



An
Bord
Pleanála

Inspector's Report ABP-317442-23

Development

Construction of 37 apartments and all associated site works. Demolition of warehouse building on site and removal of brick boundary wall fronting Richmond Lodge and steel fencing fronting Convent Avenue.

Location

Convent Avenue, Dublin 3, D03 FA02 known as Pete's Antiques. The site is adjacent to Richmond Lodge to the south and the grounds of St. Vincent's Hospital to the north.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3539/23

Applicant(s)

Cabhrú Housing Association

Type of Application

Planning Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Cabhrú Housing Association

Observer(s)

Berni Fleming & Others

Richmond Lodge Residents

Date of Site Inspection

1st February 2024

Inspector

Conor Crowther

1.0 Site Location and Description

- 1.1.1. The site measures approximately 0.13ha. at Pete's Antiques, Convent Avenue, Dublin 3. The site is located within an established inner suburban area with a mixture of residential, commercial, medical and educational development. The site is located approximately 2.2km north east of Dublin City Centre, within the Local Authority area of Dublin City Council.
- 1.1.2. The site currently functions as an antique shop within a corrugated warehouse which covers the majority of the site. To the front of the site lies an open concreted area which appears to be used for parking and drop off. An existing minor ESB substation is also located to the front of the site. The frontage is bounded by metal palisade fencing with the side and rear boundaries consisting of the corrugated structure atop rendered walls.
- 1.1.3. The site is bounded to the south by 2 storey dwellings in Richmond Lodge, to the north by St. Vincent's Hospital, to the west by Convent Avenue roadway and to the east by an uncompleted/abandoned development. The Tolka River and the Tolka Conservation Area lie to the south of the site.

2.0 Proposed Development

- 2.1.1. The proposed development is described as follows:
 - Demolition of existing warehouse building and removal of boundary wall fronting Richmond Lodge and steel fencing fronting Convent Avenue.
 - Construction of 3-4 storey sheltered housing development comprising 37 no. one bed residential units, communal open space, bicycle and bin storage and all ancillary works.
 - Removal of existing substation and provision of a single ESB substation and ancillary works.
 - The proposed development is intended to provide housing for independent living for older residents (+60).
- 2.1.2. The application is accompanied by:
 - Pre-Planning Discussions with Dublin City Council.

- Letter of consent from the landowner.
- CGI views and Photomontages of the proposed development.
- Planning Application Report.
- Landscape Architecture Design Report.
- Drainage Calculations (including Flood Risk Assessment).
- Construction Management Plan.
- Construction Demolition Waste Management Plan.
- Appropriate Assessment Screening Report.
- Arboricultural Report.
- Residential Travel Plan.
- Swept Path Assessment.
- Climate Action Energy Statement.
- Sunlight Daylight and Shadow Assessment.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission was REFUSED by the Planning Authority on the 31st May 2023 for the following reasons:

- Contrary to the zoning objective, in that, it would result in a substandard level of residential amenity for future occupants as a result of the poor location of communal amenity space, poor sunlight penetration and target illuminance for a high percentage of single aspect units.
- Contrary to the zoning objective, in that, it would result in significant overbearance and undue overlooking of no.5 Richmond Lodge as a result of the proposed development's excessive height and close proximity.
- Contrary to the zoning objective as a result of overlooking, overbearing and loss of privacy for existing dwellings at Richmond Lodge.

3.2. Planning Authority Reports

3.3. Planning Reports

3.3.1. The Planning Officer's report dated 31st May 2023 concluded that permission for the proposed development should be refused for the reasons set out above. The Planning Officer concluded that:

- The proposed development would constitute overdevelopment of the site.
- There would be an unacceptable number of units experiencing poor levels of daylight and sunlight.
- Access and traffic issues cannot be resolved within the current design proposal.
- A high amount of north facing habitable room windows will be in close proximity to the boundary wall and trees to the north, thereby creating an overbearing impact.
- The proposed development would set an undesirable precedent and would be contrary to the provisions of the Development Plan.
- The provision of communal amenity space at roof terrace only is unacceptable.
- Single aspect units represent an unacceptably high proportion of the units which is contrary to the provisions of the Development Plan.

3.4. Other Technical Reports

- 3.4.1. Transportation Department – On the 26th May 2023 the Transportation Department issued a report requesting FI relating to 4 no. issues.
- 3.4.2. Drainage Department – On the 16th May 2023 the Drainage Department issued a report citing no objection to the proposed development subject to a number of requirements.

3.5. Prescribed Bodies

- 3.5.1. Irish Water/Uisce Eireann – no response received.

3.6. Third Party Observations

3.6.1. A number of 3rd party observations were received in response to the original application submitted to the Planning Authority. The issues raised by observers are generally reflected in the 3rd party observations submitted to the Board, apart from the following concerns:

- Analysis of the proposed development should consider the 2007 Richmond Road Area Action Plan.
- Further information should be sought to address concerns about access to St. Vincent's Hospital.

4.0 Relevant Planning History

Subject Site:

- 4.1.1. VY29N.316997 – Residential Zoned Land Tax appeal to the Board. On the 27th October 2023, the Board confirmed the determination of the local authority that the site should remain on the Map of the Residential Zoned Land Tax by Dublin City Council.
- 4.1.2. 3143/22 (ABP-PL29N.313389) – WITHDRAWN application for demolition of the existing single storey structure, and construction of an apartment development of 2 no. six storey blocks with a total of 18 no. student accommodation apartments.
- 4.1.3. 5213/06 – Permission REFUSED on the 16th November 2006 for demolition of existing garage and construction of 3-4 storey residential development of 17 no. residential units over basement car park for 26 car spaces.

