houses to the rear (1-3 Bluebell Mews). These houses appear to have first floor accommodation and are orientated south towards the Old Naas Road.

2.0 Proposed Development

- 2.1. The proposed development involves the construction of a part 2-storey, part 5-storey apartment block as an 'extension' to the existing development to the west. In summary, it is comprised of the following:
 - 12 residential units comprising 6 no. 1-bed units and 6 no. 2-bed units.
 - Pedestrian access from Old Naas Road.
 - 24 no. bicycle spaces at surface level.
 - The proposed development will benefit from communal open space and 88 no. vehicle parking spaces permitted under Reg. Ref. 4637/18. The vehicular

parking is accessed from the existing permitted entrance under Reg. Ref. 2158/17.

- The proposed development represents a phase of the development permitted under Reg. Ref. 2158/17, Reg. Ref. 4637/18 and Reg. Ref. 3404/20, which includes the completion of the demolition previously approved under Reg. Ref. 2158/17.
- The overall scheme will provide for 115 no. units (28 no. 1-bed units, 71 no. 2-bed units, 15 no. 3-bed units and 1 no. studio).
- The proposal includes all ancillary site, landscaping, lighting and engineering works necessary to facilitate the development.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission on the 2nd of February 2022 for the following reason:

Having regard to the height and proximity of the proposed new block to the adjoining single storey properties to the east of the site, and in particular number 7 Old Naas Road, and the positioning of the block to the south of the communal open space area, it is considered that the proposed development would seriously injure the amenities of properties to the east, by reason its overbearing impact, and also future residents in the scheme by reason of overshadowing the communal open space and thereby reducing the quality of communal space. The proposed development would thereby be contrary to the proper planning and sustainable development of the area.

3.2. Planning Reports

The report of the Planning Officer (dated 2nd of February 2022) reflects the decision of the Planning Authority. In summary, the following is noted from the report:

- The height and proximity of the development to adjoining properties to the east must be considered. The scale and height of the development has been altered from that previously refused or omitted in previous applications.

- Taken together with the existing blocks (A & B), it is considered that the proximity of the development would be unduly overbearing when viewed from the single storey properties to the east and would seriously injure their residential amenities.
- Private open space arrangements are noted, and it is important that there is no overlooking of adjoining properties to the east.
- No public open space has been provided in the scheme.
- The amount of communal open space is considered reasonable, but its north-facing orientation is not ideal. The planning authority is not convinced that the area would receive adequate sunlight/daylight and the proposed scheme would lead to additional overshadowing, particularly during March and December. This is unacceptable and would result in a substandard quality of communal space for the development.
- The mix of units in the overall scheme is acceptable.
- 7 of the 12 units (58%) are dual aspect and south/west-facing single aspect units have been maximised.
- No parking is proposed, and the scheme is not considered to be a phase of a previously permitted development. It is noted that the applicant has made an argument for reduced parking standards based on good public transport links.
- 24 no. cycle spaces are proposed, which would exceed Development Plan requirements (18 spaces). It is noted that the Transportation section has requested further information.
- All apartments appear to comply with the standards set out in the 2018 Guidelines for new apartments.
- The site is located within the consultation zone for two Seveso sites. The HSA submission has outlined that there are no objections.
- No details have been submitted of boundary treatment/finishes for the west elevation of No. 7 Old Naas Road post demolition of No. 8.
- The report concludes that the development would have unduly overbearing impacts when viewed from existing properties to the east and would seriously

injure their residential amenities. The block would also overshadow the communal open space, thereby reducing the quality of the space.

- It is recommended to refuse permission, and this forms the basis of the DCC decision.

3.3. Other Technical Reports

- Drainage Division: No objection subject to conditions.
- Transportation Division: Requests further information in relation to a 'Residential Travel Plan' for the overall site; proposals for a more convenient location for cycle parking and the inclusion of non-standard cycle spaces; and management of the vehicular entrance and day-to-day servicing.

3.4. Prescribed Bodies

- HSA: Does not advise against the granting of permission in the context of the Major Accident Hazards Directive.

3.5. Third Party Observations

None.

4.0 Planning History

The following cases are noted in relation to the appeal site.

P.A. Reg. Ref: 2819/21: Application for alterations to previously approved development (Reg. Ref. 2158/17 and Reg. Ref. 3404/20) deemed withdrawn on 19th July 2022.

ABP Ref. 309368-21, P.A. Reg. Ref. 3680/20: Application for part 3-, part 4-, part 6-storey apartment block consisting of 25 no. residential units refused for the following reasons:

1. *Having regard to-*

- a) *the height and siting of the proposed development on and to the east of permitted communal amenity space under planning register reference numbers 2158/17, 4387/18 and 3404/20,*
- b) *the eight-storey height of the developments permitted and under construction to the south and west, and*
- c) *the permitted communal amenity space*

it is considered that the proposed development would result in a substandard quantum and quality of communal amenity space for the proposed development and as consequence, for the permitted developments under planning register reference numbers 2158/17, 4387/18 and 3404/20. The proposed development would therefore have an unacceptable impact on overall quality and size of communal amenity space in terms of direct sunlight which, as a result, would seriously injure the residential amenities of the future occupants of the proposed and permitted apartments, would be contrary to the provisions of 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, to the provisions of BRE209 – “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” and to the proper planning and sustainable development of the area.

2. *Based on the information submitted with the application and appeal, and having regard to the orientation, height and extent of the proposed development, and its proximity perpendicular to and opposite eight-storey developments permitted under planning register reference numbers 2158/17, 4387/18 and 3404/20, it is considered that-*

- a) *the proposed development would overshadow a number of apartments, rooms and private amenity spaces of the adjoining building under construction and thereby, seriously injure the residential amenities of*

future occupants of permitted apartments in terms of access to daylight and privacy, and

- b) adequate daylight to single aspect apartments in the proposed development has not been demonstrated and, thereby the development as proposed would give rise to substandard residential amenity for future occupiers of the proposed development.*

The proposed development would, therefore, be contrary to the provisions of 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, to Section 16.10.1 the Dublin City Development Plan 2016-22 - Residential Quality Standards, Housing Policy H2 of the Naas Road LAP 2013-23, BRE209 – “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” and to the proper planning and sustainable development of the area.

