



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313048-22

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<b>Development</b>	Construction of 97 Build to Rent apartments
<b>Location</b>	9/14 and 11c, Milltown Road, Milltown, Dublin 6. The application site consists of the former Murphy and Gunn site, (currently Autovision) and the former St Joseph's Junior Education Centre site.
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4115/21
<b>Applicant(s)</b>	Charlemont Project Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Charlemont Project Limited.
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Mary Fitzgerald</li><li>2. Glenard Management</li><li>3. Nicola Mcgill</li></ol>

4. Mary Hennessy
5. John Healy
6. Mairead Lyne
7. Brent Management CLG

**Date of Site Inspection**

18.08.2022

**Inspector**

Fiona Fair

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## 1.0 Site Location and Description

- 1.1. The application site consists of the former Murphy and Gunn site, (currently Autovision) and the former St Joseph's Junior Education Centre site. It comprises No.'s 9/14 and 11c, Milltown Road, Milltown, Dublin 6. The subject site is located on the western side of Milltown Road.
- 1.2. The application site includes a number of prefab buildings to the rear of Autovision, the former St Joseph's Junior Education Centre. A vehicular access road (right of way) extends along the northern side of the existing buildings from Milltown Road to the Gheel Community Services facility to the rear of the prefabs.
- 1.3. The application site currently comprises of a number of commercial buildings and hardstanding associated with the garage, together with the prefabs. Topographical information for the site shows a slight fall from west to east, with levels ranging from 26.8 AOD to 25.5 AOD.
- 1.4. The local area is predominantly residential in character. To the north is the Abbeyfield development formed of three rows of three storey duplex and ground floor apartments set perpendicular to the application site. To the west, is the Gheel Community Services facility, accessed by the existing access road within the application site, while further west are playing fields of Gonzaga College. To the south is Glenmalure Square, which comprises duplex and ground floor apartments, including a block which runs parallel to the application site, and terraced houses, all set around an area of open space in the centre. Also to the south are two storey detached dwellings fronting Milltown Road. Opposite the site on the eastern side of Milltown Road are two storey semi-detached dwellings.
- 1.5. The site is 1km (c.12min walk) from Milltown LUAS station and 1.7m (c.21min walk) from Cowper LUAS station. There are bus stops nearby on Milltown Road, served by the No.4 and No. 61 bus services.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of the following:
  - Demolition of the existing buildings on site, with a total combined gross floor area (GFA) of 1,739 sq.m;

- Construction of a Build-to-Rent (BTR) residential development, comprising 97 no. BTR apartments with a mix of 48 no. 1 bed units and 49 no. 2 bed units in three no. blocks of part 3, part 4, part 5 and part 6 storeys in height, over basement level, including resident support and amenity facilities.
- The total GFA, including the basement level, of the proposed development is 9,216 sq.m;
- Block A, fronting Milltown Road, comprises 23 no. BTR units including 9 no. 1 bed units and 14 no. 2 bed units in a part 3, part 4 and part 5 storey building, over a basement level.
- Block A and Block B will be connected by a bridge link from first to fourth floor levels.
- Resident support and amenity facilities are proposed at ground floor and basement level of Block A. Balconies are proposed on the north, east and south elevations;
- Block B adjoins Block A to the east and Block C to the west, comprises 34 no. BTR units including 14 no. 1 bed units and 20 no. 2 bed units, in a part 4, part 5 and part 6 storey building, over a basement level. Balconies are proposed on the north and south elevations, and terraces are proposed on the south elevation; Block C adjoins Block B to the east, comprises 40 no. BTR units including 25 no. 1 bed units and 15 no. 2 bed units, in a part 4, part 5 and part 6 storey building, over a basement level. Balconies are proposed on the north and south elevations, and terraces are proposed on the south and west elevations;
- The development includes ancillary resident support and amenity facilities for the BTR residential units with a total floor area of 302 sq.m, including a co-working area, meeting room, coffee dock, lounge and concierge at ground floor level and a gym, shared kitchen, media room and parcel store at basement level;
- The proposal includes communal open space and public open space, including improvements to the public realm and a shared space with an entrance plaza / set down area on the existing access road from Milltown Road;
- The basement level contains 47 no. car parking spaces, 2 no. motorcycle spaces and 150 no. cycle spaces. The basement level also includes bin storage, cores

and plant rooms; The proposal includes 54 no. cycle parking spaces (including 4 no. cargo spaces) at surface level, a turning point.

- A new vehicular access to the basement level from Milltown Road, and associated improvements to Milltown Road (which includes alterations to the existing footpaths / public road, with relocation of the existing pedestrian crossing and bus stop, which are external to the planning application site boundary and subject to agreement with the Planning Authority);
- The proposal includes an ESB substation and associated set down area, landscaping, boundary treatment, lighting, PV panels, site services and all associated site works.

**Table 1: Development parameters:**

	<b>As proposed in original scheme assessed by the PA</b>	<b>Revisions proposed at Appeal Stage</b>
Site area	4,100sq. m (0.4 ha)	same
Number of Units	97	88
Unit Mix	48x1bed (49.5%) 49x2bed (50.5%), inc. 1no. 2bed 3person units	43 one beds - 49 % 45 two beds - 51 %
Demolition	1,739 sq. m	same
Proposed GFA (GNA)	9,216sqm (6,247.5sqm)	8075 sq. m (5641 sq. m)
Residential support facilities	34sqm: concierge, parcel store, lobby	
Residential services & amenities	196sqm: gym, media room, kitchen, co-working area, meeting room, lounge	330 sq. m This equates to 3.75 per unit

Unit sizes	1bed: 45.3-56.4sqm 2bed: 64-84.9sqm (inc. 1no. 2bed 3pers unit)	
Density	c.237units/ha	215 u/ph
Plot ratio	2.25	2.0
Site Coverage	43%	43%
Height	Max 19.6m. Part five, part six storeys over basement	Max height 16m Block A – Part 3 / 2 & 5 storey Block B & C Part 4 / 5 Storey
Aspect	62% dual aspect  37no. single aspect (38%), including 6no. NE facing.	65% (57 units)  No single aspect north facing units
Private Amenity Space	679.5sqm in total. 25no. units (26%) with no private amenity space	509 sq.m
Communal Open Space	706 sq. m	660 sq. m
Public Open Space	446sqm on Milltown Road frontage, 10.9% of site area	463 sq. m
Part V	9 units (8no. 1bed & 1no. 2bed)	
Access	Southeast corner on Milltown Road. Access road maintained to 3rd party land to rear. Drop-off area near Milltown Road frontage	Revised vehicular access proposed via the private laneway to the north of the site at its

		junction with Milltown Road.
Car Parking	47no. car spaces (inc. 5no. EV, 2no. car share & and 2no. mobility spaces) + 2no. motorcycle spaces in basement.	43 (2 surface and 41 basement) 0.5 units per space
Cycle parking	150 no. cycle parking spaces in basement + 54no. (inc. 4no. cargo) at surface level.	140 no at basement level. Surface 44 (incl. 4 cargo spaces)

The key changes proposed in response to the reasons for refusal, at Appeal Stage, are as follows:

- Removal of the fifth floor resulting in the omission of 4 no. residential units and reducing the overall height below 16m maximum.
- Removal of the bridging units between the front Block A and the return Block B and C that are linked at the 1st, 2nd and 3rd floors and the introduction of an increased separation distance between the front Block A and the return Block B and C of 7.5m. This reduces the length of B-C, whilst also allowing for the vehicular access to the basement to be provided from the adjacent access road to the north. This in turn increases and enhances the area of public open space along Milltown Road. This alteration will result in the loss of a further 3 no. residential units.
- Reconfiguration of the ground floor level including the relocation of the ESB substation and switchroom and provision of a new cycle store within Block B & and C. This alteration will result in the loss of a further 2 no. residential units and removal of all northeast facing single aspect units.
- Residential amenity uses at the ground floor of Block A are proposed to extend to the full frontage onto Milltown Road. The changes to public open space, communal open spaces and internal amenity areas is set out above in Table 1 of this report, above.



- The revised proposal increases the provision of private amenity areas within the scheme to a total of 85 no. units out of 88 units. Only 3 no. units at ground floor level do not have private amenity space. The 21 sq. m shortfall of private open space is catered for within the significant communal open space (660 sq. m), which exceeds the minimum required based on the proposed unit mix, and the internal residential amenity areas.

## 3.0 Planning Authority Decision

### 3.1. Decision

#### 3.1.1. Planning Permission Refused for 4 No. Reasons, set out in full below.

1. Having regard to its layout, scale and bulk, it is considered that the proposed development would appear disproportionate in the context and harmful to the visual amenities and character of the area, contrary to the Urban Development and Building Heights, Guidelines for Planning Authorities 2018, to the provisions of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.
2. Having regard to the height, massing and proximity of the proposed development to existing residential properties, it is considered that it would appear overbearing to neighbouring occupiers. Additionally, it has not been demonstrated that the proposed development would be acceptable with regard to daylight, sunlight and overshadowing impacts on neighbouring properties and would not result in a constraint to the future development potential of the site to the west. The proposed development would, therefore, be contrary to the zoning objective of the site 'To protect, provide and improve residential amenities', to the provisions of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area
3. The proposed development, by virtue of the inclusion of north-facing single aspect units, non-provision of private amenity space to some units, together with a lack of adequate compensatory communal open space, would provide a poor standard of residential accommodation for future occupiers. The

proposed development would therefore be contrary to the provisions of the Guidelines on Sustainable Urban Housing: Design Standards for New Apartments 2018 (as amended), the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

4. Having regard to the location and design of the proposed vehicular access, it is considered that the development would endanger public safety by reason of a traffic hazard due to its conflict with an existing signalised pedestrian crossing. The proposed changes to the public road outside of the applicant's control are considered unacceptable to the Planning Authority having regard to their negative impact on the wider road network. The proposed development would therefore be contrary to the provisions of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The Planners report concludes that:
  - Following assessment of the proposal against the criteria for increased building height set out in Section 3.2 of the Building Height Guidelines 2018, it is concluded that the proposed development would not be in compliance and therefore the proposal is unacceptable with regard to its height.
  - The proposed development would be contrary to the Dublin City Development Plan 2016-2022, with regard to its impact on visual amenity, neighbouring amenity, residential standards and transport.

### 3.2.2. Other Technical Reports

- Drainage Division: no objection subject to conditions.
- Roads & Traffic Planning Division: refusal recommended.
- Archaeology: no objection subject to condition.