Neighbouring Sites of relevance:

- 4.1.4. LRD6009/23-S3 (ABP-317438-23) – Permission GRANTED on the 31st May 2023 by An Bord Pleanála for a Largescale Residential Development for the construction of 779 no. apartments, a new hospital building and associated works on lands at St. Vincent's Hospital, Richmond Road and Convent Avenue, Fairview, Dublin 3.
- 4.1.5. 3295/21 – Permission GRANTED on the 11th January 2022 for demolition of 2 storey warehouse and shed buildings, and construction of 35 no. residential units in 2 no. apartment buildings ranging in height from 3-6 storeys and ancillary works at 15, Richmond Avenue, Fairview, Dublin 3.

- 4.1.6. 3657/21 (ABP-313553-22) – Permission for demolition of existing dwelling and existing steel shed to the rear of subject site, and construction of 2 no. separate apartment blocks yielding a total of 27 no. apartments at no.17 & 19 Richmond Avenue, Fairview, Dublin 3. This case is before the Board for decision at the time of writing.
- 4.1.7. 4353/19 (ABP- 306562-20) – Permission REFUSED on the 4th August 2020 by An Bord Pleanála for demolition of a warehouse & construction of a new 40 no. bedroom student accommodation development at no. 17 Richmond Avenue, Drumcondra, Dublin 3.
- 4.1.8. 4511/19 – Permission GRANTED on the 3rd March 2020 for demolition of existing one and two storey industrial units and the construction of a five storey over basement block to include 16 no. residential units, a communal facility, 7 no. car parking spaces, 24 no. bicycle parking spaces and ancillary works at 9-9A, Richmond Avenue, Fairview, Dublin 3.
- 4.1.9. 5120/08 – Permission PART-GRANTED for alterations to previously approved planning permission ref. 2575/03 at rear of 21 & 29, Richmond Avenue & to side of 31 Richmond Avenue, Fairview, Dublin 3.

5.0 Policy Context

5.1. Urban Development & Building Heights Guidelines 2018

- 5.1.1. In December 2018 the government published guidelines relating to building heights to supplement the publication of the National Planning Framework at the time. The guidelines encourage the following approaches of relevance to the proposed development:
- 'To meet the needs of a growing population without growing our urban areas outwards requires more focus in planning policy and implementation terms on reusing previously developed 'brownfield' land, building up urban infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings that may not be in the optimal usage or format taking into account contemporary and future requirements'.

- 'While achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability'.
- 'In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility'.

5.2. Design Standards for New Apartments – Section 28 Guidelines (2023)

5.2.1. These guidelines were originally issued in 2018 and amended numerous times, most recently in 2023, they represent the government position on the design of new apartment developments. The following standards are applicable to the proposed development:

- SPPR 1 'Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios)'.
- 'The mix parameters set out above that generally apply to apartments, do not apply to purpose-built student accommodation or to certain social housing schemes, such as sheltered housing'.
- SPPR3 identifies the following minimum apartment floor areas of relevance to the proposed development:
 - 1-bedroom apartment (2 persons) – 45 sq.m.
- 'North facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature'.
- SPPR 4 'In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

- A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate.
- For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects’.
- SPPR 5 ‘Ground level apartment floor to ceiling heights shall be a minimum of 2.7m’.
- ‘It is a policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels... A minimum depth of 1.5 metres is required for balconies, in one useable length to meet the minimum floor area requirement...For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality’.
- ‘Sufficient communal storage area to satisfy the three-bin system for the collection of mixed dry recyclables, organic waste and residual waste’.
- ‘In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances’.
- ‘For all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired’.
- ‘Roof gardens may also be provided but must be accessible to residents... These facilities offer a satisfactory alternative where climatic and safety factors are fully considered...For building refurbishment schemes on sites of

any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality’.

- Appendix 1 identifies minimum floor areas for communal amenity space as follows:
 - Studio – 4 sq.m
 - One bedroom – 5 sq.m

5.3. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2023

5.3.1. These recently adopted ministerial guidelines serve to implement the principles of sustainable residential development in urban areas. The guidelines encourage the following approaches of relevance:

- Realise opportunities for adaptation, reuse and intensification of existing buildings and for incremental brownfield and infill development.
- Deliver brownfield and infill development at scale at suitable strategic and sustainable development locations within the existing built up footprint of the city and suburbs area or metropolitan towns.
- Residential densities in the range 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin.
- The quantum of car parking in new developments should be minimised in order to manage travel demand and to ensure that vehicular movement does not impede active modes of travel or have undue prominence within the public realm.
- SPPR 1 – Separation Distances – ‘It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level’.
- Policy and Objective 5.1 - Public Open Space – ‘In some circumstances a planning authority might decide to set aside (in part or whole) the public open space requirement arising under the development plan..... In such

circumstances, the planning authority may seek a financial contribution within the terms of Section 48 of the Planning and Development Act 2000 (as amended) in lieu of provision within an application site’.

- SPPR 3 - Car Parking – ‘In city centres and urban neighbourhoods of the five cities....car-parking provision should be minimised, substantially reduced or wholly eliminated’.
- Section 5.2.5 - Bicycle Parking and Storage - ‘In areas of high and medium accessibility, planning authorities must ensure that new residential developments have high quality cycle parking and cycle storage facilities for both residents and visitors’.
- SPPR 4 - Cycle Parking and Storage – ‘It is a specific planning policy requirement of these Guidelines that all new housing schemes (including mixed-use schemes that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors’.
- Section 5.3.7 – Daylight – This section proposes that planning authorities weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban development.

