



An
Bord
Pleanála

Inspector's Report

ABP-314157-22

Development	Demolition of sheds, construction of mixed-use development with retail and 44 apartments and all associated site works.
Location	No. 39-40 Bridgefoot Street, Dublin 8.
Planning Authority	Dublin City Council South.
Planning Authority Reg. Ref.	3950/22.
Applicant(s)	Turvey Manor Ltd.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party.
Appellant(s)	Turvey Manor Ltd.
Observer(s)	1. Pier 19 Management Company
Date of Site Inspection	26 th day of July 2023.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. No. 39-40 Bridge Street, the appeal site has a stated 917.07ha area and it is located on the western side of Bridge Street (R804), c38m to the south of Bridge Street's junction with Ushers Quay (R148) and Mellowes Bridge and c16m to the north of Bridge Street's junction with Usher Street and Island Street, in inner city Dublin.
- 1.2. The site at the time of site inspection was vacant and overgrown containing three attached derelict shed type buildings that consist of exposed steel and part concrete block walls in an L-shape formation. These buildings are setback from the existing roadside boundary of Bridge Street. This boundary consists of tall metal powder coated fencing with a matching in height and material gate located at its northernmost end.
- 1.3. The site is bound by a derelict plot of land on its southern side, a part four and five storey residential development scheme referred to as Pier 19 on its western and northern side. A restricted in width footpath runs along the eastern and southern roadside boundaries of this adjoining plot of land. To the immediate north of the adjoining Pier 19 residential scheme which bounds the northern boundary of the site there is also another derelict plot of land. This plot of land occupies the western corner of Ushers Quay and Bridge Street.
- 1.4. The adjoining Pier 19 residential scheme where it bounds the northeastern corner of the site includes a setback area from the public domain. This setback results in a wider public footpath as well as accommodates vehicle access to the internal courtyard area of this residential scheme.
- 1.5. On the opposite side of Bridgefoot Street there is on-street pay and display car parking. Bridge Street due to its restricted width contains a single operational carriageway that allows for southerly traffic movements from the Ushers Quays (R148) and Mellowes Bridge (R804). Bridge Street itself has a steady stream of traffic connecting to Thomas Street to the south (R810).
- 1.6. The northern end of Bridge Street is predominantly residential in its character, but it also contains an office space, restaurant and retail units including an off-licence, butcher shop and ice-cream shop. In addition, on the western corner of the Bridge Street and Island Street junction is the recently completed Bridgefoot Park.

2.0 Proposed Development

2.1. Planning permission is sought for the following:

- Demolition of the existing derelict sheds.
- Construction of part 7 and part 8 storey mixed use building containing 2 no. retail units and 44 no. apartments. The apartment mix as proposed comprises of 22 no. 1-bed, 19 no. 2-bed and 3 no. 3-bed units, private open space and communal open space, landscaping, bike storage, bin storage, retail storage as well as ancillary works.

2.2. For clarity, the following table sets out the principal characteristics, features, and floor areas of the proposed scheme.

Table 1: Key Statistics (as proposed)

Site Area	917.07ha.
Floor Areas	<p>Demolition: 564.09m²</p> <p>Proposed Mixed Use Building: Gross Floor Area of 4,359.09m² with the retail floor area comprising of 93.7m² of this total (Note: total net floor area is given as 3,799.88m² / footprint of building given as 606.38m²).</p> <p><i>* Note: the drawings submitted show a slightly larger floor area for the two retail units when combined of 94.8m².</i></p>
Residential Units	44.
Residential Density	480 units per hectare.
Site Coverage	66.43%
Plot Ratio	4.75:1
Building Height	Parapet Height of 32.3/9m with a GFL of +5.15 and a SFL of +5.09
Aspect	Dual Aspect: 7
Open Space (Communal)	205.1m ² (22% of given site area)
Car Parking	0
Bicycle Parking	58 cycle spaces.
Motorbike Parking	0

Part V	Social Housing Exemption granted by the City Council on the 8 th day of June, 2022 (Note: P.A. Ref. No. 0151/22).
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2.3. The proposed residential mix is as follows:

Table 2: Summary of Residential Unit Mix

Unit Type	Studio	1-Bed (2 Persons)	2-Bed (3 and 4 Persons)	3+-Bed (6 Persons)
Mixed Use Building	0	22	19 (9 No. 3 Persons & 10 No. 4 Persons)	3
% out of total No. of Apartment Units - 44	0%	50%	43.18%	6.81%

2.4. This application is accompanied by the following documents:

- Housing Quality Assessment
- Design Statement
- Flood Risk Assessment
- Engineering Services Report
- Residential Travel/Mobility Management Plan
- Sustainability Report/Engineering Statement
- Cultural Heritage Desktop
- Landscape Design

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. On the 6th day of July 2022, the Planning Authority issued a decision to **refuse** permission for the following stated reasons:

“1. *Having regard to the height, scale, massing and form of the proposal and its siting forward of the building line on Bridgefoot Street, it is considered that the*

proposed development would constitute overdevelopment of the site, would be visually incongruous in terms of its design, would be out of character with the streetscape and surrounding area and, by reason of its prominence, would be contrary to the protection of the visual amenity of the Liffey Quays Conservation Area. The proposed development would therefore be contrary to the zoning objective and to Chapter 16 of the Dublin City Development Plan 2016-2022, and to the proper planning and sustainable development of the area.

2. *The proposed development, by virtue of a poor provision of dual aspect units, insufficient communal open space, and insufficient cycle parking, would provide a poor standard of residential accommodation for future occupiers. The proposed development would therefore be contrary to the provisions of the Guidelines on Sustainable Urban Housing: Design Standards for New Apartments (2020), the provisions of Chapter 16 of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*
3. *The proposed development is considered to be a poor example of infill development in the city centre by reason of its siting, overall layout, height, and scale, resulting in an overbearing impact on the neighbouring residential properties within the neighbouring Pier 19 residential development. This would be contrary to Section 16.2.2.2 of the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*
4. *The application site includes lands within the ownership of Dublin City Council, lands which have been earmarked for future mobility infrastructure relating to Bridgefoot Street. The development will prevent the deliverability of future mobility infrastructure project and is as such, considered contrary to Policies SC3, MT7 and MT11 and Objective MTO10 of the Dublin City Development Plan 2016-2022.”*

3.2. Planning Authority Reports

3.2.1. **Planning Reports:** The Planning Officer's report is the basis of the Planning Authority's decision and includes the following points:

- Residential and retail are permissible under the site's 'Z5' land use zoning.

- Part of the red line area is in the ownership of the Council for which no consent has been obtained. This land was to facilitate the widening of Bridge Street.
- No upper limit to density on city centre sites subject to qualitative standards.
- The potential for comprehensive redevelopment of this site and neighbouring site to the south is recognised.
- The site is in the 'Low Rise' "rest of the city" location. The height of 27.74m is inconsistent with local and national planning provisions for taller buildings.
- The proposed building would be set forward of the established building line.
- The upper floors of the proposed building overhangs public land without consent.
- No contextual elevations of a daylight/sunlight analysis have been provided.
- The overall scale and height are excessive for the site's context.
- The use of gold tone Swiss Panelling is out of character with the area.
- The proposed building would be highly visible from the north quays and would dominates the prevailing scale of this part of Bridgefoot Street.
- While not forming part of the Liffey Quays Conservation Area the proposed development would be highly visible from it.
- Concern is raised in relation to the number of dual aspect apartment units.
- The communal open space is of inferior quality.
- No archaeological assessment has been provided.
- Inadequate number of cycle spaces proposed.
- The location is suitable for car free development.
- No construction traffic management plan has been provided.
- No flood risk, drainage or AA issues arise.
- The proposed building would be 3 to 4 storeys above adjacent buildings and would result in a visually unacceptable relationship and poor built form of development.
- The proposed development would be contrary to the Development Plan provisions.
- Concludes with a recommendation of refusal.

3.3. Other Technical Reports

Drainage: No objection, subject to safeguards.

Transportation: Concludes with a request for further information in relation to the site including lands within the ownership of the City Council without its consent and the fact this land is earmarked for future mobility infrastructure improvements.

Archaeology: Concludes with a request for further information based on the potential of the site to contain subsurface archaeology.

3.4. Prescribed Bodies

3.4.1. None received.

3.5. Third Party Observations

3.5.1. Two Third Party Observations were received by the Planning Authority during its determination of this application. The concerns raised correlate with those raised by the Third Party in their observation submission to the Board which is summarised under Section 6 of this report below.

4.0 Planning History

4.1. Site

- **ABP.PL29S.223337 (P.A. Ref. No. 6361/06)**

On appeal to the Board permission was **granted** subject to conditions for a development consisting of ear of the existing apartment building (Pier 19) on Island Street to the junction with Bridgefoot Street and north along Bridgefoot Street as far as the boundary with the existing Pier 19 apartment development. Mixed use development comprises 41 residential units above ground floor, commercial (office) space (80.4sq.m gross floor area) at first floor, Retail space (842sq.m gross floor area) and associated shopfronts and signage at ground floor level with mezzanine level (100sqm), private basement carparking of 41 car spaces for residential use and an ESB substation accessed from Bridgefoot Street. The mix of apartments is 13 three bed units of 100sq.m and greater and 28 two bed units of 80sqm and greater. Private

open space for the residential units will be provided in private balconies, a large courtyard at first floor level and shared roof terraces. The development involves the demolition of the existing storage buildings in the yard area and boundary walls, as well as gates, railings, boundary walls, temporary buildings on the corner site which is in the ownership of Dublin City Council. The development will comprise a 13-storey tower on the corner of Island Street and Bridgefoot Street, a block of 6 storeys aligned north south along Bridgefoot Street, a block of 6 storeys aligned east west along Island Street and a block at the rear of 6 Storeys parallel to Island Street with 1 storey of underground car parking. The ground floor of the development substantially covers the site with retail accommodation extending to street frontages. A new vehicular entrance to the private underground car park will be located on Island Street. Pedestrian access to the car park will be via entrances on Island Street and Bridgefoot Street. Pedestrian access to the residential and Commercial units will be via entrances off Island Street and Bridgefoot Street, cycle parking and refuse storage is provided in the car park areas and on the ground floor. As part of the development the building will set back from the site boundaries on Bridgefoot Street and Island Street to enable the footpaths to be widened and create a space to the south of the site for tree planting and seating. Further environmental improvements comprising hard and soft landscaping, including tree planting, public lighting, street furniture and all associated site works are proposed.

This grant of permission related to a larger site area than that which relates to this application with it including the derelict piece of land to the immediate south. The requirements of the following conditions are in my view of note:

Condition No. 2: It omitted the top six floors of the proposed tower in the southeast corner of the site.

Condition No. 3: Limited the number of apartment units to 32.

Decision date: 27th day of November 2007.

* Note: Extension of time **refused** for grant of permission ABP.PL29S.223337 (P.A. Ref. No. 6361/06). Decision date: 10th day of January 2013.

5.0 Policy Context

5.1. Local

5.1.1. Development Plan

Since the Planning Authority issued a notification of decision to refuse permission for the proposed development, a new development plan has been adopted. Therefore, the relevant development plan for the assessment of this application is the Dublin City Development Plan, 2022-2028, which came into effect on 14th December, 2022.

The site is zoned 'Z5 – City Centre' and the stated zoning objective for such land is: *“to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.”*

This appeal site forms part of the land area defined by the Liberties Local Area Plan, 2009, which expired in May 2020, which now forms part of Strategic Development Regeneration Area 15 - Liberties and Newmarket Square (SDRA 15).

The site is located within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Historic City), which is listed on the Record of Monuments and Places (RMP) and is situated in close proximity to the southern boundaries of the Liffey Quays Conservation Area.

Chapter 5 of the Development Plan relates to Quality Housing and Sustainable Neighbourhoods.

Chapter 15 outlines the Plan's development management standards:

- Section 15.5.1 - Brownfield, Regeneration Sites and Large-Scale Development.
- Section 15.5.2 - Infill Development.
- Section 15.8.6 and 15.8.7 Public Open Space/Financial Contributions in Lieu of Open Space.
- Section 15.9 - Apartment Standards.
- Section 15.9.1 - Unit Mix.
- Section 15.9.3 - Dual Aspect.
- Section 15.9.16.3 – Noise.

- Appendix 3 outlines the Development Plan’s policy in relation to building height, plot ratio and site coverage.
- Appendix 16 outlines the requirements in terms of sunlight and daylight.

5.2. Regional

- 5.2.1. The ‘**Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031**’ supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government, by providing a long-term strategic planning and economic framework for the region. The site is also located within RSES defined Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP) and key principles of the MASP include compact sustainable growth, accelerated housing delivery, integrated transport, and land use, through to the alignment of growth with enabling infrastructure. Of further note RSES’s RPO 3.2 promotes compact urban growth and sets out a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city and its suburbs, while a target of at least 30% is required for other urban areas.

5.3. National

- 5.3.1. The following are of relevance to the consideration of the proposed development:

- **Project Ireland 2040 - National Planning Framework**

Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and sets out a ten-year National Development Plan (NDP). This document encapsulates the Government’s high-level strategic plan for shaping the future growth and development of Ireland to the year 2040, and within this framework Dublin is identified as one of five cities to support significant population and employment growth.

The NPF supports the requirement set out in the Government’s strategy for ‘*Rebuilding Ireland: Action Plan for Housing and Homelessness*,’ 2016, in order to ensure the provision of a social and affordable supply of housing in appropriate locations.

National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF. Of note NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Other NPOs of relevance to this appeal include NPOs 3(a) which seeks to provide 40% of homes in existing settlement footprints; 3(b) which seeks to provide 50% of new homes in the five largest cities, including Dublin; 4 which seeks attractive, liveable, and well-designed urban places; 13 which sets out development standards; 27 which deals with the matter of transport alternatives) and 35 which deals with the matter of increased densities.

Overall, the NPF seeks densification, compact growth, and efficient use of serviced land at appropriate locations.

