



An
Bord
Pleanála

Inspector's Report ABP-318661-23

Development	Construction of 21 apartments, gym, coffee bar, external communal spaces and site works.
Location	Site bounded by 11 & 32 Hanover Lane, Dublin 8.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4505/23
Applicant(s)	Lonestar Investments Limited
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party v Decision
Appellant(s)	Lonestar Investments Limited
Observer(s)	Julie McCann, Robbie Cody, Ruth Baily, & Rosemary Murphy
Date of Site Inspection	14 th November 2024
Inspector	D. Aspell

1.0 Site Location and Description

- 1.1. The site is located on Hanover Lane, Dublin 8. Hanover Lane is a single-width lane at this point. The site is brownfield, formerly occupied by sheds, and is currently used as an open-air storage yard. I would characterise the immediate area as primarily residential, and the wider area as mixed use, particularly to the west.
- 1.2. The site fronts onto Hanover Lane to the north. Across Hanover Lane is a mix of 1-, 2-, and 3-storey residential development (St. Francis Square bungalows and Hanover Square apartments). To the east, the site is adjacent the side and rear of a terrace of 2-storey dwellings along Hanover Lane and Hanover Square. To the south-east, a 1-storey dwelling backs onto the site (No. 4 Hanover Square). To the south, a 2- and 3-storey apartment building (Jellet House) backs onto the site. To the west, 3- and 4-storey, mixed-use buildings with rear extensions back onto the site (Nos. 57, 58 and 59 Francis Street and No. 34 Hanover Lane). Adjoining the site to the north-west is a vacant site which also fronts onto Hanover Lane (referred to as No. 32 Hanover Lane); the subject site extends to the side and rear around this site.
- 1.3. The site and surrounding area form part of the Thomas Street & Environs Architectural Conservation Area. No. 59 Francis Street is a protected structure.

2.0 Proposed Development

- 2.1. The proposal generally comprises the following:
 - A 21 no. unit apartment development ranging in height from 2 to 4 storeys;
 - Ground floor resident's gym, coffee bar, and communal spaces;
 - Services, waste, storage and cycle parking at basement. The development is to incorporate a basement previously constructed on the site (Ref. 5588/03).
- 2.2. The proposed block would, broadly speaking, be in a 'C' shape, around a central courtyard, and open on the eastern side. The block would be 4-storeys on the northern (along Hanover Lane), southern, and western sides of the site, and would step down to 2-storeys generally on the eastern side of the site.
- 2.3. Relatively minor revisions to the proposal are set out in the first party appeal.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council issued a notification of decision to refuse permission for 2 no. reasons, summarised as follows:

- Reason 1: The development constitutes overdevelopment of the site having regard to the proposed scale, mass and form; to the significant exceedance of indicative density, plot ratio and site coverage standards; and that a significant number of apartments in would fail to provide sufficient amenity for proposed residents as set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022;
- Reason 2: The development would seriously injure the residential amenities of adjoining properties by reason of overbearing impact, overlooking, reduced daylight/sunlight and overshadowing, and would prejudice the future development of the adjoining land at 32 Hanover Lane, having regard to the design, scale, mass and height.

3.2. Planning Authority Reports

3.2.1. Planning report: The planning authority report recommended refusal. The report made the following points:

- Density: Density is excessive. Plot ratio & site coverage exceed development plan indicative ranges having regard to ACA;
- Overdevelopment: Design provides a poor-quality occupant environment and prejudices development of adjoining lands, which indicates overdevelopment;
- Visual impact: Proposal fails to respect building line and would be discordant;
- Height & Form: Height and form partly match the context. The eastern elevation abruptly transitions in scale, massing and height from adjoining dwellings. The 2-storey duplex would be overbearing;
- Residential standards: Insufficient dual aspect. Outlook is limited by opaque glazing. 6 rooms will receive no sunlight. Concern at separation distances;

