



An
Bord
Pleanála

Inspector's Report ABP-314978-22

Development

Demolition of all structures.
Construction of mixed use development comprising 25 apartments. Change of use of No. 4 Sweeney's Terrace to office use incorporating an extension and all associated site and development works.

Location

Sweeney's Terrace, Dublin 8, including No. 4 Sweeney's Terrace (a habitable house to the rear of No. 1 Sweeney's Terrace).

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3826/22

Applicant

Clarman Developments Limited.

Type of Application

Permission.

Planning Authority Decision

Grant, subject to conditions.

Type of Appeal

Third Party

Appellants	Residents of Sweeney's Terrace and Clarence Mangan Road.
Observer(s)	None.
Date of Site Inspection	18 th September 2023.
Inspector	Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site refers to the irregularly shaped 0.192 hectare brownfield plot located just off Sweeney's Terrace, within 'The Liberties', Dublin 8. The site is currently occupied by a number of vacant industrial and warehousing type structures and includes the dwellinghouse at 4 Sweeney's Terrace, which sites immediately to the rear of the small terrace of two storey dwellings at 1-3 Sweeney's Terrace, adjacent to the main entrance to the site.
- 1.2. The surrounding area is predominantly residential, including traditional housing, student housing and Build-to Rent schemes. Other notable uses in the area include hotel accommodation, retail, offices, commercial (warehouse and light industrial), and community facilities.
- 1.3. The immediate northern and eastern site boundaries are marked by the existing two storey terraced dwellings at 1-3 Sweeney's Terrace and the part 3/5/7 storey student housing/Build-to-Rent development that wraps around Sweeney's Terrace to Mill Street. The wider mixed use/student housing further east on Mill Street rises to seven storeys. To the south the site is bounded by the River Poddle which is largely culverted, beyond which is the campus of the Warrenmount Presentation College Girls Secondary School (including the Presentation Primary School). A Dublin City Council Waste Management Depot marks the immediate western boundary of the site, beyond which is the rear garden ground of the two storey terraced dwellings on Clarence Mangan Road.
- 1.4. The site is generally level and there are a number of trees both within and adjacent to the site boundaries, including two trees on the laneway from Sweeney's Terrace, a tree within the centre of the site, and additional trees on the southern boundaries. In terms of public transport, the closest bus stop to the site is on Ardee Street approximately 130m to the north for Dublin Bus Service 150. The bus stop on Cork Street, which is 300m walk to the north, provides a range of Dublin Bus services including the 27, 56A, 77A and 151.

2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of all structures on the site, with the exception of 4 Sweeney's Terrace, and redevelopment to provide 25 flatted dwellings in a single block ranging in height from three storeys at the northern end of the site adjacent to Sweeney's Terrace, to four storeys at the southern end of the site adjacent to the River Poddle. The retained building at 4 Sweeney's Terrace would be extended with a two storey extension in addition to a change of use from residential to office space.
- 2.2. Private amenity space would be provided in the form of balconies and the development would be arranged around a centrally located, landscaped courtyard amenity space measuring 140sqm. Additional amenity spaces would be provided in the form of a new public open space along the River Poddle (360sqm). A new pedestrian route is proposed to connect Sweeney's Terrace to the River Poddle and the new developments to the east. The pedestrian route would be open to the public during daylight hours and restricted to residents at all other times. Remedial works around the River Poddle include repairing walls, provision of gabion walls and culverting of an exposed 2m length of the river.
- 2.3. The schedule of accommodation includes 4 no. studio units, 8 no. one bedroom units, 3 no. two bedroom/three person units and 10 no. two bedroom/four person units. The development would provide for a total of 69 bicycle parking spaces which includes 40 secure spaces for residents, 22 spaces for visitors, three cargo bike spaces, and four spaces allocated to the office use at 4 Sweeney's Terrace. Three vehicular parking spaces would be provided, comprising a set down space adjacent to the main entrance to the building, a car share space near the gated access to the communal amenity courtyard and a dedicated space for the office use at 4 Sweeney's Terrace.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission was issued by Dublin City Council on 07 October 2022, subject to 19 generally standard conditions including development contributions (both Section 48 and 49), payment of a bond, Part V, and management

of open spaces. Other conditions of note include Condition 18 which relates to archaeology and requires the submission of a full Archaeological Assessment. This includes a requirement for photographic recording of the boundary wall to Warrenmount Convent and assessment of the impact of the works on the archaeological features of the River Poddle.

3.2. Planning Authority Reports

- 3.2.1. The Planner's Report sets out the assessment and rationale for the Planning Authority's decision to grant planning permission and gives consideration to the observations received. The report notes that single use development of Z10 sites will not generally be permitted but concludes that an exclusively residential development can be considered compliant with the zoning objective given the vibrant mix of uses both existing and proposed within the area.
- 3.2.2. In terms of height, the report notes that the reduction in height from the previously refused seven storey scheme is successful in providing a transition of heights across the site. Housing mix is regarded as being compliant with the relevant guidance, having regard to the infill nature of the site and the apartment floorspace areas are satisfactory. Overall, housing and amenity space standards are considered to be acceptable, however concerns are raised regarding passive surveillance of the River Poddle amenity space, and further information was submitted in this regard which was considered to suitably address the issue. The report notes that public open space is not being provided due to site constraints and that the applicant is amenable to making an in lieu payment.
- 3.2.3. Residential amenity impacts are considered in the report, and it is concluded that whilst there would be some overshadowing impacts, the level of impact would not be significant. Concerns are raised regarding overlooking of the dwellings on Clarence Mangan Road and further information was submitted that overcame this issue, involving the relocation of some balconies and minor façade amendments to increase screening. The report does not make specific mention of Part V requirements, however the applicant has proposed Part V housing on site and the relevant condition has been applied.

3.2.4. The report notes the constrained access to the site as well as the parking capacity issues in the immediate area and various points of clarification were sought regarding access (both vehicular and pedestrian/public) and large vehicle swept paths. The report ultimately concludes that sufficient access to the site has been demonstrated, and that zero car parking provision is acceptable given the provision of a car share space and the central, well connected nature of the site. Cycle parking arrangements are generally considered to be acceptable, subject to clarifications on potential conflicts with vehicular access. The report ultimately concludes that the development is acceptable and that the various clarifications and requests for information have largely overcome the issues raised.