- Other relevant provisions and guidance include:
 - Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022).
 - Urban Development and Building Heights, Guidelines for Planning Authorities (2018).
 - Best Practice Guidelines for Delivering Homes, Sustaining Communities – Quality Housing for Sustainable Communities (2007).
 - Retail Planning Guidelines, (DECLG, 2012).
 - Retail Design Manual, A Companion Document to the Retail Planning Guidelines for Planning Authorities, (DECLG, 2012).
 - Design Manual for Urban Roads and Streets (DMURS) (2019).
 - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009).
 - The Planning System and Flood Risk Management - Guidelines for Planning Authorities, including the associated Technical Appendices (2009).
- Other planning guidance and strategy documents of relevance include:
 - Climate Action Plan (2023).

- Places for People – National Policy on Architecture (2022).
- Housing for All – A New Housing Plan for Ireland (2021).
- Part V of the Planning and Development Act 2000 - Guidelines (2017).
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016).
- Framework & Principles for the Protection of Archaeological Heritage, 1999.
- Cycle Design Manual, 2023.

5.4. Natural Heritage Designations

5.4.1. The site is a brownfield site that is not located within or close to any European site. The closest Natura 2000 sites are South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) which is located c3.75km to the north east of the site at its nearest point and South Dublin Bay SAC (& pNHA) (Site Code: 000210) which is located c4.63km to the east of the site at its nearest point.

5.4.2. I note that the site is located c1.6km to the north of pNHA Grand Canal (Site Code: 0021041).

5.5. EIA Screening

5.5.1. An Environmental Impact Assessment Screening report was not submitted with the application. I identify the following classes of development in the Planning and Development Regulations 2001, as amended, as being of relevance to the proposal:

- Class 10(b) relates to infrastructure projects that involve:
 - (i) Construction of more than 500 dwelling units.
 - (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Class 14 relates to works of demolition carried out to facilitate a project listed in Part 2 of Schedule 5 where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7 of the Regulations; and

- Class 15 relates to any project listed in Part 2 which does not exceed a quantity, area or other limit specified in that Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.5.2. Having regard to the following:

- The nature and scale of the proposed development, with this including the demolition of 564m² and the construction of a mixed-use building with a gross floor area of 4,359m² containing two retail units and 44 apartment units, which is significantly below the mandatory thresholds in respect of Class 10 Infrastructure Projects of the Planning and Development Regulations, 2001, as amended.
- The mixed use residential and retail nature of the proposed development with the retail units (Note: having a total floor area of 93.7m²) which is not a project type that would give rise to waste, pollution or nuisances that differ from that arising from other residential developments in the receiving environment, or that would give rise to a risk of a major accidents or risks to human health.
- The nature of the site which could be described as a brownfield site containing the shells of three derelict warehouse buildings thereon in the inner Dublin city centre.
- The location of the site on lands that are City Centre zoned (Note: 'Z5') under the Dublin City Development Plan, 2022-2028, and the results of its accompanying strategic environmental assessment of the said Development Plan carried out in a manner that accords with the SEA Directive (2001/42/EC).
- The location of the site within an inner city urbanscape that is predominantly built up with the immediate context containing mainly residential, retail, and commercial land uses that are served by public infrastructure, including water and drainage by Irish Water and the City Council, upon which the proposal would have marginal effects.
- The pattern of high-density residential development that is characterising residential development in this locality together with this long history of development in this historic inner-city location.
- The location of the site outside of any sensitive location specified under Article 109 of the Planning and Development Regulations, 2001, as amended, (including any designation protecting the landscape, natural or cultural heritage), the mitigation

measures proposed to ensure no connectivity to any such sensitive location and, due to the absence of any ecological and/or hydrological connection, the project not being likely to have a significant effect on any European Site.

- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development' issued by the Department of the Environment, Heritage, and Local Government (2003).

- The criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended.

5.5.3. In conclusion, I concur with completed Form 2 on file, that having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

5.6. **Built Heritage**

5.6.1. The site is within the 'Zone of Archaeological Constraint' for Recorded Monument DU018-020 (Historic City).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The First Party grounds of appeal can be summarised as follows:

- The Board is sought to overturn the Planning Authority's decision.
- There is precedent for granting a building of the same or similar height at this site and there are varying building heights in this area.
- The height proposed would not overwhelm neighbouring buildings or its context.
- This proposal achieves the required dual aspect for the apartments units proposed.
- There is flexibility to relax the provision of communal open space in these circumstances.
- The communal space proposed will provide quality space for future residents.

- It is unclear as to why the assessment of the bicycle space provision is assessed having regard to national guidelines.
- This proposal respects the Development Plans provisions for infill development.
- This proposal envisages a contemporary revival of the existing site which would positively contribute to the local area and the chosen materials would give the building a high-quality architectural expression.
- A refusal reason based on proximity or overhanging of a building should not be accepted. This matter could have been dealt with by way of further information.
- A revised proposal setting back the building to address this concern is provided. This results in the following mix:
 - 2 No. retail units
 - 12 No. Studio Apartments
 - 19 No. 1 Bed Apartment (2 persons)
 - 3 No. 2 Bed Apartment (3 Persons)
 - 7 No. 2 Bed Apartment (4 Persons)
 - 3 No. 3 Bed Apartment (6 Persons)
 The overall building height is unchanged.
- The increase in density on the subject site will contribute positively to the surrounding area and creates a much-needed opportunity for the aging population to downsize by creating other housing opportunities in this area whilst at the same time providing units for families and working professionals.
- The Planning Authority should have afforded an opportunity to address their concerns by way of further information.
- The proposed development is an efficient use of land that accords with local and national planning provisions as well as guidance.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response includes the following points:

- The Board is sought to uphold its decision.

- While the revisions do not overcome the visual appearance and dominance of the proposed building as well as the issue of overdevelopment of the site.
- Their second and third reason for refusal remains as a concern.
- They have received no comments from their Transportation Division in relation to the revisions that seek to address the fourth reason for refusal.
- Should permission be granted a Section 48 contributions are applicable as well as conditions requiring the payment of a bond, financial contribution payment *in lieu* of open space and social housing be imposed.

6.3. Observations

6.3.1. The Third-Party Observation includes the following points:

- The Board is sought to uphold the Planning Authority's decision.
- Concern is raised that the appellant has submitted significant revisions as part of their appeal submission.
- The proposed development would give rise to negative impacts on its setting by reason of its density, height, massing, scale, and proximity to their property.
- The Liffey Quays Conservation Area and Mellows Bridge Protected Structure which forms part of the site setting would be visually diminished by the proposed development.
- The density of 481+ units per hectare and a plot ratio of 4.87 is grossly at odds with its setting.
- The communal open space is of inferior quality for future occupants.
- The proposed quantum of development outweighs what this site can deliver.
- The proposed building would be four storeys higher than their Pier 19 property. If permitted, it would give rise to an abrupt transition in height in a manner that would give rise to negative impacts on its surroundings by way of overbearing, overshadowing, and overlooking.
- This proposal is entirely dependent on the on-road parking spaces. A basement should have been included which could have offered car parking, bin storage,

bicycle storage, etc. to meet the needs of future retail and residential development occupants.

- National planning provisions supports performance based qualitative planning outcomes for taller buildings.
- The examples given in support of the proposed development are not comparable to the context of this site.
- The appellant has a misinformed understanding on the meaning of dual aspect.
- Inadequate cycle parking is proposed to serve the proposed development.
- There is a need for a balance between the right of the appellant to develop their site and the rights of adjoining as well as surrounding properties to expect reasonable protection of their established amenities. This development does not achieve a reasonable balance.
- The proposed development would give rise to an undesirable precedent.

6.4. Other

- 6.4.1. The Board referred this appeal case to the DAU, The Heritage Council and An Taisce, however, no responses were received.

7.0 Assessment

7.1. Preliminary Comment

- 7.1.1. Having examined the application and appeal documentation on the case file, including the planning authority reports, submissions received from third parties and prescribed bodies together with having inspected the site and had regard to the relevant local through to national planning policies and guidance, I consider that the main issues in this appeal case relate to the four reasons of refusal given by the Planning Authority in their decision notification for the proposed development and the amenity impact concerns raised by the observers to this appeal.
- 7.1.2. I also consider that there are concerns arising from matters which the Planning Authority considered that further information would be required for an informed decision to be made on the proposed development. In particular, in relation to the

matters of archaeological impact of the proposed development on the site and in relation to the proposed developments inclusion of a circa 83m² linear strip of land without the landowner's consent.

- 7.1.3. In addition, the First Party Appellant as part of their appeal submission have submitted revisions to the proposed development to overcome some of the Planning Authority's concerns which resulted in the refusal of permission for the proposed development.
- 7.1.4. This amended design option comprises of the setting back the eastern elevation, i.e., the principal façade of the proposed eight storey building, from the public domain of Bridgefoot Street and a more significant setting back of the first-floor level and above by removing the overhanging of the public footpath included as part of its overall built form and design features. Thus, seeking to address the loss of these City Council owned lands from future mobility infrastructure improvements proposed along the western side of Bridgefoot Street. This was a substantive concern of the City Council that gave rise to their fourth reason for refusal of the proposed development.
- 7.1.5. Despite the total number of apartment units proposed being unchanged this revised design includes a notable change to the apartment mix, however, the revised gross and nett floor areas of the proposed building as amended is unclear.
- 7.1.6. I am cognisant that the Third-Party Observers in this appeal case object to the Board considering this revised design, including on the basis of public participation concerns this would give rise to and they raise concerns that the revised design does not overcome any of their amenity impact concerns in terms of their property nor does it overcome the adverse impact it would give rise to on its setting.
- 7.1.7. Notwithstanding these concerns, I am of the view, that the proposed amendments to the development set out by the appellants in their submission are such that they would not normally give rise to significant additional considerations for Third Parties. This is on the basis that the amendment proposed comprises of the setting back of the proposed eastern elevation of the building from the public domain of Bridgefoot Street. This setback therefore gives rise to an improved relationship with the adjoining public domain but also the property to the south. The latter by way of the revised buildings reduced depth of its southern elevation, i.e., 21.33m to 19.09m. The overall height of the building relative to this adjoining property who are not party to this appeal remains unchanged. There is no increase in apartment or retail unit number. The adjoining

western and northern bounding property are an active party in this case as are the City Council. Both have had the opportunity to comment on the amended proposal put forward by the appellant in their appeal submission to the Board.

7.1.8. Accordingly, I have no objection to the consideration of these revisions as part of the assessment of this appeal case and I consider that the inclusion of an amended design option is not an uncommon practice in the appeal process to address and overcome reasons given by the Planning Authority for refusal. In this case I am satisfied that adequate opportunity has been afforded to parties with significant interest for comment on the amended design and I have no objection to its consideration as part of my assessment of this appeal case below. However, my assessment primarily focuses on the proposal as submitted to the Planning Authority given that the amended design option lacks clarity on certain matters and as discussed below it does not overcome substantive concerns arising from the proposed development overall.

7.1.9. I therefore propose to examine the proposed development under the following broad headings:

- Civil Matters
- Principle of Development
- Quantum of Development
- Visual Amenity Impact
- Residential Amenity Impact
- Traffic and Transportation
- Demolition Works and Archaeology
- Flooding and Drainage
- Other Matters Arising

7.1.10. The matter of '*Appropriate Assessment*' also requires examination. This I propose to address at the end of the assessment below.

7.1.11. For clarity I note to the Board when the Planning Authority determined this case and when the Board received the appeal submission and observations the Dublin City Development Plan, 2016-2022, was in place. In the interim time, the Dublin City

Development Plan, 2022-2028, has been adopted under which the 'Z5' land use zoning of the site has remained unchanged. Notwithstanding, the site now forms part of SDRA No. 15 and there are more robust residential, height, density, built heritage, climate resilience development management and guidance measures in place under this plan when compared with the previous Development Plan. With Chapter 2 of the new Development Plan setting out that the core strategy seeks: *"to guide the spatial direction of future development and regeneration in the city in line with the principles of compact growth"* and it sets out that the key objective of the core strategy is to ensure that quantum and location of development is consistent with national and regional policy which I note have significantly evolved since the adoption of the Dublin City Development Plan, 2016-2022.

7.1.12. In this context I also note that the changed local, regional, and national planning policy provisions and guidance context is also of relevance in the consideration of the site and its setting planning history.

7.1.13. In addition, having regard to the planning history pertaining to No. 39 to 40 Bridgefoot Street considerable time has elapsed since the Board determined a previous planning application for the redevelopment of this site in 2006 (Note: ABP.PL29S.223337 (P.A. Ref. No. 6361/06)), which I also note to the Board related to a larger site area that included the adjoining site to the south. Moreover prior to expiration of this grant of permission was refused for an extension of time based on the significant changes that had occurred to planning policy provisions and guidance relevant to this type of development at this location with the development not being consistent with the relevant changes that had occurred. I therefore do not accept the First Party's argument that this long elapsed grant of permission is a positive planning precedent that justifies a tall building on this site at a similar or greater height to what was permitted previously on part of this site.

7.2. Civil Matters

7.2.1. Of concern the redline site area includes lands that are in the City Council ownership. The documentation submitted with the planning application and on appeal do not demonstrate any consent for the inclusion of this land. The appeal documentation includes a drawing that a right-of-way was granted over a linear strip of land that effectively followed the setback of the Pier 19 development from the public domain

running along the western side of Bridgefoot Street to the southern boundary of the site. This linear strip of land I estimate as equating to circa 83m² area out of the overall site area which is given as 917.07m². The City Council who are party to this appeal indicate they have not given consent at any time for the inclusion of this land, nor do they indicate a willingness to give consent at any point in the future to include their land if the proposed development sought under this application were permitted.

7.2.2. I am cognisant that matters in relation to ownership and legal consents are considered to be civil matters outside the remit of this planning appeal with Section 34(13) of the Planning and Development Act, 2000, as amended, stipulating that a person shall not be entitled solely by reason of a planning permission to carry out any development. Notwithstanding the provisions of Section 34(13) of the said Act, in this case, I am not satisfied, based on the information provided with this planning application and on appeal, that the applicant has accurately set out the red line area of the site; they have not demonstrated sufficient legal interest to make this application in relation to the red line area that is indicated as the site area and in turn they have not demonstrated that they can carry out the development as sought. For clarity, I consider that this is also the case for the amended design submitted to the Board as part of the amended setback front building line would still appear to slightly encroach onto what would appear to be land in the City Councils ownership.

