



An
Bord
Pleanála

Inspector's Report ABP-314489-22

Development	Retention of two storey /single storey extension comprising 3 self-contained residential units.
Location	to the rear 74 (Woodlawn House), Drumcondra Road Lower, Dublin 9, D09 WOY5
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4210/22
Applicant(s)	Pinnacle Private Capital Limited
Type of Application	Retention
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Pinnacle Private Capital Limited
Observer(s)	None
Date of Site Inspection	15/07/23
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The appeal site is c. 1.5km to the north of Dublin City centre at the rear of No. 74 (Woodlawn House) Drumcondra Road Lower in Dublin 9. The application site is essentially all of the lands located to the rear of the main house and within the curtilage of No. 74.
- 1.2. No. 74 is identified by the National Inventory of Architectural Heritage (NIAH) under reg no. 50130185 with a Rating as Regional and with Categories of Special Interest listed as Architectural and Artistic. It is indicated as in use as 'Apartment/flat (converted)'. The NIAH describe No. 74 as-

Mid-terrace two-bay three-storey house, built c. 1900, having canted flat-roofed single-storey bay to south end of front (east) elevation with masonry cornice and blocking course with decorative cast-iron coping, and having two-storey return to rear with enclosed yard. Now in use as apartments. M-profile pitched slate roof with angled black ridge tiles, two red brick chimneystacks to south end with yellow clay pots and cogged brick caps, and ogee-profile cast-iron rainwater goods, supported on cogged yellow and black brick eaves course. Red brick walling, laid in Flemish bond, over painted smooth rendered plinth. Segmental-headed window openings with polychrome brick voussoirs, granite sills and replacement uPVC windows. Round-headed doorway with polychrome brick voussoirs, bull-nosed gauged brick reveals, moulded timber frame to timber raised-and-fielded four-panel door and plain fanlight, approached by four nosed granite steps having modern steel handrail, accessed by garden path having black and white tiles to perimeter and replacement centre panels. Set back behind gravelled front garden bounded by wrought-iron railings with decorative cast-iron finials on cut granite plinth and cast-iron pedestrian gate. Located on tree-lined section of Drumcondra Road.

- 1.3. The subject application site includes the two storey and single storey rear return to No. 74.
- 1.4. The application site is accessible through an existing narrow laneway passage running along the rear of house numbers 66-74 Drumcondra Road Lower and along the side gable of No. 1, St Alphonsus Road before exiting to the public realm via a

metal gate/door on to St Alphonsus Road. This door / gate cannot be opened from the public path side. Actual access to the site appears to be through No. 74 and in this regard I note the doorbell/intercom system suggests at least 7 individual apartments/flats/residential units operate from the property. From the submitted drawings it would appear that the first floor unit subject to this application and appeal can only be accessed from within the main house itself No. 74.

1.5. The site has a stated area of 142 sq.m.

2.0 Proposed Development

2.1. The proposed development comprises-

- Retention of existing two storey / single storey extension
- Comprising 3 self-contained residential units,
 - units 1B & 1C at ground floor level and
 - unit 2A at first floor level

2.2. The development description indicates a total floor area of 107 sq.m to be retained.

2.3. Question 8 of the application form indicates-

- Unit 1B- 32 sq.m
- Unit 1C- 40 sq.m
- Unit 2A- 35 sq.m

2.4. Question 10 (b) of the application form states the floor area of buildings to be retained within site as 63 m².

2.5. Question 10 (g) indicates a proposed plot ratio of 0.75. 10 (h) indicates site coverage of 65%.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority refused permission on the 05/08/22 for the following single reason-

- *The development to be retained provides a seriously substandard level of residential amenity, and constitutes a material contravention of the Z2 zoning objective 'To protect and/or improve the amenities of residential conservation areas.' It fails to meet the qualitative and quantitative standards set out in the relevant Ministerial Guidelines (Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities (DOHPLG March 2018), as reiterated in the Design Manual for Quality Housing 2022), and in the Dublin City Development Plan 2016-22. The building over most of the rear garden of this house comprises overdevelopment, adversely affects its character and setting, and lowers the standard of residential amenity of the house as a whole. Additionally, the first floor windows facing the boundary with 72 Drumcondra Road Lower at short distance and overlooking that property, seriously injure the amenities of that property due to impacts on privacy.*

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officer reflects the decision of the Planning Authority.