5.4. Dublin City Development Plan 2022-2028

5.4.1. The following are policies and objectives of relevance to the proposed development from the Dublin City Development Plan:

- Zoning Objective Z1 Sustainable Residential Neighbourhoods – ‘To protect, provide and improve residential amenities’.
- Policy SC8 - Development of the Inner Suburbs – ‘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 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’.
- 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 QHSN18 - Needs of an Ageing Population – ‘To support the needs of an ageing population in the community with reference to housing, mobility and the public realm’.
- 5.5.5 – ‘The provision of specific accommodation for older people is supported as this provides alternative residential choices for older people not wishing to enter a nursing home and who wish to remain within their communities. As a general rule, all new developments for step down housing for the older people should be located in close proximity to existing village centres and amenities and services’.
- Policy QHSN23 – Independent Living – ‘To support the concept of independent living and assisted living for older people, to support and promote the provision of specific purpose-built accommodation’.
- Policy QHSN36 – High Quality Apartment Development – ‘To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood’.
- 15.9.8 – ‘The communal amenity areas should be of high landscape quality and provide for adequate daylight and sunlight access throughout the year. The communal amenity area should be functional and usable to a range of activities.... Communal amenity space should be located in areas that are overlooked and passively supervised..... On refurbishment or infill sites of up

to 0.25 ha, the communal amenity requirements may be relaxed on a case by case basis’.

- 15.9.9 – ‘Roof terraces will not be permitted as the primary form of communal amenity space but may contribute to a combination of courtyard and or linear green space. The provision of roof terraces does not circumvent the need to provide an adequate accessible ground floor residential amenity that achieves adequate sunlight and daylight levels throughout the day unless exceptional site specific conditions prevail’.
- Appendix 1 – Housing Strategy – ‘The provision of specific accommodation for older people is supported by the objectives of this housing strategy.’
- Appendix 3 - Achieving Sustainable Compact Growth Policy for Density and Building Height in the City – ‘The key factors that will determine height will be the impact on adjacent residential amenities, the proportions of the building in relation to the street, the creation of appropriate enclosure and surveillance, the provision of active ground floor uses and a legible, permeable and sustainable layout’.
- Appendix 16 – Sunlight & Daylight – Assessing Results – ‘it is noted that both BS 8206-2 and BS EN 17037 present minimum values for residential developments, rather than best practice values. This is very clearly laid out in clause 5.6 of BS 8206-2 and clause NA.2 of BS EN 17037. These minimum values will not produce spaces that are well daylight or be considered predominantly daylight. The planning authority also acknowledge that national policy aligns with the understanding that these values are minimum provisions. In this regard, there will be a general presumption against schemes where units fall below these minimum standards and it is the expectation of the planning authority that a significant proportion of units should exceed the minimum standard in order to ensure high quality sustainable developments.... In exceptional circumstances, for example on a tightly configured urban site, where these minimum criteria cannot be achieved, the applicant should very clearly identify this and put forward a clear and robust rationale for compensatory measures applied to mitigate any shortfall in the minimum standards. From here, the planning authority will

apply an exercise in discretion and balance that considers the wider impact of the development beyond matters relating to daylight and sunlight’.

5.5. Natural Heritage Designations

- 5.5.1. The closest site of natural heritage interest to the proposed development is the Royal Canal proposed Natural Heritage Area (002103), which is approximately 0.7km from the proposed development. I also note that the South Dublin Bay proposed Natural Heritage Area (000210) and the South Dublin Bay & River Tolka Estuary Special Protection Area (004024) are located approximately 1km from the proposed development.

5.6. EIA Screening

- 5.6.1. Having regard to the limited nature and scale of the proposed development, and the location of the site within a serviced urban area at a remove from areas of environmental sensitivity, 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 stage (see Appendix 2) and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A 1st party appeal was submitted by Cabhrú Housing Association, on the 26th June 2023 opposing the decision of the Planning Authority to REFUSE permission. The grounds of appeal are summarised as follows:
- The reasons for refusal are subjective and do not stand up to scrutiny.
 - The proposed development complies with relevant national, strategic and local policy.
 - The site is an underused infill site proximate to public transport routes and serviced by an adequate street and pedestrian network.

- The planning authority have misunderstood the reasoning for the proposed development.
- The proposed development does not detract from the residential amenities of existing developments and does not hinder the future development of sites surrounding the development.
- Units provided as part of the proposed development will have a high level of residential amenity, including large private open spaces, floor spaces exceeding minimum requirements and access to communal amenity areas.
- The height, scale and mass of the proposed development is considered an appropriate response to the constraints of the site.
- Provision of housing for older people addresses a current and future need for the area.
- Surrounding sites have been permitted for regenerative residential development on a similar or more intensive scale.
- Suggests that minor modifications submitted as part of the appeal fully address concerns raised by the planning authority in their refusal of the proposed development including:
 - Angling of balconies along the southern boundary of the site in an easterly direction to avoid overlooking of surrounding dwellings at Richmond Lodge.
 - Removal of opal glazing on windows facing the northern boundary of the site, due to the parameters of the recently granted LRD application to the north of the site, to improve daylighting.
 - Provision of larger terraces for ground floor north facing units to mitigate against reduced target illumination of habitable areas.
 - Provision of a loading bay to the front of the proposed development and relocation of visitor cycle parking spaces to facilitate this.
- Concerns raised by internal departments within the planning authority are not material issues.