- Amenity space: Quantum / quality of private & communal external space is unacceptable in terms of noise and privacy. No proposed communal spaces would receive sunlight on 21st March; insufficient space is proposed if these areas are discounted. Overhead floors would obscure balconies. A contribution in lieu of public open space is proposed;
- Internal light: Many units would have poor natural light. The extent of mitigation measures results in poor occupant amenity. Circulation areas are devoid of light. Outlook for many apartments & private amenity spaces would be poor. Proposal does not accord with apartment guidelines;
- Neighbour light: The alternative baseline targets are unreasonable. Only 36% of existing windows would meet requirements for habitable windows. All adjoining properties would be adversely affected except 58 Francis St. There would be an increase in existing open areas not receiving sufficient sunlight. No overshadowing assessment submitted;
- Privacy: Privacy concerns, especially upper-level balconies & adjacent units;
- Adjacent site: Glazing at the boundary will constrain residential development on No. 32 Hanover Lane. Removal of these windows will reduce natural light;
- Archaeology: The basement would impact archaeology.
- Access: A ground floor setback is proposed; areas that are overhung cannot be taken in charge. No details for emergency vehicle access are provided;
- Cycle parking: The type of parking is a concern. Revised details required;
- Construction management: No CEMP provided. Further information required;

Other Technical Reports

3.2.2. Roads Planning: Report recommended further information, summarised as follows:

- Access: Lane width is c.3-4m with no footpaths. Site has vehicular access;
- Vehicle parking: No car parking is proposed. Road planning has no objection;
- Cycle parking: No details provided of short stay, visitor parking, or charging. Two-tier parking is proposed; applicant should investigate 1-tier parking;
- Waste: Collection proposals are acceptable;

- Emergency access: No proposals submitted;
- Construction: The report states no CEMP was submitted;
- Taking in charge: Proposed 1st, 2nd and 3rd floors will overhang the Lane; no overhung areas will be taken in charge by the planning authority;
- Further information recommended regarding cycle parking design and details; emergency vehicle access; basement access; and construction management.

3.2.3. Drainage: Report recommended permission be withheld subject to further information, summarised as follows:

- Applicant to submit a surface water management plan to incorporate sustainable urban drainage systems, and consider proposals for green / blue roof and reuse of rainwater;
- Applicant to submit an appropriate flood risk assessment.

3.2.4. Archaeology Section: Report recommended further information, as follows:

- Site is in the zone of archaeological constraint for recorded monument DU018-020 'Historic City';
- An archaeology report from 2007 showing results of site testing and recommending further mitigation was submitted with the application. The basement on site was built c.2007-2009 (Ref. 5588/03) however a final archaeology monitoring report required by Cond. 11(h) of that permission is not available. Applicant should submit a final report showing results of monitoring undertaken for the basement as previously required.

3.3. **Third Party Observations**

3.3.1. During the planning application stage five observers made submissions to the planning authority. The issues raised related to: impacts on natural light; privacy; visual impact; scale; character; tenure; impact on development potential of neighbouring lands; and Francis Street public realm.

3.4. **Prescribed Bodies**

Transport Infrastructure Ireland: Condition for Section 49 levy.

4.0 Planning History

4.1. Subject site

Ref. 5052/22: Planning permission refused by the planning authority in 2022 for a Build to Rent development comprising 25 no. apartments in a 4 storey over basement block, to include management office, communal lounge area, basement storage and accessible communal roofs, 3 no. car parking spaces, 43 No. bicycle spaces, vehicle access to Hanover Lane, landscaping, balconies, and ancillary development works. The proposal was refused for 5 no. reasons:

1. It failed to address the historic Thomas Street & Environs ACA and would contravene Policy CHC4 of development plan 2016-2022;
2. It would seriously injure the residential amenities of adjoining properties, particularly along St. Francis Square and Hanover Court by overbearing impact, overlooking, daylight/sunlight & overshadowing;
3. It would be overdevelopment, and a significant number of apartments would not provide sufficient amenity as set out in the Apartment Guidelines;
4. In the absence of an archaeological assessment the planning authority was not satisfied the proposal would not impact archaeological remains;
5. Planning authority was not satisfied the proposed Hanover Lane access & servicing arrangements would be adequate.

