



An  
Bord  
Pleanála

## Inspector's Report ABP 313736-22

<b>Development</b>	Construction of a three-storey over basement level residential apartment block and associated site works.
<b>Location</b>	Site to the side of 173 Strand Road, Sandymount, Dublin 4.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4052/21
<b>Applicant(s)</b>	Brian McGettigan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	Mark and Sinead Spain Andrew and Colleen Farrell Liam Diskin
<b>Observer(s)</b>	Ross Cooper
<b>Date of Site Inspection</b>	29 <sup>th</sup> August 2023
<b>Inspector</b>	Brendan Coyne







## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	6
4.0 Planning History.....	13
5.0 Policy and Context.....	17
5.1. Development Plan.....	17
5.2. Natural Heritage Designations .....	21
5.3. EIA Screening .....	21
6.0 The Appeal .....	23
6.1. Grounds of Appeal .....	23
6.2. Applicant Response .....	41
6.3. Planning Authority Response .....	44
6.4. Observations .....	44
6.5. Further Responses.....	51
7.0 Assessment.....	51
8.0 Recommendation.....	79
9.0 Reasons and Considerations.....	80
10.0 Conditions .....	<b>Error! Bookmark not defined.</b>



## **1.0 Site Location and Description**

1.1. The appeal site (0.0687 ha) is located on the western side of Strand Road in Sandymount. It comprises land on the northern side of No. 173 Strand Road and a segment of the rear garden of No. 173 along its western rear boundary. The site, once part of the side and rear garden of No. 173, is currently vacant. It is gravelled towards the front of the site and is overgrown with trees and plants adjacent to the side of No. 173 and the rear. A vehicular and pedestrian entrance is provided along the front boundary wall. The site is L-shaped and has a depth of c. 54.5 meters and widths of c. 12.5 meters along the front boundary, 9.9 to 10.8 meters as measured alongside No. 173, and c. 19.8 meters along the rear boundary. An access road and parking spaces serving a three-storey apartment building known as Strand House adjoins the northern boundary. Land to the west of the site contains a staggered terrace of two-storey dwellings, Nos. 35 - 44 Ailesbury Mews (named Ailesbury Gardens on OS Place Map). A wall c. 1.6 meters high defines the northern side and western rear boundaries. No. 173 Strand Road is a two-storey, three-bay dwelling forming one of a pair of semi-detached dwellings. Historical records, including OS Cassini maps, indicate that these properties Nos. 173 and 175 date back to the period of 1829-1841. No. 173 has a contemporary two-storey extension to its rear. Tall mature coniferous trees are planted on lands adjoining the rear western boundary. Strand Road is bounded by the sea on its eastern side.

## **2.0 Proposed Development**

- 2.1.1. Permission is sought for the following (as described in public notices);
- Construction of 1 no. three-storey over basement level residential apartment block
  - The proposed apartment block would accommodate 3 no. three-bedroom apartments
  - Each apartment features front, rear, and central balconies
  - Communal gym at basement level
  - Communal amenity space located to the rear (west) of the block
  - Vehicular parking area with 3 no. spaces at the front (east) of the block
  - Bin and bicycle storage facilities at ground level



- Provision of a new vehicular entrance, 3.4m wide, to Strand Road
- New pedestrian entrance, 1.2m wide, to Strand Road
- Ancillary site development works, including landscaping, boundary treatment, and SuDS drainage
- All necessary to facilitate the development

### 3.0 Planning Authority Decision

#### 3.1. Decision

Dublin City Council GRANTED permission for the proposed development subject to 11 no. Conditions. Noted Conditions include:

2. **Development Contribution:** A contribution of €58,406.40 toward public infrastructure expenses is required before development commencement. Adjustments might be made based on new development contribution schemes.
3. **Security for Maintenance & Services:** A cash deposit or bond shall be submitted to the Planning Authority to ensure proper maintenance and completion of public infrastructure in the charge of Dublin City Council, including roads, lighting, and sewers.
4. **External Finishes Approval:** Details of external finishes' materials, colours, and textures shall be submitted and agreed upon in writing with the Planning Authority, prior to the commencement of development.
5. **Construction Hours & Deviations:** Development works are allowed between specific hours on weekdays and Saturdays. Deviations require written approval.
6. **Adjoining Road Cleanliness:** Development activities shall ensure adjacent streets are kept clean. If needed, the developer shall cover costs for road cleaning.
7. **Noise Control:** Development shall adhere to noise control standards during construction. Noise levels from the site should not exceed background levels by more than 10 dB.



8. **Transportation Planning Compliance:** Conditions related to a Construction Management Plan, cycle parking, car parking, costs for public infrastructure, and adherence to the Code of Practice.
9. **Environmental Health Compliance:** Requires a Construction Management Plan, noise control, and sound mitigation for the gym area.
10. **Drainage Division Compliance:** Compliance with regional drainage guidelines, verification of public sewers, separate foul and surface water systems, sustainable drainage systems, proper soakaway construction, groundwater and basement flooding regulations, and appropriate drainage placement.
11. **Street and Development Naming:** New street and development names shall have local historical, heritage, or cultural significance and avoid confusion with names in other areas. The developer shall agree a bilingual name scheme in both the Irish and the English language with the planning authority prior to the commencement of development.

### 3.2. Planning Authority Reports

#### 3.2.1. First Report (11/02/2022)

- The proposed development comprises a three-storey over basement apartment building, consisting of 3 no. 3-bed apartments (one on each floor), along with a communal gym, plant room, and storage at basement level.
- The development reaches a height of c.10.1 meters to the parapet level and has a depth of 33.94 meters.
- The proposal abuts No.173 Strand Road and features its main entrance on the north side.
- Two internal light wells are proposed within the development.
- Each apartment includes balconies at the front, side, and rear.
- The proposal includes parking for three cars in the front curtilage, accessible via a relocated vehicular entrance.



- A bike store and communal open space are located at the rear, which is also the reduced rear garden area of No.173 Strand Road.
- The proposed mix of 3 no. three-bedroom apartments comply with Specific Planning Policy Requirement (SPPR) 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authority (2018) regarding housing mix.
- Apartment sizes meet SPPR 3, regarding apartment sizes.
- All three apartments are dual aspect, complying with SPPR 4 regarding dual aspect.
- Ground-level apartment floor-to-ceiling heights are at least 2.7 meters, meeting SPPR 5 regarding ceiling heights.
- The development features a single apartment per floor, complying with SPPR 6 regarding stair cores.
- The proposed apartments meet minimum room floor widths and areas as per guidelines.
- The proposed apartments provide 7.7 sqm of dedicated storage space, which is below the required minimum for three-bedroom apartments. The minimum required for a three-bedroom apartment, as contained in the guidelines, is 9m.
- Private amenity space for the proposed units ranges between 15.2-24.6 sq.m. across three balconies, exceeding the minimum requirement.
- Communal open space proposed is 166 sq.m., exceeding the minimum requirement for three apartments.
- The proposed 12 no. cycle parking spaces comply with the guideline's requirements for new apartment developments.
- Cycle storage facilities are directly accessible and adequately lit in accordance with guideline standards.
- The Development Plan's plot ratio standard for Z2 zoning is 0.5-2.0. The proposed development has a plot ratio of 0.758, meeting the zoning requirement.



- The Development Plan's site coverage standard for Z2 zoning is 45%. The proposed development's site coverage is 25.8%, below the standard and considered acceptable.
- No public open space is proposed due to the small scale of the development and the adjacent Sandymount beach walkways.
- Car parking standards for the area require 1 no. space per dwelling. The proposed development includes 3 no. residential car spaces (all allocated), meeting the maximum Development Plan standards.
- Concerns are raised about potential overlooking from the development. Rear windows of apartments are c. 5.5m from the shared rear boundary with Ailesbury Mews properties.
- Overlooking of No.35 and No.36 Ailesbury Mews and their communal open space is expected due to the height and windows of the proposed development.
- Significant overlooking of No.173 Strand Road's private amenity space is expected from the second-floor apartment's kitchen balcony and hallway.
- The Applicant is advised to re-evaluate the proposed development to mitigate significant overlooking of adjacent properties.
- Concerns are raised about the absence of a Sunlight/Daylight Impact Assessment in the application.
- The submitted planning report states that the apartment block's siting and orientation won't result in undue loss of sunlight or daylight to amenity spaces or internal living areas of adjacent residences.
- No. 173 Strand Road, owned by the Applicant, is directly south of the site.
- No's 173 and 175 Strand Road are nineteenth-century villa-style dwellings with views of Sandymount Strand and Dublin Bay.
- Two further nineteenth-century houses, Nos. 177 and 179 are south of these dwellings.
- Surrounding development to the south, north, and west is of recent twentieth-century construction.
- The proposed apartment development follows a contemporary design approach.



- External finishes predominantly include glass, brick, and elements of render/cladding.
- Render usage should be limited due to the site's exposed nature.
- The proposed green wall on the north elevation would be visible from Strand Road.
- Proposed green wall on the southern elevation, adjacent to No.173 Strand Road's rear elevation.
- The design is considered acceptable within the site context and surrounding development pattern.
- The design will juxtapose with traditional houses to the south.
- It's recommended that details of external finishes be approved by compliance should planning permission be granted.
- The proposed development extends 33.9m from front to rear and is c 8m wide at the front elevation.
- The adjoining property at No. 173 already has a two-storey extension at the rear.
- The new building would extend past the rear wall of this extension by c. 16.7m.
- The overall massing of the building presents as a full three-storey structure with a second-floor cut-out section on the front elevation.
- The north elevation facing Strand House features a second-floor setback and incorporates a green wall towards the front of the site, while the remaining section is brick with limited openings.
- The southern elevation is divided by two internal courtyards.
- Previous planning permission was granted for a similar three-storey apartment on the same site.
- The current proposed bulk and massing are perceived as excessive and potentially overbearing when viewed from the rear gardens of 173 and 175 Strand Road, as well as from Strand House.
- It is suggested that a setback top floor, similar to the previously permitted scheme, should be introduced into the proposed design to mitigate potential overlooking of Ailesbury Mews properties.



- The proposed building's overall height is c. 10.1m to the parapet level, whereas the roof ridge of the adjoining houses at 173 and 175 is approximately 10m.
- The increase in height is minimal, and the contemporary flat roof parapet contrasts with the traditional roof form of the adjoining houses.
- The building line of the proposed development is set back from No.173 and 175, and the front elevation features balconies and a frame that continues the established building line from the properties to the south.
- The inclusion of the frame and setback design is expected to prevent a negative impact on the streetscape along this section of Strand Road.
- Regarding flooding concerns, the Drainage Division's report recommends a condition to minimise flooding risk. This condition specifies that all internal basement drainage should be pumped to a maximum depth of 1.5 meters below ground level before gravity discharge to the public sewer.
- Screening for Appropriate Assessment: Significant effects are not likely to arise, either alone or in combination with other plans and projects that will result in significant effects to any Natura 2000 area. A full Appropriate Assessment of this project is therefore not required.

### 3.2.2. Further information was requested requiring the following:

**1. Uisce Eireann (Irish Water) Infrastructure Protection:** Irish Water has noted the presence of existing combined sewers near the site. The Applicant shall:

a) Engage with Irish Water Diversions to: i. Provide details of site investigations that located Irish Water infrastructure. ii. Demonstrate protection measures during and after construction, following Irish Water's separation distance requirements.

b) Submit the outcome of this engagement, specifically the Confirmation of Feasibility (COF), as a response to this request.

**2. Apartment Storage Deficiency:** The proposed apartments lack sufficient storage space. The Applicant is required to provide details on how they intend to meet minimum storage requirements outlined in the Sustainable Urban Housing Design Standards for Planning Authorities.



**3. Scale and Overlooking Concerns for Ailesbury Mews:** The Planning Authority is concerned about the scale, massing, and potential overlooking of Ailesbury Mews properties and their communal open space. The Applicant is urged to revise the design of the property's rear by significantly setting back the second floor and reducing potential overlooking of Ailesbury Mews properties.

**4. Overlooking of Private Amenity Space at No.173 Strand Road:** The Planning Authority is concerned about the level of overlooking from the kitchen balcony and hallway of the second-floor apartment onto the private amenity space of No.173 Strand Road. The Applicant is requested to reconsider the design of this apartment to prevent such overlooking and maintain privacy for the adjacent property.

### 3.2.3. **Second Report (12/05/2022)**

Re. Further Information Request – Item No. 1

- The Applicant provided a letter from Irish Water dated 25th March 2022.
- The letter indicates that Irish Water will approve the proposed construction in proximity to the existing 1350mm and 900mm concrete combined mains.
- This would facilitate the construction of the new apartment building.

Re. Further Information Request – Item No. 2

- The Applicant provided a revised drawing depicting 8.4 sqm of storage space within each apartment.
- This storage space falls below the minimum standard of 9sqm.
- The revised design includes ample additional bedroom storage and individual apartment storage areas in the basement.
- Based on the updated provisions, it is now deemed that the apartments have sufficient storage space.

Re. Further Information Request – Item No. 3

- In light of the planning authority's concerns, the Applicant submitted a revised design for the rear of the proposed development.



- The redesign of the second floor involves removing the balcony and setting back bedroom one by 1.7m.
- Angled windows are proposed for the bedrooms, oriented toward the communal open space instead of the properties on Ailesbury Mews.
- These alterations aim to diminish the building's perceived bulk and mitigate potential overlooking issues to an acceptable extent.

#### Re. Further Information Request – Item No. 4

- Revised drawings depict the second-floor rear balcony with a 1.8m opaque screen around its perimeter.
- This apartment also features a substantial 20 sq.m. balcony at the front, offering views of Dublin Bay.
- The proposal includes adding opaque glazing to the corridor window.
- These changes are deemed to address concerns about the potential overlooking of the private amenity space of No.173 Strand Road.
- The proposed development is now deemed acceptable for this site.
- The proposed development aligns with the Z2 zoning objective, and the policies outlined in the Dublin City Development Plan.
- Recommendation: Grant Permission

#### 3.2.4. Other Technical Reports

**Drainage Division:** No objection subject to Conditions

**Environmental Health Report:** Conditions recommended in the event of a grant of permission

**Roads Streets & Traffic Department Road Planning Division:** Conditions recommended in the event of a grant of permission



## 4.0 Planning History

### 4.1.1. Subject Site

**P.A. Ref. 3579/17** Permission GRANTED in Feb 2018 for the proposed construction of a new contemporary-style dwelling with part two, part-three storeys over a basement. The five-bedroom dwelling will feature various components including 1 rooflight on the second-floor flat roof, an east-facing terrace on the first floor, and east and north-facing terraces on the second floor. Other elements of the proposed development include SuDS drainage, landscaping, boundary treatments, alterations to entrance arrangements on Strand Road for both new and existing dwellings, including relocating the vehicular entrance, removing the existing pedestrian entrance for the new dwelling, and creating a new pedestrian entrance for the existing dwelling and all associated site works to facilitate the development.