P.A. Reg. Ref. 3404/20: Retention permission and planning permission granted (January 2021) for alterations and completion of previously approved development (Reg. Ref. 2158/17). The application included:

- Retention of 2 no. additional as built floors of residential development Block A and Block B to provide an additional 16 no. units in Block A and an additional 10 no. units in Block B.
- Planning permission for completion of the development and all ancillary works necessary to facilitate the development.
- The proposed development will result in the overall scheme extending to 8 storeys over basement level comprising 103 no. residential units, The development proposed for retention is identical to that approved under Planning Reg. Ref. 4637/18.

P.A. Reg. Ref. 4637/18: Permission granted (June 2019) for modifications to development previously permitted under Reg. Ref. 2158/17 comprising the addition of 2 no. floors of residential development to Block A and Block B to provide an

additional 16 units in Block A and an additional 10 units in Block B resulting in an overall scheme extending to 8 storeys over permitted basement level and comprising 103 residential units.

P.A. Reg. Ref. 2158/17: Permission granted (September 2017) for the demolition of 8-14 Old Nass Road cottages to construct new development comprising 85 no. residential units in a development proposal of three blocks (Block A, B and C) ranging in height from 4-6 storeys over basement level.

Condition 4 of the permission required the omission of Block C in the interest of the protection of residential amenity.

P.A. Reg. Ref. 4059/15: Permission granted (May 2016) for demolition of cottages, erect 2 blocks containing 26 aparthotel suites and 6 apartments, balconies, car parking and site works. The appeal to the Board (ABP Ref. PL.29S.244822) was withdrawn.

ABP Ref. PL.29S.244822, P.A. Reg. Ref. 2194/15: Permission refused (September 2015) for demolition of 4 houses and the construction of a part 3 and 4 storey building over basement level comprising 38 no. aparthotel suites and 6 no. apartments with all associated site works. The reason for refusal was as follows:

Notwithstanding the fact that development of the type proposed would be acceptable in principle, the Board had certain concerns about the design of the proposed development and the extent of development proposed on the site. Furthermore, the Board considered that the proposed development of permanent residential units would not be compatible with the main proposed use as an aparthotel. The Board further considered that the proposed building was sited too close to Kylemore Road on the western side and the Old Naas Road on the southern side and that this would lead to loss of amenity for future patrons. The Board also considered that the section of the four-storey element which would face eastward would, given its height, be likely to interfere with the amenities of established residential units on the Old Naas Road. The Board had a further concern about the variety of materials being used

and the “bolt-on” balconies, which it considered could lead to a confused series of elevations. For these reasons the Board considered that the proposed development would seriously injure the visual and residential amenities of properties in the vicinity and would not be in accordance with the proper planning and sustainable development of the area.

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 a number of policy objectives that articulate the delivery of compact urban growth as follows:

NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;

NPO 4 promotes attractive, well-designed liveable communities;

NPO 6 aims to regenerate cities with increased housing and employment;

NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards

NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking

NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.

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

- 5.1.3. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as ‘the Sustainable Residential Development Guidelines’, sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.
- 5.1.4. **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020 (updated December 2022)**, 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. The Guidelines were updated on the 22nd of December 2022, but Circular NRUP 07/2022 clarifies that appeals that are subject to consideration within the planning system on or before 21st December 2022, will be considered and decided in accordance with the 2020 version of the Apartment Guidelines, that include SPPRs 7 and 8.

5.2. **Dublin City Development Plan 2022-2028**

- 5.2.1. The DCC decision was made under the Dublin City Development Plan 2016-2022. However, the Dublin City Development Plan 2022-2028 was adopted on the 2nd of November 2022, and it came into operation for this area as of the 14th of December 2022.

Strategy

- 5.2.2. The overarching strategic approach of the plan is to develop a low carbon, sustainable, climate resilient city. The housing demand calculated sets a requirement for the development plan to provide for approximately 40,000 housing units between 2022 and 2028.
- 5.2.3. The Core Strategy outlines that the capacity of Strategic Development and Regeneration Area (SDRA) lands is critical. The appeal site is included within SDRA 5 ‘Nass Road Lands’, an area of 18 hectares with an estimated capacity of 3,300 residential units. The Settlement Strategy also prioritises development in the inner city and Key Urban Villages, and specifically targets SDRAs where there is capacity to absorb higher density development due to the availability of public transport and supporting infrastructure/services.

Climate

5.2.4. Chapter 3 deals with 'Climate Action' and sets out a strategic approach to integrate climate mitigation and adaptation principles in order to ensure that Dublin becomes a low carbon and climate resilient city. In summary, relevant policies and objectives relating to sustainable settlement patterns, the built environment, and sustainable transport include the following:

CA3 - Support the transition to a low carbon, climate resilient city by seeking sustainable settlement patterns, urban forms and mobility.

CA4 - Support retrofitting of existing built-up areas including reopening closed walking and cycling links and providing new links.

CA5 - Ensure that all new development including SDRAs integrates appropriate climate mitigation and adaptation measures.

CA6 - Promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible.

City Shape & Structure

5.2.5. Chapter 4 sets out the overarching framework and strategy to guide the future sustainable development of the city. The vision for the urban form and structure of the city is to achieve a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. In summary, relevant policies and objectives include the following:

SC2 – Aims to develop the city's character.

SC5 – Promotes good urban design and architectural principles.

SC8 - Supports the development of the inner suburbs and outer city in accordance with the strategic development areas and corridors set out under the Dublin Metropolitan Area Strategic Plan and fully maximise opportunities for intensification of infill, brownfield and underutilised land.

SC9 – To develop and support the hierarchy of the suburban centres, including Key Urban Villages, Urban Villages and Neighbourhood Centres.

SC10 – Ensure appropriate densities in accordance with national policy.

SC11 - Promote compact growth through consolidation and intensification of infill and brownfield lands, particularly on public transport corridors.

SC12 - Promote a variety of housing and apartment types and sizes, as well as tenure diversity and mix.

- 5.2.6. Section 4.5.4 deals with increased building height and outlines that Appendix 3 sets out specific guidance regarding the appropriate locations where enhanced density and scale including increased height will be promoted. Appendix 3 also outlines performance criteria for the assessment of such development and details the different classifications of building height in the city. The spatial approach is generally to protect the vast majority of the city as a predominantly low-rise city, including established residential areas and conservation areas within the historic core, while also recognising the potential and the need for taller landmark buildings to deliver more sustainable compact growth, including areas identified for large scale regeneration and redevelopment. In summary, relevant policies and objectives include the following:

SC14 – Strategic approach to accord with the Building Height Guidelines.

