



An
Bord
Pleanála

Inspector's Report 314468-22

Development	Demolish 3-storey building (172sq.m) and construct new 5-storey building (397sq.m) containing 4 no. one-bed apartments, one per floor at upper levels including south facing balconies and a ground floor retail unit and all ancillary site development works
Location	26 Parkgate Street, Dublin 8
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4187/22
Applicant(s)	Paul Kelly & Michael McGowan
Type of Application	Planning permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Paul Kelly & Michael McGowan
Observer(s)	Parkgate Properties Ltd. Peter McGuire
Date of Site Inspection	24 th January 2024
Inspector	Mary Kennelly

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1.0 Site Location and Description

- 1.1.** The site is located on Parkgate Street in Dublin 8, approx. 100m to the east of The Criminal Courts of Justice and approx. 150m to the west of the Aisling Hotel, and close to Heuston Station. It is situated on the northern side of Parkgate Street between the junctions of Infirmary Road and Benburb Street. It comprises a mid-terraced property within a parade of shops and cafes with accommodation overhead. The streetscape is comprised of a traditional terrace with mixed architectural styles with varying heights and designs, but most of the properties are three-storeys in height. There is a cycle lane, bus lane and street parking in front of the property.
- 1.2.** The appeal site is a 3-storey building with a café on the ground floor and residential overhead. The stated floor area is 172sq.m. The ground floor café with kitchen area extends northwards as far as the rear boundary with 100% site coverage. The upper floors are contained within the historic building and comprise a single residential unit of 3 small bedrooms, a bathroom and a living/kitchen area. The ground floor extension has a flat roof and extends c.11.5m from the rear wall of the main building. The front façade is double-fronted and is at a lower eaves height than it's adjoining neighbours. The ground floor has a shopfront with a canopy and a separate entrance to the upper floor accommodation on the western side.
- 1.3.** The immediately adjoining properties on either side are three stories in height but are of a different design. The façade of No. 27 is slightly taller and is wider with two shopfronts and a set of three windows on each floor. This property has a small yard to the rear. One of the retail units is in use as a shop and the other was vacant at the time of my inspection. No. 25 is a larger property which is considerably taller than the appeal site and forms the end of the terrace. This property is in use as a public house (P. Duggans) and has been extended to the eastern side at ground floor level and has a large canopy and seating area at the front. It also has a flat roof extension at ground floor level at the rear. The property to the east of the pub is a motor sales warehouse, which extends around to the rear of the appeal site.

2.0 Proposed Development

- 2.1.** It is proposed to demolish the existing building (floor area of 172m²) and to erect a five-storey building with the fourth-floor element recessed. The floor area is given as

397m². The proposed use of the building is as a retail unit on the ground floor with a one-bedroomed apartment on each of the upper four floors.

2.2. The proposed retail unit has a floor area of 37.5m² and there is a small yard and a storage area for bicycles and bins at the rear. Stairs and lift access would be provided to the upper floors. Each of the apartments on the first, second and third floors would have a floor area of 56.8m², with the living/kitchen/dining area at the front (southern end) and the bedrooms at the rear. A balcony would be provided on each floor on the south-western corner. The top floor apartment would have a floor area of 57.5m² with a similar layout, but with a larger balcony of 14m² spanning the width of the property. This provides for the proposed recessed element with a set back of appr. 2.7m.

2.3. The building will be c.13.8 metres tall with an additional 1.0m at the north-western corner to accommodate the lift shaft. It will be clad with brick apart from the ground floor and the fourth floor, which will have grey stone cladding and dark grey metal cladding, respectively. The balcony to the top floor apartment will have glass balustrading, as will the balconies to the other apartments. The windows are proposed to be of timber Aluclad. The building would have a flat roof and would rise above the roof levels of the adjoining properties by up to 5 metres.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to **refuse** permission for one reason as follows: –

Having regard to the height, design and poor fenestration detailing of the proposed development, it is considered to be excessive in height and at odds with the character of this part of Parkgate Street resulting in an abrupt visual transition. The proposed development would be visually incongruous and fails to respect and complement the prevailing scale, architectural quality of the surrounding area, contrary to Section 16.2.2.2, Infill Development. The proposed development is therefore contrary to Chapter 16 of the Dublin City Development Plan 2016-2022, and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1.** The planning report considered that the proposed mixed-use development was acceptable in principle, having regard to the Z5 zoning, subject to compliance with the Development Plan policies and standards for design, neighbouring amenity, transport and environmental effects.
- 3.2.2.** It was noted that the site is located within a zone of archaeological interest and that the City Archaeologist had raised concerns regarding the proposal to demolish the building, particularly in the absence of an archaeological impact assessment. Having regard to the plot ratio (3.58) and the site coverage (96%), the density was considered to be higher than recommended in the standards (PR 2.5-3.0 and SC 90% respectively), but might be acceptable if the proposed development successfully related to its surroundings, provides good quality accommodation, protects residential amenity and is acceptable with regard to traffic and environmental impacts.
- 3.2.3.** In terms of design, it was considered that no attempt had been made to align with the fenestration pattern of adjoining properties and the shop front was considered to be at odds with the neighbouring ones. These factors together with the height at 13.8m, which projects above the ridgeline of adjoining properties, were considered to be visually incongruous and contrary to the CDP policies (16.2.2.2) for infill development.
- 3.2.4.** The apartments were deemed to generally comply with the standards in the Apartment Guidelines. However, it was noted that the layout was poor with a long corridor connecting the living area and bedrooms, the kitchen was very small and there was no communal or public open space proposed. There was no sunlight/daylight assessment submitted. The long corridor as proposed, would not generally be acceptable in new-build layouts. No justification was given for the lack of public open space provision.
- 3.2.5.** It was considered that the residential amenity of the upper floor accommodation at No. 27 was likely to be affected by the depth of projection of the proposed building at the rear, combined with overlooking from the placement of windows on the western elevation.

