



An
Bord
Pleanála

Inspector's Report

ABP-316123-23

Development	Demolition of structures, construction of 4 storey apartment building with 29 BTR units and all associated site works
Location	Lands known as 'Blackberry Fair' and part of No. 46 Lower Rathmines Road (the rear extension) located to the rear of No.s 36, 38, 40, 42, 44 (protected structure) and No. 46 Lower Rathmines Road, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	5530/22
Applicant(s)	Dairbhe Developments Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Dairbhe Developments Limited
Observer(s)	K. Walsh and A. O'Keeffe C. Connor

M. Farrell
R. Kennedy

Date of Site Inspection

4th October 2023

Inspector

Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located in south Dublin City, in an established residential area in the northern part of Rathmines c.150 north of the core urban centre (i.e. the Key Urban Village zoning objective for Rathmines). The area has a rich architectural heritage with several protected structures located on Rathmines Road Lower, Bessborough Parade, and Mount Pleasant Avenue, including those at and adjacent to the site.
- 1.2. The site is rectangular in configuration, with a stated area of c.0.161ha. The site is bound to the west by 36-46 Rathmines Road Lower (even numbers), to the north by the part of the garden area and a mews dwelling (34 Fortescue Lane) to the rear of 34 Rathmines Road Lower, to the east by Fortescue Lane and Bessborough Court (three 3 storey dwellings accessed via Bessborough Parade), and to the south by a 1.5 storey structure to the rear of 48 Rathmines Road Lower (50), which abuts the Church of Our Lady of Refuge (Church of the Immaculate Refuge of Sinners).
- 1.3. The site comprises lands to the rear of the protected structures 36, 38, 40, 42, and 44 Rathmines Road Lower (the original rear curtilages of these properties), the Old Coach House (a mews building to the rear of 36 Rathmines Road Lower addressing Fortescue Lane), and the single storey return of 44 Rathmines Road Lower (a modern, recently renovated building). Save for the coach house building (in derelict condition) and the single storey return (apparently in use for general storage purposes associated with the site), the site is made up of hardstanding areas. The site is presently vacant, with previous uses indicated as being a commercial market and car park.
- 1.4. Vehicular and pedestrian access to the site is gained from the west at Rathmines Road Lower via an original archway positioned at the ground floor level of 44 Rathmines Road Lower, and from the east at Fortescue Lane via a gated entrance adjacent to the coach house structure. Fortescue Lane is a relatively narrow laneway providing access to several mews dwellings located to the rears of properties along Rathmines Road Lower and Mount Pleasant Avenue. The laneway is a cul de sac, terminating without an official turning head to the southeast of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the partial demolition and demolition of existing buildings within the site (rear return of 46 Rathmines Road Lower and Old Coach House respectively, c.186sqm), and the construction of an apartment building of a Build to Rent tenure. The proposed building (architectural form of two interconnected blocks) provides for 29 apartments (28 1-bedroom and one 2-bedroom units), residential support facilities, communal open space, ranges in height from 3 to 4 storeys, and measures 1,977sqm in total floor area.
- 2.2. The proposed development also includes car parking (8 spaces in total, 5 resident spaces, 2 visitor spaces, and 1 set down/ pick up space) and cycle parking (48 spaces in total, 32 resident spaces and 16 visitor spaces), pedestrian, cyclist, and vehicular access arrangements via the existing entrance on Rathmines Road Lower, closure of the existing entrance on Fortescue Lane, hard and soft landscaping, boundary treatments, utilities, servicing, and all site works.
- 2.3. In addition to the standard plans and particulars, the application as initially lodged was accompanied by the following reports and documentation:
- Planning Statement,
 - Architectural and Urban Design Statement (including a Schedule of Accommodation),
 - Architectural Heritage Impact Assessment,
 - Assessment of the Visual Impact on the Built Environment,
 - Photomontages,
 - Daylight and Sunlight Assessment,
 - Transport Statement (including a Travel Plan),
 - Engineering Report,
 - Operational Waste Management Plan, and
 - Appropriate Assessment Screening Report.
- 2.4. Outlined in greater detail in section 6.0 of this report, as part of the first party appeal the applicant has submitted an amended design of the proposed development to

address the first refusal reason and associated policy issues raised in the planning authority's assessment.

- 2.5. The amended design involves a reduction in the total number of apartments from 29 to 25 units (omission of 3 units at 2nd floor level and 1 unit at 3rd floor level) and a revision in the proposed unit mix increasing the number of 2-bedroom units (ratio altered from 28 1-bedroom: 1 2-bedroom to 17 1-bedroom: 8 2-bedroom). The substantive differences in unit mix between the proposed development and the amended design are summarised in the table below.

Table 1: Proposed and Amended Unit Mix

Unit Mix	Proposed		Amended	
	No. Units	%	No. Units	%
1 bedroom	28	97%	17	68%
2 bedroom	1	3%	8	32%
Total	29	100%	25	100%

- 2.6. Corresponding with the amended design, the applicant has submitted revised architectural plans (floor plans, elevations, and section drawings) and engineering particulars. In terms of overall floorspace, a comparison of the schedules of accommodation for the proposed and amended designs indicate an increase in balcony areas in the latter, but otherwise the maintenance of c.1,977sqm in overall floor area. The substantive differences in plot ratio, site coverage and density between the proposed development and the amended design are summarised in the table below.

Table 2: Proposed and Amended Design Parameters

	Proposed	Amended
Density	c.180dph	c.155dph
Plot Ratio	1.23	Unchanged
Site Coverage	36%	Unchanged

- 2.7. I consider there to be planning merit in the amended design submitted with the first party appeal, which in my opinion, addresses the relevant component of the planning authority's first refusal reason (unsatisfactory unit mix and non-compliance with the

national planning guidelines for apartment developments). In the interests of clarity for the Board, I confirm that the assessment included in section 7.0 of this report is based on the amended design, and associated plans and particulars received by An Bord Pleanála in the first party appeal.

3.0 Planning Authority Decision

3.1. Summary of Decision

3.1.1. On 24th February 2023, the planning authority issued a Notification of Decision to Refuse Permission for two reasons, as follows:

- 1. Having regard to the height and proximity of development to a number of properties to the east at Bessborough Court, and a number of Protected Structures to the west at numbers 36-44 Rathmines Road Lower; the unsatisfactory mix of apartments provided for in this scheme in addition to poor access arrangements to the site, it is considered that the proposed development would represent over development of this backland site, and would seriously injure the residential amenities of adjoining properties. The proposed development would be contrary to the zoning objective Z2, which is to provide for and/ or improve the amenities of residential conservation areas, and would furthermore detract from the character and setting of the Protected Structures. The proposed development would also not comply with SPP1 (sic, SPPR 1) of the ' Sustainable Urban Housing - Design Standards for New Apartments Guidelines,2022,' in relation to unit mix, and would thereby be contrary to the proper planning and sustainable development of the area.*
- 2. Adequate vehicular access arrangements have not been demonstrated and the existing vehicular accesses off Rathmines Road Lower and Fortescue Lane are considered substandard for the scale of development proposed. The traffic generated by the development due to restricted access is likely to result in traffic safety hazard on Rathmines Road Lower by reason of obstruction of pedestrians, cyclists, bus services and other road users. The development is considered contrary to the Dublin City Development Plan, Sections 15.13.4 and 8.5.5 and Appendix 5, Section 2.4 and would endanger public safety by reason of traffic hazard. The development would therefore be contrary to the proper planning and*

sustainable development of the area, and would set an undesirable precedent for similar developments in the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planner's report is the basis for the planning authority decision. The key items included in which can be summarised as follows:

- States the site, originally the rear gardens of 36-46 Rathmines Road Lower, previously operated as a market and car park, and is now vacant.
- Accepts in principle case for BTR at the location due to regeneration of a vacant site, area does not have an over-concentration of BTR schemes, proximity to Rathmines Key Urban Village, and employment centres.
- Notes amendments made to the proposed development from the previously refused scheme, PA Ref. 4898/22 (reduction in number of units, setbacks from boundaries, removal of pedestrian/ cyclist access to Fortescue Lane are positively noted in respect of impacts).
- Notes plot ratio (1.2), site coverage (36%), and density (74 dwellings per acre), which are indicated as acceptable for the site due to its being in a Conservation Area and proximate to a Key Urban Village.
- Indicates as application lodged on 22nd December 2022 it will be assessed under the updated Apartment Guidelines (December 2022) and with regard to Circular NRUP 07/2022.
- Finds the scheme does not comply with SPPR 1 (proportion of unit mix) of the guidelines due to the number of 1 bedroom units.
- Finds the apartments appear to meet all other applicable standards (areas, measurements, dual aspect, private and communal open space) as per the guidelines.
- Finds the scheme (apartments and communal open space) meets the daylight and sunlight requirements of the BRE 209: 2022 guidelines.
- Notes that no public open space provided, and indicating an in lieu financial contribution would be acceptable.