### 3.3. Prescribed Bodies

- Irish Water: presence of a 375mm combined sewer within development boundary. Request early engagement from applicant. Conditions requested

### 3.4. Third Party Observations

Some 49 no. objections were received by the PA. The points raised are summarised below:

- BTR model not in best interest of community sustainability
- Limited mix of dwelling types
- East-west axis of the development will result in poor passive heating
- Children's play area along Milltown Road will be a health hazard
- Insufficient green space for occupiers. Poor layout and design.
- 26% (25no.) units without private amenity space, many of which on upper floors a distance from communal open space
- Overlooking within scheme- habitable rooms in Block A within 6m of Block B. Balconies directly facing at 10.8m distance
- Number of single aspect north facing units
- All Part V units at ground floor level and some lack any private open space
- Very high density for location
- Exceeds Plot ratio for Z1 of 0.5 to 2.0
- Site coverage 43% (below 45%-60% for Z1) due to inclusion of access lane, which should be excluded
- Overdevelopment of site
- Not located near any significant local employment or education centres
- Appearance not in keeping with existing context – height
- Scale is excessive and overbearing

- Height on apex of a hill is of concern
- Design not sympathetic to existing area, impact on character of surrounding houses
- Block design is repetitive and imposing, lacking architectural detail, scale and variation of use
- Consistent and dominant height set at right angles to road emphasises size and bulk, no relieving features
- Accuracy of photomontages questioned. Views 12 & 14 show top two floors made of glass/transparent material. Views 4&5 do not show true scale of proposed development.
- Views from the southern edge of the distributor road (36-38m from Abbeyfield) should be submitted
- Outer City location with height limit of 16m
- Contrary to infill development policy of CDP
- Highly obtrusive
- Basement access with units over is a poor response to streetscape
- Insufficient parking spaces for residents and visitors. Average car ownership in Dublin is 1.4 cars/household
- Limited parking availability currently
- Overspill parking, traffic hazard, public safety and noise
- Upgrading road and new cycle infrastructure required
- Public transport is deficient in the area. Two bus routes, each 1 service/hr. Distance to LUAS (+1,000m/14mins) and bus stops. 500m to QBC to the north
- Will cause congestion, including for buses
- Existing narrow roads and pavement are hazardous
- Supermarkets are 2.4km+ away

- Access to basement conflicts with existing pedestrian crossing, entrance to Ramleh Park and to the community facility at the back of the site
- No drop off spaces
- Capacity of public transport should be tested, particularly in context of other large residential schemes permitted recently in the area
- Pedestrian crossing should be retained in current position.
- Junction with Ramleh Park should be upgraded to traffic light junction
- Parking management strategy will lead to overspill parking
- Loss of daylight and sunlight. No sunlight/daylight analysis submitted
- Overshadowing
- Overbearing
- Loss of privacy, including to amenity areas
- Floor to ceiling glazing in proposed units exacerbating privacy issues
- Trees in Abbeyfield are deciduous and could be removed, therefore cannot be relied on for screening
- Negative impact on future installation of solar panels to neighbouring properties
- Noise pollution: balconies, traffic
- Impact on communal land in Glenmalure Square
- Overlooking and visually domineering, in particular of Glenmalure Square
- Potential impact on existing trees in Glenmalure Square
- Question results of Daylight and Sunlight Analysis
- Further deterioration in VSC of windows achieving less than 27% should not be accepted
- Location of windows tested in Abbeyfield for APSH not indicated. Windows deprived of winter sunshine
- Increased traffic, safety issues, dust, vibrations

- Disruption from excavation of basement.
- Parking demand
- Demolition and construction management plan should be required by condition
- Impacts on adjacent neighbours of reduced mobility and working from home
- Public infrastructure in the area insufficient to support scale proposed, particularly in combination with 671 units approved at Milltown Park site and Jesuit site
- Lack of green spaces and parks
- Previous development at Mount Saint Annes secured public access to Luas Line at Milltown, but not yet provided
- Lack of schools, crèche, library
- Any environmental impact assessment will not have included the impact of Milltown Park development.

## 4.0 Planning History

### Application site:

**Reg Ref. 4992/06:** Planning permission granted for:

- The demolition of existing single storey toilet block extension to rear and removal of existing prefabricated standalone single storey canteen unit to rear:
- the construction of a new two storey extension to rear, consisting of offices, customer lounge area and w.c. facilities; extension of the ground floor showroom to front by the removal of the existing sloped windows to the right hand side of the main entrance, extending the floor area under the existing roof structure and lifting new sloped windows in line with the existing sloped windows on the left hand side of the main entrance;
- the removal of the existing roof over the existing parts store to side and the construction of a new second storey over a section of the existing workshop with flat roof and with rooflights, to provide staff quarters, toilets, shower room and canteen; the removal of the existing roofing material to the workshop to

rear, wash bay and valet areas to rear and side and the replacement of same with the same roof profile with metal insulated roof panel complete with translucent roof panels;

- provision of new wheelchair lift platform, pedestrian access ramp to front, minor landscaping works to front and rear areas, removal of 3 no. car spaces from the rear parking, minor elevational alterations to front and rear façade, revisions to drainage layouts; both foul and surface water, provision of new signage to front fascia, re-location of the existing pylon sign and the fitting of 4 no. flagpoles to front, all to the existing garage at 9-14 Milltown Road, Dublin 6 for Murphy and Gunn Ltd.

**Reg. ref. 1027/97:** Planning permission granted for:

- 3 single storey temporary classrooms and associated toilet accommodation as an extension to St. Joseph's Junior Education Centre.

#### Adjoining Sites

On foot of **ABP Ref.: 311302-21**, which is c. 270m north of the subject site.

Permission was granted for an SHD development, subject to 31 no. conditions, at Milltown Park, Sandford Road, Dublin 6. The permitted development, as revised by condition, comprises the demolition of all existing structures and provision of 670 no. Build to Rent units and 67 no. Build to sell apartments, in 8 no. blocks ranging from 4 to 10 no. storeys.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Dublin City Development Plan 2016-2022**

#### **Land Use Zoning**

The application site and adjoining lands are zoned 'Z1' - Sustainable Residential Neighbourhoods, with a stated objective 'to protect, provide and improve residential amenities.' Residential is a permissible use under this zoning objective.

## **Other Relevant Sections/ Policies**

The following policies are considered relevant to the consideration of the subject proposal:

### **Section 4.5.3.1 – Policy SC13:**

‘To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context, and which are supported by a full range of community infrastructure such as schools, shops and recreational areas, having regard to the safeguarding criteria set out in Chapter 16 (development standards), including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture. These sustainable densities will include due consideration for the protection of surrounding residents, households and communities.’

### **Section 5.5.2 – Policy QH5:**

‘To promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration area, vacant sites and under-utilised sites.

### **Section 5.5.2 – Policy QH6:**

‘To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city’.

### **Section 5.5.2 – Policy QH8:**

‘To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.’

### **Section 8.5.6 – Policy MT17:**



‘To provide for sustainable levels of car parking and car storage in residential schemes in accordance with development plan car parking standards (section 16.38) so as to promote city centre living and reduce the requirement for car parking.’

**Section 8.5.6 – Policy MT18:**

‘To encourage new ways of addressing the parking needs of residents (such as car clubs) to reduce the requirement for car parking.’

**Section 16.2.2.2 Infill Housing:**

‘Having regard to policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development; however, in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

Infill housing should:

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

**Section 16.5 Plot Ratio**

For ‘Z1’ zoned lands, the development plan sets indicative requirements of 0.5-2.0 for plot ratio. A higher plot ratio may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed.
- To facilitate comprehensive re-development in areas in need of urban renewal
- To maintain existing streetscape profiles.
- Where a site already has the benefit of a higher plot ratio.

- To facilitate the strategic role of institutions such as hospitals.

### **Section 16.6 Site Coverage**

For 'Z1' zoned lands, the development plan sets indicative requirements of 45%–60% for site coverage.

### **Section 16.7.2 Building Heights**

In the case of the low rise outer city development, a maximum height of 16 metres is specified for residential development and commercial development.

### **Section 16.10.1 Residential Quality Standards – Apartments**

### **Section 16.10.3 Residential Quality Standards – Apartments and Houses**

This section contains standards under the following headings that shall apply to proposed residential development: - public open space, safety and security and acoustic privacy. In the context of public open space, it states that 'the design and quality of public open space is particularly important in higher density areas' and requires that, in the context of new residential developments, 10% of the site area shall be reserved for public open space provision. Section 16.3.4 goes on to state that in the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy).

### **Section 16.38 Car Parking Standards**

A maximum car parking rate of 1 spaces per residential unit is specified for sites located within parking zone 2 as identified within Map J of the Dublin City Development Plan 2016-2022.

Section 16.39 Cycle Parking Standards A minimum bicycle parking rate of 1 one space per residential unit is specified for residential developments.

### **Dublin City Development Plan 2022-2028**

Dublin City Council has started the preparation of a new Dublin City Development Plan for the period 2022 to 2028. It is understood that Stage 2 of public consultation on the draft Development Plan finished on 14th February 2022.

## **Regional Planning Policy**

### **Regional Spatial and Economic Strategy for the Eastern and Midlands Area, 2019**

The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area (adopted June 2019) provides a framework for development at regional level. The RSES encourages promotes the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint. The following Regional Policy objectives are noted in particular:

RPO 3.2 Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 4.3 Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

## **National Policy/Section 28 Ministerial Guidelines**

### **National Planning Framework 2018-2040**

The National Planning Framework – Project Ireland 2040 was published in February 2018. This document will guide strategic planning and development for the country over the next 20+ years, to ensure the population grows in a sustainable manner (in economic, social and environmental terms). National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

A number of key National Policy Objectives are noted as follows:

- National Policy Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs.

- National Policy Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites.
- National Policy Objective 13 is that, in urban areas, planning and related standards including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35 promotes increased densities through measures including infill development, area or site-based regeneration and increased building height.

### **Project Ireland 2040 National Planning Framework**

The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note in this instance:

NPO 3(a) Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO 13 In urban areas, planning, and related standards, including height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 35 To increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## **Housing for All – A New Housing Plan for Ireland (2021)**

A multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price.
- built to a high standard and in the right place.
- offering a high quality of life. This plan requires the public and private sector to work together to reach the overall target of 300,000 homes by 2030, equating to an average of 33,000 homes per year. Of these 33,000 homes, 6,500 will comprise new private rental homes. Pathway 1, among other things, seeks a mixture of affordable rental options in urban areas near concentrations of employment.

## **Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual**

These guidelines encourage higher densities on residential zoned lands, particularly on inner suburban and infill sites and along public transport corridors, identifying minimum densities of 50 / ha in such corridors, subject to appropriate design and amenity standards. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

Section 4.21 encourages a more flexible approach to quantitative open space standards with greater emphasis on the qualitative standards. Close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution in lieu of public open space within the development.

## **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)**

These guidelines provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes. In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following: Central and/or Accessible Urban Locations - such locations are generally suitable for small-to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:

- Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

These guidelines contain several specific requirements with which compliance is mandatory. Section 5 specifically relaxes certain aspects of these requirements in the case of Build To Rent schemes. However, particular requirements in the management and communal nature of the development are set out Specific Planning Policy Requirements (SPPRs) 7 and 8. The standards permitted by SPPR8 are contingent on meeting the requirements of SPPR7 in the first instance. The following SPPRs are relevant to the subject proposal:

- **Specific Planning Policy Requirement 7:** BTR development must be: (a) described in the public notices associated with a planning application specifically as a 'Build-To-Rent' housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a

proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such; (b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

- (i) Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.
- (ii) (ii) Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc. ABP-311691-21 Inspector's Report Page 26 of 70

• **Specific Planning Policy Requirement 8:** For proposals that qualify as specific BTR development in accordance with SPPR 7:

- (i) No restrictions on dwelling mix (as specified in Specific Planning Policy Requirement 1) and all other requirements of these Guidelines shall apply, unless specified otherwise;
- (ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development;
- (iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;

- (iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;
- (v) The requirement for a maximum of 12 apartments per floor per core (as specified in Specific Planning Policy Requirement 6) shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.

