



An
Bord
Pleanála

Inspector's Report

ABP-317234-23

Development

Construction of 6 houses and all associated site works.

Location

Rear of 67 Merrion Road and to the rear of the adjoining 69 Merrion Road, Dublin 4 and including parts of the adjoining laneway (between Nos. 65 and 67 Merrion Road), off Merrion Road, leading to the Wanderers Football Club.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3354/23

Applicant

James, Andrew, Harry and St. John Simpson

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Observers

Patricia V. Harrington and Mary Lewis

Valentine Irwin

Date of Site Inspection

16th November 2023

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The appeal site is situated on the western side of Merrion Road, Dublin 4, a major traffic artery connecting the city to the outer southeastern suburbs.
- 1.2. The site, with an area of c 0.124 hectares, is located to the rear of No. 67 and No. 69 Merrion Road, which comprise a pair of substantial three storey Victorian semi-detached properties. No. 67 is in residential use, while No. 69 is the Embassy of India.
- 1.3. The site which is broadly 'L' shaped in configuration forms part of the rear private open space relating to No. 67 Merrion Road. The rear garden of this property is bound by stone walls.
- 1.4. A private laneway (with grass verges on both sides) from Merrion Road runs between Nos. 67 and 65 Merrion Road, immediately to the north of the appeal site, which leads to the grounds, clubhouse and associated car park of Wanderers Football Club, located to the west of the appeal site. The site location map indicates the applicant has a right of way across the laneway. There is a disused gated vehicular entrance from the rear boundary of the appeal site onto the lands of Wanderers Football Club. It was noted during the site inspection that works are underway in relation to construction of a new 2 storey clubhouse building on the Wanderers Football Club site, north-west of the appeal site.
- 1.5. Adjoining the appeal site to the south-east is a single storey detached caretaker's unit associated with the embassy use at No. 69 Merrion Road.
- 1.6. The immediate area is predominantly residential in nature, but also includes several embassies. The appeal site is within walking distance of a number of bus stops on Merrion Road and is c. 10 minute walk from Sandymount and Sydney Parade DART stations.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Relocation of the existing vehicular access gate on the adjoining laneway off Merrion Road leading to the Wanderers Football Club, and the development

of a new vehicular access onto the laneway to serve the proposed residential development;

- Subdivision of the rear garden of No. 67 Merrion Road to facilitate the construction of 6 no. houses comprising a pair of 2 storey semi-detached dwellings (Units 1 and 2) located to the rear of No. 67 Merrion Road and a 3 storey terrace of 4 units (Units 3 to 6 inclusive) at the rear of No. 67 Merrion Road (Embassy of India).

- **Unit 1:** 6 person 3 bed semi-detached 2 storey dwelling (137.5 sqm), with flat roof parapet height of c 6.6 m. There is first floor access to a front terrace (3 sqm) overlooking the forecourt area. Rear garden area is c 38 sqm. There is no rear facing fenestration at first floor level.

- **Unit 2:** 4 person 2 bedroom semi-detached 2 storey dwelling (104.8 sqm), with flat roof parapet height of c 6.6m. There is a first floor rear terrace of c 10 sqm. The front bedroom is located above the proposed bicycle storage facility serving the proposed development. A rear garden measuring c 39 sqm serves this dwelling.

- Units 3 to 6 inclusive

These 4 units (c 186 sqm) are 4 bed 7 person 3 storey terraced dwellings with a flat roof parapet height of c 9.6m. The rear amenity spaces adjoin the rear garden of No. 71 Merrion Road. The rear gardens range between c 38-41 sqm, with rear garden depths between c 5.6 m and c 7.6m. A first floor terrace serves a bedroom to the rear of these units. At second floor level there is access to a front terrace.

- 6 no. car parking spaces (including an accessible space) and a motorcycle space to the front forecourt of the proposed development accessed from the private laneway.
- An integrated communal bicycle storeroom to the front forecourt accommodating 12 no. bicycle spaces. 2 no. external bicycle spaces are also provided.
- An enclosed communal bin store within the front forecourt area.

- All associated site works including relocation of existing pedestrian access gate along the northern boundary of No. 67 Merrion Road and the closure of existing vehicular gates at the rear of the site and infill of stone boundary wall to rear of No. 67, together with landscaping of the site.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to refuse permission on the 4th May 2023 subject to two reasons as follows:

1. *The proposed development by way of its site layout, design, height and scale would have a seriously negative impact on the residential amenity of a residential conservation area and its neighbouring properties and would therefore be contrary the Dublin City Development Plan 2022-2028, the Z2 zoning objective for the area and section 15.5.2 which refers to Infill Development or section 15.13.4 which refers to backland housing. The proposal, due to its lack of separation between the new units and the neighbouring properties would be overbearing and would seriously injure the residential amenity of property in the vicinity. The development if approved would result in particularly poor levels of residential amenity for the caretaker 1 bedroom unit in the rear garden of no. 69 Merrion Road. The proposed development is therefore contrary to the proper planning and sustainable development of the area.*
2. *The private open space provision for the units within this development is considered to be insufficient falling well below the minimum required open space for units of this size. The poor level of private open space would not be in keeping with the Dublin City Council Development Plan, would result in poor levels of residential amenity and if approved would set an undesirable precedent for future such developments.*

3.1.1. Planning Authority Reports

Planning Report

The Planning Officer's report dated 4th May 2023 outlined the relevant Development Plan policy, the internal consultations, the third party submissions, the nature of the site and impact on the amenities of occupiers of nearby properties. The report recommends permission be refused, consistent with the Notification of Decision which issued.

The Planning Report noted that a Natura Impact Statement (NIS) was submitted with the application. The planning authority considered that having regard to the nature and scale of the proposed development and the distance to the nearest European Site that there is no real likelihood of significant effects arising from the proposed development, individually or in combination with other plans or projects on a European Site.

Transportation Planning Division Report

Further information recommended in relation to a number of aspects of the proposed development as follows:

- The servicing arrangements for the site including provision of auto-track drawings for larger service vehicles;
- A review of the potential conflict between vehicles, pedestrians and cyclists exiting the site and vehicular movements along the laneway as there is no visibility between oncoming traffic and users of the site;
- A review of pedestrian access to the site from the Merrion Road; provision of a footpath should be indicated;
- Submission of all requisite consents.

Environmental Health Officer's Report

No objection; inclusion of a condition relating to submission of a revised Construction Management Plan recommended.

Drainage Division

No objection; inclusion of standard drainage conditions recommended.

3.1.2. Prescribed Bodies

No submissions received.