**P.A. Ref. 4985/08 and ABP Ref. PL 29S 232625** Permission REFUSED ON APPEAL in June 2009 for proposed amendments to previously granted planning permission P.A. Ref. 2252/08. The proposed amendments consist of the alteration of the penthouse apartment from a c. 62sqm one-bedroom apartment into a c. 163sqm three bedroom duplex apartment, with balcony at third floor level. This amendment would result in the structure becoming a five storey building over basement, providing a total of 6 no. 2 bedroom apartments & 1 no. 3 bedroom apartment, along with all associated site works. The reason for refusal was as follows:

1. The proposed development is located in a Residential Conservation Area on a prominent site on Strand Road, where it is an objective of the 2005 Dublin City Development Plan to protect and/or improve the amenities of residential conservation areas and to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. This objective is considered reasonable. The proposed additional fifth storey to this permitted four-storey over basement apartment block by reason of its height, design and significant projection above the established roof



level of the adjoining properties would seriously injure the residential amenities of Strand House by overshadowing and visual dominance of the flank wall and would seriously injure the visual amenities and established character of the area especially when viewed from the much frequented public promenade on Strand Road and from Merrion Strand. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

**P.A. Ref. 2252/08** Permission GRANTED in June 2008 for the proposed demolition of an existing single-storey garage beside the existing dwelling and the construction of a four-storey building over a basement. The proposed development comprises 7 no. apartments: 6 no. two-bedroom apartments and 1 no. one-bedroom apartment. The proposal consists of:

- Basement floor accessible from Strand Road via proposed car lift, with 12 car parking spaces, bin storage, bicycle parking, and ancillary storage.
- Ground floor with a two-bedroom apartment (approx. 104sqm) featuring a private balcony, a gym (approx. 30sqm), and residents lounge (approx. 15sqm).
- First floor containing 2 no. two-bedroom apartments (approx. 117sqm & 104sqm each), each with a private balcony.
- Second floor with two two-bedroom apartments (approx. 117sqm & 104sqm each), both with private balconies.
- Third floor comprising one two-bedroom apartment (approx. 107sqm) and one one-bedroom apartment (approx. 63sqm), each with a private balcony.

The proposed development also comprised:

- Relocation of the existing vehicular and pedestrian entrance of 173 Strand Road.
- Provision of a new vehicular and pedestrian entrance to the proposed development off Strand Road.
- Reduction in size of the existing rear garden at 173 Strand Road.
- Provision of a private landscaped garden for the proposed development.
- All related site work is also requested.



**P.A. Ref. 2252/08 - Extension of Duration of Permission** was refused on the 15<sup>th</sup> March 2013. The reasons for refusal were as follows:

1. It is recommended that this extension of duration of planning permission application be refused as the proposal, as currently designed, is vulnerable to flooding as it is in a location identified as flood prone.
2. It is recommended that this extension of duration of planning permission application be refused as the development permitted by 2252/08 when assessed against the Dublin City Development Plan 2011-2017 is cumulatively deficient with regard to residential amenity. The development provides for a significant below standard level of individual private open space in terms of balcony sizes and dimensions, and individual provision of natural light and ventilation to main bathrooms, and there is a lack of designated drying areas for each apartment. Taken cumulatively, the development would therefore result in a substandard level of residential amenity, which is inconsistent with the provisions of the Dublin City Development Plan 2011-2017, such that the development would no longer be consistent with the proper planning and sustainable development of the area, and that, therefore, the proposed development would not satisfy Section 42(1)(a)(ii)(II) of the Planning and Development Acts 2000-2010.

**P.A. Ref. 6657/07** Permission GRANTED in April 2008 for the proposed construction of a 2 storey extension (72sqm approx.) to the rear of the existing dwelling, to accommodate new living area at ground floor and 1 no. additional bedroom and family bathroom at first floor level, resulting in the provision of 5 bedrooms in total. The application also included a request for planning permission for several related elements including:

- Refurbishment of the existing main house
- Relocation of the current vehicular entrance from Strand Road
- Demolition of the existing single-storey garage beside the main house
- All necessary associated site work.



**P.A. Ref. 6292/07** Permission REFUSED in Jan 2008 for the proposed demolition of an existing single-storey garage next to an existing dwelling and the construction of a four-storey building over a basement, intended to comprise 7 two-bedroom apartments. The proposed development included:

- Basement floor accessed via a car lift from Strand Road, featuring 12 car parking spaces, bin storage, bicycle parking, and ancillary storage.
- Ground floor with a two-bedroom apartment (approximately 104sqm), a gym (approximately 28sqm), and a resident's lounge (approximately 15sqm).
- First floor containing two two-bedroom apartments (approximately 108sqm and 104sqm each), both with private balconies.
- Second floor comprising two two-bedroom apartments (approximately 108sqm and 104sqm each), each with private balconies.
- Third floor accommodating two two-bedroom apartments (approximately 108sqm and 104sqm each), each with private balconies.
- The application also requested permission for the following:
  - Relocation of the existing vehicular and pedestrian entrance of 173 Strand Road.
  - Provision of a new vehicular and pedestrian entrance for the proposed development off Strand Road.
  - Reducing the size of the existing rear garden at 173 Strand Road.
  - Creating a private landscaped garden for the proposed development.
  - All associated site works.

4.1.2. The reason for refusal was as follows:

1. The proposed development located in a Residential Conservation area on a prominent site on Strand Road would by reason of the design, height and finishes be totally out of keeping with the historic architecture along Strand Road and create an undesirable precedent for similar development. The proposal would therefore be contrary to the proper planning and sustainable development of the area and to the provisions of the City Development Plan.



#### 4.1.3. **Adjoining site to the south – No. 175, Strand Road, Sandymount, Dublin 4**

**P.A. Ref. 2906/16** Permission GRANTED in July 2016 for amendments to previously approved permission, P.A. Ref. 2850/15, which consists of the relocation of a rear basement to be detached from the rear of the existing dwelling to location under the proposed approved rear extension and raising of ground floor pitched rooflight to the eastern side of approved rear extension.

**P.A. Ref. 2850/15 and ABP Ref. PL29S.245314** Permission GRANTED ON APPEAL in Nov 2015 for the proposed demolition of a 2-storey rear return and demolition of the side annexe. Provision of a new three-storey rear extension with raised decking level and a two-storey extension to side of the existing house, basement storage, re-building of a chimney on the south gable, and enlarging rooflight to the front roof.

Condition No. 2 of the permission on appeal requires the following;

*The proposed two-storey extension to the south side of the property shall be omitted. Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.*

## 5.0 **Policy and Context**

### 5.1. **Development Plan**

**Dublin City Council Development Plan 2022-2028** is the statutory plan for the area. The following provisions are considered relevant:

**Zoning:** The site is zoned Z2 Residential Neighbourhoods (Conservation Areas), with the objective 'To protect and/or improve the amenities of residential conservation areas'.

**Chapter 5 – Quality Housing and Sustainable Neighbourhoods** – relevant policies include:

QHSN6 Urban Consolidation



QHSN10 Urban Density

QHSN36 High Quality Apartment Development

QHSN37 Houses and Apartments

QHSN39 Management

**Chapter 8 Sustainable Movement and Transport** – relevant policies include:

Section 8.5.7 Car Parking

SMT27 Car Parking in Residential and Mixed Use Developments

**Chapter 9 Sustainable Environmental Infrastructure and Flood Risk**

SI20 Basement Flood Risk Management

SI21 Managing Surface Water Flood Risk

**Chapter 11– Built Heritage and Archaeology**

11.5.3 Built Heritage Assets of the City - Z2 and Z8 Zonings and Red-Hatched Conservation Areas

BHA9 Conservation Areas

**Chapter 15 – Development Standards**

Table 15-1: Thresholds for Planning Applications

15.2.4 Interest in Property

15.2.5 Development Contributions

15.3.1 Environmental Impact Assessment

15.3.2 Appropriate Assessment

15.4 Key Design Principles

15.4.2 Architectural Design Quality

15.4.3 Sustainability and Climate Action

15.5 Site Characteristics and Design Parameters

15.5.2 Infill Development

15.5.4 Height

15.5.5 Density

15.5.6 Plot Ratio and Site Coverage – referred to Appendix 3 for further detail.

15.5.7 Materials and Finishes



#### 15.5.8 Architectural Design Statements

#### Table 15-2: Information Requirements for Design Statements

#### 15.5.9 Models and Photomontages

#### 15.6 Green Infrastructure and Landscaping

##### 15.6.1 Green Infrastructure

##### 15.6.2 Surface Water Management and SuDs

##### 15.6.4 Green Wall / Living Wall

##### 15.6.7 Landscape Design Rationale

##### 15.6.8 Landscape Plans and Design Reports

##### 15.6.11 Financial Securities

##### 15.6.13 Boundary Treatments

#### 15.8 Residential Development

##### 15.18.4 Basements

##### 15.8.6 Public Open Space

#### Table 15-4: Public Open Space Requirements for Residential Development

##### 15.8.7 Financial Contributions in Lieu of Open Space

##### 15.8.11 Management Companies/Taking in Charge

#### 15.9 Apartment Standards

##### 15.9.1 Unit Mix

##### 15.9.2 Unit Size / Layout

#### Table 15-5: Minimum Floor Area Requirements for Apartments

##### 15.9.3 Dual Aspect

##### 15.9.4 Floor to Ceiling Height

##### 15.9.6 Internal Storage

##### 15.9.7 Private Amenity Space

##### 15.9.8 Communal Amenity Space

##### 15.9.10 Internal Communal Facilities

##### 15.9.12 Access and Services

##### 15.9.13 Refuse Storage

##### 15.9.15 Operational Management and Maintenance



15.9.16 Microclimate – Daylight and Sunlight, Wind and Noise

15.9.16.1 Daylight and Sunlight

15.9.17 Separation Distances (Apartments)

15.9.18 Overlooking and Overbearance

15.13.3 Infill /Side Garden Housing Developments

15.13.4 Backland Housing

15.13.5.1 Design and Layout

15.13.5.2 Height, Scale and Massing

15.13.5.3 Roofs

15.13.5.4 Access

15.15.1.4 Basements

15.15.2.2 Conservation Areas

15.18.1 Construction Management

15.18.1.1 Construction Traffic Management Plan

15.18.1.4 Hours of Operation

15.18.2 Waste Management

15.18.3 Recycling Facilities

15.18.4 Basements

15.18.14 Flood Risk Management

### **Appendix 3: Achieving Sustainable Compact Growth Policy for Density and Building Height in the City**

3.1 Height

3.2 Density

Table 1: Density Ranges

Plot Ratio and Site Coverage

Table 2: Indicative Plot Ratio and Site Coverage

Table 3: Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale

### **Appendix 5 Transport and Mobility: Technical Requirements**

3.0 Cycle Parking Standards



Table 1: Bicycle Parking Standards for Various Land Uses

4.0 Car Parking Standards

Table 2: Maximum Car Parking Standards for Various Land Uses

4.3.7 Parking in the Curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas

5.0 Electric Vehicles (EV)

8.1 Design Criteria for Car Parking

## **Appendix 9 Basement Development Guidance**

### **5.2. Other Relevant Government Policy / Guidelines**

National Planning Framework – Project Ireland 2040

Housing for All - A New Housing Plan for Ireland

Development Management, Guidelines for Planning Authorities (2007)

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

The Planning System and Flood Risk Management, Guidelines for Planning Authorities Guidelines (including the associated Technical Appendices) (2009)

### **5.3. Natural Heritage Designations**

5.3.1. The nearest Natura 2000 European Sites to the appeal site are as follows:

- The South Dublin Bay Special Area of Conservation (Site Code: 000210) located directly opposite the site, on the eastern side of Strand Road.
- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), located directly opposite the site, on the eastern side of Strand Road.

### **5.4. EIA Screening**

5.4.1. An Environmental Impact Assessment Screening report has not been submitted with the application.



- 5.4.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
  - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- 5.4.3. The application proposes to construct 3 no. apartment residential units. The number of units proposed is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 0.0687 ha, and in this context, it is considered a built-up area. The site area is, therefore, well below the applicable threshold of 20 ha.
- 5.4.4. The introduction of residential development as proposed will 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 or cultural heritage.
- 5.4.5. The development proposes connecting to the public water and drainage services of Dublin City Council. In this context, I am satisfied that the proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other developments in the general area. It would not give rise to a risk of major accidents or risks to human health.
- 5.4.6. The application site is not directly connected to a Natura 2000 European Site. However, the site is located immediately adjacent, 15m to the west of the South Dublin Bay Special Area of Conservation and the South Dublin Bay and River Tolka Estuary Special Protection Area. While there may not be a direct surface water pathway linking the proposed development to these Natura 2000 sites, the potential indirect connection via groundwater pathways warrants consideration in assessing the potential ecological implications of the proposed development on these adjacent protected European Sites. Further consideration of significant effects, if any, on European Sites is set out in Section 7.6 below. Apart from this, impacts in terms of EIA are not considered significant. I consider, therefore, upon 'Preliminary Examination', that an 'Environmental Impact Assessment Report' for the proposed development is not required in this case.



## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. 3 no. third party appeals against the decision of the Planning Authority were received from;

- Mark and Sinead Spain of No. 175 Strand Road, Sandymount, Dublin 4.
- Andrew and Colleen Farrell of No. 177 Strand Road, Sandymount, Dublin 4.
- Liam Diskin of No 31 Ailesbury Mews, Sandymount, Dublin 4.

The grounds of appeal of these appellants are summarised below accordingly.

6.1.2. **Appeal by Mark and Sinead Spain** - issues raised are summarised under headings below.

#### 6.1.2.1. Appellant's Interest:

- The Appellants live at No. 175 Strand Road, the southern house of a two-house unit with the northern part No. 173 Strand Road, to which the proposed development is to be appended.
- Nos. 173 and 175 Strand Road are located in an established Residential Conservation Area (RCA).
- The Appellants invested in redeveloping their home, including restoring original features. They want to protect the integrity of their Sandymount Strand street frontage.
- A previous planning appeal by the current Applicant (Mr McGettigan) resulted in refusal of a side extension (by way of condition under P.A. Ref. 2850/15 and ABP Ref. PL 29S.245314).
- An Bord Pleanála refused the extension due to detracting from the existing building character and visual amenities.
- The Applicant now proposes a tall three-storey over basement building on their own property.



- The current proposal raises the same concerns about detracting from the character of the existing building and visual impact.
- Arguments in the current appeal were already raised in a previous application (P.A. Ref. 2850/15).
- The nature of a Residential Conservation Area requires consideration of effects on neighbouring buildings and past appeals.