The following is noted from the report:

- The site is not a protected structure, nor is it a proposed protected structure.
- The site is recorded on the NIAH for architectural and artistic interest.
- The site is zoned Z2 'Residential Neighbourhood (Conservation Areas)'.
- The extension is not obtrusive in its impacts on the public realm.
- An extension to the rear of a dwelling is acceptable in principle in this zoning. No drawings of the house or information on its current use or number of units within have been submitted.
- The ground floor units are accessible from the yard and the first floor unit from the house.
- The lack of information is a significant omission.

- Building over the vast majority of the rear garden constitutes overdevelopment, deprives all residents of appropriate private or communal open space and reduces the quality of all residential accommodation in the house. The open space to the rear of the house is insufficient both in quantity and quality, comprising left over negative space.
- No schedule of accommodation has been submitted with the application.
- The application should properly include within the red line boundary the house it is in the rear yard of.
- A further information request could be undertaken to enquire as to the present use/occupancy of the property and to clarify the number of units contained therein. However, given the wholly unacceptable nature of the development to be retained, a further information request would not be appropriate.

4.2. Other Technical Reports

- Transportation Planning Division
 - 19/07/22- refusal recommended based on failing to provide adequate access.
- Drainage Division-
 - 28/06/22- No objection subject to condition

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

- One submission was received from the Iona and District Residents' Association. There submission can be summarised as follows-
 - De facto project splitting. This application and the concurrent one at No. 72 Drumcondra Road should be considered together.

- The sites are not standalone but compromise a significant portion of the curtilages of their main residential properties which are of architectural importance.
- The proposal is an irreversible restriction on the availability of private open space.
- The submitted documentation fails to address access, open space and accommodation in the main house.
- Existing access arrangements are substandard and impacts existing residential amenities of the wider area.
- Overdevelopment of the site, lack of parking and demand on services.

5.0 Planning History

This Site-

- None

Adjoining Site No 72-

- 4211/22, ABP-314500-22- Units 1B and 1C rear of 72 (Killaan Manor) , Drumcondra Road Lower, Dublin 9, D09 HY33
 - Retention of existing single storey structure (total floor area 63m. sq.m) comprising 2 no self-contained residential units, 1B & 1C at ground floor level.
 - Refused by DCC for similar reason to subject appeal. Currently on appeal.

6.0 Policy Context

6.1. Dublin City Development Plan 2016-2022

- 6.1.1. The application was originally lodged when the provisions of the Dublin City Development Plan 2016-2022 were operative.

- 6.1.2. The Dublin City Development Plan 2022-2028 was adopted at a Special Council meeting on the 2nd of November 2022. The plan came into effect on the 14th of December 2022.
- 6.1.3. The appeal site has a zoning objective 'Z2 - Residential Neighbourhoods (Conservation Areas)' within the Dublin City Development Plan 2022-2028, with a stated objective '*To protect and/or improve the amenities of residential conservation areas. 'Residential' is listed as a 'Permissible Uses' within this zoning. See section 14.7.2.*
- 6.1.4. Relevant planning policies and objectives for residential development are set out under Chapter 5 (Quality Housing and Sustainable Neighbourhoods) and Chapter 15 (Development Standards) within Volume 1 of the Development Plan.
- 6.1.5. Section 15.9 deals with Apartment Standards and refer specifically to the Section 28 Ministerial Guidelines- '*Sustainable Urban Housing: Design Standards for New Apartments (December 2020)*'.
- 6.1.6. Section 15.13.4 is titled 'Backland Housing' and states-

Backland development is generally defined as development of land that lies to the rear of an existing property or building line.....