- Queries from 3rd parties regarding the ownership of the site are unfounded as a letter of consent from the landowner is provided with the application.
- The proposed development is in compliance with the Design Standards for New Apartments with regard to the number of apartments required to be dual aspect.
- Trees located along the northern boundary of the site are deciduous and will lose their leaves in the winter, which is the period of the year when daylight is at a premium and will provide shading during the summer.
- The planning authority incorrectly assessed the proposed development for target illuminance and sunlight.
- Opal glazing incorporated in the north facing units to account for a neighbouring development to the north of the site is no longer required. This improves the compliance of the proposed development with regard to target illuminance.
- The planning authority's opinion of the view to the north not being appealing is wholly subjective and does not represent an objective assessment of the proposed development. The applicant submits that the view to the north is attractive, providing residents with a view of naturally planted parkland.
- The planning authority's assessment of the mitigation measures proposed due to a lack of sunlight is contradictory to their assessment of the communal terraces, for example.
- There is no expectation in the BRE guidelines that every room will pass the test for daylight and sunlight.
- The applicant should not be penalised for providing additional amenity space in excess of department guidelines just because some of the excess provision is not in full sunlight on a specific date. In any case, a mixture of shade and sunlight should be positively considered as it provides for residents who may be sensitive to sunlight.
- The planning authority has taken an entirely subjective view on the overbearing impact of the proposed development and is incorrect in its application of precedent development in this regard.

- The planning authority's determination relating to the overbearing impact of the proposed development contradicts their determination relating to the daylight received by surrounding properties.
- The planning authority has assessed separation distances to surrounding development in a contradictory manner.
- The proposed development does not overlook any living areas within no.5 Richmond Lodge and does not directly face the rear garden of the said property. Precedent approvals by the planning authority are cited in this regard.

6.2. Planning Authority Response

6.2.1. The Planning Authority requests that the Board upholds the decision of the Planning Authority to refuse permission. In the event of a grant of permission, the Planning Authority request that the following condition be applied:

- A condition requiring the payment of a bond.
- A condition requiring the payment of a contribution in lieu of the open space requirement not being met.
- A naming & numbering condition.
- A management condition.

6.3. Observations

6.3.1. 2 no. observations were received by the Board on the 10th July 2023 and the 14th July 2023 from Berni Fleming on behalf of Convent Avenue Residents and Anne Marie Farren on behalf of Richmond Lodge Residents. The issues raised by observers are summarised as follows:

- Non-compliance with the zoning objective.
- Overdevelopment of the site.
- The site is not located in the city centre, it is located in the suburbs and should be treated as such.

- The height and scale of the proposed development will lead to overshadowing of existing residential dwellings.
- The visual amenity and privacy of adjacent dwellings would be severely and irreversibly impacted by the proposed development.
- The proposed development should be setback from the boundary with Richmond Lodge to allow for future maintenance of the building without encroaching onto Richmond Lodge.
- The redline boundary of the proposed development is contested.
- The height of the proposed development should be 2 storey, rising to a maximum of 3 at the north end of the site.
- The proposed development will directly overlook no.6-11 Richmond Lodge. Mitigation measures should be applied to minimise overlooking.
- Requests the imposition of a condition not to harm or interfere with plants and foliage owned and maintained by residents of Richmond Lodge.
- The angle of balconies at the southern end of the proposed development should be facing a more easterly direction, in the interests of residential amenity.
- Requests the imposition of a condition requiring that no CCTV view or record Richmond Lodge, in the interests of privacy.
- The vehicular movements associated with the proposed development cannot be accommodated on Convent Avenue due to its width.
- The vehicular entrance to the proposed development is too narrow and does not allow for vehicles to enter and exit the site.
- The applicant has not reasonably demonstrated that the lack of car parking proposed will not impact on the residential amenities of existing dwellings.
- 20 no. car parking spaces should be provided, including visitor parking and disabled parking.
- The proposed parking bay will not accommodate wheelchair or mobility impaired access parking.

- All construction activity and staff should be retained within the site. Hours of construction should be limited to suggested times.
- The proposed development's internal lift should be able to accommodate an ambulance stretcher and at least 1 paramedic.
- A flood and foul waste water retention pool would be required in order not to impact on houses located downstream.
- Suggests the imposition of a condition requiring engineering survey of surrounding properties to ensure that the construction of the proposed development will not cause damage to the properties.

7.0 **Assessment**

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows::

- Residential Amenity
- Design & Layout
- Transport & Access
- Acceptability of Modifications
- Other Matters

7.2. **Residential Amenity**

Neighbouring Dwellings

7.2.1. The planning authority, in their reasons for refusal, highlighted the likelihood of overlooking the rear garden area of no.5 Richmond Lodge, which would impact the residential amenity of its inhabitants. In particular, the planning authority noted the impact of separation distances and the number of windows facing the direction of said rear garden on their determination. I am in agreement with the planning authority, in that, the development as originally proposed would not serve to sufficiently protect the residential amenities of existing residents in the vicinity of the

site. The reorientation of said windows, as suggested by the appellant in their 1st party appeal, would eliminate this concern.

7.2.2. I do not consider the proposed development to be overbearing by way of its height as the 3rd floor is setback along the majority of the southern boundary, where existing 2 storey residential dwellings are in close proximity to the site. Planning policy supports higher density development of underutilised sites such as the subject site, and I believe this is achieved by the proposed development without overdeveloping the site to the point that the residential amenities of neighbouring dwellings are negatively impacted.

7.2.3. With regard to the appellant's skylight assessment of neighbouring dwellings, I note that 4 no. windows of the 20 no. tested marginally failed the assessment. In particular, window 1.0.6 failed by almost 0.1 times the required standard. Notwithstanding this, I am in agreement with the Planning Authority in their conclusion on this matter that the proposed development will not unduly impact access to daylight of existing neighbouring dwellings in this urban location. I am also satisfied that the appellant has adequately demonstrated no significant impacts on access to sunlight for existing neighbouring dwellings.