3.2. Third Party Observations

The report of the Planning Officer summarises the main issues raised in the third-party observations as follows:

- No objection to a residential development in principle on the site but the proposed development is excessive.
- Inappropriate height, scale and density.
- Intense overdevelopment on a small site.
- No. 67 is left with a very small rear garden commensurate with this house.
- Out of keeping with the residential nature of the area.
- Does not respect the existing character, context or urban form of the area.
- Traffic and access issues on a road where there have been many crashes including a fatality.
- Overlooking, loss of privacy and lack of daylight/loss of sunlight to adjoining properties.
- Discrepancies in the plans and reports which require clarification.
- No elevation looking towards no. 71, southern and eastern elevations in particular are not provided.
- No proper set back; separation distances from party wall are in appropriate and will negatively impact the residential amenity of the private amenity space of adjoining properties.
- Implications for security and privacy of the embassy complex and its visitors.
- Proposed development does not meet the criteria for policies and objectives of the Development Plan in particular 14.7.2 (Residential Neighbourhoods (Conservation Areas – Zone Z2), 15.4.2 (Architectural Design Quality), 15.5.5 (Density) and 15.13.4 (Backland Housing).
- The orientation of the houses is out of keeping with the pattern in the area.

4.0 Planning History

Appeal Site:

None.

Adjoining site - 69 Merrion Road:

ABP Ref. PL29S.243453 / Planning Authority Ref. 3188/13: Permission granted in 2014 for, inter alia, change of use of the existing semi-detached three-storey property from mixed commercial and multi-occupancy residential use to embassy office use with caretaker mews accommodation and driveway in a landscaped rear garden setting with works to the existing building.

Adjoining site – Wanderers Football Club, 65A Merrion Road:

Planning Authority Ref. 2257/20 relates to a 2020 permission for demolition of the existing Wanderers Football Club clubhouse and construction of a new 2 storey clubhouse building, alterations to existing car parking provision on site, improvements to the access to the site from Merrion Road - resurfacing, the provision of a footpath and security gates.

Site on eastern side of Merrion Road, north-east of the appeal site – 120, 122 and 124 Merrion Road, and laneway to rear:

ABP Ref. 312617-22 / Planning Authority Ref. 3462/21: Permission granted for construction of 8 houses, alterations to 122 Merrion Road and all associated works.

5.0 Policy Context

5.1. Dublin City Development Plan

5.1.2. The proposed development was considered by the Planning Authority under the Dublin City Development Plan 2022-2028, which was adopted on 2nd November 2022 and came into effect on 14th December 2022.

5.1.3. The appeal site is zoned Z2 - Residential Neighborhoods (Conservation Areas) with an objective 'to protect and/or improve the amenities of residential conservation areas.' Residential use class is listed within the permissible uses under this zoning objective.

5.1.4. Part of the adjoining laneway (to the north of the appeal site) and the Wanderers Football Club located to the south-west are zoned Z9 - Amenity / Open Space Lands / Green Network, with an objective 'to preserve, provide and improve recreational amenity, open space and ecosystem services.

5.1.5. The provisions of the Dublin City Development Plan 2022-2028 relevant to this assessment are as follows:

Chapter 5 of the Development Plan relates to Quality Housing and Sustainable Neighbourhoods. Key policies include:

- 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.*
- 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.*
- QHSN04: Densification of Suburbs *To support the ongoing densification of the suburbs and prepare a design guide regarding innovative housing models, designs and solutions for infill development, backland development, mews development, re-use of existing housing stock and best practice for attic conversions.*

Chapter 15 – Development Standards

- Section 15.5.2 - Infill Development
- Section 15.13.4 – Backland Housing
- Section 15.11.3 – Private Open Space: A minimum standard of 10 sqm of private open space per bedspace will normally be applied. Generally, up to 60-70 sqm of rear garden area is considered sufficient for houses in the city. For houses within the inner city a standard of 5-8 sqm of private open space per bedspace will normally be applied. These standards may be relaxed on a case by case basis subject to a qualitative analysis of the development.

Appendix 3 of the Development Plan sets out policy in relation to building height, plot ratio and site coverage:

- Density: Outer Suburbs – 60 to 120 net density range
- Plot Ratio: Outer Employment & Residential Area – 1.0 to 2.5
- Site Coverage: Outer Employment & Residential Area – 45% to 60%
- Car Parking: Max 1 per dwelling (Zone 2)
- Bicycle Parking: 1 per dwelling (Long term) and 1 per 5 dwellings (Short Stay/Visitor).

5.2 National and Regional Policy

5.2.1 National Planning Framework (NPF) ‘Project Ireland 2040’

The NPF is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key tenet of the NPF is a commitment for ‘compact growth’ with an emphasis on a more efficient use of land and resources by way of reusing previously developed or under-utilised land and

buildings. The NPF includes several policy objectives that articulate the delivery of compact urban growth as follows:

- **National Policy Objective 11:** Outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- **National Policy Objective 13:** In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- **National Policy Objective 27:** Promotes the integration of safe and convenient alternatives to the car into the design of communities.
- **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

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

The primary statutory objective of the RSES is to support the implementation of the NPF. The spatial strategy and the Dublin Metropolitan Area Strategic Plan support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin.

5.2.3 Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021)

These Guidelines identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development including housing and/or duplex units. This is intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a way which displaces individual purchasers and/or social and affordable housing, including cost rental housing. The application of these conditions applies to all housing developments that include 5 or more houses and/or duplex units.

5.2.4 Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (2010)

These Guidelines assist planning authorities in the application of Article 6(3) and 6(4) of the Habitats Directive as it relates to their roles, functions and responsibilities in undertaking Appropriate Assessment (AA) of plans and projects.

5.2.5 Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009)

These Guidelines set out key planning principles to guide the assessment of planning applications for development in urban areas.

5.2.6 Urban Design Manual - A Best Practice Guide (2009)

This Guide illustrates the twelve criteria for sustainable residential development in both new locations and within existing urban areas.

5.2.7 Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

These Guidelines set out target floor areas for a range of different dwelling types, as well as providing guidance on quantitative and qualitative standards.

5.3 Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC, both located c 0.85 km east of the appeal site.