3.2.6. Other Technical Reports

City Archaeologist – concerns were raised regarding the lack of prior consultation and the absence of an archaeological impact assessment report, as required by the CDP (CHC 9.3). It was noted that the site has clear archaeological potential as it is located within the Zone of Archaeological Potential for the Historic City (RMP Ref. DU018-020) and is located on the south-facing bank of the River Liffey, which is an area known to have been used in pre-historic times, including Viking and later periods. It was also pointed out that the retention of historic buildings is important as it can assist in preserving any surviving subsurface archaeological material in situ. Further information was therefore requested as follows:

1. A Historic Buildings Survey by a suitably qualified architectural historian of the building to be demolished to determine its date and significance to inform the decision regarding demolition.
2. The applicant to consult with the City Archaeologist in preparing a full Archaeological Assessment and impact statement.

Transportation Planning – (19/07/22) No objection subject to conditions.

Drainage/Engineering Division – (01/07/22) No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water – no response.

Irish Rail – no response.

Dept. of Housing, Local Government & Heritage – no response.

3.4. Third Party Observations

3.4.1 Two third-party submissions were received by the P.A. which were from the adjoining properties on either side. The main concerns may be summarised as follows :-

- The site is zoned for commercial use and is already very busy with cycle lanes and bus lanes. The use of the upper floors for residential use would conflict with the use of the adjoining premises as a pub.

- Demolition of building which is over 150 years old raises concerns.
- Height of proposed building is excessive and is unsuitable in the context of the streetscape. Reference to height of property nearby (3146/19) is inappropriate as this property is in a different location and is next to a large office building.
- Design of building, fenestration pattern and use of materials are inappropriate and out of character with the surrounding area.
- Residential amenity of adjoining property at 27 Parkgate Street would be compromised by west facing windows and will restrict any future development potential of this adjoining site.
- Construction and structural issues arising from the demolition of the building with potential impacts for immediately adjoining neighbours. Insufficient information on construction methodology and structural impacts on adjoining properties provided.

4.0 Planning History

4.1.1. Subject site

None on subject site.

4.1.2. On adjoining sites

25 Parkgate Street - 3614/21 – Permission granted for an awning at the front of the pub (P Duggans).

27A Parkgate Street – 2130/16 – permission granted for change of use from bookmakers to café and associated upgrading works.

41 Parkgate Street - 3145/19 – permission granted for demolition of a 2-storey over double basement building and erection of a 5-storey over double basement building comprising 13 apartments.

5.0 Policy Context

5.1. National Planning Framework 2018-2040

National Strategic Outcome 1 - Compact Growth - recognises the need to deliver a greater proportion of residential development within existing built-up areas.

Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Objectives 3A and 3B direct new housing development to existing built up areas.

NP Objective 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased heights.

5.2. Rebuilding Ireland – Action Plan for Housing and Homelessness 2016

Pillar 4: Improve the Rental Sector Key objective:

Key objective: Addressing the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.

5.3. Urban Development and Building Height Guidelines (2018)

These guidelines set out national policy on building height in urban areas.

Consolidation and densification, with greater building heights, can be considered in appropriate locations such as city and town centre areas, sites with significant public transport capacity and connectivity, but having regard to the need to achieve very high quality in terms of architectural, urban design and public realm outcomes.

5.4. Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2018, as amended)

The purpose of these guidelines is to balance the achievement of high-quality apartment development with a significant increase in the overall level of apartment output. They provide guidance on matters such as locational considerations, mix of units, internal space standards, dual aspect, floor-to-ceiling heights, apartments to

stair/lift core ratios, storage space, room dimensions, amenity spaces and car parking. The Guidelines are issued under Section 28 and the Board is required to have regard to them. In particular, the Specific Planning Policy Requirements (SPPRs) contained in the guidelines take precedence over any conflicting policy contained in development plans or local area plans.

Identification of suitable locations is guided by 2.4. which highlights three types of location, namely Central/Accessible Urban Locations, Intermediate Urban Locations and Peripheral/Less Accessible Locations. The central locations (suitable for the highest density) are generally within easy walking distance of city centres/significant employment zones or high quality/frequency public transport and the Intermediate zones are suitable for smaller scale but higher density developments (>45dw/ha) and will be located within reasonable walking distance of principal town/suburban centres or employment locations or high quality/frequency public transport. The requirements set out in the SPPRs and in Appendix 1 of the Guidelines will be discussed in more detail in the assessment section of this report, where relevant.