Future Residents – Dual Aspect

7.2.4. I note that the number of dual aspect units provided as part of the proposed development amounts to approximately 39% of the proposed development. This aligns with SPPR 4 of the Apartment Guidelines which requires a minimum of 33% dual aspect units within proposed apartment developments. Given that the Apartment Guidelines represent Ministerial Guidelines, they outweigh the provisions of the Development Plan with regard to dual aspect units in accordance with Section 28 of the Planning & Development Act 2000, as amended. As such, I consider the proposed development to be compliant with policy requirements relating to dual aspect units.

Future Residents – Communal Open Space

7.2.5. The planning authority specifically note in their reasons for refusal that the use of a roof terrace as the primary communal open space area for an apartment development is not permitted. They also suggest that this would be an unsuitable solution for a development aimed at an aging cohort of the population whose ability may be impaired. I note that the Development Plan allows for deviation from this

requirement, where exceptional circumstances exist and the Apartment Guidelines also provide for flexibility for such housing. Although the proposed development is aimed at an older cohort of the population looking to downsize, I am not of the view that this should prohibit the primary use of the rooftop area for communal open space as it infers that people of such a cohort are incapable of utilising and accessing such a space. In any case, the constraints of the site do not allow for suitable communal open space at ground floor level. I am therefore satisfied with the use of the roof terrace as the primary communal open space area due to the constraints of the site.

- 7.2.6. In addition, I note that despite exceeding the communal open space requirements as set out in the Development Plan, the appellant has provided an area of communal open space on the 3rd floor in the north-west of the site which is deficient in terms of the quality. In this respect, I agree with the planning authority's assessment of this space as being poorly orientated, not overlooked and of poor sunlight penetration. In the event of a grant of planning permission, I would recommend that this communal amenity open space measuring approximately 59.27sq.m, be developed as indoor communal space and the proposed indoor communal space on the southern elevation, measuring approximately 54sq.m on the third floor, be developed as outdoor communal amenity open space. I do not believe that this would compromise the elevation frontage onto Convent Avenue and it will serve to improve the setback elevation frontage along Richmond Lodge.

Future Residents – Public Open Space

- 7.2.7. It is considered that ample public open space will be available to future residents considering the provision of public open space on institutional lands to the north of the site as part of the St Vincent's Hospital development which includes the provision of a park for wider community use. This does not negate the need to seek a financial contribution in lieu of the lack of public open space provided by the proposed development, in the event of a grant of planning permission, as recommended by the Planning Authority.

Future Residents - Daylight & Sunlight

- 7.2.8. With regard to best practice on the matter of daylight and sunlight assessment, I am guided by the standards set out in A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the

associated BRE Guide 209 2022 Edition (June 2022). I note that the appellant's Sunlight & Daylight Assessment applied the abovementioned standards by means of a target lux radiance plot analysis to assess the performance of the proposed development.

7.2.9. I note that the planning authority indicated that the proposed development should be assessed against a higher standard of access to natural light given the type of occupancy proposed. Appendix 16 of the Development Plan highlights the fact that guidelines for the assessment of natural light are set as a minimum and that developments should seek to achieve natural light above these standards. Whilst guidelines may set out minimum standards for the assessment of natural light, I am not of the view that it is justifiable to assess the proposed development against a higher standard as there is no policy basis to differentiate by occupancy type.

7.2.10. The appellant's assessment of the daylight performance of the proposed development suggests that the south facing living/kitchen areas of units 04-B and 13-B at ground and first floor level fail the assessment. Furthermore, the living/kitchen areas of 10 no. north facing single aspect units on the ground, first, second and third floors are considered to fail marginally. When considered in totality the number of units failing the assessment amounts to 12 no. units of the 37 proposed. This amounts to 32% of the proposed units or a 68% pass rate, however, when considering the number of habitable rooms assessed as opposed to the number of units, this figure falls to approximately 16% of the habitable rooms proposed i.e. 62 out of 74 habitable rooms passing the assessment - an 84% pass rate. I agree with the appellant in that the figure of an 84% pass rate represents the true reflection of the daylight performance of the proposed development. Thus, I am satisfied that the majority of the habitable rooms within the proposed development will achieve adequate standards of daylight in light of the requirements of the guidelines for 50% of the assessment points in a room to exceed the 50% requirement for at least half of the daylight hours. These results will be improved by the omission of opal glazing to the northern elevation proposed as part of the 1st party appeal submission.

7.2.11. With regard to sunlight, I note that the appellant's assessment indicates that the number of units failing the assessment amounts to 11 no. units of the 37 proposed. This amounts to approximately 30% of the proposed units i.e. a pass rate of 70%. Whilst the applicant has outlined mitigating factors in assessing some of the units

that have failed the assessment, I do not consider this sufficient to align the proposed development with the recommendation of the guidelines for an 80% pass rate. I therefore do not consider that the proposed development achieves adequate levels of sunlight. Notwithstanding this, I note that the measures proposed by the appellant as part of their 1st party appeal will appropriately mitigate reduced access to sunlight for the proposed units, in light of the constraints of the site, and will provide acceptable levels of residential amenity.

Future Residents - Single Aspect

- 7.2.12. I note that the planning authority raised concerns with regard to the 10 no. north facing single aspect units and their acceptability. The planning authority did not agree that these units would be facing out onto a significant open parkland-type setting as the site to the north was likely to be subject to a higher density development. This site has subsequently been granted permission for approximately 779 residential units, a new hospital building and associated works. The new hospital building will be located north of the subject site. I am therefore in a position to assess the view to the north of the site and whether this is acceptable in the context of the proposed north facing single aspect units.
- 7.2.13. Given the layout of the permitted development to the north which substantially reduces the parkland area to the north of the site, I am in agreement with the assessment of the planning authority that this area is not an area of high amenity value or a view of significant interest. The north facing single aspect units would therefore not stand to benefit from views of an area of high amenity value or of significant interest that may help to mitigate the reduced access to sunlight. Although the appellant has provided floor to ceiling heights above the minimum standards which serves to improve the residential amenity of future residents by allowing for greater light penetration, I do not consider this to be sufficient mitigation for the reduced light penetration to the north facing single aspect units. Further mitigation proposed by the appellant as part of their 1st party appeal serves to provide sufficient mitigation in combination with the above, in light of the reduced light penetration to the north facing single aspect units.