SC15 – Promotes a mix of uses in large scale development with increased height.

SC16 – Recognises the need for increased building height in identified locations, subject to the protection of existing amenities and sensitivities.

SC17 – Sets out guidance for proposals with increased scale/height in order to protect and enhance the skyline of the city.

SC18 - Promote a co-ordinated approach to the provision of landmark/tall buildings.

- 5.2.7. Sections 4.5.5 and 4.5.6 of the Plan set out policies and guidance in relation to Urban Design, Architecture, and the Public Realm.

Housing

- 5.2.8. Chapter 5 deals with 'Quality Housing and Sustainable Neighbourhoods' and the strategic approach aims to deliver quality homes and sustainable communities in the compact city. Based on national and regional policy guidance, it outlines a range of policies and objectives aimed at promoting regeneration, urban consolidation, densification, and healthy placemaking. A core objective of the plan is to promote the

realisation of the 15-minute city, which envisages that people should have the ability to access most of their daily needs within 15 minutes on foot or bike from where they live. It promotes a range of house types and tenure to cater for social inclusion and particular housing needs. The Plan also promotes high-quality standards and design for housing and apartments developments, including high standards of residential amenity, housing mix, and social/community infrastructure.

Transport

- 5.2.9. Chapter 8 deals with ‘Sustainable Movement and Transport’ and presents an integrated strategy that supports and prioritises the use of sustainable modes of transport and promotes active travel and a pro-active and collaborative approach to influencing travel behaviour. Objective SMTO1 aims for travel mode share targets of 26% walking/cycling/micro mobility; 57% public transport (bus/rail/LUAS); and 17% private (car/ van/HGV/motorcycle). The Plan aims towards the effective integration of land use and transportation and encourages higher-density development along public transport routes. It also aims to improve the public realm and accessibility for all.
- 5.2.10. Section 8.5.7 emphasises that a strong car-parking policy in the city has been instrumental in changing travel behaviour and promoting sustainable development and confirms that policies to discourage commuter car parking are further strengthened in the plan. Section 8.5.9 highlights the need to keep all road users interacting safely and efficiently, as is supported in policies SMT 33, SMT 34, and SMT 35.

Strategic Development Regeneration Areas

- 5.2.11. Chapter 13 sets out the overarching framework and guiding principles for the designated Strategic Development Regeneration Areas (SDRAs). In relation to SDRA 5 ‘Naas Road Lands’, it notes that the Naas Road Local Area Plan expires in January 2023 and will be superseded by a statutory plan for the wider ‘City Edge’ area. The Development Plan updates the issues and guiding principles for 6 identified key opportunity sites, none of which include the appeal site. Site 1 ‘Royal Liver’ is located on the opposite side of the Old Naas Road and guiding principles can be summarised as follows:

- encourage the sustainable redevelopment of this key site as part of the mixed-use core of the Key Urban Village.
- sustainable approach to height within the site, with buildings addressing the Naas Road and Kylemore Road providing a strong building line with appropriate heights, marked at the corner with a landmark building of up to 17 storeys.
- require setbacks to be agreed with Dublin City Council along the main road frontages at Naas Road, and along the east side of Kylemore Road.

Zoning

5.2.12. The appeal site is zoned 'Z1 – Sustainable Residential Neighbourhood', the objective for which is '*To protect, provide and improve residential amenities*'. The vision for residential development in the city is one where a wide range of high-quality accommodation is available within sustainable communities where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services. 'Residential' is a permitted use in the zone.

Development Management

5.2.13. Chapter 15 sets out the standards and criteria to be considered in the development management process, as well as the information to be submitted for various applications. Relevant aspects include the following

15.4 – Key Design Principles aim for high quality sustainable and inclusive urban design and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods.

15.5.1 - Refers to the development of brownfield, regeneration and large comprehensive sites which are of sufficient scale to differentiate them from the surrounding townscape.

15.5.2 - Infill development should respect and enhance its context and be well integrated with its surroundings, ensuring a more coherent cityscape.

15.5.5 – Higher density will be supported subject to suitable context and design.

15.8 - Sets out the general requirements for residential development followed by more specific guidance for apartments, Build to Rent, student accommodation and houses.

Appendices

5.2.14. The Development Plan includes a number of relevant appendices, including the following:

Appendix 1 contains the Housing Strategy.

Appendix 3 'Achieving Sustainable Compact Growth' outlines policy and criteria in relation to building height, density, plot ratio, and site coverage.

Appendix 5 'Transport and Mobility' expands on the Sustainable Movement and Transport framework and sets out technical development standards which are applicable to all developments.

Appendix 16 outlines guidance and standards in relation to 'Sunlight and Daylight'.

5.3. Naas Road LAP 2013 (extended to January 2023)

5.3.1. The Board should note that this LAP may have expired prior to the making of its decision on this case, and that any conflicting provisions of the LAP would be superseded by the Development Plan in any case. The provisions of the LAP are nonetheless considered hereunder in the interests of completeness.

5.3.2. The site is located within the boundary of the Naas Road LAP as identified on Map 1.2. It is located outside of the Key District Centre as identified on Map 1.3. Section 4.5.4 'Indicative Heights' and Map 4.6 'Proposed Height Strategy' outline that the normal Development Plan height standards apply to the appeal site (section 17.6.2 of previous Development Plan is referenced, which has now been superseded by the current Development Plan 2022-2028).

5.3.3. Relevant policies and objectives can be summarised as follows:

MA4 Ensure that sustainable development is cognisant of the proximity to the city centre and to existing and future public transport infrastructure and that residential densities, access points, layouts, are compatible with this.

UFO1 To provide for building heights on redevelopment sites in accordance with indicative heights set out in the height strategy.

H2 To ensure that all new housing delivers high quality residential environments and protects the residential amenity of existing residential development.

H3 To seek housing at sustainable densities in order to create the critical mass of persons to support existing and proposed infrastructure and services.

H5 To seek a mix of housing typologies within residential developments and also in larger mixed-use schemes.

HO1 To facilitate the sustainable development of approximately 2,100 additional residential units in the plan area.

HO2 To facilitate and encourage new residential development in accordance with development plan residential quality standards.

5.4. Natural Heritage Designations

- 5.4.1. The site is c. 9km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). The site is also c.8.5km southwest of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006). It is noted the River Camac is c. 100m north of the site and drains to the Liffey, which flows into Dublin Bay. The site is also located c.350m south of the Grand Canal pNHA.