3.2.5. **Other Technical Reports**

3.2.6. **Archaeology Section (08.06.2022)**: The report from the Council's Archaeology Section notes the historic retaining walls and embankments of the River Poddle. The report recommends that archaeological test trenching be undertaken prior to the grant of permission due to the location of the site adjacent to an RMP Recorded Monument (DUO18-020398 Millpond site) and within the Recorded Monument (DU018-020 Historic City) and the fact that the information provided is not considered sufficient. The report also raises concerns regarding plans to culvert an additional small section of the River Poddle.

3.2.7. The Archaeology Section's request was not included on the Council's request for further information. However, the issues regarding the culverting of the River Poddle were addressed as part of the further information response to issues raised by the Drainage Division and the Notification of the Decision to Grant includes appropriate conditions to address the remaining concerns of the Archaeology Section.

3.2.8. **Drainage Division (24.05.2022)**: The Drainage Division raised concerns regarding the plan to culvert additional areas of the River Poddle which would be contrary to the aspirations of the CDP and requested that this part of the proposal be reconsidered. Further clarifications required the developer to:

- Demonstrate how the proposal would positively contribute to the creation/enhancement of a riparian buffer zone.
- Demonstrate that adequate water supply quality management measures would be implemented.

- Provided a revised Flood Risk Assessment to address the risk of the River Poddle culvert being blocked.
- Demonstrate appropriate rainfall interception.
- Provide a flow path analysis to demonstrate that overland flows would be routed away from the building.

3.2.9. The requested further information was submitted by the applicant on the 7th September 2022 and the Drainage Division were reconsulted, responding with no objections subject to appropriate conditions. Amendments of note include a revision of the plans to culvert parts of the River Poddle with the new proposal being to open up a larger section of the culverted river.

3.2.10. **Transportation Planning Division (15.06.2022):** The response from the Council's Transport Division notes the constraints regarding entry to Sweeney's Terrace for larger service vehicles, including concerns regarding pedestrian access and vehicular access, with clarifications sought on both by way of further information. This included concerns that the swept path analysis did not fully consider unregulated parking on Sweeney's Terrace or a scenario whereby parking is at capacity.

3.2.11. The response from the Transport Division notes the zero parking proposal as well as the existing parking constraints in the immediate area. However, the zero parking proposal was considered acceptable given the central site location, access to public transport and the provision of a car share space and drop off facilities, both of which should be conditioned as EV spaces. Concerns were raised regarding the provision of some cycle parking spaces being located outside of the cycle parking compound and the potential for conflict with vehicle access and clarifications were sought on this matter.

3.2.12. The applicant responded to the further information request on the 7th September 2022 and the Council's Transport Planning Division confirmed that the issues raised had largely been resolved and that outstanding issues can be addressed by way of conditions. Amendments of note include the provision of a revised swept path analysis demonstrating access in the context of unregulated parking, and the omission of the second vehicle entrance from Sweeney's Terrace.

3.3. Prescribed Bodies

- 3.3.1. **Transport Infrastructure Ireland (18.05.2022):** The response notes that the proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme - Luas Cross City (St. Stephen's Green to Broombridge Line) under S.49 Planning and Development Act 2000, as amended. TII request a condition regarding the Section 49 Luas Line Levy in the event that planning permission is granted.

3.4. Third Party Observations

- 3.4.1. A total of 16 observations were made on the planning application by the following:

- Aengus Ó Snodaigh TD and Councillor Máire Devine
- Residents of Sweeney's Terrace and Clarence Mangan Road, Dublin 8 (the appellants).
- Dublin 8 Residents Association
- Tenters Residents Association
- James Dennis and Leonora Lowe of 17 Clarence Mangan Road, Dublin 8
- Thomas Lynch of 19 Clarence Mangan Road, Dublin 8
- Dermot Cousins and Mary Dee of 38 Clarence Mangan Road, Dublin 8
- Gráinne Clarke of 40 Clarence Mangan Road, Dublin 8
- Lisa Donohoe and Frank Renehan of 41 Clarence Mangan Road, Dublin 8
- Colm Burgess of 42 Clarence Mangan Road, Dublin 8
- Pasquale Luca Amoriello and Eleonora Bigi of 42D Clarence Mangan Road, Dublin 8
- Shane Lynam of 44 Clarence Mangan Road, Dublin 8
- Eimear Marrinan and others of 9 and 45 Clarence Mangan Road, Dublin 8
- Presentation Secondary School Warrenmount, Clarence Mangan Road, Dublin 8

- Joseph De Leonardo of 8 Tramyard Exchange, 27 Carman's Hall, Dublin 8
- Patrick McGovern

3.4.2. The issues raised in the observations are generally similar to those raised in the grounds of appeal which are set out in detail at section 6.1 below. Issues raised in addition to those included in the grounds of appeal are as follows:

- The CGI images are not accurate and make the existing dwellings on Sweeney's Terrace appear larger than they are. Trees are being depicted where there are none in an effort to give the impression that there would be no overlooking.
- Concerns raised that public access to amenity spaces will not happen.
- Housing mix and size is not policy compliant.
- Properties could be rented on Airbnb and this would result in additional noise.
- The application should be considered as an additional phase to the surrounding new developments.
- The site should be used as an opportunity to provide considerate development that enhances this traditional neighbourhood and the Tenters housing.
- Digging around the River Poddle has resulted in pest issues.
- The plans and documents should be updated to show the newly built schemes and an impact assessment should consider the cumulative effect of these buildings.
- Insufficient consultation has taken place with the local community and school.
- Privacy to the school and child protection will be compromised. Additionally, noise and disturbance will affect pupils with additional needs.
- Cumulative daylight and sunlight impacts should be considered.
- The development would impact on views.
- The provision of 67 car parking spaces will result in traffic issues and would be contrary to the climate bill.
- Electric Vehicle Charging should be incorporated into the development.

4.0 Planning History

Subject Site

4.1.1. **ABP 309800/ Planning Authority Ref. 4034/20.** Permission was refused by the Board in November 2021 for redevelopment of the site to provide 39 apartments in a single building ranging in height from three to seven storeys, with associated cycle parking and ancillary works. The development was refused for the following reason:

1. Having regard to the location of the site, its proximity to existing residential properties, and the pattern of development in the area where more recently permitted development has been located at a remove from existing residential properties and has stepped down in terms of height and scale as it moves towards those properties. It is considered that the proposed development would have an overbearing effect on property in the area. The proposed development would therefore, by itself and the precedent it would set for other development, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Adjacent sites

4.1.2. There is extensive planning history associated with the adjacent sites to the north and east, incorporating No. 10 Mill Street and the former Mission Hall. Details of the most relevant applications are as follows:

4.1.3. **ABP ref TR29S.305483:** Permission was granted by the Board in September 2020 for alterations to internal floor plans at basement (lower ground floor) to sixth floor level of previously permitted development ABP-303436-19. Permission was also granted for the amending of Condition 2 from:

The proposed development shall be amended so that Block D is set back from its western boundary by a minimum of 2 metres to allow for public access to the exposed area of the River Poddle from the laneway from Sweeney's Terrace. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the visual amenities and character of the area.