I note below two older permissions at the site as they relate to the existing basement on the site which is proposed to be incorporated into the subject development:

Ref. 5014/07: Planning permission granted by the planning authority in 2007 at the subject site for alterations to previously granted permission Ref. No. 5588/03 consisting of change of use of Commercial Unit 3 fronting Hanover Ln to ESB sub-station and extension of Commercial Unit 2 into Unit 3. Decision was not appealed.

Five conditions were attached. None specifically related to archaeology.

Ref. 5588/03: Planning permission granted by the planning authority in 2004 for demolition of sheds and workshops and construction of new four storey building consisting of: basement with 19 car spaces, 20 cycle spaces, and refuse storage

accessed by a ramp from Hanover Lane. Ground floor containing: 3 commercial units, apartments, landscaped courtyard (165sqm) and private gardens. First and 2nd floors to consist of apartments and balconies. Third floor to contain 3 penthouses with roof terraces. 19 apartments in total. This decision was not appealed.

Sixteen conditions were attached. Condition 3 related to archaeology and required amongst other things the provision of a detailed impact statement based on the final permitted development. The report was for the planning authority and National Monument Service to determine the exact nature and extent of archaeological excavations. A report was also required containing the results of the archaeological excavation and post-excavation which was to be submitted to the planning authority and National Monuments Service.

These permissions were partly implemented (demolition of sheds and construction of basement) and lapsed in 2009.

4.2. Nearby sites:

Ref. 3565/24: Planning permission granted by the planning authority in 2024 at No. 59 Francis Street for alterations to the rear of the protected structure. The permitted works included, amongst other things, a new door, an enlarged window, and a private amenity terrace all at the 1st-floor rear elevation.

Ref. 2792/17: Part 8 Planning authority own development. Environmental Improvement Scheme for Francis Street, Hanover Lane and Dean Street, Dublin 8, comprising improvements to the public realm to include kerb buildouts, footway repaving, raised junction plateaus, kerb buildouts to formalise parallel parking and loading bays, landscaping, bicycle stands, carriageway resurfacing, raised pedestrian crossings and ramps, public lighting improvements and all associated ancillary works. The approved works along Hanover Lane have not been completed.

For completeness I note the appellant refers to older applications on and adjacent the site which were decided under previous development plans, which were not implemented, and which have since lapsed.

5.0 Policy Context

5.1. Development Plan

The site is zoned 'Z4 Key Urban Villages / Urban Villages' where the land use zoning objective is "*To provide for and improve mixed-services facilities*". I note the following development plan provisions:

Regarding residential amenity and apartment development, Policy SC11 'Compact Growth', Policy QHSN37 'Houses and Apartments', and Section 15.9 'Apartment Standards' incl. 15.9.18 'Overlooking and Overbearance';

Regarding building density, plot ratio and site coverage, Section 4.5.4 'Increased Height as part of the Urban Form and Spatial Structure of Dublin'. Appendix 3 'Height Strategy', Section 3.2 'Density' including Table 1 'Density Ranges' and Table 2 'Indicative Plot Ratio and Site Coverage';

Regarding architectural heritage: Thomas Street & Environs Architectural Conservation Area is identified in Appendix 5 'Conservation'. The Thomas Street & Environs Architectural Conservation Area 2009 study is a standalone document. Chapter 11.5.2 'Architectural Conservation Areas' and Policy BHA7 'Architectural Conservation Areas' are also relevant;

Regarding archaeology: The site is within the zone of archaeological interest for Recoded Monument (DU018-020 'Historic City'. The site is also within an area identified as 'Medieval City' in the development plan (Figure 11-2 'Dublin's Historic Core'). Policy BHA26 'Archaeological Heritage', including Section 15.15.1.8 Archaeological Mitigation;

The site is within the area of SDRA 15 'Liberties and Newmarket Square' (Section 13.17, Objective SDRAO1 and Figure 13-18). The only site-specific provision relating to the site is public realm improvements along Hanover Lane as part of the Hanover Lane Improvement Scheme (Ref. 2792/17).