- Accepts the demolition of the single storey return of 46 Rathmines Road Lower and the Old Coach House in principle (outlines case put forward and accepted in previous planning history).
- Expresses concerns regarding the height of 4 storeys to the rear of properties on Rathmines Road Lower remain.
- Finds scale, bulk, height of scheme to be excessive with regard to the protected structures to the west and Fortescue Lane/ Bessborough Court residences to the east.
- Indicates that a 3 storey development with reduced number of apartments and a better mix of units would be acceptable.
- Concludes there are fundamental site constraints key among which is the poor access arrangements from Rathmines Road Lower and Fortescue Lane.
- Questions whether the site could actually be developed as access through the front low archway and/ or the rear narrow laneway would not be suitable for construction vehicles.
- Requirements for the need for AA and EIA are screened out.

3.2.2. Other Technical Reports

Transportation Planning: report states that adequate vehicular access arrangements have not been demonstrated and there is an associated risk of a traffic hazard arising through obstruction of road users on Rathmines Road Lower. This forms the basis of Refusal Reason 2.

Drainage Planning: report recommends AI seeking a site investigation for drainage infrastructure, surface water attenuation calculations (green roof), and FRA for pluvial flooding (risk of 1% AEP pluvial event, and from surcharging of sewers).

Environmental Health Officer: report recommends AI seeking an acoustics report assessing the proposed gym use and plant.

Conservation Officer: no report received.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

- 3.4.1. The planning authority indicates that five submissions were received from third party observers during the assessment of the application. The issues raised in the third party submissions to the planning authority continue to form the basis of the observations made by the observers on this appeal, which are outlined in detail in Section 6.0 below.

4.0 Planning History

Appeal Site

PA Ref. 4898/22, ABP 315318-22

First party appeal against the planning authority decision to refuse permission was deemed invalid on 14th December 2022.

Planning authority refused permission on 14th November 2022 to the applicant for the demolition of the Old Coach House and part of 46 Rathmines Road Lower, and construction of an apartment development (one block (part 3-storey, part 4-storey) of c.2,600 sqm, with 39 no. build-to-rent apartments (33 no. 1-bed apartments, 2 no. 1-bed duplex units and 4 no. 2-bed apartments)), vehicular and pedestrian accesses via Rathmines Road Lower and pedestrian access via Fortescue Lane, and all associated site works.

PA Ref. 3389/15, PL 29S.246625 (not implemented)

Permission granted on appeal to Blackberry Fair Co-Ownership on 26th October 2016 for the demolition of 46 Rathmines Road Lower and mews, the refurbishment of 40, 42 and 44 Rathmines Road Lower (Protected Structures), and the construction of 2 buildings for student accommodation and all associated works.

Planning authority had granted permission for same on 26th April 2016.

Adjacent to the West

ABP 316272-23

Application for the Templeogue/ Rathfarnham to City Centre, Core Bus Corridor Scheme, Bus Connects along Rathmines Road Lower, Dublin 6.

Decision on application pending at time of assessment.

5.0 Policy Context

5.1. National Context

5.1.1. The national policy context guiding future growth in Dublin City and suburbs (within which the appeal case is located) is determined by the National Planning Framework (NPF) and the requirements of several Section 28 Ministerial Guidelines. These require the consolidation of future development through increased densities and building heights.

National Planning Framework

5.1.2. Of relevance to the appeal case are several national policy objectives (NPOs) from the NPF including:

- NPO 2a: A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.
- NPO 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Section 28 Guidelines

5.1.3. Certain national planning guidelines are also of relevance to the proposed development in respect of policy relating to apartment development (mix, standards, and BTR), increased densities for residential development, densification of urban locations in proximity to public transport, and requirements for increased building heights. These include (my abbreviation in brackets):

- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, July 2023 (Apartment Guidelines) (note: this version of the guidelines incorporates the transitional arrangements for BTR in Circular NRUP 07/2022). Applicable policy for the proposed development, as amended in the first party appeal, includes:
 - Section 2.4 identifies accessible urban locations as being suitable for smallscale high density apartment developments (no upper density range is specified, and the minimum density for the next lower tier is indicated as 45dph).
 - SPPR 1 specifies that apartment schemes can contain up to 50% 1 bedroom apartments (unless otherwise indicated in the CDP HNDA).
 - SPPR 2 (applicable to urban infill schemes of up to 0.25ha, and where for schemes between 10-49 units) allows the first 9 units to be 1 bedroom apartments, and the unit mix allowable under SPPR 1 (i.e. 50%) to be applied to the remainder of the scheme.
 - Standards and requirements of SPPR 3 (minimum floor, storage, private open space areas for 1 bedroom and 2 bedroom units), SPPR 4 (33% to be dual aspect units), SPPR 5 (discretion for minimum 2.7m requirement for ground level floor to ceiling height), and SPPR 6 (not applicable as no floor level has more than 12 units).
 - Section 5.2 defines BTR as ‘purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord’.
 - Section 5.4 identifies BTR as playing an important role in the overall solution to increasing housing supply nationally and supporting compact growth in urban centres, as envisaged by the NPF.
 - Section 5.9 states that BTR developments, subject to design standards applicable to all apartment development (i.e. SPPRs above), can continue to play a role in delivering apartments in appropriate locations to ensure there is sufficient rental accommodation in urban areas.

- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines). Applicable to the proposed development includes:
 - Section 1.9 requires building heights of at least 3 to 4 storeys, coupled with appropriate density, in locations outside city and town centre areas to be supported in principle at development management level.
 - Section 2.1 states implementing the NPF requires increased density, scale and height of development in our town and city cores, to be achieved through reusing previously developed 'brownfield' land, building up urban infill sites and redeveloping existing sites that may not be in the optimal usage.
 - Section 3.1 stipulates that, in relation to the assessment of individual planning applications and appeals, there is a presumption in favour of permitting buildings of increased height in our urban cores and in other urban locations with good public transport accessibility.
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009, (Sustainable Residential Development Guidelines). Applicable to the proposed development includes:
 - Section 5.4 states increased densities are required to be encouraged on residentially zoned lands and particularly those located in urban (city/ town) centres, brownfield and/ or infill contexts, and on public transport corridors (no upper density range is specified, and the minimum density for public transport corridors is indicated as 50dph).

5.2. Regional Context

- 5.2.1. The regional policy context is set by the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES). In respect of consolidated growth, policy objectives for Dublin Metropolitan Area (i.e. the Dublin City and suburbs which the appeal site is located within), and of relevance to the appeal case include:
- RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns,

with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

- RPO 5.5: Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES.

5.3. Local Context

5.3.1. The applicable development plan for the appeal site is the Dublin City Development Plan 2022-2028 (CDP). The relevant CDP map-based objectives and designations are as follows:

- The site is zoned 'Z2 – Residential Neighbourhoods (Conservation Areas)' with the objective 'To protect and/ or improve the amenities of residential conservation areas'.
- The proposed development is a 'build to rent residential' use class which is classified as an open for consideration use under the Z2 zoning objective.
- The site incorporates and is adjacent to several protected structures along the site's western boundary. These include 36-44 Rathmines Road Lower (even numbers) and the Church of Our Lady of Refuge. The entries in the RPS for these buildings are as follows.

RPS Ref. No.	Full Address	Description
7176	36 Rathmines Road Lower, Dublin 6	House
7178	38 Rathmines Road Lower, Dublin 6	House
7180	40 Rathmines Road Lower, Dublin 6	House
7182	42 Rathmines Road Lower, Dublin 6	House
7183	44 Rathmines Road Lower, Dublin 6	House
7184	Rathmines Road Lower, Dublin 6	Church of Our Lady of Refuge

- The site's western boundary includes access onto Rathmines Road Lower, along which are 'Existing Bus Connects Spine' and 'Proposed Bus Connects Radial Core Bus Corridor' designations.
- The site is located in Zone 2 for parking standards.