5.4. EIA Screening

See completed Form 2 on file. Having regard to the nature of the proposed development comprising 6 no. houses and associated works, in an established urban area and where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal by Declan Brassil and Company on behalf of James, Andrew, Harry and St John Simpson against the decision of Dublin City Council to refuse permission for the proposed development. The following documentation and drawings were lodged along with the appeal submission:

- Daylight Impact Assessment dated 30th May 2023 prepared by GV8.
- Photomontages which are indicated to demonstrate proposed design mitigation measures.
- New / revised drawings, which are indicated to demonstrate proposed design mitigation measures to prevent overlooking impacts, as follows:
 - Drawing No. 02200 – Ground Floor Plan (no significant difference when compared to Ground Floor Plan submitted with the application).
 - Drawing No. 02201 – First Floor Plan incorporating timber slatted screens to first floor rear terraces.
 - Drawing No. 02202 – Second Floor Plan incorporating deflected/blinkered rear windows.
 - Drawing No. 02203 – Roof Plan incorporating revised design arising from deflected/blinkered windows.
 - Drawing No. 06203 – Unit 3 (Section drawing of rear first floor terrace and second floor angled wall / blinkered window).

- Drawing No. 04205 – Revised Elevation (Rear/south east-elevation of terrace block – Units 3 to 6.
- Drawing No. 06202 – Privacy Diagram (Eyeline view from first floor rear terrace of Unit 3).

The grounds of appeal seek to address the refusal reasons for the proposed development and may be summarised as follows;

Precedent

- There is a precedent for this type of development under ABP Ref. PL29S.240153 which related to demolition of garages and the development of 14 no. residential units, incorporating 2nd floor roof terraces located at the junction of Church Avenue/Church Gardens, Rathmines, Dublin 6.

Visual Amenity

- The submitted photomontages are provided to demonstrate more clearly the appearance and visual impact of the proposed development. View 2D demonstrates proposed modified design that includes the following design mitigation measures:
- Reduction in height by 1.2 metres of the rear and side boundary walls enclosing the rear gardens of the 2 storey units (Units 1 and 2). This will mitigate the visual impact and sense of enclosure resulting from these boundary walls.
- The massing of the 3 storey units (Units 3 to 6 inclusive) is broken down through use of materials, specifically the introduction of zinc cladding to the top floor.
- The proposed 2 storey heights of Units 1 and 2 closest to the rear facades of adjoining properties at Nos. 67 and 69 Merrion Road allow for a transition in height towards the rear of the site, further away from properties on Merrion Road. The visual relationship between the proposed development and the single storey caretaker's cottage located at the bottom of the rear garden of No. 67 would be acceptable.
- Proposed scheme sits comfortably in this backland setting and would not be visually intrusive or discordant.

Overlooking / Loss of privacy

- In terms of the interface of the proposed development with No. 69 Merrion Road (which accommodates The Embassy of India and the caretaker's cottage located in the rear garden area) it is concluded that no significant intrusive overlooking impacts will arise.
- The direct interface of the proposed development is restricted to a short stretch of common boundary shared with the appeal site at the bottom of the rear garden at No. 71 Merrion Road. In general, the end of large rear gardens do not tend to be used intensively as other parts of rear garden closer to the house.
- Additional mitigation measures comprising blinkered windows (at 2nd floor level) replacing rear 2nd floor windows (Units 3 – 6) and vertical, slatted timber screens to rear facing balconies, as demonstrated in drawings submitted with the appeal, could be conditioned in a grant of permission.
- All of the proposed units benefit from rear gardens that provide adequate separation distances from the shared common boundaries with adjoining properties. The proposed development is consistent with the advice relating to backland development in the Development Plan (section 15.13.4 refers).

Daylight / Sunlight Impacts

- A Daylight/Sunlight Assessment has been submitted with the appeal which considers the effect of the proposed development on daylight and sunlight levels available to neighbouring properties and sunlight impacts on adjoining private amenity spaces.
- The Vertical Sky Component (VSC) test indicates a modest loss of natural light on the vertical windows of the caretaker's unit serving No. 69 Merrion Road. Targeted illuminance testing concluded that daylight levels within the assessed rooms within the caretaker's unit would comfortably exceed advisory minimums recommended and that light levels in the rooms would remain substantially similar to existing levels with the proposed development in place.
- An Annual Probable Sunlight Hours (APSH) test was also undertaken of room areas within neighbouring dwellings. It concluded that reasonable levels of skylight would remain available to these rooms post development. Conformity to the BRE Guidelines was not demonstrated in relation to Room Area 13 in

the caretaker's cottage with the impact described as 'medium.' This area is served by rooflights which was not factored into the assessment.

- An assessment of sunlight available to neighbouring recreational areas was also undertaken and found that all areas assessed would receive levels of sunlight/solar access above advisory minimums.

Provision of private amenity space

- While 5 of the proposed units fall below the required quantum in terms of private amenity space, they would achieve 70%-77% of the required level, which is considered acceptable. There is significant public amenity areas in the vicinity along with several accessible sports grounds.
- Proposed development complies with QHSN11 '15-minute city.'
- All of the houses exceed minimum permissible floor areas and offer a high standard of internal amenity. As such this supports a relaxation of the quantum of private amenity space.

Transportation issues

- A swept path analysis was submitted with the application which demonstrated how larger vehicles such as refuse trucks and fire tenders will access and egress the site. It also demonstrates how cars will park and manoeuvre from the car parking spaces provided.
- There is a servicing and access legal agreement between the applicant and Wanderers Football Club that confirms access shall be provided along the adjoining laneway.
- The proposed footpath permitted under Reg. Ref. 2557/20 for a new clubhouse at Wanderers FC includes provision of a new footpath from Merrion Road along the north side of the laneway to the main Wanderers car park, thereby removing the conflict between pedestrians and vehicles leaving the appeal site. Works will commence in the immediate future to implement this permission.
- It is understood that that delivery of the footpath is outside of the applicant's control. In the event that the footpath is not commenced or completed in advance of the decision pertaining to this appeal, the applicant proposes that

should the Board consider the provision of the footpath is desirable or necessary prior to occupation of the proposed units, a condition prohibiting occupancy of the units until the footpath is completed in accordance with the permission should be attached.

- Car use related to the proposed development will be limited having regard to the availability of good public transport in the immediate area. The vehicular access gate from the proposed development onto the adjoining laneway will be closed/opened by means of a resident's fob. This shall bring vehicular movement in and out of the development to a standstill, thereby further reducing the risk of conflict between cyclists and pedestrians using the laneway.

6.2. Planning Authority Response

The response of the planning authority requests that its decision to refuse permission is upheld. In the event permission is granted, inclusion of specific conditions is requested.