Consideration of access and servicing and the interrelationship between overlooking, privacy, aspect and daylight / sunlight are paramount to the success and acceptability of new development in backland conditions.

.....

A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres. A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.

- 6.1.7. Appendix 18 of Volume 2 of the Development Plan provides guidance specifically relating to Ancillary Residential Accommodation. Section 6.0 deals with 'Subdivision of Dwellings' and states-

“Dublin City Council will consider the subdivision of larger homes in the city subject to compliance with the relevant standards for apartment units (see guidance on apartment developments – Chapter 15, Section 15.9). Where subdivision is being considered, factors such as minimum floor space, the extent of open space within the site boundaries, landscaping including the retention and planting of trees, the provision of on-site parking, the retention of existing railings and gates and screened refuse storage areas will be evaluated as part of the assessment.”

6.1.8. The following Policies are relevant-

- QHSN2 National Guidelines

To have regard to the DEHLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007), ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2020), ‘.....’

- QHSN10 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.

- QHSN36 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.

- QHSN37 Houses and Apartments

To ensure that new houses and apartments provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards for residential accommodation.

- BHA9 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.

Enhancement opportunities may include:

- 1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.*
- 2. Re-instatement of missing architectural detail or important features.*
- 3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.*
- 4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.*
- 5. The repair and retention of shop and pub fronts of architectural interest.*
- 6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.*
- 7. The return of buildings to residential use.*

Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability.

6.2. Ministerial Guidelines

6.2.1. Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2022);

The following Sections and Specific Planning Policy Requirements are relevant-

- Section 1.2 states-

‘The 2018 Guidelines built on the content of the 2015 apartment guidance, much of which remains valid, particularly with regard to design quality safeguards such as internal space standards for 1-, 2- and 3-bedroom apartments, floor to ceiling height, internal storage and amenity space. The 2018 Guidelines also updated previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland.’

- Section 1.19 states-

‘Accordingly, where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements’

- Section 2.15 states-

In accordance with Section 28 of the Planning and Development Act 2000, as amended, planning authorities must apply the standards set out as planning policy requirements in these guidelines, notwithstanding the objectives and requirements of development plans, local area plans and SDZ planning schemes.

- Specific Planning Policy Requirement 1 states-

Housing 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.....

- Specific Planning Policy Requirement 2- states

For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha:

Where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units;.....

All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.

- Specific Planning Policy Requirement 3 states-

Minimum Apartment Floor Areas:

- *Studio apartment (1 person) 37 sq.m*
- *1-bedroom apartment (2 persons) 45 sq.m*
- *2-bedroom apartment (4 persons) 73 sq.m*
- *3-bedroom apartment (5 persons) 90 sq.m*

- Specific Planning Policy Requirement 4 states-

In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

i. A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in.

iii For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects

- Specific Planning Policy Requirement 5- Ground Floor Ceiling Height
Ground level apartment floor to ceiling heights shall be a minimum of 2.7m and shall be increased in certain circumstances, particularly

where necessary to facilitate a future change of use to a commercial use. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.

Specific Planning Policy Requirement 6- Apartments per core

- Maximum provision of 12 apartments per core
- Section 6.5

The provision of acceptable levels of natural light in new apartment developments is an important planning consideration as it contributes to the liveability and amenity enjoyed by apartment residents. In assessing development proposals, planning authorities must however weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of urban residential development.
- Section 6.6

Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’ when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision.
- Section 6.12

....planning applications for apartment development shall include a building lifecycle report which in turn includes an assessment of long term running and maintenance costs as they would apply on a per residential unit basis at the time of application, as well as demonstrating what measures have been specifically considered by the proposer to effectively manage and reduce costs for the benefit of residents.
- Appendix 1- Required Minimum Floor Area Standards.