5.3.2. The relevant CDP policy, objectives, requirements, and/ or standards include the following:

Chapter 4: Shape and Structure of the City

Policy SC8 Development of the Inner Suburbs and Outer City

To support the development of the inner suburbs and outer city in accordance with the strategic development areas and corridors set out under the Dublin Metropolitan Area Strategic Plan and fully maximise opportunities for intensification of infill, brownfield and underutilised land where it aligns with existing and pipeline public transport services and enhanced walking and cycling infrastructure.

Policy SC10 Urban Density

To ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (Department of Environment, Heritage and Local Government, 2009), and its companion document, Urban Design Manual: A Best Practice Guide and any amendment thereof.

Policy SC11 Compact Growth

In alignment with the Metropolitan Area Strategic Plan, to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, which will:

- *enhance the urban form and spatial structure of the city;*
- *be appropriate to their context and respect the established character of the area;*
- *include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future residents;*

- *be supported by a full range of social and community infrastructure such as schools, shops and recreational areas;*
- *and have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture.*

Policy SC12 Housing Mix

To promote a variety of housing and apartment types and sizes, as well as tenure diversity and mix, which will create both a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces and provide for communities to thrive.

Policy SC14 Building Height Strategy

To ensure a strategic approach to building height in the city that accords with The Urban Development and Building Height Guidelines for Planning Authorities (2018) and in particular, SPPR 1 to 4.

Chapter 5: Quality Housing and Sustainable Neighbourhoods

Policy QHSN6 Urban Consolidation

To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/ adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.

Policy 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.

Policy QHSN41 Built to Rent Accommodation

To discourage BTR Accommodation schemes of less than 100 units due to the need to provide a critical mass of accommodation to provide a meaningful provision of communal facilities and services. Smaller BTR accommodation schemes with less than 100 units will only be considered in exceptional circumstances and where a detailed justification is provided.

Policy QHSN42 Built to Rent Accommodation

To foster community both within a BTR scheme and to encourage its integration into the existing community, the applicant will be requested to provide an evidenced based analysis that the proposed resident support facilities are appropriate to the intended rental market having regard to the scale and location of the proposal. The applicant must also demonstrate how the BTR scheme must contribute to the sustainable development of the broader community and neighbourhood.

Policy QHSN44 Build to Rent/ Student Accommodation/ Co-living Development

It is the policy of DCC to avoid the proliferation and concentration of clusters of build to rent/ student accommodation/co-living development in any area of the city.

Chapter 8: Sustainable Movement and Transport

Section 8.5.5 City Centre and Urban Villages- Access and Functional Needs (extracts)

Servicing

As the city intensifies, more pressure is being put on streets to accommodate the activity generated by existing and new developments. The kerbside space traditionally available for this is being continually reduced in favour of transport infrastructure and public realm improvements. As such, there is very limited capacity on street to meet the servicing requirements of developments...

...Dublin City Council will also actively work with private developers through the Development Management process to ensure effective service management strategies are developed to minimise the impact on the surrounding road network (see Appendix 5 for further detail)....

Chapter 11: Built Heritage and Archaeology

Policy BHA2 Development of Protected Structures

That development will conserve and enhance protected structures and their curtilage and will:

(a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.

(b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.

(c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.

(d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/ or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.

(c) (sic) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure...

(f) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features...

Chapter 14: Land Use Zoning

Section 14.3.1 Permissible and Non-Permissible Uses

...An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area...

Chapter 15: Development Management

Section 15.13.4 Backland housing (extracts)

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...

Where there is potential to provide backland development at more than one site/ property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/ properties in order to provide for a more comprehensive backland development...Piecemeal backland development with multiple vehicular access points will not be encouraged....

... All applications for infill developments will be assessed on a case by case basis. In certain instances, Dublin City Council may permit relaxation of some standards to promote densification and urban consolidation in specific areas. The applicant must demonstrate high quality urban design and a comprehensive understanding of the site and the specific constraints to justify the proposal.

Section 15.8.6 Public Open Space (extracts)

All residential development is required to provide for public open space....The public open space requirement for residential developments shall be 10% of the overall site area as public open space.

Section 15.8.7 Financial Contributions in Lieu of Open Space (extracts)

Public open space will normally be located on-site, however, in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or other factors, to locate the open space on site...

In these cases, financial contributions may be proposed towards the provision and enhancement of open space and landscape in the locality...Financial contributions in lieu of public open space will only be applicable in schemes of 9 or more units....

Section 15.9 Apartment Standards (extracts)

... two sub areas were identified for sub-city level HNDA analysis; (i) the Liberties and (ii) the North Inner City... requirement for unit mix are, therefore, required in these two sub-city areas...

SPPR 1 is applicable to the remainder of the Dublin City Council administrative area...SPPR 2 provides some flexibility in terms of unit mix for building refurbishment schemes on sites of any size, urban infill schemes on sites up to 0.25 ha, schemes up to 9 units and for schemes between 10 and 49 units. The planning authority will assess each application having regard to SPPR 2 on a case by case basis....

Appendix 3: Height Strategy

Indicative Density, Height, Plot Ratio and Site Coverage Ranges (extracts)

Location	Density dph	Height	Plot Ratio	Site Coverage
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Canal Belt	100-250			
Key Urban Village	60-150			
Outer Suburb	60-120	3-4 storeys minimum		
Conservation Area			1.5-2.0	45-50%

Appendix 5: Transport and Mobility – Technical Requirements

Section 2.4 Service Delivery and Access Strategy (extracts)

.... urban villages have limited capacity on the streets to accommodate the wide range of activities generated by existing and new developments. Having regard to this limited capacity, service areas shall be provided where possible within the curtilage of the site. These areas are to be used exclusively for service and delivery vehicles, details of which will be determined by the planning authority...Swept-path analysis shall also be submitted demonstrating the safe manoeuvrability of all vehicles servicing the site.

For residential developments, details of access for service vehicles shall be considered at an early stage in the design process. Access for emergency vehicles, refuse collections and general servicing needs (i.e. domestic/household deliveries) shall be adequately demonstrated. Identifying the location of drop off/pick up areas for deliveries, in particular for car free developments which may be reliant on third party services to meet their household requirements, shall also be considered early in the design process....

5.4. Natural Heritage Designations

- 5.4.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA). There are no open watercourses within or adjacent to the site.
- 5.4.2. The European Site designations in proximity to the appeal site include (measured at closest proximity):
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is c.3.67km to the east,
 - South Dublin Bay SAC (site code 000210) is c.3.67km to the east,

- North Bull Island SPA (site code 004006) is c.6.68km to the northeast, and
- North Dublin Bay SAC (site code 000206) is c.6.68km to the northeast.

5.4.3. The pNHA designations in proximity to the appeal site include:

- Grand Canal pNHA (site code 002104) is 192m to the north, and
- South Dublin Bay pNHA (site code 000210) is c.3.67km to the east.

5.5. Preliminary Examination Screening for Environmental Impact Assessment

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

- Class 10(b) relates to infrastructure projects that involve:
 - (i) Construction of more than 500 dwelling units,
 - (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere,
- Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 2 of Schedule 5 where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7 of the Regulations, and
- Class 15 relates to any project listed in Part 2 which does not exceed a quantity, area or other limit specified in that Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.5.2. Regard has been had to the following:

- The nature and scale of the proposed development (smallscale demolition and construction of a residential development on a site with an overall area of c.0.16ha) which is notably below the mandatory thresholds in respect of Class 10 Infrastructure Projects of the Planning and Development Regulations 2001, as amended.

- The nature of the proposed development as not being a project type that would give rise to waste, pollution or nuisances that differ from those arising from other residential developments in the receiving environment, or that would give rise to a risk of major accidents or risks to human health.
- The location of the site on lands that are zoned for residential use under the provisions of the Dublin City Development Plan 2022-2028, and the results of the strategic environmental assessment of the Dublin City Development Plan 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC).
- The location of the site within an existing built-up urban area, which is served by public infrastructure (including water and drainage services of Uisce Eireann and Dublin City Council, upon which the proposal would have marginal effects), and the existing pattern of residential, commercial, and educational development in the vicinity.
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001, as amended (including any designation protecting the landscape, natural or cultural heritage), the mitigation measures proposed to ensure no connectivity to any such sensitive location and, due to the absence of any ecological and/ or hydrological connection, the project not being likely to have a significant effect on any European site.
- The guidance set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage, and Local Government, 2003.
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.