6.3. Observations

Two observations, one from Patricia V. Harrington and Mary Lewis and the second from Valentine Irwin, who are all residents of No. 71 Merrion Road, were received in connection with the proposal and the submitted appeal. These submissions can be summarised as follows:

- Overdevelopment of site; cramped nature of development.
- Excessive density proposed on the site.
- Terraced houses not in keeping with existing development in the area.
- The proposed 2 storey houses located to the rear of No. 67 Merrion Road spoils the amenity of its garden and reduces its size.
- Refusal reasons given by planning authority are clear and unambiguous.
- Concern in relation to the scale and massing of the proposed development.
- Discrepancy in documentation in relation to car parking provision.
- No precedent for a residential development of this scale in the area.

- The character of the area will change.
- Negative impact on residential amenities through overlooking/loss of privacy, overshadowing and loss of daylight.
- Proposed development would not respect the surrounding Victorian built heritage of the conservation area.
- Proposal does not align with the Z2 zoning objective.
- Absence of plans showing the proposed elevation facing towards No. 71 Merrion Road.
- Severe impact of the height and scale of the proposed development on No. 71 Merrion Road.
- No proper facility for setback/separation to accommodate the height and mass of the proposed development.
- Proposal ignores/minimises boundary separation distances from party walls of neighbouring properties.
- Unit Nos.3 to 6 are too close to the boundary garden wall of No. 71 Merrion Road.
- Inadequate provision of private open space.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal, having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Land use and Nature of Proposed Development
- Design and Layout of the proposed development
- Impact on Residential Amenity
- Access, Traffic and Pedestrian Safety
- Other issues

- Appropriate Assessment

7.2. Land use and Nature of Proposed Development

- 7.2.1. The subject site is zoned Z2 – Residential Neighbourhoods (Conservation Areas) with a stated objective ‘To protect and / or improve the amenities of residential conservation areas.’ The provision of residential development on the appeal site is consistent with its zoning objective and established residential uses on adjoining lands. The proposed development is therefore acceptable in principle at this location.
- 7.2.2. I note the observer’s comments stating the development of a terrace of dwellings at the proposed location does not accord with the pattern of development in the area. The character of the area is denoted by large 2 and 3 storey houses situated on large plots. The location of the proposed development is on a backland/infill site. Notwithstanding that the proposed housing typology and architectural design differs from that prevailing in the immediate vicinity, in my opinion a well-designed residential development would successfully visually integrate into the area and would positively contribute to the character of the area.

7.3. Design and Layout of the Proposed Development

- 7.3.1. Appendix 3 of the Dublin City Development Plan 2022-2028 provides guidance regarding the appropriate locations where enhanced density and scale will be promoted and also performance criteria for assessment of such development. I note concern has been raised in the observations received relating to overdevelopment and excessive density on the subject site. In quantitative terms the proposal entails 6 no. units on a site of c 0.124 ha., resulting in a density of c. 48 units per hectare. As outlined in Section 5.1.5 above, the Development Plan outlines a density range of 60-120 units per hectare for Outer Suburb areas, with the relevant plot ratio and site coverage standards for the site are 1.0-2.5 and 45%-60% respectively. The proposed development will have a stated plot ratio of 1.01 and site coverage of 42%. Therefore, in quantitative terms, the proposed development is not considered to constitute overdevelopment, with the proposed density below the density range set out in the Development Plan. However, given the nature of the development

proposed for this infill/backland site, I consider the proposed density to be acceptable in this instance.

- 7.3.2. Section 15.5.2 of the Dublin City Development Plan 2022-2028 requires infill development to, inter alia, respect and complement the prevailing scale, mass and architectural design in the surrounding area and to demonstrate a positive response to the existing context. The proposed contemporary residential development comprises buildings of 2 and 3 storeys, which generally reflects the existing prevailing pattern of residential development in the area. In my view the design of the proposed development respects the architectural style of the adjoining Victorian properties.

In terms of the terrace of 4 houses (Units 3-6) which are of 3 storey design the revised drawings submitted with the appeal show that the external materials comprise light buff coloured brick for the lower floors, while the top floor will be clad in zinc. The use of such materials will assist in reducing the perceived height and scale of these units. Brick is widely used in the immediate area and it will assist in assimilation of the proposed development at this location. In my view the proposed development would have its own distinct character while complementing the established character of development in the area.

- 7.3.3. In relation to height, the proposed 2 storey units (Units 1 and 2) will have flat roof parapet height of c 6.6 metres, while the remaining terraced units (Units 3-6) will have a flat roof parapet height of c 9.1 metres and a timber parapet height of c 9.6 metres. In my view, the heights of the proposed houses are acceptable at this location. All of the proposed units are significantly lower in height than the adjoining existing houses along Merrion Road.

- 7.3.4. Section 15.13.4 of the Development Plan requires backland housing to accord with relevant residential design standards, as well as ensuring that residential amenities of existing properties are protected (this latter issue is dealt with under section 7.6 below). One of the requirements is that a backland dwelling is not less than 15 metres from the rear façade of the existing dwelling. In this instance Units 1 and 2 are situated in excess of 20 metres and 27 metres respectively from the rear elevation of No. 67 Merrion Road.

A minimum garden depth of 7 metres is specified for backland housing, although there is flexibility of some standards to promote densification and urban consolidation. Section 15.11.3 of the Development Plan sets out requirements in terms of private open space which are considered below.

- 7.3.5. I note the planning authority's second refusal reason relates to insufficient levels of private open space offered by the proposed development. Section 15.11.3 of the Development Plan notes that a minimum standard of 10 sqm of private open space per bedspace is normally applicable for a new proposed dwelling, while up to 60-70 sqm of rear garden area is generally deemed to be sufficient for houses in the city. These standards may be relaxed on a case by case basis subject to a qualitative analysis of the development.

In terms of the proposed development, Units 1 and 2 have private amenity spaces in the form of rear gardens and terraces/balconies which total approximately 41 sqm and 50 sqm respectively. These units have rear garden depths of c 7metres. Similarly, total private open space for Units 3 to 6 inclusive ranges from c 50 sqm to c 54 sqm which comprise rear gardens (where depths range from c 5.5 metres to c 7.7 metres), along with front and rear terraces.

In my opinion, having regard to the additional floor space proposed for each unit over and above the minimum standard along with the location of public amenity areas within proximity to the site (as referred to in 7.4.6 below), and also having regard to Development Plan policies QHSN6 and QHSNO4 relating to Urban Consolidation and Densification of Suburbs respectively, the private open space standards should be relaxed in this instance.