4.1.4. To the following:

Public access to the exposed area of the River Poddle from Mill Street and Sweeney's Terrace will be available between 9.00 am and 5.00 pm, Monday to Sunday.

Reason: To protect the visual amenities and character of the area.

- 4.1.5. **ABP ref ABP-303436-19 S.4 Application:** Permission was granted by the Board in April 2019 for the construction of 253 no. student bedspaces and 37 no Build to Rent apartments and associated site works. This development forms the northern and eastern site boundaries and ranges from 3-7 storeys in height.
- 4.1.6. **ABP ref ABP-302291-18 S.6 Consultation:** 232 no. student bedspaces and 32 no Build to Rent apartments and 2 commercial units at Mill Street, Sweeney's Terrace and Clarence/Mangan Road, Dublin 8.
- 4.1.7. **PA. Reg. Ref. 3984/18:** Permission was granted by Dublin City Council in February 2019 for the omission of condition 20(b) of PL29S.244805 to restrict the use of the internal courtyard to the residents only by controlling access through the permitted gates at all times. Condition no. 2 specifies: Alterations / modifications to access through the gate within the brick arch adjacent to no. 10 Mill Street shall be excluded from this permission. In the event that the café proposed under SHD0003/19, ABP ref no 303436-19 is approved by planning permission, the gate shall be opened to allow pedestrian access, during the hours of operation of the café. Reason: In the interest of the clarification of this permission.
- 4.1.8. **Planning Authority Ref. 3322/17:** Permission was granted by Dublin City Council in January 2018 for development on a site comprising 10 - 12 Newmarket and 32 Mill Street, immediately opposite the development site, comprising the demolition of all existing buildings and the construction of a new 2 - 6 storey building on Mill Street, 4 - 5 storeys onto Newmarket Square with a total GFA of 3,995 sq.m to include 843 sq.m of micro-brewery floorspace (including ancillary bar and cafe/restaurant use) and 2,857 sq.m of office floorspace.
- 4.1.9. **Planning Authority Ref. 3321/17:** Permission was granted by Dublin City Council in January 2018 for development on a site comprising No. 8 Newmarket and No. 18 Mill Street, comprising the demolition of all existing buildings on site and the construction

of a new part 4 / 5 / 6 storey building above basement with a total GFA of 9,401.05 sq.m, to include 264.97 sq.m GFA of Indoor Market Hall / Retail floorspace and 1,251.07 sq.m of office floorspace at ground floor level with a further 7,885.01 sq.m of office floorspace on the upper levels (1st to 5th floors).

- 4.1.10. **Planning Authority Ref. No. 2440/16:** Permission was granted by Dublin City Council in June 2016 for amendments to PL29S.244805 resulting in an increase in the total no. of permitted student accommodation units to 112 (406 bedspaces) together with associated modifications to ancillary student accommodation facilities and ground floor retail / commercial units. No changes were made to maximum height of Blocks A, B, C and E. The principal modifications involved the insertion of a mezzanine level between ground and 1st floor level of Block C and part of Blocks B and E, modifications to all elevations and reconfiguration of entrance to retail / commercial units of the northern elevation of Block A onto Mill Street.
- 4.1.11. **ABP ref. PL29S.244805 (PA Reg. Ref. 3475/14):** Relating to the student accommodation on Mill Street to the immediate east of the development site on a 1.0403 ha site including No. 10 Mill Street protected structure and the former Mission Hall. The red line site boundary included the development site. Permission was granted by the Board in April 2015 for the demolition of all existing structures on site, with the exception of No. 10 Mill Street and the adjoining former Mission Hall and sections of historic walls at the southern site boundary and the construction of a mixed-use student accommodation, office, retail and restaurant / event space development totalling 18,796 sq.m GFA and including the restoration of No. 10 Mill Street and the former Mission Hall. The development comprised a total of 96 no. student accommodation units (406 bedspaces) together with ancillary student accommodation facilities including social space, gym, laundry facilities, management office and a single-storey pavilion building for student and community uses. The development is arranged in 5 blocks (A, B, C, D, E) ranging in height from 4 - 7 storeys with setbacks at various levels and a basement plant area under Block C. Blocks A, B, C and E are grouped around an internal courtyard to the west of the development site. Also Block D, a standalone 4 storey block in the southern part of the development site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The planning application was considered by the Planning Authority for compliance with the policies and objectives of the Dublin City Development Plan 2016 – 2022, which was the relevant policy document in force at the time. A new City Development Plan came into effect on 14th December 2022 for the period 2022 – 2028, which will be considered herein. There are no significant changes to the policies or zoning objectives with respect to the proposed development.

Dublin City Development Plan 2022-2028

- 5.1.2. The appeal site is zoned Z10: Inner Suburban and Inner City Sustainable Mixed-Uses, the stated objective of which is to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses. The purpose of this zoning is to promote mixed-use in order to deliver sustainable patterns of development in line with the principles of the 15-minute city. The concept of mixed-use will be central to the development or redevelopment of these sites and mono uses, either all residential or all employment/office use, shall not generally be permitted.
- 5.1.3. Chapter 3: Climate Action, contains the Council’s policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policy from this section is:
- CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility
 - CA8: Climate Mitigation Actions in the Built Environment
 - CA9: Climate Adaptation Actions in the Built Environment
 - CA24: Waste Management Plans for Construction and Demolition Projects
 - CA27: Flood Risk Assessment and Adaptation
- 5.1.4. Chapter 4: Shape and Structure of the City, sets out the Council’s strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this chapter are:

- SC5: Urban Design and Architectural Principles
- SC9: Key Urban Villages, Urban Villages and Neighbourhood Centres
- SC10: Urban Density
- SC11: Compact Growth
- SC12: Housing Mix
- SC13: Green Infrastructure
- SC14: Building Height Strategy
- SC16: Building Height Locations
- SC19: High Quality Architecture
- SC20: Urban Design
- SC21: Architectural Design

5.1.5. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin remains competitive as a place to live and invest in. The relevant policies from this chapter are:

- QHSN1: National and Regional Policy
- QHSN2: National Guidelines
- QHSN6: Urban Consolidation
- QHSN10: Urban Density
- QHSN17: Sustainable Neighbourhoods
- QHSN34: Social, Affordable Purchase and Cost Rental Housing
- QHSN36: High Quality Apartment Development
- QHSN37: Homes and Apartments
- QHSN38: Housing and Apartment Mix
- QHSN39: Management
- QHSNO11: Universal Design

5.1.6. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling

congestion and reducing transport related CO2 emissions. The relevant policies of this section include:

- SMT7: Travel Plans for New and Existing Developments
- SMT25: On-street Parking
- SMT27: Car Parking in Residential and Mixed Use Developments

5.1.7. Chapter 9: Sustainable Environmental Infrastructure and Flood Risk, aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity and flood risk/surface water management. The relevant policies of this section are:

- SI14: Strategic Flood Risk Assessment
- SI15: Site Specific Flood Risk Assessment
- SI22: Sustainable Drainage Systems
- SI25: Surface Water Management

5.1.8. Chapter 15: Development Standards, contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed both in terms of how they contribute to the achievement of the core strategy and related policies and objectives. The relevant policies of Chapter 15 include:

- 15.4: Key Design Principles
- 15.5: Site Characteristics and Design Parameters
- 15.6: Green Infrastructure and Landscaping
- 15.7: Climate Action
- 15.8: Residential Development
- 15.9: Apartment Standards

5.1.9. Relevant Appendices include:

- Appendix 3: Achieving Sustainable Growth sets out the height strategy for the city, with criteria for assessing higher buildings and provides indicative standards for density, plot ratio and site coverage.

- Appendix 16: Sunlight and Daylight provides direction on the technical approach for daylight and sunlight assessments.

5.2. Regional Policy

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

- 5.2.1. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth, targeting at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

5.3. National Policy and Guidance

Project Ireland 2040, National Planning Framework (2018) (NPF)

- 5.3.1. The NPF addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
 - National Policy Objective 35: 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 building heights.

Section 28 Ministerial Guidelines

- 5.3.2. Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2020)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)

5.4. Natural Heritage Designations

- 5.4.1. The site is an urban brownfield site and is not located within any designated site. The closest European site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 4.3km to the east of the site. The North Dublin Bay SAC (& pNHA)(Site Code 000206), and North Bull Island SPA (Site Code 004006) lie approximately 6.9km to the east. The Grand Canal pNHA (Site Code 002104) lies approximately 0.8km to the south and the Royal Canal pNHA (Site Code 002103) 2.8km to the north.

5.5. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal has been lodged by RW Nowlan and Associates of 37 Lower Baggot Street, Dublin 2, for and on behalf of Residents of Sweeney’s Terrace and Clarence Mangan

Road, Dublin 8, against the decision of DCC to grant planning permission for the proposed development. The group of residents who are party to the appeal include:

- Katie McAuliffe of 1 Sweeney's Terrace, Dublin 8
- Brian McCarthy of 2 Sweeney's Terrace, Dublin 8
- Brian Ward of 3 Sweeney's Terrace, Dublin 8
- Noel Clarke of 33 Clarence Mangan Road, Dublin 8

6.1.2. The grounds of appeal can be summarised as follows:

- By reason of excessive height, density, overlooking and impacts on daylight and sunlight, the proposed development is not compliant with development plan policies.
- The development has not overcome the previous reasons for refusal.
- The distance to adjacent properties and the footprint of the development have not substantially changed since the previous refusal and the development would have a negative impact on the residential amenity of the area.
- The proposal would represent overdevelopment of the site.
- The development would be overbearing and would create a sense of enclosure at adjacent dwellings, notably no. 3 Sweeney's Terrace.
- Overdevelopment of the site is inappropriate in relation to the proximity to adjacent schools.
- The adjacent schools would be affected due to loss of privacy, increased noise and traffic.
- The height and density of the development should be restricted in order to protect amenity.
- The development should be refused until a reasonable solution to the complex nature of the site can be presented.
- The development would result in overlooking of adjacent properties and the scheme amendments which relocated balconies has failed to deal with this and has made the matter worse.

- Relocating the balconies results in unobstructed views into the private amenity space of the neighbouring houses on Sweeney's Terrace.
- The removal of trees closest to Sweeney's Terrace would remove screening without any meaningful replacement and would further reduce privacy.
- The quality of private space for north facing units is reduced as a result of moving the balconies.
- The drawings mention a roof terrace, but it is not elaborated on in the assessment or the submission documents. A roof terrace in this location would result in noise and overlooking.
- The additional balconies would further increase noise issues.
- Due to the surrounding high density development, noise is echoed and the impact is increased. No noise impact assessment has been submitted.
- A lower density development could be absorbed into the area without significant negative impacts on existing residential property.
- There are issues in developing this site in terms of transport and access and this was recognised by the Council and the Board on the previous appeal.
- The development would result in additional traffic and service vehicles on a narrow road.
- The traffic assessment does not take into account the parking space at 3 Sweeney's Terrace which is the narrowest point.
- The updated autotracking diagram still relies on incorrect data in relation to the parking situation along Sweeney's Terrace.
- Access is constrained, especially for service and emergency vehicles and just showing that the site can be accessed isn't sufficient due to the manoeuvres involved and safety issues.
- Access to the site relies on the parking situation on Sweeney's Terrace remaining unchanged after construction, but demand for parking will increase due to the limited on-site parking and this will lead to more ad-hoc parking on Sweeney's Terrace.

- Provision of three parking spaces on site will not address the parking and access issues.
- There is no capacity on Sweeney's Terrace for any additional parking and failure to manage this will create access issues for service and emergency vehicles.
- A Road Safety Audit should be carried out and remains outstanding to date, despite being raised in observations on the planning application. This would resolve the underlying issue of how any development on this site could be safely accessed.
- If approved, the development would create a dangerous precedent for traffic and access standards.
- The surrounding developments have severely impacted on the daylight and sunlight to neighbouring properties and amenity spaces. The subject site is vital to retaining adequate daylight and sunlight.
- There are inaccuracies in the daylight and sunlight assessment as existing levels detailed on the refused application are different to the levels submitted on the current application.
- Further inaccuracies in the daylight and sunlight assessment are that the extension to the rear of 3 Sweeney's Terrace has not been drawn correctly, the garden adjacent to the extension has not been assessed and windows in the extension have either not been drawn or not included in the assessment. These errors make it difficult to judge the true impact of the development.