In so doing, I have concluded that by reason of the nature, scale and location of the appeal site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The main issues raised in the first party grounds of appeal can be summarised as follows:

Overview

- Appeal identifies the items accepted in principle by the planning authority, including redevelopment of a vacant site, demolition of Old Coach House, suitable location for BTR, density, achievement of various apartment and daylight standards, and potential for no car parking provision to be made on site.
- Appeal focuses on the two refusal reasons, firstly addressing the impact of the proposal (due to its height and design) on adjacent properties (protected structures and residences), and secondly demonstrating that the site can be safely accessed (by various modes of transport) during construction and operation phases.

Refusal Reason 1 – Design of Proposal

- Of overdevelopment, the applicant refers to:
 - Maintenance of adequate separation distances of 19.7m/ 21.2m to rear facing windows of Rathmines Road Lower properties, and 8.6m/ 10.1m to side walls (no windows) of Fortescue Lane and Bessborough Court properties (at the top floor level these distances are further increased due to setbacks in the design).
 - Level of impact is within BRE standards in the Daylight and Sunlight Assessment undertaken for the proposal.
 - Proposal will have 24hr concierge service which will manage any noise related impacts.
 - Submits proposed development does not represent an overdevelopment of this backland site, will not result in any significant impacts on residential amenity which could not otherwise be overcome by reasonable planning condition.

- Of height and proximity, the applicant refers to:
 - Contradictions and/ or unsubstantiated reasoning on building height and visual impact in the planning authority report.
 - Maximum of height of the proposal is 32.7m, which is 4.2m lower than the terraces on Rathmines Road Lower (36.9m/ 34.5m), and in excess of 6m above the mews dwellings along Fortescue Lane (26.7m).
 - Proposal is a transitional height between these two streets which establish the prevailing height in the area and will have no visual impact from/ on Rathmines Road Lower.
 - Submits the proposed design and height are suitable for the site, and that the planning authority's suggestion that the height be reduced is not justified.
- Of the mix of apartments, the applicant refers to:
 - Omission by the planning authority of additional policy in the Apartment Guidelines which allows discretion in the apartment mix on urban infill sites of less than 0.25ha (such as the appeal site).
 - Portion of 1 bedroom units being proposed is appropriate to the local Rathmines area having regard to analysis by a property agent, of the CDP HNDA, and census data which indicates more couples/ two person households.
 - Submits the proposed mix is the most appropriate design solution but refers to the revised apartment mix which is newly submitted in the appeal.

Refusal Reason 2 – Traffic and Transportation

- Of existing access arrangements, the applicant refers to:
 - The site having two access points, front entrance onto Rathmines Road Lower and the rear access onto Fortescue Lane.
 - In recent decades the site has been in use as a market and informal car park, which for the latter is estimated as having served c.8 spaces and generated 2.5 trips daily via the front entrance, and operated safely for years.

- This level of traffic activity is similar to that for the proposed development and therefore does not represent an intensification of use.
- Submits willingness to accept a condition 'providing zero private car parking' on the site save for spaces associated with drop off, refuse, and deliveries.
- Of proposed access arrangements, the applicant refers to:
 - No access to or from Fortescue Lane is included in, and all through-traffic will be closed off as part of the proposal.
 - Refers to a revised arrangement at Fortescue Lane which is proposed and submitted in the appeal for a bollard-controlled, pull in maintenance area to service the ESB substation.
 - Refers to the Transport Note submitted in the appeal which includes the swept path analysis (demonstrating the adequacy of access and egress arrangements for all vehicles typically accessing the site), fire tender access strategy, refuse collection strategy, and servicing arrangements.
 - Submits there is an established vehicular entrance, no intensification of use, the front entrance has been operating safely for years and has been demonstrated to be able to operate safely as part of the proposal.

Other Items in Planning Authority Decision

- Of the AI request relating to drainage and SuDS, the applicant refers to:
 - A previous hydrological impact assessment (from PA Ref. 2370/10, referred to in part of the Engineer Report in the application) undertaken for the site. This indicated that historically two watercourses ran under the site, are understood to be part of the combined foul and surface water sewer network, and to be artificially enclosed.
 - Submits that a condition can be attached requiring site investigation and construction management to address the impact of the proposal, if any, on same.
- Of the AI request relating to noise, the applicant refers to:

- The gym being for future residents' use, not publicly accessible, and not expected to create excessive noise levels.
- Submits that a condition can be attached requiring an acoustic report on the gym and plant indicating compliance with certain industry standards.

6.2. **Planning Authority Response**

- 6.2.1. A response has been received from the planning authority requesting that the decision to refuse permission be upheld.
- 6.2.2. If permission is granted, the planning authority requests conditions be applied in respect of:
- Section 48 development contribution,
 - Payment of a bond,
 - Contribution in lieu of public open space provision,
 - Social housing,
 - Naming and numbering, and
 - Management of the scheme.

6.3. **Observations**

- 6.3.1. Four observations have been received on the appeal from observers with addresses given at 20 and 176/178 Rathmines Road Lower and 39 and 45 Mountpleasant Avenue Lower. These four observers also made third party submissions to the planning authority during the assessment of the application. The main issues raised can be summarised as follows:

BTR Accommodation and Housing Mix

- BTR proposal of 1-bedroom units will not alleviate the housing problems or contribute to the community or development of Rathmines.
- BTR unsuitable to the area.
- Area has a significant number of new BTR and co-living developments (reference to Rathmines Road Lower, Charlemont South Richmond Street, Ardee Road).

- Inappropriate proliferation of compact single bedroom units in the proposal.
- Area already characterised by a high volume of low-quality rental accommodation (reference to Lower Rathmines Road, Grove Road).
- Number of 1-bedroom apartments results in no opportunity for family occupation or mixed tenure type accommodation.
- Area experiencing a shortage of accommodation suitable for families of 3, 4, and 5 persons.

Scale and Design of Proposed Development

- Massive overdevelopment of the site.
- Out of proportion and out of character with the existing houses.
- Gross overdevelopment with a large monolithic block of four storeys in height.
- Proposal should be subservient to the main structures and of outstanding design to enhance the local area.
- No precedent for any development over two storeys on Fortescue Lane.
- Appropriate development of the site should be as courtyard scheme or a two-storey mews style development.

Impact on Protected Structures, Demolition of Buildings, and Removal of Boundaries

- Site is within the curtilage of protected structures, and these and neighbouring buildings should be protected.
- Proposal is of a height which is quite similar to the original Georgian buildings presenting an incongruous pattern of development.
- Permanent removal of possibility for reinstatement of boundaries of protected structures which have been systematically reduced in plot size over years.
- Permanent loss of rear garden areas of and rear access to the protected structures on Rathmines Road Lower from Fortescue Lane.
- Old Coach House fronting onto Fortescue Lane belonged to 36 Lower Rathmines Road, a protected structure, and should be similarly protected.

- Demolition of the Old Coach House, which is a protected structure, is integral to the proposal.
- Demolition of the coach house is at odds with other developments along Fortescue Lane and will change the character of the laneway.

Residential Amenity

- Proposal will seriously injure adjacent residential amenity due to excessive visual intrusion, overbearing, and overshadowing.
- Proposal will be grossly overbearing on all adjacent two storey mews houses causing a loss of light and privacy to rear garden areas.
- Communal roof garden and balconies will overlook gardens of surrounding properties.
- Excessive height of proposal will overshadow mews houses on Fortescue Lane resulting in a loss of daylight.
- Ground floor of the proposal will be greatly lacking in daylight due to poor design, single aspect, lack of adequate open space.

Access, Traffic and Parking

- Insufficient access to the site from Rathmines Road Lower and Fortescue Lane to construct a development of this scale.
- Site access from front entrance is too small for this scale of development, cranes will be required to be used to access site.
- Currently large vehicles (fire engines) have difficulty in accessing Fortescue Lane.
- Proposal will generate a significant amount of traffic during construction and in the long-term on Rathmines Road and Fortescue Lane, which are already congested, and will cause traffic hazards.
- Proposal seeks to use Fortescue Lane as its principal vehicular entry and exit point, lists reasons why this is not appropriate.
- Not clear how construction machinery and traffic will access the site.

- Consideration should be given to creating a pedestrian right of way through the site between Rathmines Road Lower and Fortescue Lane to provide for pedestrian safety.
- Limited on-site parking will result in overspill parking on Fortescue Lane which is already highly congested with parked cars.