- 7.3.6. Section 15.8.6 of the Development Plan notes that the public open space requirement for residential schemes shall be 10% of the overall site area. I note that no public open space provision is included as part of the proposed development, which was accepted by the planning authority. I agree that the backland/infill nature and limited size of the subject site do not facilitate provision of public open space at this location. In this context the proximity of both Herbert Park and Sandymount Strand to the proposed development is noted, as referenced in the planning authority's report.

- 7.3.7. Section 15.8.10 (Gated Communities) in the Development Plan states that there is a general presumption against gated developments to encourage permeability and accessibility in the urban area. I note that the entrance is to be gated and, in this regard, the proposed development does not comply with section 15.8.10 of the Development Plan. I see no need for a gate at the entrance and if the Board are minded to grant permission, I recommend inclusion of a condition omitting the entrance gate.

7.4. Impact on Residential Amenity

- 7.4.1. The planning authority's first refusal reason related to the impact of the proposed development on the residential amenity of property in the vicinity, with particular reference made to the caretaker's unit located at the end of the rear garden associated with the Embassy of India. Noting the nature of the proposal I consider that the main potential impacts arise in terms of overlooking leading to a loss of privacy, overbearing impacts, and overshadowing.
- 7.4.2. **Overlooking** – The observers raise concerns in relation to overlooking onto the rear garden of No. 71 Merrion Road, particularly from the first floor terraces and floor to ceiling windows on the rear elevations of Units 3 to 6 inclusive. The rear gardens of these proposed units would adjoin the end of the rear garden associated with No. 71 Merrion Road. The rear first and second floor bedroom windows are set back c 8.3 metres from the boundary with No. 71 Merrion Road, while the first floor terraces are set back c 6.3 metres from this boundary. As such I consider that overlooking onto the end of the rear garden associated with No. 71 Merrion Road would be possible. However, I note that the applicant has submitted revised drawings with the appeal which demonstrate replacement of the initially proposed second floor rear windows with deflected or 'blinkered' windows which essentially direct views away from the rear garden of No. 71 towards the grounds of Wanderers Football Club. Furthermore, the revised drawings show provision of vertical louvred timber screens to the rear facing balconies of Units 2 to 6 to prevent direct overlooking of adjoining gardens. In my opinion these mitigation measures are appropriate and if the Board is

mindful to grant permission for the proposed development, I recommend they be conditioned.

I note that proposed Unit 3 would adjoin the existing single storey caretaker's unit located at the end of the rear garden area associated with No. 69 Merrion Road (Embassy of India) to the south-west. Given the relationship between this proposed unit and the caretaker's unit and having regard to the aforementioned proposed mitigation measures as shown in the revised drawings submitted with the appeal, I consider that no undue overlooking impacts would arise in relation to this adjoining site.

I do not anticipate any undue overlooking impacts arising from the proposed development onto the rear private amenity space of No. 65 Merrion Road, which adjoins the northern side of the laneway serving Wanderers Football Club. The proposed development will overlook the front forecourt and the car park associated with the football club.

- 7.4.3. **Overbearing impact** – The planning authority's first refusal reason cited, inter alia, the overbearing impact of the proposed development on the single storey caretaker's unit located at the end of the garden at No. 69 Merrion Road.
- 7.4.4. The 1 bedroom caretaker's unit is built up to the south eastern and eastern boundaries of the appeal site. There are no windows on the side or rear elevations of this unit; its front elevation faces the rear elevation of the main building on the site, in use as the Embassy of India. At the northern side of the caretaker's unit, proposed Unit 2 which is of 2 storey design would be built up to the common boundary. Proposed Unit 3, which is of 3 storey design, would be built up to the common boundary with No. 69 Merrion Road and as such would adjoin the caretaker's unit to the rear. The roof parapet levels of Units 2 and 3 would be c 2.2 metres and c 5.2 metres above the pitched roof height of the caretaker's unit. While I acknowledge that the caretaker's unit would be enclosed by the proposed development, given the location of the site in a backland setting and a built-up suburban area, I am of the opinion that the extent of enclosure would fall within the bounds of acceptance for this infill site.

No overbearing impacts arise from the proposed development relative to the host property at 67 Merrion Road given the separation distance (c 20 metres) between it and proposed Unit 1. I note that 67 Merrion Road would retain a sizable rear garden area (c 320 sqm) post development.

I note the separation distance between the upper floors of Units 3 – 6 and the boundary with the rear garden of No. 71 Merrion Road is c 8.3 metres. There is an interface of c 25 metres at the end of the long garden associated with No. 71 and the rear gardens associated with proposed Units 3 – 6. In my opinion the separation distance is sufficient to mitigate any potential overbearing impact on the garden of No. 71.

7.4.5. **Overshadowing** - The applicant has submitted a Daylight Impact Assessment with the planning appeal. Study C of the Assessment examines the impact of the proposed development on sunlight levels available to neighbouring outdoor areas. Figure 3 shows these areas which include the remaining garden associated with the host property (No. 67), the amenity space serving the caretaker's unit at No. 69, and the rear gardens of Nos. 65 and 71 Merrion Road. The study examines the existing and proposed situation with regard to overshadowing on 21st of March, and for a number of times during the day, as demonstrated in Appendix J which contains the shadow casting imagery. In my view the date and times considered in the shadow analysis allows for a reasonable assessment of potential overshadowing of adjoining property. As a guide, BRE recommends that a garden/amenity area will appear adequately sunlit throughout the year if at least half of it receives at least 2 hours of sunlight on the 21st March. Based on the shadow casting imagery provided all areas examined would receive levels of solar access which exceed advisory minimums. As such I am satisfied that the proposed development would not significantly overshadow neighbouring outdoor areas.

7.4.6. **Sunlight** – Study B of the Assessment examines the impact of the proposal on sunlight levels available to neighbouring living rooms. The potential for good internal sunlight amenity is assessed with regard to Annual Probable Sunlight Hours (APSH). This measure relates to the total number of hours in the year that the sun is typically expected to shine on unobstructed ground, allowing for average levels of cloud cover

for the location in question. BRE advise that sun lighting of existing dwellings may be adversely affected if the centre of the window in question if, inter alia, receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours during winter months. The study assessed the levels of sunlight access available to 8 living room zones in the immediate neighbourhood (identified in Appendix I of the Assessment). In order to assess impacts both 'before' and 'after' development levels are considered.