5.5. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

- 5.5.1.** These guidelines came into effect in January 2024 and replaced the Sustainable Residential Development in Urban Areas Guidelines (2009). The decision by the planning authority was made on the 2nd August 2022 and the appeal was lodged with the Board on the 29th August 2022. The P.A. decision and the grounds of appeal were based on the previous Sustainable Residential Development in Urban Areas Guidelines and associated Best Practice Urban Design Manual (2009).
- 5.5.2.** The **2024 Guidelines** support the application of densities that respond to settlement size and to different place contexts within each settlement recognising the differences between cities, large towns and smaller towns and villages. They also allow for greater flexibility in residential design standards. Whilst the 2009 Guidelines promoted a 3-tiered approach to residential density, with densities of up to 35 dw/ha in smaller towns, 35-50 dw/ha in outer suburbs of larger towns and cities and 50dph in more central urban locations, the 2024 Guidelines have expanded the density bands to ensure that they are tailored to settlement contexts.

5.5.3. Table 3.1 states that the city centres of Dublin and Cork, comprising the city core and immediately surrounding neighbourhoods, are the most central and accessible urban locations nationally with the greatest intensity of land uses, including higher order employment, recreation, cultural, education, commercial and retail uses. It is a policy and objective of these Guidelines that residential densities in the range 100 dph to 300 dph (net) shall generally be applied in the centres of Dublin and Cork.

5.5.4. In respect of City Urban Neighbourhoods, (Table 3.1) it is stated that

The city urban neighbourhoods category includes:

- (i) the compact medium density residential neighbourhoods around the city centre that have evolved overtime to include a greater range of land uses,
- (ii) strategic and sustainable development locations,
- (iii) town centres designated in a statutory development plan, and
- (iv) lands around existing or planned high-capacity public transport nodes or interchanges (defined in Table 3.8) – all within the city and suburbs area.

These are highly accessible urban locations with good access to employment, education and institutional uses and public transport. It is a policy and objective of these Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork.

5.6. Architectural Heritage Protection Guidelines for P.A.s (2011)

These guidelines include advice on appropriate development within Architectural Conservation Areas.

5.7. Dublin City Development Plan 2022-2028

5.7.1. The decision by the planning authority was made on the 2nd August 2022 and the appeal was lodged with the Board on the 29th August 2022. The P.A. decision and the grounds of appeal were based on the previous plan, Dublin City Development Plan 2016-2022. In the meantime, Dublin City Council has adopted a new City Development Plan on the 2nd November 2022. The **new Dublin City Development Plan 2022-2028** came into effect on the **14th of December 2022**. This is now the statutory Development Plan to which the Board must have regard.

5.7.2. The site is **zoned Z5 City Centre** the objective for which is

“To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.”

It is stated (14.7.5) that the primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development.

5.7.3. Chapter 4 – Shape and Structure of the City seeks to achieve a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. Relevant policies are

5.7.4. 4.5.1 Approach to the Inner City and Docklands – Consolidation and development of brownfield lands.

SC2 – Develop the City’s Character – protect the grain, scale and encourage appropriate building heights to ensure efficient use of resources.

SC3 – Mixed Use Development – promote mixed-use including high quality sustainable residential development.

5.7.5. 4.5.3. Urban Density – the objective is to provide opportunities for increased density in a sustainable manner whilst ensuring the highest standard of design as well as the protection of existing amenities and the natural and historical assets of the city. In some instances, higher density development will be informed by Architectural Conservation Areas (ACAs), the Record of Protected Structures and other heritage designations. In this regard, such development will be required to minimise potential adverse impacts through appropriate siting, scale and massing. (See also Appendix 3 – Achieving Sustainable Compact Growth: Policy for Density and Building Height in the City).

5.7.6. 4.5.4 Increased Height as Part of the Urban Form and Spatial Structure of Dublin – when considering building height, regard must be had to the prevailing context within which the site is located, and broader consideration must be given to potential impacts such as overshadowing and overlooking. Key considerations also include locations within the historic core, where it must be demonstrated that increased height will not adversely impact these sensitive environments and that they will make a positive contribution to the historic context.

SC10 – Urban Density – ensure appropriate densities and creation of sustainable communities in accordance with national guidance.

SC11 – Compact Growth – promote compact growth and sustainable densities through consolidation and intensification of infill and brownfield lands, particularly on public transport corridors subject to certain criteria.

SC12 – Housing mix – promote a variety of housing and apartment types.

SC14 – Building Height Strategy – ensure a strategic approach in accordance with Building Height guidelines.

SC16 – Building Height Locations - recognise the potential and need for increased height in appropriate locations including the city centre subject to achieving a balance between protection of amenities, environmental sensitivities and the established character of an area.

SC17 – Building Height – ensure that proposals for enhanced scale and height comply with certain criteria including responding sensitively to the historic city centre.

5.7.7. 4.5.5 Urban Design and Architecture - Well-considered urban design and architecture, including use of high-quality materials and finishes, and well-designed buildings, spaces and landscapes make a positive contribution to the urban environment and improve the environmental performance, competitiveness and attractiveness of the city.

SC19 – High Quality Architecture - To promote development which positively contributes to the city's built and natural environment, promotes healthy placemaking and incorporates exemplar standards of high-quality, sustainable and inclusive urban design and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods.