7.2.3. Accordingly, I am not persuaded to conclude that this planning application is consistent with the requirements of Section 22 of the Planning and Development Regulations, 2001, as amended, and that the inclusion of a precautionary advisory note referring to the provisions of Section 34(13) of the PDA is sufficient to overcome this concern should the Board be minded to grant permission.

7.3. **Principle of the Proposed Development**

7.3.1. **Demolition:** As part of facilitating the redevelopment of the subject site demolition is sought for all existing buildings on site. The submitted documentation indicates that these buildings have a total 564.09m² floor area and ancillary to this would be the removal of ancillary structures, hardstand, and planting. The existing buildings on site comprise of mainly concrete block and steel support structures that are because of their long-term vacant state of the shed type buildings thereon. The lack of upkeep of the group of three shed building means that they are now open to the weather. What

remains on site are in my view decayed shells of the former shed structures. They are no built heritage or other merit. They are sited in an L-shaped pattern bounding the western, southern, and northern boundary of the site with staggered eastern elevations setback from the western side of Bridgefoot Street. They do not positively contribute to the visual amenities of their streetscape setting, including that of Island Street and Bridgefoot Street Park to the south. The remainder of the site contains decayed hardstand and *ad hoc* wind-blown planting of no biodiversity or other merit.

The combined vacant derelict overgrown appearance of the site together with its tall powder coated metal fencing, which in itself is visually incongruous within its city centre setting, do not add to the visual qualities and character of Bridgefoot Street or Island Street. But rather when taken together with the vacant and unkempt nature of the adjoining site to the immediate south and the derelict nature of the land immediately adjoining the Pier 19, reinforces the lack of visual vibrancy and vitality of the western stretch of Bridgefoot Street between Island Street to the south and Ushers Quay (R148) to the north.

It also reinforces the poor-quality public realm on this stretch of Bridgefoot Street with Pier 19 not only being the only active land use present but also contains the only setback along this stretch of Bridgefoot Street increasing the width of the public domain.

As such this setback has a negative sense of enclosure being bound on its northern and southern side by vacant plots of urban land in various states of upkeep.

This contrasts with the opposite side of Bridgefoot Street that contains no derelict or underutilised land. It also contains a mixture of land uses between its ground and upper floor levels with the buildings along it having zero setback from the public domain and forming a strong built edge with their consistent building heights, palette of materials, shared front building line through to the lack of any spaces in between these buildings.

In relation to the Development Plan the 'Z5' land use zoning objective of the site I note that it seeks in part to facilitate development in the central area. In addition, Policy QHSN8 of the Development Plan states that the City Council will seek: "*to promote measures to reduce vacancy and underuse of existing building stock*".

Similarly, I note that Section 2.2 of the National Planning Framework advocates the better use of under-utilised land and buildings, including ‘infill’ and ‘brownfield’ locations.

Further, the Development Plan’s core strategy seeks compact, higher-density and more efficient sustainable development of urban land in a manner consistent with regional and national planning provisions.

Despite the Developments Plan support for reusing existing buildings, including for environmental reasons, the existing buildings are in a decayed state and provide no functional useable floor area suitable for any uses that are deemed permissible and/or open to consideration on ‘Z5’ zoned land. There is no structural impact survey that would indicate that the reversal of the derelict and poor condition of these buildings would untap the latent potential of this site in a manner that could be considered as consistent with local through to national planning provisions for this inner city highly accessible site that forms part of a Strategic Development Regeneration Area No. 15.

Accordingly, I have no objection in principle to the demolition of the existing buildings and associated site clearance that would facilitate the redevelopment of this site with viable land use consistent with that permissible under the Development Plan for ‘Z5’ zoned land and its location as part of SDRA 15, subject to safeguards.

7.3.2. **Land Use Zoning:** Planning permission is sought for the construction of a mixed use eight storey building together with its associated site works and services.

The site, the urban block it forms part of, and the land on the opposite side of Bridge Street is zoned ‘Z5’, i.e., City Centre, the objective for such zoned land is: “*to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*”.

Section 14.7.5 of the Development Plan sets out that the: “*primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development*” and that the strategy for this land: “*is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night*”.

In ‘Z5’ zoned land the Development Plan sets out a general mix of land uses such as retail, commercial, residential are set out as being desirable throughout the area and

active, vibrant ground floor uses are promoted. With both '*Residential*' and '*Retail*' land uses listed as being permissible on such zoned land.

The Development Plan also advocates a mixture of uses occurring both vertically and horizontally through the floors of buildings on '*Z5*' zoned land. The design resolution for this proposed mixed use seeks to maintain the two retail units on the southern side of the Bridgefoot Street elevation with the remainder of the ground and upper floors in residential use.

Given the modest area of the site and given that the Development Plan indicates that this mixture is desirable and not mandatory I consider that this is not a substantive issue of concern in relation to the proposed development sought under this planning application or as amended in the revised scheme submitted as part of the appellants appeal submission.

However, I do consider it a concern that the two retail units themselves provide a relatively small floor area when combined having a floor area of 94.8m² as indicated in the ground floor level drawings submitted. Thus, having regard to the net floor area of the building the proposed retail element would only relate to 2.49% of its nett floor area.

As such I question that the provision of such a small quantum of a functional different use in order to be consistent with the mixed-use character of buildings encouraged on '*Z5*' zoned land. In my opinion such a modest provision of a second use is not in the spirit of the Development Plan objective for this city centre land. Nor is the treatment of the ground floor level addressing Bridgefoot Street with the northern half of this elevation which contains a blank frontage accommodating access to a retail bin store and switch room (Note: circa 9.576m) with this accounting for c36% of the ground floor street frontage consistent with the provision of active and vibrant ground floor uses on '*Z5*' zoned land.

The proposed 44 apartment units sought under both the planning application as submitted to the Planning Authority and as amended in the design option put forward to the Board by the appellant in their appeal submission would undoubtedly reverse the vacant state of the site. It would also reinforce this growing residential neighbourhood positively in a manner that is generally consistent with the land use planning provisions of the site as set out in the Development Plan and as discussed

below with what is envisaged for SDRA 15, subject to qualitative safeguards being achieved.

But also, it would be consistent with National Policy Objective 2a which targets of 50% of future population and employment growth will be focused in the existing five cities and their suburbs. In addition, National Policy Objectives 3a, 3b and 3c which similarly encourages new homes nationally within the built-up footprint of existing settlements.

I consider it is also appropriate in terms of the land use consideration of the proposed development at this site to have regard to the fact that a linear strip of land running alongside what is indicated as the public footpath of Bridgefoot Street forms part of red line area and is in the ownership of the City Council as well as is earmarked for future mobility infrastructure improvements.

This I note to the Board is shown in Chapter 13 Figure 13-15 of the Development Plan which sets out the guiding principles for Strategic Development Regeneration Area 15 – Liberties and Newmarket Square. In Figure 13-15 it is indicated that along the length of Bridgefoot Street ‘greening, cycling & pedestrian corridor’ improvements.

Against this context I consider that the principle of any development on this land, including what appears to be a level of encroachment from both the proposed development as submitted to the Planning Authority and in the amended design submitted as part of the appeal submission is not acceptable. I also do not consider that the oversailing of the proposed building above ground floor level as shown in the documentation accompanying the application as submitted as part of the planning application over City Council land earmarked for these improvements is similarly not acceptable.

Moreover, any overhanging and/or oversailing *albeit* not as significant in the amended design proposal when taken together with the lack of any robust qualitative improvements to the public domain, with the arising adjoining footpath simply being designed to accommodate a pickup area for bin trucks, and not including any future proofing on foot of consultation with the City Council to achieve any greening, cycling and/or coherence in the design of the pedestrian corridor envisaged along this stretch of Bridgefoot Street. A street that provides a strategic link between regional roads, in particular the R148, the R804 and the R810 as well as provides linkage to the city quays corridors, key amenities, services, and other key destinations of attraction.

On this point I also note that the Development Plan under Policy SMT9 does encourage and facilitate the co-ordinated delivery of high-quality public realm in tandem with new developments throughout the city in collaboration with private developers through the Development Management process. Alongside this various other Development Plan policies and objectives seek to achieve public realm and mobility improvements. In particular I draw the Boards attention to:

- Policy SMT11 which seeks to improve the pedestrian network.
- Objective SMTO2 which also seeks improvements to the pedestrian network.
- Policies SMT8 and SMT10 which seek public realm enhances and the co-ordinated delivery of high-quality public realms including with private developers through the development management process.
- Policy SMT12 which seeks to enhance the attractiveness and liveability of the city through the continued reallocation of space to pedestrians and public realm as well as to provide a safe and comfortable street environment.
- Policy SMT13 which seeks to support the role of urban villages in contributing to the 15-minute city through improved connectivity and facilitating the delivery of public realm enhancement.

It is also highly relevant that the Planning Authority's fourth reason for refusal is based on the concern that the site includes lands outside of the applicant's interest that is earmarked for future mobility infrastructure relating to Bridgefoot Street and that this proposed development they consider would prevent the deliverability of the future mobility infrastructure project in a manner that would be contrary to the above local planning policy provisions. In this regard, the policy provisions under the previous Development Plan are similar to those above but crucially the new Development Plan policy and objectives are more robust and expansive in terms of achieving such public realm and mobility infrastructure qualitative improvements during the lifetime of the Development Plan.

In conclusion, taking the above into consideration while the reversal of the derelict nature of this site and the provision of a mixed-use building comprising of retail and residential uses generally accords with the principle of development on this 'Z5' zoned land is in my view only acceptable subject to the exclusion of the City Council's linear

strip of land. This together with the other concerns raised could be dealt with preferably by way of a revised design as opposed to the inclusion of conditions. The revised design included with the appellants appeal submission does not categorically prove that it achieves this exclusion.

7.3.3. **Principle of Development - Strategic Development Regeneration Area 15 - Liberties and Newmarket Square**

This appeal site forms part of the land area defined by the Liberties Local Area Plan, 2009, which expired in May 2020, and under Section 13.17 - SDRA 15 the Development Plan seeks to incorporate elements of the expired plan that have yet to be realised. The stated objective for this SDRA: *“to recognise the unique role the Liberties plays in Dublin’s character and to ensure that regeneration safeguards the Liberties’ strong sense of community identity and cultural vibrancy into the future”*.

In this area the Development Plan recognises that there are still opportunities for urban consolidation, regeneration, and enhancement.

These are set out under the guiding principles for this Figure 13-15 in Chapter 13 of the Development Plan.

In terms of land use this SDRA area is considered to have a varied land use mix which is recognised as contributing to this area’s overall character.

Against this context I consider that the proposed mixed retail and residential building sought under this application would be consistent with the character of this area. On the basis that the two retail units at ground floor would add to the potential for more varied retail offer for residents and visitors to this area. In addition, the retail units would enliven and add to the functional vibrancy to their streetscape scene encouraging additional footfall along this stretch of Bridgefoot Street.

To this the apartment units proposed would add to the residential opportunities for those wishing to live in this area either locally generated or for those seeking to move into this inner-city area. They would also further reinforce the residential community that exists in the Liberties area, an area of Dublin that has a growing residential population. In addition, they would cumulatively add to the efficiencies of scale that support public services, transportation, and amenities within the inner city of Dublin.

In terms of height 6 to 8 storey buildings are the benchmark height for new development in this area. This is however subject to safeguards including design and qualitative considerations for the building itself and for its setting.

Appendix 3 of the Development Plan and the Guiding Principles Map also sets out an indication of potential heights for the different character areas within this area. Having regard to Figure 13-15 I note that the site is not located in one of the character areas identified for increased building heights above benchmark heights.

In relation to design it seeks to ensure that the individual character of areas within the Liberties is protected as well as enhanced by contemporary and high-quality design of new buildings.

It also seeks to ensure that new buildings respond to the scale and grain of the prevailing character of their particular street.

Of concern the prevailing scale of the urban block in which the site forms part of is four to five storeys in terms of maximum height with the block on the opposite side as addressing the eastern side of the adjoining stretch of Bridgefoot Street that extends from Ushers Quay and Usher Street being four to six storeys in terms of maximum height. With the six storey elements largely setback with smaller footprints to floors below.

Of additional concern the mixed use building as proposed and as amended by way of documentation included with this appeal does not seek to correspond its front building line with Pier 19 the adjoining development to the north fronting onto the western side of Bridgefoot Street. On this point I note that a less generous in width public domain is proposed. This lack of front building line coherence with Pier 19 has the potential, if permitted, to compromise achieving qualitative future public realm and mobility infrastructure improvements along the northern stretch of Bridgefoot Street. The jagged building line that has the potential to result would also be an adverse precedent for the future development of the site to the north of Pier 19 and to the south of the site. Further, it would result in less generous views and vistas in a southerly direction from Mellowes Bridge, a Protected Structure, and views of Bridgefoot Streets streetscape scene as viewed from the historic River Liffey quays to the north which form part of a Conservation Area that extends southwards in close proximity to the subject site. Moreover, Bridgefoot Street has been subject to significant

enhancements in recent years by way of widening the public realm of Bridgefoot Street incorporating greening, cycling and improved pedestrian corridors. These improvements in my view provide an indication of what is envisaged by the City Council in terms of the greening, cycling and pedestrian corridor interventions where possible for Bridgefoot Street under Figure 13-15 of the Development Plan. Ideally it would be preferable that these improvements are provided in a coherent and qualitative manner along Bridgefoot Street.

In addition, the improvements to Bridgefoot Street in the vicinity of the site includes a recently completed contemporary high-quality park on the corner of Island Street and Bridgefoot Street which is situated circa 33m to the south of the site.

In terms of Green Infrastructure, it seeks to support the Liberties Greening Strategy with this including opportunities for biodiversity enhancement, SuDs interventions and increasing tree canopy coverage of the area.

Whilst the proposed development provides communal open space at ground floor level to the rear of the site. With this including tree planting and a sedum roof over the single storey structure in the southwestern corner of the site. Notwithstanding, a more qualitative provision of open space amenity could have been considered for future occupants at roof level of this proposed part seven and part eight storey in height building as part of maximising the potential of the proposed buildings built form.

In addition, rainwater harvesting through to consideration of a more meaningful setback of the building to correspond with the front building line of Pier 19 potentially would give rise to opportunities for greening of Bridgefoot Street along its roadside frontage. The latter greening design measure would have been consistent with the guiding principles set out under Figure 13-15 of the Development Plan for this locality within SDRA 15.