6.2. Applicant Response

- 6.2.1. A response to the grounds of appeal has been submitted by Declan Brassil and Company of Lincoln House, Phoenix Street, Dublin 7, on behalf of the applicant. The response can be summarised under relevant headings as follows.

Overdevelopment, Overlooking and Noise

- The development has been designed to directly address the previous reasons for refusal and to ensure a reasonable balance between the protection of

existing amenities and the sustainable use of an underutilised, brownfield inner city site.

- Under the previous appeal, amendments were made to the height, vehicular parking, and separation distances to Sweeney's Terrace. The Inspector's report accepted the increased separation distance and suggested that the height on the southern boundary should be no more than four storeys. The current scheme incorporates these changes.
- The height has been significantly reduced to a maximum of four storeys to appropriately integrate the development with the scale and height of adjacent properties and the character and streetscape of the area. This is an appropriate transition in height.
- An 11m laneway is provided between the development and the dwellings on Sweeney's Terrace as well as separation distances of between 27m and 33m between the development and the rear of the dwellings on Clarence Mangan Road.
- Upper floor terraces have been omitted and balcony and window positions have been carefully considered to minimise and mitigate potential adverse effects on adjacent residential properties.
- Balconies have been relocated and increased screening has been incorporated. Balcony screens have been increased in height and obscure glazing has been used to minimise overlooking.
- Revisions to vehicular, pedestrian and servicing arrangements have been incorporated in consultation with DCC to ensure safe access to the site.
- Noise emanating from the development or through the use of the balconies, would not be of a type or volume uncharacteristic of a residential development in an urban setting.
- Separation distances provided are similar to or exceed distances typically provided between residential units in city centre locations that are separated by streets (approx. 10m-12m).

Daylight, Sunlight and Overshadowing

- It is acknowledged that there was a modelling error on the daylight and sunlight assessment for the previously refused scheme which resulted in a reduction in the existing sunlight to the rear gardens along Sweeney's Terrace.
- The issues regarding the extension, window, and garden at 3 Sweeney's Terrace has been resolved and the development will not affect these windows or the amenity space.
- The development would not result in any additional shading to properties to the west in June and only minor additional shading in the early mornings of March and December (8:00).
- The development does not result in any additional shading at Nos. 1-3 Sweeney's Terrace in June and only minor additional shading in the mornings in March and December (11:00-12:00).
- 94% of neighbouring amenity areas will not be affected by the development and only the rear garden of No. 1 Sweeney's Terrace would experience a minor reduction in sunlight.
- Sunlight to existing buildings would meet BRE guidelines.
- 95% of all points tested for daylight would be compliant. Affected windows are those of the student accommodation which have values of between 15% and 27%. These are large windows that will allow additional daylight to the spaces when compared to conventional windows.
- The proposal is a significant improvement on the previously refused scheme.

Traffic, Access and Parking

- A revised swept path analysis has been provided that incorporates the unregulated parking and demonstrates that all required movements by cars and service vehicles can be accommodated without mounting the footpath.
- Neither the Planning Authority or the Transport Planning Division requested a Road Safety Audit during the application process however this could be conditioned if necessary.

- The site is central, well located with good access to public transport. There are share car bases and Dublin Bikes within close proximity.
- Sustainable transport is promoted, including bicycle parking for 69 bicycles, 3 car parking spaces (one for the office, one set down space, and a car share space). Trip generation when the development is operational will therefore be significantly reduced.
- Appropriate transport related conditions have been imposed.
- Sweeney's Terrace provides access to 1-3 Sweeney's Terrace and the DCC Waste Depot, as well as an active construction site compound. The high volume of heavy goods vehicles using the road is therefore temporary and it is noted that construction on surrounding developments is nearing completion. It is therefore expected that the traffic situation will return to near normal levels and that traffic associated with the development will be below that previously experienced.
- Construction and demolition traffic will be appropriately managed through Demolition and Construction Environmental Management Plans secured by condition.

6.3. **Planning Authority Response**

- 6.3.1. The Planning Authority Request that the Board uphold the decision to grant permission and apply conditions in relation to Section 48 and 49 contributions, a contribution in lieu of open space, payment of a bond, and a Part V social housing condition.

6.4. **Observations**

- 6.4.1. None.

7.0 **Assessment**

- 7.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues

pertaining to the proposed development can be assessed under the following headings:

- Design and Density
- Amenity
- Transport
- Appropriate Assessment

7.2. Design and Density

7.2.1. Various issues have been raised by the appellant regarding the design of the proposed development and the consequent impacts on amenity. The grounds of appeal consider that the development would be excessive in height and massing, that the development would be too close to existing homes and that there would be various amenity impacts. It is stated that the proposal fails to comply with unit mix requirements, that the proposal would be overdevelopment, and that the changes from the previously refused scheme are not considered sufficient to overcome the previous issues raised.

Height

7.2.2. The proposal is for a single residential building ranging in height from three to four storeys. At the northern edge of the site adjacent to the existing dwellings at 1-3 Sweeney's Terrace, the proposed building would be three storeys in height which equates to 9.8 metres. On the southern part of the site the proposed building would rise to four storeys, with a total height above ground of approximately 13 metres.

7.2.3. In terms of surrounding context, the mixed use student housing/Build-to-Rent scheme marking the northern and eastern site boundaries ranges in height from three to seven storeys. The school buildings on the opposite side of the River Poddle to the south are generally two storeys in height as are the dwellings along Clarence Mangan Road. I note that the ridge height of the existing dwellings on Sweeney's Terrace reach a height of approximately 8.9 metres.

7.2.4. The surrounding context is therefore mixed in terms of established buildings heights, with taller elements to the north/east and lower rise buildings to the south/west. The proposed development is a substantial reduction in height from the previously refused scheme which proposed a total height of seven storeys. In my opinion, the proposed

heights are appropriate for this inner city location and would provide a suitable townscape transition from the taller developments to the north/east to the lower rise townscape on Clarence Mangan Road and the dwellings at 1-3 Sweeney's Terrace.