SC21 – Architectural Design - To promote and facilitate innovation in architectural design to produce contemporary buildings which contribute to the city's character and which mitigates, and is resilient to, the impacts of climate change.

SC22 – Historical Architectural Character - To promote understanding of the city's historical architectural character to facilitate new development which is in harmony with the city's historical spaces and structures.

5.7.8. Chapter 5 – Quality Housing and Sustainable Neighbourhoods seeks to create a compact city with sustainable neighbourhoods. This requires the provision of quality homes and sustainable community facilities and amenities which meet the needs of communities and contribute to the making of good, connected neighbourhoods. The plan also promotes the principles of the 15-minute city.

QHSN 10 – Urban Density - To promote residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QHSN 36 – High Quality Apartment Development - To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood.

5.7.9. Chapter 11 – Built Heritage and Archaeology –

5.7.10. 11.5.3. Z2 and Z8 Zonings and Red-Hatched Conservation Areas - Whilst red-line conservation areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application.

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

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

BHA 9 – Conservation Areas - To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. 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, wherever possible.

BHA 10 – Demolition in Conservation Areas - There is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in exceptional circumstances where such loss would also contribute to a significant public benefit.

5.7.11. Archaeological Heritage Policy BHA 26 – Protect and preserve Monuments and Places (on RMP).

To protect archaeological material in situ by ensuring that only minimal impact on archaeological layers is allowed, by way of re-use of standing buildings, the construction of light buildings, low impact foundation design, or the omission of basements.

To seek the preservation in situ of all archaeological monuments and other archaeological features, or as a minimum preservation by record.

Where development proposals are located within the RMP, sites of over 0.5ha with potential underwater impacts and site on the Industrial Heritage Record will be subject to consultation with the City Archaeologist.

5.7.12. Chapter 15 Development Standards

Section 15.4.2 Architectural Design Quality and Design Principles

Imaginative, innovative and contemporary architecture is encouraged in all development proposals, provided that it respects Dublin's heritage and local distinctiveness and enriches the city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance. Design Principles include:

- The character of both the immediately adjacent buildings, and the wider scale of development and spaces surrounding the site.

- The existing context and the relationship to the established pattern, form(s), density and scale of surrounding townscape, taking account of existing rhythms, proportion, symmetries, solid to void relationships, degree of uniformity and the composition of elevations, roofs and building lines. The scale and pattern of existing streets, squares, lanes and spaces should be considered.
- The existing palette of materials and finishes, architectural detailing and landscaping including walls, gates, street furniture, paving and planting.

5.7.13. Section 15.5.2 Infill Development should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape. Specifically, it is required that –

- To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.
- To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.
- Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.

5.7.14. Appendix 3 Achieving Sustainable Compact Growth Policy for Density and Building Height in the City – This section sets out a policy approach for the assessment of development of increased height, scale and density in the city that aligns with the Building Height Guidelines, including identifying areas where increased building height will be supported (SPPR 1) and providing a series of performance based development management criteria to ensure protection of residential, heritage, streetscape and landscape amenity (SPPR 3). All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3.

5.7.15. Section 3.2 Density – it is stated that the highest densities should be located at the most accessible and sustainable locations. However, an urban design and quality led approach is required. The focus should not be just on maximising density to maximise yield, but on a range of qualitative criteria including consideration of architecture, urban design and quality placemaking. A net density range of 100-250 units/ha are recommended within the canals (Table 1). There is a general presumption against densities of over 300 dw/ha. A Plot Ratio of 2.5-3.0 and Site Coverage of 60-90% are recommended standards for city centre sites (Table 2).

5.7.16. It is stated (4.1) that in considering locations for greater height and density, all schemes must have regard to the local prevailing context within which they are situated. This is particularly important in the lower scaled areas of the city where broader consideration must be given to potential impacts such as overshadowing and overlooking, as well as the visual, functional, environmental and cumulative impacts of increased building height. The performance criteria in Table 3 include respecting and/or complementing existing and established surrounding urban structure, character and local context, scale and built and natural heritage.

5.8. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA (004024) – approx. 5km to the east.

South Dublin Bay SAC (000210) - approx. 6km to the south-east.

North Bull Island SPA (004006) – approx. 8km to the east.

North Dublin Bay SAC (000206) – approx. 8km to the east.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against the decision to refuse planning permission. The main points raised may be summarised as follows:

- **Excessive Height** - The height is not excessive for an inner-city site, where the CDP allows for heights up to 24 metres. There is a variety of heights within the streetscape and in the overall area. The proposed design (as

submitted to the P.A.) is approx. 1m higher than Ryan's pub to the west. The court of Justice is significantly taller as will be any likely redevelopment of Westbrook Motors to the East. A tower in excess of 90m is proposed on the Hickey's site directly opposite (to the south). Reference is also made to the following permissions

3145/19 – 41 Parkgate Street – Five storeys approved adjacent to existing 2-storey building (No. 40). This building is on the opposite side of Parkgate Street.