6.3. Natural Heritage Designations

- None relevant

7.0 The Appeal

7.1. Grounds of Appeal

A first-party appeal has been lodged. The grounds of appeal can be summarised as follows-

- Design modifications are set out which include the reduction of the development to be retained from three units to two units.
- Subject to these modifications the apartment units are in accordance with the development plan zoning objective because they substantially meet minimum design standards and would not impact on the conservation status of the area.
- Having regard to the built over nature of the adjoining sites, the proposed retention would not seriously injure residential amenity of property in the area.
- The appeal submission then details-
 - The site has independent non-vehicular access from a laneway to the rear of the terrace. This laneway is off St Alphonsus Road Lower and provides access to No. 66-74 Drumcondra Road Lower. A right of way exists across No. 72 which is also owned by the applicant.
 - The appeal proposal provides a two bedroom ground floor apartment with a floor area of 58 sq.m and the first floor remaining at 35sq.m. While these are below the Development Plan standards the modified plans would significantly enhance the residential accommodation when considered in combination with the provision of private open space.
 - The modified proposal provides two bedrooms in the ground floor unit above the minimum for a 3 person apartment. The first floor apartment will have a bedroom size of 15 sq.m.
 - The modified proposal provides storage in the ground floor apartment.

- There is no provision of communal open space. The site is close to green infrastructure areas within the city in particular the canal corridor amenity area and the Tolka Park.
 - The modified proposal provides 13 sq.m of private open space for the ground floor apartment and a 30 sq.m roof terrace for the first floor space. This will be surrounded by a 1.8m obscured glazed screen to prevent overlooking and provide privacy.
 - Both units will have windows with south facing aspects.
 - The floor to ceiling height is in excess of 2.4m which meets the relevant standards.
- Residential use is a use permitted under to zoning objective. The proposal to be retained is not a material contravention.
 - In terms of overdevelopment there is density restriction. The site area is 142 sq.m. The plot ratio is 0.75 while site coverage is 50.7%. The application form states 65% which is incorrect. The plot ratio is within the range permitted by the Development Plan i.e. 0.5-2.0. The modified plan reduces site coverage to 41.1%.
 - The character and setting of the main house no. 74 is determined by the streetscape frontage rather than the rear of the property. The two storey extension to the rear cannot be regarded to affect the character or setting of no. 74 or adjoining houses in the terrace.
 - In terms of impacting privacy to No. 72 it is important to note the rear garden has been developed. It is not realistic to refer to an existing rear garden which does not exist. It is acknowledged there maybe a degree of overlooking arising from a bedroom window. In the modified design this window is relocated to the rear elevation wall overlooking the roof garden.
 - In terms of impacts to No. 76 concerns are negated by the fact that rear garden has been built over.

7.2. Planning Authority Response

- None received

7.3. Observations

- None

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file including the submissions and Appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance. I consider that the substantive issues for this appeal are as follows-

- Principle of Development
- Subdivision, Backland Development and Overdevelopment
- The Modified Proposal and Compliance with Apartment Standards
- Overlooking
- Appropriate Assessment

8.2. Principle of Development

8.2.1. The site has a zoning objective 'Z2 - Residential Neighbourhoods (Conservation Areas)' within the Dublin City Development Plan 2022-2028, with a stated objective '*To protect and/or improve the amenities of residential conservation areas*'. '*Residential*' is listed as a '*Permissible Uses*' within this zoning.

8.2.2. The appeal submits a modified proposal for two apartments on appropriately zoned land. In this context the proposal is acceptable in principle.