Water Services and Utilities

- Sewerage system on Fortescue Lane at capacity, incapable of coping with the proposal.
- Frequent visits by drain specialists trying to clear the drains.

Other

- Consider and uphold recommendations in previous studies, e.g. Local Area Plan for Rathmines, Lower Rathmines Conservation and Regeneration Study.

6.4. Further Responses

6.4.1. No further responses have been received on the appeal.

7.0 Planning Assessment

7.1. Introduction

7.1.1. In the interests of clarity for the Board, I confirm that the assessment included in section 7.0 of this report is based on the amended design, associated plans and particulars received by An Bord Pleanála in the first party appeal.

I am satisfied that the Board can determine the amended scheme in this manner as the proposal remains substantively the same (infill development of BTR apartments), within a similarly scaled development envelope (scale, dimensions, floor areas), and with similar access, servicing and delivery arrangements.

7.1.2. I consider the main issues for the appeal to be as follows:

- Build to Rent Development
- Design Approach
- Architectural Heritage

- Existing Residential Amenity
- Future Residential Amenity
- Traffic, Access, and Parking
- Water Services and Surface Water Management
- Appropriate Assessment Screening

7.2. Build to Rent Development

7.2.1. The proposed development is an apartment scheme of a Build to Rent (BTR) tenure. As outlined in section 5.0 above, there is national and local planning policy applicable to same. Due to the date the application was lodged with the planning authority, the appeal is being assessed under the Apartment Guidelines (July 2023). The guidelines postdate the Dublin City Development Plan 2022-2028 (CDP).

Compliance with National Policy

- 7.2.2. Key implications for the proposed development from the Apartment Guidelines include the achievement of unit mix and standards (SPPRs), the appropriateness of the location for the BTR scheme, and the contribution such a scheme can make to the housing supply and built environment of the area (cited above in section 5.1 of this report).
- 7.2.3. Of unit mix, the amended scheme proposes a reduction in the total number of units to 25 apartments and revised proportions of 1 bedroom and 2 bedroom units. In refusing planning permission for the proposal, the planning authority cites non-compliance with SPPR 1 of the guidelines. However, I find SPPR 2 to be the applicable SPPR regarding unit mix as the CDP Housing Need and Demand Assessment (HNDA) does not specify a unit mix for the Rathmines area, the proposal is at an infill site of less than 0.25ha and is for a scheme of between 10 and 49 units. SPPR 2 allows the first 9 units of the scheme to be 1 bedroom apartments, and the unit mix allowable under SPPR 1 to be applied to the remainder of the scheme (i.e. for the amended design with a total of 25 units, the remaining 16 apartments can be comprised of 8 1 bedroom units and 8 2 bedroom units). As such, the revised proportion of 17 1 bedroom and 8 2 bedroom units is compliant with the requirements of the guidelines.

- 7.2.4. Of the remaining SPPRs, I have reviewed the plans and particulars of the amended scheme, including the floor and cross section plans, and schedule of accommodation. I confirm to the Board that the units achieve the minimum and/ or required standards in terms of floor areas (floor areas of at least 45sqm for 1 bedroom and 73sqm for 2 bedroom units), widths, storage space, private open space (various garden and balconies areas), dual aspect (52%), and floor to ceiling heights (ground floor c.3.13m).
- 7.2.5. Of the location of the BTR development, I consider the proposal satisfies section 2.4 of the guidelines as the appeal site is an accessible urban location (c.150m from Rathmines urban core, c.1.5km to the city centre, and on a high capacity-high frequency bus corridor), and as such is wholly suitable for a smallscale higher density apartment development such as proposed.
- 7.2.6. Of the contribution this BTR development can make and its appropriateness to this area, I consider the proposal satisfies sections 5.4 and 5.9 of the guidelines by increasing the local housing supply with a varied residential offer, delivering apartments with an acceptable standard of residential amenity, ensuring compact growth through the intensification of the residential use at the site, and providing sufficient rental accommodation in an appropriate urban location.

Compliance with Local Policy

- 7.2.7. In the CDP, 'BTR residential' is classified as open for consideration within the Z2 zoning objective at the site which seeks to protect and/ or improve amenity in residential conservation areas. In determining whether the proposed BTR scheme would be acceptable, it is necessary to assess the impact of the proposal on existing residential amenity (which I consider in section 7.5 below) and the extent of compliance with the specific CDP BTR policies.
- 7.2.8. The policies relevant to BTR as a use class and the proposal (less than 100 units) include Policies QHSN41, QHSN42, and QHSN44 (cited above in section 5.3 of this report). These policies largely seek to resist BTR developments unless a substantive and evidence-based case can be made justifying the provision of same. The BTR proposal may be considered acceptable if certain conditions are met including if it would support housing need, integrate with the local community, and not result in an overconcentration of BTR developments in the area.

- 7.2.9. Of supporting housing need, I have reviewed the information provided by the applicant (Planning Statement and reiterated in the first party appeal) on census and household formation data (2016 Census as available) which indicate the Rathmines area comprises thousands of small households (1-2 persons) occupied by a high proportion of young professionals. I consider the nature of the demographic profile as identified in the applicant's analysis to be an accurate reflection and anticipate that the area will continue to exhibit these characteristics. This is due to the area being desirable to single or two-person households of young professionals, highly accessible to the city centre, offering a range of employment, retail, commercial, and leisure opportunities, and served by a high frequency/ high capacity public bus network. I consider that the proposed BTR development will contribute to the meeting the housing needs of this demographic profile.
- 7.2.10. Of integrating with the local community, I do not anticipate any undue issues given the large population in the receiving area (c.14,714 persons in the wider Rathmines area in the 2016 Census), that the proposal is a smallscale infill scheme with a potential population of c.62 persons (I estimate this from the average household size for Dublin City of 2.48 persons in the 2022 Census), and that it is served by on-site residential support facilities.
- 7.2.11. Of overconcentrating BTR developments, I note the applicant's examination of BTR planning histories in the area, which identified one BTR development (c.102 bedspaces) permitted within 1km of the site (Ardee Road, Rathmines). I have reviewed the available planning history sources of other applications in the intervening period since the first party appeal was lodged and do not identify any permissions of note. While the Rathmines area does have several historic properties divided into multiple residential use, including those properties on Rathmines Road Lower adjacent to the site, it cannot be reasonably concluded that the proposal would result in an overconcentration of BTR developments per se in the area.

Conclusion

- 7.2.12. In conclusion, while I note the range of objections raised by the observers in respect of BTR as an unsuitable form of residential development at the site, I find that the proposed development satisfies national policy on BTR development and applicable standards in the Apartment Guidelines, is compatible with the Z2 zoning objective for

the site and satisfies the requirements of Policies QHSN41, QHSN42, and QHSN44 by supporting housing need, integrating with the local community, and not resulting in an overconcentration of BTR developments in the area. As such, I conclude that the nature and scale of the proposed BTR development is acceptable, and that appeal site is an appropriate location for the proposed BTR residential development.

7.3. Design Approach

- 7.3.1. The design approach taken for the proposed development is a key consideration in this assessment. In my opinion, whether the design approach can be considered appropriate is determined by extent of compliance with national and local policy on consolidated growth, density, scale, and building height, and the degree of impact on the architectural heritage, residential and visual amenities in the area.
- 7.3.2. The appeal site is a backlands/ infill site, at an accessible urban location, on a public transport corridor, in an outer suburb of Dublin city proximate to the canal ring and Rathmines urban core, and is zoned, serviced and presently vacant. For such sites in such locations, the applicable national policy requires redeveloped, consolidated, intensified compact growth achieved through the delivery of denser schemes with higher buildings (cited above in section 5.1 of this report).
- 7.3.3. I find that the proposal, a 3 to 4 storey apartment building with a residential density of c.155dph, is consistent with national policy in the NPF (NPO 33 and 35), Apartment Guidelines (section 2.4), Building Height Guidelines (sections 2.1 and 3.1), and Sustainable Residential Development Guidelines (section 5.4). In so doing, I similarly find the proposed development to comply with CDP Policies SC8, SC10, SC11 and SC14 (cited above in section 5.3 of this report). These local policies in turn require suitably located proposals (such as the proposed development in a Dublin city outer suburb, and in the DMASP) to comply with national and regional policy in securing consolidated, compact growth through the provision of denser and higher buildings.
- 7.3.4. Appendix 3 of the CDP provides indicative development parameters as guidance for appropriate scale, massing, and height. I have identified those of relevance to the proposed development in section 5.3 above. In respect of density, ranges for the inner suburbs of the canal belt are 100-250dph, for Rathmines key urban village are 60-150dph, and for outer suburbs are 60-120dph. The density of the amended

scheme is reduced from c.180dph to c.155dph. While the site is formally located in an outer suburb and the density proposed is in excess of the indicated range, I have had regard to the somewhat unique nature of the site's location between and in immediate proximity to the canal belt and Rathmines, and I consider the proposed density to be acceptable due to the highly advantageous location of the site and the other design parameters.