7.3. Design & Layout

- 7.3.1. The site of the proposed development is considered to be an underutilised brownfield site. The demolition of the existing warehouse building, and its palisade

and blockwork boundaries is considered to be acceptable as the building is not considered to be of particular architectural merit. The appellant has also submitted adequate documentation to demonstrate the justification for the demolition of the existing building on climate change grounds. The loss of commercial use as a result of the demolition of the existing building is not considered to be significant as the site is zoned for residential use in the Development Plan. Thus, the proposed development is acceptable in principle.

- 7.3.2. I note that the proposed development provides for floor to ceiling heights ranging from 2.7m-3m; I consider this to be acceptable. Minimum apartment floor areas, in accordance with the Apartment Guidelines, are also achieved within each unit. I note that the Apartment Guidelines require a minimum balcony depth of 1.5m. It appears as though the minimum balcony depth is achieved in all balconies. However, the balcony depths for unit type C differ on the unit plan when compared to the floor plan. The unit plan shows the balcony depths for said unit types to be 1.4m whereas the floor plan shows the balcony depths to be 1.5m. I note that the Sunlight, Daylight & Shadow Assessment provided by the appellant appears to refer to a balcony depth of 1.4m. In the interests of best practice and the future residents of the proposed development, a minimum balcony depth of 1.5m should be provided and I am satisfied that this can be achieved by way of planning condition, in the event of a grant of planning permission. I do not consider that the results of the appellant's Sunlight, Daylight & Shadow Assessment will be compromised as a result of this marginal difference.
- 7.3.3. The predominance of one-bed units throughout the proposed development aligns with the provisions of the Apartment Guidelines which allows for divergence from SPPR1 for purpose-built developments such as the proposed development which is aimed at persons aged +60. In addition, the Local Authority Housing Strategy indicates a need for alternative accommodation for older persons in local communities. I therefore agree with the planning authority in determining that the mono-unit type nature of the proposed development is considered acceptable as it serves to address a growing need for an aging population cohort by means of a purpose built sheltered housing development. In the event of a grant of planning permission, I consider that a condition should be imposed pertaining to the future ownership and management of the development in the interests of the future

maintenance and management of the site and achieving an adequate standard of residential amenity.

- 7.3.4. I note the planning authority's conclusion relating to the acceptability of the height of the proposed development in the context of existing development. I agree that the height of the proposed development, including a residential development of 3-4 storeys setback, is acceptable in the context of existing development. I further note that the density of the proposed development is 291 units per hectare which is slightly above the density standards envisaged for such a site in the Sustainable Residential & Compact Settlement Guidelines. However, the site coverage and plot ratio of the proposed development are considered to be better measurements of the acceptability of the proposed development due to the mono-type nature of the development solely consisting of 1 bed units. Considering that both the site coverage and plot ratio of the proposed development are generally in accordance with the standards set out in the Development Plan, I am satisfied that the proposed development represents an acceptable level of development on this site.

7.4. Transport & Access

- 7.4.1. The proposed development provides no onsite car parking provision which is reflective of the location of the site within an inner suburban area accessed by a narrow road which does not lend itself to increased vehicular activity.
- 7.4.2. I accept the appellant's position that the proposed development will not attract a large amount of vehicular traffic as it is targeted at an aging cohort of the population wishing to downsize to an accessible area. In any case, the appellant has demonstrated the opportunities available to future residents to avail of public transport, active travel and car clubs which are sufficiently proximate to the proposed development. Notwithstanding this, I note the planning authority's opinion that there will be a requirement for parking spaces to facilitate visitors and/or delivery vehicles. I also note the appellant's suggestion that a set down/loading bay could be provided along the frontage of the proposed development with Convent Avenue. I agree with the planning authority on the need for the provision of a set down area/delivery parking spaces, and I am satisfied that this can be acquired by way of planning condition, in the event of a grant of planning permission. I am satisfied that visitor

parking provision can be accommodated within existing nearby pay and display parking bays.

- 7.4.3. I note that the proposed development includes ample cycle parking and visitor cycle parking provision which is reflective of the accessibility of the site. I am satisfied that the proposed development meets cycle parking requirements for apartment developments, and I do not find that the provision of a set down/loading bay will compromise the provision of visitor cycle parking spaces.
- 7.4.4. I note that concerns have been raised by observers with regard to the accessibility of the site for construction workers and vehicles. I am not of the opinion that the documentation submitted by the appellant serves to allay these concerns. Notwithstanding this, I am of the view that these concerns can be alleviated by way of planning condition, in the event of a grant of planning permission.
- 7.4.5. Additionally, I note that concerns have been raised by observers about accessibility for emergency/fire service vehicles. Having analysed the swept path assessment for refuse vehicles provided by the applicant with the appeal, I consider that the proposed development will be accessible for emergency/fire service vehicles as such vehicles will be similarly sized with a width of approximately 2.3-2.4m and a length of approximately 7.9-8m. In any case, the proposed addition of a loading bay/drop off area will further assist with accessibility for such vehicles and will allow for traffic flow along Convent Avenue to be unimpeded by service vehicles.