8.3. Subdivision, Backland Development and Overdevelopment

- 8.3.1. The Planning Authority's refusal reason details that building over most of the rear garden of the house (No. 74) comprises overdevelopment and adversely affects the character and setting of No. 74 and lowers its residential amenity as a whole.
- 8.3.2. Although not specifically stated in the application or in the appeal the application clearly proposes subdividing the existing property at No. 74 Drumcondra Road Lower in what I consider a backland style of development. The red line boundary of the site includes all of the landholding behind the main rear elevation of No. 74 and in this regard leaves no private amenity space to serve the main house.
- 8.3.3. Section 15.13.4 of the DCDP deals with 'Backland Development'. It defines backland development as development of land that lies to the rear of an existing property or building line. It requires such proposals to be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- 8.3.4. The subject building extends off the main rear façade of No. 74 and the application site boundary leaves no minimum rear garden depth to No. 74. Section 15.13.4 makes provision for consideration to relax standards however in this context it is clear the application does not demonstrate high quality urban design and a comprehensive understanding of the site and the specific constraints to justify such discretion.
- 8.3.5. Appendix 18 deals with *Ancillary Residential Accommodation*, section 1.0 discusses 'Residential Extensions' which can be provided for subject to a condition to restrict the use of the room as ancillary living space to the main dwelling. The room may not be sold or rented separately from the main dwelling unit. Section 6.0 deals with 'Subdivision of Dwellings' and can allow for the creation of additional residential units within the space occupied by the existing individual dwelling. Consideration for such proposals can be considered subject to compliance with the relevant standards for apartment units. Where subdivision is being considered, factors such as minimum floor space and the extent of open space within the site boundaries amongst others will be evaluated.

- 8.3.6. The application provides no information as regards the existing use at No. 74. Having inspected the site and No. 74, it appears the house and property remains in residential use and may be subdivided into at least 6 residential units. Access to Unit 2A appears to be via No. 74 and this is an unacceptable arrangement as proposed. Based on my site inspection and the contents on file it is clear the application is not for Ancillary Residential Accommodation to No. 74 and it is difficult to assess it for subdivision without information and drawings relating to the main property.
- 8.3.7. Appendix 3 of the DCDP details Plot Ratio and Site Coverage requirements. For Conservation Area's (as per the site zoning) a Plot Ratio of 1.5-2.0 and site Coverage of 45-50% is detailed. Site coverage is described as a control for the purpose of preventing the adverse effects of over development thereby, safeguarding sunlight and daylight within or adjoining a proposed layout of buildings.
- 8.3.8. The Appeal details the modified proposal provides a plot ratio of 0.75 and site coverage of 41.1%. However this appears to be the application site itself and not the property boundary of No 74 as a whole. In this regard the Appeal fails to address the Planning Authority's refusal reason as regards the property at No. 74 as a whole.
- 8.3.9. The site clearly forms part of the curtilage of No. 74 and is an existing residential property. No information has been provided on the existing usage of the house. The plot ratio and site coverage as set out in the appeal reflects the red line application boundary and not the overall property of No. 72. This is not an acceptable or appropriate application of these metrics.
- 8.3.10. The subdivision of the property, the questionable access arrangements through No. 74, the egress arrangements via a narrow laneway to the rear of No. 66-74 Lower Drumcondra Road and the removal of all rear amenity space to No 74 is considered substandard and inappropriate backland development that clearly impacts negatively upon the residential character and setting of No. 74 as a whole and would significantly detract from residential amenity of the area. Such a proposal is inappropriate backland and overdevelopment of an existing residential property, is clearly contrary to the Z2 zoning objective 'to protect and/or improve the amenities of residential conservation areas' and the Development Plan standards set out in section 15.13.4. It would set a wholly inappropriate and negative precedent for such development in all residential areas. The application should be **refused**.