5.2. Liberties Local Area Plan 2009

5.2.1. The Liberties Local Area Plan expired in 2020.

5.3. National guidelines and strategies

Sustainable Residential Development & Compact Settlements 2024, including SPPR3 Car Parking and 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. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

There shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis prevent undue loss of privacy.

In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties.”

Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities 2022, incl. paragraphs 6.7 in relation to alternative compensatory design solutions and 4.11 in relation to sunlight to communal amenity spaces. Paragraph 4.11 states that designers must ensure the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.

Urban Development and Building Heights Guidelines for Planning Authorities 2018

5.4. Natural Heritage Designations

- 5.4.1. South Dublin Bay & River Tolka Estuary SPA and South Dublin Bay SAC are c.4.0km to the east.

5.5. Environmental Impact Assessment screening

- 5.5.1. Having regard to the nature and scale of the proposed development of a 21 no. unit apartment building, the location in a serviced area, and to the criteria set out in Schedule 7 of the Planning & Development Regulations 2001, as amended, I consider that 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. (See Form 1 & 2 Appendix 1).

6.0 The Appeal

6.1. Grounds of First-Party Appeal

- 6.1.1. A first-party appeal was received, summarised as follows:

- Density: Appeal states planning authority planner report used wrong figures. Development is within plot ratio and site coverage indicative ranges. Plot ratio is 1.84 excluding basement and site coverage is 44% which is acceptable in the ACA. The density of 232 upha is acceptable;
- Height, form & scale: Appeal sets out rationale against development plan policies incl. Appendix 3. It states the surrounding height is 2-7 storeys and that adjacent dwellings are anomalous. Proposed height steps down to south / east;
- Residential standards: All units exceed minimum requirements. Three-quarters of units are dual aspect. Apartments overlook the street or communal spaces;
- Amenity space: Internal & external communal space is provided. Appeal states the c.209sqm of communal amenity space exceeds the 116sqm required;
- Overlooking: Appeal states there will be no overlooking of adjacent units / private amenity spaces;

- Natural light: Appeal states proposal complies with BRE guidelines. It states BRE guidelines allow for alternative targets to be used in a city centre and therefore a baseline of a 4-storey building is used for this site. Appeal states that when tested against the alternative baseline, neighbouring properties will generally not be affected. Appeal states 95% of rooms comply with guideline requirements and 100% if marginal results are included;
- Prejudicing adjoining lands: Appeal states the proposal allows for future development of No. 32 Hanover Lane, with no gable windows or balconies proposed. It states further conditions in this regard could be attached;
- Archaeology: Pursuant to permission Ref. 5588/03 (Cond. 11) an archaeology assessment & site monitoring report were carried out when the basement on site was constructed. Appeal states there are no archaeological remains on site, and as determined under a subsequent permission on the site (Ref. 5014/07) any outstanding matters can be addressed by condition. Appeal notes the existing basement has been temporarily backfilled;
- Access: Appeal states proposal addresses concerns raised in most recent application on the site (Ref. 5052/22) in relation to capacity of Hanover Lane for additional car movements. No parking is proposed as it is an apartment development in a city location near public transport;
- Taking in charge: No part of the development is to be taken in charge;
- Water & drainage: Site is serviced by existing foul and water public networks. The submitted Irish Water pre-connection response states no objection;
- Planning history: Appeal states the proposal addresses concerns raised in refusal of previous application on site (Ref. 5052/22). Appeal sets out details of older applications on site, and states the site history indicates comparable developments under a broadly similar policy context being were acceptable, in particular Ref. 5588/03 for 19 no. apartments;
- Procedure: Appeal states application was not properly assessed. Engineering particulars were submitted but not considered by Roads / Engineering sections.