• **Specific Planning Policy Requirement 3:** The following minimum apartment floor areas are specified: - Studio apartment - 37sq.m; 1-bedroom apartment - 45sqm; 2-bedroom apartment (4 persons) - 73sq.m; and 3-bedroom apartment (5 persons) 90sq.m. 2-bedroom apartment (3 persons) may also be considered, particularly in the context of certain social housing schemes such as sheltered housing. They must have a minimum floor area of 63sq.m. Minimum floor areas are also outlined at Appendix 1 in relation to minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms; minimum bedroom floor areas/widths; and minimum aggregate bedroom floor areas.

• **Specific Planning Policy Requirement 4:** Sets out the minimum number of dual aspect apartments to be provided in any scheme; a minimum of 33% dual aspect units are required in more central and accessible locations, a minimum of 50% in a suburban or intermediate location and on urban infill sites of any size or on sites of up to 0.25ha planning authorities may exercise discretion to allow lower than the 33% minimum.

• **Specific Planning Policy Requirement 5:** Specifies minimum ground level apartment floor to ceiling heights of 2.7 metres.

• The following minimum requirements for storage areas are set out in Appendix 1: - Studio apartment - 3sq.m; 1-bedroom apartment - 3sqm; 2-bedroom apartment (3 persons) - 5sq.m; 2-bedroom apartment (4 persons) - 6sq.m; and 3-bedroom apartment - 9sq.m. As per Specific Planning Policy Requirement 8, flexibility exists in relation to this requirement in the context of Build-to-Rent developments.



- The following minimum requirements for private amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sqm; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 7sq.m; and 3-bedroom apartment - 9sq.m. Further to this, paragraph 3.37 of the Apartment Guidelines states that balconies should have a minimum depth of 1.5 metres. As per Specific Planning Policy Requirement 8, flexibility exists in relation to this requirement in the context of Build-to-Rent developments.
- The following minimum requirements for communal amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sqm; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 76sq.m; and 3-bedroom apartment - 9sq.m. As per Specific Planning Policy Requirement 8, flexibility exists in relation to this requirement in the context of Build-to-Rent developments.
- The following requirements regarding bicycle storage are set out at paragraph 4.17: - 1 cycle storage space per bedroom (for studio units, at least 1 cycle storage space shall be provided) and 1 visitor cycle parking space per 2 residential units.

### **Urban Development and Building Heights - Guidelines for Planning Authorities (2018)**

These guidelines set out national planning policy guidance on building heights in relation to urban areas. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. Building height is identified as an important mechanism to delivering compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

There is therefore a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. In this regard, the Guidelines require that the scope to consider

general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.

### **Design Manual for Urban Streets (2019)**

The need to balance the needs of 'Place' and 'Movement' in relation to roads and streets informs the document. Section 4.2.3 notes that designers should seek to promote active street edges to provide passive surveillance of the street and promote pedestrian activity. Increased pedestrian activity has a traffic-calming effect as it causes people to drive more cautiously.

### **Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)**

These guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. They provide guidance in relation to development proposals in areas at risk of flooding.

## **5.2. Natural Heritage Designations**

- 5.2.1. There are no Natura 2000 sites within the boundary of the appeal site nor are there any Natura 2000 sites directly abutting the appeal site or within the immediate context of the site. The closest sites and those within the zone of influence of the proposed development are:
- South Dublin Bay SAC (Site Code 000210) – c. 2.7 km to the east.
  - North Dublin Bay SAC (Site Code 000206) – c. 6.6 km to the northeast.
  - North Bull Island SPA (Site Code 004006) – c. 6.6 km northeast.
  - South Dublin Bay & River Tolka Estuary SPA (Site Code 004024) - c. 2.7 km east.
- 5.2.2. The application site is located within the existing built-up area and is served by mains water and sewerage services. There is an indirect hydrological connection between the application site and these European sites in terms of surface water and wastewater. The application site does not contain any features of conservation

interest and the development will not result in the direct loss of any habitat identified above or the loss of any ex-situ foraging, breeding or roosting site for species of conservation interest. There are other sites within a wider radius of the application site, however, having regard to the separation distances and the lack of pathway between these sites and the application site they are screened out.

The application is accompanied by a Screening Report for Appropriate Assessment, prepared by a suitably qualified person which concludes a Stage 2 assessment is not required in this instance.

### 5.3. EIA Screening

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; and ABP-311691-21 Inspector's Report Page 30 of 70
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

It is proposed to provide 97 apartments on the subject site which is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 0.4 ha and is located within an existing built-up area, but not in a business district given the predominance of residential uses. The site area is, therefore, well below the applicable threshold of 10ha. The site to which this appeal pertains comprises a car sales showroom, 'Autovision' and forecourt/yard/carpark areas. A number of prefab buildings are located to the rear of Autovision. Formerly, St Joseph's Junior Education Centre, it currently comprises is a commercial / brownfield site.

The provision of residential development on site would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural heritage or cultural heritage and the proposed development is not likely to have a significant effect on any European Site and there is no direct hydrological connection present such as

would give rise to significant impact on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal.

Having regard to the nature and scale of the proposed development and its location in a serviced urban area 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. Grounds of Appeal**

6.1.1. A first party appeal has been submitted by John Spain Associates on behalf of Charlemont Project Limited, it is summarised as follows:

- The subject site is c. 1km (12 min walk from the Milltown Luas station) and well served by existing bus services. The site is c. 600m from Dublin bus route No. 11 which operates every 20 minutes. Dublin bus route No's 44 and 61 run on Milltown Road. The site is c. 1.2km from the N11 QBC. These bus services offer a high frequency of services to a comprehensive range of destinations to the north (City Centre), south (Dundrum, Enniskerry), east (UCO) and west (Liffey Valley, Ballyfermot, Crumlin).
- The subject site will benefit from the enhanced accessibility levels to be delivered by BusConnects. The subject site will be directly served and connect to routes 86, 87 and 88, in addition to Orbital Route S4 and E Spine.
- As the site is within 1km of the Milltown LUAS, the subject site can be categorised as a "Central and/or Accessible Urban Location".
- The site is considered to be within an accessible urban location, given it is within reasonable walking distance of a high-capacity urban public transport

stop (the Luas) and it is within easy walking distances of high frequency existing and planned urban bus services.

- The proposed development has been subject to 3 no. pre-application meetings.
- The submitted drawings by OMP Architects demonstrates separation distance of c. 9m to 34m with the neighbouring properties.
- It is contended that the proposal as submitted to the PA is in accordance with National, Regional and Local (County Development Plan) Policy and Standards and should be granted as proposed.
- The proposed development as submitted to the PA in terms of heights complied with the criteria under SPPR 3 of the Building Height Guidelines, specifically supported by the following documentation:
  - An Architectural Design Statement
  - A Landscape and Visual Impact Assessment and Photomontage Brochure
  - A Daylight and Sunlight Assessment
  - A Microclimate Assessment
- The transportation report which accompanies the application concludes that the proposal would not result in a material deterioration of road conditions.
- Should the original scheme as submitted to the PA and refused by way of 4 number reasons not be considered acceptable then the Board are requested to consider potential amendments in response to the reasons for refusal.
- The applicant is now proposing a series of amendments' to the scheme, including a reduction of 9 no. residential units and a revised vehicular access to the development.

- Removal of the fifth floor resulting in the omission of 4 no. residential units, helping to address the concerns raised in respect to the proposed height, scale and bulk and overbearing relationship with neighbouring properties, and reducing the overall height below 16m maximum, thereby complying with Section 16.7.2 of the City Development Plan.
- Removal of the bridging units between the front Block A and the return Block B and C that are linked at the 1st, 2nd and 3rd floors and the introduction of an increased separation distance between the front Block A and the return Block B and C of 7.5m.
- It is proposed to reduce the overall height of the development by c. 3.6 metres, to 16 metres, due to the removal of the 5th floor to Blocks B & C. The increased separation distance between the front Block A and the return Block B and C to 7.5m also assists in addressing the Planning Authority's concerns that the development reads as one block in the landscape.
- It is suggested that the following condition be attached to any decision to grant planning permission.
  - Removal of the fifth floor resulting in the omission of 4 no. residential units. Introduction of an increased separation distance between the front Block A and the return Block B and C to 7.5m and provision of the vehicular access to the basement from the site access road immediately to the north of the proposed apartments. This alteration will result in the loss of a further 3 no. residential units.

Associated alterations arising from the above.

As a consequence of the above amendments the total number of residential units permitted is 88 no. Build to Rent units comprising 43 no. 1 beds and 45 no. 2 beds. Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development.

- The following revised documents accompany the first party appeal:
  - Revised Photomontage Brochure prepared by Digital Dimensions
  - LVIA Response Report prepared by DOT

- Revised Daylight & Sunlight Assessment prepared by IN2
  - Revised Microclimatic Wind Analysis and Pedestrian Comfort prepared by IN2.
- Revised proposals for 88 no. BTR apartments and supporting development, would successfully address the Planning Authority's concerns in respect to the impact on visual amenities and character of the area, whilst also reducing the maximum height to 16m and thereby complying with the provisions of Section 16.7.2 of the City Development Plan.
  - The Revised Daylight and Sunlight Assessment, helps demonstrate that the amended proposals would not adversely impact on the residential amenities of adjacent properties.
  - The proposal provides adequate separation distances and built form relationship with the adjacent Gheel Community Centre and would allow for its future development for residential uses, should such a proposal be brought forward.
  - The amended proposal provides for 62 no. dual aspect units which equates to c. 64% of the overall scheme.
  - The scheme does not include single aspect north facing units, i.e. the units onto the access road are north-east facing, with all units orientated north east, east, and south.
  - The revised proposal increases the provision of private amenity areas within the scheme to a total of 85 no. units out of 88 units. Only 3 no. units at ground floor level do not have private amenity space. The 21 sq. m shortfall of private open space is catered for within the significant communal open space (660 sq. m), which exceeds the minimum required based on the proposed unit mix, and the internal residential amenity areas.

- The public open space and internal amenity space has been enhanced and enlarged as a result of the removal of the basement access ramp from the Milltown Road frontage. It is respectfully submitted that sufficient compensatory communal amenity space has been provided to justify the nonprovisional of private amenity space for the 3 no. individual units as provided for under SPPR8 of the Guidelines.
- The introduction of a greater break between the front Block A and the return Block B and C, provides the opportunity to relocate the basement access ramp from Milltown Road to the northern access road, thereby addressing the concerns in respect to the vehicular access from Milltown Road and associated works including the relocation of the pedestrian crossing.
- Block A has been slightly shortened to improve clearance and visibility for manoeuvring vehicles and an updated scheme for the laneway to the north has been included due to the change in vehicular movements.
- The revised Daylight and Sunlight Assessment by IN2 confirms that the proposed development, and the proposed amendments, complies with BRE requirements and guidelines and there is no undue impact on the amenity of adjacent residential properties, in relation to daylight, sunlight and overshadowing.
- The basement/ lower ground floor level facilities are provided with a lightwell from Milltown Road and comprise of a gym and media room with an ancillary coffee dock, suited to a lower ground level. There is no restriction on the provision of such facilities at lower ground floor level, and OMP Architects have indicate this would be not uncommon in BTR schemes, particularly on constrained urban sites.
- The Apartment Guidelines 2020 do not include a specific quantitative standard for calculating the amount of internal communal facilities for BTR developments. It is submitted that the proposed internal communal space measuring 302 sq. m of the original scheme is adequate and appropriately located within the development to ensure a high quality of residential amenity. This equates to approx. 3 sq. m per unit.