5.5. Environmental Impact Assessment

- 5.5.1. An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
 - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

- 5.5.2. It is proposed to construct 12 apartments, which is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.128 ha and is located within an existing built-up area. The site area is therefore well below the applicable threshold of 2 ha.
- 5.5.3. The site is related to an existing development site where 103 apartments are nearing completion. The addition of 12 apartments will not significantly increase the scale or nature of the potential impacts (considered having regard to Schedule 7 criteria) and I am satisfied that this relatively minimal increase of development on the site within a zoned, serviced, urban location will not have an adverse impact in environmental terms on surrounding land uses.
- 5.5.4. The proposed development is not likely to have a significant effect on any European Site (as discussed below in section 7.8 below) and there is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would not be significant.
- 5.5.5. Having regard to the above, I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an environmental impact assessment report or a screening determination for EIA was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been received from Hughes Planning and Development Consultants on behalf of the applicants Arcourt Limited. It outlines that the proposed development is compliant with the relevant polices and standards contained in local

and national planning policy. The grounds of appeal can be summarised under the headings below.

Building Height and impact on residential properties

- The proposed development incorporates a stepped elevation along its eastern interface, decreasing in height from 5 to 2-storey as it flanks the existing single storey residential property to the east. This is an appropriate height transition.
- The access road provides an acceptable separation distance to protect the privacy, amenity, and character of existing development to the east.
- The development would make more efficient use of the site and would distinctly enhance the visual amenity of this prominent area.
- The proposed height is consistent with the Building Height Guidelines for development in central/accessible areas with good public transport links, and would provide compact, efficient growth in accordance with the NPF.
- The proposed height (18.3m) is within the 24m height limit for 'inner city' areas as outlined in the Development Plan. Notwithstanding the increased height relative to adjoining properties, an appropriate separation distance has been achieved and the proposal is an appropriate response to the evolving topography and densification of the immediate area.
- The proposal complies with the criteria outlined in section 3.2 of the Building Height Guidelines, including:
 - Proximity to excellent public transport services.
 - Infill development which responds to the surrounding context.
 - Arrangement of maximum height with an appropriate separation to respect the scale of adjoining development.
 - A high standard of contemporary architectural design with no undue impacts on the streetscape or existing residential amenity.
 - Materials/fabric to avoid a monolithic appearance and relate to the adjoining built environment.

- Active surveillance of open spaces and compliance with the Flood Risk Guidelines.
- A positive contribution to the mix of uses and/or building/dwelling typologies in the area.
- A Daylight and Overshadowing Analysis confirms that there will be appropriate access to daylight for existing and future residents.
- The design minimises impacts on views and creates a landmark in itself.

Overbearing Impacts

- Having regard to the proposed block position, the transition in scale, and the elevational treatment of the eastern façade, it is strongly contended that the proposal would not negatively affect or have an overbearing or adverse impact on the adjacent properties to the east.
- The proposed eastern elevation windows are comprised of opaque glazing to negate the occurrence of overlooking and loss of privacy.
- The introduction of higher density development on underutilised sites, as sought by the NPF, will inevitably result in visual change and a balance must be struck between the reasonable protection of amenities.
- The amenities and outlook for existing residents has been an important consideration throughout the design process and the proposed development will only serve to enhance the visual amenity of the area.

Communal Amenity Space

- The proposed design provides a high quality of communal amenity space.
- The additional apartments do not significantly impact on the existing amenity space.
- The proposed additional amenity space further enhances the quality and quantity of open space available for future residents.

Precedents

- The appeal suggests several precedent cases which have been permitted by both Dublin City Council and the Board. It is suggested tht these cases involve similar building heights in similar urban/suburban locations.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. I have examined the application details and all other documentation on file. I have inspected the site and have had regard to relevant local/regional/national policies, including Ministerial Guidelines which set out Specific Planning Policy Requirements (SPPRs).
- 7.1.2. The site is zoned 'Z1 – Sustainable Residential Neighbourhood', and I am satisfied that there is no objection in principle to residential development on the site. I consider the substantive issues arising from this case relate to the following:
- The nature of the application
 - Height, density, and visual impact
 - Impacts on adjoining properties
 - Standard of residential development proposed
 - Daylight/Sunlight
 - Access and parking
 - Appropriate Assessment.

7.2. The nature of the application

- 7.2.1. Planning permission Reg. Ref. 2158/17 is the parent permission for the existing development to the west. The site of the current application also formed part of P.A. Reg. Ref. 2158/17 and housed 'Block C' as previously proposed, which was omitted by way of a condition of the Planning Authority decision. That condition was not appealed.
- 7.2.2. The current proposal is located generally in the same area as the omitted 'Block C' but only includes the eastern part of the original site. The applicant contends that the current scheme represents a phase of the previously approved development. I note that the previous permissions (4637/18 & 3404/20) were for modifications and amendments to the overall parent permission (2158/17). Conditions to this effect were attached by DCC to both permissions, thereby tying the permissions to the terms of their parent permission.
- 7.2.3. Having reviewed the development description, the applicant has referred to the application as '*a phase of the development permitted under Reg. Ref. 2158/17, Reg. Ref. 4637/18 and Reg. Ref. 3404/20*'. However, the applicant has not applied to modify or to amend those permissions. Furthermore, I consider that the duration of those permissions is limited to that of the original parent permission (2158/17), which I calculate to expire in January 2023 (including provisions for calculating time limits over holidays and the COVID-19 emergency measures). Therefore, from a procedural perspective, I consider that the application should be considered as a 'standalone' application.
- 7.2.4. However, the proposal clearly forms part of the larger development site (of which the applicant is also the landowner) and proposes to use common services such as access, parking, and communal space. Therefore, in my opinion, it is appropriate to also consider the merits of the proposed development in the context of the overall development.

7.3. Height, density, and visual impact

- 7.3.1. A block of 12 apartments is proposed on a stated site area of 0.128 hectares. The proposed gross floor area of 1063m² equates to a plot ratio of c. 0.8:1, which is less than the Development Plan range for 'regeneration areas' (i.e. 1.5-3.0). The

proposed site coverage (33%) is also significantly lower than the indicative standard set out for regeneration areas (i.e. 50% to 60%). The density equates to c. 94 units per hectare, which is significantly higher than traditional development to the east. However, it would be significantly less than the density of the recent development to the west (c. 250+ units per hectare). It is acknowledged that the density is marginally lower than the threshold recommended in the Development Plan for SDRAs (i.e. 100-250 uph). However, when considered in the cumulative context of the larger site including the high-density development to the west, I consider that the proposed density achieves a suitable balance of density between traditional development, emerging development, and Development Plan policy.