Moreover, it would also have been consistent with the enhancement and improvements to the public domain to the south of the site along Bridgefoot Street and within this locality. I also note a concern that the landscaping scheme appears to show a tree planting scheme that has the potential to oversail and/or encroach adjoining properties.

SDRA 15 also seeks to create high quality cycle and walking routes that connect to existing and emerging public open space provision. These routes should be the subject of greening, where possible.

This adds to the concerns already raised in terms of the interface of the proposed building, the public realm, and the cycling as well as pedestrian improvements sought along Bridgefoot Street (Note: Figure 13-15) and as part of the public realm as well as sustainable mobility improvements encouraged for developments within the city.

I consider that the lack of adequate consideration of cycling for future occupants, staff and visitors is further reflected in the developments failure to meet the required minimum standards for either the quantum of retail or apartment units sought at both local and national level. This is discussed in further detail in the assessment below.

I therefore consider that the proposed development as set out in the planning application to the Planning Authority and the revised option as submitted with the appeal submission would not achieve the movement and transportation aspirations of the SDRA 15 for Bridgefoot Street.

Having regards to the above I raise concerns that the proposed development is not consistent with the overall guiding principles set out for the SDRA 15 for this location.

7.4. Quantum of Development

- 7.4.1. **Density, plot ratio, and site coverage:** It is Government policy to increase compact growth within specified areas, including inner city locations like Dublin, and increase residential density. This policy in turn is reflective in higher plot ratio and site coverage particularly in modest site areas like this inner-city site.
- 7.4.2. In this regard I note to the Board that the Sustainable Residential Development in Urban Areas Guidelines support consolidated higher density developments within existing or planned public transport corridors (within 500m walking distance of a bus stop and 1km of a light rail stop/station), where higher densities with minimum net densities of 50 dwellings per hectare are supported, subject to appropriate design and amenity standards, in order to maximise the return on public transport investment.
- 7.4.3. In addition, the Sustainable Urban Housing: Design Standards for New Apartments (2020) and the Urban Development and Building Heights Guidelines (2018) provide for increased residential density along public transport corridors.

- 7.4.4. Further, Objectives 4, 13, 33 and 35 of the National Planning Framework alongside Regional Spatial and Economic Strategy RPO10, RPO34 and RPO35; and SPPR1 and SPPR2 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards urban sprawl and private car dependent residential developments.
- 7.4.5. The Development Plan in a manner that is consistent with regional and national planning provisions encourages the redevelopment of underutilised lands in appropriate locations to achieve compact higher density sustainable development including at highly accessible locations relative to public transport.
- 7.4.6. Against this context, the site is located in the Liberties area of inner-city Dublin. This area has and is experiencing significant regeneration through to improvements to its overall mixture of land uses through to amenities, infrastructure and services that supports residential development.
- 7.4.7. The site is also located in close proximity to several bus stops including but not limited to the nearest being Stop ID 1445 which is c110m to the northeast of the site. It is also located c700m from Smithfield Luas Kiosk Station and within 1km of Heuston Train Station. In addition, the site is situated circa 30m to the north of recent public realm enhancements to Bridgefoot Street (R804) with this including wider footpaths and cycle lanes in an attractive greened public realm.
- 7.4.8. Thus, it is a location that the general principle of higher densities, subject to safeguards, at this inner-city location, is acceptable, subject to qualitative safeguards.
- 7.4.9. As in the documentation submitted to the Planning Authority and as set out in the amended revised design, the residential component of the proposed eight storey building comprises 44 apartment units. The site area is given as 917.07ha. Based on these figures the proposed development would give rise to 480 units per hectare, a site coverage of 66.43% and a plot ratio of 4.75:1.
- 7.4.10. Notwithstanding, as noted previously there is a concern that the site area as presented in the documentation provided with this application and with the amended revised design accompanying the appeal submission appears to include a linear strip of land that is in the ownership of the City Council.

- 7.4.11. As discussed, this linear strip is earmarked for future improvements to the public realm of Bridgefoot Street and would effectively reduce the given site area by circa 83.22m². As such consideration should be given by the Board to the impact this fact has on both the density, site coverage and plot ratio figures when they are based on a reduced site area of circa 833.84m².
- 7.4.12. Such a consideration is reasonable in my view because of available information before the Board. Particularly given that there is no indication that the City Council are committed to in future providing consent for any development on this land to the applicant on the backdrop that development as sought would prevent it achieving the public realm and mobility infrastructure improvements to this stretch of Bridgefoot Street.
- 7.4.13. In relation to the revised design, this might include a slightly encroach onto land in the ownership of the City Council and as such an informed decision on both would benefit from the Board having more accurate information on the area of the site within the City Councils ownership and the actual site area that remains for No.s 39 to 40 Bridgefoot Street when this taken out. A right-of-way on land does not give the owners of No. s 39 to 40 Bridgefoot Street the right to carry out development thereon in the absence of the necessary consent of the owner being in place.
- 7.4.14. The amended design option submitted with the appeal submission still maintains 44 apartment units, *albeit* in a different unit mix, with the drawings indicating a density of 47.98 and a plot ratio of 4.87. The density figure provided appears to be given in error.
- 7.4.15. The density of the proposed development based on a reduced site area of 833.84m² would give rise to a much higher density of 528.21 units per hectare, a higher site coverage of circa 73.13% and a higher plot ratio of 5.22:1.
- 7.4.16. In relation to the above figures, it is of note that the current Development Plan under Section 3.2 of Appendix 3 sets out that density is defined as the intensity of development on any given area of land and that it: *“can have a significant influence on the quality of a development and successful placemaking”*. It also notes that: *“excessive density however, can be problematic. Significantly higher density schemes, particularly when coupled with high buildings, can generate problems in terms of creating successful, well designed and sustainable communities. In some instances, it can have impacts on the amenities of existing residential communities and for the*

future occupiers of such schemes, as well as how such developments integrate with the existing urban fabric” and that ultimately high-quality design as well as placemaking are the critical factors when developing higher density developments.

- 7.4.17. In relation to density Table 1 of Appendix 3 of the Development Plan sets out a net density range of 100 – 250 units per hectare in both city centre and canal belt as well for SDRA's.
- 7.4.18. Appendix 3 of the Development Plan also sets out that there will be a general presumption against schemes more than 300 units per hectare and that schemes in excess of this density will only be considered in exceptional circumstances where a compelling architectural and urban design rationale can be presented.
- 7.4.19. Of concern the proposed development as set out in the planning application to the Planning Authority and as revised by the documentation provided with this appeal has a density that exceeds that generally deemed to be acceptable density that is set out under Table 1. It is considerably more than 300 units per hectare with no exceptional circumstance or compelling case presented by the applicant for such a significant departure of density in this mixed-use development they seek permission for. Particularly given that the prevailing residential density given the characteristic building heights that range between 4 to 6 storeys in its visual setting are unlikely to exceed the density proposed.
- 7.4.20. In situations like this where a scheme proposes buildings and density that are significantly higher and denser than the prevailing context, Appendix 3 of the Development Plan, sets out that the performance criteria set out in Table 3 shall apply. This I propose to deal with as a separate heading in my assessment below. This is on the basis that the performance criteria set out in Table 3 are also relevant to other situations including applications for tall buildings.
- 7.4.21. In relation to site coverage, Table 2 of Appendix 3 of the Development Plan sets out an indicative site coverage for central areas of Dublin between 60 to 90% and for regeneration areas of between 50 to 60%. The site coverage is consistent with those for central areas but exceeds that for regeneration areas in both situations, i.e., as originally sought in the planning application and as amended with the First Party appeal submission. Given that the modest area of the site and the need to achieve a qualitative design and layout outcome the site coverage is not in my view a substantive

concern subject to qualitative and quantitative open space provisions alongside achieving an appropriate building to space relationship with its setting, in particular, in terms of visual and residential amenity impacts. I would reach this conclusion even when regard is had to the redline area of the site not appearing to reflect the actual land which the applicant has consent to develop should permission be granted.

- 7.4.22. In relation to plot ratio, Table 2 of Appendix 3 of the Development Plan identifies indicative plot ratio of 2.5-3 and 1.5-3.0 respectively for the above identified areas of the city.
- 7.4.23. In this case irrespective of which site area one considers reflects the actual site area more accurately, in both proposed development scenarios for the eight-storey building sought at No. s 39 to 40 Bridgefoot Street they significantly exceed a plot ratio figure of 3.0.
- 7.4.24. In such circumstances the Development Plan requires that compelling case be made for higher plot ratios above those set out under said Table 2.
- 7.4.25. Of concern there is no accompanying compelling case given with this application and as part of the appeal submission to the Board to depart from a plot ratio of 3.0 so significantly.
- 7.4.26. The First Party asserts that the higher density development sought under this application is appropriate to the site setting. They also assert that it accords with compact as well as higher density developments supported in local through to national planning policy provisions. They further assert that the City Council raised no concerns on matters such as density in their determination of this planning application.
- 7.4.27. The Third Party on the other hand assert that the density and plot ratio are at odds with the densities of adjoining developments and developments on the opposite side of Bridgefoot Street. In their view they reflect that the proposed development would give rise to overdevelopment of this site in a manner that would result in the significant adverse visual as well as residential amenity impacts particularly to the Pier 19 development and would also prejudice the future development of the adjoining derelict site to the south.
- 7.4.28. Having regard to the above, I acknowledge that there is no national policy context setting an upper limit for densities in sites and locations such as the appeal site. In

addition, I note that Section 5.5 of the Residential Development Guidelines in relation to city centres states that: *“these locations have the greatest potential for the creation of sustainable patterns of development”* and that: *“increasing populations in these locations can assist in regeneration, make more intensive use of existing infrastructure, support local services and employment, encourage affordable housing provision and sustain alternative modes of travel such as walking, cycling and public transport”*. It also sets out that mix of residential and other uses will often be desirable in these city centre locations and particular care is needed to ensure that residential amenity is protected. Further it sets out that infilling of gap sites has the potential to contribute to the improvement of the architectural form. Moreover, it states that: *“in order to maximise inner city and town centre population growth, there should, in principle, be no upper limit on the number of dwellings that may be provided”*. The proposed development would generally accord with this and Section 5.7 of the said Guidelines which states in relation to brownfield sites within cities, including those that are close to existing public transport corridors, there is an opportunity for their redevelopment to higher densities subject to safeguards should be promoted.

7.4.29. Notwithstanding, Section 5.5 of the said guidelines sets out that this is subject to safeguards including but not limited to: *“compliance with plot ratio and site coverage standards adopted in development plans”*; *“conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing”*; through to: *“recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area”*.

7.4.30. Of concern the proposed development as set out is not consistent with these safeguards nor as discussed in this assessment is it consistent with the other safeguards listed under Section 5.5 of the said guidelines. In particular, *“avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours”*.

7.4.31. There is also no compelling or exceptional case for the proposed development significantly exceeding the 300 units per hectare and a plot ratio of 3.0. Therefore, I am not satisfied based on the design, layout, and documentation provided that the proposed development is consistent or complies with local through to national safeguards in relation to where increased densities are deemed to be acceptable. In this case I consider that the density and plot ratio reflect the overdevelopment of the

subject site that is sought under this proposal in a manner that does not accord with the proper planning and sustainable development provisions of the area.

7.4.32. **Height – Local Planning Provisions**

7.4.33. Section 3.1 of Appendix 3 of the Development Plan sets out that there are three categories of height in the Dublin city context. These are:

- *'Prevailing Height'* – which it sets out relates the scale, character, and existing pattern of development in an area and it sets out that there may be buildings of amplified height in such contexts.
- *'Locally Higher Buildings'* - which it sets out are buildings that are significantly higher than their surroundings and are typically up to 50 metres in height.
- *'Landmark/Tall Buildings'* – which it sets out as a landmark or tall building is one that is a significant intervention in the cityscape and skyline. They are typically more than 50 metres in height, of exceptional architectural quality, can help people navigate through the city and form memorable reference points.

7.4.34. Against this context, the site forms part of a historic inner city setting forming part of the visual context of the river Liffey Corridor, specifically Ushers Island and Ushers Quay, that is characterised by generally low-rise buildings with the site bound by a part four and five storey residential scheme (Pier 19) and the development on the opposite side which includes more recent built insertions characterised by their four to six storey height. With this further reinforced by the prevailing building heights of the urban block it forms part of whose characteristic building heights vary from four to six storeys in their height

7.4.35. In relation to the proposed part seven and part eight storey 32.9m high building with a SFL of +4.87m (Note: c28.03m) as set out in the application as originally sought and as set out in the amended design option. Having regard to Section 3.1 of Appendix 3 of the Development Plan I consider that the proposed building could be considered as a locally taller building that would be located in the historic city centre under which this section of the Development Plan sets out the importance of protecting its skyline and to ensure that any proposals for high buildings make a positive contribution to the urban character.

- 7.4.36. As previously discussed the site forms part of SDRA 15 and the Development Plan indicates that 6-8 storey buildings as the benchmark height for new developments in this area where conservation and design considerations permit.
- 7.4.37. It is also of note in relation to the site forming part of the SDRA 15 area that it is not identified as an opportunity site for height, a location for locally taller building or is it a location included under Section 4 of Appendix 3 of the Development Plan for a potential taller building.
- 7.4.38. This is unlike the Bonham and Aparto Binary Hub examples cited by the Appellant as precedents for the taller height of the proposed building relative to its setting sought under this application. With the examples cited being located where the guiding principles for SDRA 15 indicate their locations as one for the provision of locally taller buildings given that these particular areas have the capacity to absorb such tall buildings positively.
- 7.4.39. In addition, these examples relate to more substantive site areas and urban blocks with a very different distinctive character containing newer building stock which includes taller buildings with different building to space, private to public domain, relationships to that of the site. These buildings also have greater lateral separation to historic and sensitive to change river Liffey corridor and its designated conservation area. As such taller buildings at their locations, subject to safeguards, in my view do not have the same potential to give rise to adverse injury to the historic river Liffey area, including its Liffey Quays Conservation Area and its significant built heritage sensitivity including its many Protected Structures. Moreover, these buildings were permitted and implemented under the previous Development Plan, with local planning provisions having evolved, by way of the adoption of the Dublin City Development Plan, 2022-2028, with this plan providing more detailed guidance and considerations for buildings of taller heights from their prevailing setting.
- 7.4.40. The Appellant also considers that the hotel development at No. s 1, 1a and 2 Ushers Quay which was permitted by the Board on appeal (Note: ABP-308627-20 (P.A. Ref. No. 2409/20)) to be a precedent that supports the height of the taller building sought under this application.
- 7.4.41. I note that this example relates to a larger site area containing a mixture of existing and derelict land that is located at the easternmost end of larger urban block opposite

the subject appeal site. It therefore does not form of the site's streetscape scene or visual setting, but it is a highly visible site in terms of its location on a corner site that is very visible from many vantage points as well as important views and vistas along the river Liffey.