#### 6.1.2.2. **Validation issues:**

- There was a prior observation to DCC concerning validity.
- The Planner's report disregarded the issue of validity.
- The application lacks the ability to check distances to existing affected properties.
- The application does not include the required site or layout plans drawn to scale as per planning regulations (Art 23 (1)(a)).
- The site layout drawing (2017-34-FI4-100) intentionally excludes properties (35, 36, 37, 38 Ailesbury Mews) on the western boundary.
- This exclusion prevents the planning authority from evaluating the necessary window-to-window distances.
- While distances to Strand House are provided, they are missing for Ailesbury Mews properties.
- The application's compliance with the normal 22m window-to-window distance requirement is in doubt.
- The distance from 36 Ailesbury Mews to the boundary wall measures 9.5m (as per Google Maps).
- The distance from the sliding doors outside Bedroom 2 to the boundary is 10.3m, a cumulation of 19.8m.
- These distances are significantly shorter than the common practice of 22m.
- The distance from Bedroom 1 is even less, approximately 16m.
- Dublin City Council (DCC) request for further information did not address this crucial aspect.



- The drawings are lacking in essential information for proper assessment of overlooking and distances.
- This deficiency impacts the decision-making process concerning overlooking.
- The drawings fall short of providing the basic level of information required for validity.
- In many instances, based on practitioner experience, such drawings would be deemed invalid.

#### **6.1.2.3. Social Housing Exemption Certificate**

- Question 16 of the Planning Form necessitates either submitting a Social Housing Exemption Certificate (SHEC) with the application or including the application for the SHEC with the form.
- The Applicant acknowledges that the SHEC is being applied for concurrently; however, the online register contradicts this information.
- The development application was lodged on 9/12/21, whereas the SHEC application was lodged on 21/12/21, after the initial application.
- As a result, Question 16 requirements are not met due to the SHEC timing discrepancy.
- The Schedule of Documents submitted alongside the application references the SHEC application, yet the application itself lacks this document.
- Consequently, in accordance with the Regulations, the application should be considered invalid.

#### **6.1.2.4. General Comment on the Planning Authority's Report**

- The Planning Authority's report is comprehensive on issues including space standards and parking but lacks depth on contentious matters, particularly the impact on the Residential Conservation Area (RCA) and the proposal's overbearing nature.



- It is acknowledged that internal space standards, apartment mix, storage, dual aspect, ceiling height, stair core, room area, bicycle and car parking, AA, and EIA requirements have been met.
- However, concerns persist regarding private amenity space, communal open space, overlooking, overshadowing, scale, bulk, massing, streetscape, flooding, overbearing nature, and design.
- Remarkably, the Planner's report mentions No. 175 Strand Road merely six times across 15 pages, and the objectors' specific concerns aren't even acknowledged in the formal Request for Further Information.

#### **6.1.2.5. Exterior and Massing of the Proposal facing Strand Road**

- The proposal features a three-storey building with a frame aligned to No. 175 and 173's building line, while most of the accommodation is set 1900mm behind this frame.
- The materials for the frame are not clearly specified, with the term "selected self-coloured render/cladding" potentially leading to differing appearances and joint marks.
- The frame's soffit aligns with existing houses' ridges, though in reality, it appears dominant and overbearing, contrary to the Development Plan's objective to avoid visually obtrusive forms.
- The application's height variations on the Strand Road front create a dominant and visually obtrusive appearance, unlike the more suitable architectural response in a previous application (P.A. Ref. 3579/17).
- A precedent from previous DCC decision P.A. Ref. 3579/17 required accommodation to respect eaves lines and set back from building lines to minimise the impact on the urban setting, which this proposal contravenes.
- An image comparison demonstrates the proposed dominant response to Strand Road, differing from the emphasis on the Planner's Report in the subject application.



- An Bord Pleanála previously refused side extension for No. 175 under P.A. Ref. 2850/15 and ABP Ref. PL 29S.245314 (by way of condition) due to its negative impact on the building's character and visual amenities.
- The planner's report overlooks this issue and fails to mention it in Further Information, raising concerns about the care for the Residential Conservation Area's integrity.

#### 6.1.2.6. **Junction with Period Properties**

- The Planning Authority's report lacks sufficient detail in addressing concerns about the junction of the proposal with existing period properties.
- The standalone nature of the properties at Nos. 173/175 Strand Road contributes to the successful streetscape; however, the proposal to build directly against No. 173 creates a problematic terrace arrangement.
- Under P.A. Ref. 2850/15, An Bord Pleanála refused permission for an extension to the side of No. 175 (by way of Condition to a grant of permission) because "*The proposed two-storey side extension as proposed would detract from the character of the existing building and would seriously injure the visual amenities of the area.*"
- The current proposal overwhelms Nos. 173/175, disrupting their symmetry and overall appearance.
- The importance of considering Nos. 173/175 Strand Road as one complete architectural unit was emphasised in previous appeal P.A. Ref. 2850/15 against a proposal to extend and refurbish the property.
- Correspondence from the owner of No's 173, Strand Road, highlighted that a two-storey side extension affects the front elevation and symmetry of the period properties.
- The refusal on appeal of a previous application (P.A. Ref. 2850/15) for a side extension was based on its negative impact on the existing building's character and visual amenities.
- The planners' report does not address this significant issue, and the proposed second-floor accommodation's height contrasts poorly with the pitched front roof slope of 173.



- The jarring interaction between the new project and existing historic properties is evident in montages provided in the submission report.
- The proposal's interaction with existing buildings does not adhere to Development Plan objectives and should be refused.

#### **6.1.2.7. Height and Scale of the Proposed Development**

- The Planning Authority report mentions the height and impact on the streetscape.
- The proposed dwelling's roof ridge is c. 10m, and its height is c.10.1m to the parapet level.
- The contemporary flat roof parapet contrasts with the traditional roof form of adjoining properties.
- The planner's report notes the building line is set back from Nos. 173 & 175, and the front elevation uses balconies and a frame.
- The Planning Authority report does not clearly address the contradiction in mentioning a set-back building line.
- The proposed building extends 33.9m from front to rear, with a width of about 8m at the front elevation.
- It extends past the rear wall of the adjoining property at 173 by c. 16.7m.
- The building's overall massing appears as a full three stories with a second-floor cutout on the front elevation.
- The Planning Authority report notes that the proposal's bulk and massing are considered excessive and overbearing when viewed from the rear gardens and Strand House.
- The planner's assessment acknowledges excessive bulk and massing, but the permission is granted without significant changes.
- The current proposal dominates the streetscape, with a substantial height of approximately 11 meters at the rear.
- The building maintains excessive height for most of the site's depth, creating a bulky development.



- Reference to housing developments outside city centres is deemed disingenuous for mature historic suburbs like Strand Road.
- Guidance from the City Development Plan outlines criteria for assessing corner/garden sites' development.
- The proposal's overall height and extent of development along the site boundary are considered excessive and incompatible with the area's character.
- The description of the building as a "full three storey" is misleading.
- Reading the south elevation drawing reveals more than three generous stories with a substantial roof build-up.
- The height of the basement floor contributes to a total building height of 11 meters when viewed from the rear gardens of Nos. 173/175.
- This height is substantial in the RCA setting and is considered visually dominant and unacceptable.
- While the building is three storeys to the front with a minor second-floor setback, a "frame feature" disguises the setback, maintaining an effective three-story height.
- The "frame feature" dominates the front elevation, overshadowing the symmetrical pair of 173/175.
- Despite claims of a different material breaking down the elevation to Strand House, extensive areas of unrelieved elevation remain over three and a half stories high, facing north.
- The same issue of extensive unrelieved elevation exists on the southern side facing traditional scaled houses in an established RCA, dominated by the new proposal.
- Permission P.A. Ref. 3579/17 did not present such grossly over-scaled elevations to the RCA and had a less abrasive aspect.
- The setback top floor in scheme P.A. Ref. 3579/17 mitigated overbearing potential.
- The subject permitted development only reduced the second-floor length by 1.7m, approximately 5%, which is not a significant response to the concern raised.
- The issue of massing and height differs from the overlooking issue; while overlooking might have been addressed, the overbearing aspect remains.



- This is an established Residential Conservation Area (RCA) with zoning Z2.
- The guiding principle is that development should not constitute a visually obtrusive or dominant form.
- The Applicant's Planner's Report mentions a 16m maximum height allowance for residential development in the "outer City" but lacks context on what "maximum" means.
- The building height is 10.25m for the front elevation, exceeding 11 meters at the rear.
- The height aligns with DCC's strategy but is also influenced by the overall objectives of Z2 zoning.
- The parapet height of the new development is 2.4 meters above the rear eaves line of Nos. 173/175 and 1.9 meters above the front decorative parapet.
- The entire new development stands at 11 meters, 3 meters higher than the relevant face of the adjoining properties Nos. 173/175, altering the character and scale of the RCA.
- This height is consistently maintained for most of the site's depth, resulting in a bulky development with tall, unrelieved masonry panels on north and south elevations.
- The planner's report acknowledges this but doesn't reflect it in the decision made.
- Section 3.4 of the National Planning Framework pertains to housing developments outside city and town centres, not mature historic suburbs like Strand Road, which makes the report's reference to it disingenuous.
- Given the proposal's entire physical scope, it is not reasonable to claim it's compatible in design and scale with adjoining dwellings, considering established building lines, proportion, heights, parapet levels, and materials.
- The overall height and extent of development along the site boundary are excessively large.
- An image illustrates the overscaled development's height and extent along the site boundary.



#### 6.1.2.8. **Overlooking of Private Property**

- The objectors' submission under P.A. Ref. 3579/17 noted that their concerns related to the interaction of the building's front part with the surroundings, not just Nos. 173 and 175, including streetscape effects, and emphasised that no overlooking was proposed.
- The current application proposes unacceptable overlooking, both shown on drawings and omitted from them, as highlighted in earlier comments on the application's validity.
- No drawing supports the claim that there is no overlooking of No. 35 and 36 Ailesbury Mews, and there is no evidence of the required 22-meter building-to-building separation distance.
- The Applicant Planner's report mentions screening and fenestration mitigation but lacks evidence for it. Windows from Bedroom 1 and 2 on the first and second floor directly overlook Ailesbury Mews, and the shared balcony does the same, lacking obscured glazing or other privacy measures.
- The shared balcony between Bedroom 1 and 2 also overlooks the rear garden of No. 175 Strand Road, infringing on privacy and quiet enjoyment of their property. It will also overlook the private gardens of other neighbouring properties, including Nos. 177, 179 and others southwards.
- The glazed section of the Entrance Hallway and associated 4.6sq.m. balcony on the first and second floor directly overlooks the garden of No. 175 Strand Road.
- The cumulative balcony area fulfils private open space requirements, but it's submitted that using balconies that directly overlook other properties' open spaces is unreasonable, and these balconies should be removed.
- On the north side, windows directly overlook fenestration on Strand House.
- Despite the Applicant Planner's Report contentions, the proposal overlooks and diminishes neighbours' right to quiet enjoyment of their property and should not be permitted on this basis.



- The planner's report acknowledges this, leading to Further Information (FI) Request 3 to reduce the potential overlooking of Ailesbury Mews and FI Request 4 to address overlooking of No.173 Strand Road.
- In response to Further Information (FI) Request 3 regarding overlooking, the Applicant submitted revised plans to address the issue of Ailesbury Mews.
- However, the revised plans lack actual representation of Ailesbury Mews and do not reference the height of the existing boundary.
- The revised drawings indicate angled windows for Bedroom 1 and Bedroom 2 on the top floor, facing southwest instead of directly west into the garden of No. 35, Ailesbury Mews, but they still lack the necessary context for the planning authority's assessment.
- The planner assessing the revision notes that the second-floor redesign includes omitting the balcony and setting back Bedroom 1 by 1.7m. Angled windows are proposed, now facing the communal open space and not Ailesbury Mews, aiming to reduce the building's bulk and potential overlooking.
- The appellant disagrees with the notion that this will significantly "reduce the apparent bulk of the building."
- It's submitted that the revision doesn't effectively resolve the overlooking issue. It doesn't address the direct overlooking of No. 35 Ailesbury Mews at first floor level.
- While the angling increases the distance between the development and Ailesbury Mews' rear windows, it increases overlooking of No. 175 Strand Road from Bedroom 2 on the second floor.
- The shared balcony between Bedrooms 1 and 2 remains unchanged, resulting in continued overlooking of the rear garden of No. 175 Strand Road and properties to the south.
- The appellant expects their concerns and right to property enjoyment to be taken seriously by Dublin City Council (DCC), which hasn't happened in this case.
- The elevation drawings depict clear glass balustrades and patio doors looking directly south into the objectors' garden, indicating a lack of concern for privacy.



- The setback mentioned on the drawing as "to reduce the potential overlooking of properties on Ailesbury Mews as per DCC FI Request 3" does not address the requirement to significantly set back to reduce bulk and massing.
- In response to Further Information (FI) Request 4 regarding overlooking, it's noted that the rights of the adjacent neighbour, 173 Strand Road (the Applicant), have been addressed.
- It's further noted that Dublin City Council (DCC) didn't acknowledge that the rights of No. 175 Strand Road were also affected by the original application.
- The appellants appreciate the attention given to their concerns regarding No. 175 Strand Road but consider it a small concession from DCC.
- An image and sketch visually illustrate the lack of consideration DCC provided to the private garden of 175 Strand Road. The new development now significantly overlooks almost the entire garden.
- The issue of overlooking towards No. 175 Strand Road remains unresolved. The appellant respectfully requests the Board to consider this matter.

#### **6.1.2.9. Overbearing and Overdevelopment of the Site**

- The proposed development's scale is significantly larger than the proposal submitted under P.A. Ref. 3579/17.
- Concerns expressed about the extent of overbearing due to overdevelopment.
- Photomontages Attached visually demonstrate the scale of overbearing.
- The Planning Authority report dated May 12, 2022, shares these concerns, considering the proposed bulk and massing excessive and overbearing when viewed from the rear gardens of Nos. 173 and 175 Strand Road and Strand House.
- The previously permitted scheme included a setback on the top floor at the rear, and its introduction into the proposed scheme is recommended to alleviate potential overlooking.
- Concerns about overdevelopment and overbearing in this area were raised by the Applicant in objection to a smaller development under P.A. Ref. 2850/15, a rear



extension to No. 175 Strand Road in 2015, which was appealed to An Bord Pleanála.

- The Applicant's objection described "overdevelopment" as a 3-storey extension covering only 4.5m of the rear facade and projecting 5m behind the existing house.
- Comparison provided between the proposed development and the proposed development under P.A. Ref. 3579/17:
- The current proposal extends 16m beyond the extension and dominates the southern boundary.
- The development under P.A. Ref. 3579/17 projected 3m beyond the extension and did not present an elevation or boundary to Nos. 175 or 173.
- The new proposal dominates views from windows and the garden of No. 175 Strand Road.
- The proposed wall of construction replaces the previous suburban view from Nos. 175 and 173.
- The flanking wall facing Strand House apartments is also overbearing.
- Despite the Planning Authority's Further Information Request No. 3's recommendations for a significant setback, the reduction in mass in the revised plans is minimal.
- The reduction is only 1.7m, c.5% in length, of a 33m long building, and even less in area.
- The reduction compared to the development under P.A. Ref. 3579/17 is even less substantial.
- Photomontages are provided as conclusive evidence of the proposed building's overscaled nature.