- The total internal communal facilities for the revised 88 no. BTR units in the revised scheme equate to 330 sq. m comprising a library/residential amenity area, co-working space, meeting room, lounge and concierge at ground floor level and gym, coffee dock and media room at basement level. This equates to 3.75 sq. m per BTR unit and is considered to be a good level of provision for a smaller scale BTR development.

## 6.2. Planning Authority Response

- Response received, if permission is granted a section 48 development contribution condition should be attached.

## 6.3. Observations

- Seven number observations were received and are summarised as follows:

### 6.3.1. Observation from Mary Fitzgerald, Owner of No. 2 Abbeyfield, Milltown, Dublin 6.

- Modifications to the scheme should not be accepted.
- Height of 5 / 6 storeys is not acceptable. Excessive in its context.
- Density and height would impact on the quality of life of the neighbouring community.
- Invalid Planning Notice.
- Impact upon constitutional right to privacy. Visual overbearing and loss of privacy re use of the balcony to No. 2 Abbeyfield.
- Negative impact from construction stage of the proposal.
- Overlooking, Overshadowing,
- Query the need and acceptability of a BTR model of development at this location.
- Concern with respect to overflow car parking during construction and operation phases.
- Shortage of school places, childcare and creche facilities.
- Devaluation of property

6.3.2. An observation has been submitted by Jim Brogan on behalf of Glenard Management Company CLG. Responsible for the management of Abbeyfield, located to the north of the subject site.

- Three duplex Blocks in Abbeyfield will be directly affected by the proposed development.
- Unacceptable by reason of excessive height, bulk, scale and mass, fenestration arrangements and proximity.
- Impact on communal spaces in Abbeyfield, excessive overlooking and visual overbearing.
- The amendments proposed to the subject development do not overcome the concerns of residents in Abbeyfield and the reasons for refusal by the PA.
- Contrary to the Z1 zoning Objective.
- High density of habitable windows facing Abbeyfield.
- There are c. 18 windows to habitable rooms above ground floor level facing the boundary in Block A and c. 58 windows facing the boundary in Blocks B and C.
- The nature and extent of the overlooking will seriously compromise the amenity and utility value of the communal amenity spaces in Abbeyfield.
- The floor to ceiling glazing arrangements will compound overlooking.
- Deciduous trees within Abbeyfield should be discounted in terms of providing screening. These trees could be removed.
- Visual oppressiveness and overbearance.
- Photomontages submitted with the appeal are deficient and fail to include views from Abbeyfield to the northeast of the subject site.
- Building would be in excess of the established building height in the area, highly obtrusive and in conflict with the established pattern of development.
- Classification of the site's location as 'Accessible Urban Location' is incorrect give the distance to Milltown Luas Stop, which is according to Google Maps 12 min walk, 1000 meters distant.

- More appropriately identified as an 'Intermediate Urban Location'
- Density as proposed is excessive and inappropriate at this location.
- Concern of car parking overspill.
- Instances of balconies serving different apartments directly facing each other.
- Concern for privacy of future residents of the proposed development, given living room windows directly facing bedroom windows.
- The removal of the fifth floor will only have marginal impact in terms of adverse effects arising from the modified scheme, in terms of Day Light and Sunlight and overshadowing of open spaces in Abbeyfield, visual dominance and overbearing.
- The VSC for two windows is below 27%
- The effect of the development would be to deprive a number of the windows in Abbeyfield of any winter sunshine, which is unacceptable.
- Concern that the information contained in the Daylight Analysis is correct.
- The development fails to successfully integrate with the existing pattern of development in terms of its layout scale and massing.
- Overly dominant in the streetscape. The revisions proposed will have no material impact on the overall development scheme's impact on the streetscape nor on its impact on the neighbouring residential developments to the north and south of the site.

6.3.3. An observation has been submitted by Nicola Magill, 4 Abbeyfields, Milltown.

- Loss of daylight to No. 4 Abbeyfield and adjacent housing.
- Loss of amenity to her garden due to elimination of sunlight.
- Loss of residential amenity
- Negative impact from construction activity.
- Density is too high for the location.
- Insufficient car parking proposed.
- Visually out of character with the surrounding area.

- BTR model not suitable at this location
- The existing property at the subject site has a height of 8m. The proposal now has heights up to 16m, reduced by 3.7m from 19.7m. still significant and inappropriate.
- No. 4 is a ground floor apartment 8m distant from the subject proposal. An increase in height on the subject site would diminish direct sunlight and natural light into her apartment and eliminate sunlight to her garden.
- Request that if the board is mindful to grant planning permission that the height of the new structure be limited to 8m.
- The number of apartments proposed is reduced.
- Additional car parking is included.

6.3.4. An observation has been submitted by Mary Hennessy and Tom Van Nuenen, 86 Abbeyfields, Milltown.

- The removal of the top floor affects and compromises the integrity of the design.
- The photomontages submitted are unacceptable and views are hidden behind trees.
- Negative impact to daylight sunlight and solar panels in Abbeyfield. Knock on effect for energy consumption.
- Overspill car parking of concern.
- BTR model not suitable for this location, lost opportunity for people to down size.

6.3.5. An observation has been submitted by John Healy, 90 Abbeyfields, Milltown.

- The proposed modifications are unacceptable.
- Unacceptable and inappropriate height, scale and intensity
- Significant over shadowing and overlooking will result.
- Negative impact upon Daylight to adjacent properties in Abbeyfield.
- Privacy and noise pollution.

- Unacceptable level of car parking proposed. Absence of family friendly accommodation, not a suitable location for BTR
- Question the accuracy of the photomontages.
- Concern over basement excavation works.

6.3.6. An observation has been submitted by Mairead Lyne 46 Abbeyfields, Milltown.

- Concern over impact to daylight and loss of same.
- Concern of noise arising from an apartment scheme of 88 units
- Devaluation of property

6.4. An observation has been submitted by Marston Planning Consultancy on behalf of Brent Management CLG. For Glenmalure Square located to the south of the subject site.

- Support the refusal by DCC
- The amendments proposed to the scheme do not overcome the substantive reasons for refusal by the PA
- There is a significant increased impact of the revised scheme on no. 9 Glenmalure Square
- If the PA were mindful to do so they could have addressed the scale of the development by way of condition or requested further information.
- The concerns of the PA are substantive.
- Negative impact to residential and visual amenity
- Overlooking and visually domineering to ground floor units in particular in Glenmalure Square.
- The height proposed is unacceptable given the height of Glenmalure Square at c. 11 m height to pitch of roof and c. 9m to eaves.
- The location is 'Outer City' as per the Development Plan
- The proposal fails to successfully integrate with its surroundings.
- Contrary to SPPR3
- Contrary to Section 16.10.10 Infill Housing of the CDP

- Inadequate car parking proposed.
- New access will have a negative impact on local road network.
- Justice Hollands Judgement on Ballyboden JR case is applicable.
- Capacity and frequency are distinct concepts.
- No evidence to support that public transport services will remain with capacity given the level of permitted and proposed development in the surrounding area.
- Loss of existing trees and hedgerows of concern.
- Devaluation of property

#### **6.5. Further Responses**

- None.

## 7.0 Assessment

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Principle of Development and Land Use.
- Residential Density.
- Design, Layout and Height/Impact on Visual Amenities.
- Residential Amenity of Proposed Development.
- Residential Amenity of Adjoining Properties.
- Access, Traffic and Parking.
- Open Space Provision.
- Flooding.
- Other Matters.
- Appropriate Assessment.

### 7.1. Principle of Development and Land Use.

- 7.1.1. The appeal site is a brownfield infill site, currently in use as a car sales outlet, it is located within an area featuring a mix of residential, commercial, community and recreational uses, with the immediate lands to the north and south and sites on the opposite side of Milltown Road comprising residential properties. The subject site lies within an area of suburban residentially zoned land. The table included in Section 14.8.1 of the Development Plan identifies 'residential' as a permissible use under Zoning Objective Z1.
- 7.1.2. Having regard to the site context and the zoning objective for the site, I am satisfied that the principle of developing residential units at this location is generally acceptable in principle provided the proposed development provides adequate

residential amenity, adequately safeguards the amenities of the adjoining properties, and would not result in a traffic hazard. These matters are considered in the subsequent sections of this report.

- 7.1.3. More specifically, the proposed development comprises 97 no. Build-to-Rent (BTR) apartments, which has been amended to 88 no. BTR apartments in the first party appeal, in a response to the reasons for refusal. Concerns are raised by observers to the appeal regarding the tenure/accommodation model of the proposed development. The third parties contend that the concept of BTR living is suited to highly concentrated urban employment areas and that Milltown does not constitute a dynamic urban employment area as outlined in the guidelines. They contend that a well-designed owner-occupier apartment development, suitable for downsizing, would be better suited to this location.
- 7.1.4. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 (Apartment Guidelines 2020) provides guidance on the Build-to-Rent sector. They define Build-to-Rent as “purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord”. Paragraph 2.2 of the Apartment Guidelines 2020 identifies urban areas as the most appropriate location for apartments, in particular in ‘existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services’.
- 7.1.5. With regards to the suitability of the subject site for a Build-to-Rent development, I firstly note that in terms of accessibility to public transport the appeal site is currently well served in this regard. The subject site is c. 1km (13 min walk from the Milltown Luas station) and well served by existing bus services. The site is c. 600m from Dublin bus route No. 11 which operates every 20 minutes. Dublin bus route No’s 39, 44 and 61 run on Milltown Road. The site is c. 1.2km from the N11 QBC. These bus services offer a high frequency of services to a comprehensive range of destinations to the north (City Centre), south (Dundrum, Enniskerry), east (UCO) and west (Liffey Valley, Ballyfermot, Crumlin).



- 7.1.6. The subject site will benefit from the enhanced accessibility levels to be delivered by BusConnects. The subject site will be directly served and connect to routes 86, 87 and 88, in addition to Orbital Route S4 and E Spine. The site is considered to be within an accessible urban location, given it is within reasonable walking distance of a high-capacity urban public transport stop (the Luas) and it is within easy walking distances of high frequency existing and planned urban bus services. I agree with the planning authority's assessment and opinion and that of the first party, that given the foregoing, in particular, that the site is within 1km of the Milltown LUAS, the subject site can be categorised as a "Central and/or Accessible Urban Location", as per guidance set out in the Apartment Guidelines 2020. I have done a Google Maps search and can confirm it indicates that the distance from the 'Auto Vision Motor Company' site to Milltown Luas Stop is 1Km – 13 min walk.
- 7.1.7. In terms of in terms of accessibility to services and amenities, I note that the application is accompanied by a Social & Community Infrastructure Audit / Assessment, prepared by John Spain Associates, which identified more than 42 no. healthcare, childcare, education, sports and recreation and other community and cultural facilities, within close proximity (a 1-kilometre radius/c. 10 – 15 minute walking distance) to the subject site. The report states that there are 8 no. childcare facilities, 4 primary schools and 3 secondary schools located within the catchment area of the subject site. Milltown and the surrounding area benefits from a wide array of existing open spaces, parks facilities, gyms and sports clubs. The list of all facilities is listed in Appendix 1 of the Social & Community Infrastructure Audit / Assessment. There are also a mix of retail uses within the catchment area. This includes the Milltown Centre (located 130m south of the site on Milltown Road) with an estate agents, pharmacy, dry cleaners, childcare facility, Milltown dental clinic, hairdressers, restaurant / takeaway and a Eurospar. Additional retail units are located further south of the site at Mount Saint Annes including a restaurant, pharmacy, gym and childcare facility. In the wider catchment area there are a number of public houses, garages and petrol stations.
- 7.1.8. The proposed development also provides on-site resident support facilities and resident services and amenities in accordance with the requirements of Specific Planning Policy Requirement 7 (the appropriateness of which will be considered in a subsequent section of this report).