Density and Accommodation

- 7.2.5. Section 15.9.1 of the CDP deals with unit mix and states that up to 50% of units can be one bedroom or studio type units (caveated that studio units cannot make up more than 20%-25% of the total development). The site does not fall within the specific area of The Liberties where there is a policy requirement for a minimum of 15% of units with at least three bedrooms. As such, there is no minimum requirement for apartments with three or more bedrooms. It is recognised that the provision of two bedroom/three person apartments would equate to 12% of the total units which is marginally above the 10% maximum set out in SPPR3 of the Apartment Guidelines. Given that the majority of units being provided are two bedroom four person apartments, I do not consider the additional two bedroom three person apartment to be displacing more appropriate accommodation or larger units, and I consider that overall, an appropriate mix of housing is provided on this site. I am therefore satisfied that the proposed housing mix is acceptable and would be compliant with the CDP and SPPR1 and SPPR3 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020).
- 7.2.6. SPPR3 requires that minimum floor areas be applied to apartment developments. The development proposes 25 apartments comprising 4 no. studios, 8 no. one bedroom units, and 13 no. two bedroom units. All of the proposed apartments would either meet or exceed the minimum floor areas required by the guidelines. I note that the combined living/kitchen/diner of Unit Type 01 measures 29sqm. Whilst this exceeds the minimum 28sqm requirement, this measurement appears to include a significant hallway circulation space and the true area of the actual usable space is closer to 24sqm. That being said, this issues only affects three units in total and in all cases they meet or exceed all other standards, including private amenity space, and as such I am satisfied that, on balance, they will provide a satisfactory standard of living accommodation and that planning permission should not be withheld on this issue alone.
- 7.2.7. I note that it is a requirement that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for

any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total but are not calculable as units that exceed the minimum by at least 10%). The total minimum residential floor area therefore required by the development would be 1569.7sqm and the total achieved is 1,503sqm indicating a shortfall of 66.7sqm. Section 3.15 of the 2020 Apartment Guidelines suggests that the 10% requirement can be applied with flexibility on urban infill schemes, on sites of up to 0.25ha, and on a case-by-case basis, and in this instance, I consider it to be acceptable given the location of the site, the design attributes of the scheme including the high quality amenity spaces, the otherwise compliant housing, and the provision of additional bulk storage space for each unit within the basement.

7.2.8. The CDP has an indicative density range for the site of between 100-250 dwellings per hectare, although the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (2009) suggest that there should be no upper limit to density in central and accessible urban locations, subject to qualitative safeguards. In areas close to public transport corridors minimum densities of 50 units per hectare should be applied subject to those safeguards. The CDP specifies a recommended plot ratio of between 2.5-3.0 and an indicative site coverage standard of 60%-90%. The density proposed is approximately 130 dwellings per hectare. The plot ratio is given in the housing quality assessment as 1.029 whilst the Planning Report submitted with the application gives it as 1.07. My own calculations indicate it to be 1.07 and site coverage would be 25%. Whilst I note that the plot ratio and site coverage are below the CDP ranges, I consider them to be appropriate in this location given the need to balance efficient use of underutilised brownfield sites against the preservation of amenity. I therefore consider the quantum of development, housing mix and unit size to be appropriate and I do not consider that the proposal would represent overdevelopment of the site.

7.3. **Amenity**

Overbearance and Overlooking

7.3.1. Various concerns have been raised that the development would be too close to neighbouring properties and that this would lead to a sense of enclosure, overlooking and a loss of privacy. There would be a separation distance of between 15 m and 27m

between the western façade of the proposed development and the rear boundary line of the properties on Clarence Mangan Road. The separation distance between the western façade of the proposed development and the rear facades of the dwellings on Clarence Mangan Road is even greater, ranging from 27 metres at the closest point to 39 metres at its furthest. I am therefore satisfied that the development would not be overbearing on these properties and that there would be no loss of privacy or significantly adverse overlooking.

- 7.3.2. The existing dwellings on Sweeneys Terrace are arranged in a small terrace of three properties, with a gable elevation facing the proposed development. The separation distance between the upper floors of the proposed development and boundary with the closest dwelling at 1 Sweeney's Terrace ranges from approximately 9 metres at its closest point to 11 metres at its furthest. It should be noted that the height steps down to three storeys as the building approaches Sweeney's Terrace and the difference in height between the three storey element and the ridge of the existing dwellings on Sweeney's Terrace is approximately 0.9m and I consider this to be an appropriate transition in height with a suitable separation distance to ensure that the development would not be overbearing on these properties or create a sense of enclosure.
- 7.3.3. In terms of overlooking, I note that the windows in the northern façade of the proposed development are chamfered and as such there would be no direct overlooking of either the adjacent dwellings or their garden ground. Specific concerns were raised regarding the relocation of the balconies from the western façade to the north façade as part of the Council's request for further information. The concerns raised were that the relocated balconies would now overlook Sweeney's Terrace and impact on the residential amenity of these homes. Having considered the relocated balconies, I am satisfied that they are positioned in such a way that they primarily overlook the gable elevation of the adjacent terrace and would not have any significant or intense direct views into the rear garden amenity space, beyond those typically experienced by terraced dwellings.
- 7.3.4. The proposed development incorporates a blank façade at its closest point to the student housing which sits to the east. I am of the opinion that this design intervention, together with the remaining separation distances and positioning of windows, would be successful in ensuring that appropriate privacy levels would be retained.

- 7.3.5. Concerns have been raised that the development is inappropriately located due to its proximity to the school and that the development would impact on the privacy of the school. The southern façade of the proposed development would be between 19m and 21m from the façade of the school. I consider this to be an acceptable distance in an inner city area to ensure that there would be no loss of privacy. In terms of location, I do not agree that it is inappropriate to have residential use being located close to a school as this is a long established relationship in urban areas.

Noise

- 7.3.6. The grounds of appeal raise noise as an issue on the basis that noise impacts resulting from the construction and operation of the development would lead to disturbance and a loss of amenity for existing residents and the school. In terms of noise during the demolition and construction periods, I am satisfied that appropriate conditions could be applied that would satisfactorily mitigate any potential issues during the temporary construction period. Once completed, the proposed development does not include any significant noise generating plant and as such noise emanating from the development would be typical of a domestic setting and not out of context with the site location within a residential pocket of the inner city.

Daylight and Sunlight

- 7.3.7. At the outset I acknowledge the submission made by the applicant in response to the concerns raised in the grounds of appeal regarding the accuracy of the daylight and sunlight report. I note that the errors identified were related to a modelling error on the daylight and sunlight report submitted with the previously refused scheme, and that the report for the current application has been verified and is correct. Furthermore, the issues regarding the extension and rear garden ground at 3 Sweeney's terrace have been suitably clarified. I am therefore satisfied that the daylight and sunlight report submitted with the application, and the additional information submitted in response to the appeal, is appropriate in order to assess the impact of the development on adjacent properties and open spaces.
- 7.3.8. A daylight and sunlight report has been submitted that assesses the scheme based on the Building Research Establishments (BRE) guidelines on daylight and sunlight. The BRE sets out the detailed daylight tests. The first is the Vertical Sky Component test (VSC). This test considers the potential for daylight by calculating the angle of

vertical sky at the centre of each of the windows serving the buildings which look towards the site. The target figure for VSC recommended by the BRE is 27% which is considered to be a good level of daylight and the level recommended for habitable rooms. The BRE have determined that the daylight can be reduced to 0.8 times its former value (or reduced by 20%) before the loss is noticeable.