#### **6.1.2.10. Impact of Communal Garden on Rear Garden**

- The proposal includes a communal outdoor space for three families, positioned in the rear garden of No. 173.
- The communal open space directly abuts the low-height rear garden wall of No. 175/173.



- To maintain privacy for both parties, the communal garden wall will need to be substantially higher.
- It's not specified on the drawing, but the wall's height might not be lower than the 2000mm usually allowed for exempted development in rear gardens (SI 600, Class 5).
- The communal outdoor space's extent exceeds normal expectations neighbours should experience.
- If the application were solely for a wall taller than 2000mm along half the boundary with a neighbour, would the Council grant permission?
- The application does not mention changes to the curtilage and effective boundaries of No. 173, Strand Road. Such changes typically require permission on their own.

#### **6.1.2.11. Site Coverage, Plot Ratio and Spatial Standards**

- Figures submitted for the above aspects are noted, and there's no doubt that the residential amenity for apartment purchasers is adequate.
- However, residential amenity shouldn't come at the expense of existing neighbours.
- Combining the garden of No. 173 with the rest of the site and breaking the existing boundary affects these figures.
- Without this combination, site coverage and plot ratio would be higher.
- The prevailing "figure/ground" of the area indicates inconsistent site coverage with the proposed figures.
- The proposal disrupts the settled dwelling pattern in this mature suburban area.
- The decision to provide large 3-bedroom apartments has led to extensive and bulky construction to the rear, causing overbearing effects.
- Guidelines permit a mix of apartment sizes, and opting for varied sizes could have resulted in more acceptable conformance with the bulk and massing of the development proposed under P.A. Ref. 3579/17.



#### 6.1.2.12. **Flooding Risk and Basement Considerations:**

- The submitted planning report doesn't address flooding risk, while the engineering report claims the development won't cause flooding or have a negative impact.
- Past Council Drainage Division views differ, particularly in relation to a basement proposal in 2013.
- The applicant engineer's report inaccurately states there's no basement proposed.
- This renders parts of the report irrelevant and calls for further clarifying information.
- In a previous attempt to extend permission under P.A. Ref. 2252/08, the Drainage Division expressed concerns about flooding vulnerability of the design, noting that the site location is prone to flooding.
- The proposed basement contradicts this past view.
- The assertion that the area doesn't flood is incorrect based on the observers' first-hand experience. St. Alban's Park and Strand Road at Merrion Gates was flooded in Oct 2011. The assertion that the area does not flood is incorrect.
- Strand House Management raised concerns about drainage and flooding in their 2008 submission under P.A. Ref. 4985/08.
- The granted application P.A. Ref. 3579/17 didn't have a full basement, but the current proposal deviates from planning criteria.
- The basement is oversized and not compliant with the requirements of Section 16.10.15 of the Development Plan regarding basements.
- The impact on the water table and drainage in the communal garden isn't sufficiently addressed.
- The Applicant had previously expressed concerns about basement vulnerability due to rising tides for development at No. 173.
- The current basement proposal goes beyond what previous planning applications have indicated as acceptable.
- There's a discrepancy between past and present drainage division opinions on flooding risk.



- Another nearby proposal (submitted under P.A. Ref. 4166/21) was refused due to flood risk, but the current proposal with an oversized basement is granted permission.
- This inconsistency is concerning for those affected by it.

#### 6.1.2.13. **Green Wall**

- Despite the planner's statement about considering observations, the report doesn't address the appropriateness of the proposed green wall.
- The green wall is a central design strategy to minimise the project's bulkiness.
- Concerns are restated for the Board's awareness.
- The southern wall elevation features a 11-meter high "green wall" with vegetation in a support mesh to soften the appearance.
- The technology for green walls is relatively new and has noted failures in architectural trade journals.
- The success of the green wall relies on maintenance, without which it will fail.
- The green wall is built directly on the boundary with 173 Strand Road, requiring difficult access for maintenance.
- There's no provision for maintenance access from the proposed communal open space or for potential future changes in ownership.
- Ownership of No. 173 Strand Road and the new building may not be under joint control, posing access issues.
- The green wall is impractical beyond mitigating the towering wall's appearance, 11m high, which is too high in a residential context.
- A portion of green wall is proposed on the north elevation, visible from Strand Road, potentially undermining the conservation area.
- Examples from English developments that have failed are provided, highlighting maintenance risks.



#### 6.1.2.14. **Applicant Planner's Report:**

- Concerns are noted about the applicant planner's report, including the omission of unfavourable planning decisions on the subject site.
- The City Development Plan is the governing document for planning in Dublin City Council, setting the criteria for the application.
- The "Visual Impact" section of the report is addressed briefly under various headings below:
  - Compliance with Urban Design Manual: The assertion that the development won't impinge on residential amenity is refuted.
  - Context: The proposal is overbearing, out of scale, and not respectful to neighbouring properties.
  - Connections, Inclusivity, Variety and Adaptability: A single house would fulfil these requirements.
  - Efficiency: A single house would fulfil these requirements. The site's southern elevation onto private rear gardens limits solar orientation exploitation.
  - Distinctiveness: The design is rejected as a positive addition to the area's identity.
  - Layout: Permitting this development would set a precedent for more overbearing developments in the vicinity.
  - Public Realm: Not applicable.
  - Privacy and Amenity: The development doesn't respect the privacy and amenity of existing residents.
  - Detailed Design: Uncertainty about the feature frame's nature and materials.

6.1.3. Documentation submitted with the appeal includes a Photomontage report showing photographs of the existing site and modelling of the proposed development under the subject appeal and that previously submitted in 2017.



6.1.4. **Appeal by Andrew and Colleen Farrell** – issues raised are summarised under the headings below.

6.1.4.1. **Bulk and Overlooking**

- Objection to the proposed development due to the Applicant's failure to reduce the overbearing bulk as requested by Dublin City Council during the Further Information stage.
- The proposed building's bulk and mass are considered excessive and overbearing, impacting views from the rear gardens of neighbouring properties (No's 179, 177, 175, and 173 Strand Road), Strand House, and Ailesbury Mews.
- The rear height of the proposed development exceeds 11 meters and stretches almost the entire garden length, which is deemed excessive.
- The proposed scheme directly overlooks private gardens at Nos.177, 179, and 175 Strand Road, along with the communal garden in Ailesbury Mews.
- The previously permitted scheme (P.A. Ref. 3579/17) included a setback top floor at the rear, and it's considered that this feature should be incorporated into the current proposal.
- Dublin City Council's recent refusal of planning application P.A. Ref. 4166/21 near Merrion Gates cited negative impacts on residential amenity and architectural quality due to design, height, and scale, contrary to the Dublin City Development Plan. The grant of permission for the proposed development contrasts with this refusal decision.

6.1.4.2. **Visual Amenity of the Streetscape**

- The proposed building next to No. 173 Strand Road would diminish the character of nearby structures and injure the visual amenity of the area due to design and scale incompatibility with neighbouring homes.
- The current plan overwhelms the paired houses at Nos. 173 and 175 Strand Road, making them seem secondary to the new building, leading to substantial damage to the overall streetscape.



- The proposed development's interaction with existing historic properties is problematic, highlighted by the fact that the second-floor accommodation is higher than the pitched front roof slope of No. 173 Strand Road.
- In comparison to the existing dwellings to the south, the proposed height stands out as a dominating and visually intrusive form, negatively impacting the architectural quality of the area.

#### 6.1.5. **Appeal by Liam Diskin**

- The Dublin City Council's decision to grant permission is being appealed due to perceived failure in addressing the main concerns raised in the initial observation dated 20<sup>th</sup> January 2022.
- The appellant is a resident of No. 31 Ailesbury Mews, which adjoins the subject site.
- The appellant agrees with the submission made by Keith Graham Architect on behalf of Mark and Sinead Spain of No. 175 Strand Road.
- The concerns are reiterated, with a particular focus on the following aspects:
  - The three-storey height is considered overbearing and excessive for the site.
  - Balconies at the rear of the development would overlook the nearby terrace of No. 31-34 Ailesbury Mews, causing a significant intrusion on residential amenity.
  - The appellant hopes that their concerns will be carefully considered before a decision is made.
  - While not opposing site development, the proposed development significantly differs in scale, spanning three storeys across most of the site length. This scale would intrude on the quiet enjoyment of the appellant and neighbours' property, including shared common areas.
  - The appellant considers that the granted application should be entirely overturned.



## 6.2. Applicant Response

6.2.1. The response received from Hughes Planning Consultants, representing the Applicant, addresses the concerns raised in the grounds of appeal under the headings below;

- Damage to the Streetscape
- Overlooking
- Site Boundary, Coverage and Plot Ratio

6.2.2. The responses to these issues are summarised under the headings below.

### 6.2.3. **Re. Damage to Streetscape:**

- Two appellants raised concerns about compromising the existing streetscape.
- Appellants from No. 175 Strand Road express concerns about the proposal's impact on the standalone nature of properties and the arrangement of the buildings.
- Reference is made to a previous An Bord Pleanála decision (P.A. Ref. 2850/15) but is clarified that it holds no relevance to the current application's assessment.
- The Board is reminded to assess the subject application on its own merits.
- Emphasis on optimising height and density of development on well-serviced and zoned urban sites in the evolving planning landscape.
- The proposal aims for efficient use of the site by providing three high-quality family-sized units according to modern living standards.
- Concerns were raised about the second-floor height exceeding the pitched roof slope of No. 173 Strand Road. Similar concerns were raised by residents of No. 177 Strand Road about negative interaction due to height.
- The Applicant submits that the contemporary design separates the proposal from neighbouring properties.
- Appellants reference the Planner's Report dated 12<sup>th</sup> May 2022, agreeing with the assessment of excessive bulk and massing. Confusion was expressed about granting permission despite Planner's assessment.



- The Applicant clarifies that the Planner's Report referenced initial commentary during the application stage.
- The Case Officer's conclusion is provided, highlighting revisions to address bulk and massing concerns.
- The Case Officer's comments indicate the revised plans address the Planning Authority's height concerns after the Request for Further Information.
- Commentary from the Planner's Report provided regarding the subject application (Reg. Ref. 4052/21) acknowledged where the design was considered acceptable in the context of the site and surrounding pattern of development. The proposal's design is seen as an interesting contrast to traditional houses to the south.
- The form, scale, and massing of the proposal are informed by the surrounding area but not solely determined by it.
- The proposed development creates a unique scheme with a distinct character while integrating well with adjacent houses.
- The proposal is viewed as having a positive impact on the existing streetscape.

#### **6.2.3.1. Re. Overlooking**

- The Appellants express concerns about overlooking adjacent properties.
- The Planning Authority issued a Request for Further Information on February 14, 2022.
- No. 31 Ailesbury Mews Appeal expressed concerns over the proposed rear balconies' proximity to the boundary wall. Balconies are seen to overlook No. 31-34 Ailesbury Mews, affecting residential amenities.
- Planning Authority Report commentary provided: Revised drawings at further information stage include a 1.8m opaque screen on the second-floor rear balcony. Proposed opaque glazing on corridor window to prevent overlooking. Amendments are considered to address the potential overlooking of No. 173 Strand Road's private amenity space.



- The revised drawing (No.2017-34-FI4-100) shows a second-floor redesign with a setback from the rear elevation and angled windows to mitigate overlooking towards Ailesbury Mews.
- Revised west elevation presented in Drawing No. 2017-34-Ft4-101.
- Overlooking concerns were addressed during the Request for Further Information (RFI) stage, promoting sensitive infill design.
- A certain degree of overlooking is permissible for efficient site development.
- Residents of No. 175 Strand Road express concern about the block redesign submitted to the Planning Authority.
- Reduction in setback is achieved through balcony omission and an additional 1.7m setback to the west.
- Revision is seen as effectively reducing overbearing setbacks to acceptable levels.

#### **6.2.3.2. Re. Site Boundary, Coverage and Plot Ratio**

- Concerns were raised about the proposed boundary wall height by residents of No. 175 Strand Road. The communal open space adjoins the rear garden wall of 175/173 Strand Road. The stone wall's low height requires a taller communal garden wall for privacy.
- Applicant suggests for the Board to attach a height condition to the boundary wall.
- Assured construction of an appropriate scale and finish to ensure privacy and visual amenity.
- No. 175 Strand Road questions site coverage and plot ratio figures. The proposed Apartments are considered to exceed relevant standards, offering an exemplary residential amenity.
- Private amenity space for proposed units ranges from 15.2-24.8 sq.m., provided through three balconies.
- The proposed communal amenity space of 166 sqm exceeds minimum standards for three apartments (27sqm minimum).



- The proposed development is designed to comply with the Sustainable Urban Housing Guidelines (2020).
- According to the Dublin City Development Plan, indicative plot ratio standards for 'Z2' zoned land (0.5 - 2.5) are required.
- The plot ratio for the proposed development is 0.758, aligning with Dublin City Council standards.
- No. 175 Strand Road appellants express concerns about the proposed site coverage inconsistency. They claim that this would disrupt the settled dwelling pattern in a suburban area.
- In response, the subject location is seen as suburban with the capacity for additional residential development.
- The proposed development enhances the unit mix, enabling a downsizing opportunity.
- The site configuration is used efficiently for higher density while maintaining sensitivity to the site location.

### **6.3. Planning Authority Response**

- 6.3.1. The Planning Authority requests Bord Pleanála to uphold its decision. In the event that the appeal is successful, provision should be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

### **6.4. Observations**

- 6.4.1. A third-party observation was received from Ross Cooper of No. 4 Strand House, Sandymount. The issues raised are summarised as follows;
- The proposed development has significant implications, not only for the residents of Strand House but also for the broader community and the local built environment.



- Planning history of the site provided.
- An observation was submitted by Strand House Management to Dublin City Council (DCC) regarding the subject application on appeal.
- A history of planning applications for No. 173 Strand Road reveals alterations and improvements, including the construction of an elongated apartment block structure adjacent to the main dwelling.
- There was no specific application to formally divide the 173 Strand Road site into separate plots for planning purposes. Nevertheless, the side garden of 173 Strand Road is currently considered an "in-fill" site with potential for development.
- The first application (P.A. Ref. 6292/07) proposed a five-storey (four-storey over basement) development with two apartments on the top floor. This application was refused permission due to reasons including its design, height, and finishes not being in harmony with the historic architecture along Strand Road. It was considered out of keeping with the area's character and could set an undesirable precedent for similar developments.
- The second application (P.A. Ref. 2252/08) made changes to the first application, including reducing one of the 3rd-floor apartments to one bedroom and altering the front of the building. Despite being predominantly similar to the earlier application, this application was granted permission. Strand House residents were unaware of this application and did not object to it.
- The third application (P.A. Ref. 4985/08) sought to amend the P.A. Ref. 2252/08 application by adding an extra bedroom and floor to create a duplex apartment on the apartment block's roof. This amendment was refused permission due to issues including the development's size, height, design, overshadowing, and its inconsistency with the architectural design of neighbouring houses.
- The applicants appealed this decision to An Bord Pleanála, resulting in ABP Case Number 232625.
- An Bord Pleanála refused the appeal, citing that the proposed fifth storey of the permitted four-storey over basement apartment block would adversely affect the residential amenities of Strand House due to overshadowing and visual dominance. This would also impact the visual amenities and established character of the area,



especially when observed from public spaces, including the promenade on Strand Road and Merrion Strand.