- 7.1.9. There is no assessment of significant employment locations within the catchment contained within the submitted report. I note, however, that Ballsbridge is located approx. 2.5 Km distant, Ranelagh approx. 2 Km distant as is UCD. More broadly, the subject site is located within 2.3km of the canal (which marks the boundary to the area considered to be Dublin City Centre), 3km from Stephen's Green and approximately 4.1km from Grand Canal Docks. These areas offer a wide array of employment opportunities to residents of the subject scheme.
- 7.1.10. Having regard to the location of the site close to the City Centre, its access to public transport services and its proximity to services and amenities/employment sources, I am satisfied that the principle of a Build-to-Rent development specifically is suitable and justifiable at this location. The proposed Build-to-Rent scheme is appropriate in this instance as it would provide an additional housing tenure in the wider Milltown / Donnybrook area which is professionally managed and would support the provision of much needed accommodation for residents.
- 7.1.11. It is my view that the predominant form of housing in the area remains traditional housing serving general needs (including social housing) and I consider that the development will bring further choice and diversity to the housing market in this area.
- 7.1.12. From a procedural perspective, I am satisfied that the development meets the specific requirements of Specific Planning Policy Requirement 7 (SPPR 7) included in the Sustainable Urban housing: Design Standards for New Apartments 2020 (Apartment Guidelines 2020) with regards to Build-to-Rent development. SPPR 7 requires that the proposed development is advertised as such in public notices. This has been done by the applicant. SPPR 7 also requires restrictions in relation to ownership, operation and sale for a period of 15 years. The applicant has submitted a draft Section 47 legal covenant with the application in accordance with the requirements under SPPR 7. Use of the proposed development as a long-term rental housing scheme can be restricted by way of condition if permission is granted. In addition, I highlight to the Board that a Building Life Cycle Report, was submitted with the application in accordance with the requirements set out in Section 6.13 of the Apartment Guidelines 2020 which states that this report should have regard to the long-term management and maintenance of the proposed development.

## 7.2. Residential Density.

- 7.2.1. The third-party observers contend that the density of the proposed development is excessive and suggest that the subject site should accommodate a lower density scheme. The applicant argues that the subject site is classified as a 'Central and/or Accessible Urban Location' which indicates the site is capable of accommodating higher density apartment development. I note indicative plot ratio and site coverage standards set out in the Dublin City Development Plan 2016-2022. Plot ratio standards for Z1 range from 0.5-2.0 and the site coverage standard for Z1 is 45-60%. The stated plot ratio is 2.2 and the site coverage is 43%, which are in line with the indicative standards. The PA note that the site area includes the access road to the north (c.630sqm) which is a right of way, is not developable and does not provide uses directly associated with the residential development. The DCC report states: "When removed from the calculation, the site area is c. 3,470 (measured from plans), the plot ratio is c. 2.65 and the site coverage is c. 50.8%. The proposed plot ratio is above the indicative standard, suggesting a very high density of development. Notwithstanding this, high densities can be supported where a proposed development relates successfully to its surroundings, provides good quality residential accommodation, protects neighbouring amenity and is acceptable with regard to transport and environmental impacts".
- 7.2.2. With regards to density, the National Planning Framework recommends compact and sustainable towns/cities, brownfield development and densification of urban sites. More specifically, National Policy Objective 35 contained therein seeks an increase in residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights. National policy, including the Sustainable Residential Development in Urban Areas (2009), promotes residential densities in urban areas in close proximity to services and public transport. This sentiment is echoed in the Dublin City Development Plan, 2016–2022, with Policy SC13 promoting sustainable densities particularly in public transport corridors. In this regard, the appeal site is currently well served by public transport, as set out in the preceding section 7.1, the subject site is c. 1km (13 min walk from the Milltown Luas station and well served by existing bus services. Moving forward, the subject site will benefit from the enhanced accessibility levels to be

delivered by BusConnects. The subject site will be directly served and connect to routes 86, 87 and 88, in addition to Orbital Route's S2 and E Spine. In light of this, under the Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, (the Apartment Guidelines), the site would be categorised as a 'Central and/or Accessible Urban Location'. Such locations are deemed to be suitable for small-to-large-scale (will vary subject to location) and higher density development that may wholly comprise apartments.

- 7.2.3. As set out in Table 1 of section 2 of this report above, the site area is stated as 4,100sqm (0.4 ha) with a stated proposed density (in the original scheme of 97 units) of c. 237 u / ha and as per the amended scheme submitted to the Board of 88 units, the density is stated as c. 215 u / ha. The DCC planning report concludes that the stated area includes the access laneway to the north of the site, of some 630 sq. m and that this should be discounted. This results in a site area of some 3470 sq m / 0.347 ha and a density of 279 u /ha (as per original scheme of 97 apartments) or 253 u/ha (as per the amended scheme of 88 units).
- 7.2.4. In terms of consistency with 'Plot Ratio' and 'Site Coverage' standards, as stated above, the proposed development would equate to a plot ratio of 2.65 and a site coverage of 50.8%. Therefore, the proposed development is compliant with Development Plan policy regarding site coverage. The proposed plot ratio exceeds the applicable development plan standards. This may be considered appropriate in certain instances given the brownfield status of the site, the minimal nature of the exceedance and in light of national planning policy guidance.
- 7.2.5. Regard is had that both Development Plan and Government policy seeks to increase densities in appropriate urban locations, thereby, delivering compact urban growth. Given the site's location in a serviced residential area, its proximity to public transport services and the infill nature of the subject site, the proposed density may be considered appropriate, in accordance with Development Plan and Government policy, but only where it is considered that the proposed development relates successfully to its surroundings, protects neighbouring amenity, contributes to placemaking and in terms of mass and height achieves an appropriate density.

### **7.3. Design, Layout and Height/Impact on Visual Amenities.**

- 7.3.1. The proposed development as originally submitted to the PA ranges in height from 5 to 6 storeys over basement with a maximum stated height of 19.6 metres. The height of the proposal exceeds the general height limit of up to 16 metres for residential developments in the 'outer city' as defined in the Dublin City Development Plan. The planning authority assessed the proposal against the provisions of Section 3.2 of the building height guidelines. Overall, it was the opinion of the PA that the proposed development fails to successfully integrate with the existing pattern of development in terms of its layout, scale and massing. That it would appear overly dominant in the streetscape, particularly in relation to the scale and character of existing, established surrounding development, which is unlikely to change.
- 7.3.2. Two of the four reasons for refusal (No.'s 1 and 2) set out in full in section 3.0 of this report, above, consider that (i) given the layout, scale and bulk, that the proposed development would appear disproportionate in its context, be harmful to the visual amenities and character of the area, contrary to the Urban Development and Building Heights, Guidelines for Planning Authorities 2018, to the provisions of the Dublin City Development Plan 2016-2022 and ultimately to the proper planning and sustainable development of the area. And (ii) Having regard to the height, massing and proximity of the proposed development to existing residential properties, it would appear overbearing to neighbouring occupiers.
- 7.3.3. The key changes proposed in response to the reasons for refusal, at Appeal Stage, are set out in section 2.0 of this report. Table 1 in section 2.0 sets out a comparison of the original scheme as opposed to the amended proposed scheme which seeks to overcome the reasons for refusal by the PA. I note the first party request that the Board consider the original scheme, in the first instance, and, only, should it not be deemed acceptable, that the amended scheme be considered. The revised amended proposal, as submitted with the appeal, is summarised as:
- Removal of the fifth floor resulting in the omission of 4 no. residential units and reducing the overall height below 16m maximum.
  - Removal of the bridging units between the front Block A and the return Block B and C that are linked at the 1st, 2nd and 3rd floors and the introduction of an increased separation distance between the front Block A and the return Block B

and C of 7.5m. This reduces the length of B-C, whilst also allowing for the vehicular access to the basement to be provided from the adjacent access road to the north. This in turn increases and enhances the area of public open space along Milltown Road. This alteration will result in the loss of a further 3 no. residential units.

- Reconfiguration of the ground floor level including the relocation of the ESB substation and switchroom and provision of a new cycle store within Block B & C. This alteration will result in the loss of a further 2 no. residential units and removal of all northeast facing single aspect units.
- Residential amenity uses at the ground floor of Block A are proposed to extend to the full frontage onto Milltown Road. The changes to public open space, communal open spaces and internal amenity areas is set out above in Table 1 of this report, above.
- The revised proposal increases the provision of private amenity areas within the scheme to a total of 85 no. units out of 88 units. Only 3 no. units at ground floor level do not have private amenity space. The 21 sq. m shortfall of private open space is catered for within the communal open space (660 sq. m), which exceeds the minimum required based on the proposed unit mix, and the internal residential amenity areas.

7.3.4. The third-party observers argue that the design, height, scale, bulk and mass of the proposed development would visually dominate and harm the surrounding streetscape at this location, would be overbearing and that the revised amended development does not overcome the refusal reasons by the PA under Reg Ref, 4115/21.

7.3.5. The applicant contends that the proposed development has been carefully considered in the first instance, following numerous preplanning discussions with the PA, and that it will sit comfortably on the subject site. They state the revised proposal's building height is less than the maximum permissible height under the Development Plan (omission of the fifth floor), the building steps down to transition in scale to adjoining structures, the building mass is further mitigated by the segmentation of the block's, removal of the bridging units between the front Block A and Block B and C, it also reduces the length and scale of the building.