- 7.4.42. In addition, it is bound by Usher Street on its eastern side and its corner location is enhanced by the fact that the adjoining stretch of Usher Street is much wider relative to the northern end of Bridgefoot Street. Its width is such that it accommodates two-way traffic, it contains designated on-street car parking spaces on its eastern side which is separate and does not infringe upon the two traffic lanes through to it has more generous public and semi-private domain with the residential scheme on the opposite corner setback from the public domain by a demarcated linear green space that wraps around its western and northern frontage.
- 7.4.43. This is unlike the building to space character of the site's setting which is in part defined by its more restricted in width public domain of Bridgefoot Street between the R148 to the north and its junction with Ushers Street and Island Street to the south. This restricted public domain accommodates one-way traffic south bound, has a stronger containment of its streetscape on its eastern side due to the buildings addressing this side of Bridgefoot Street having zero setback from the public domain and opening onto a restricted in width footpath. Moreover, the site forms part of the western side of Bridgefoot Street that is defined by containing only one building in active use, i.e., Pier 19, with the remainder characterised by dereliction.
- 7.4.44. In this context the site is an infill or gap site that also is bound by the Pier 19 residential scheme which runs immediately alongside the entire western boundary of the site.
- 7.4.45. All of this contrasts with No.s 1, 1a and 2 Ushers Quay, a corner site that occupies a visually more prominent location where there is potential for this larger site to accommodate, subject to safeguards, a landmark / focal taller building in a more coordinated and less piecemeal fashion than this site given that it amalgamates three urban plots.
- 7.4.46. Whereas the site subject of this application now excludes the site to the south and as such reduces the potential to achieve a coordinated and harmonious redevelopment scheme for two derelict sites where their amalgamation could give rise to a more coherent and qualitative outcome for the corner of Island Street and Bridgefoot Street.

With this including accommodating buildings of a height that can be successfully accommodated in a respectful, harmonious, and coordinated manner with their immediate and wider setting.

7.4.47. Whilst No.s 1, 1a and 2 Ushers Quay site is also subject to the same 'Z5' land use zoning and unlike the site is located within the Conservation Area boundaries that encompasses the river Liffey corridor whereas the subject site is within 10m of the Conservation Area the building permitted by the Board under ABP-308627-20 has a lower height of 23.8m when compared to the height of the proposed building sought under this application. The Board also considered this development under the previous City Development Plan and in the intervening time as said planning provisions have significantly evolved on the matter of building height and guidance for development in this inner-city location of Dublin.

7.4.48. In relation to the planning history of the site as discussed local through to national planning provisions have significantly evolved and changed since the previous development on this site was determined by the Board on appeal (Note: ABP.PL29S.223337 (P.A. Ref. No. 6361/06)). The site area that related to this previous redevelopment scheme had a larger 1,396m² site area. It also included a building height that included a thirteen-storey tower (Note: 39.9m high) at the corner of Bridgefoot Street and Island Street. It included a lower number of apartment units (Note: 41) as well as contained a more varied quantum of other land uses (Note: retail and office). What is of note that the Board reduced the height of the thirteen-storey building to a maximum height of +26.03m under Condition No. 2 of the grant of permission. The reason for this was given as being: "*in the interest of visual amenity by reason of height, design and it was considered that the height of the tower would be obtrusive as well as an incongruous feature in vistas along the river Liffey*". As well as the adjoining buildings to Pier 19 on the northern and western side of the site in this proposed development had much lower building heights that effectively were 9.4m taller than the Pier 19 residential scheme. That is to say the proposed scheme reduced its heights at and in the vicinity of the boundary with Pier 19 and at these locations the proposed building height was given as circa 22.7m. Whereas the height of the existing Pier 19 scheme was indicated as being circa 12.7m at parapet level. This is significantly different to the height now proposed with the difference in height in relation to Pier 19 which would have a difference in height of circa 14.98m.

- 7.4.49. It is therefore a concern that the Appellant in this case seeks to base the height on the contention that is only a minor difference in the height permitted by the Board. Given that this previous grant of permission permitted the maximum height on the south eastern corner of the site which is now omitted from this site area. As well as a building design that graduated the built form, mass, scale and volume down to a much lower height alongside the adjoining Pier 19 Scheme which adjoins the northern and western boundaries of the site.
- 7.4.50. I do not consider that this previously permitted grant of permission for part of the site establishes a positive planning precedent for a building significantly taller than its prevailing context.
- 7.4.51. To this I also note to the Board that it is a concern that the appellant also shows in the submitted drawings, including contextual drawings and the Design Statement, that the site to the south has the potential for 10 storey in height building with this building shown in block form covering the entirety of the site. This adjoining site also does not occupy an identified location for a taller building under current local planning provisions and the benchmark heights for this SDRAs subject to safeguards is 6 to 8 storeys in height. There is no compelling or exceptional case put forward to justify this potential future context would accord with the proper planning and sustainable development of the area, particularly in a manner that would not give rise to any adverse visual through to residential amenity impacts on its surrounding setting including the communal space proposed to serve the proposed development.
- 7.4.52. This concern also reflects the Design Statement and the visual impact assessments provided including computer generated images showing how the proposed development will assimilate with the existing urban context are based on a conjectured urbanscape. This is contrary to the Development Plans provisions for the information to be provided with applications for taller buildings.
- 7.4.53. In conclusion, having regards to the above I am not satisfied that the height of the proposed building is consistent with local planning provisions and if permitted as proposed it would be a visually incongruous insertion that would be an overbearing and overly dominant within its immediate and wider streetscape scene and setting. Particularly in terms of its relationship with the adjoining Pier 19 scheme, the historic urbanscape of the Conservaiton Area to the south that encompasses the river Liffey

Corridor as well as part of the visual curtilage of Mellows Bridge, a Protected Structure.

7.4.54. In saying this it is reasonable to give further consideration of height alongside density and scale of the proposed development in a combined examination against whether the proposed development as submitted to the Planning Authority and as amended by way of revisions proposed by the appellant in their appeal submission is consistent with Table 3 of Appendix 3 of the Development Plan.

7.4.55. **Table 3 of Appendix 3 of the Development Plan**

7.4.56. This table sets out the performance criteria to be used in assessing urban schemes of enhanced density and scale is set out in the table below. In this regard it indicates that in applications proposing urban scale and building height that the highest standard of urban design, architectural quality and placemaking should be achieved. There are further criteria for the assessment of landmark buildings but as said this proposed building does not meet the Development Plans definition for such buildings. As such these additional assessment criteria are not relevant in this case. In relation to the ten objectives set out under Table 3 I propose to comment on them as follows:

7.4.57. **Objective 1: To promote development with a sense of place and character.**

In relation to the performance criteria in assessing for enhanced height, density, and scale under Objective 1 it states that enhance density and scale should include *“respect and/or complement existing and established surrounding urban structure, character and local context, scale and built and natural heritage and have regard to any development constraints”* and it should: *“contribute to healthy placemaking”*.

This proposal for the reasons discussed above does not in my view respect or complement existing and established urban structure or its character by way of its significant variance of height and lack of coherent front building line with the adjoining Pier 19 residential scheme. In turn the lack of this front building line setback would give rise to diminished potential to achieve the public realm and mobility infrastructure improvements earmarked for Bridgefoot Street under SDRA 15. The proposed design as put forward by way of it excluding the adjoining site to the south or attempts to achieve a coordinated master plan for both sites. A site appropriate design and layout for any redevelopment of No. 39 and 40 Bridgefoot Street irrespective of whether the land on the corner of Bridgefoot Street and Island Street forms part of the site should

not unreasonably compromise the future redevelopment potential of this adjoining site or as said the adjoining stretch of Bridgefoot Street. For these reasons I am not satisfied that the proposed development is one that would give rise to healthy placemaking of the site with this further reinforced by the concerns raised in terms of the qualitative amenity provisions for its future occupants.

Of further concern in relation to the proposed development is the matter of “*have an appropriate transition in scale to the boundaries of the site/adjacent development in an established area*”.

Arguably the proposed development given the significant difference in height of the proposed building and the Pier 19 residential scheme that wraps around the west and north boundary of the site would not achieve an appropriate transition or graduation in building height.

Given these concerns I am not satisfied that the proposed development is consistent with Objective 1 of Table 3.

7.4.58. Objective 2: To provide appropriate legibility

In relation to the performance criteria in assessing for enhanced density and scale under Objective 2 it states that development should: “*reflect and reinforce the role and functions of streets and places and enhances permeability*”. Whilst the amended design option would not have as significant impact upon the future earmarked improvements for Bridgefoot Street. Notwithstanding, as raised previously as a concern the design and layout of the proposed scheme does not reflect the envisaged improvements for Bridgefoot Street under SDRA 15 or would it respect improvements already achieved to Bridgefoot Street to the south. As such it would not reinforce the function of this street, or would it give rise to the potential qualitative permeability that could be achieved along this stretch of Bridgefoot Street. This in turn would result in an undesirable precedent for future redevelopment of the adjoining site to the south and the neighbouring site to the north.

Given these concerns I am not satisfied that the proposed development is consistent with Objective 2 of Table 3.

7.4.59. Objective 3: To provide appropriate continuity and enclosures of streets and spaces

In relation to the performance criteria in assessing for enhanced density and scale under Objective 3 it sets out that developments should public spaces and key thoroughfares. As discussed, this proposed development does not do this. Further, it states that they should: “*provide appropriate continuity and enclosure of streets and spaces*”. As discussed, the proposed design does not seek to reinforce the setback of Pier 19 development and in so doing alongside not having sufficient regard in the design and layout to the improvements of the public domain sought under SDRA 15 does not in my opinion achieve appropriate continuity and enclosure of Bridgefoot Street and its associate public domain space.

In addition, it sets out that they should result in overbearing of streets and spaces, which I raise as a concern the height of the proposed building together with the lack of setback to correspond with the front building line of adjoining Pier 19 development on Bridgefoot Street does not allay my concerns in this regard. I also note that Objective 3 seeks to generate street level activity, animation, and visual interest. This I already raised as a concern given that over a third of the ground floor street level lacks appropriate functional and visual activation.

Given these concerns I am not satisfied that the proposed development is consistent with Objective 3 of Table 3.

7.4.60. Objective 4: To provide well connected, high quality and active public communal spaces.

In relation to the performance criteria in assessing for enhanced density and scale under Objective 4 it states that development should: “*integrate into and enhance the public realm and prioritises pedestrians, cyclists and public transport*” and “*provide for people friendly streets and spaces*”.

As discussed in this assessment above in relation to the public realm improvements sought for the length of Bridgefoot Street this proposal does not achieve this nor does the scheme itself provide adequate bicycle parking spaces for the quantum of development sought.

In addition, the public footpath would be of significant reduced width of 1.8m alongside the pickup area for bin truck with this provision in close proximity to the main entrance serving the apartments, the service entrance and the door for the retail bin store with the public overall setback of the building being such that no additional improvements

would be achieved in terms of pedestrian friendly streets and spaces through to no space provided for the cycle and greening improvements sought under SDRA 15.

Further, the design and layout should ensure adequate sunlight and daylight penetration to communal areas. This is raised also as concern for the proposed communal open space which is located to rear and the lack of utilisation of the roof spaces for communal open space whereas a result of the increased height and lack of overshadowing from neighbouring buildings would achieve greater light penetration. In turn the sole placement of communal open space to the rear of the site where overshadowing would be an issue throughout the year could compromise the ability of the site to the south to achieve a reasonable redevelopment without giving rise to additional overshadowing of this open space.

I note that there is no public open space amenity proposed with this application. However, given the modest site area together with the site's close proximity to Bridgefoot Street Park in this circumstance it would be appropriate that this deficit in the design of the proposed development is dealt with by way of the payment of a financial contribution. This is provided for under the Development Plan provisions.

Given these concerns I am not satisfied that the proposed development is consistent with Objective 4 of Table 3.

7.4.61. Objective 5 – To provide high quality, attractive and useable private spaces

In general, the proposed development private amenity spaces are consistent with local through to national requirements for the same alongside the level of overlooking is not inconsistent with what would be expected in a tight grain, compact and high-density inner-city location.

7.4.62. Objective 6 – To promote mix of use and diversity of activities.

In relation to the performance criteria in assessing for enhanced density and scale Objective 6 seeks to promote the delivery of mixed-use development. This is already raised as a concern given that the predominant function of this building is residential with less than 3% of its net floor area providing another land use.

Objective 6 also states that developments should: "*contribute positively to the formation of a 'sustainable urban neighbourhood'*", "*include a mix ... of dwelling*

typologies in the neighbourhood” and “provide for residential development, with a range of housing typologies suited to different stages of life cycle”.

In examining the proposed development against Objective 6 I note that the Sustainable Urban Housing, Design Standards for New Apartments: Guidelines for Planning Authorities, as amended, set out standards for apartment development and include a number of Specific Planning Policy Requirements (SPPRs) which must be applied by the Board on appeal.

In this regard SPPR1 provides that apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Notwithstanding, it also sets out that statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA) that has been agreed on an area, county, city, or metropolitan area basis and incorporated into the relevant development plan.

The Development Plan has carried out an HNDA for the Liberties area which the site forms part of. This assessment identified intercensal changes seeing a reduction in four and five person households at a relatively slow rate and one person households at a much higher rate. It also found two and three person households are on an upward trend with two person households increasing at the highest rate (0.33% per annum). In relation to the City Council area, it identified intercensal changes seeing a reduction in one and four person households at a relatively slow rate and five+ person households at a much higher rate. It identified two- and three- person households on an upward trend with two- person households increasing at the highest rate (0.23% per annum).