8.4. The Modified Proposal and Compliance with Apartment Standards

- 8.4.1. The Applicant has submitted a modified proposal for the Boards consideration to address the Planning Authority's refusal reason. This revised proposal provides for the reduction of the development to be retained from three apartment units to two units.
- 8.4.2. Section 1.18 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2022 (DoHPLG) details An Bord Pleanála is required to apply any specific planning policy requirements (SPPRs) as per the provisions of Section 28 (1C) of the Planning and Development Act 2000 (as amended)
- 8.4.3. For the purpose of this assessment, this proposal is considered to be a 'building refurbishment schemes on sites of any size, or urban infill scheme' and is located within a 'Central and/or Accessible Urban Location' as described in section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2022 (DoHPLG). The proposed development will therefore be assessed against the following Specific Planning Policy Requirements- SPPR 1, 2, 3, 4, 5, and 6 and other requirements of the same Guidelines.
- 8.4.4. **SPPR 1 and 2**
- a) SPPR 1 details housing developments 'may' include up to 50% one-bedroom or studio type units. I acknowledge the use of the word 'may' in SPPR 1 creates a degree of ambiguity. However, SPPR 2 provides clarity in how SPPR 1 should be interpreted.
 - b) SPPR 2 includes 3 bullet points. The first bullet point relates to proposals for up to 9 units and details that notwithstanding SPPR 1 there shall be no restriction on dwelling mix.
 - c) The modified proposal submitted with the Appeal provides 1 two bedroom apartment and 1 one bedroom apartment. I am satisfied the application complies with SPPR 1 and SPPR 2 in terms of Housing Mix.
- 8.4.5. **SPPR 3, Appendix 1 and sections 3.6 & 3.7**

- a) SPPR 3 sets out minimum requirements for apartment floor areas and in particular requires 73 sq.m for 2-bedroom apartment (4 persons) and 45 sq.m for 1 bedroom apartment (2 persons). The originally proposed and modified apartments do not meet this minimum requirement. The modified proposal provides 58.4 sq.m for the two bed (4 person) apartment and 35 sq.m for the one bed (2 person) apartment.
- b) The modified proposal does not comply with SPPR 3 and Appendix 1 of the Guidelines and accordingly represents a very poor quality of development in its provision of floor area i.e. it is significantly substandard at only 58.4 sq.m and 35 sq.m.
- c) Appendix 1 also sets out room size requirements. The modified proposal does not meet the following requirements-

	Required	Proposed
Aggregate floor area of living / dining / kitchen area	30 sq.m	28.5 sq.m
Minimum aggregate bedroom floor areas	Two bedroom (4 person) 24.4 sq.m	24.1 sq.m

- d) I note SPPR 2 details that-

All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.

- e) Section 1.2 of the guidelines refers to 'design quality safeguards' for the purpose of the Guidelines. These safeguards include- internal space standards for apartments, floor to ceiling height, internal storage and amenity space. In order to determine the 'overall quality' of the proposed scheme, I will have regard to these safeguards and other requirements of the guidelines in terms of exercising discretion and if the proposal can comply with SPPR 3.

8.4.6. **Section 3.8 Safeguarding Higher Standards**

- a) Section 3.8 of the Guidelines is titled 'Safeguarding Higher Standards' and seeks to ensure delivery of apartments that are not built down to a minimum standard, but that reflect a good mix of apartment sizes.
- b) The modified proposal does not meet the minimum requirements for a two bedroom 4 person apartment or a one bedroom 2 person apartment. Accordingly the modified proposal is built down below minimum standards.

8.4.7. **SPPR 4**

- a) Section 3.16 of the Guidelines details the amount of sunlight reaching an apartment significantly affects the amenity of the occupants and daylighting and orientation of living spaces is the most important objective.
- b) Section 3.18 details that for single aspect apartments, the number of south facing units should be maximised, with west or east facing single aspect units also being acceptable. Living spaces in apartments should provide for direct sunlight for some part of the day. North facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature. Particular care is needed where windows are located on lower floors that may be overshadowed by adjoining buildings.
- c) This SPPR requires a minimum of 33% of dual aspect units in central and accessible urban locations. It also details for building refurbishment schemes planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than 33%.
- d) The modified proposal provides two apartment with south to south west orientations. The proposal provides one bedroom window facing north west to a bedroom. The proposal complies with SPPR4.
- e) Section 6.5 of the Guidelines detail the provision of acceptable levels of natural light in new apartment developments is an important planning consideration as it contributes to the liveability and amenity enjoyed by apartment residents. Section 6.6 details regard should be had to quantitative

performance approaches to daylight provision outlined in guides including BRE Guide 209 2022 Edition (June 2022).