- 7.3.6. I have considered the proposal as submitted to the PA in the first instance and I wholly agree with the PA's assessment of the proposal against provisions of section 3.2 of the Building Height Guidelines. While the site is located within 1 Km of Milltown LUAS station (high-capacity urban public transport) and as such falls within the category of 'Central and / or Accessible Urban Locations' and it is a brownfield serviced site, following assessment of the proposal against the criteria for increased building height set out in section 3.2 of the Building Height Guidelines 2018, I conclude that the proposed development would not be in compliance and therefore the proposal is not acceptable with regard to height.
- 7.3.7. I have also considered the revised proposal, submitted at Appeal Stage. Key amendments are set out in paragraph 7.3.3 and in section 2.0 of this report. Table 1 also sets out a comparison of the original scheme as opposed to the amended proposed scheme, which seeks to overcome the reasons for refusal by the PA. I consider that the changes proposed, and I am of the opinion there is a marked improvement in terms of separation of the blocks and reducing the length of the building B-C, which aids a reduction in scale and massing. The provision of the vehicular access to the basement, from the site access road immediately to the north of the proposed apartments, increase the public open space along the Milltown Road, removal of all northeast facing single aspect units, increase in provision of private amenity areas within the scheme to a total of 85 no. units out of 88 units. Only 3 no. units at ground floor level do not have private amenity space. An assessment of residential amenity shall be considered in the succeeding section of this report. But I consider removal of the fifth floor resulting in reducing the overall height to 16m maximum does not go far enough to overcome the concerns of the PA and consideration of the revised proposal against section 3.2 of the Building Height Guidelines 2018.
- 7.3.8. At present, the subject site comprises an 8m in height, part single storey part two-storey showroom building facing Milltown Road and Ramleh Park, set back behind a forecourt area, and single and double height structures to the rear (with a total floor area of 1,739sqm). The question that arises is whether the proposed development can be comfortably integrated with the development currently featuring on adjoining sites. The subject site is an infill site within a streetscape and wider area characterised by buildings of 2-3 storeys in height. The context has an established

suburban residential character. As stated above, the existing commercial buildings on the site have a maximum height on the Milltown Road frontage of 8m, reducing to 3-4m towards the middle and rear of the site. Their height on Milltown Road provides a 'step' in height between the 3 storey duplex apartments of Abbeyfield to the north and the two storey detached dwellings of Glenmalure Square to the south. The Abbeyfield development to the north of the site is 3 storeys throughout, though comprised of blocks set perpendicular to the application site and with surface parking and amenity space between the blocks. Glenmalure Square includes a 3 storey block parallel to the site, with 2 storey terraced dwellings at the western end. To the rear of the site is the single storey Gheel Community Services building and the college playing fields beyond. The topography of the site is relatively level.

- 7.3.9. I agree with the PA in their assessment of the original proposal that taking account of the sites context, and policy supporting higher densities in urban areas and the efficient use of land, it is considered that the subject site has capacity to accommodate increased building height and massing, though any proposal for redevelopment must have regard for, and relate to, the character of the existing area. This is a clear requirement of Development Plan Policies QH7, QH22 and Section 16.
- 7.3.10. The proposed development, as revised, is part three, part four, part five storeys over basement and extends to a maximum height of 16 metres. In terms of building height, Section 16.7.2 of the Dublin City Development Plan specifies building heights of up to 16 metres for residential development and commercial development in the case of the outer city developments. I highlight that the Urban Development and Building Heights, Guidelines for Planning Authorities (2018), promote general building heights of at least three to four storeys. While the height of the structure now proposed is consistent with Development Plan and National policies in relation to building heights, including the Building Height Guidelines (2018), I do not consider that its height appropriately responds to its setting and to the adjacent residential dwellings, as will be discussed in the subsequent section. Regard is had to the revised drawings, reports and in particular photomontage's, contiguous elevations and sections submitted with the appeal. Notwithstanding the capacity of the site to accommodate increased scale and massing, the proposed development is considered unacceptable with regard to its relationship to the existing context.



- 7.3.11. Overall, in its context, while I consider that issues of bulk and scale of the proposed building has been somewhat ameliorated by the amendments proposed I recommend, that should the Board consider that a grant of planning permission be forthcoming, that the 4<sup>th</sup> floor be further omitted. Reducing the height to some 13m, resulting in a part 3 and part 4 storey over basement building. Thus, being an increase of some 5m over the existing structure on site to be demolished. This would result in the omission of a further 14 apartments (8 one bedroom and 6 two bedroom) resulting in a BTR apartment development of 74 apartments with a density of 213 u/ ha (using a site area of 0.3470 ha).
- 7.3.12. The site and surrounding area is zoned 'Z1' with the objective 'to protect, provide and improve residential amenities.' I consider that a building height of 4 stories in terms of layout, scale and massing proposed would more successfully integrate with and respond to the scale and character of existing surrounding buildings. The contextual elevations submitted strongly support this amendment and indicate how it would aid more successful visual integration into and enhancement of the character of the surrounding area.

#### **7.4. Residential Amenity of Proposed Development.**

- 7.4.1. Refusal reasons No.'s 3, set out in full in section 3.0 of this report above considers that the proposed development, by virtue of the inclusion of north-facing single aspect units, non-provision of private amenity space to some units, together with a lack of adequate compensatory communal open space, would provide a poor standard of residential accommodation for future occupiers.
- 7.4.2. The first party contend that the amendments proposed, in the revised scheme, overcome issues raised. It is noted that the proposed scheme provides for 65% dual aspect units (57 units) and significantly exceeds the requirement of a minimum of 33% dual aspect under SPPR4 of the Guidelines. The revised proposal increases the provision of private amenity areas within the scheme to a total of 85 no. units out of 88 units. At ground floor, only 3 no. units do not have private amenity spaces, compared to 7 no. units in the original submission. As noted in the Planning Report, SPPR8 permits non-provision of private amenity space if suitable compensatory communal areas are provided.

- 7.4.3. The total usable external communal amenity space is 660 sq. m, which is provided at surface level. This exceeds the minimum required communal amenity space requirement based on the proposed unit mix and the requirements of Appendix 1 of the Guidelines which equates to 530 sq. m (43 X 5 + 45 X 7). In addition, the scheme is provided with 330 sq. m of internal amenity space and also 463 sq. m of public open space, ensuring that residents will enjoy an enhanced overall standard of amenity. The public open space and internal amenity space has been enhanced and enlarged as a result of the removal of the basement access ramp from the Milltown Road frontage. I am of the opinion that sufficient compensatory communal amenity space has been provided to justify the non- provision of private amenity space for the 3 no. individual units as provided for under SPPR8 of the Guidelines.
- 7.4.4. Specific Planning Policy Requirement 7 (SPPR 7) refers to detailed proposals for supporting communal and recreational amenities. As stated above and detailed in Table 1 of this report, the revised scheme provides for 330 sq. m resident support facilities and resident services and amenities. The proposed development includes internal amenities in the form of a 60 sqm gym, a tea station 15 sq. m and a media room 23 sq. m at basement level. A library 40 sq. m co working hub 20 sq. m MTG room 22 sq. m, lounge and coffee dock area 45 sq. m concierge and reception area of 34 sq. m at ground floor. In terms of facilities, lobbies and waste facilities are provided. I note that laundry facilities are not provided in the proposed scheme. However the apartments are appropriately sized to accommodate washing machines. The proposed support facilities and amenities are located at basement and ground level adjacent to the development's eastern entrance. This means that each future occupant would have easy access to amenities as they are needed.
- 7.4.5. I am satisfied that the quantum and quality of shared amenity space and facilities are of a satisfactory quality and will provide a comfortable living environment for future occupants. The requirements of this aspect of SPPR 7 are met in my view.
- 7.4.6. As previously detailed in this report, Specific Planning Policy Requirement 8 (SPPR 8) relaxes the following requirements for apartments in instances where Build-to-Rent apartments are proposed: - dwelling mix, storage, private amenity space and communal amenity space (on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development). Further to this, it outlines that the requirements that the majority of all apartments exceed the

minimum floor area standards by a minimum of 10% and a maximum of 12 apartments per floor per core shall not apply (subject to overall design quality and compliance with building regulations) in the context of Build-to-Rent apartments.

- 7.4.7. The subject Build-to-Rent scheme provides 43 no. 1-bed apartments; and 45 no. 2-bed apartments. As mentioned previously, the appellants/observer are opposed to Build-to-Rent units at this location. They contend that such a preponderance of one-bedroom units will mean a transitory population and the proposed development does not satisfy the areas need for properties to facilitate down-sizing and family homes. There are no restrictions on dwelling mix in Build-to-Rent schemes, the proposed development is broadly in accordance with the development plan and complies with the requirements of the Apartment Guidelines, SPPR 8(i) is met. Consequently, I also note that the prevailing housing stock already in the area provides for mostly three and four bedroom housing units and so the introduction of an alternative form of development (one and two bedroom units) provides more choice for would be residents.
- 7.4.8. Irrespective of flexibility allowed by SPPR 8(ii), the majority of the proposed apartments meet and in some cases, exceed the standards set out in relation to storage and private amenity space. As detailed in the housing quality assessment included in the Architectural Design Statement accompanying the application/application drawings, the units would be provided with between 3sqm and 7.2 sq. m of storage and complies with the storage requirements specified in Appendix 1 of the Apartment Guidelines, 2020.
- 7.4.9. I note that the proposal is in accordance with SPPR 8(v) in terms of the requirement for a maximum of 12 apartments per floor and minimum floor areas, which are all in excess of 45 sq. m for one bed and 75 sq. m for two bedroom unit.
- 7.4.10. The application is accompanied by a Daylight & Sunlight Analysis Report, prepared by IN2, which includes an assessment of the proposed open space areas (communal and public) against the BRE guidelines. The revised scheme includes public open space along the scheme frontage of 463 sq. m and a linear strip along the southern portion of the site, inclusive of planted areas, lawn, seating and pockets of play and exercise provision. The relocation of the car park access ramp has allowed the communal open spaces to be extended and reorganised. The narrow

strip to the rear is for access purposes and is not deemed part of the communal open space. The Daylight & Sunlight Analysis Report concludes that the proposed communal amenity spaces will receive sunlight on 50% of the area well in excess of the minimum recommendations of the BRE Report – Site Layout and Planning for Daylight and Sunlight. In light of the foregoing, the proposed communal amenity spaces are also considered appropriate from a qualitative perspective.

- 7.4.11. The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards. The Sunlight / Daylight Analysis determined that 100% of rooms were in excess of prescribed BRE/BS guidelines, for ADF, of 1% for bedrooms and 2% for K/L/D spaces. This extent of compliance was achieved through design with increased glazing / reduced balcony depth / balcony locations to ensure that residents benefit from maximised daylight availability. Upon review, I am satisfied that daylight and sunlight considerations have informed the proposed layout and design in terms of separation distances, scale, window sizing and the aspect of units. Further to this, as previously discussed, 65% of the proposed apartments are dual or triple aspect and single aspect apartments proposed are south, east and west facing, maximising available light and ventilation to each apartment.
- 7.4.12. In conclusion, I am satisfied that the proposed development would provide quality apartments, meeting the relevant design standards and providing a suitable level of amenity and services for future residents. I also consider that it has been demonstrated that the quality of the public and communal open space and public realm improvements as a result of the proposed amendments, would satisfy the quantitative and qualitative requirements for an infill BTR development on the subject site.

#### **7.5. Residential Amenity of Adjoining Properties.**

- 7.5.1. Refusal reasons No.'s 2, set out in full in section 3.0 of this report above considers it has not been demonstrated that the proposed development would be acceptable with regard to daylight, sunlight and overshadowing impacts on neighbouring properties and would not result in a constraint to the future development potential of the site to the west.

7.5.2. Given my assessment in the preceding section of this report I intend to assess the merits of the amended scheme, only. I agree with the report and conclusions of the PA in their assessment of the original proposal. I note the concerns of the third parties in terms of overshadowing and loss of light to neighbouring residential units, and their private and communal amenity spaces. The first party contend that the amendments proposed, in the revised scheme, overcome issues raised in terms of Daylight and Sunlight, overbearance, height, proximity and massing. It is contended that the development has been designed to ensure it is sympathetic and protects the amenities of neighbouring residential properties, including special consideration to the residents within Abbeyfield to the north and Glenmalure Square to the south. The first party submits that every effort has been made to alleviate any potential impacts on neighbouring properties surrounding the site and demonstrates no undue residential impact in terms of loss of sunlight / daylight, privacy and overlooking.