4235/18 – 22 Richmond Street South – similar to current proposal (photo included in grounds)

- **Design and fenestration patterns** – the suggestions in the planner's report that the proposal would create an incongruous transition between no. 27 and 26 is disputed and the removal of the original pitched roof on the adjoining property could be described as being more detrimental to the character of the streetscape than the current proposal. It is disputed that the proposal would be incompatible with the prevailing scale and architectural quality of the street as the street exhibits a rich variety of buildings with differing styles and scales. It is the eclectic mix that gives the street its character.
- **Revised proposal** - A revised optional proposal has been submitted with the grounds of appeal, which proposes a building with a reduced height (one storey removed) and a revised fenestration pattern, whereby the windows align more carefully with those of adjoining properties. However, the first party would prefer to retain the proposed design as originally submitted, but would accept the revised proposal in preference to a refusal.
- **Justification for demolition** – the quality of the existing accommodation on the upper floors is very poor with low ceiling heights (2.1m). the building is not noteworthy in terms of architectural quality.
- **Archaeology** – the existing building covers 100% of the site and there will be no basement excavations. No basement is proposed.
- **Quality of accommodation** – the linear nature of the site necessitates a corridor between the bedroom and the living area, but this is not considered to

have any adverse impacts on residential amenity. Firstly, it provides enhanced privacy between both areas and secondly, the floor areas for the apartments are significantly above the minimum standards. The proposed dividing partition between the galley kitchen and the living area is intended to be ordinarily left open to provide a full 5m width to the space. Furthermore, the living areas face due south with maximum light quality.

- **Rear bedroom windows** – it is submitted that the setback and orientation create sufficient privacy, but if the Board deems it appropriate, a condition requiring a visual barrier to be created at the western boundary (i.e. by creating a lightwell) would be acceptable to the first party.

6.2. Planning Authority Response

6.2.1 The P.A. has not responded to the grounds of appeal.

6.3. Observations on grounds of appeal

Two observations have been submitted to the grounds of appeal. The points raised can be summarised as follows:

Construction methodology – no response has been made to the concerns raised regarding the lack of information on the construction methodology. This has the potential to give rise to structural instability to the adjoining property at No. 27 Parkgate Street. Furthermore, no account has been taken of the existence of a basement at No. 27 and the likely impact of construction works on this space. In addition, the construction period is likely to cause significant disruption to the adjoining properties by reason of deliveries, location of construction compounds etc. yet no information has been provided regarding this phase.

Impact of west-facing windows – These windows will overlook the adjoining property to the west and will significantly reduce the development potential of this property. It would also give rise to a fire risk due to the proximity of the windows to the common boundary.

Excessive Height – the height of the building would result in an additional 60% above the height of No. 27. When approaching the site from the west, the gable wall

will be highly visible. The reference to the precedent at No. 41 is rejected as this site is within the SDRA, which permits high rise development. It is also immediately adjoining a tall office block. Thus, there is no relevance to the current proposal.

Architectural design – the site is located within a red-hatched conservation area which provides protection for groupings of buildings, streetscapes etc. the proposed development would not respect the special historic character of the city.

Furthermore, although the site is located outside of SDRA No. 7 (Heuston), it is located within a ‘Designated Cone of Vision’.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows: -

- Compliance with policy
- Justification for demolition
- Height scale, density and design of building
- Impact on residential amenity and quality of accommodation
- Construction impacts
- Environmental Impact Assessment
- Appropriate Assessment

7.2. Compliance with policy

7.2.1. The Core Strategy of the current Dublin City Development Plan 2022-2028 promotes ‘compact growth’ which ‘involves the better use of available land within the built-up areas close to public transport and the city centre for development opportunities.’ Various policy objectives seek to achieve a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. The Zoning objective for **Z5** seeks to “consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.” It is stated (14.7.5) that the primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use developments.

- 7.2.2.** A range of policy objectives in Chapters 4, 5 and 11 of the new City Development Plan 2022 support higher densities and increased height, as well as the development of mixed-uses, in inner city locations, particularly where they are well served by high quality public transport and easily accessible to facilities, services and amenities. These include SC3, SC10, SC11, QHSN 10. However, it is emphasised in the overall policy framework that in tandem with these objectives to create a more compact city centre, it is essential to create sustainable communities and to achieve a balance between higher densities and protection of amenities, environmental sensitivities and contribute positively to the established character of the area and to achieve high standards of urban design and architecture, (policies SC16, SC19, SC22 refer).
- 7.2.3.** It is considered that the proposal to replace an existing mixed-use building with a more modern mixed-use building incorporating an increase in number of apartments, is generally appropriate in principle due to the inner-city location and the high level of accessibility to public transport and the range of facilities that the city centre has to offer. The area is characterised by mixed uses, including many properties with upper floor accommodation, with excellent accessibility to local services, the city centre, employment and educational opportunities and to public transport facilities, and is therefore consistent with the Core Strategy and zoning objectives for the area. It is also considered that it is consistent with national policy to make the most efficient use of existing serviced urban land to create sustainable neighbourhoods.
- 7.2.4.** The Development Management Chapter (15) and Appendix 3 of the Plan contain further policies in relation to appropriate densities, plot ratios, height, accessibility and design/quality of layout. The emphasis is on the design of such development reflecting the existing character and built form, being compatible with the design and scale of adjoining buildings, protecting the residential amenity of existing properties and ensuring adequate amenity for future occupiers. These matters will be discussed in the following sections.