6.1.2. The appeal refers to legal cases, policies and guidelines it states are relevant. It also sets out what it states are inconsistencies compared to assessment of previous applications at the site.

6.1.3. The appeal includes a number of revisions to the proposed development, including: a reduction in height by 0.825m; revised street profile; removal of duplex unit to rear (reducing the total units from 21 to 20); and a larger communal amenity space within the courtyard. The documents submitted with the appeal include architectural drawings, Design & Access statement; Housing Quality Assessment; a Daylight Addendum report, an Engineering report, a Flood Risk Assessment, and drawings/details relating to basement drainage, sustainable urban drainage, blue/green roof details, water supply and vehicle swept path analyses.

6.2. Planning Authority Response

6.2.1. A response from the planning authority was received (22/12/2023) requesting the decision to refuse be upheld, and that if permission is granted standard financial, naming & numbering, and management company conditions be attached.

6.3. Observations

6.3.1. One observation to the Board was received from Julie McCann, Robbie Cody, Ruth Baily, and Rosemary Murphy, summarised as follows:

- Proposal slightly altered from previous 2022 scheme which was also refused (Ref. 5052/22) and would result in the same issues for Hanover Lane residents;
- Hanover Lane is very narrow and the size/scale would seriously injure residential amenities of adjoining properties by way of overbearing impact, overlooking, light, and overshadowing. Observation states existing residents and future occupants of the proposal would be looking into each other's homes;
- Quality of life for future occupants would be minimal due to apartments size and lack of basic amenities including storage. This would lead to a high turnover of occupants and would not support community-building;
- Observation welcomes a development on the site which is appropriate and sympathetic to surroundings.

7.0 Assessment

7.1. Having regard to the foregoing; having examined the application, appeal and planning authority reports; having inspected the area around the site; and having regard to relevant adopted development plan policies and objectives, I consider the main issues in this appeal are those set out in the reasons for refusal, as follows:

- Overdevelopment, including scale, mass and form;
- Residential amenity;
- Impact on development potential of adjoining lands;
- Related matters raised in the course of the appeal.

Overdevelopment

Density:

7.2. The site is zoned Z4. Residential development is permissible in principle in this zone.

7.3. I calculate the proposed density is c.243 dwellings per hectare (dpha). Development plan Table 1 'Density Ranges' (Appendix 3) states that as a general rule a net density range of 100-250 upha in the city centre and canal belt will be supported. Having regard to the provisions of the Compact Settlement Guidelines 2024, I would characterise the area as 'City-Centre' and as an accessible location where densities of 100-300 upha are permissible. Having regard to the foregoing I consider the proposed density is acceptable in principle.

Site coverage & plot ratio:

7.4. The site is within the Thomas Street & Environs Architectural Conservation Area. Development plan Table 2 'Indicative Plot Ratio and Site Coverage' gives indicative plot ratio and site coverage ranges for conservation areas of 1.5-2.0 and 45%-50% respectively. The planning application stated the plot ratio and site coverage figures are 2.38 and 58.4%, whilst the appeal states the plot ratio is 1.84 and site coverage is 44%. Having reviewed the submitted application, I consider these latter figures are incorrect, and as such the proposal exceeds the indicative plot ratio and site coverage figures in the development plan for conservation areas. I note the development plan sets out circumstances where higher plot ratio and site coverage

may be permitted (pg. 217), however I consider none of these apply in this case. The existing basement is not included in these figures.

Building Height:

- 7.5. The proposed height ranges from 2 to 4 storeys (c.13.3m high at maximum). I have assessed the development against the requirements of the development plan, including Section 14.6 Transitional Zone Areas, Policy SC16 Building Height Locations, Policy SC17 Building Height, and development plan Appendix 3. The planning application sets out detailed considerations of the proposed height, including in relation to the Building Height Guidelines and development plan.
- 7.6. Whilst heights in the area vary, I would characterise the prevailing height in the area as 3- to 4-storeys, however there are 1- and 2- storey dwellings in the immediate vicinity along St. Francis' Square, Hanover Square and John Dillon Street. There are also 5- and 6-storey buildings in the wider area along Patrick Street, Francis Street and Dean Street.