The results obtained for both annual sunlight access and winter sunlight access are set out in Tables 2 and 3 of the Assessment respectively. In summary the majority of room zones tested would receive levels of sunlight which exceed advisory minimums. In one instance, Room Zone 13 which relates to the caretaker's unit in the rear garden of No. 69 Merrion Road, did not accord with the BRE guidelines. The professional opinion given in the report is that the identified shortfall is unlikely to have very significant consequences for the amenity within the caretaker's unit and the significance of the impact can be initially categorised as medium.

A detailed secondary assessment, Target Illuminance Testing (Appendix K of the Assessment refers) of the caretaker's unit was also undertaken which accounts for both skylight and sunlight over the course of a whole year. The report explains that the Target Illuminance Test provides a better indication of internal daylight levels as more of the physical factors that affect internal daylight levels are included in its calculation, including the size and layout of the subject room and the number, size and configuration of the windows serving it. The results associated with the 'before' development scenario are set out in Table 10, while the results for the 'after' development situation are presented in Table 11. In summary the results indicate that daylight levels within the rooms assessed would exceed the advisory minimums recommended in BS EN 17037 (Daylight in Buildings) in both the 'before' and 'after' scenarios, with light levels remaining substantially similar to existing levels post development.

Having regard to the results of the APSH Assessment and the subsequent Target Illuminance Testing undertaken specifically in respect of the caretaker's unit I am

satisfied that light levels within the caretaker's unit would be acceptable in the post-development scenario.

7.4.7. **Skylight** - Study A of the Assessment examines the impact that the proposed development would have on levels of skylight access that would be available to neighbouring accommodation, with the testing carried out in the BRE guide 'Site layout planning for daylight and sunlight – A guide to good practice' (3rd Edition). According to the BRE guidance, the potential for good daylighting can be assessed by a measure known as Vertical Sky Component (VSC), which is described in the BRE guide as 'the ratio of the direct sky illuminance falling on the vertical wall at a reference point, to the simultaneous horizontal illuminance under an unobstructed sky.' VSC is expressed as a percentage and the BRE guidance advises that the potential for good daylighting exists where a VSC of 27% or higher is available to the windows serving habitable accommodation. In scenarios where impact on neighbouring properties is being assessed, BRE provide the following information:

'If the vertical sky component, with the new development in place, is both less than 27% and 0.8 times its former value, then the occupants of the existing building will notice a reduction in the amount of skylight.'

14 room zones in neighbouring properties were assessed (identified in Appendix I of the Assessment). To assess impacts both 'before' development and 'after' development scenarios are considered.

The results obtained are set out in Table 1 of the Assessment, with 11 room zones found to retain skylight access levels above the advisory minimums. 3 room zones (11, 13 and 14) within the caretaker's unit associated with No. 69 Merrion Road do not accord with the BRE guidelines.

- The post-development VSC for room zone 11 would be 24.4%, with the advisory-minimum indicated as 27%.
- The post-development VSC for room zone 13 would be 24.4%, with the advisory-minimum indicated as 27%.
- The post-development VSC for room zone 14 would be 7.3%, with the advisory-minimum indicated as 8.8.

The professional opinion expressed in the report is that the identified shortfalls are unlikely to have any significant consequences for the amenity within the caretaker's unit, given that the significance of the impacts registering are at the lower end of the scale in these 3 cases. In this regard I note that the significance of impact is considered low with respect to zone 11 and 13 and negligible/low with respect to zone 14. Having regard to this finding and also given that the aforementioned findings of the Target Illuminance Testing undertaken in respect of the caretaker's unit indicate that light levels would remain substantially similar within the caretaker's unit post development, I accept the professional opinion put forward and I am satisfied that the proposed development would not significantly adversely affect the levels of diffuse skylight to accommodation in neighbouring properties, including the caretaker's unit.

7.5. Parking, Access, Traffic and Pedestrian Safety

- 7.5.1. An observer has noted that there is conflicting information in the design report relating to the number of car parking spaces serving the proposed development. It is however clear from the site layout plan that the proposal will provide a total of 6 no. car parking spaces, one per unit. This provision accords with Development Plan policy to allow a maximum of one car parking space per house in Zone 2 (Map J) of the city. I consider the quantum of parking provision proposed to be appropriate.
- 7.5.2. The appeal site is to be accessed from the existing private laneway from Merrion Road, stated to be in the ownership of Wanderers Football Club and which leads to their grounds. The access laneway runs between No. 67 and No. 65 Merrion Road, is c 4.5m in width, has two lanes and a grass verge on both its northern and southern sides. The submitted documentation indicates that the applicant has a right of way across this laneway and I note that Appendix C of the Traffic and Transport Assessment contains correspondence from Wanderers Football Club consenting to inclusion of lands in its ownership for the purposes of making the planning application for the proposed development.
- 7.5.3. Permission was granted in 2020 to Wanderers Football Club (Reg. Ref. 2257/20 refers) for development on its site comprising, inter alia, the construction of a new

clubhouse and reconfigured parking, including alterations to the existing laneway in the form of a 2 metre wide pedestrian footpath on its northern side and resurfacing of the access laneway. The applicant for the current proposal, the subject of this appeal, is relying on the delivery of this footpath infrastructure to facilitate the proposed development. From the site inspection it is apparent that the development permitted under Reg. Ref. 2257/20 is presently under construction. As such, if the Board is minded to grant permission for this proposed development, I would recommend inclusion of a condition which requires completion of the footpath adjoining the laneway permitted under Reg. Ref. 2257/20 prior to occupation of the residential units.

7.5.4. The proposed development also involves the provision of a new 7.5 metre wide access from the laneway, to serve as the access from the site. In this regard I note that Section 7.2 of the submitted Transport Statement indicates that segregated pedestrian and cyclist access is proposed next to the vehicular entrance, with the proposed site plan (Drawing No. 01202) showing the proposed pedestrian crossing from the new footpath on the northern side of the laneway leading to the internal pedestrian zone which in turn leads to the proposed units. I consider this arrangement to be acceptable. The submitted swept path analysis for a fire tender and a refuse vehicle is noted.

7.5.5. I note the report from the Transportation Planning Division that there is potential for conflict between vehicles, pedestrians and cyclists exiting the proposed development and vehicular movements along the laneway.

I note that the proposed development comprising 6 no. units is modest in terms of size and that it will be served by a total of 6 no. car parking spaces. Furthermore, having regard to the relatively narrow width of the laneway and the low speed environment of the carriageway, I consider that the proposed access to the site would be acceptable.

7.6. Other Issues

7.6.1. One of the observations received indicated that no drawing was provided of the proposed elevations of the development as they relate to No. 71 Merrion Road. I note that Drawing No. 04201 submitted with the application on 10th March 2023 includes the rear (south-east) elevations of Units 3 – 6 which adjoin the rear garden

of No. 71 Merrion Road. Drawing No. 04205 submitted with the appeal also depicts the south-east elevations of Units 3 – 6.