7.3. Justification for demolition

- 7.3.1.** The policies relating to the built heritage assets of the city (11.5.3), which includes policies for the red-hatched conservation areas, include a general presumption against the loss of a building of conservation or historic merit within a conservation area or that contributes to the overall setting, character and streetscape. Such

proposals for demolition will require detailed justification from a viability, heritage and sustainability perspective. Relevant policies include BHA 9 and BHA 10, which encourage the retention of buildings which contribute to the overall character and integrity of a Conservation Area and state that there is a general presumption against the demolition or substantial loss of such structures.

- 7.3.2.** The demolition of the existing building would result in the loss of a building which forms part of the historic built environment and which contributes positively to the character of the streetscape. Policy **BHA 24** (Chap. 11) positively encourages the retention and careful refurbishment of the historic built environment for sustainably and economically viable uses. It is stated in the accompanying text that the inherent sustainability of retention and adaptive reuse, compared with the whole life energy costs and waste impacts that result from demolition, is acknowledged. It is further stated that conservation can be recognised as a good environmental choice as the reuse of buildings, rather than their demolition, contributes to sustainability through retaining the embodied energy of buildings and reducing demolition waste.
- 7.3.3.** The policy objectives related to the archaeological heritage of the city (11.5.5) also seek to protect archaeological heritage in situ (BHA 26) by ensuring that only minimal impact on archaeological layers is allowed by way of re-use of standing buildings, the construction of light buildings, low impact foundation design and the omission of basements in the Monuments and Places listed on the statutory Record of Monuments and Places.
- 7.3.4.** As noted in the internal Report of the City Archaeologist, the site is located within the Zone of Archaeological Potential for the Historic City (RMP Ref. DU018-020) and is located on the south-facing bank of the River Liffey, which is an area known to have been used in pre-historic times, including Viking and later periods. The City Archaeologist also noted that the retention of historic buildings is important as it can assist in preserving any surviving subsurface archaeological material in situ and observed that there had been no Archaeological Impact Assessment of the property. It was, therefore, requested that a Historic Building Survey by a suitably qualified architectural historian of the building to be demolished to determine its date and significance to inform the decision regarding demolition be submitted and that the applicant should consult with the City Archaeologist in preparing a full Archaeological Assessment and impact statement.

- 7.3.5.** This information was not formally requested as the planning authority decided to refuse permission. However, the first party appellant stated, in support of the proposal to demolish the building, that the building was not of any historical architectural merit and that the floor-to-ceiling heights are only 2.1m, which results in sub-standard accommodation. It was also pointed out that there would be no basement excavation. The third-party observer (No. 27 Parkgate Street) also objected to the lack of information regarding the construction methodology, with potential impacts in terms of structural stability of the adjoining premises, which does have a basement. However, no further information or evidence was provided to justify the demolition of the building or to indicate the construction methodology.
- 7.3.6.** In light of the above, and in particular, the policy objectives which seek to retain buildings of conservation or historic merit within a Conservation Area or buildings that contribute to the overall setting, character and streetscape, and to the absence of any formal historical evaluation of the building and its historical value in terms of the structure itself or its contribution to the streetscape, it is considered that an adequate case for the demolition of the building has not been made. Furthermore, the sustainability objectives relating to the preference for retention and adaptation of existing buildings over demolition and rebuilding, have not been addressed. In conclusion, therefore, it is considered that demolition of the building is not acceptable in principle.
- 7.3.7.** Although the planning authority decision did not specifically refer to this issue, it is considered that the matter was raised by the city Archaeologist and in the third-party observations. In addition, the first party appellant addressed the issue of justification for demolition in the grounds of appeal. As such, it is not considered to be a new issue.

7.4. Height, scale, density, and design of building

- 7.4.1.** The proposed development seeks to replace an existing mid-terrace building, which is 3-storeys in height and has a narrow frontage and is flanked by two similar 3-storey buildings, albeit with slight differences in height, with a 5-storey building. The increase in height would be approx. 13.8 metres above the existing building height. In addition to the increased height and scale of the building, the proposed development would introduce a new architectural style with new palette of materials

and fenestration pattern. Furthermore, the density of the development on the site would be increased in terms of units per hectare and site development standards. Guidance in the CDP is provided in Chapter 15 and in Appendix 3 relating to requirements for architectural design quality and infill development, as well as for performance criteria for increased height and density.

- 7.4.2.** Appendix 3 identifies areas where increased building height will be supported and includes a series of performance-based criteria for proposals with significant increased height and density over the existing prevailing context to ensure protection of heritage, streetscape and residential amenity (Table 3). Given the highly accessible location in the inner city and close to high quality public transport, it is considered that the proposal would meet the locational requirements for higher densities. However, Appendix 3 states that the focus should not be just on maximising density to maximise yield, but on a range of qualitative criteria including consideration of architecture, urban design and quality placemaking.
- 7.4.3.** A net density range of 100-250 units/ha is recommended within the canals (Table 1) and there is a general presumption against densities of over 300 dw/ha. A Plot Ratio of 2.5-3.0 and Site Coverage of 60-90% are recommended standards for city centre sites (Table 2). The performance criteria in Table 3 include respecting and/or complementing existing and established surrounding urban structure, character and local context, scale and built and natural heritage. It is noted that in terms of the density of the proposed development, the plot ratio has been increased from c.1.5 to 3.58. Although the site coverage is reduced from 100% to 96%, the dwellings per ha is estimated at 360, (based on a stated site area of 111m²). Thus, the density is considerably greater than the standards recommended in Appendix 3 for the city centre.
- 7.4.4.** In Chapter 15, (15.4.2) Architectural Design Quality, (as summarised in Section 5.7 above), it is stated that the architectural quality of development should positively contribute to the urban design and streetscape through the use of high-quality materials and appropriate building form, and should respect and enhance its context. Some of the key principles include respecting the relationship of the development to the established architectural form, scale and pattern of the surrounding townscape and taking account of the existing rhythms, solid to void relationships, degree of

uniformity and composition of elevations, as well as the existing palette of materials and finishes.