7.5. Acceptability of Modifications

- 7.5.1. I note that the appellant has proposed modifications to the proposed development in order to address the concerns of the Planning Authority, as indicated in the reasons for refusal. I note that the Planning Authority has not taken the opportunity to provide any comment on the proposed modifications.
- 7.5.2. The proposed modifications consist of modifications to the balconies facing onto the southern boundary, removal of opal glazing on windows facing the northern boundary along with provision of larger terraces for ground floor north facing units and provision of a set down/loading bay to the front of the proposed development. The modifications are proposed to address concerns surrounding overlooking, target illuminance and car parking.

- 7.5.3. The modifications to the terraced areas of the ground floor north facing units which will lead to the expansion of the terraced areas are considered to be acceptable modifications that serve to mitigate against reduced access to natural light that will particularly impact ground floor north facing units.
- 7.5.4. I consider the removal of the opal glazing on windows facing the northern boundary of the site to be a positive modification to the proposed development as this will allow for increased access to natural light in northern facing units, without negatively impacting on permitted development to the north. Thus, this modification serves to improve the target illuminance of these units.
- 7.5.5. I note that the planning authority determined that the proposed development would fail to achieve an adequate standard of daylight for future residents based on the fact that not all windows passed the daylight assessment conducted by the appellant. The appellant has contested this conclusion but has acknowledged that not all windows pass the assessment. Notwithstanding this, the appellant has implemented modifications to mitigate this impact which reduces the number of windows that fail the assessment to 3% of the windows – a clear minority of the windows in the proposed development. Having regard to this, the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities and the general presumption in favour of increased urban residential development at this site, I consider the proposed development to be acceptable, as modified with regard to target illuminance. and I am satisfied that the majority of the development achieves an adequate standard of daylighting.
- 7.5.6. Having regard to the constraints of the site, the compensatory measures proposed by the appellant and the general presumption in favour of increased urban residential development at this site, I consider the proposed development to be acceptable with regard to access to daylight and sunlight and the general residential amenity of future residents.
- 7.5.7. The provision of a set down/loading bay to the front of the proposed development is a welcome modification as it will provide a dedicated drop off area for delivery of goods to the proposed development. It will also allow for general taxi movements and collection and drop-off of future residents whose mobility may be impaired. I am satisfied that the proposed visitor cycle parking located in this area can be relocated to facilitate the inclusion of the set down/loading bay.

- 7.5.8. I consider the reorientation of the balconies facing onto the southern boundary to be a positive modification to the proposed development as it will divert the angle of sight away from the rear garden of no.5 Richmond Lodge. Indeed, this particular modification was also suggested by observers and therefore represents an acceptable modification to the proposed development. I am therefore of the view that the potential for overlooking to occur has been significantly reduced. In addition to this, the separation distances between the rear garden of no.5 Richmond Lodge and the windows of the southern facing units have been increased in most cases. I consider this to be an acceptable solution resulting in separation distances that are supported by the recently published Sustainable Residential Development and Compact Settlements Guidelines and precedent development in the vicinity of the site. I therefore consider that the proposed development, as modified, will not result in undue impacts on residential amenity by way of overlooking of or loss of privacy to no.5 Richmond Lodge or other houses in Richmond Lodge. Although no additional daylight and sunlight assessment of these reorientated balconies has been submitted, I am satisfied that they will not lead to an inadequate standard of daylight or sunlight penetration due to the fact that they will be increasingly south-facing as a result of the modification.
- 7.5.9. On the whole, I am of the view that the proposed modifications serve to improve the acceptability of the proposed development. Thus, the proposed modifications are considered to be acceptable in my assessment of the proposed development.

7.6. Other Matters

- 7.6.1. I note that observers have questioned the validity of the ownership of a small portion of the southern part of the site. Notwithstanding this, the planning authority assessed the proposed development on the basis that the site boundaries provided were correct. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal, and this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

7.7. Conclusion

7.7.1. Having regard to the above, I consider the modifications proposed as part of this first party appeal would be acceptable and would help to address concerns relating to overlooking and accessibility, I believe that they also satisfactorily address the reasons for refusal, including daylighting and sunlighting. The proposed development, as modified, will positively contribute to the character of the area and allow for the redevelopment of an underutilised brownfield site, without negatively impacting existing and future residential amenities. Thus, I conclude that a grant of planning permission should be issued, subject to conditions.

7.8. Appropriate Assessment Screening

7.8.1. I note that the Application was accompanied by a Screening Report which concluded that the project poses no potential for significant effects on the conservation objectives of European Sites and as such requires no further appropriate assessment. I note that the Planning Authority did not undertake Appropriate Assessment Screening.

7.8.2. The site is not located adjacent to a European Site but is located within approximately 160m of the Tolka River which drains to the South Dublin Bay & River Tolka Estuary Special Protection Area, the North Bull Island Special Protection Area and the North Dublin Bay Special Area of Conservation, located approximately 1km and 4.1km from the site, respectively. There is therefore a likelihood that an indirect hydrological pathway may develop between the site and a European Site by means of surface water runoff. This indirect hydrological pathway to a marine environment is considered to be insignificant due to the considerable distance and intervening watercourse between the proposed development and the European Site in question. In addition, the proposed development includes standard best practice drainage methods which will reduce the level of surface water runoff during operation and construction stages.