- 7.3.2. The proposed maximum height is c. 18.3m or 5 storeys, which is consistent with Development Plan guidance (Appendix 3) to support buildings of between 5 and 8 storeys in key areas such as SDRAs and LAP areas.
- 7.3.3. The Development Plan supports sustainable residential densities in accordance with the guidance of the 'Sustainable Residential Development Guidelines'. Section 5.8 of the Guidelines recommends that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station (minimum 50 per hectare, with highest densities at rail/bus stops).
- 7.3.4. This site is located within 300 metres/4-mins walk of bus stops along the Kylemore Road and Naas Road, as well as the Kylemore Luas Stop. These facilities provide frequent high-capacity public transport services. Accordingly, I consider that the area is suitable for higher densities in accordance with the provisions of the Sustainable Residential Development Guidelines.
- 7.3.5. The '*Urban Development and Building Heights Guidelines*' also 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 urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights.
- 7.3.6. In this case, I note that the surrounding area contains a mixture of building heights, particularly the single storey houses to the east and the new 8-storey blocks to the

west. Therefore, I consider that the proposed 2/5-storey building would not be a significant departure from the prevailing heights. Furthermore, the proposed height is in line with Development Plan guidance on building height. I am not, therefore, relying on the provisions of SPPR 3 of the Building Height Guidelines regarding the contravention of Development Plan objectives. Nonetheless, I will consider the relevant provisions of Section 3 of the Guidelines in order to ensure a comprehensive assessment.

- 7.3.7. Section 3.1 of the Guidelines relates to broad principles and compliance with the objectives of the NPF and local statutory plans. I have previously outlined my opinion that the subject site is suitable for higher densities and compact urban development in accordance with the relevant national and local policies and I have no objection in this regard.
- 7.3.8. Section 3.2 outlines development management criteria for various scales. *At the scale of the city/town*, I again confirm that I am satisfied that the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- 7.3.9. With regard to the character/public realm of the area, it should be noted that the area is characterised by a wide variety of building types and styles. It is not an architecturally sensitive area. The new development to the west is the most dominant form in the area and provides a good reference point to assess the proposed development. However, the proposed development is significantly lesser in terms of scale and height. It includes a gradual step-down in height from 5 to 2-storeys, which I consider facilitates a reasonable transition between the new 8-storey development and the traditional scale of single storey houses.
- 7.3.10. Given the close proximity and minor scale of the proposed development relevant to the existing 8-storey development, I consider that its impact on views and the wider landscape would be quite limited, and no further study is required. The existing development provides a suitable on-site reference point to assess the visual impact of the development and, together with the images/drawings submitted with the application, I am satisfied that there would be no significant adverse visual/landscape impacts at the scale of the city.

7.3.11. This is not a larger urban redevelopment site. However, taken in conjunction with the existing development it would make a significant and positive contribution to place-making. The proposed development would reinforce the character and layout of emerging development, including a stronger streetscape and a larger communal open space to the rear of the site.

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

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

7.3.13. Given the suburban context and its nature of development, the immediate surrounding area retains little value in terms of the natural environment. As previously outlined, the built environment has developed from the original Old Naas Road cottages to higher density contemporary development. The proposed development would be consistent with the emerging character of development. It would be a suitable response to the built environment and would make a positive contribution to the urban neighbourhood.

7.3.14. The visual impact of the development must be viewed in the context of the overall larger development. However, I am satisfied that the proposed design approach suitably distinguishes the new development. It will be setback from the front façade of the existing block to the west and the maximum 5-storey height will be significantly lower. This helps to reduce the overall scale and massing of the composite development and, together with the articulated elevations, avoids a monolithic appearance. In fact, due to the omission of Block C in the parent permission, the existing development presents an abrupt, blank, 8-storey elevation to the east, which detracts from the amenities of the area. The proposed development would provide a softer transition with a greatly improved eastern façade, which would enhance the visual impact of the overall development.

- 7.3.15. The site does not adjoin any key public spaces, inland waterways, or marine frontage, and the Old Naas Road would not be considered a 'key thoroughfare'. However, having regard to the foregoing, I do not consider that the proposed development would enhance the urban design context for this route. It would reinforce the character and layout/pattern of development formed by the existing development to the west, which would positively contribute to the legibility of the site and the wider urban area.
- 7.3.16. The surrounding area is mainly characterised by a wide variety of commercial/industrial uses. The limited extent of residential development is mostly low-density and consists of semi-detached or detached units. Together with the existing development, the proposed development would positively contribute to the mix of uses and building/dwelling typologies in the area.
- 7.3.17. At the *scale of the site/building*, the Guidelines address daylight provisions. This issue will be addressed in section 7.6 of this report. The Guidelines also outline that *specific assessments* may be required in relation to micro-climatic effects; bird and/or bat flight lines and / or collision; impacts on telecommunications channels; air navigation; urban design; and environmental assessments. The requirements of these assessments have been incorporated into this report where relevant.
- 7.3.18. In conclusion, I consider that the proposed development is consistent with Development Plan standards in relation to height/density and would be located on a site with good transport accessibility, which would be suitable for increased density/height in accordance with the Sustainable Residential Development Guidelines and the Urban Development and Building Heights Guidelines. Although the proposed height/density is on the lower end of Development Plan thresholds, an appropriate quantum of development would be achieved when considered in combination with the recently constructed development to the west.
- 7.3.19. Having considered the scale, height and massing of the proposed development, together with its distance and interface with surrounding development, I consider that the proposal will satisfactorily integrate with the scale and character of both the established and emerging contemporary character of the area. Accordingly, I have no objections in relation to the height and density of the proposal and its impacts on the visual amenity and character of the area.