- 7.3.9. Windows have been tested at Nos. 1-3 Sweeney's Terrace, the dwellings on Clarence Mangan Road, Presentation Secondary School (Warrenmount), and the adjacent Sweeney's Corner student accommodation. The properties at nos. 1-3 Sweeney's Terrace would remain fully compliant with the BRE, with all properties having proposed VSC levels of at least 25% and retaining at least 0.97 times their former value.
- 7.3.10. On Clarence Mangan Road, all properties assessed would also remain fully compliant with the BRE with proposed VSC levels of between 22% and 35% and all windows retaining VSC levels at least 0.93 times their former value. All of the student housing adjacent to the site has been assessed and all blocks would remain compliant with the BRE with the exception of Block D. Located adjacent to the southern boundary of the proposed development, Block D rises to five storeys and has a façade that opens out onto the courtyard of the proposed development. Seven of the tested windows on this façade would be compliant with the BRE. The remaining seven windows would experience noticeable losses. However, the proposed VSC levels range from 17% to 27% and the rooms are served by large floor to ceiling windows which will allow more daylight to penetrate the room. As such, I do not consider that this would be a significant adverse impact, particularly given the generally transient nature of student accommodation.
- 7.3.11. Amenity spaces have also been tested for sunlight. The BRE states that for a space to appear adequately lit throughout the year, at least half of the space should receive at least two hours of sunlight on the 21st March. All of the assessed existing amenity spaces comply with this standard in the context of the proposed development, with the exception of No.1 Sweeney's Terrace. It should be noted that this property has an amenity space that doesn't meet the BRE standard in the existing situation and that the reduction proposed would result in 22% of the garden space achieving the two hour standard compared to the existing 41%. Given the overall high level of compliance, the central location, the limited number of windows and spaces affected and national, regional and local policy that seeks to appropriately intensify the use of

serviced, brownfield urban sites, I consider the limited impacts set out above to be acceptable on balance.

7.4. Transport

- 7.4.1. The development is proposed with zero car parking, albeit three spaces will be provided in the form of a set down space, a car share space and a space allocated to the office use at 4 Sweeney's Terrace. A single vehicular access is proposed from Sweeney's Terrace. Various concerns have been raised by residents regarding the constrained access, safety issues and the difficulty of providing access to larger vehicles when the street is parked at capacity. Further concerns have been raised that the development would result in additional on street parking in the area due to the lack of parking being provided on site.
- 7.4.2. This site is well located within the inner city in terms of walkability and benefits from very good proximity to sustainable transport connections in the form of bus services on Cork Street (5-minute walk) and Luas Red Line services from Fatima (15-minute walk). Objective 13 of the National Planning Framework allows for a 'range of tolerance' for car parking standards in urban areas in order to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected. Additionally, Section 4.19 of the Apartment Guidelines suggests that car parking provision can be minimised, substantially reduced, or wholly eliminated in certain circumstances. Such policies are applicable in highly accessible areas in or adjoining city cores or at a confluence of public transport systems. Where it is sought to eliminate or reduce car parking provision, it is necessary to ensure the provision of an appropriate drop off, service, visitor parking and parking for the mobility impaired in line with Section 4.23 of the Apartment Guidelines.
- 7.4.3. The Board will note that the Council previously refused planning permission on the basis that the application failed to demonstrate that necessary vehicle access can be demonstrated without endangering public safety and for failure to provide appropriate drop-off, visitor, accessible or resident car parking provision within the site.
- 7.4.4. In terms of providing access to the site, I note that the applicant has submitted various swept path drawings. As originally submitted, the DCC Transportation Division raised concerns that these drawings did not reflect the real situation at the site, particularly in

terms of including unregulated parking spaces into the analysis. This issue was also raised by observers. The applicant subsequently provided revised swept path drawings incorporating the unregulated parking to the satisfaction of the DCC Transportation Division.

- 7.4.5. I note that in terms of access to the site, the main issue was access for emergency service vehicles and larger vehicles. I have reviewed the swept path analysis submitted by the applicant as part of the further information request and I have reviewed the submission from CS Consulting Group as part of the response to the grounds of appeal. I am satisfied that the swept path analysis incorporates the unregulated parking and that it has been satisfactorily demonstrated that vehicles can access and egress the site without mounting any footpaths. Furthermore, I am satisfied that it has been suitably demonstrated that there is adequate room to manoeuvre within the site. Bin collection would take place from Sweeney's Terrace to mirror the existing situation, which is acceptable.
- 7.4.6. In terms of parking, I consider the proposal to provide zero resident car parking to be acceptable, given the locational attributes of the site such as its inner city location, proximity to public transport, and the availability of car share and bike share facilities. I note that the Apartment Guidelines state that visitor or accessible parking should be provided. I am satisfied that visitor parking is not necessary on this site largely due to its location. Accessible parking however should be considered, and I suggest that this is secured by way of condition, should the Board be minded to grant permission.
- 7.4.7. I note the appellants request that a Road Safety Audit be carried out. This was originally raised in response to the planning application and was not requested by the Planning Authority or the Transportation Division. Given the satisfactory swept path analysis that has been submitted I am satisfied that it has been demonstrated that the site can be accessed safely. Conditions will be applied during the construction period to manage logistics, and this would provide a further safeguard. However, a Road Safety Audit could be secured by condition should the Board consider it necessary.

7.5. Appropriate Assessment

- 7.5.1. Article 6(3) of the Habitats Directive requires that any plan or project not directly connected with or necessary to the management of a European site, but likely to have

a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to Appropriate Assessment of its implications for the sites in view of the sites' Conservation Objectives. The Board is the competent authority in this regard and must be satisfied that the development in question would not adversely affect the integrity of the European sites having regard to their conservation objectives.