7.8.3. The qualifying interests of the identified European Sites above can be found at the following links:

- [North Bull Island SPA | National Parks & Wildlife Service \(npws.ie\)](https://npws.ie/nature/national-parks-wildlife-service/north-bull-island-spa)
- [North Dublin Bay SAC | National Parks & Wildlife Service \(npws.ie\)](https://npws.ie/nature/national-parks-wildlife-service/north-dublin-bay-sac)
- [South Dublin Bay and River Tolka Estuary SPA | National Parks & Wildlife Service \(npws.ie\)](https://npws.ie/nature/national-parks-wildlife-service/south-dublin-bay-and-river-tolka-estuary-spa)

- 7.8.4. I note that the proposed LRD development to the north of the site has recently been granted permission. Having examined the assessment of the competent authority not to proceed to Stage 2 AA and the potential in-combination effects of this permitted development with that of the proposed development, I am satisfied that the proposed development will not lead to significant effects on the qualifying interests of any nearby European Site in-combination with this project or any other plans or projects.
- 7.8.5. Given the size and scale of the proposed development, the location of the proposed development in an established urban area that is suitably serviced, and the works involved, I am of the view that the proposed development will not lead to a likely significant effect on the qualifying interests of any nearby European Site.
- 7.8.6. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.8.7. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to nature of the proposed development, the zoning of the site for residential development and the modifications to the development proposed in the appeal to the Board, it is considered that subject to the conditions set out below, the proposed development would be acceptable and in accordance with the provisions of the Dublin City Development Plan 2022-2028, the Design Standards for New Apartments – Section 28 Guidelines, the Sustainable Residential Development and Compact Settlements Guidelines and the Urban Development & Building Heights Guidelines. The proposed development would achieve an acceptable design, would

not negatively impact on existing residential amenities or give rise to the creation of a traffic hazard and would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the Board on the 26th day of June 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>Reason: In the interest of clarity.</p>
2.	<p>Final revised detailed design drawings in respect of the modifications proposed in submission to the Board on the 26th day of June 2023 shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The proposed development shall be amended as follows:</p> <p>(a) Replace the communal amenity open space area on the 3rd floor measuring 59.27 sq.m with an internal communal space of the same size.</p> <p>(b) Remove the internal communal space on the 3rd floor measuring 54 sq.m and create additional communal amenity open space to merge with the proposed communal amenity open space located on the 3rd floor, to be provided with consistent landscaping and screening measures.</p> <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.</p>

4.	<p>Final revised drawings showing a minimum 1.5m balcony depth on all balconies shall be submitted to, and agreed in writing, with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of clarity.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interests of sustainable waste management.</p>
7.	<p>Water supply and 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.</p>
8.	<p>(a) All foul sewage and soiled water shall be discharged to the public foul sewer.</p> <p>(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.</p> <p>Reason: In the interest of public health.</p>

9.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
10.	<p>Proposals for an apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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>
11.	<p>(a) The communal amenity open spaces, including hard and soft landscaping, access ways, communal refuse/bin storage and 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>
12.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of</p>

	<p>development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
13.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
14.	<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:</p> <ul style="list-style-type: none"> (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities; (c) Details of 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) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; (h) Alternative arrangements to be put in place for pedestrians and vehicles

	<p>in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(i) Provision of parking for existing properties at Richmond Lodge and Convent Avenue during the construction period;</p> <p>(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(k) 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;</p> <p>(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
15.	<p>(a) No material change of use of any of the buildings in the proposed development shall take place without a prior grant of planning permission.</p> <p>(b) The occupation of the sheltered accommodation units onsite is restricted to age cohort 60 years and older, and shall not be sold, let or otherwise transferred or conveyed without a prior grant of planning permission.</p> <p>(c) The proposed sheltered accommodation units shall not be sold to private individuals as habitable dwellings.</p> <p>Reason: In the interest of clarity.</p>
16.	<p>Prior to the commencement of development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, as amended, which confirms that the development</p>

	<p>hereby permitted shall remain in single ownership and management and where no individual residential units shall be sold separately. Such agreement shall restrict the occupancy of all dwelling units hereby permitted to those eligible for the occupation of social and/or affordable 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>
17.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
18.	<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>

	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.
19.	<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, 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>

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.

Conor Crowther
Planning Inspector

7th March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317442-23			
Proposed Development Summary	Construction of 37 apartments and all associated site works. Demolition of warehouse building on site and removal of brick boundary wall fronting Richmond Lodge and steel fencing fronting Convent Avenue.			
Development Address	Convent Avenue, Dublin 3, D03 FA02 known as Pete's Antiques. The site is adjacent to Richmond Lodge to the south and the grounds of St. Vincent's Hospital to the north.			
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	✓	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	✓		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)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	✓	Class 10(b)(i) and (iv)/ min. 500 dwelling units and/or an area greater than 10 ha		Proceed to Q.4

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

Inspector: **Conor Crowther** Date: **7th March 2024**

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317442-23	
Proposed Development Summary	Construction of 37 apartments and all associated site works. Demolition of warehouse building on site and removal of brick boundary wall fronting Richmond Lodge and steel fencing fronting Convent Avenue.	
Development Address	Convent Avenue, Dublin 3, D03 FA02 known as Pete's Antiques. The site is adjacent to Richmond Lodge to the south and the grounds of St. Vincent's Hospital to the north.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	Given the location of the proposed development in an inner suburban area where infill residential development of a similar nature has previously been permitted, I do not regard the nature of the proposed development to be exceptional in the context of the existing environment.	No No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having	Given the location of the proposed development in an inner suburban area where infill residential development of a similar size has previously been permitted, I do not regard the size of the proposed development to be exceptional in the context of the existing environment.	No

regard to other existing and/or permitted projects?		No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>I note the proximity of the Tolka River, which discharges to North Dublin Bay, to the proposed development. Given the SuDS measures proposed as part of the proposed development and the existing services in the area, I am satisfied that the proposed development will not significantly impact on the Tolka River.</p>	<p>No</p> <p>No</p>
<p align="center">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p>Yes</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p> <p>No</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p> <p>No</p>