7.4. Impacts on adjoining properties

- 7.4.1. The DCC decision to refuse permission raised concerns about the overbearing impact of the development on the adjoining properties to the east, particularly No. 7 Old Naas Road. It should be noted that the site of No. 7 is significantly more developed than is shown on the site layout plan. There are two rear return extensions which take up a significant extent of site coverage, leaving only a small rear garden at the northern end of the site.
- 7.4.2. The rear of the property at No. 7 faces predominantly northwards and contains only limited glazing facing west towards the proposed development. Therefore, having regard to the limited size of the garden area, the north-facing nature of the rear of the property, and the limited west-facing glazing, I consider that there is limited scope for overbearing impacts on the outlook from this property.
- 7.4.3. Where west-facing views are available from No. 7, it should be noted that the nearest element of the proposed development is only 2 storeys in height and would not cause an overbearing feature. The 5-storey element is setback further, an estimated 10 metres from the nearest part of the rear garden boundary, and further setback (c.14 metres) from any west-facing windows. I estimate that this creates an angle of obstruction of c. 59°, which would not excessively exceed the estimated obstruction angle currently formed by the existing 8-storey block (c. 52°). Therefore, I consider that the stepped building height would appropriately transition in a manner which is generally consistent with existing conditions. The main outlook from No. 7 (i.e. to the north and northwest direction) would remain unobstructed and would maintain a suitable standard of residential amenity. Accordingly, I do not consider that there would be unacceptable overbearing impacts on No. 7 as a result of the proposed development.
- 7.4.4. I consider that the other properties further east along Old Naas Road would benefit from adequate separation (i.e. c. 25 metres between the rear garden of no. 6 and the 5-storey element) and would not be subjected to any significant overbearing impacts. Similarly, the Bluebell Mews properties generally face southwards and would only have a limited, oblique visual relationship with the proposed development, and primarily the 2-storey element of the development.

- 7.4.5. In terms of privacy and overlooking impacts, I note that the proposed development does not include any east-facing windows, apart from opaque windows serving circulation spaces. The eastern sides of balconies will also be screened by solid walls. Accordingly, I am satisfied that there will be no unacceptable overlooking or privacy impacts on the properties to the east.
- 7.4.6. The daylight and sunlight impacts of the proposed development on surrounding properties will be considered separately in section 7.6 of this report.

7.5. **Standard of residential development proposed**

Mix of Units

- 7.5.1. It is proposed to provide 6 no. 1-bed units and 6 no. 2-bed units. SPPR 1 of the Apartments Guidelines sets out a requirement for a mix of apartment sizes / types, including a maximum 50% for 1-bed/studio units. The proposal for 6 no. 1-bed units would not exceed 50% of the units. In terms of the overall development (115 units), there would be only 29 no. 1-bed/studio units, which is only 25% of total units. Only 1 of the proposed units is a 3-person 2-bed unit, which does not exceed the 10% maximum as per section 3.7 of the Guidelines. Accordingly, I have no objection to the dwelling mix proposed.

Floor areas and dimensions

- 7.5.2. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. I have reviewed the gross floor areas for each individual unit, and I am satisfied that they meet the minimum areas as per the Apartments Guidelines. Section 3.8 (a) of the Guidelines sets out that the majority of apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1-, 2- or 3-bedroom unit types, by a minimum of 10%. In this case, all of the proposed apartments exceed the minimum requirements by at least 10%.
- 7.5.3. I have also examined the internal room areas and widths and consider that they comply with the minimum requirements for living/kitchen/dining spaces, bedrooms, and storage as set out in Appendix 1 of the Guidelines. The proposed ceiling heights are 3.5m at ground floor level and 3m above ground floor, which significantly exceeds the minimum requirements of the Apartments Guidelines.

Aspect

- 7.5.4. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. The Apartments Guidelines (SPPR 4) require that a minimum of 33% dual aspect units be provided in central and accessible urban locations, and at least 50% should be provided in areas where there is greater design freedom. I consider that 7 (or 58%) of the proposed units are dual aspect and all of the single-aspect units are appropriately south-facing. Accordingly, I consider that the dual-aspect ratio exceeds requirements and I have no objections in this regard

Amenity Space

- 7.5.5. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. Each of the proposed units has direct access off living areas to a south-facing private amenity space that exceeds the minimum requirements of the Apartments Guidelines. In terms of communal amenity space, based on Appendix 1 of the Apartments Guidelines, the proposed development requires a minimum communal open space area of 71 sq.m., albeit that section 4.12 of the Guidelines also allows for relaxation of this requirement in the case of small urban infill sites less than 0.25ha. The proposed site layout drawing indicates a shared amenity space of c. 240 sq.m. to the rear of the development. This would significantly exceed minimum requirements and I would accept that it would also benefit the cumulative space provided together with the existing development to the west.
- 7.5.6. I note that no public open space is provided as part of the development. However, as per section 15.8.7 of the Development Plan, I am satisfied that this can be satisfactorily addressed by means of a financial contribution in lieu as per section 10 of the DCC Development Contribution Scheme 2020-2023.

Communal Facilities

- 7.5.7. A bin store is proposed at the northern end of the site. The store has adequate capacity to cater for the 3-bin system and is adequately accessible for the occupants of the units and waste collectors. 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 do not consider that any further communal facilities are necessary.

Conclusion on residential standards

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

7.6. Daylight/Sunlight

Policy

- 7.6.1. Although the proposal does not rely on SPPR 3 of the Urban Development and Building Height Guidelines (2018), I note that Section 3.2 of the Guidelines states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.
- 7.6.2. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

- 7.6.3. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to these BRE or BS standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.
- 7.6.4. The Sustainable Residential Development Guidelines acknowledge that orientation of the dwelling and its internal layout can affect levels of daylight and sunlight and will influence not only the amenity of the occupants but the energy demand for heat and light. It states that the efficiency gains derived from passive solar layouts can be enhanced by designing individual dwellings so that solar collection is maximised, i.e. when living rooms, dining rooms and main bedrooms have a southerly aspect. In relation to adjoining properties, it states that overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. It states that planning authorities should require that daylight and shadow projection diagrams be submitted in all such proposals and the recommendations of BRE or BS guidance '*should be followed in this regard*'.
- 7.6.5. The Development Plan also acknowledges the importance of daylight and sunlight to the internal and external spaces of both existing and proposed development. Appendix 16 of the Development Plan highlights a lack of clarity in standards and guidance and outlines a guide for the carrying out of daylight/sunlight assessments in an attempt to offer clarity on the required technical approach, appropriate standards, and required information. The guide does not outline exact, city wide, expected/accepted results and states that proposals will continue to be assessed on a case-by-case basis depending on site specific circumstances and location.
- 7.6.6. The Development Plan acknowledges that guidance and standards are going through a transition period, including the superseding of BS 8206-2 with BS EN

17037. It states that BR 209 has not yet been updated and concludes that the planning authority will look to receive relevant metrics from BR 209, BS 8206-2 and BS EN 17037, as well as any revised version of BR 209 to take precedence when issued.