- 7.6.2. In the first party appeal the applicant indicated they had identified a precedent permission for a residential development in Rathmines which had some similar characteristics to the proposed development, the subject of this appeal. It is my view that all appeal cases must be assessed on their own merits having regard to the sensitivity of the receiving environment, the specifics of the particular appeal site and the proposed development.

7.7. Appropriate Assessment – Natura Impact Statement

- 7.7.1 The applicant has engaged the services of BES to carry out an Appropriate Assessment Screening / Natura Impact Statement (NIS); the report is dated February 2023. I have had regard to the contents of the NIS.

- 7.7.2 I have considered the proposed residential development in light of the requirements of sections 177U and 177V of the Planning and Development Act 2000 as amended.

7.7.3 Description of the proposed development

The subject site comprises part of the rear garden associated with No. 67 Merrion Road, Dublin 4. The River Dodder flows c 0.87 km west of the subject site.

The proposal comprises a residential development of 6 no. 2 and 3 storey dwellings, an enclosed bin store, a communal bicycle store and 6 no. car parking spaces in a front forecourt area. A new entrance from the adjoining access laneway (leading to Wanderers Football Club) to the appeal site is also proposed.

A number of measures are proposed to be integrated into the proposed development to prevent negative impacts arising. These are set out in the NIS and include the following:

Construction Phase:

- Develop a Sediment Control Plan (SCP).
- Temporary storage of spoil, hardcore, crushed concrete in receptacles if possible and at a remove from any surface water drains.

- Remove stock-piled material from the site as soon as possible.
- Use of petrol / oil interceptor.
- Surface water gratings to be covered as appropriate.
- No wash-down / wash-out of ready-mix concrete vehicles within 10 m of surface water drains.
- No bulk chemicals to be stored within active construction area.
- Oil and fuel storage tanks to be bunded.
- Refuelling of vehicles / addition of oil or lubricants to take place in designated areas. Refuelling to take place off site if possible.
- Spill protection equipment to be available.
- Training on how to manage a spill event.
- Monitoring measures including regular checks and log of inspections taken.

Operation Phase:

- Surface water management designed to comply with the 'Greater Dublin Strategic Drainage Study' and is in accordance with the principles of Sustainable Urban Drainage Systems (SuDS).
- Proposed use of permeable paving, porous asphalt, water butts, infiltration trenches, low water sanitary appliances and attenuation storage with flow control.
- Proposed to discharge all foul effluent to public sewer.

In my opinion, all the above-mentioned measures and proposals listed under the Construction Phase constitute best practice/standard construction techniques. The proposals listed under the Operation Phase are standard measures.

7.7.4 Screening the need for Appropriate Assessment

The first test of Article 6(3) is to establish if the proposed development could result in likely effects on a designated European site. This is considered Stage 1 of the Appropriate Assessment process i.e., screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of available objective information, without extensive investigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment should be undertaken. The applicant has submitted a

screening report for Appropriate Assessment (Section 2 of the NIS document refers) and a NIS as part of the planning application.

The applicant's Stage 1 – AA Screening provides a description of the subject site and the proposed development along with existing and proposed storm and foul water drainage arrangements.

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).

There are no streams, open drains or natural habitats on the subject site.

4 no. European Sites are listed within a potential zone of influence of the proposed development, as follows:

Site Name (site code)	Designation	Distance from the site
North Dublin Bay (00206)	SAC	c 5.2 km
South Dublin Bay (00210)	SAC	c 0.85 km
South Dublin Bay and River Tolka Estuary (04024)	SPA	c 0.85 km
North Bull Island (04006)	SPA	c 5.2 km

I note the AA Screening / NIS refers to a c. 6 km distance from a named site ('Newmarket') to all four SACs and SPAs considered to be within a potential zone of influence. The name of the site and site distances appear to be typographical errors. I have populated the above table in terms of the distance from the appeal site to the SACs and SPAs considered to be within a potential zone of influence.

The above sites were assessed as to potential impact from the proposed development at construction and operation phases, taking full account of the conservation objectives of these European Sites.

Table 1 of the NIS indicates that the area of the subject site drains naturally to South Dublin Bay and therefore a theoretical hydrological linkage exists between the site and the 4 European Sites listed above.

In summary it was found that during the construction and operational phases there is potential impact for water pollution through surface water and foul water which may ultimately enter the Dublin Bay system and conceivably have effects on the Qualifying Interest of mudflats and sandflats not covered by seawater at low tide [1140] in respect of North Dublin Bay SAC and South Dublin Bay SAC.

It was considered also that stormwater with contaminants from the construction and operational phases could have effects on the Special Conservation Interests of North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA.

The applicant's AA Screening concluded that in the absence of mitigation measures there is potential for contaminated water from the development site to enter the aquatic and intertidal environment of Dublin Bay during the construction and operational phases of the proposed development. As such, the risk of potential significant effects on the 4 identified European Sites cannot be excluded.

In the remainder of the NIS surface water management and pollution control measures are examined in the construction and operational phases, along with a section relating to foul water.

Having reviewed the NIS document and the information on file I am satisfied that they allow for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites.

7.7.5 Stage 1 Screening – Test of Likely Significant Effects

7.7.6 The proposed development is examined in relation to any possible interaction with European Sites, the relevant sites have been detailed above in Section 7.7.4, to assess whether it may give rise to significant effects on any designated European Site. The proposed development is not directly connected with or necessary to the management of a European Site and therefore it must be determined if the development is likely to have significant effects on a European Site.

7.7.7 Zone of Influence: A summary of European Sites that are located proximate to the proposed development, including their conservation objectives and Qualifying Interests has been examined by the applicant. 4 no. European Sites ranging from c

0.85 km to c 5.2 km from the development site were considered to be within the zone of influence and are listed in section 7.7.4 of this report.

7.7.8 In determining the European Sites to be considered I have had regard to the nature and scale of the development, the distance from the site to the designated Natura 2000 sites and any potential pathways which may exist from the development site to a Natura 2000 site. The development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). The site is not directly connected with, or necessary to the management of a Natura 2000 site. There are no streams traversing or adjoining the site.

7.7.9 In terms of the zone of influence I note that the development site is not within or immediately adjacent to a European Site and therefore there will be no loss or alteration of habitat, or habitat/species fragmentation as a result of the proposed development.