Dublin City Development Plan Appendix 3:

- 7.7. The development plan notes that the Building Height Guidelines note that general building heights of at least 3 to 4 storeys, coupled with appropriate density in locations outside what is defined as city centre must be supported in principle at development plan level. It also notes that within the canal ring it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater heights. Development plan Policy SC16 and Appendix 3 recognise the predominantly low-rise character of Dublin City alongside the potential and need for increased height in appropriate locations; for these areas Appendix 3 states that as a general rule buildings of between 5 and 8 storeys are promoted. It also states in relation to the 'City Centre and within the Canal Ring (inner suburbs)', that a default position of 6 storeys will be promoted within the canal ring subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities. Having regard to these height ranges, I consider the proposed height broadly complies with the provisions of the development plan and is acceptable in principle.

- 7.8. Development plan Appendix 3 identifies criteria against which all higher buildings should be assessed. It states the performance criteria to be used in assessing urban schemes of enhanced density and scale are set out in Table 3 of Appendix 3. I do not consider the proposal to be higher than the prevailing height in the area, to be a locally higher building, or a landmark building. As such I consider the Appendix 3 criteria do not apply to this case. In this regard I acknowledge that whilst there are 1- and 2-storey buildings adjacent, I do not consider the proposed height to be enhanced or significantly increased beyond the prevailing height for the area. The development plan states all schemes must have regard to the local prevailing context within which they are situated, particularly in the lower-scaled areas of the city where broader consideration must be given to potential impacts such as overshadowing and overlooking, as well as visual, functional, environmental and cumulative impacts of increased building height; I assess these matters in the following sections of my report.
- 7.9. In relation to the Building Height Guidelines, and taking account of the wider strategic and national policy parameters set out in the National Planning Framework, I consider the proposed height is acceptable for the reasons set out above, and is generally consistent with the Building Height Guidelines, including SPPR 3.
- 7.10. Regarding visual impact, a small number of computer-generated images are submitted with the application and appeal. The proposed height, form, scale, and building line is comparable to the existing buildings on Hanover Lane to the west. I do not consider the proposal would be a discordant feature in the streetscape. Whilst the proposed block would be substantial, given the size and scale of development in the area, and the narrow street pattern, on balance I am satisfied the visual impact of the proposal would be acceptable.

Scale, mass and form:

- 7.11. The proposed scale, mass and form are referenced in the reasons for refusal. Buildings to the west on Hanover Lane are 3- and 4-storeys and have a similar scale, mass, height and form to the proposal as it addresses Hanover Lane. The proposal broadly follows the established building line. The 1- and 2-storey buildings immediately to the north and east are of a very low height for a central location in the City. The proposal generally steps down to 2-storeys along the eastern side of the

site adjacent the 1- and 2-storey buildings on this side of the site. The proposal is 4-storeys along the western side of the site which is comparable to the 3- and 4-storey buildings backing on to the site from Francis Street and Hanover Lane. Given the location; the narrow street pattern; and the form of development adjacent on each side; I am generally satisfied the scale, height, form and massing of the proposed building overall is appropriate for and responds to the varied setting, and is broadly consistent with local policy and national guidelines, however, I identify specific issues in the following sections below. In this regard, I have some concern regarding the proximity and layout relative to existing dwellings to the south and east, and the relationship of apartments within the proposed development.

- 7.12. In summary, whilst I consider the development generally complies with local and national density and building height provisions, it exceeds the development plan indicative plot ratio and site coverage ranges. These factors must also be considered alongside other factors including the amenity of future occupants and impacts on the residential amenity of neighbouring dwellings, which I consider below.