- 7.6.7. Following the publication of the Draft Development Plan, I note the publication of a new (3rd) edition of the BRE Guide in June 2022. The adopted Development Plan has not been amended to reflect this. I also note the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK). However, I am satisfied that BR 209 and BS 8206-2 remain relevant as they are the standards and guidance referred to in the relevant national guidance documents such as the Building Heights Guidelines and the Apartments Guidelines. Therefore, I consider it appropriate to apply these standards in my assessment.
- 7.6.8. I would also highlight that the standards described in the BRE (BR 209) guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that *'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'*. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

Information & Assessment

- 7.6.9. The appeal includes a 'Daylight Analysis and Overshadowing' report prepared by H3D consultants (dated 12/11/2021), while the original application included a different 'Daylight Analysis and Overshadowing' report by the same consultants (dated 26/11/2021). The reports state that the assessment uses the methodology set out in the British Standard 'Lighting for Buildings – Part 2: Code of Practice for Daylighting', BRE 209 'Site Layout Planning for Daylight and Sunlight' (2nd edition 2011), and the Apartments Guidelines.
- 7.6.10. 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 have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the planning authority comments in relation to daylight and sunlight.

Daylight standards within the proposed units

- 7.6.11. 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%
- 7.6.12. The applicant's study considers the predicted ADF to the proposed units based on targets of 1% for bedrooms and 2% for combined LDK areas. The ADF values for all of the proposed bedrooms are shown to significantly exceed the 1% target value. And notwithstanding that the higher 2% ADF standard for combined LDK areas (as per BS guidance) is more appropriate in a traditional house layout and is a significant challenge to meet in apartment developments, all LDK areas in this case would meet the minimum 2% standard. Accordingly, I am satisfied that the application has demonstrated adequate levels of daylight within the proposed apartments.

Amenity spaces within the proposed development

- 7.6.13. Section 4 of the applicant's report (dated 26/11/2021) considers overshadowing impacts on the communal amenity space to the rear of both the proposed units and the existing development to the west. It is based on BRE guidance that 50% of such areas should receive in excess of 2 hours sunlight on the 21st of 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.
- 7.6.14. The assessment states that 62.6% of the total communal area (i.e. existing and proposed developments) would receive a minimum of 2 hours of sunlight on March

21st. The report refers to a more detailed breakdown of hourly interval images but there is no evidence of this within the report. Section 7 of the report does include an overshadowing study showing 2-hour intervals between 10.00am to 16:00pm, which shows that the majority of the communal area would be overshadowed between these hours. Therefore, I would assume that compliance with BRE standards is largely achieved in the early morning hours of 21st March between sunrise (c. 06:25am) and 10:00am.

7.6.15. I note the concerns raised by the planning authority in this regard, particularly the extent of overshadowing experienced in March and December. However, it must be acknowledged that the application has demonstrated compliance with the BRE standard, albeit mainly in the early morning hours. The use of March 21st in the BRE Guide is simply representative of an average level of shadowing and I note that the communal areas would receive good levels of sunlight on 21st June when they are more likely to be used. I also note that in the 'existing' scenario for 21st of March, the communal area serving the existing development to the west is already substantially overshadowed and the proposed development would not significantly exacerbate this situation.

7.6.16. Having regard to the foregoing, including the inherent flexibility in the application of BRE guidance, the need to achieve higher densities at such locations as per local/national planning policy, and established pattern of development which includes a north-facing communal area in adjoining development, I consider that the proposed development would provide an acceptable level of sunlight to the existing and proposed communal spaces within the overall development.

Sunlight to existing buildings

7.6.17. Section 3.2 of the BRE Guidelines highlights the need for care in safeguarding sunlight to existing dwellings with living room windows facing within 90° of due south. It 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.

7.6.18. Section 6 of the applicant's reports examines the three front windows of No.'s 1-3 Bluebell Mews and I am satisfied that this is an adequate scope of assessment. It demonstrates that both the APSH and WAPSH values for all 3 windows will remain significantly in excess of the BRE standards.

Daylight to existing buildings

7.6.19. Section 4 of the applicant's report (dated 12/112021) contains a 'Vertical Sky Component' (VSC) analysis for the east-facing windows within the existing development to the west. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight.

7.6.20. Of the 30 windows assessed, it demonstrates that only 3 windows would fail to have a VSC value of at least 27%. However, it should be noted that these windows already fail to meet the 27% standard; they would still retain 0.99 times their existing value; and they would still retain relatively high values of at least 23.9%. Accordingly, given that they would retain at least 0.8 times their former value, I am satisfied that the impact would be acceptable in accordance with BRE guidance standards.

Adjoining amenity spaces

7.6.21. Section 5 of the applicant's reports examines the overshadowing impact of the proposed development on the rear garden amenity space of No. 7 Old Naas Road. It demonstrates that 95.5% of the space would receive at least 2 hours of sunshine on the 21st of March, which would comfortably exceed BRE standards. And according to the overshadowing study, I note that any additional impacts associated with the proposed development would be limited to a short period in the early afternoon. Accordingly, I have no objections in this regard.

3rd party submissions

7.6.22. I note that no third-party submissions or observations have been received regarding daylight/sunlight impacts.

Conclusions on Daylight/Sunlight

- 7.6.23. I again highlight that the mandatory application of the BRE standards is not required in this case by the Development Plan or by Section 28 Ministerial guidelines. Consistent with that approach, the BRE guide itself highlights further the need for flexible interpretation in the context of many other design factors.
- 7.6.24. I am satisfied that the applicant has carried out an assessment of impacts on existing and proposed properties and that it has been competently prepared in accordance with the BRE / BS guidance and methodology. The impacts of the proposed development would be acceptable in accordance with the recommended standards.
- 7.6.25. The appeal site is located in a well-connected area and as previously outlined, increased height and density should be encouraged at such locations in order to achieve wider NPF planning objectives relating to compact development and brownfield redevelopment. Accordingly, I am satisfied that the proposed development is acceptable at this location and that it will not excessively detract from the amenities of existing or proposed properties by reason of daylight/sunlight impacts.