- 7.3.5. In respect of building height, the CDP reiterates direction from the Building Height Guidelines (section 1.9) and requires that developments within outer suburb locations be a minimum of 3 to 4 storeys building height, which the proposed development complies with. Of other development parameters, the amended scheme maintains the proposed plot ratio of c.1.2 and site coverage of 36%, parameters which are within acceptable ranges for conservation areas.
- 7.3.6. As such, I am satisfied that the amended scheme is acceptable in terms of density, building height, and other design parameters. I find the proposal complies with applicable CDP Policies QHSN6 and QHSN10, guidance in section 15.13.4, and requirements of Appendix 3 and achieves residential intensification at the site through sustainable density with moderate building height.
- 7.3.7. The planning authority indicates that a scheme of a height reduced by one storey is acceptable. I find the reduction of one storey in this context to be somewhat arbitrary given the proposal's compliance with national and local policy, achievement of development parameters, limited views across/ to the site, and minimal visual impact arising from the proposal as a result of its scale, massing, and height (as considered in sections 7.4 and 7.5 below of this report). As such, I do not concur with the planning authority's position on design approach.

Conclusion

- 7.3.8. While I note observers' claims of overdevelopment of the site and objections in relation to the design, scale, massing, and height of the proposed development, I find the design approach is consistent with national and local policy requiring compact, consolidated growth in infill urban locations through the provision of denser and higher buildings. The design approach also complies with CDP guidance on density, building height, plot ratio and site coverage. As such, I conclude the design approach represents an optimum solution for the site, and the proposed

development will not injure or adversely impact the area's character, architectural heritage, residential or visual amenities as a result of its design, scale, massing, and height.

7.4. Architectural Heritage

- 7.4.1. In its first refusal reason, the planning authority states the proposed development would detract from the character and setting of the protected structures. I have reviewed the available information from the planning authority to determine the character of the protected structures and establish the materiality of the impact of the proposed development.
- 7.4.2. The planning authority decision does not expressly describe the nature, or precisely indicate the particular heritage value of the protected structures' character and setting which the proposed development is detracting from. There is no internal Conservation Officer report on the application, and no reference is made to there being any section 57(3) declarations for the protected structures. In the Record of Protected Structures of the CDP, I note that the entries for the adjacent protected structures simply describe the buildings as houses and the church. The entries do not refer to rear garden areas and/ or boundaries per se, or in the instance of 36 Rathmines Road Lower, is reference made to the Old Coach House structure located to the rear of that property.
- 7.4.3. I identify the components of architectural heritage value at/ in the vicinity of the appeal site as being firstly, the section of the Rathmines Road Lower streetscape formed by the terrace row of 36 to 44 inclusive, secondly, particular to 44 Rathmines Road Lower is the street-level archway facilitating access to the rears of the properties in the terrace row, and thirdly, the Church of Our Lady of Refuge with its dome being a distinctive feature in the Rathmines skyline.
- 7.4.4. With regard to the character of the protected structures, I find that of the church to be highly distinctive and dominant. I do not consider that the proposed development competes with or detracts from the church's character due to the differences in land use, building typology, scale, massing and height, architectural treatment, roof profile, and external finishes. Of the properties on Rathmines Road Lower, I find their character is formed by their being a distinctive terrace row within the overall streetscape with characteristic period features and elevational treatment. While the

proposed development is similar to these properties in terms of residential use, building height of 3 to 4 storeys, and brick finishes, I find there are material differences such that the proposed development does not compete with or detract from the character of these properties. These differences include the proposal being a modern expression of the multiple-residential unit building typology and having a principal building height c.4m lower than that of the terrace row.

7.4.5. With regard to the setting of the protected structures, I acknowledge that the site is an amalgamation of the original rear garden areas of the five protected structures fronting onto Rathmines Road Lower. I have reviewed and noted the information submitted by the applicant (Architectural Heritage Impact Assessment, Planning Statement) including historic details of the site assembly, the site's decades-long use as a commercial market and car park, and the recently constructed boundary walls at the rear of these properties, all of which I believe to be material issues in considering the integrity of the protected structures' setting.

7.4.6. While the proposal does involve the redevelopment of the site, I accept that the rear garden areas have long been severed from the original houses. I consider that the newly erected boundary walls at the rear of the protected structures have further severed the site from the original houses. Additionally, as noted from my site inspection, review of the case file, planning history details, and aerial photography, I highlight to the Board that mews and infill dwellings developed to the rear of several properties along Rathmines Road Lower and Mount Pleasant Avenue which access directly onto Fortescue Lane is the established pattern of development in the area. That being, the historic settings of several properties, many of which are also protected structures, have been changed and altered as rear gardens have been developed and segregated from the principal residences. Importantly in respect of the protected structures' setting, I positively note that there are no amendments proposed to the original rear garden access via the archway in 44 Rathmines Road Lower, and the proposal is set back from and does not propose any works to the southern boundary with the Church of Our Lady.

7.4.7. A final important consideration in whether the proposed development detracts from the character and setting of the protected structures is that of visual impact. Publicly accessible views to and across the site from Rathmines Road Lower are not available, save for the fleeting and highly restricted view through the archway at 44

Rathmines Road Lower. Similarly, views to the rear of the Rathmines Road Lower protected structures from Fortescue Lane are occasional and very limited. The upper part of the church and its dome are intermittently visible when travelling south on Fortesque Lane. I have reviewed the documentation submitted by the applicant (the Architectural Heritage Impact Assessment, Assessment of the Visual Impact on the Built Environment, and Photomontages), note, and concur with their conclusions. In respect of visual impact, in the viewpoints where the proposed development will be visible and exert an impact (which are not in the majority due to the limited views to and across the site), the effects range from slight to significant, and when assessed in totality are found to be predominately moderate in effect.

- 7.4.8. Of the demolition of the Old Coach House, I find this to be acceptable in principle due to the very poor structural condition (confirmed at my site inspection) and the minimal architectural heritage value. This is in similarity with the planning authority which in turn refers to previous planning consents where the demolition of the building was accepted. While some observations state the coach house is protected, I highlight to the Board that the planning authority makes no reference to same, and I consider it reasonable to proceed on this basis. I consider the demolition of the single storey extension 46 Rathmines Road Lower to be similarly acceptable. I recommend the attachment of an appropriate condition for demolition waste management.

Conclusion

- 7.4.9. While I note the objections of the observers in respect of the inappropriate height of the proposal, and the permanent loss of the rear garden areas and Old Coach House, I consider the proposed development will not unduly injure or adversely impact the architectural heritage of the site and adjacent protected structures. As such, I conclude that the proposed development complies with applicable CDP Policy BHA2 relating to the development of/ affecting protected structures by being appropriately sited (layout, separation distances) and designed (scale, massing, height, materials), not adversely impacting on the protected structures' character or setting (maintenance of front streetscape, roof ridge height, skyline) or their structural integrity (maintenance of the distinctive archway).