Based on the findings Section 6.5.1 of Appendix 1 of the Development Plan sets out that residential development of 15 or more units in the Liberties subarea will include a residential mix as per Table 37. This sets out a minimum of 15% three or more-bedroom units and a maximum of 25-30% one bedroom/studio units.

The proposed mix of units as set out in the documentation submitted with this planning application contains 22 No. 1-bedroom (2-Person) Units which comprises 50% of this 44-apartment unit scheme. In relation to the 3-bedroom (6-Person) this equates to

6.81% of the total. The amended design option submitted with this appeal contains 12 No. studio and 19 No. 1-bedroom (2-Person) thus equating to 70% of the scheme with the percentage of 3-bedroom remaining unchanged.

The proposed mix of residential units does not meet the minimum and maximum requirements for the Liberties sub-city area. As said, this is required under the Development Plan provisions and in turn the proposed development also does not meet the requirements of SPPR1.

However, SPPR2 of the Apartment Guidelines provides some flexibility in terms of unit mix for building refurbishment schemes on urban infill schemes on sites up to 0.25 ha with this discretion given to the Planning Authority to assess on a case-by-case basis.

I note to the Board that the site area is less than this irrespective of whether you discount the area of the site that appears to be outside of the applicant's legal interest and for which no consent for its inclusion into the site area has been provided.

Having regard to the provisions of SPPR1 and SPPR 2 together then the amended design option would still exceed the maximum 50% one bedroom and studio provision in schemes of between 10 and 49 residential units.

Notwithstanding, the Development Plan clearly sets out the site is located in an area where the requirements of Table 37 is applicable. It is also clear in my view having regards to the reasons set out in the Planning Authority's notification to refuse planning permission, in particular the second and third reason of refusal, that they considered the proposed residential component of the development would give rise to a poor standard of residential accommodation for future occupiers in a variety of ways ranging from poor provision of dual aspect units, insufficient communal space, insufficient cycle parking with these not meeting local through to national planning requirements for the same.

Further, the Planning Authority considered that the proposed development would be a poor example of infill development.

I therefore consider that the flexibility provided under SPPR2 of the Apartment Guidelines for these reasons and when taken together with the other concerns raised in relation to the proposed development should not be applied in this case as it would

give rise to a development that is contrary to the proper planning and sustainable development of the area.

This in my view is reason to substantiate a refusal of planning permission for the proposed development sought under this application.

7.4.63. **Objective 7: To ensure high quality and environmentally sustainable buildings**

In relation to the performance criteria set out under Objective 7 includes that the building should: “*minimise overshadowing and loss of light*” and “*not compromise the ability of existing or proposed buildings and nearby buildings to achieve passive solar gain*”.

I raise a concern that the documentation with this application and on appeal to the Board does not robustly demonstrate that the design minimises overshadowing in a manner that ensures no unreasonable additional levels overshadowing occurs to the adjoining Pier 19 residential scheme because of the building’s height, mass, and scale. Through to that the proposed building does not give rise to undue overshadowing on the public realm in this low-rise area of the city and where the public realm width is circa over 11m and importantly on the proposed communal open space in a manner that is consistent with BRE guidance.

In addition, developments are also sought to: “*maximise the number of homes enjoying dual aspect, to optimise passive solar gain, achieve cross ventilation*”.

In this regard, having regard to Section 15.9.3 of the Development which defines a dual aspect dwelling is defined as: “*one with openable windows on two external walls, which may be either on opposite sides of a dwelling or on adjacent sides of a dwelling where the external walls of a dwelling wrap around the corner of a building. The provision of a bay window does not constitute dual aspect*”.

I also note that this section of the Development Plan sets out the importance of dual aspect units in enhancing the residential amenity in a unit: “*providing for better daylight and sunlight penetration and cross ventilation*”.

Having regard to the findings of this assessment I concur with the Planning Authority that the proposed apartment unit component of the proposed development does not achieve the high level of dual aspect contended 86.36% under the documentation accompanying this application but rather it provides only 15% of the total units with

actual dual aspect. This is not improved in the amended design option put forward with this appeal submission due to this primarily consisting of the setback of the building from the eastern side of Bridgefoot Street. Therefore, no significant revisions were made that would overcome the deficit of dual aspect units.

It is therefore a concern that the proposed development as set out in the planning application and in the amended design option accompanying this appeal fails to meet the minimum 33% dual aspect unit's requirement in central and/or accessible urban locations under SPPR 4 of the Sustainable Urban Housing: Design Standards for New Apartment Guidelines.

Whilst SPPR 4 provides a further discretion for infill schemes on sites of up to 0.25ha, which is the site situation in this case, this is on a case-by-case for planning authorities to exercise discretion subject to the achievement of overall high design quality in other aspects.

I note to the Board that the Planning Authority's second reason for refusal raised poor provision of dual aspect units as a concern for future occupants of the scheme and considered that to permit the proposed development would not only be contrary to the local planning provisions on this matter but also the said Guidelines.

When taken together with other design related concerns of the residential component of the development sought under this application, I concur with the Planning Authority that the minimal provision of dual aspect apartments reflects issues with the overall design of this proposed building.

Of further concern in relation to Objective 7 the proposed development from the documentation provided incorporates limited evidence of sustainable technologies, energy efficiency and climate resilience does not seek to incorporate; the documentation does not assess daylight and sunlight in a manner consistent with the requirements of Appendix 16 of the Development or indeed the best practice guidance at the time this application was submitted; through to it does not include an embodied energy impact assessment.

Given these concerns I am not satisfied that the proposed development is consistent with Objective 7 of Table 3.

7.4.64. Objective 8: To secure sustainable density, intensity at locations of high accessibility

In relation to Objective 8 I have raised various concerns in the assessment above on the density of the proposed development, notwithstanding these concerns in general as said the principal of enhanced density and scale at this location based on higher accessibility, i.e., with access to high-capacity frequent service with good links to other modes of transport supports appropriate optimising the footprint of the development.

7.4.65. Objective 9: To protect historic environments from insensitive development

Objective 9 sets out that enhanced density and scale should not have an adverse impact on the character and setting of historic environments. This matter has already been noted as concern in the assessment above where I have concluded that it would result in an adverse impact on a historically sensitive environment by way of its visual incongruity and overbearance. I would also consider that the treatment of the northern elevation lacks visual lightness and harmony in its palette of materials further adding to its visual incongruity as viewed from the Conservation Area and Mellows Bridge. As also discussed in this assessment I am not satisfied that the information provided with this application has had carried out test trenching. This arguably is one of the first steps to achieving an informed design for the site irrespective of whether a basement level or not is proposed. This conclusion is because this site forms part of a Recorded Monument and is in a historically built heritage rich and sensitive to change location. Any building, particularly of the height, scale, and mass proposed would require extensive below ground excavation and engineering works with the site itself having also once formed parts of mudflats along the river Liffey.

Given these concerns I am not satisfied that the proposed development is consistent with Objective 9 of Table 3.

7.4.66. Objective 10: To ensure appropriate management and maintenance

In relation to this performance criteria, I am not satisfied that the documentation accompanying this application and on appeal to the Board demonstrate this. Notwithstanding, if the proposed development were otherwise deemed to be acceptable and if the Board were minded to grant permission this concern could be dealt with by way of an appropriately worded management plan which could be imposed by way of condition for prior written agreement with the Planning Authority.

7.4.67. In conclusion, overall, the proposed development is not consistent with nine of Table 3's performance criteria. The proposed development would therefore if permitted would not achieve an appropriate qualitative in height, density through to scale building at this location nor would it contribute to achieving qualitative placemaking commensurate with and reflective of the potential of this site and its setting.

7.4.68. **Height - National**

Section 3.2 of the Urban Development and Building Heights, Guidelines for Planning Authorities, which sets out several development management criteria for assessing increased building heights like that proposed under this application, is of relevance to the proposed development. These guidelines set out a presumption in favour of buildings of an increased height in city cores and in urban locations with good public transport accessibility. They also set out that the Board on appeal when considering development proposals for buildings taller than prevailing building heights in urban areas examine whether the proposed development satisfy a number of principles. In relation to management criteria, I note the following:

- **At the scale of the relevant city/town**

This largely overlaps with the assessment above with this derelict brownfield infill inner city site occupying a location that is well served by public transport and is as concluded upon above highly accessibility by various means of public transport. The quantum of development, which includes 44 apartment units and two retail units, with no car parking spaces proposed to serve it would add to the economies of scale that the provision of public transport is dependent upon. Of concern, as set out above the increased building height, the proposed development would not successfully integrate with its public realm and it would be an overbearing feature that would protrude above the prevailing low rise setting in an overly dominant manner as a result of its height, its treatment of the northern elevation which includes a heavy palette of materials through to the lack of slenderness of the proposed building having regards to its overall height, width and depth.

- **At the scale of the district/neighbourhood/street**

As said this proposal would reverse a derelict site with no active use with the mixture of retail and residential positively contributing to the mix of uses in the Liberties sub city area. Notwithstanding the proposed building as discussed has the potential to

prevent the successful realisation of the public realm and mobility improvements planned along the stretch of Bridgefoot Street it forms part of.

The proposed building in its height and overall built form fails to sit comfortably or cohesively with existing adjoining and neighbouring buildings. With this added to by the failure of the design to include a front building line that reinforces the positive setback achieved at Pier 19.

Similarly, the buildings on the opposite side of Bridgefoot Street share a cohesive strong front building line through to harmony in their height graduation at roof level. This harmony and graduation of building height is not proposed with the adjoining Pier 19 adjoining building to the north and the proposed development has the potential given the lack of a coordinated vision for the site to the south to give rise to a varied and not cohesive roofline as well as skyline along the eastern side of Bridgefoot Street between the R148 to the north and Island Street to the south.

- **At the scale of the site/building**

As discussed, the overall built form, massing and height of the proposed building gives rise to several concerns including the documentation provided with this application do not demonstrate that the design maximises natural daylight and ventilation to the apartment units through to minimising overshadowing. This includes the lack of any assessment of the proposed development against the quantitative performance and approaches to daylight as set out in guidance which is discussed in more detail in the assessment below. Whilst these guidelines set out discretion where proposals may not be able to fully meet all requirements of the daylight provisions having regard to local factors which I note in this circumstance would be reasonable to an extent given the modest area of the site and the sites inner city highly accessible location. Notwithstanding, there is no compensatory measures put forward. With that including the potential of the roof tops to accommodate communal open space that would not be as heavily overshadowed, including should the adjoining site to the south be developed in the absence of any coordinated design for its redevelopment either with No. 39 to 40 Bridgefoot Street but as part of a designed masterplan that included it as part of a comprehensive urban regeneration approach.

In conclusion I am of the view that the proposed development does not satisfy the development management criteria described in section 3.2 of the Building Height

Guidelines when assessed at the scale of the relevant city/town and the district/neighbourhood/street.

7.5. Visual Amenity Impact

- 7.5.1. The Planning Authority under its first reason relates to visual amenity impact and raises concerns about siting the building forward of the building line on Bridgefoot Street that when taken together with the height, scale, massing and form would be a form of overdevelopment that would be visually incongruous and out of character with the streetscape and its surrounding area by reason of its prominence in manner that would be contrary to the protection given to the Liffey Quays Conservation Area and in turn the zoning objective for this area as provided for under the Development Plan. For these reasons the Planning Authority considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.5.2. I consider that these concerns generally correlate with the visual amenity concerns that have arisen in the previous sections of this assessment. In addition, to the visual amenity concerns already raised I note that policy BHA9 of the Development Plan seeks to protect the special interest and character of all Dublin's Conservation Areas and requires development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting. In this regard I am not satisfied that the proposed building height and the overall design of the building including its palette of materials would sit comfortably with the Conservation Area to the north of the site that runs along the river Liffey Quays and extends into Bridgefoot Street in close proximity to the site.
- 7.5.3. Further, policy BHA 2 of the Development Plan sets out that any development affecting the setting of Protected Structures is sensitively sited and designed. It also sets out that it should be appropriate in terms of its height, density, layout, scale, and materials. In this regard, as discussed previously in this assessment the site would form part of the visual setting of Mellows Bridge with Bridgefoot Street being tangibly linked to its original function. The proposed development is not consistent with this policy with concerns already discussed in terms of its height, density, scale and the like. In addition, the proposed building because of its height and lack of setback from Bridgefoot Street would be a highly visible new insertion into this Protected Structure's

visual setting due to it being at odds with the prevailing pattern and character of development that surrounds it.

7.5.4. I therefore consider that the proposed development would be contrary to the aforementioned Development Plan policies which seek to provide protection of Conservation Areas and Protected Structure settings and as a result this adds to the visual amenity concerns already raised in this assessment.

7.5.5. In conclusion I consider that the cumulative visual amenity impacts that would arise from the proposed development as submitted with this application are not significantly overcome by the amended design proposed by the appellant as part of their appeal submission. I therefore consider that the Planning Authorities first reason for refusal is with merit given the substantive visual amenity concerns that arises from the proposed development.

7.6. Residential Amenity Impact

7.6.1. **Overview:** The Third-Party Observer and the Planning Authority raise concerns in relation to the proposed development having the potential to give rise to undue residential amenity impact on existing properties in its vicinity. In addition, they both raise concerns in terms of the standard of residential amenity for future occupiers of the proposed building. The primary concerns raised by the Third-Party Observers relate to visual overbearance, which I note I have already previously address as a concern in my assessment above, in addition to this are overlooking, overshadowing and other associated nuisance concerns.

7.6.2. In terms of the residential amenity for future occupiers of the proposed building I consider that the substantive concerns that have yet to be examined are the studio apartment floor areas, the insufficient communal open space, the insufficient cycle parking, and the poor standard of residential accommodation for future occupiers of the proposed building. I concur with the Planning Authority that other concerns could be dealt with by way of standard in nature conditions if the proposed development was deemed to be otherwise acceptable.

7.6.3. **Minimum Floor Area of Apartment Units:** I note that SPPR 3 of the Apartment Guidelines sets out the minimum floor area of apartments. The apartment units in the design as originally proposed offer more qualitative internal floor areas that meet and exceed SPPR 3 minimum floor area requirement.