7.7. Access and parking

- 7.7.1. In terms of car-parking requirements, Development Plan standards for this area (Area 2 as per Map J) outline that a maximum of 1 space per dwelling applies. I also note that Chapter 4 of the Apartments Guidelines addresses car-parking requirements and states that requirements should be minimised, substantially reduced or wholly eliminated in certain circumstances for higher density apartment developments in 'central and/or accessible urban locations'. Section 4.20 states that these locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services. Section 4.27 also states that for urban infill schemes on sites of up to 0.25ha, car parking provision may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and location. I am also

conscious of NPO13 of the NPF and the Building Height Guidelines of 2018, which support a performance-driven approach towards land use and transportation.

- 7.7.2. No car parking has been proposed as part of the proposed development. However, the application contends that the proposed apartments will be part of the overall development and will benefit from the car-parking provided in the existing development to the west, consisting of 83 no. car spaces and 5 no. motorcycle spaces. Therefore, cumulatively it is proposed that 83 no. car spaces would serve a total of 115 no. apartments, resulting in a provision of 0.72 spaces per dwelling.
- 7.7.3. I am satisfied that the issue of car-parking should be addressed cumulatively, subject to the agreement of mobility management/travel plan measures etc. I also consider the parking provision to be reasonable at a rate of 0.72 times the maximum provision, particularly having regard to the small infill nature of the development and the proximity of the site to public transport links (i.e. within 10mins walking distance of the Kylemore Luas stop).
- 7.7.4. To facilitate the absence of car-parking, the applicant has proposed 24 no. cycle spaces. This meets Development Plan and Apartments Guidelines standards which recommend 1 space per bedroom and 1 visitor space per 2 units (i.e. total of 24 spaces). I consider this to be an acceptable quantum of spaces given the proximity to public transport and the extent of car-parking provided within the overall development.
- 7.7.5. I note the concerns raised by the planning authority regarding the location of the cycle parking and the need for non-standard spaces. However, I do not consider the proposed location to be unacceptable in relation to the proposed rear building entrance, subject to improved pedestrian linkage to be agreed by condition. I also consider that the inclusion of non-standard spaces can be agreed by condition.
- 7.7.6. Regarding vehicular access and traffic, I consider that vehicular movements will be limited to servicing vehicles etc given that no car-parking is proposed. This would not be a significant additional volume of traffic and there would be no perceptible impact on the capacity of the surrounding road network. The applicant has included drawings to demonstrate adequate swept path capacity and sightlines for the proposed service vehicles. It would appear that the entrance would be gated to

restrict movements and I consider that details of restricting resident/service vehicles should be clarified and agreed by condition.

7.7.7. Having regard to the foregoing, particularly the policy provisions and the accessible location of the site in close proximity to public transport connections, I have no objection to the absence of car-parking within the proposed development. I consider that the proposal will encourage more sustainable modes of transport and will not result in additional traffic or parking congestion at this location. The applicant has provided suitable bicycle parking spaces in lieu of car-parking and a Residential Travel Plan should be prepared for the operational stage of the scheme. Accordingly, I have no objection in relation to the traffic and transport impacts associated with parking and access for the proposed development.

7.8. **Appropriate Assessment – Screening**

7.8.1. The nearest European Sites are the South Dublin Bay SAC (site code 000210) and South Dublin Bay and River Tolka SPA (site code 004024), located c. 9km to the east, as well as the North Dublin Bay SAC (000206) and North Bull Island SPA (004006) c. 8.5km to the northeast. There are a number of other Natura 2000 sites in the wider Dublin Bay area.

7.8.2. Taking into account the source-pathway-receptor model, I note that the River Camac flows to the north of the subject site at a distance of c. 100m. It drains to the River Liffey and subsequently flows to enters Dublin Bay at Ringsend. Having regard to the characteristics of the proposed development, I consider that any potential for impacts is limited to the disposal of surface water, construction-stage pollution, and wastewater disposal.

7.8.3. Surface water proposals involve comprehensive SuDs measures to attenuate and treat on-site surface water. I am satisfied that the rate of surface water outfall will be appropriately regulated and that the water quality will be appropriately treated by interceptors. Therefore, the quantity and quality of surface water outfall from the site is likely to be improved and does not pose potential to significantly impact on European Sites.

7.8.4. In terms of construction stage impacts, the application includes an Outline Construction Management Plan which sets out environmental measures to prevent

emissions from the site. Given the separation distance of the site from the River Camac and subject to the implementation of these standard construction measures, I do not consider that there is any potential for impacting on the water quality of the river. There would be less still potential for downstream water quality impacts on Natura 2000 sites given the significant separation distance and hydrological buffer that exists.

- 7.8.5. I also note the potential indirect connection connections to the Natura 2000 sites within Dublin Bay via the wastewater network which outfalls to Dublin Bay via the Ringsend WWTP. The wastewater emissions from the development would result in an increased loading on the Ringsend WWTP. However, there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Therefore, having regard to the limited scale of the development and the associated discharges; the 'unpolluted' EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; and the capacity of the Ringsend WWTP; I am satisfied that there is no possibility that the additional loading resulting from the development will result in significant effects on European sites within Dublin Bay.
- 7.8.6. In terms of in-combination effects, the proposed development of 12 units must be considered in the context of the adjoining development to the west. The adjoining development is for 103 apartments and is nearing completion. Having regard to the small scale of this proposal and the above findings of no likely significant effects from the proposal, I am satisfied that likely significant in-combination impacts would not arise in this context.
- 7.8.7. I am satisfied that any proposals incorporated within the development, including surface water management and construction management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening.
- 7.8.8. Having regard to the foregoing preliminary examination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required.

8.0 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.

9.0 Reasons and Considerations

Having regard to the location of the site in close proximity to a range of public transport options and other services, the provisions of the Dublin City Council Development Plan 2022-2028, 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 (including the December 2022 update), 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 visual amenity of the area, would be consistent with the Z1 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.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. 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.

3. 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

4. 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

5. 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.

6. 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.

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

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

8. 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.

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

(a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) The proposed bin store shall be adequately ventilated, drained and illuminated.

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

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

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

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

11. 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.

12. 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.

13. 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.

14. Prior to commencement of the development, proposals for the treatment and finishing of the gable of the existing dwelling along the eastern site boundary shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

15. Prior to commencement of the development, the following shall be submitted to and agreed in writing with the planning authority:

- a) Proposals for improved pedestrian linkage between the proposed apartments and the cycle parking and bin stores.
- b) Proposals for the provision of non-standard cycle parking spaces.
- c) Proposals for the management and control of the proposed vehicular access to restrict access to emergency and servicing use only.

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

16. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

17. 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.

18. 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.

Stephen Ward
Senior Planning Inspector

22nd of December 2022