7.8 Screening Assessment

7.8.1 Having carried out Screening for Appropriate Assessment of the proposed development, the AA Screening concluded that the project individually could, during the construction and operational phases, have a significant effect on North Dublin Bay SAC and South Dublin Bay SAC, through surface water and foul water and also there is potential for a significant effect during construction and operational phases on South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA through contaminated surface water. As such the applicant has indicated that Appropriate Assessment and submission of a NIS is required.

7.8.2 In terms of water pollution, the likely significant effect on North Dublin Bay SAC, South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA is through operational phase pollution by use of the public foul drainage system. The proposed development has taken account of potential flood risk and a flood risk assessment has been submitted in support of the application, which indicates the appeal site is located in Flood Zone C.

7.8.3 A detailed SuDS proposal is provided that will ensure no untreated water is discharged from the site. Water will be supplied to the development from the existing

public water system. Foul drainage will be facilitated through the public system and will be treated in the Ringsend Waste Water Treatment Plant, where an upgrade project is underway and which presently has available capacity. I am satisfied that there is no realistic likelihood of pollutants reaching the identified European Sites.

7.8.4 In terms of water pollution during the construction phase a range of best practice and standard construction techniques will be implemented as set out in section 7.7.3 above which will minimise the risk of such an event. Furthermore, given the location of the proposed development which is removed from the nearest European site and having regard to the absence of a direct hydrological link to any European Site, and taking account of the dilution effect, I am satisfied there is no realistic likelihood of pollutants reaching the identified European Sites during the construction phase.

7.8.5 No mitigation measures are required to come to these conclusions. I consider the aforementioned measures / proposals referred to in section 7.7.3 of this report to constitute best practice / standard construction techniques and standard measures to be implemented during the construction and operational phases of the development. They are not mitigation measures for the purposes of avoiding or preventing impacts to any European Site.

7.9 AA Screening Conclusion

7.9.1 It is reasonable to conclude that on the basis of the information provided, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on North Dublin Bay SAC, South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA, or any other European Site, in view of these sites' Conservation Objectives, and having regard to the nature and scale of the proposed development, the location of the site in an established and serviced urban area, the separation distances between the site and European Sites, the absence of a direct hydrological link and the dilution effect, that no Appropriate Assessment issues arise.

7.9.2 Full consideration has been had to the potential impact on designated sites from water pollution. It is therefore considered that the development would not be

likely to give rise to a significant effect individually or in combination with other plans or projects on a European Site.

Having regard to this conclusion there is no requirement therefore for a Stage 2 Appropriate Assessment.

8.0 Recommendation

- 8.1. I recommend that planning permission for the proposed development should be granted for the reasons and considerations set out below.

9.0 Reason and Considerations

- 9.1. Having regard to the pattern and character of existing development in the area, the layout, design, scale and height of the proposed development, and the provisions of the Dublin City Development Plan 2022-2028 including policy objectives QHSN6, QHSN10 and QHSN04, it is considered that, subject to compliance with the conditions set out below, the proposed development would accord with Section 15.5.2 (Infill Development) and Section 15.13.4 (Backland Development) of the Development Plan, would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would provide an acceptable standard of residential amenity for prospective residents and would not seriously injure the residential amenity of surrounding properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 10 th of March 2023, and by the further plans and particulars received by An Bord Pleanála on the 31 st May 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
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	<p>commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended, in accordance with the drawings and plans submitted to An Bord Pleanála on 31st May 2023 as follows:</p> <p>(a) In relation to Units 3 to 6 inclusive, replacement of the rear 2nd floor windows with deflected/'blinkered' windows;</p> <p>(b) In relation to Unit Nos. 2 to 6 inclusive, inclusion of vertical timber slatted screens to first floor rear facing balconies/terraces.</p> <p>A complete set of 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.</p>
3.	<p>Details of the height and construction of all new boundaries associated with the proposed development shall be submitted for the agreement of the planning authority prior to commencement of development.</p> <p>Reasons: In the interests of residential and visual amenity and clarity.</p>
4.	<p>The entrance gate to the proposed development shall be omitted.</p> <p>Reason: To comply with Section 15.8.10 of the Dublin City Development Plan 2022-2028.</p>

5.	<p>No residential unit in the proposed development shall be occupied prior to the completion of the proposed footpath on the northern side of the private laneway adjoining the site, which was permitted as part of the application relating to the development of a new clubhouse at Wanderers Football Club (Reg. Ref. 2257/20 refers).</p> <p>Reason: In the interest of pedestrian safety.</p>
6.	<p>(i) Details of the proposed entrance arrangements shall be agreed in writing with the planning authority prior to commencement of development.</p> <p>(ii) One car parking space shall be permanently allocated to each residential unit and numbered as such. The motorcycle and car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties.</p> <p>(iii) At least 50% of the car parking spaces serving the residential units shall be provided with functional electric vehicle charging points. Ducting shall be provided for all remaining car parking spaces.</p> <p>Reason: In the interests of traffic safety and sustainable transport and to ensure parking spaces are permanently available to serve the proposed residential units.</p>
7.	<p>The non-amenity roof areas shall not be accessible except for maintenance purposes only.</p> <p>Reason: In the interest of residential amenity.</p>
8.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p>

	<p>Reason: In the interest of public safety.</p>
9.	<p>Proposals for a development name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
10.	<p>Drainage arrangements, including the 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.</p>
11.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
12.	<p>The Landscape Plan prepared by Stephen Diamond Associates, as submitted to the planning authority on the 10th of March 2023 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 which 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</p>

	<p>agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
13.	<p>Details (including samples) of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
14.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
15.	<p>The construction of the development shall be managed in accordance with a Construction 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 intended construction practice for the development, including hours of working, management measures for noise, dust and dirt, construction traffic management proposals and off-site disposal of construction waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
16.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p>

	Reason: To protect the amenities of the area.
17.	<p>All service cables associated with the proposed development (such as electrical, television, telephone and public lighting cables) shall be run underground within the site. Provision shall be made for broadband connectivity in the development.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
18.	<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>
19.	<p>Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p>

	<p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
20.	<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, 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 taken in charge.</p>
21.	<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</p>

	<p>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>
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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.

John Duffy
Planning Inspector

27th November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317234-23		
Proposed Development Summary	Construction of 6 no. houses and all associated site works.		
Development Address	Rear of 67 Merrion Road and to the rear of adjoining No. 69 Merrion Road, Dublin 4 including parts of the adjoining laneway off Merrion Road leading to Wanderers Football Club.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10 (500 DHS)	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required