- 7.6.4. This however is not the case with the amended design option accompanying the appellants appeal submission which in the case of the studio apartments floor area in the case of Apartments 09, 21, 33 and 44 have floor areas of 36.7m². Thus 0.3m² below the minimum floor area of 37m² required under SPPR 3.
- 7.6.5. Further, of concern Apartment Unit 08, 20, 32 and 43 only exceed the minimum floor area requirement by 0.3m².
- 7.6.6. I therefore raise a concern that despite the modest deficit in four of the studio apartment areas I consider that this adds to the concerns in relation to standard of amenity for future occupiers of the scheme as revised.
- 7.6.7. **Sunlight, Daylight and Overshadowing:** Since this application was made the methodology used and guidance documents relied upon to examine sunlight and daylight matters has evolved. In this regard I note that the 2020 version of the Apartment Guidelines referred to BRE Guide 209 'Site Layout Planning for Daylight and Sunlight' 2011 Edition and BS 8206-2: 2008 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Of concern the documentation provided with the application and that accompanying the appeal submission provides no examination of the proposed development against this Code of Practice.
- 7.6.8. The updated Apartment Guidelines that came into force in December, 2022, refers to the updated guidance of: 'A New European Standard for Daylighting in Buildings' IS EN17037:2018, the UK National Annex BS EN17037:2019 and the associated BRE Guide 209: 2022 Edition (June, 2022).
- 7.6.9. Section 6.6 of the revised Apartment Guidelines sets out that planning authorities, and therefore the Board on appeal, should have regard to quantitative performance approaches to daylight provision outlined in guides like IS EN17037:2018, BS EN17037:2019 and the BRE Guide 209: 2022 or any relevant future standards or guidance specific to the Irish context.
- 7.6.10. As such a more robust analysis of the daylight and sunlight of the proposed development, its open spaces and impact on adjoining properties is now required and as said there is no assessment provided consistent with the Apartment Guidelines requirements.

7.6.11. This is a concern given when one has regard to the site context and the building as proposed under this application and/or the amended design option submitted with the First Party Appeal in terms:

- The built form and height of the proposed mixed-use building.
- The proposed building design with glazing predominantly on the east and western elevations for most floor levels with most floors above ground floor level containing single aspect apartment units.
- The modest site area.
- The building to space relationship of the site and its immediate context which is one that is bound on its north and west side by four storey buildings.
- The built form along the western boundary with the Pier 19 building block containing limited separation distance from this boundary and containing no gaps that would allow meaningful daylight penetration to the communal open space and lower floors of apartment units to the rear of the proposed building.
- The lateral separation distance of over 11m from the proposed front building line of the proposed building to the four to six storey buildings on the opposite side of Bridgefoot Street. With these buildings containing no side setback from one another and the east facing apartments single aspect.
- The dependency of the site on the undeveloped nature of the adjoining plot to the south for light penetration to the proposed communal open space and also for the upper floor level west facing apartments the majority of which are single aspect.
- The orientation of the site.

In addition to the above factors, this application is not accompanied by an adequate daylight and sunlight examination nor is there a robust overshadowing analysis provided.

7.6.12. I am not satisfied based on the information before me that the proposed apartment units and their communal open space would receive adequate sunlight and daylight to best practice standards as set out in the aforementioned guidelines. I am also not satisfied that the proposed communal open space given its position, orientation,

enclosure, and the like would be a qualitative open space amenity for future occupants to enjoy due to the potential of it being significantly overshadowed throughout the year.

7.6.13. Likewise, I am not convinced that the proposed building relative to the Pier 19 residential scheme would not give rise to undue overshadowing that would add to its visual overbearance when viewed from properties within this scheme. Through to I am not satisfied that positioning of the proposed building forward of Pier 19's building line would give rise to a qualitative outcome for the public domain of Bridgefoot Street. This is based on the limited lateral separation distance between the proposed building, the proposed building's overall built form, the proposed buildings relationship with the buildings on the opposite side of Bridgefoot Street together with the orientation which would result in the adjoining public open space, including the setback to the front of Pier 19 to the north being diminished by undue overshadowing. The documentation provided with this application does not demonstrate otherwise.

7.6.14. In conclusion, having regards to the above, I am not satisfied that the proposed development as set out in the planning application documentation or as revised in the documentation accompanying the appeal submission demonstrates that in accordance with local through to national planning provisions and guidance that it would give rise to adequate levels of daylighting and sun lighting for proposed apartment units and communal open space or that it would not give rise to serious diminishment of daylighting and sun lighting of properties in its vicinity by way of overshadowing. Further, I convinced that the overshadowing that would arise from the proposed building would not give rise to undue overshadowing of the proposed communal space as well as the public and private domain of its setting. For these reasons the proposed development is contrary to the proper planning and sustainable development of the area.

7.6.15. **Residential Amenity – Parking Provision:** The Apartment guidelines under Section 4.17 states: *“the accessibility to, and secure storage of, bicycles is a key concern for apartment residents and apartment proposals must respond accordingly to the requirements below in their design and provision of cycle storage facilities”*.

7.6.16. It also sets out a number of requirements which are consistent with those set out in the Development Plan. In terms of quantity of provision, they set out: *“a general minimum standard of 1 cycle storage space per bedroom shall be applied. For studio*

units, at least 1 cycle storage space shall be provided. Visitor cycle parking shall also be provided at a standard of 1 space per 2 residential units” and “any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/enlargement, etc”.

- 7.6.17. This provision is the same as Table 1 of Appendix 5 of the Development Plan.
- 7.6.18. The application as proposes in the planning application provides a total of 58 no. cycle spaces. With Table 2-2 of the Mobility Management Plan indicating that 1 space would be for the retail element. This is a deficit of 34 bicycle spaces when the one space for the retail unit is excluded for the original proposal submitted to the Planning Authority and 25 for the amended design option submitted as part of the appeal submission.
- 7.6.19. In relation to car parking provision, I note that Table 2 of Appendix 5 requires 0.5 car parking spaces per apartment unit in Zone 1 (and none for retail). Thus, 22 car parking spaces, notwithstanding it also sets out a relaxation of car parking spaces in Zone 1 for any site located within a highly accessible location. However, it sets out that applicants must set out a clear case satisfactorily demonstrating a reduction of parking need for the development based on a number of criteria which includes cycling accessibility and permeability.
- 7.6.20. Whilst there is no provision in local through to national planning provisions and guidance for deficit flexibility in cycle spaces, I raise a concern that the lack of the minimum required local and national standard cycle spaces does not support the zero provision of car parking spaces and motorbike spaces within this proposed scheme.
- 7.6.21. Section 6.0 of Appendix 5 of the Development Plan sets out that new development shall include provision for motorcycle parking in designated, sign posted areas at a rate of 5% of the number of car parking spaces provided. As said no car parking spaces are proposed, yet 22 car parking spaces would be required for the quantum of residential proposed and there is a deficit in cycle parking spaces as such it is not unreasonable in my view that a provision be made for motorcycle parking in this scheme to meet potential needs of future occupiers given that this would only equate to one space.
- 7.6.22. Section 7.0 of Appendix 5 of the Development Plan sets out in line with Policy SMT24 that the City Council will support the use and expansion of shared mobility services

across all areas of the City. The provision of car club parking spaces in all developments will be supported.

7.6.23. Of concern this is not considered in the Mobility Management Plan which instead proposes that a Travel Plan Co-ordinator will provide information on contact details and nearest car club on-street parking space.

7.6.24. They also note the presence of GoCar and GoBuses at Smithfield and Bonham Street. Both locations are inner city locations with significant regeneration including measures limiting car parking provision in favour of more sustainable travel and mobility options.

7.6.25. Where a development, residential and/or commercial, seeks to include car sharing services as part of the car parking provision on site, details of the operational management of the car club must be provided. This is not provided.

7.6.26. Given that the site occupies a central and highly accessible location as defined by the Apartment Guidelines, a location where the default policy for car parking provision is one which seeks this to be minimised, substantially reduced or wholly eliminated the significant shortfall of cycle space provision when taken together with the limited provision for the retail element and the lack of car parking and motorbike spaces I consider that the parking provision for the proposed development when taken as a whole does not reflect a high quality predominantly residential mixed use scheme where zero car parking spaces should be considered based on these deficiencies to meet minimum requirements of the Development Plan.

7.6.27. **Communal Open Space:** As raised previously as a concern the proposed communal open space would potentially be overshadowed for most of the year which would impact on its amenity value as an open space for future occupants of the scheme and also its planting would have to reflect this fact. Section 4.11 of the Apartment Guidelines states that: “*designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year*”. Coupled with this is the concerns over the quantitative provision of communal open space which is given as having a 205.1m² area.

7.6.28. This fails short of the Apartment Guidelines which under Appendix 1 sets out the minimum floor areas for communal amenity space for studio through to three-bedroom apartment units. Based on these figures the proposed development as sought in the planning application would have a minimum requirement of 252m² and the amended

design option would have a minimum requirement of 237m². Thus, a shortfall of 46.9m² and 31.9m² respectively.

- 7.6.29. Section 4.12 of the Apartment Guidelines provides relaxation of the minimum communal open space provision for urban infill schemes on sites of up to 0.25ha, on a case-by-case basis, subject to overall design quality.
- 7.6.30. Of concern the communal open space is likely a space that would be significantly diminished by overshadowing and is not supplemented by the provision of communal open space at roof level where greater sunlight and daylight penetration would be achieved alongside potentially subject to appropriate screening a less overlooked space for those using the communal open space.
- 7.6.31. In conclusion, the communal open space provision is inadequate in quality and quantity adding further to the residential amenity standards concerns for future occupiers as well as further concerns in relation to the proposed developments compliance with relevant local through to national planning provisions as well as guidance.
- 7.6.32. **Floor to Ceiling Height:** The proposed development is consistent with Specific Planning Policy Requirement 5 of the Apartment Guidelines on the basis that the ceiling heights exceed the minimum of 2.7m by 0.3m.
- 7.6.33. **Lift and Stair Cores:** The proposed development is consistent with Specific Planning Policy Requirement 6 of the Apartment Guidelines as it does not exceed this SPPR maximum of 12 apartments per floor per core.
- 7.6.34. **Residential Amenity of Adjacent Properties – Overlooking:** The Observer raises concerns that the proposed development, if permitted, would give rise to negative impact upon the residential amenity of the Pier 19 residential scheme by way of undue overlooking with this in turn diminish the established levels of privacy enjoyed by residents of this residential scheme.
- 7.6.35. The design and layout of the Pier 19 scheme places its buildings around the edges of its site which creates a central courtyard area. The height of the buildings is also minimised to four storeys in height along the southern side of this site which also allows for improved daylight and sunlight penetration. The prevailing pattern of development around are similarly low rise in their height and there is significant lateral separation

distance from any taller building. As such Pier 19's design and layout has given rise to its occupants have a high level of established privacy and more diminished overshadowing than ordinarily would arise within a city centre context where overlooking particularly is to be generally expected.

7.6.36. Whilst I acknowledge that the proposed development, if permitted, in its part seven and part eight storey height would give rise in significant departure from Pier 19's existing situation given its proximity to the rear elevation of the proposed building with the floor levels to the rear upper floors containing significant glazing as well as private amenity spaces serving its apartment units. Therefore, resulting in overlooking and greater perception of being overlooked when compared to the existing situation.

7.6.37. Notwithstanding, I consider given the urban location of the site, the high density and compact nature of development that is encouraged in city centre sites that are highly accessible to public transport, job opportunities, amenities, and services I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission in itself. There is more than 22m lateral separation distance between opposing windows of the Pier 19 scheme and the proposed upper floor level rear apartments where overlooking would arise from. In addition, further mitigation measures could be conditioned to reduce the actual and perceived levels of overlooking that would arise from the proposed development if it were to be permitted as proposed in the planning application form or as amended in the revised option submitted with the First Party's appeal submission.

7.6.38. **Structural Integrity of Observers Property:** In relation to the observers concerns that the subject proposal potential for the proposed development to give rise to structural integrity issues for their residential scheme, it is my opinion that any instances of damage to, or interference with, the appellants' property attributable to the proposed development would essentially be a civil matter for resolution between the parties concerned.

7.7. Traffic

7.7.1. As previously mentioned in the assessment above this application is accompanied by a Mobility Management Plan to encourage and support more sustainable patterns of development amongst future residents, visitors, and staff. This plan concludes that the zero provision of car parking for the proposed development at the subject site is

appropriate given the high accessibility of the site. However, it acknowledges that this places an onus on the applicant to demonstrate that the development enables all residents to commute and make other journeys by other means than the private car.

- 7.7.2. As set out as a concern the proposed development fails to provide the minimum required bicycle and motorbike parking for the quantum of development proposed and this plan does not set out any justification for the same.
- 7.7.3. Moreover, as discussed, the design of the proposed development coupled with the mobility management plan does not adequately support the use and expansion of shared mobility services in a manner that accords with Section 7.0 of Appendix 5 and Policy SMT24 of the Development Plan.
- 7.7.4. Further as part of enabling good permeability and connectivity with the public domain the proposed design fails to design the scheme with sufficient setback from Bridgefoot Street to ensure that future improved pedestrian, cycling and greening along this stretch of the street can be achieved. With the footpath for example narrowing down in its width to 1.8m along part of the roadside carriageway to facilitate collection of waste from the building when operational.
- 7.7.5. There is also no indication that the 'pick up area for bin trucks' would also be available as a loading and unloading space for the retail as well as residential components of the proposed development through to availability for any servicing and maintenance should that be required considering the limited provision of on-street car parking spaces available in this locality, including on the opposite side of Bridgefoot Street.
- 7.7.6. When taken together I am not convinced from the documentation provided and having inspected the site setting that the proposed development would not give rise to further pressures on the limited on-street car parking spaces that are available in this locality.
- 7.7.7. I note that the Planning Authority's Transportation Division recommended refusal of permission on the basis that the proposed development would prevent the future improvements of Bridgefoot Street in a manner consistent with the Development Plan. This gave rise to the fourth reason for refusal which in my opinion the revised design by way of its failure to adequately setback the proposed building to correspond with the building line of Pier 19 would also prevent the realisation of the potential cumulative envisaged public realm improvement works along this stretch of Bridgefoot Street. Particularly as discussed in a manner that is consistent with the guiding principles of

SDRA 15 as well as the other policies and objectives set out in the Development Plan which supports public realm and mobility infrastructure improvements.