- The original application for a four-storey apartment block was not addressed by An Bord Pleanála in the appeal. Consequently, issues raised by Strand House residents were not considered by the Board's inspector.
- Application P.A. Ref. 2252/08/X1, seeking an "extension of duration" for the grant permission of 2252/08, was refused permission due to the proposal's vulnerability to flooding in a flood-prone location. Factors such as residential amenity and the Dublin City Development Plan indicated that the development would no longer be consistent with the proper planning and sustainable development of the area. It was noted by the Planning Authority that an EIA or Appropriate Assessment needed to be carried out before granting permission for undeveloped projects.
- P.A. Ref. 3579/17, granted permission for the construction of a new 5-bedroom, 3-storey over basement dwelling. Strand House residents did not submit any observations on this application.

#### **Re. Current application**

- An observation on this proposal was submitted by Strand House Management.
- The site encroaches upon a reserved "50 foot frozen area. Not to be built on" section of land, protecting underground sewers and affecting the positioning and size of Strand House and nearby houses in the Ailesbury Mews development.
- A scanned copy of a folio map from the 1981 "Original Deed Conveyance" of Strand House and "Grants of Rights of Way" between Strand House and Ailesbury Mews is attached as Exhibit 1a. It illustrates the "frozen area" and its relation to Strand House, 173 Strand Road, and Ailesbury Mews.
- Exhibit 1b highlights the same "frozen area" and its historical impact on Ailesbury Mews houses and the structure of Strand House.
- The "frozen area" is equivalent to 50 feet (15.24 meters).
- Irish Water's change in allowing new construction close to the sewers contradicts the historical building restriction indicated in the exhibits, potentially making this a valuable "infill" site.



- The Irish Water Letter dated 25 March 2022 indicates a requirement for the developer to "register new wayleaves of 3m width along applicant land in parallel to the existing combined main," suggesting a possible lack of awareness of the historical restriction.
- The causeway/embankment supporting this section of Strand Road was established in the 18th and 19th centuries to aid drainage and reclamation of coastal swamps. This area is prone to flooding, and the embankment's importance will grow due to rising sea levels. Careful examination of excavation proposals that could affect the embankment's integrity is necessary.
- The embankment is crucial to the area's protection against flooding, and considering future climate changes, it might require enlargement and reinforcement in the coming century.
- Any proposed excavation that might impact the embankment's integrity should undergo a thorough examination before granting planning permission.
- Section 4.10.3 of the Strategic Flood Risk Assessment (SFRA) in the Dublin City Development Plan 2022-2028 stipulates that all proposals involving basements require a Basement Impact Assessment following Appendix 9 of the Development Plan.
- Given that the proposed development includes a basement, it's reasonable to expect a Basement Impact Assessment as part of the pre-planning process before approval.
- A Basement Impact Assessment would be relevant for the existing proposal in P.A. Ref. 3579/17 to develop a new five-bedroom dwelling with multiple stories on this site.
- The proposal to excavate a basement c. 4 to 5 meters below the rampart/road level will lead to internal flooding during high tides, necessitating extensive measures to prevent flooding issues.
- Previous underground structures in the Sandymount area had to take significant precautions against flooding problems, even when situated 300 to 400 meters from the promenade/seafront.
- Tanking of any proposed underground structure would be necessary to prevent recurring flooding and water seepage problems for the new apartment owners.



- A report by Maghery Broderick & Associates indicates that the ground is sandy and suitable for infiltration, suggesting a potentially tidally influenced high water table.
- Excavating the site for a basement and ground floor risks compromising the embankment's structure where c. 60 truckloads of soil may need removal for the basement excavation.
- Such excavation could lead to local drying and soil moisture evaporation, which may damage adjacent structures' foundations, including those of Strand House.
- Historic settlement led to the use of remedial piles to support the corner of 173 Strand Road; excavation for a basement with a "piled raft foundation" could result in sonic and vibratory damage to nearby structures, including sewers.
- Alongside the Basement Impact Assessment, a report from a qualified structural or civil engineer is expected to describe how the proposed development won't adversely affect Strand House's foundations.
- The Engineers Report submitted with the application claims no flooding event occurred on the site due to the raised ground level, but it neglects potential impact on the flood barrier from basement excavation.
- The "Flood Risk Assessment" part of the "Engineers Report" contradicts this by stating "no basement proposed," even though vulnerability to flooding was cited as a reason for refusal in a 2013 request.
- Attaching a 3-storey over basement apartment block to No. 173 Strand Road is seen as incomprehensible, considering the historic value and character of the mid-Victorian semi-detached houses.
- Nos. 173 and 175 Strand Road were jointly listed in the 1865 Ordnance Survey map as Waverley Terrace, contributing to Sandymount's desirability as a living place.
- Adding a modern apartment block to the side of these houses would clash with their style and the wider streetscape, being an obtrusive eyesore.
- The proposed apartment block's dimensions and massing raise concerns, as its length of 34.43 meters extends close to the back boundary wall, well beyond existing houses' building lines.



- The north flank wall of the apartment block will extend 17 meters beyond the Strand House building line, and its visible wall height of 10.25 meters at the front increases as the ground level falls towards Ailesbury Mews.
- The sheer size and height of the proposed apartment block, resembling an industrial or institutional facility, is overwhelming and inappropriate.
- The idea of the existing boundary wall between Strand House and 173 Strand Road being overshadowed by a 12-meter brick structure is unwelcome for Strand House residents.
- The planned depth and height of the proposed development will adversely affect solar heat and sunlight reaching the rear of Strand House.
- Past measures included cutting back trees along the boundary wall with No. 173 Strand Road to maximise sunlight to the rear of Strand House.
- The height and extent of the proposed development will limit sunlight, causing permanent shadow for Strand House's rear apartments, particularly during winter.
- The current application lacks a "shadow-analysis" regarding daylight loss, which is a major concern for Strand House residents.
- With changes in work habits due to the Covid pandemic, residents spend more time in Strand House, which offers good light and an ideal home office environment.
- The previously refused application P.A. Ref. 6292/07 application included a shadow analysis printout illustrating sunlight reduction on Strand House's side and rear.
- Although some differences exist between the 2007 and 2021 proposals, the shadow impacts are similar, causing significant loss of natural daylight for rear apartments from September to March.
- The DCC Planners Report agrees with the applicant's planning report that the apartment block won't result in undue sunlight or daylight loss, but the shadow analysis for P.A. Ref. 6292/07 contradicts this, stating that the 'proposed apartment block will result in significant loss of sunlight or daylight for residents of Strand House'.



- The overshadowing from the proposed development will lead to loss of natural light, hinder shrubbery growth, and affect garden maintenance in Strand House grounds.
- This impact on natural light could transform Strand House into an office-like environment, detracting from the residential living experience.
- As remote working becomes more prevalent, ensuring a positive living environment distinct from office settings is crucial.
- The "green wall" component on the north wall might not withstand the salt-laden winds of the coastal setting, potentially shortening its lifespan and worsening the proposed eyesore.
- Side windows on the north elevation of the new building overlook the small windows on the south side of Strand House, impacting privacy for Strand House residents.
- Strand House's kitchen windows, designed for light and ventilation, face these side windows and could be overlooked, compromising privacy.
- Some of the proposed apartment block's windows allow unrestricted views into Strand House's private rear and front garden spaces.
- Lack of depiction of balcony or north-side window views exacerbates concerns about privacy.
- Limited parking space for three vehicles is insufficient for potential multiple residents and visitors of the three-bedroom apartment.
- Overflow parking could become a problem, similar to past issues resolved by installing an entrance barrier to Strand House's car park.
- An automated sliding gate system for access to the apartment block might create complications, requiring recessing into the front garden or causing delays during rush hour traffic flow.
- The gate's installation on the block's perimeter could frustrate residents, delivery vehicles, and other road users due to traffic disruptions and complications during the build phase on a major thoroughfare.



- A three-unit apartment block might not require a clear ownership or management structure, raising concerns about the potential for future claims related to structural or other damages caused by the development.
- Bonding or financial guarantees against potential future damage would likely be necessary if the development is approved.
- Some apartments in Strand House are rented by St. Vincent's Hospital workers who have night shifts, making it probable that these apartments won't be rentable during construction due to noise disruptions.

## 6.5. Further Responses

None

## 7.0 Assessment

Having examined the application details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Procedural Issues
- Scale, Design, and Visual Impact
- Overlooking
- Overbearing Impact and Overdevelopment of the Site
- Flood Risk
- Appropriate Assessment

I am satisfied that the Planning Authority fully addressed all other issues and that no other substantive issues arise. Accordingly, the issues for consideration are addressed below.

### 7.1. Procedural Issues

- 7.1.1. The appeal submission received from Mark and Sinead Spain expressed concerns regarding validation issues, as detailed in Section 6.1.2 above. In summary, the



appellants submit that there was a prior observation to Dublin City Council concerning validity and that the planner's report disregarded the validation issues. The appeal submits that the application lacks the ability to check distances to existing affected properties and does not include the required site or layout plans drawn to scale as per Planning and Development Regulations 2001 (as amended) (Art 23 (1)(a)). Specifically, the site layout drawing (2017-34-FI4-100) intentionally excludes properties (Nos. 35, 36, 37, 38 Ailesbury Mews) on the western boundary, preventing the planning authority from evaluating the necessary window-to-window distances. While distances to Strand House are provided, they are missing for Ailesbury Mews properties. It is pointed out that the Planning Authority's request for further information did not address this crucial aspect. The appellants emphasise that the drawings are lacking in essential information for proper assessment of overlooking and distances, which, in their view, impacts the decision-making process concerning overlooking. They submit that the drawings fall short of providing the basic level of information required for validity, and based on practitioner experience, such drawings would be deemed invalid in many instances.

7.1.2. The appellants also raise concerns regarding the Social Housing Exemption Certificate (SHEC). The appellants object on the grounds that Question 16 of the Planning Form necessitates either submitting a SHEC with the application or including the application for the SHEC with the planning application form. They submit that the Applicant acknowledges that the SHEC is being applied for concurrently; however, the online register contradicts this information. They highlight that the development application was lodged on 9/12/21, whereas the SHEC application was lodged on 21/12/21, after the initial application. As a result, the appellant asserts that Question 16 requirements are not met due to the SHEC timing discrepancy. The Schedule of Documents submitted alongside the application references the SHEC application, yet the application itself lacks this document. Consequently, the appellant concludes that, in accordance with the Regulations, the application should be considered invalid.

7.1.3. The Planning Authority's report summarises the concerns articulated in the submissions received. These concerns encompass various issues, including (inter alia) the separation distance between the proposed development and opposing windows in Ailesbury Mews, as well as concerns regarding the potential overlooking from the proposed balconies onto existing homes and gardens along Ailesbury Mews,



among other considerations. The Planning Authority requested further information under Item No. 3, highlighting their serious concerns relating to potential of overlooking of Ailesbury Mews properties and their communal open space from the proposed development.

- 7.1.4. The applicant submitted by way of further information revised drawings, including revisions to the layout and design of the proposed development. The revised drawings included the existing and proposed site layout plans detailing distances from site boundaries. Furthermore, it is noted that the original drawings submitted with the application show the application site and adjacent properties on adjoining sites.
- 7.1.5. It is my view that these grounds of appeal are a validation issue, which is the function of the Planning Authority. I am satisfied that the concerned party raised this issue in the submission made to the Planning Authority and that the Planning Authority addressed this issue in its assessment. I consider that the drawings submitted with the application are of an appropriate scale and provide an adequate level of detail to identify the main features of neighbouring properties.
- 7.1.6. Regarding the date of submission of the Social Housing Exemption Certificate (SHEC), I also consider that this is a validation issue, which is the function of the Planning Authority. I am satisfied that this did not prevent the concerned party from making a submission to the Council on the proposed development. The concerned third-party appellants have made a valid planning appeal to An Bord Pleanála, and the issues raised in this appeal are addressed below. On this basis, I recommend that the proposed development should not be refused permission in relation to these grounds of appeal.

## **7.2. Scale, Design and Visual Impact**

- 7.2.1. The appeal submissions received raise concerns regarding the height, scale and design of the proposed development and its impact on the existing pair of houses at Nos. 173 and 175 Strand Road and surrounding streetscape. It is submitted that Nos. 173 and 175 Strand Road are located within a well-established Residential Conservation Area (RCA), and this designation necessitates careful consideration of any potential alterations. They emphasise the importance of maintaining the historical context and street frontage along Sandymount Strand.



- 7.2.2. The appellants raise concerns about the Planning Authority's report, which they believe minimally references No. 175 Strand Road and fails to address objectors' specific concerns in the formal Request for Further Information. They assert that this lack of acknowledgment raises questions about the transparency of the assessment process.
- 7.2.3. The appellants express concerns that the standalone nature of Nos. 173/175 Strand Road contributes to the successful streetscape, whereas building directly against No. 173 forms a problematic terrace arrangement. They assert that the current proposal would disrupt the established visual harmony of the street.
- 7.2.4. The appellants stress the importance of viewing Nos. 173 and 175 Strand Road as an architectural unit. They refer to a previous appeal (P.A. Ref. 2850/15 and ABP Ref. PL29S.245314) against a renovation and extension proposal that underscored this principle. The appellants express concerns that the proposed development would adversely impact the area's overall streetscape.
- 7.2.5. The appellants contend that the proposal's height variations on the Strand Road would result in a visually dominant and intrusive impression, unlike a more suitable architectural response in a previous application (P.A. Ref. 3579/17). They highlight the need for a detailed examination of proposed variations, considering the area's heritage value.
- 7.2.6. The appellants express reservations about the proposed development's rear building height, which they claim reaches c. 11 meters. They express concerns that this dominance would have a substantial impact on the overall streetscape and question the compatibility of such a height with the surrounding context.
- 7.2.7. The appellants express concerns about the proposed development's material differentiation and the potential for extensive unrelieved elevations. They refer to areas of elevation that remain over three and a half stories high, facing both north and south. The appellants stress the importance of maintaining architectural coherence.
- 7.2.8. The appellants emphasise that the proposed second-floor accommodation's height is higher than the pitched front roof slope of No. 173 Strand Road. They consider this discrepancy would disrupt the visual architectural coherence of the area, negatively impacting the quality of the surroundings.