- f) The south facing windows in apartment 1B are located c. 1.65m from the site boundary which appears to be 2m high (as per drawing D1066-25). These windows and rooms should receive adequate daylight and sunlight.

8.4.8. SPPR 5

- a) This SPPR requires ground level apartments to have floor to ceiling heights of a minimum of 2.7m. It also details for building refurbishment schemes planning authorities may exercise discretion on a case by case basis.
- b) The section drawings submitted with the application show ground level floor to ceiling heights of 2.42m.
- c) The proposed development does not comply with SPPR 5. However discretion can be applied subject to overall design quality.

8.4.9. SPPR 6

- a) This SPPR requires a maximum of 12 apartments per floor per stair or lift core in apartment schemes. The modified proposal provides 2 apartments and complies with SPPR 6.

8.4.10. Other Requirements

- a) The apartment guidelines set out a number of other requirements. Having regard to section 1.2 of the guidelines and in order to determine 'overall quality' in accordance with SPPR 2 the following are considered most pertinent-
 - Internal Storage (Section 3.30-3.34 and Appendix 1) –
 - Section 3.30 details that internal storage is intended to accommodate household utility functions such as clothes washing and the storage of bulky personal or household items.
 - Section 3.31 details that such storage should be additional to bedroom furniture but may be partly provided in these rooms. In such cases this

must be in addition to minimum aggregate living/dining/kitchen or bedroom floor areas.

- As per Appendix 1- 6 sq.m of storage space is required for two bedroom 4 person apartments and 3 sq.m of storage space is required for one bedroom 2 person apartment.
 - The modified proposal provides dedicates a 'secure storage' area within the external amenity space of the two bed apartment. This area scales at approx. 1.96 sq.m. The size and location which is not 'internal' is wholly unacceptable. No storage is proposed to the one bedroom apartment.
 - The proposed development therefore does not comply with Internal Storage requirements.
- Private Amenity Space (Section 3.35-3.39 and Appendix 1)-
 - Section 3.35 details that it is a policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments and such space shall incorporate boundary treatment appropriate to ensure privacy and security. Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking.
 - Appendix 1 details 7 sq.m of private amenity space is required for two bedroom 4 person apartments and 5 sq.m is required for one bedroom apartments.
 - The modified proposal provides a 13 sq.m 'private open space' for the two bed apartment and 30 sq.m roof garden for the one bedroom apartment.
 - The roof terrace is to be enclosed on its south and west boundary by a 1.8 high obscure glazed screen. The drawings indicate the northern boundary is a 2m wall from ground level thereby leaving this boundary exposed. This is supported by aerial photography. The roof terrace as

proposed would significantly impact the residential amenity of No. 76.
The proposal in this regard is unacceptable.

- Communal Amenity Space (Section 4.10-4.12 and Appendix 1)
 - Appendix 1 details that 7 sq.m of Communal Amenity Space is required for the two bedroom 4 person apartments and 5 sq.m for the one bedroom apartment.
 - The modified proposal provides no communal amenity space. Section 4.12 details that the requirement can be relaxed in this context subject to overall design quality. In their appeal the Appellants refer to the proximity of the canal corridor amenity area and the Tolka Park.
 - I am not satisfied the quality of the modified proposal is sufficient to justify relaxing the requirement for communal amenity space regardless of the sites proximity to areas of public open space.

- Bicycle Parking and Storage (Section 4.15-4.19)
 - Section 4.17 details that a minimum 1 cycle storage space should be provided per bedroom and 1 visitor spaces per 2 apartments.
 - The application makes no provision for bicycle parking spaces and while I accept provision could be made in the existing external space within the site, it is unclear if this space provides for the main house.