7.5. Existing Residential Amenity

- 7.5.1. The appeal site is located adjacent to several residential streets including Rathmines Road Lower to the west (3 and 4 storey period properties in multiple residential occupancy), Fortescue Lane to the north and east (predominantly 2 storey mews and infill dwellings), Bessborough Court to the east (3 storey terrace of dwellings), and Bessborough Parade to the southeast (2 storey period properties).
- 7.5.2. The planning authority's first refusal reason states that the proposed development would seriously injure the residential amenities of adjoining properties, a position which is also raised by the observers. Impacts that could affect the amenity of existing residences are those arising from overlooking, overshadowing, overbearance, construction activity disturbance, and operation noise and traffic disturbance.
- 7.5.3. I have reviewed the application and subsequent first party appeal documentation. I consider that the design approach taken for the proposed development, as initially submitted, gave sufficient regard to protecting the amenity of existing residents. This is due to the suitable siting and layout, appropriate staggered building heights and setback building line at upper floor levels, adequate separation distances, achievement of BRE standards in the daylight and sunlight assessment, and screened roof top terrace. In the first party appeal, I note that remaining concerns relating to existing residential amenity have been responded to by the applicant. These include the amendments made to the scheme, and details of and measures for the management of construction activity, and operational noise and traffic.
- 7.5.4. For the reasons outlined above, I am satisfied that overall, the plans and particulars of the proposed development as amended at first party appeal, include sufficient safeguards to protect existing residential amenity. This is through providing sufficient separation distances (thereby not causing undue overbearance), protecting daylight and sunlight availability to properties (similarly not causing undue overshadowing), controlling the degree of disruption associated with the construction phase of development, and managing the extent of disturbance noise and traffic levels.
- 7.5.5. In respect of overlooking, I consider that improvements can be made to the scheme to further protect the amenity of adjacent residences, and indeed that of the future residences. These include the amendments to the windows from first to third floor

levels serving the internal stairwell in the eastern elevation (obscure glazing or of a high-level design), and to the treatment of the balconies. I recommend that the proposed open railings be replaced with opaque glazed screens, and the northern and southern ends of the balconies be fitted with privacy screens of at least 1.8m in height to minimise overlooking particularly oblique overlooking. For similar reasons, I recommend the screening and planters at the roof top terrace level be set back 1m from the parapet wall edges. In this regard, I recommend conditions be attached to protect the residential amenity of adjacent properties, including amendments outlined above, noise restrictions, and agreement on a finalised construction management plan.

Conclusion

7.5.6. While I note observers' objections to the proposal due to impact on the amenities of adjacent residential properties, as outlined previously, I find the proposed development to be an appropriate design solution for the site in terms of density, and several development parameters. I consider the proposed development complies with CDP section 15.13.4 in respect of appropriate backlands residential development and is consistent with the applicable Z2 zoning objective for the site. As such, I conclude that the proposal does not cause serious injury to or result in adverse impacts on the residential amenity of adjacent properties having regard to scale and design of the building (subject to amending conditions), the extent of overlooking and overshadowing as exists at present associated with the properties on Rathmines Road Lower, the pattern of development in the area, and the tight urban fabric of these residential streets.

7.6. Future Residential Amenity

7.6.1. The proposal includes for 25 residential units, comprising a mix of 1 bedroom and 2 bedroom units (see Table 1 above). I have reviewed the plans, particulars and schedule of accommodation submitted in the first party appeal and confirm to the Board that the amended proposal meets and/ or exceeds all applicable standards and requirements of the Apartment Guidelines and CDP section 15.9 Apartment Standards.

7.6.2. In addition to offering a greater mix of unit types within the scheme, the amended proposal will contribute to the existing residential offer available in the wider area for

which it has been demonstrated there is an existing demand and for which I anticipate a likely continued demand. In this regard, I am satisfied that the proposed development complies with applicable CDP Policy SC12 by contributing to the variety of residential types (apartments, 1 and 2 bedroom units, BTR tenure) in a scheme that is of a distinctive design with communal facilities and open spaces that will contribute to future residents' amenity.

- 7.6.3. Overall, as outlined in Section 7.3 above of this report, I consider the proposed development is of a design, layout, and scale, with communal and private amenity spaces that will provide an acceptable standard of amenity for the future occupants of the scheme. I positively note the orientation of the building, stepped building heights of the component blocks, setback building line at the upper storey, and sufficient separation distances from boundaries. Subject to the improvements to screening treatments of balconies and the roof top terrace referred to in section 7.5 above and recommended be conditioned, I do not anticipate any adverse or unduly negative impacts on the amenity of the apartments or on communal and private open spaces within the scheme due to overbearance, overshadowing, or overlooking.
- 7.6.4. Additional considerations of relevance to future residential amenity, include noise management, public open space, and operational waste management. At ground floor level, residential support facilities are proposed including a gym and multimedia room, while communal open space is proposed at the roof top terrace level. As these facilities and amenities have potential for noise disturbance for future residents, I recommend noise controls be the subject of condition.
- 7.6.5. The proposed development provides sufficient communal and private open space for future residents' use, however no public open space is provided for general use and to serve the wider area. The CDP (section 15.8.6) requires that all residential developments provide a quantum of public open space, which for the appeal case is 10% of the site area and requires an in-lieu financial contribution in instances where on-site provision cannot be achieved (section 15.8.7). In its response to the appeal, the planning authority requests such a contribution be provided by way of condition. I consider the request to be reasonable, that the basis for such a condition is clearly outlined in the CDP and recommend the shortfall be addressed by way of condition in the event of a grant of permission.

- 7.6.6. The first party appeal provides details outlining the manner in which deliveries and servicing will be undertaken for the proposal once operational including for waste management. While I note the details and find these to be informative given the restricted access to certain vehicles via the archway, I recommend a final operational waste management plan be agreed in writing with the planning authority.

Conclusion

- 7.6.7. In conclusion, I consider that overall, the proposed development is of a design and layout, with services that will provide an acceptable standard of amenity for the future occupants of the scheme. Due to the orientation of the building and the separation distances between the component blocks, I do not anticipate any adverse impacts on the amenity of the apartments or on open spaces within the scheme due to overbearance, overshadowing, or overlooking. I consider that the proposal, as amended in the first party appeal and as recommended be further amended by conditions arising from this assessment, meets and/ or exceeds applicable national and local policy requirements.

7.7. Traffic, Access, and Parking

- 7.7.1. In its second refusal reason, the planning authority states the proposed development is contrary to traffic related requirements in respect of access, servicing, and deliveries in backland sites included in CDP section 8.5.5, section 15.13.4, and section 2.4 of Appendix 5 (cited above in section 5.3 of this report). Observers also raise concerns relating to inadequate site access, construction methodology and traffic impacts, and overspill parking demand.
- 7.7.2. In previous sections of this report, I have outlined in detail the reasons for concluding the proposed development is an appropriate form of backlands/ infill development, and where impacts arise the manner in which these can be addressed and managed. As such, I propose to focus on matters related to access, delivery and services. I have had regard to the detailed information provided by the applicant in the first party appeal to address the substantive issues in the planning authority's second refusal reason. These include details and measures on construction traffic management, servicing the ESB substation, operational waste management, and swept path analysis for vehicles anticipated as accessing the site, the latter being particular material to the assessment of the proposed development due to its

absence at the time of assessment by the planning authority. I consider that, subject to agreement on final versions of same, the proposal would on balance be in compliance with the applicable CDP policy on access, servicing and deliveries. I consider the proposed development requires the preparation and agreement of a Delivery and Service Management Plan as envisaged in Appendix 5 of the CDP.

7.7.3. In respect of parking, as highlighted by the planning authority's Transport section and accepted by the applicant, I consider there to be significant planning merit in omitting the private car parking spaces from the proposed development. The omission of these spaces can be reasonably justified given the highly accessible and connected site location, the nature of the proposal as BTR, the proposal being a smallscale infill scheme with restricted access arrangements, and the likely high frequency of pedestrian, cyclist, and vehicle movements through the archway. I recommend the omission of 6 of the 8 spaces (No.s 1-2, 4-7) and that car parking space No.3 be used in association with the adjacent set down/ pick up area. I consider the provision of as much available space for delivery and service vehicles to be necessary, and to ensure these manoeuvres are safe for pedestrian and cyclists, to avoid any potential conflict between road users, and prevent any obstruction of road users on Rathmines Road Lower.

7.7.4. I recommend outstanding traffic, access and parking issues be addressed by way of conditions relating to the omission of several car parking spaces intended for private use, the management of cycle parking spaces, and agreement on a Delivery and Service Management Plan, and a Construction and Environmental Management Plan.

Conclusion

7.7.5. In conclusion, I am satisfied that the proposed development has been demonstrated to be safely accessed and adequately serviced. I consider that the traffic related reason for refusal has been overcome and the proposed development, subject to conditions, is in compliance with applicable CDP policy for access, servicing, and deliveries in backland sites.

7.8. Water Services and Surface Water Management

7.8.1. The proposed development seeks to connect to the public water supply, wastewater treatment, and surface water drainage systems located to the rear of the site along

Fortesque Lane. The applicant has submitted the confirmations of feasibility from Uisce Eireann authorising connection to the water supply and wastewater treatment systems.