- 7.2.9. The appellants point out that the proposal's overall height extends for much of the site depth, resulting in a bulky development. They express concerns that this could disrupt the area's established visual balance and harmony.
- 7.2.10. Given the proposal's scope, the appellants express concerns that it would not be compatible in design and scale with adjacent dwellings, considering building lines, proportion, heights, and materials. They believe the proposal's characteristics could disrupt the area's architectural congruity.
- 7.2.11. In conclusion, the appellants object to the proposed development on the grounds that its height, scale and extent would significantly detract from the pair of houses at Nos. 173 and 175 Strand Road and overall streetscape and thereby would compromise the historical and architectural integrity of the Residential Conservation Area in which it is located.
- 7.2.12. The Planning Authority's assessment of the proposed development is detailed in Section 3.2 above. Based on the aforementioned considerations, I consider it necessary to evaluate the height, scale and design of the proposed development and its impact on the architectural unity of Nos. 173 and 175 Strand Road and the character and visual amenity of the surrounding streetscape and Residential Conservation Area (RCA) in which it is located.
- 7.2.13. The subject site is zoned 'Z2 Residential Neighbourhoods' (Conservation Areas), with the objective 'To protect and/or improve the amenities of residential conservation areas'. Residential development is permitted in principles on Z2 zoned lands. Section 14.7.2 of the Dublin City Council Development Plan 2022-2028 describes how

*'residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale'. Furthermore, 'the overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area'.*

- 7.2.14. Section 11.5.3 of the Development Plan refers to Z2 Conservation Areas and states that:



*Whilst these areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application.*

*Designated Conservation Areas include extensive groupings of buildings, streetscapes and associated open spaces and include (parts of) the medieval/walled city, the Georgian Core, the 19th and 20th century city, and the city quays, rivers and canals. The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas.*

*As with Architectural Conservation Areas, there is a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area. Such proposals will require detailed justification from a viability, heritage, and sustainability perspective.*

7.2.15. Policy BHA9 sets out policy requirements with regard development in Conservation areas.

7.2.16. The proposed development comprises the construction of a three-storey over basement-level apartment block providing 3 no. three-bedroom apartments. The overall footprint of the building, as observed on the proposed basement floor plan, is broadly rectangular with a front and rear elevation width of c. 8.3m and an overall depth of 33.9m. The front building line, which incorporates balconies at ground, first and second-floor levels, aligns with the front building line of No. 173 Strand Road. The balconies have a depth of 1.8m and widths of 5.5m, with the second-floor balcony wrapping around the northeastern corner. A three-storey self-coloured frame encases the balconies, and a three-storey 1.9m deep 2.2m wide 'lightwell' provides a setback at the southeastern front corner of the structure, adjoining No. 173 Strand Road.



- 7.2.17. The southern side building line of the proposal would be built up to the side of No. 173 Strand Road. The proposed apartment block would create a terrace, as it's attached to a pair of semi-detached houses to form a continuous line of residential structures.
- 7.2.18. The proposal extends c. 16.3m beyond the rear building line of the two-storey extension to the rear of No. 173 and c. 23.3m beyond the original main rear building line of No. 173. A minimum separation distance of 6.3m would be maintained between the rear building line of the proposal and the rear western boundary of the site. The proposal would maintain a minimum separation distance of c. 2.5m from the northern side boundary.
- 7.2.19. The roof profile of the proposal is flat, with a roof ridge height of 9.6m above ground floor level. Taking into consideration the basement level, the front elevation has an overall parapet height of 10.1m, and the rear elevation has an overall height of 10.9m.
- 7.2.20. The front elevation of the proposal incorporates floor-to-ceiling height window opes and sliding doors serving open plan kitchen/dining/living rooms at ground, first and second-floor levels. Glass balustrades are provided to the balconies.
- 7.2.21. The northern side elevation of the proposal incorporates a green wall towards the front of the building with a length of 6.5m and an overall height of 7.7m. Other materials on the northern side elevation include, for the most part, selected brick finish and self-coloured rendering towards the rear of the structure at second-floor level. Floor-to-ceiling height window opes, and various other sized window opes are provided on the northern side elevation.
- 7.2.22. The southern side elevation of the proposal also incorporates a green wall for a depth of 4.6m and a height of 10.5m. Other elevation finishes include selected brick finish for the most part and self-coloured rendering towards the rear of the structure. Glass balustrades serving balconies are provided at ground and first-floor level, and floor-to-ceiling window opes are provided.
- 7.2.23. Having regard to adjoining semi-detached properties, Nos. 173 and 175 Strand Road, Historical OS Cassini maps, indicate these dwellings date back to the period of 1829-1841. These properties are not recorded as Protected Structures in the Dublin City Council Development Plan Record of Protected Structures. Both houses provide three-bay elevations characterised with rendered walls, four-over-four pane sliding sash windows, segmental-headed door opening with timber panelled doors flanked by



panelled timber pilasters with decorative brackets, moulded cornices and plain fanlight above, with fanned stone steps and decorative wrought iron railings leading to the main entrance doors. Their roof profiles are pitched and characterised by raised corniced parapets to their front and chimney stacks at both gable ends and in the centre of the pair of dwellings. The front gardens of both dwellings are gravelled and used for in-curtilage parking. House No. 173 has a contemporary two-storey extension to its rear, which extends for a depth of c. 7m along the boundary shared with the appeal site. Regarding the interior of the dwellings, I note the description of the interior of No. 175 in the Planning Inspectors report under ABP Ref. PL 29S 245314, which refers to the original interior features of the dwelling. The Board should also note that under ABP Ref. PL 29S 245314, the proposed two-storey extension to the southern side of No. 175 Strand Road, was omitted by way of Condition No.2 by reason that it would detract from the character of the existing building and would seriously injure the visual amenities of the area.

- 7.2.24. Neighbouring development to the north of the site comprises a more contemporary three- storey red brick apartment building 'Strand House', which is set back c. 7.2m from the northern side boundary of the appeal site.
- 7.2.25. Having regard to the above, it is my view that the critical question before the Board is whether or not the proposed development would contribute positively to the character and distinctiveness of the residential conservation area in which it is located and protect and enhance the character and appearance of the adjoining nineteenth-century dwellings area and their setting in a residential conservation area.
- 7.2.26. Having reviewed the proposed development in relation to the neighbouring properties, specifically Nos. 173 and 175 Strand Road, it is my view that the proposed development lacks a congruous integration with the established architectural context and historical significance of the adjoining structures. The extensive depth of the proposed development alongside No. 173 manifests a discordant scale and height in comparison to the classical dimensions of the adjoining semi-detached dwellings. The contemporary architectural style of the proposed development, while valid in its own right, does not harmonise with the historical architectural features and classical design attributes that distinguish Nos. 173 and 175 Strand Road. The juxtaposition of the proposed flat roof profile against the pitched roofs of Nos. 173 and 175 would be visually dissonant. The elevation's front parapet, rising c. 2 meters above the adjoining



parapets, would significantly disrupt the uniformity and rhythm of the building block. This stark discrepancy would detract from the harmonious visual continuity sought within this residential conservation area.

7.2.27. The proposed development introduces modern materials such as glass balustrades, self-coloured rendering, and green walls. These materials diverge starkly from the traditional features observed in Nos. 173 and 175, which are characterised by segmental-headed door openings with timber panelled doors flanked by panelled timber pilasters adorned with decorative brackets and raised corniced parapets. This departure would undermine the historical fabric and architectural aesthetic of Nos. 173 and 175. The inclusion of balconies, in contrast to the architectural norms of Nos. 173 and 175 would accentuate the visual incongruity. The contextual drawings provided emphasise the pronounced differences between the proposed development and the adjoining properties, highlighting the apparent discrepancy in style and design.

7.2.28. Considering the historical significance and collective architectural design of Nos. 173 and 175, it is my view that the proposed development's scale, height, and design undermine the overall harmony, unity, and architectural elegance inherent to the adjoining structures. While not formally designated as Protected Structures, the historical OS Cassini maps distinctly corroborate the heritage of Nos. 173 and 175, which trace back to the period of 1829-1841. These structures play an essential role in contributing to the historic built environment in this residential conservation area. Section 11.5.3 of the Development Plan recognises that many of the older buildings and structures in the city, whilst not included on the Record of Protected Structures or located within an Architectural Conservation Area, make a positive contribution to the historic built environment of the city and add to the streetscape and sense of place. On this basis, I conclude that the scale, height, and architectural design of the proposed development would detract from the historical character and architectural integrity of Nos. 173 and 175 Strand Road and the overall setting and streetscape of the residential conservation area in which it is located. Such development would be contrary to Policy BHA9 of the Dublin City Council Development Plan 2022-2028. I recommend, therefore, that the proposed development be refused permission on this basis.



### **7.3. Overlooking**

- 7.3.1. Appeal submissions received express concerns regarding the potential of overlooking and loss of privacy from the proposed development to neighbouring property.
- 7.3.2. Regarding separation distances, appellants express doubt that the proposed development complies with the Development Plan standard 22m window-to-window separation distance requirement. They submit that the measured distance from No. 36 Ailesbury Mews to the boundary wall is 9.5m (as per Google Maps). Furthermore, the distance from the sliding doors outside Bedroom 2 to the boundary amounts to 10.3m, resulting in a cumulative distance of 19.8m. They assert that these distances fall significantly short of the standard 22m separation distance. Additionally, they highlight that the distance from Bedroom 1 is even less, c.16m.
- 7.3.3. The appellants raise concerns that Dublin City Council's (DCC) request for further information failed to address the issue of separation distance. They emphasise that the drawings provided lack essential information necessary for a thorough assessment of overlooking and separation distances. This absence, they argue, affects the decision-making process regarding overlooking.
- 7.3.4. Highlighting the application's proposal, the appellants contend that it puts forward unacceptable overlooking, both depicted in drawings and omitted from them. They assert that this has been pointed out in earlier comments on the application's validity. Importantly, they contend that no drawing supports the claim that there is no overlooking of No. 35 and 36 Ailesbury Mews. They stress that there is no evidence of the required 22-meter building-to-building separation distance.
- 7.3.5. Referring to the Applicant Planner's report, the appellants note that while it mentions screening and fenestration mitigation, it lacks substantial evidence for these measures. They submit that Bedroom 1 and 2 windows on the first and second floors directly overlook Ailesbury Mews. Moreover, they point out that the shared balcony between Bedrooms 1 and 2 also overlooks the rear garden of No. 175 Strand Road, infringing on privacy. They assert that it would also encroach on the private gardens of other neighbouring properties, including Nos. 177 and 179.
- 7.3.6. Considering specific design aspects, the appellants highlight that the glazed section of the entrance hallway and associated 4.6m<sup>2</sup> balconies on the first and second floors directly overlooks the garden of No. 175 Strand Road. While acknowledging that the



cumulative balcony area fulfils private open space requirements, they submit that using balconies that directly overlook other properties' open spaces is unreasonable and contend that these balconies should be omitted.

- 7.3.7. Regarding the northern side of the proposal, the appellants assert that windows directly overlook fenestration on Strand House. Contrary to contentions in the Applicant Planner's Report, they submit that the proposal overlooks and diminishes neighbours' rights to quiet enjoyment of their properties. Therefore, they assert that the proposal should not be permitted on this basis.
- 7.3.8. The appellants note that the Planning Authority's report acknowledges this, resulting in Further Information (FI) Request 3 aimed at reducing potential overlooking of Ailesbury Mews. FI Request 4 sought to address overlooking of No. 173 Strand Road. In response to FI Request 3, revised plans were submitted, but the appellants contend that these plans lack actual representation of Ailesbury Mews and do not reference the height of the existing boundary.
- 7.3.9. Referring to the Planning Authority's assessment of the revisions, the appellants submit that the second-floor redesign, including the omission of the balcony and the setting back of Bedroom 1, does not effectively address the overlooking issue. They dispute the notion that this redesign will significantly "reduce the apparent bulk of the building." They contend that while angling the windows increases the distance from Ailesbury Mews' rear windows, it increases the overlooking of No. 175 Strand Road from Bedroom 2 on the second floor.
- 7.3.10. The appellants express their expectation that Dublin City Council (DCC) would take their concerns and property enjoyment rights seriously, which they argue has not occurred in this case. They draw attention to elevation drawings, noting that these depict clear glass balustrades and patio doors looking directly south into the appellant's garden, suggesting a lack of privacy consideration.
- 7.3.11. Addressing further aspects, they point out that despite the mention of a setback "to reduce the potential overlooking of properties on Ailesbury Mews as per DCC FI Request 3," this setback does not adequately reduce bulk and massing. Regarding FI Request 4, they note that while it addresses the rights of the adjacent neighbour, 173 Strand Road (the Applicant), it fails to acknowledge the impact on No. 175 Strand Road from the original application.



- 7.3.12. The appellants refer to an image and sketch illustrating DCC's lack of consideration for No. 175 Strand Road's private garden, which they submit is now significantly overlooked. They highlight that the issue of overlooking towards No. 175 Strand Road remains unresolved and respectfully request the Board to consider this matter. In a broader context, the appellants contend that the proposed scheme directly overlooks private gardens at Nos. 177, 179, and 175 Strand Road, as well as the communal garden in Ailesbury Mews. Moreover, they assert that balconies at the rear of the development would intrude upon the nearby terrace of No. 31-34 Ailesbury Mews, causing a significant disruption to their residential amenity.
- 7.3.13. The Planning Authority's assessment of the proposed development is detailed in Section 3.2.
- 7.3.14. Based on the aforementioned considerations, I consider it necessary to assess the impact of the proposed development on the residential amenities of neighbouring properties regarding overlooking and loss of privacy.
- 7.3.15. As detailed previously, the proposed development comprises the construction of a three-storey over basement-level apartment block providing 3 no. three-bedroom apartments. The overall footprint of the building is broadly rectangular. The front building line, which incorporates balconies at ground, first, and second-floor levels, aligns with the front building line of No 173 Strand Road. The second-floor balcony wraps around the northeastern corner of the building for a depth of 8.4m. The southern side building line of the proposal is built up to the side of and adjoins No. 173 Strand Road. The proposal extends c. 16.3m beyond the rear building line of the two-storey extension to the rear of No. 173 and c. 23.3m beyond the original main rear building line of No. 173. A minimum separation distance of 6.3m would be maintained between the rear building line of the proposal and the rear western boundary of the site and 2.5m from the northern side boundary.
- 7.3.16. The proposal has a roof ridge height of 9.6m above ground floor level., as viewed from the front. Taking into consideration the basement level, the front elevation has an overall parapet height of 10.1m, and the rear elevation has an overall height of 10.9m.
- 7.3.17. The front elevation of the proposal incorporates floor-to-ceiling height window opens and sliding doors serving open plan kitchen/dining/living rooms at ground, first and



second-floor levels. Glass balustrades are provided to all balconies serving the proposal.