7.5.3. It is submitted by the first party that the proposed development incorporated a range of design solutions to minimise impacts on neighbouring properties, including the stepped profile of the blocks and a layout which maximised separation distances to surrounding development, and which can be summarised as follows:

- Block A presents a side gable to the detached dwelling at No. 9 Glenmalure Square and is located between c. 6m at ground floor level, increasing to 25m at the setback 4th floor level. The relationship is considered to be an enhancement when compared to the existing double height commercial car showroom premises.
- Block A is separated from the duplex apartment buildings at Abbeyfield by between c. 9m to 12m and provides an active elevation to the north given the presence of the existing access road. This is considered to be appropriate in such an urban setting.
- Block B and C have a separation distance of c. 10m from the application site boundary and between c. 25m-33m from the rear elevation of the Glenmalure Square duplex block which is located to the south of the site. Block B and C is separated from the Abbeyfield duplex apartment buildings by c. 11m to 16m. Block B and C is designed to provide a street edge and active frontage onto the adjacent access road to the north, and is considered to provide an appropriate urban design response to the characteristics of the site and surrounding context.

- 7.5.4. From my calculation and measurement taken from the revised site layout plan 1:500 Drg. No. 20042-OMP-00-00-DR-A-XX-10001 the above separation distances are somewhat generous but in the main are accurate.
- 7.5.5. The Revised Daylight and Sunlight Assessment includes an assessment of the amended scheme prepared by OMP and demonstrates that the proposed amendments would have a more positive result on the impact to the neighbouring buildings whilst ensuring good practice is met for the scheme. The revised report submits that the proposed development, and the proposed amendments, complies with BRE requirements and guidelines and there is no undue impact on the amenity of adjacent residential properties, in relation to daylight, sunlight and overshadowing.
- 7.5.6. I note and consider acceptable and logical, the response on page 6 of the Revised Daylight and Sunlight Assessment which clearly responds to the issues raised by the PA in their report. The analysis indicates that minimal overshadowing and loss of sunlight to the receiving environment or impact on neighbouring amenity sunlight. The spaces within Abbeyfield analysed are predicted to maintain 97% and 95% of existing sunlight post development, which exceeds the 80% recommended by the BRE guidelines. In terms of overshadowing given that the all amenity spaces will received 2 hours of sunlight or more on at least 50% of the area it complies with the BRE Guidelines.
- 7.5.7. As per page 6 of the Daylight and Sunlight Assessment I accept that only neighbouring development where the proposed development lies within 90degrees of the south need to be assessed for impact upon amenity sunlight due to the position of the sun throughout the day. Being due north of Glenmalure Square the proposed buildings can not cast a shadow.
- 7.5.8. The sunlight and daylight analysis was carried out on existing neighbouring residential buildings that could be impacted by the proposed development, namely Abbeyfield and Glenmalure Square. The non-residential building of Gheel Community services facility was also analysed. Analysis was carried out taking into account pre and post development for indicative window locations on the façade of each dwelling. Existing and proposed landscaping, trees and hedging was discounted.

- 7.5.9. The results for Glenmalure Square Visual Sky Component (VSC) assessment indicate as all VSC values were predicted to be equal or above 27% that of the existing condition benchmark. That the revised scheme has negligible impact on this aspect due to the set back previously employed not impacting the view of the sky. The analysis determined that the dwellings in Abbeyfield were deemed not impacted, as all proposed / existing VSC values were predicted to not receive less than 0.8 of its former value in comparison to the existing condition benchmark. I note that the three windows on the east elevation of the Gheel Community services facility that failed to comply with VSC analysis open onto an open plan room. This space was assessed to determine compliance with the no Skyline requirements of BR209. In the proposed condition, the space is predicted to retain 95% of the area of the room which receives direct skylight. Therefore, it is submitted that daylighting is unlikely to be significantly affected in this room.
- 7.5.10. Similarly, analysis undertaken for sunlight availability determine BRE compliance with regards to the relevant existing units on Glenmalure Square, Abbeyfield and Gheel Community services facility confirming received sunlight would not be adversely affected by the proposed new development as Annual Probable Sunlight Hours (APSH) above 25% and Winter Probable Sunlight Hours (WPSH) remains above 5%. As referred to above I note and accept that only windows within 90 degrees of south are assessed under the methodology of the assessment (as the sun is in the south of the sky in the northern hemisphere), therefore the assessment was only applicable to a selection of units in Glenmalure Square, Abbeyfield and Gheel Community services facility. I would concur with the findings of this analysis.

#### Overlooking

- 7.5.11. Cognisance is had to the multiplicity of proposed habitable rooms facing Abbeyfield. Concern is raised by residents that the proposed development will give rise to overlooking of communal open spaces and private amenity spaces. Concern is also raised with regard to overlooking of no. 9 Glenmalure Square from units on the southwest corner of Block A. I am of the opinion that privacy screens could be added to these windows / balconies to ameliorate overlooking. This may be addressed by a condition.

- 7.5.12. The PA's report is concerned that the rear windows serving habitable rooms on the 2<sup>nd</sup> and 3<sup>rd</sup> storeys would potentially constrain future development of Gheel Community Services facility.
- 7.5.13. The proposed development incorporates a range of design solutions to minimise impacts on neighbouring properties, including the stepped profile of the blocks and a layout which maximised separation distances to surrounding development, which is set out above in section 7.5.3 of this report.
- 7.5.14. Overall, the separation distances, in addition to the proposed design measures, are sufficient, in my opinion, to avoid issues of overlooking and overbearing and result in an appropriate development on this underutilised residential zoned site. The stepped approach to the height and massing provides increased separation distances above ground floor to minimise impacts on neighbouring properties, and this combined with proposed screening where necessary prevents any unacceptable overlooking onto neighbouring properties. In addition, the proposed mature trees along the southern boundary, coupled with the existing trees to Glenmalure Square and the existing trees within Abbeyfield provide natural screening between the subject site and surrounding development
- 7.5.15. In an urban context and given the Z1 residential zoning objective, the proposed separation distances, together with the stepped graduation in heights, orientation of the buildings and design measures to prevent direct overlooking, are considered to be adequate and must be considered in the context of other planning objectives, such as achieving a more compact urban form with increased density and urban design and streetscape improvements.

#### Overbearing

- 7.5.16. Concern is raised by third parties and by the PA that the proposed development would be harmful to the amenity of Abbeyfield with regard to overbearance, height, proximity and massing.
- 7.5.17. Given my recommendation is to reduce the height of the building to some 14 m by way of omission of the 4<sup>th</sup> floor in addition to the first party's revised scheme submitted on appeal, I consider that issues of overbearance, height and massing would be overcome.



## 7.6. Access, Traffic and Parking.

- 7.6.1. The fourth reason for refusal as set out in full in section 3.0 of this report above, considered that having regard to the location and design of the proposed vehicular access, it is considered that the development would endanger public safety by reason of a traffic hazard due to its conflict with an existing signalised pedestrian crossing.
- 7.6.2. The proposed development's vehicular entrance onto Milltown Road is located to the southeast corner of the site and provides access to the basement car park. The provision of the relocated vehicular entrance impacts directly an existing controlled pedestrian crossing and would require relocating the pedestrian crossing. The applicant has proposed to relocate the pedestrian crossing 35m further south. The basement access ramp is set back from the back of the public footpath on Milltown Road and allows for 2 cars to park within the site before reaching the ramp. It is noted that visitor cycling parking is located within the open space to the front line of the site. The Roads Departments Report from DCC notes that the proposed relocation of the pedestrian crossing impacts an existing bus stop and associated bus shelter which would also necessitate relocation. The relocation of the bus shelter would require a separate planning permission. The Traffic section of the Environment and Transportation Department has confirmed that the proposed impact on the existing road network in particular, the signalised pedestrian crossing is unacceptable. The impact on the existing bus stop and shelter are also of concern. The report goes on to state that the transportation section indicated to the applicant that the location of the vehicular entrance as proposed was inappropriate and of concern at preplanning stage. They recommend refusal of the proposal to access via Milltown Road. Refusal reason no. 4 considers that the proposed changes to the public road outside of the applicant's control are considered unacceptable to the Planning Authority having regard to their negative impact on the wider road network. The proposed development would therefore be contrary to the provisions of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.
- 7.6.3. However, the transportation report does go on to recommend that in the event that further information is being sought that the applicant be requested to relocate the proposed basement access. It is stated: "Consideration should be given to the

consolidation of vehicular access points onto the site by use of the adjacent laneway located along the northern boundary”.

- 7.6.4. The amended scheme and design submitted with the appeal in response to the reasons for refusal includes a complete redesign of the vehicular basement entrance. OMP's have carried out Revised Architectural Drawings, which has been prepared in consultation with DBFL Consulting Engineers, and includes vehicular access to the basement from the adjacent access road to the north. This it is submitted would address the concerns in respect to traffic, transport and vehicular access for this proposed infill residential development.
- 7.6.5. The First party contend that: “The introduction of a greater break between the front Block A and the return Block B and C, provides the opportunity to relocate the basement access ramp from Milltown Road to the northern access road, thereby addressing the concerns in respect to the vehicular access from Milltown Road and associated works including the relocation of the pedestrian crossing. This revision in turn requires the reconfiguration of the basement level to accommodate the revised vehicular access, with a revised car parking layout providing a total of 41 no. car parking spaces, internal reconfiguration of the plant and tank rooms and provision of 140 no. cycle spaces. There are 2 no. surface spaces giving a total of 43 no. car parking spaces”.
- 7.6.6. I note that Block A has been slightly shortened to improve clearance and visibility for manoeuvring vehicles and an updated scheme for the laneway to the north has been included due to the change in vehicular movements. The first part of the laneway will have a delineated carriageway in line with a home zone typology, using flush kerbs and pedestrian refuge, utilising the colonnade of Block A. Further west, past the basement entrance, landscaping has been used to emphasise the change in street hierarchy to a shared space, using landscape to reduce any vehicle speeds and encouraging pedestrians and cyclists to use the width of the lane. Allowing access, to Block B & C entrances, the western entrance to the communal open space and also allowing pedestrian and cyclist activity to permeate to the HSE community centre.
- 7.6.7. Cognisance is had to the argument that while vehicle access is still required, the low number of parking spaces from the existing (and any proposed future scheme)

means the shared street proposal submitted would be suitable. It should also be noted that this laneway is private and not anticipated to be Taken in Charge in the future.

- 7.6.8. The OMP, Parkhood and DBFL responses, included with the appeal, set out how, in their opinion, the revised proposals are consistent with the requirements of DMURS and are appropriate for this infill Inner Suburban brownfield site, and provide a suitable design solution for the redevelopment of the site for apartments, whilst successfully utilising the access road to the north. It is submitted that the design proposed has regard to intent for the built form, edge and interface with the access road to the north, which is similar in context to Mount St. Annes to the south of the site. The DBFL Technical Note Appeal Response also includes a detailed justification for the proposed relationship with the access road and the consistency with DMURs with some precedent examples.
- 7.6.9. The subject site is currently in use for motor sales with access to the forecourt area from Milltown Road. There is an adjacent private laneway in excess of 5 m in width, via Milltown Road, running along the northern boundary. As noted above in section 7.1 of this report the appeal site is currently well served in terms of accessibility to public transport. The subject site being c. 1km (13 min walk from the Milltown Luas station) and well served by existing bus services.