8.4.11. Conclusion

- a) The site is located in area that can be described as a Central and/or Accessible Urban Location and the development proposed is considered be a 'building refurbishment schemes on sites of any size, or urban infill scheme' and is located within a 'Central and/or Accessible Urban Location' in accordance with the 2022 Guidelines.
- b) The modified proposal will provide 2 apartments and this use is consistent with the Z2 zoning objective for the site.

- c) In accordance with Section 28 1 (c) of the Planning and Development Act, 2000-20 (as amended) and Sections 1.18 & 1.19 of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2022', the proposed development does not comply with SPPR 3 & 5 of the Guidelines and the provision of the minimum floor space for apartments.
- d) I understand SPPR 2 allows for discretion to be exercised on all standards in the guidance on a case-by-case basis, having regard to the overall quality of the proposed development. However, the proposed development lacks quality in terms of-
- non-compliance with Minimum Floor Areas for 2-bedroom apartments of 73 sq.m and 1 bedroom apartment of 45 sq.m.
- e) Having considered section 1.2 of the Guidelines I also note the modified proposal does not provide-
- adequate internal storage as per section 3.30 and 3.31
 - acceptable private amenity space or acceptable quality of such space
 - Any communal amenity space
 - for bicycle parking and
 - the roof terrace does not adequately protect the residential amenity of no. 76 in terms of overlooking and privacy.
- f) Considering all of the above, the proposed development does not provide sufficient 'overall quality' and would be overly reliant on discretion in terms of '*design quality safeguards*' as per section 1.2 of the Guidelines. The modified proposal should be **refused**.

8.5. Overlooking

- 8.5.1. The Planning Authority's refusal reason also refers to overlooking from the first floor windows facing the boundary with No. 72 at a short distance and overlooking that property, seriously injure the amenities of that property due to impacts on privacy.

- 8.5.2. The Appellant argues that the area of concern has already been developed and a rear garden doesn't exist. It is however acknowledged that overlooking may arise from the bedroom window in the first floor window. The modified proposal provides for the closing up of the window and for a new window in the west rear facing wall.
- 8.5.3. The modified proposal adequately addresses the concern from the bedroom but makes no modifications to the kitchen/living/dining area in which two windows face south 2.95m from the boundary. In this regard it would still directly overlook the rear of No. 72. While the rear of No. 72 has been developed to a certain extent, the planning status of same is unclear and external space that should be for the residential amenity purposes of No. 72 do remain. The modified proposal would contribute to unacceptable overlooking and would be contrary to the Z2 zoning objective. The application should be refused.

8.6. **Appropriate Assessment**

- 8.6.1. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would 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 is refused for the following reason-

10.0 **Reasons and Considerations**

1. Having regard to the site location, access and egress arrangements associated with the site and the sites in-curtilage relationship with the property No. 74 Lower Drumcondra Road (including to access proposed apartment 2A , it is considered that the development to be retained and as modified in the Appeal would represent inappropriate backland development, unacceptable overdevelopment of the overall property, would result in a substandard residential development providing substandard amenity for its occupants, would seriously injure the amenities of residents in No.74 and would contribute to unacceptable overlooking

and loss of privacy to neighbouring properties No. 72 and 76. The development to be retained and as modified in the Appeal would, therefore, be contrary to the Z2 zoning objective for the area *'to protect and to improve the amenities of residential conservation areas'*, contrary to policy QHSN36 'to promote the provision of high quality apartments' and development standards set out in section 15.13.4 of the Dublin City Development Plan 2022-28, would set an undesirable precedent for wholly inappropriate development in the vicinity of the site and all residential areas and would be contrary to proper planning and sustainable development.

2. The development proposed to be retained and as modified in the Appeal represents a significantly substandard form of development which considerably lacks in its provision of quality residential amenity. The development does not comply with Specific Planning Policy Requirement 3 and 5, the requirements of section 3.8 and Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2022, issued under Section 28 of the Planning and Development Acts 2000 (as amended). The proposal would therefore be contrary to the Ministerial Guidelines, and 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.

Adrian Ormsby
Planning Inspector

16/07/2023