- 7.4.5.** At 15.5.2, it is stated that infill development should complement the existing streetscape and in particular that it respects and enhances the context and is well integrated with its surroundings to ensure a more coherent cityscape. Specifically, it is required that new development would respect and complement the prevailing scale, mass and architectural design in the surrounding townscape. In addition, it is required that a positive response to the existing context (i.e. architectural form, detailing and materials) is demonstrated, particularly where they currently contribute in a positive manner to the character and appearance of the area. It is emphasised that infill development within a terrace or group of buildings with a unified design should positively interpret and respect the existing architectural design/features.
- 7.4.6.** The building to be demolished and replaced forms part of a terrace which has its own distinctive character. On the approach from the east, the terrace is framed to a certain extent by the iconic Court Services building which terminates the view. This building is contemporary in style, of a significantly larger scale than the prevailing scale, has a circular shape and is predominantly glazed. However, the contrast between the design and scale of this building tends to reinforce the traditional style of the terrace within which the appeal site is located. The approach from the west is dominated by Ryan's pub and the continuity of the terrace beyond. The terrace itself varies in height and style of architecture, yet there is a consistency and harmony which pervades throughout the terrace which provides coherence in the streetscape.
- 7.4.7.** The terrace is composed mainly of 3-storey buildings on narrow plots with a vertical emphasis created by the fenestration pattern and a horizontal emphasis created by the parapets at roof level. There is a strong consistency in the palette of materials, which are predominantly smooth painted render, and in the solid-to-void ratio created by the mainly vertical shaped windows, which gives a unifying rhythm. It is noted that the variability in height is also a characteristic element, as is the punctuation of the terrace with a couple of buildings with a different architectural style and palette of materials. However, the height is generally maintained at 2 to 3-storeys and the punctuations are mainly commercial premises with a different architectural style, which introduce variety into the terrace.

- 7.4.8.** Thus, the architectural composition of the terrace incorporates a strong sense of rhythm in terms of the vertical emphasis of the repeated fenestration pattern, the horizontal emphasis of the parapets and the consistent use of materials and colours, together with the relatively uniform scale of the buildings. This rhythm creates a sense of harmony and balance in the streetscape which unifies the terrace and is aesthetically pleasing. I would agree with the planning authority that the introduction of the 5-storey building which has a different architectural style and fenestration pattern, and which is significantly taller than the adjoining buildings, and which would introduce a new palate of materials and finishes, architectural detailing together with balconies on the front façade, would be visually incongruous in the streetscape.
- 7.4.9.** It is noted that the grounds of appeal include an alternative proposal with a reduced height and scale and a revised fenestration pattern. The revisions essentially result in the removal of one floor and a better alignment of the window cills with those on the adjoining property. The shopfront fascia is also better aligned with those of the neighbouring properties. However, the overall height is still considered to be excessive as it rises above the parapet of No. 27 and replaces a parapet line with a recessed apartment balcony with a glass balustrade. The window openings and balconies would still have a more horizontal or 'square' emphasis than the existing windows and the materials would still differ markedly from the established pattern of the adjoining properties.
- 7.4.10.** Notwithstanding the revisions proposed in the grounds of appeal, it is considered, therefore, that the proposed development would be visually obtrusive, would disrupt the harmony of the terrace and would fail to make a positive contribution to the character, scale and architectural form of the existing streetscape, which is of a traditional architectural form with a unified design and historic significance, and which is located within a Conservation Area. The proposed development would, therefore, result in overdevelopment of the site and would seriously injure the visual amenities of the area and contravene the policies of the CDP as expressed in 15.4.2 and 15.5.2 and in Appendix 3.

7.5. Residential amenity

- 7.5.1.** The planning authority raised concerns regarding the quality of accommodation, notwithstanding the general degree of compliance with the standards for individual

units set out in the Apartment Guidelines and in the CDP (Chapter 15). The main concerns related to the size/width of the kitchen and the long and disjointed layout whereby the living areas are separated from the bedrooms. It was also noted that no public open space or communal amenity space is provided and no justification for the absence of such amenity provision is made. Furthermore, it was noted that no shadow analysis or sunlight/daylight assessment was provided with the application. The third parties also raised the issues of the impact of the extension of the building to the rear with windows on the west-facing elevation on the amenities and future development potential of No. 27.