- 7.3.18. The northern side elevation of the proposal incorporates floor-to-ceiling height window opes, and various other sized window opes, serving habitable rooms, w.c.'s and stairwells.
- 7.3.19. The southern side elevation of the proposal incorporates 2 no. balconies at ground floor and first levels, serving the kitchen/dining/living rooms and bedroom nos. 1 and 2 of both apartments (at the southwestern corner). Only one balcony serves the second-floor apartment along the southern side elevation, serving the kitchen/dining/living room. It is noted that the balconies serving the kitchen/dining/living rooms adjoin the two-storey extension to the rear of No. 173 Strand. The south-facing floor-to-ceiling windows opes behind these balconies are fitted with permanent opaque glazing.
- 7.3.20. The rear west-facing elevation of the proposal at ground and first-floor level incorporates floor-to-ceiling window opes serving Bedroom no. 1 and the aforementioned balconies at the southwestern corner. At second floor level, the proposal incorporates 2 no. floor-to-ceiling window opes serving Bedroom nos. 1 and 2, angled obliquely in a south-westerly direction.
- 7.3.21. Relevant policy includes Section 15.9.17 of the Dublin City Council Development Plan 2022-2028, which refers to 'Separation Distances' for apartments and states the following;

*Traditionally a minimum distance of 22m is required between opposing first floor windows. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. Separation distances between buildings will be assessed on a case by case basis.*

*In all instances where the minimum separation distances are not met, each development will be assessed on a case by case basis having regard to the specific site constraints and the ability to comply with other standards set out within this chapter in terms of residential quality and amenity.*

- 7.3.22. Section 15.9.18 refers to Overlooking and Overbearance and states the following;



*‘Overbearance’ in a planning context is the extent to which a development impacts upon the outlook of the main habitable room in a home or the garden, yard or private open space service a home. In established residential developments, any significant changes to established context must be considered. Relocation or reduction in building bulk and height may be considered as measures to ameliorate overbearance.*

*Overlooking may be overcome by a variety of design tools, such as:*

- *Building configurations (bulk and massing).*
- *Elevational design/window placement.*
- *Using oblique windows.*
- *Using architectural features.*
- *Landscape and boundary treatments.*

7.3.23. Appendix 18 Section 1.4 refers to extensions - privacy and amenity, and states the following;

*Extensions should not result in any significant loss of privacy to the residents of adjoining properties. Generally, windows overlooking adjoining properties (such as in a side wall) should be avoided. Where essential, the size of such windows should be kept as small as possible and consideration should be given to the use of high-level windows and/ or the use of obscure glazing where the window serves a bathroom or landing. Bedrooms in general should not be lit by obscure glazed windows as a means to prevent undue overlooking of adjacent properties.*

*There will be a general presumption against the development of rear balconies and roof terraces. However, in inner urban areas, where there are limited opportunities for ground floor amenity provision, innovative design solutions for private amenity space will be considered on a case-by-case basis where it can be demonstrated that provision of same would not have a significant adverse impact on the residential amenities of adjacent properties.*

*It is important to make sure that any extension does not unacceptably affect the amenities of neighbouring properties. This includes privacy, outlook,*



*daylight and sunlight. It is advisable to discuss proposals with neighbours prior to submitting a planning application.*

7.3.24. Appendix 18 Section 1.5 refers to extensions - separation distances and states the following;

*In cases where the backs of dwellings face each other or where the side of one dwelling faces the rear of a neighbouring property, a certain degree of separation is required to avoid any overbearing effect of one dwelling upon the other. With the emphasis on increased residential densities and the consequent incorporation of a variety of unit types and sizes in schemes, the requirement for 22 metre separation in such cases may no longer be applicable in certain instances. The acceptable reduction of such distances, however, requires a high standard of building design and layout particularly having regard to the height and inter-relationship between buildings, the use and aspect of rooms and relative floor levels.*

7.3.25. Having reviewed the drawings submitted, it is my view that the proposed balconies serving the kitchen/dining/living rooms along the southern side elevation at ground and first-floor level would not result in overlooking of No. 173 Strand Road by reason of their location alongside the two-storey extension to the rear of No. 173 and the projecting configuration of bedroom no. 3 located opposite it.

7.3.26. Regarding the balcony at second-floor level serving the kitchen/dining/living room, a 1.8m high opaque glazed screen is proposed to the perimeter of the balcony, preventing overlooking of the adjacent window opening on the main rear elevation of No. 173 at first-floor level. The south-facing floor-to-ceiling windows opening behind the balconies are fitted with permanent opaque glazing, and thereby, overlooking from these windows opening would not occur.

7.3.27. The window opening serving bedroom no. 3 on the southern elevation at each floor level would not result in overlooking neighbouring property by reason of their orientation towards and projecting configuration of bedroom No. 2.

7.3.28. The windows on the rear west-facing elevation of the proposal at ground and first-floor level serving bedroom no. 1 maintain a separation distance of 6.3m – 8.5m from the western site boundary. Bedroom no. 2 at ground and first-floor level maintains a separation distance of c. 12m from the western site boundary. The closest



neighbouring dwellings to the west, Nos. 35 and 36 Ailesbury Mews have rear elevation orientated in a northeasterly direction and maintain separation distances of 10m - 10.1m at their closest point from the appeal site boundary. Having regard to the positioning of these dwellings relative to the footprint of the proposed development, as indicated on the OS Site Location Map, the rear elevations of Nos. 35 and 36 Ailesbury Mews are not located directly opposite the rear elevation of the proposal. Thereby, compliance with the standard minimum distance of 22m between opposing first-floor windows under Section 15.9.17 of the Development Plan does not apply in this instance.

7.3.29. The balconies on the rear west-facing elevation of the proposal would maintain a separation distance of 8.5m from the western site boundary. While a person standing on this balcony would have a c. 45-degree view of and a separation distance of c. 18.5m from the rear elevations of Nos. 35 and 36 Ailesbury Mews, it is my view that a 45-degree view from a balcony does not constitute a direct view. In the absence of a specific policy in the Development Plan regarding separation distances between apartment balconies and adjacent opposing windows, I do not recommend that the proposed development be refused permission on this basis. However, in order to allay the concerns of the appellants and reduce perceived overlooking, a condition could be imposed in the event of a grant of permission requiring that the balustrades of the balconies be glazed with obscure glass.

7.3.30. The 2 no. floor-to-ceiling window windows on the rear west-facing elevation of the proposal at second-floor level are angled obliquely in a south-westerly direction and maintain a separation distance of 12m and 13m from the rear western site boundary. Given that the closest neighbouring dwellings to the west, Nos. 35 and 36 Ailesbury Mews maintain separation distances of 10m - 10.1m at their closest point from the appeal site boundary, I am satisfied that the separation distances provided accord with Section 15.9.17 of the Development Plan. Dense, tall coniferous trees on lands adjoining the western site boundary provide visual screening between the proposed development and adjacent properties in Ailesbury Mews.

7.3.31. Turning attention to the window opes on the northern side elevation of the proposal, it is noted that the window opes on the southern side elevation of the adjacent Strand House apartment block do not have primary windows serving habitable rooms. Small high cill-level window opes are provided on the southern side elevation, and an area



of communal car parking and amenity space is provided to the southern side and rear of Strand House. Given that the window opes of the proposal would not be located directly opposite any large windows serving habitable rooms of Strand House, it is my view that the proposed development would not result in overlooking or loss of privacy to the residential units of Strand House. The corner balcony to the front of the proposal at second-floor level would not compromise the privacy of residents in Strand House. There is no specific policy in the Development Plan preventing overlooking of private or communal amenity areas.

- 7.3.32. In conclusion, it is my view that the proposed development would not result in overlooking or compromise the privacy and residential amenities of neighbouring properties and should, therefore, not be refused permission on these grounds of appeal.

#### **7.4. Overbearing Impact and Overdevelopment of the Site**

- 7.4.1. The appeal submissions received express concerns regarding the overbearing impact of the proposed development and its impact on the visual and residential amenities of neighbouring properties. In summary, the appellants contend that the proposed development's scale significantly surpasses the proposal submitted previously under P.A. Ref. 3579/17, leading to concerns about overdevelopment. They express concerns about the extent of overbearing due to this overdevelopment. Photomontages are attached with the submission from Mark and Sinead Spain as visual evidence of this overbearing scale.
- 7.4.2. The appellants highlight that the Planning Authority's second report (dated 09 May 2022) shared these concerns, deeming the proposed bulk and massing as excessive and overbearing when observed from the rear gardens of Nos. 173 and 175 Strand Road, as well as Strand House. The previously permitted scheme's inclusion of a rear top-floor setback is noted, and its reintroduction into the proposed scheme is recommended to mitigate potential overlooking.
- 7.4.3. The appellants point out that objections were raised by the Applicant against overdevelopment and overbearing in the area in relation to a smaller development under P.A. Ref. 2850/15, involving a 3-storey extension covering a 4.5m of the rear facade and projecting 5m behind the existing house No. 175 Strand Road. A



comparison is made between the proposed development and the development under P.A. Ref. 3579/17. The current proposal's extension of 16m beyond the extension of the previous scheme is noted, dominating the southern boundary. The proposal's dominance over views from the windows and the garden of No. 175 Strand Road is emphasised.

- 7.4.4. The appellants submit that the proposed development would significantly alter the previous suburban view from Nos. 175 and 173. They also note the overbearing nature of the flanking wall facing Strand House apartments. Despite the Planning Authority's recommendation in Further Information Request No. 3 for a significant setback, the reduction in mass in the revised plans is considered minimal - merely 1.7m or c. 5% in length of the 33m building, and even less in terms of area. This reduction is even less substantial compared to the development submitted under P.A. Ref. 3579/17.
- 7.4.5. The appellants assert that the proposal disrupts the existing pattern of development in this mature suburban area. They contend that the excessive bulk and mass of the proposed building would be detrimental, impacting views from the rear gardens of neighbouring properties (Nos. 179, 177, 175, and 173 Strand Road), Strand House, and Ailesbury Mews. Additionally, the appellants express the view that the three-storey height of the proposed building is excessive and overbearing for the site.
- 7.4.6. In line with these concerns, Section 15.9.18 of the Dublin City Council Development Plan refers to 'Overbearance' and states that;

*'Overbearance' in a planning context is the extent to which a development impacts upon the outlook of the main habitable room in a home or the garden, yard or private open space service a home. In established residential developments, any significant changes to established context must be considered. Relocation or reduction in building bulk and height may be considered as measures to ameliorate overbearance.*

- 7.4.7. Appendix 18 Section 1.5 refers to extensions - separation distances and states that

*'The planning system does not give neighbours 'a right to a view' and does not always prevent people's view from being blocked. However, extensions should be designed so as not to dominate or appear unduly overbearing when viewed from adjoining properties.*



- 7.4.8. As detailed above, the southern side building line of the proposal would be built up to the side of No. 173 Strand Road and would extend c. 16.3m beyond the rear building line of the two-storey extension to the rear of No. 173 and c. 23.3m beyond the original main rear building line of No. 173. A minimum separation distance of 6.3m would be maintained between the rear building line of the proposal and the rear western boundary of the site, and c. 2.5m from the northern side boundary. The roof profile of the proposal is flat, with a roof ridge height of 9.6m above ground floor level. Taking into consideration the basement level, the front elevation has an overall parapet height of 10.1m, and the rear elevation has an overall height of 10.9m.
- 7.4.9. The northern side elevation of the proposal incorporates a green wall towards the front of the building with a length of 6.5m and an overall height of 7.7m. Other materials on the northern side elevation include, for the most part, selected brick finish and self-coloured rendering towards the rear of the structure at second-floor level. Floor-to-ceiling height window opes, and various other sized window opes are provided on the northern side elevation. The southern side elevation of the proposal also incorporates a green wall for a depth of 4.6m and a height of 10.5m. Other elevation finishes include selected brick finish for the most part and self-coloured rendering towards the rear of the structure. Glass balustrades serving balconies are provided at ground and first-floor level, and floor-to-ceiling window opes are provided. The southern side elevation has an overall height of c.10.5m.
- 7.4.10. Addressing the appellant's concerns regarding overdevelopment of the site, the proposed development has a stated floor area of 587 sq. m. and a site area of 697 sq.m. Based on these measurements, the resulting plot ratio for this site is c. 0.853. This figure falls well beneath the parameters outlined in the Development Plan's Indicative Plot Ratio of 1.5-2.0 for Conservation Areas. It indicates that the ratio of floor space to site area is not excessive, and overdevelopment does not occur. Regarding site coverage, the basement floor area is 202.5 sq.m, and the total site area is 687 sq.m. which yields a site coverage of c. 29.46%. This value is significantly below the Development Plan Indicative Site Coverage of 45-50% for Conservation Areas and, therefore, indicates that overdevelopment does not occur.
- 7.4.11. Addressing concerns regarding overbearing impact, having reviewed the drawings submitted, it is my view that the height, scale and extent of the proposed development would result in an overbearing impact on neighbouring property, in particular adjoining



dwelling No. 173 Strand Road. The proposed development with an overall height of 10.5m would extend c.16.3m beyond the rear building line of the two-storey extension to the rear of No. 173 and c. 23.3m beyond the original main rear building line of No. 173. No separation distance is provided between the proposal and the site boundary shared with No. 173. The proposal has an overall height of c. 10.5m, which rises c. 2.2m above the roof parapet of adjoining No. 173. It is my view that the height and extent of the proposed development would result in a considerable overbearing impact on No. 173 Strand Road. While the proposal includes design elements like green walls and selected brick finishes, the overall height and length of the proposed structure, combined with its proximity along the boundary of No. 173, would adversely impact the visual amenity and outlook of the No. 173 Strand Road. Such development would be contrary to the provisions of Section 15.9.18 and Appendix 18 Section 1.5 of the Dublin City Council Development Plan, which seeks to avoid any overbearing effect of one dwelling upon another. I recommend, therefore, that the proposed development be refused permission on this basis.

## **7.5. Flood Risk**

- 7.5.1. An appeal submission and observation received express concerns regarding flood risk in relation to the proposed development. In summary, the appellants contend that there are significant issues surrounding flooding risk that need to be addressed. While the submitted planning report lacks discussion on flooding risk, the engineering report asserts that the development will not contribute to flooding or have any adverse impact.
- 7.5.2. The appellants note the discrepancy in past views from the Council Drainage Division, especially in relation to a basement proposal in 2013. The appellants highlight that the applicant engineer's report inaccurately makes no reference to the presence of a proposed basement. This inaccuracy renders certain parts of the report irrelevant and calls for additional clarifying information to be provided.
- 7.5.3. The appellants draw attention to a previous attempt to extend permission under P.A. Ref. 2252/08, during which the Drainage Division expressed concerns about the design's vulnerability to flooding, emphasising the site's susceptibility to flooding. The current proposal, involving a basement, contradicts this past perspective. Additionally, the appellants dispute the claim that the area does not experience flooding, citing first-



hand experiences of flooding incidents at St. Alban's Park and Strand Road at Merrion Gates in October 2011.