- 7.8.2. For surface water drainage, the proposal includes for on-site SuDS measures (green roof, tree pits) prior to discharge to the stormwater network. The applicant referred to the potential for historic drainage infrastructure (culverted Swan River and Blackberry Brook) to be present within the site, and the planning authority required a site investigation. In the first party appeal, the applicant requests the issue be addressed by condition, which I consider reasonable and recommend same as part of a finalised Construction and Environmental Management Plan for the proposed development. In terms of flood risk, the site is identified as being appropriately located within a Flood Zone C.

Conclusion

- 7.8.3. In conclusion, the proposed development can be adequately serviced in terms of water services and within its design incorporates appropriate surface water management measures to alleviate demands on public drainage systems.

7.9. Appropriate Assessment Screening

- 7.9.1. Having reviewed the applicant's Appropriate Assessment Screening Report, having concurred with its conclusion *that 'it can be excluded, on the basis of objective information, that the Proposed Development, individually or in combination with other plans or projects, will have a significant effect on a European site'*, and having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the absence of any ecological and/ or hydrological connections, and the physical separation distances to European sites, I consider the potential of likely significant effects on European sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

8.0 Recommendation

I recommend that permission be GRANTED for the following reasons and considerations, and subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the residential zoning of the site in the Dublin City Development Plan 2022-2028, the national and local policy objectives which seek the redevelopment of infill sites and support the role of build to rent residential development in increasing housing supply and supporting compact growth in urban centres, the site's accessibility to the city centre, Rathmines urban core and public transport, the design, height, and scale of the development, and the existing pattern of development in the vicinity of the site, it is considered that subject to compliance with the conditions set out below, the proposed development would appropriately intensify the residential use at this suitable infill site, would constitute an acceptable quantum and density of residential development in this accessible urban location, would respect the architectural heritage and character of the area, would not cause serious injury to the residential or visual amenities of property in the vicinity, and would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>a) 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 received by An Bord Pleanála on the 23rd day of March 2023 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>b) For the avoidance of doubt, a total number of 25 residential units are hereby permitted in this development, comprising 17 one-bedroom apartments and 8 two-bedroom apartments.</p>
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	<p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> a) Windows from first to third floor levels serving the internal stairwell in the eastern elevation fitted with obscure glazing or of a high-level design set 1.8m above the respective internal floor levels. b) Omission of open railings on all balconies and the roof top terrace and replacement with opaque glazed screens of a similar height. The northern and southern sides/ ends of the balconies at first to third floor levels shall be opaque glazed privacy screens of not less than 1.8m in height. c) Setback of the glazed screen boundary line and adjacent planters by a minimum of 1m from the parapet walls at the roof top terrace. d) Omission of 6 car parking spaces (No.s 1-2, 4-7) and their replacement with soft landscaping to match in with adjacent landscaping as appropriate (grass, shrubs, and/ or SuDS planting beds). Car parking space No.3 shall be used in association with the set down/ pick up area. <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity of future occupants and of property in the vicinity, and in the interests of pedestrian and traffic safety.</p>
3.	<p>The development hereby permitted shall be for build to rent residential units which shall operate in accordance with the definition of build to rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities and be used for long term rentals only. No portion of this development shall be used for short term lettings.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.</p>

4.	<p>Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area</p>
5.	<p>Prior to expiration of the period of 15 years referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a build to rent scheme. Any proposed amendment or deviation from the build to rent model, as authorised in this permission, shall be subject to a separate planning application.</p> <p>Reason: In the interests of orderly development and clarity</p>
6.	<p>a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.</p> <p>b) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
7.	<p>The proposed development shall be implemented as follows:</p> <p>a) Prior to the first occupation of the residential units, the residential support facilities shall be fully fitted out and suitable for immediate operation.</p>

	<p>b) The residential support facilities shall be available for the sole use of residents in the development and shall not be otherwise amalgamated, repurposed, sold or sublet.</p> <p>c) The green roof area shall be accessed for maintenance purposes only and shall not be used for any amenity or recreational purpose.</p> <p>d) During the operational phase of the proposed development, the noise level arising from the development (including from the residential support facilities, plant equipment, and/ or the roof top terrace), as measured at the nearest noise-sensitive premises shall not exceed:</p> <ul style="list-style-type: none"> i. An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. ii. An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component. iii. All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise. <p>Reason: In the interests of residential amenity of future occupants and of property in the vicinity.</p>
8.	<p>Proposals for an apartment naming and numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, all signs, shall be provided in accordance with the agreed scheme. No advertisements or marketing signage relating to the name of the development 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.</p>
9.	<p>Details of the materials, colours, and textures of all external finishes to the proposed development shall be as submitted with the application and appeal, unless otherwise agreed in writing with the planning authority prior</p>

	<p>to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of visual amenity.</p>
10.	<p>No additional development, to that indicated and hereby permitted, shall take place above roof level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
11.	<p>a) 2 car parking spaces for set down/ pick up use, and 48 cycle parking spaces shall be provided in the development.</p> <p>b) Car and cycle parking spaces shall be reserved solely to serve the development and shall not be sold or sublet for any other purpose.</p> <p>c) Details of the cycle parking spaces (inter alia, rack type, siting, demarcation, electric charging facilities, management and security) shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: To ensure that adequate parking facilities are permanently available to serve the development, and to encourage the use of sustainable modes of transport.</p>
12.	<p>Prior to commencement of development, a Delivery and Service Management Plan shall be submitted to and agreed in writing with the planning authority indicating, inter alia, the following:</p> <p>a) Location of set down/ pick up area(s) for deliveries.</p> <p>b) Location of service area(s).</p> <p>c) Measures to ensure the areas are used exclusively for delivery and service vehicles.</p>

	<p>d) Confirmation of the number, type and frequency of delivery and service vehicles.</p> <p>e) Details on how arrivals and departures of all modes of transport (vehicles (including refuse and emergency vehicles), cyclists, and pedestrians) using the Rathmines Road Lower entrance will be managed.</p> <p>f) Design, construction and operation details on how the substation servicing area at Fortescue Lane will be managed.</p> <p>g) Details on how the overall delivery and servicing needs for the multiple residents will be managed.</p> <p>h) Swept-path analysis demonstrating the safe manoeuvrability of all delivery and service vehicles taking account of Condition 2(d).</p> <p>Reason: To comply with the requirements of the Dublin City Development Plan 2022-2028, and in the interests of pedestrian and traffic safety.</p>
13.	<p>A comprehensive landscape scheme, including landscaping plans, boundary treatments, and planting schedule, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.</p> <p>The landscape scheme shall be updated to reflect the changes required under Condition 2(c) and (d) above and submitted to the planning authority for agreement in writing.</p> <p>Once agreed, landscaping shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants that die, are removed, or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity, and to ensure the satisfactory development and maintenance of the landscaping.</p>

14.	<p>Surface water drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
15.	<p>Prior to commencement of development, the developer shall enter into water and/ or wastewater connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
16.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
17.	<p>a) An Operational Waste Management Plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities shall be submitted to and agreed in writing with the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
18.	<p>Site development and construction works shall be carried out 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.</p> <p>Deviation from these times will only be allowed in exceptional</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of properties in the vicinity.</p>
19.	<p>Construction and demolition waste shall be managed in accordance with a Construction and Demolition Waste Management Plan, which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. This Plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>The plan shall include details of waste to be generated during demolition and site clearance phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery, and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
20.	<p>The construction of the development shall be managed in accordance with a 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 details of the construction practice for the development, including inter alia:</p> <ul style="list-style-type: none"> a) Site survey and site investigation works, as necessary, to establish the on-site presence of drainage infrastructure, and a diversion proposal for same, as necessary. b) Location of the site and materials compound(s), including areas identified for the storage of construction refuse. c) Location and details of areas for construction site offices, staff facilities, site security fencing and hoardings.

- d) Details of on-site car parking facilities for site workers during the course of construction.
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- f) Measures to obviate queuing of construction traffic on the adjoining road network.
- g) Details of construction phase mobility strategy, incorporating on-site mobility provisions.
- h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- i) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- j) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.
- k) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels.
- l) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water drains.
- n) A record of daily checks that the works are being undertaken in accordance with the finalised Construction and Environmental

	<p>Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health, and safety.</p>
21.	<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>
22.	<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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until/ in the event of being taken in charge.</p>

23.	<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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála 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, as amended, 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>
24.	<p>The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of public open space within the site, as provided for in section 15.8.6 and section 15.8.7 of the Dublin City Development Plan 2022-2028 which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.</p>

<p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.</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.

Phillippa Joyce

Senior Planning Inspector

13th October 2023