Having regard to the reduced level of on-site parking provision proposed, use of and frequency of vehicle movements will be lower than the previous use on the site. The improved lane proposals will address potential for obstruction of existing residents or other users of the lane. Having regard to the standard of the road network in the area, the availability of public transport services, the proposed improvements to the access lane, the relatively modest level of the car parking provision proposed and the Planning Authority reports, it is my view that the proposed development, given the negligible impact upon the road AM and PM peak (predicted to be 1.31% and 1.43% in the opening year respectively) will not endanger public safety by reason of traffic hazard or cause any greater impacts than previous use on the site in terms of traffic movements/congestion. I recommend that in the interest of pedestrian and traffic safety that a condition be attached which requires that prior to the commencement of development, the applicant shall submit access proposals via the existing laneway, as per the revised proposal submitted to the Board on the 16<sup>th</sup>

March 2022, to the basement car park for written agreement with the Planning Authority. The following shall be agreed:

- a) Details of the junction of the private laneway and Milltown Road and potential physical interventions to the junction to reduce vehicle speeds entering and leaving the laneway.
- b) Provision of a raised pedestrian surface and kerb to provide some level of protection to pedestrians and the building façade from vehicles using the laneway as well as providing some obstacle to vehicles parking on the level pedestrian area and providing some level of traffic calming.
- c) The location / provision of the set-down area.
- d) Details of a swept path analysis for a refuse vehicle entering the laneway.

7.6.10. In terms of disturbance during construction to residents I note that such impacts are short-term, temporary in nature and that such impacts could be adequately mitigated through the implementation of a Construction and Demolition Management Plan.

#### Car Parking

7.6.11. I note that 43 car parking spaces are proposed (2 surface and 41 basement) which is a ratio of 0.5 units per unit. The observations received contend that car parking provision is insufficient having regard to the site's suburban non-central location/the inadequacy of public transport services in the area and will exacerbate illegal parking issues being experienced in the surrounding streets.

7.6.12. The Apartments Guidelines (2020) state that, in central and/or accessible urban locations, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. SPPR 8 (iii) of the Apartment Guidelines also notes that there shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The subject site is deemed to be in a central and/or accessible urban location as it is proximate to Dublin Bus services. Further to this, it is highly accessible by bicycle and foot to Milltown Luas Stop 1 Km distant. In addition to providing multiple options for sustainable travel (via public transport, walking and cycling), there is also a choice of

retail and services provision within less than 1km of the site as previously discussed in Section 7.1.

- 7.6.13. The proposed development comprises a professionally managed Build-to-Rent development with 2 no. surface car parking spaces. I recommend that a condition be attached regarding traffic management and that a travel plan be put in place to encourage sustainable transport modes among
- 7.6.14. While the concerns of the appellant/observers are noted, it is my view that having regard to the nature of the development as a professionally managed Build-to-Rent scheme, the site's central and/or accessible urban location, its proximity a range of services and amenities, and the sites proximity to public transport I am satisfied that sufficient car parking has been provided in this instance and complies with the provisions of the development plan and the Apartments Guidelines and would not result in overspill onto the surrounding road network, regard is had to the reduction in the number of units proposed, by way of reduction in the height and massing, to 88 units as proposed by the revised drawings submitted with the appeal and to 74 units as per my recommendation, giving rise to a car parking ratio of some 0.58 spaces per unit.

#### Cycle Parking

- 7.6.15. I note that 140 cycle parking spaces are proposed 44 at surface including 4 cargo spaces. The quantum of bicycle parking provided is in excess of the Apartment Guidelines (2020) standards, which require 1 no. resident cycle space per bedroom and 1 no. visitor cycle space for every 2 no. units, and the standards set out in Table 16.2 of the Development Plan, which require a minimum of 1 no. cycle space per unit. 24 of the proposed visitor spaces/surface / cargo bicycle parking spaces are located adjacent to the eastern development entry and a further 4 of the proposed visitor spaces are located adjacent to the northern access laneway which are considered to be appropriate locations in terms of accessibility and passive surveillance. The resident spaces proposed are located within a centrally located designated bicycle store accessible off Milltown Road, which is considered to be appropriate locations in terms of shelter, accessibility and passive surveillance.

## **7.7. Open Space Provision.**

- 7.7.1. Section 16.10.3 of the Development Plan requires that, in the context of new residential developments, 10% of the site area shall be reserved for public open space provision. Section 16.3.4 goes on to state that in the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy).
- 7.7.2. The proposed development provides 463sqm of public open space to the front of the site which equates to approximately 10.9 % of the overall site area, thus complying with the quantitative development plan requirements. From a qualitative perspective, the area of public open space proposed is to the east of the site, thus having good solar access. It would provide direct connectivity to the Milltown Road creating a plaza effect and will be passively surveilled by resident amenity space / active street frontage at ground level. The apartments in Block A have private amenity spaces and terraces provided at first, second and third floor levels which all have an easterly outlook.
- 7.7.3. Having regard to the foregoing, public open space provision is considered appropriate in this instance. The appropriateness of communal amenity space provided as part of the proposed development has been considered previously in Section 7.4 of this report.

## **7.8. Flooding.**

- 7.8.1. In terms of assessing potential flood risk, I would note that the Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009) which sets out a sequential test for assessing flood impact. The proposed residential development would constitute a highly vulnerable development in accordance with the Table 3.1 of these guidelines. Table 3.2 of the guidelines outlines that such highly vulnerable development is appropriate in areas falling within Flood Zone C and in Flood Zones A and B subject to the passing of a Justification Test.
- 7.8.2. The application is accompanied by a Hydrological and Hydrological Qualitative Risk Assessment, compiled by AWN Consulting, and an Infrastructure Design Report by

DBFL Consulting Engineers, which identifies the subject site as being located in a Flood Zone C area and concludes that the site is in an area not vulnerable to tidal, fluvial, pluvial or ground water flooding.

7.8.3. No issues have been raised regarding flooding and I find the assessments provided regarding SUDS, Attenuation, design standards, provision for flooding, including additional storage and overland flows directed away from houses in the Flood Risk Assessment, to be accurate. I see no grounds to refuse planning permission on grounds of flood risk.

#### 7.9. **Other Matters.**

Part V - The proposed development application included a letter from Dublin City Council advising that the applicant has engaged in Part V discussions with the Council. I note that an agreement in principle to comply with Part V requirements has been reached. A no. of specific details regarding this agreement are yet to be agreed with the Planning Authority. I am satisfied however, that this matter can be appropriately dealt with by way of condition of planning permission.

#### 7.10. **Appropriate Assessment.**

7.10.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

### 8.0 **Recommendation**

8.1. Following the assessments above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective as set out in the Dublin City Development Plan 2016-2022, national and local policy objectives which support the redevelopment of brownfield/infill sites, the subject site's proximity to public transport, services/amenities and employment sources, the design, layout and scale of the proposed development and the existing and emerging pattern of development in the vicinity, it is considered that subject to compliance with conditions below, the proposed development would appropriately intensify residential use on this suitably located infill site, would constitute an acceptable height, quantum and density of development in this accessible urban location, would be acceptable in terms of design, height, layout and scale of development, would provide a suitable level of accommodation and amenity for future occupants, would not seriously injure the amenities of the area or properties in the vicinity, would be acceptable in terms of traffic safety/parking provision and would comply with the provisions of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (Department of Housing, Planning and Local Government, 2020) and the Urban Development and Building Height - Guidelines for Planning Authorities (December 2018). 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 as amended by the further plans and particulars submitted on 16th March 2022, 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
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	<p>particulars. The total number of residential units permitted in this development is 74 no. units (35 one bedroom and 39 two bedroom).</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>a) Removal of the fourth floor resulting in the omission of 14 no. residential units (8 one bed and 6 two bedroom units).</p> <p>b) The windows associated with apartments to the south west of Block B-C, from first to third floors, facing west and serving living space shall be obscure glazed or angled to restrict overlooking.</p> <p>c) The windows associated with apartments to the southwest corner of Block A from first to third floors, facing south and serving living space shall be obscure glazed or angled to restrict overlooking.</p> <p>d) Frosted glazed screens to be introduced on the west side of the balconies serving apartments, to the north west corner of Block B -C, at first to third floors facing west.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of residential amenity.</p>
3.	<p>The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area and in the interest of clarity</p>
4.	<p>Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an</p>

	<p>institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
5.	<p>Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a build-to-rent scheme. Any proposed amendment or deviation from the build-to-rent model, as authorised in this permission shall be subject to a separate planning application.</p> <p><b>Reason:</b> In the interests of orderly development and clarity</p>
6.	<p>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 occupation of the development.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity</p>
7.	<p>The development shall be finished in accordance with the material, colour and texture details and landscaped in accordance with a comprehensive scheme of landscaping submitted with the application/further information (whichever is most recent), unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity</p>
8.	<p>a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.</p>

	<p>b) A map delineating those areas to be taken in charge by the Local Authority and details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential or commercial units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
9.	<p>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.</p> <p><b>Reason:</b> In the interest of public health.</p>
10.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
11.	<p>Proposals for an apartment naming/numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. 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).</p> <p><b>Reason:</b> In the interest of urban legibility</p>
12.	<p>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</p>

	<p>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.</p> <p><b>Reason:</b> In the interest of sustainable waste management</p>
13.	<p>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, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
14.	<p>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] for each apartment unit 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) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
15.	<p>a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas</p>

	<p>not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.</p> <p>b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
16.	<p>a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Residential car parking spaces shall not be utilised for any other purpose unless the subject of a separate grant of planning permission.</p> <p>b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how car, cycle, motorcycle and carshare club parking, as well as turning areas, shall be continually managed.</p> <p><b>Reason:</b> To ensure that adequate parking facilities and turning areas are permanently available to serve the proposed development.</p>
17.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>

18.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual amenity</p>
19.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
20.	<p>Prior to the commencement of development, the applicant shall submit access proposals via the existing laneway, as per the revised proposal submitted to the Board on the 16<sup>th</sup> March, to the basement car park for written agreement with the Planning Authority. The following shall be agreed:</p> <ul style="list-style-type: none"> <li>e) Details of the junction of the private laneway and Milltown Road and potential physical interventions to the junction to reduce vehicle speeds entering and leaving the laneway.</li> <li>f) Provision of a raised pedestrian surface and kerb to provide some level of protection to pedestrians and the building façade from vehicles using the laneway as well as providing some obstacle to vehicles parking on the level pedestrian area and providing some level of traffic calming.</li> <li>g) The location / provision of a set-down area.</li> <li>h) Details of a swept path analysis for a refuse vehicle entering the laneway.</li> </ul> <p><b>Reason:</b> In the interest of pedestrian and traffic safety.</p>
21.	<p>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</p>

	<p>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.</p> <p><b>Reason:</b> 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.</p>
22.	<p>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.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development</p>
23.	<p>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</p>

	<p>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.</p> <p><b>Reason:</b> 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.</p>
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Fiona Fair

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Senior Planning Inspector

19<sup>th</sup> August 2022