- 7.5.4. Concerns raised by Strand House Management's 2008 submission under P.A. Ref. 4985/08 regarding drainage and flooding are also highlighted. It is noted that while the granted application P.A. Ref. 3579/17 did not include a full basement, the current proposal deviates from established planning criteria, featuring an oversized basement.
- 7.5.5. The appellants assert that the proposed basement does not comply with the requirements of Section 16.10.15 of the Development Plan concerning basements. Insufficient attention is given to the potential impact on the water table and drainage in the communal garden.
- 7.5.6. The appellants point out that the current basement proposal exceeds what previous planning applications have deemed acceptable. Notably, there exists a discrepancy between past and present opinions of the Drainage Division regarding the risk of flooding. Additionally, a nearby proposal submitted under P.A. Ref. 4166/21 at No. 22, Strand Road, was refused permission due to flood risk, while the current proposal with an oversized basement has been granted permission. This inconsistency raises concerns among those potentially affected by it.
- 7.5.7. In line with these concerns, Section 15.8.4 of the Dublin City Council Development Plan refers to 'Basements' and states the following;

*It is the policy of Dublin City Council to generally discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or to protected structures. Development of basements for residential use below the estimated flood levels for flood zone areas 'Zone A' or 'Zone B' will not be permitted (Policy SI20).*

*It is the policy of the City Council that a Basement Impact Assessment (BIA) shall accompany all planning applications that include a basement. A basement or underground development is considered as being an accessible area positioned below the existing street level or ground level and would include any works that will remain permanently in the ground, such as embedded wall construction below the base of the accessible area.*



7.5.8. Section 15.18.11 of the Development Plan refers to Ground Investigation and states the following;

*Any development containing significant excavation including the construction of a basement or any development on brownfield lands should include a ground investigation report to be submitted with an application. This will determine the best practice design based on the soil composition. Where lands are considered unstable or infilled, a strategy for the support and or removal of underground lands shall be provided as part of a planning application.*

7.5.9. Notably, Chapter 15 Table 15-1 sets out development thresholds for Planning Applications and indicates that a Basement Impact Assessment is not required for residential development. Appendix 9 Section 4.0 sets out the content requirements of a Basement Impact Assessment.

7.5.10. The applicant has not submitted a Basement Impact Assessment. However, it should be noted that the application was submitted under the previous Dublin City Council Development Plan 2016-2022, where this policy requirement did not apply at the time of submission. A flood risk analysis, drainage report, and construction impact assessment were submitted with the application. The flood risk analysis affirms that there is no historical record of flooding on the site. Appendix A of the flood risk analysis presents the OPW National Flood Hazard Mapping report (dated 02<sup>nd</sup> Aug 2017), indicating the absence of flooding events pertaining to the site. This appendix also displays extracts from the CFRAM draft maps for the area, illustrating tidal flood risk for a 1:1000 (0.1%) event. The site's outline is highlighted in red to denote its non-flooding status.

7.5.11. The flood risk assessment states that the proposed garden level (front and rear) is planned at c. 3.75 meters above Ordnance Datum (O.D.), while the proposed ground level stands at 4.25 meters O.D. In comparison, the nearest node level for a 1:1000 (0.1%A.E.P.) is 2.61 meters O.D., rendering the ground floor 1.64 meters above this reference level. Erroneously, as highlighted by an appellant, the report states that no basement is part of the proposal.

7.5.12. The Flood Risk Assessment details how, as outlined in "The Planning System and Flood Risk Management - Guidelines for Planning Authorities," the site is positioned within Flood Zone C, indicating a low probability of flooding. The residential



development falls under the category of "vulnerable development," and it conforms to the classification of 'appropriate' for flood zone C, according to Table 3.2 of the mentioned Guidelines. Consequently, no justification test is necessary for this type of development.

- 7.5.13. The assessment asserts that the development will not be subjected to flooding risk, as efforts have been made to minimise this risk to the greatest extent possible. The report concludes that the proposed development is deemed suitable and is not anticipated to cause flooding or negatively affect neighbouring properties.
- 7.5.14. Regarding flood risk, the Council's Drainage Division report raised no objections to the proposed development, contingent upon standard conditions. Among these conditions, it stipulated that in order to mitigate the potential for basement flooding, all internal basement drainage must be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer. This was noted in the Planning Authority report and imposed by way of Condition No. 10 in its grant of permission accordingly.
- 7.5.15. Having reviewed the OPW flood maps, I observe that the site is not located within a designated flood risk zone. In accordance with Section 2.23 of the Planning System and Flood Risk Management - Guidelines for Planning Authorities (2009), the site is located in 'Flood Zone C' where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding). Flood Zone C covers all areas of the plan that are not in zones A or B. As per Section 3.2 of the aforementioned Guidelines, a Justification Test is not required for development on lands situated in 'Flood Zone C'. Given that the site is not located in a designated flood risk zone, the findings of the Council's Drainage Division report, and the conditions imposed by the Planning Authority, I am satisfied that the proposed development would not induce flooding and would ensure the implementation of a drainage system that aligns with the technical requirements of the Local Authority.
- 7.5.16. However, it is important to note that the applicant has not submitted a Basement Impact Assessment, as required by Section 15.18.4 of the Development Plan. This section highlights that basements can impact the environment and nearby structures through various factors, such as geological, hydrological, and hydrogeological aspects. Given the site's proximity to the South Dublin Bay Special Area of



Conservation (Site Code: 000210) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) situated directly across Strand Road on the eastern side, I am of the opinion that a Basement Impact Assessment should be submitted in accordance with Section 15.18.4 of the Development Plan 2022-2028. This matter is further explored below in the Screening for Appropriate Assessment.

## **7.6. Appropriate Assessment**

- 7.6.1. Article 6(3) of Directive 92/43/EEC (Habitats Directive) requires that any plan or project not directly connected with or necessary to the management of a European site(s), but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site(s) in view of the site(s) conservation objectives. The Habitats Directive has been transposed into Irish law by the Planning and Development Act 2000, as amended, and the European Union (Birds and Natural Habitats) Regulations 2011-2015. In accordance with these requirements and noting the Board's role as the competent authority who must be satisfied that the proposal would not adversely affect the integrity of the European site(s), this section of my report assesses if the project is directly connected with or necessary to the management of European Site(s) or in view of best scientific knowledge, if the project, individually or in combination with other plans or projects, is likely to have a significant effect on any European Site(s), in view of the site(s) conservation objectives, and if a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement (NIS) is required.
- 7.6.2. In relation to Appropriate Assessment (AA) Stage 1 screening, the issue to be addressed is whether the project is likely to have a significant effect, either individually or in combination with other plans and projects on European sites in view of the site's conservation objectives. A description of the proposed development is set out in Section 1.0 above.
- 7.6.3. The site is located immediately adjacent to the South Dublin Bay Special Area of Conservation (Site Code: 000210) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), located on the eastern side of Strand Road.



7.6.4. The conservation objectives and qualifying interests of the adjacent Natura 2000 European Sites are set out below.

7.7. **Table 1:**

<b>Name of Site</b>	<b>Conservation Objectives</b>	<b>Qualifying Interests/Special Conservation Interests</b>	<b>Distance</b>
<b>South Dublin Bay Special Area of Conservation (Site Code: 000210)</b>	<ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>▪ Annual vegetation of drift lines [1210]</li> <li>▪ Salicornia and other annuals colonising mud and sand [1310]</li> <li>▪ Embryonic shifting dunes [2110]</li> </ul>	c. 15m to the east of the site.
<b>South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024)</b>	<ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Light-bellied Brent Goose in South Dublin Bay and River Tolka Estuary SPA.</li> <li>▪ To maintain the favourable conservation condition of Oystercatcher in South Dublin Bay and River Tolka Estuary SPA</li> <li>▪ To maintain the favourable conservation condition</li> </ul>	<ul style="list-style-type: none"> <li>▪ Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>▪ Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</li> <li>▪ Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>▪ Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>▪ Knot (<i>Calidris canutus</i>) [A143]</li> <li>▪ Sanderling (<i>Calidris alba</i>) [A144]</li> <li>▪ Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>▪ Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> </ul>	c. 15m to the east of the site.



	<p>of Ringed Plover in South Dublin Bay and River Tolka Estuary SPA.</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Knot in South Dublin Bay and River Tolka Estuary SPA,</li> <li>▪ To maintain the favourable conservation condition of Sanderling in South Dublin Bay and River Tolka Estuary SPA</li> <li>▪ To maintain the favourable conservation condition of Dunlin in South Dublin Bay and River Tolka Estuary SPA</li> <li>▪ To maintain the favourable conservation condition of Bar-tailed Godwit in South Dublin Bay and River Tolka Estuary SPA,</li> <li>▪ To maintain the favourable conservation condition of Redshank in South Dublin Bay and</li> <li>▪ River Tolka Estuary SPA</li> </ul>	<ul style="list-style-type: none"> <li>▪ Redshank (<i>Tringa totanus</i>) [A162]</li> <li>▪ Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>▪ Roseate Tern (<i>Sterna dougallii</i>) [A192]</li> <li>▪ Common Tern (<i>Sterna hirundo</i>) [A193]</li> <li>▪ Arctic Tern (<i>Sterna paradisaea</i>) [A194]</li> <li>▪ Wetland and Waterbirds [A999]</li> </ul>	
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	<ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Black-headed Gull in South Dublin Bay and River Tolka Estuary SPA</li> <li>▪ To maintain the favourable conservation condition of Roseate Tern in South Dublin Bay and River Tolka Estuary SPA</li> <li>▪ To maintain the favourable conservation condition of Common Tern in South Dublin Bay and River Tolka Estuary SPA,</li> <li>▪ To maintain the favourable conservation condition of Arctic Tern in South Dublin Bay and River Tolka Estuary SPA.</li> <li>▪ To maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it.</li> </ul>		
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- 7.7.3. A screening report for Appropriate Assessment or Natura Impact statement was not submitted with the application. In evaluating the proposed development in relation to Appropriate Assessment and the likelihood of a 'Likely Significant Effect' on the adjacent Natura 2000 sites, it is evident that initial screening cannot definitively exclude the need for further assessment. While the absence of a surface water pathway connecting the site with the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA is noted, the possibility of pathways via groundwater cannot be outright dismissed, primarily due to the proximity of the site to the adjacent Natura 2000 sites, being approximately 15 meters away.
- 7.7.4. Taking into account the characteristics of the proposed development, which incorporates a basement and involves foundation works, it is crucial to consider the potential implications of such activities on the hydrological dynamics of the immediate surroundings. The construction of the proposed three-storey over basement level residential apartment block, along with the planned ancillary site development works, has the potential to influence the movement of groundwater and surface water in the vicinity. The infiltration of surface water through the proposed infiltration blankets, coupled with the excavation required for the construction, may introduce changes to the natural pathways and flow patterns of groundwater.
- 7.7.5. Furthermore, the construction impact assessment submitted highlights the presence of two adjacent trunk sewers. The proximity of these sewers to the site poses the necessity of accurate and strategic location of the proposed building to ensure compliance with Dublin City Council's requirements and standards. The detailed process of locating the sewers through ground penetrating radar and excavation attests to the careful consideration required in relation to the placement of the structure in relation to the existing infrastructure.
- 7.7.6. In light of these factors, the complexities introduced by the basement construction, changes to groundwater flow dynamics, and the proximity of crucial infrastructure necessitate a more thorough assessment of potential impacts on the adjacent Natura 2000 sites. It is important to acknowledge that the 'Likely Significant Effect' test requires a comprehensive evaluation of ecological characteristics, conservation objectives, and the potential impacts on the qualifying species and habitats.



- 7.7.7. Given the potential interactions and modifications that the proposed development could introduce to the hydrological and ecological dynamics of the area, it is imperative to adopt a cautious approach in the initial screening phase. While it is not possible to definitively establish a 'Likely Significant Effect' at this preliminary stage, it is my view that a comprehensive Natura Impact Statement is warranted to fully comprehend and quantify the potential impacts on the adjacent Natura 2000 sites. This will enable a more informed determination of the project's compatibility with the conservation objectives of the European sites.
- 7.7.8. On this basis, I conclude that the proposed development cannot be definitively screened out for Appropriate Assessment. The complex interplay between the basement construction, alterations to groundwater dynamics, and the proximity of critical infrastructure necessitates a cautious approach. Consequently, a definitive exclusion of 'Likely Significant Effects' cannot be conclusively established at this stage. Given these considerations, an Appropriate Assessment is warranted to comprehensively assess the potential impacts on the adjacent Natura 2000 sites. Therefore, I consider that significant effects cannot be excluded, and an Appropriate Assessment is required before granting permission. The submission of a Natura Impact Statement (NIS) is required for a comprehensive understanding of the proposed development's implications and to facilitate informed decision-making. This conclusion is based on a thorough review of ecological characteristics, conservation objectives, and the potential impacts on qualifying species and habitats.
- 7.7.9. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, I am not satisfied that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA, or any other European site, in view of the site's Conservation Objectives. In such circumstances, the Board is precluded from granting permission. I recommend, therefore, that the proposed development is refused permission on this basis.

## **8.0 Recommendation**

- 8.1. I recommend that permission be refused for the reasons and considerations below.



## 9.0 Reasons and Considerations

1.	<p>The proposed development, by reason of its location, design, scale, height, and materials, would be visually incongruous and significantly erode the historical and architectural integrity of Nos. 173 and 175 Strand Road, to which the proposed development would adjoin. While not formally designated as Protected Structures, Nos. 173 and 175 Strand Road form a pair of dwellings dating back to the period of 1829-1841, with architectural features that contribute to the historical fabric, character and setting of the Residential Conservation Area in which they are located. The juxtaposition of the proposed development alongside Nos. 173 and 175 Strand Road would be contrary to Policy BHA9 and the principles outlined in Section 11.5.3 of the Dublin City Council 2022-2028, which aim to safeguard non-protected structures that positively contribute to the character of an area.</p>
2.	<p>Having regard to the scale, height, and massing of the proposed development and its extent along the southern boundary, the proposed development would have an unacceptable overbearing impact on adjoining dwelling No. 173 Strand Road. The proposed development would, therefore, seriously injure the residential amenity of the adjoining dwelling, No. 173 Strand Road and would be contrary to the proper planning and sustainable development of the area.</p>
3.	<p>On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the South Dublin Bay Special Area of Conservation (Site Code: 000210) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), or any other European site, in view of the site's</p>



	Conservation Objectives. In such circumstances, the Board is precluded from granting permission.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Brendan Coyne  
Planning Inspector

30<sup>th</sup> August 2023