- 7.5.2. Quality of accommodation** – I would agree that the elongated layout of the apartments, with a long narrow corridor linking the living areas to the bedrooms, is not ideal. In addition, the narrow galley kitchen (c.1.5m wide) combined with the narrow dining area (c.2m wide) and the series of internal doors and partitions could result in a poor-quality living/kitchen dining area. However, I would accept that the relatively generous floor area and southern aspect of the living areas and western aspect of the bedrooms, would compensate somewhat for any resultant poor-quality amenity. Notwithstanding this, the application was not accompanied by any sunlight/daylight assessment and no provision is made for public or communal open space. Furthermore, the outlook from the balconies is over a heavily trafficked street and from the bedroom, over a series of flat roofs.
- 7.5.3. Impact on adjoining properties** – The adjoining property to the west has a single-storey rear flat-roofed extension with a small yard at the northern end. The rear yard of No. 27 is currently not overlooked and is bounded to the east by a single storey flat-roofed extension, which covers the full extent of the appeal site. The proposed development would create a small yard adjoining the yard of No. 27, but the extension would otherwise extend to the rear boundary at a height of 5 storeys. It would also introduce windows which would directly overlook the adjoining yard and would be c.2 metres from the common boundary at each floor level.
- 7.5.4.** I would agree with the third-party observer that the proposed layout would adversely impact the amenities and future development potential of No. 27 by reason of the design, scale, and extent of projection of the building at the rear together with the location of the west-facing bedroom windows. The first party has suggested that the layout could be reconfigured to create a lightwell in stead which would address the

issue of overlooking. However, no alternative floor layouts were submitted with the grounds of appeal, and it is unclear how any such adjustments would affect the quality of accommodation for the future occupiers.

- 7.5.5.** In conclusion, it is considered that the quality of accommodation is not ideal in terms of the amenities of future occupiers and that as currently configured, it would create potential difficulties for the amenities of the adjoining property. However, the accommodation generally complies with the standards in the Apartment Guidelines and with some further amendments could be improved. Thus, it is considered that the proposed development does not justify a refusal of permission on these grounds. Should the Board be minded to grant permission, however, it is considered necessary to seek further information in respect of the layout of the apartments, sunlight and daylight assessment, location of windows to the rear bedrooms and justification for lack of public open space, and/or agreement to a financial contribution in lieu of POS provision.

7.6. Construction impacts

- 7.6.1.** The third-party observer (27 Parkgate Street) raised concerns regarding the methodology of construction in terms of the likely impacts on the structural stability of the adjoining property as well as the likely implications for that property in terms of nuisance. Issues raised included the lack of information on the methodology for demolition, location of construction compound, parking and loading for deliveries/waste etc. It was pointed out that the details of the proposed methodology would inform the adjoining property owners who should be given the opportunity to be consulted. Although this issue was raised in the submissions to the planning authority, no information was included with the grounds of appeal.
- 7.6.2.** Given the tight nature of the site and almost total coverage of the site, it is considered reasonable that a construction management plan be formulated and that it be made available to the adjoining neighbours. Should the Board be minded to grant permission, it is considered that a suitably worded condition to this effect should be attached to any such permission.

7.7. Environmental Impact Assessment

- 7.7.1.** Class 10(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required where more than 500 dwelling units would be constructed and where 10-hectare urban sites would be developed. The proposal is for the development of a site with a stated area of 0.0111ha to provide a café/retail unit and 4 no. dwelling units. Accordingly, it does not attract the need for a mandatory EIA.
- 7.7.2.** (See completed Form 2 attached). The site is located within the built-up area of an existing city and is approx.5km distant from any European sites or other sites of conservation interest. The site is within an existing terrace comprising established mixed-use commercial and residential developments. 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 stage that there is no real likelihood of significant effects on the environment arising from the proposed development. Environmental Impact Assessment is, therefore, not required.

7.8. Appropriate Assessment

- 7.8.1.** South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210) are located approx. 5-6km to the south-east. North Bull Island SPA (004006) and North Dublin Bay SAC (000206) are located approx. 8km to the east. Given the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.
- 7.8.2.** Having regard to the nature, scale and location of the proposed development, the nature of the receiving environment and the distances from the nearest European site, it is concluded that no Appropriate Assessment issues arise as 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.

8.0 Recommendation

- 8.1. I recommend that planning permission should be **refused** for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Notwithstanding the revisions proposed in the grounds of appeal, it is considered that the proposed development, by reason of its excessive height and scale, architectural style and detailing, fenestration pattern and palette of materials, would be visually obtrusive and result in an abrupt transition within the historic terrace which would detract from the character, scale and architectural form of the traditional streetscape, which is located within a Conservation Area. The proposed development would, therefore, result in overdevelopment of the site and would seriously injure the visual amenities of the area and contravene the policies 15.4.2 Architectural Design Quality and 15.5.2 Infill Development of the current Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site within a traditional historic terrace which contributes positively to the streetscape and is a designated Conservation Area and to its location within a Zone of Archaeological Potential for the Historic City (RMP Ref. DU 018-020), the Board is not satisfied, in the absence of a historical evaluation on the merits of the building, an archaeological impact assessment or of adequate information justifying the demolition of the building on heritage or sustainability grounds, that there is sufficient justification for the demolition of the building. The proposed development would, therefore, be contrary to policy objectives BHA9, BHA10, BHA24 and BHA26 of the current Dublin City Development Plan 2022-2028, and would 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.

Mary Kennelly
Senior Planning Inspector

29th January 2024