- 7.5.2. The applicant has submitted an Appropriate Assessment Screening Report (dated April 2022). This report considers the closest European sites to the appeal site and evaluates and screens the proposed development to assess if full Appropriate Assessment is required. This assessment examines the implications of proceeding with the project in view of the conservation objectives for the protected habitats.
- 7.5.3. The applicant's AA Screening Report concludes that the project would have no direct or measurable indirect impacts on any European sites in close proximity to the appeal site and that no significant impacts of the qualifying interests of any SPA or SAC is likely. Having reviewed the AA Screening Report, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites.
- 7.5.4. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site.
- 7.5.5. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA (004024) (c. 4.3km), South Dublin Bay SAC (000210) (c. 4.3km), North Dublin Bay SAC (000206) (c.6.9km), and the North Bull Island SPA (004006) (c.6.9km).
- 7.5.6. There is a direct hydrological connection from the site to Dublin Bay, which includes a number of SAC and SPA designations, via the River Poddle which runs to the south of the site and connects to the River Liffey. In addition, it is noted that the development will connect to public services and therefore, there is a pathway to a number of European sites via the Ringsend Waste Water Treatment Plant. Therefore, there are hydrological links to the above-mentioned sites. In addition, the Poulaphuca Reservoir

is considered to be within the zone of influence of the development as the SPA is the source of drinking water for Dublin City, including the proposed development site.

- 7.5.7. I therefore acknowledge that there are potential direct and indirect connections to the European sites within Dublin Bay via watercourses and the wider drainage network such as directly via the River Poddle and the indirect connection via the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.
- 7.5.8. I note that surface water and foul water would discharge to the combined sewer close to Sweeney's Terrace for onward treatment at the Ringsend WWTP. Whilst this would result in an increased loading on the Ringsend WWTP, the scale of the development is minor in context. Therefore, having regard to the limited scale of the development, the dilution capacity of Dublin Bay and the insignificant additional loading on the Ringsend WWTP, I am satisfied that there is no potential for the development to result in significant effects on European Sites within Dublin Bay.
- 7.5.9. I note that conditions have been recommended by the Council's Drainage Team in the event of a grant of planning permission, requiring sustainable drainage systems to be incorporated as well as attenuation, however this is standard best practice as opposed to mitigation. As such, I am satisfied that any proposals incorporated within the development, or required by condition, such as surface water management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening.
- 7.5.10. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European sites, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. From my assessment above, I consider that the Board should uphold the decision of Dublin City Council and grant planning permission for the proposed development based on the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the Z10 zoning objective relating to the site and the nature and extent of the proposed development, it is considered that the proposal, subject to the conditions set out below, would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health or the environment and would generally be acceptable in terms of design, housing quality, residential amenity and traffic safety.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 7 day of September 2022], except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Details of the provision of 1 no. accessible car parking space within the site boundaries (incorporating EV charging), shall be submitted to and approved in writing by the Planning Authority prior to the commencement of</p>

	<p>development. The development shall fully comply with the transport requirements of the Planning Authority in all other respects.</p> <p>Reason:</p> <p>In the interests of amenity, accessibility, and to ensure a satisfactory standard of development.</p>
4.	<p>No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.</p> <p>Reason: In the interests of visual and residential amenities.</p>
5.	<p>(a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 ' Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'</p> <p>(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.</p> <p>Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.</p>
6.	<p>Water supply and drainage arrangements, including the disposal of surface water, attenuation, and all works to the River Poddle, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health</p>

7.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.</p> <p>Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.</p>
8.	<p>The demolition and construction of the development shall be managed in accordance with a Demolition and Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
9.	<p>The developer shall provide a detailed management plan for all external amenity spaces together with specific opening hours for public access. This management plan shall be submitted for the written consent of the Planning Authority prior to commencement of above ground development.</p> <p>Reason: In the interest of residential amenity, orderly development, and visual amenity.</p>
10.	<p>Proposals for a street/development name (which shall be in both English and Irish), and associated signage shall be submitted to, and agreed in writing with the Planning Authority prior to commencement of development. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development</p>

	<p>shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interests of urban legibility [and to ensure the use of locally appropriate placenames for new residential areas].</p>
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. This shall include a payment in lieu of open space. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme (St. Stephen's Green to Broombridge Line), in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall</p>

	<p>be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>
13.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
14.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>

15.	<p>Prior to commencement of development, the applicant shall submit the for the written agreement of the Planning Authority, a full Archaeological Assessment (including test trenching), as outlined in Section 3.6 of the Framework and Principles for the protection of the archaeological heritage (1999); the applicant shall consult with the City Archaeologist in preparing this assessment. The following information shall be included:</p> <p>a) An impact assessment of the proposed development on archaeological features, including the River Poddle and associated walls/embankments within the proposed site.</p> <p>b) A full drawing survey including a photographic record of the River Poddle embankments (both north and south), in particular confirming whether upstanding sections of the southern embankment remain extant. Where extant a method statement shall be provided for the retention and repair of upstanding sections of the southern embankment wall.</p> <p>d) A full drawing survey including photographic record of the existing boundary walls to Warrenmount Convent. Detailed schedules and method statements for repair and reinstatement shall be provided (to include mortar specification, capping details and removal of tree growth demonstrating a consistency of approach with the approval under planning reg. ref. SHD0003/19)</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Terence McLellan
Senior Planning Inspector

17th October 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-314978-22		
Proposed Development Summary	Demolition of all structures. Construction of mixed use development comprising 25 apartments. Change of use of No. 4 Sweeney's Terrace to office use incorporating an extension and all associated site and development works.		
Development Address	Sweeney's Terrace, Dublin 8, including No. 4 Sweeney's Terrace (a habitable house to the rear of No. 1 Sweeney's Terrace).		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	
Yes	X	Class 10 (b) (i), threshold >500 dwellings.	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-314798-22	
Proposed Development Summary	Demolition of all structures. Construction of mixed use development comprising 25 apartments. Change of use of No. 4 Sweeney's Terrace to office use incorporating an extension and all associated site and development works.	
Development Address	Sweeney's Terrace, Dublin 8, including No. 4 Sweeney's Terrace (a habitable house to the rear of No. 1 Sweeney's Terrace).	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for a residential scheme in a built up area with a range of uses with the predominant use being residential.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p>	No.
<p>Size of the Development Is the size of the proposed</p>	<p>The development would generally be consistent with the heights of surrounding developments and would not be exceptional in scale in the context of the existing environment.</p>	No.

<p>development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments. Surrounding developments have been completed and these have been factored into the relevant assessment documents.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would be located in a built up, serviced urban area and would not have the potential to significantly impact on an ecologically sensitive site or location.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No.</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____