7.7.8. In conclusion, I concur with the Planning Authority's fourth reason for refusal, and I do not consider the amended design option fully overcomes this concern in a manner that accords with the proper planning and sustainable development of the area nor does the mobility management plan demonstrate that the provision of zero parking can be sustained by a proposed development that fails to provide adequate alternatives modes of transport within the confines of the site for future occupants, visitors and staff.

7.8. Demolition Works and Archaeology

7.8.1. The site forms part of the Zone of Archaeological Constraint for the Recorded Monument DU018-20 (Historic City). In addition, within 50m of the site are the following recorded monuments:

- Recorded Monument DU018-020318 – 16th/17th Century House).
- DU018-020314 – Bridge.
- DU018-020312 – Bridge.
- DU018-020313 – School.

7.8.2. The site is therefore subject to protection under Section 12 of the National Monuments (Amendment) Act, 1994, and there is potential for undiscovered archaeological remains of interest to be present. Therefore, Objective BHA019 of the Development Plan is applicable. It states that the City Council: will seek: *“to provide for the protection, preservation and promotion of built heritage, including architectural heritage, archaeological heritage and underwater heritage, and support the in-situ presentation and interpretation of archaeological finds within new developments.”* Further under Policy BHA29 the City Council seeks: *“to support and pursue a World Heritage nomination for the Historic City of Dublin, in partnership with the Department of Housing, Heritage and Local Government”*.

7.8.3. This application is accompanied by a document titled *“Cultural Heritage Desktop Assessment for a Proposed Development at 39-40 Bridgefoot Street, Dublin 8”*, dated May 2022. This report sets out the rich historical background of the site going back to the urban growth during the late ninth and tenth centuries with the site located close

to the Hiberno-Norse city and close to Fishamble Street, Winetavern Street, Wood Quay and Oxmantown; the site being located in an area of reclamation of land around the River Liffey through to its changing use throughout the 19th century up to it becoming derelict in the twentieth century. This report also sets out ten archaeological investigations close to the study area and their findings and notes the site lies directly adjacent to the conservation area of the river Liffey.

- 7.8.4. It concludes with several recommendations including that archaeological test trenching of the site be carried out prior to any development taking place to determine the presence, nature, and extent of any potential archaeological remains and its implications for the proposed development. It also recommends archaeological monitoring in the event of a grant of permission. These recommendations are set out in Section 5.
- 7.8.5. The author does set out that a fully comprehensive archaeological impact report is subject to archaeological test trenching, final application details and subject to agreement with the City Councils Archaeologist and the National Monuments Service.
- 7.8.6. I note that regard was had to this document by the City Councils Archaeologist who considered that given site's location, a location that is effectively within an area of extensive cultural heritage potential where previous excavations have uncovered recorded features of note including post-medieval reclamation layers, through to the nature of development that has occurred on this site to date that there is potential for subsurface archaeology to be present.
- 7.8.7. They considered that to inform piling and foundations of the building proposed, despite the lack of a basement level that archaeological test trenching be undertaken, and that appropriate archaeological examination of such trenching inform the development to protect and preserve archaeological material in situ by ensuring minimal impact on archaeological layers.
- 7.8.8. Of concern this information is needed as part of making an informed decision on the proposed developments potential impact on archaeological heritage.
- 7.8.9. They therefore concluded with a request for further information on this matter.
- 7.8.10. Whilst the proposed development does not include a basement level, I concur with the City Archaeologist that the applicant has not demonstrated that the design resolution

presented with this planning application and as amended with the appeal documentation was firstly informed by test trenching. Secondly that it would result in minimal impact on any undiscovered archaeological features of interest that may be present in situ below ground in a manner that accorded with the protection afforded to the site under Section 12 of the National Monuments (Amendment) Act, 1994, Policy BHAO19 of the Development Plan through to the Framework and Principles for the Protection of Archaeological Heritage, 1999. This seeks an archaeological assessment in archaeological sensitive locations like this be carried out and in turn that this informs the proposed development design alongside appropriate mitigation measures.

7.8.11. Having regard to the forgoing and having regard to the report from the City Councils Archaeology Section, I am not satisfied given the location of the site, the available information on the historical background of the site and its setting within the historic evolution of Dublin city, the information that is available on the evolution of buildings on this site through to the archaeological findings in this historic urban area that the issues pertaining to potential archaeological finds can be addressed by way of condition in the event of a grant of permission.

7.9. Flooding and Drainage

7.9.1. This application includes a Site-Specific Flood Risk Assessment and an Engineering Services Report.

7.9.2. The report setting out the flood risk assessment reviews OPW historic flood information and outlines that the site has not been subject to flooding in recent history. It also confirms in relation to Tidal/Coastal Flooding that OPW maps indicates that a 10% (1 in 10 Year event) 0.5% (1 in 200-year event) or 0.1% (1 in 1000-year event) that tidal and coastal flooding will not affect the site or the surrounding area.

7.9.3. In relation to fluvial flooding, it confirms that neither a 10% or 0.1% fluvial annual exceedance probability (AEP) flood depth will not affect the site or its surrounding area.

7.9.4. In relation to pluvial flooding, it indicates that it is in the 1 in 200-years rainfall event and that it is not a site that would be affected by groundwater flooding.

- 7.9.5. Having regard to the brownfield nature of the site and the proposed development which it describes as a part six and part seven floor mixed use building it indicates that no proposed flood alleviation measures are proposed and that surface water from the site would be attenuated to 2 l/s.
- 7.9.6. Based on the risks identified, the report concludes that the appeal site can be categorised as 'Flood Zone C' location and therefore has a low probability of experiencing a flood with no recorded events that have influenced the site or the surrounding area.
- 7.9.7. I also note that the accompanying Engineering Services Report sets out that a 20% increase in rainfall rates and a greenfield runoff rate has been designed into the overall drainage solutions for the site. It also sets out a variety of SuDS Measures including but not limited to the use of green roof surface finish on the portion of the building with a blue roof in Drawing No. 21270-LDE-ZZ-00-DR-C-5C03.
- 7.9.8. I note that the City Councils Drainage Division has reviewed this information together with the engineering report provided with this file and they have raised no objections to the proposed development subject to standard conditions. I note that these include but are not limited to the following safeguards:
- Compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
 - Separate foul and surface water system with a combined final connection discharging into the Irish Water's combined sewer.
 - Incorporation of Sustainable Drainage Systems in the management of surface water.
- 7.9.9. In conclusion, I generally consider that the proposed development would be 'appropriate' without the need for a 'Justification Test' and/or 'Detailed Flood Risk Assessment' and I generally concur with the Planning Authority that the flooding and drainage issues associated with the proposed development can be addressed by way of condition should the Board be minded to grant permission. In saying this, however, given the more robust climate resilience measures set out under the Development Plan for this type of development I consider that the design of this proposed development could have achieved greater SuDS and climate resilience measures

including measures like rainwater harvesting to lessen demands on the public water supply in a manner more consistent with local through to national planning provisions and guidance.

7.10. **Other Matters Arising**

7.10.1. **Retail:** This mixed-use building contains two retail units at ground floor level addressing the western side of Bridgefoot Street. In the original proposal determined by the Planning Authority and as set out in the amended design drawings are shown to have a combined area of 94.8m² (Note: Retail Unit 1: 51.4m² and Retail Unit 2 43.4m²). The planning application form provides a slightly smaller combined retail floor area of 93.7m².

The two retail units have a generic internal layout with the retail space comprising the main area of both units with both containing accessible unisex individual WC and Storage to the rear. Their exact future retail use is not specified with this in turn reflecting the lack of signage through to lighting clarity for each of the unit's facades. Notwithstanding, these matters in my view could be dealt with by way of appropriate conditions should the Board be minded to grant permission.

Similarly, the Board should provide other precautionary conditions limiting the type of use permitted for the units through to other conditions to deal with any potential nuisances arising from their future use or deviation from retail use.

Whilst I am cognisant that the Development Plan permits retail on 'Z5' zoned land, and the plan identifies that there is a deficit of both convenience and comparison retail floor space in the plan area (Note: Table 1 of Appendix 2 of the Development Plan).

In addition, the site is located where appropriate retail that contributes to the mixed-use inner city is encouraged.

However, Appendix 5 of the Development Plan sets out the technical requirements for bicycle spaces for proposed retail as 1 per staff member long term and 1 per 100m² short stay/visitor. As already raised as a concern there is an inadequate provision of bicycle spaces for the retail and residential component of the development sought. In my view this adds to the concerns raised in terms of the overall quality of the proposed development and compliance with relevant planning policy provisions and guidance.

7.10.2. **Demolition and Construction Impacts:** I consider that any demolition and construction nuisances that arise for adjoining properties in the vicinity of this site should permission be granted will be only temporary and are inevitable and unavoidable aspects associated with urban development. I am satisfied that this matter can be satisfactorily agreed by conditions requiring the submission of demolition and construction management plans for the written agreement of the Planning Authority prior to commencement of any development to address impacts arising from these phases of the development.

7.10.3. **Development Contributions:** The subject development is liable to pay development contribution under Section 48 of the Planning and Development Act 2000, as amended. Should the Board be minded to grant permission a condition to this effect should be imposed.

I note that the site falls outside of the area for an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen's Green to Broombridge Line) under Section 49 of the Planning and Development Act, as amended.

In addition, as discussed in the report above given that no public open space is proposed a contribution towards its provision is required under the Development Plan by way of condition. The Planning Authority's response to the Board also seeks that the Board include other financial contributions including towards social housing and a security bond. These are not unreasonable having regard to the proper planning and sustainable development of the area.

7.10.4. **Part V:** As set out under Section 2 above the Planning Authority granted a social housing exemption certificate under P.A. Ref. No. 0151/22 on the 8th day of June, 2022. This together with the Planning Authority having not expressed any concerns in this regard and I have no substantive issue with same subject to the Board including an appropriate Part V condition reflecting the agreement with the Planning Authority in the event of a grant of permission.

8.0 **Appropriate Assessment**

8.1. The site does not form part of, nor is it located in close proximity to any designated European site. The closest Natura 2000 site is the South Dublin Bay and River Tolka

Estuary SPA (site code 004024) which is located c3.75km to the northeast at its nearest point and the South Dublin Bay SAC (& pNHA) (site code 00210) which is located c4.63km to the east of the site at its nearest point. The North Bull Island SPA (Site Code 004006) lies approximately 6.8km to the northeast.

- 8.2. I note to the Board that the applicant, has not submitted an Appropriate Assessment Screening Report as part of the documentation supporting this application.
- 8.3. The site is a derelict plot of urban land containing the shells of three shed type structures. These are in an L-shape setback from Bridgefoot Street with the remaining area consisting of mainly in hardstand and windblown planting. As such the site can be described as being entirely composed of artificial or highly modified habitats, which are of negligible ecological significance.
- 8.4. The proposed development is to connect to existing public water services, and the combined sewer running along Bridgefoot Street. I note that the Ringsend Treatment Plant is not currently compliant with its emission limit standards, and it is not in compliance with the EU's Urban Wastewater Treatment Directive, but work is underway to increase capacity.
- 8.5. There are no effects arising which could act in combination with the subject proposal to result in significant effects to Natura 2000 sites.
- 8.6. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

9.0 Recommendation

- 9.1. I recommend that permission be **refused**. The Board may consider the fourth reason for refusal a **new issue**.

10.0 Reasons and Considerations

1. Having regard to the existing character and the prevailing pattern of development, the site's location in proximity to the Liffey Quays Conservation Area, Mellowes Bridge (a Protected Structure) and the coherent low rise skyline of the site's setting, it is considered that the proposed development by reason of its excessive height and inadequate setback from the western side of Bridgefoot Street and its public domain relative to surrounding buildings and spaces would constitute a visually discordant feature that would be detrimental to the historic character of this area low rise inner city area and it would compromise the potential for public realm and mobility infrastructure improvements along this stretch of Bridgefoot Street in a manner that would be consistent with the guiding principles of Strategic Development Regeneration Area 15 - Liberties and Newmarket Square (SDRA 15) as set out under Figure 13-15 of Chapter 13 of the Development Plan and would have the potential to give rise to an undesirable precedent for future redevelopment of derelict sites adjoining it to the south and neighbouring it to the north. The proposed development would, therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development, by reason of its height, scale, massing, and bulk on this modest in area infill inner city site, would constitute overdevelopment of the site and would seriously injure the amenities of the area and of property in the vicinity by way of undue overshadowing and visual overbearance. It is also considered that the proposed layout and design would produce a substandard form of development on this site at a density and plot ratio that would be inconsistent with that permitted under the Dublin City Development Plan, 2022-2028, and it would also be at odds with the prevailing density in the vicinity. In this regard, the substandard residential amenity for future occupants of the building, in particular, the inadequate communal open space, dual aspect apartment, parking (car, bicycle, and motorbike) provision together with the substandard mobility services reflects the overdevelopment of this modest infill site. In addition, the proposed development would be visually obtrusive in its streetscape scene as well as visual setting and would be out of character with

development in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

3. The Dublin City Development Plan, 2022-2028, under Section 6.5.1 and Table 37 of Appendix 1 together with Policy QHSN38, seeks to create sustainable residential communities which contain a wide variety of housing and apartment types, sizes, and tenures, in accordance with the Housing Strategy and Housing Need and Demand Assessment (HNDN).

In this regard, the HNDA for the Liberties sub city level, requires that residential developments at this location and of the nature proposed contain 15% three or more-bedroom apartment units and a maximum of 25%-30% one-bedroom/studio apartment units.

It is considered that these provisions are reasonable in accordance with Specific Planning Policy Requirement 1 of 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' issued by the Department of Housing, Local Government and Heritage, 2022.

The proposed mix of apartment units includes exceeds the maximum number of one bedroom/studio units and falls short of the percentage of three or more-bedroom apartments in a manner that materially contravenes Development Plan policy for the type of development proposed.

As such the proposed development fails to demonstrate its consistency with the evidence-based housing needs of the local area.

For this reason, the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. It is considered that the archaeological significance of the site is such that any development of the site in advance of a comprehensive archaeological assessment, carried out to the requirements of the appropriate authorities, would be premature and would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Patricia-Marie Young
Planning Inspector

31st day of October, 2023.