Residential amenity

Residential development standards

- 7.13. Regarding the proposed apartments, I consider the proposal generally meets development plan and apartment guidelines quantitative requirements in terms of mix, floor to ceiling heights, internal storage, and waste storage. Regarding floor areas and dimensions, I am satisfied the proposal generally meets local and national requirements; I note Unit 4 falls slightly below the guideline requirement for living areas, and the balcony for Unit 18 falls marginally short of the required width.
- 7.14. Regarding aspect, the applicant indicates c.81% of the units are dual aspect. Having reviewed the proposed layout I consider only 9 no. of the units would be fully dual aspect (Units 1, 8, 9, 10, 14, 15, 16 and 20, and to a lesser extent Unit No. 21). This equates to at least c.38% dual aspect which I am satisfied meets the requirements of the guidelines for this location (33%).
- 7.15. Regarding communal amenity space, the application indicates the development requires 124sqm of communal amenity space and that c.122.6sqm is proposed (comprised of c.76.4sqm in the central courtyard and c.37.2sqm adjacent the internal communal space). I consider the proposal is marginally below the minimum required,

however as a significant amount of internal communal space is also proposed (c.48sqm), overall I am satisfied with the quantum of provision.

- 7.16. However, the submitted daylight/sunlight report indicates neither of the external communal spaces would receive guideline levels of sunlight (that is, at least half the space receiving at least 2hrs of sunlight of 21st of March). One space would appear to receive no sunlight on that date, with only a small proportion of the main courtyard receiving the guideline level. The proposed internal shared common areas (gym, coffee bar & external communal space) are not required but are proposed as compensatory measures. Having regard to the poor level of natural lighting to be achieved in the main communal space, and to the requirements of the Apartment Guidelines in this regard (Section 4.11), I do not consider this is acceptable.
- 7.17. Regarding public open space, none is proposed. The applicant proposes a contribution in lieu. The planning authority planner report stated no objection in this regard. Having regard to the location, and the provisions of the Dublin City Development Plan and Section 48 Contribution Scheme, I consider this acceptable.
- 7.18. Regarding private amenity space, I consider the quantum of provision generally meets local and national requirements. The planning authority planner report stated that a number of private amenity spaces would be enclosed by overhead floors. I note 6 no. balconies would be inset within the building footprint. I am generally satisfied with this arrangement. I note the proposed courtyard access deck would extend from the courtyard elevation such that the natural light and outlook of these balconies would be further reduced. No information on the amount of sunlight these spaces would receive is provided. Whilst reducing the amenity, quality and outlook of these spaces, considering the surrounding urban context I am satisfied this arrangement is acceptable in relation to natural lighting and amenity of these spaces.

Overlooking and overbearance

- 7.19. Having regard to the following, I consider the proposal would give rise to an unacceptable degree of overlooking and impacts on privacy. Noting the number of dwellings backing onto the site on all sides, and the number of the proposed apartments in close proximity to each other, I set out below a number of issues in relation to each of the main elevations:

Southern elevations:

- 7.20. There is a 2- and 3-storey apartment building in close proximity to the southern site boundary (Jellet House). Two above-ground floor windows in the rear elevation are orientated toward the subject site. No information on the use of these rooms is provided by the applicant. No information on the internal layout of Jellet House is on available on the public record, and access was not available at the time of my site visit. Having regard to the foregoing and to my observations on site, I am satisfied that on the balance of probabilities these are most likely habitable room windows.
- 7.21. These windows would face the proposed rear bedroom windows of Units 6 and 12 at a distance of c.6m. The proposed windows would be directly opposite; would be full height and double width; and the layout of the bedrooms would be such that there would be minimal space out of view of the existing windows. On balance, and having regard to the provisions of SPPR1 'Separation Distances' of the Compact Settlement Guidelines, I consider the existing and proposed windows would overlook each other. I acknowledge the proposed windows are set back from the boundary around a lightwell mirroring a similar arrangement in Jellet House. I note a comparable arrangement was permitted under Ref. 5588/03, however I also note that in that case the proposed windows were not directly opposite; were set progressively back from the existing windows; and the room layouts provided more private space away from windows. I also acknowledge the proposed windows are to be partially obscure, however I am not satisfied additional mitigation can appropriately resolve this matter. I do not consider this arrangement is appropriate or can be resolved by condition.
- 7.22. Further regarding the southern elevation, of the proposed habitable room windows to face each other across the lightwell, the separation distance between the windows of Units 5 and 6, and between the windows of Units 17 and 18 would be c.4.5m. The kitchen windows of Units 6 and 18 are to be obscure, with the opposing bedroom windows in Units 5 and 17 to be half obscure. However, the submitted daylight/sunlight report indicates the fully obscured windows would provide light to these rooms. I have some concern regarding the accuracy of the submitted drawings and sunlight/daylight report in this regard. I am not satisfied the daylight levels stated for Units 6 and 18 are correct, however mitigation in the form of transparent glazing would give rise to overlooking. As such I am not satisfied the applicant has clearly demonstrated that appropriate amenity for these units would be provided.

Western elevations:

7.23. Regarding the western elevations, the proposed above-ground habitable windows would be over c.16m from the rear of Nos. 58 and 59 Francis Street (I have taken into account changes permitted to the rear of No. 59 Francis Street under Ref. 3565/24). This is with the exception of one window in each of the proposed Units 7 and 13 which would be c.11m from the first- and second-floor habitable room windows to the rear of No. 57 Francis Street. Mitigation for Unit 13 only is proposed at this point. Having regard to the provisions of SPPR1 of the Compact Settlement Guidelines, I consider that given the distances involved, the proposed arrangement for Unit 13 would be acceptable subject to the introduction of angled windows for the bedroom of Unit 13. However, in relation to Unit 7, the balcony for this unit would be directly opposite and c.1.5m from the first-floor rear terrace to the rear of No. 34 Hanover Lane and c.2.2m from the first-floor rear terrace of No. 57 Francis Street. The balconies of Units 13 and 19 would also be in close proximity to these terraces (c.3.5 and c.5.5m respectively). No drawings clearly showing this arrangement are provided. Whilst mitigation in relation to overlooking between Unit 7 and dwellings to the west could be achieved by condition, I consider this arrangement would likely give rise to unacceptable impacts on the amenity and privacy of the existing and proposed amenity spaces, including in terms of noise, and that it cannot be satisfactorily addressed by condition. I note the existing terrace walls provide some screening however no mitigation is proposed by the applicant.

Northern elevations:

7.24. Regarding dwellings to the north (Nos. 5-8 St. Francis' Square), as set out above these dwellings are 1-storey and back onto Hanover Lane, noting a 2-storey extension to No. 5 Francis Square. Four ground-floor and one first-floor windows face the site, as well as four private amenity spaces. The proposal is mainly 4 storeys at this point. The form and scale largely follows that of the existing apartment block at No. 32/34 Hanover Lane and is comparable to the buildings to the west along Hanover Lane and Francis Street. In broad terms I consider the proposed height, form, scale, massing, layout and building alignment along Hanover Lane is appropriate. As such I consider the proposal along Hanover Lane is overall acceptable in these regards.

7.25. Notwithstanding, I consider the proposal would give rise to significant overbearance and overlooking of the rear windows and rear private amenity spaces of Nos. 5 to 8

St. Francis' Square. However I consider that development of the site in line with policy and guideline requirements makes significant impacts in terms of overbearance largely unavoidable. This is primarily on account of the narrow width of Hanover Lane, and the orientation and low height of the bungalows. Whilst the proposed site coverage and plot ratio figures are above the indicative maxima, the proposed density and height figures are not, and the height, scale, and form of this element of the development is similar to neighbouring blocks on Hanover Lane. Regarding overlooking, whilst alternative arrangements in terms of aspect, orientation, elevations, and private amenity space may mitigate overlooking, again the proposal is comparable in these regards to existing residential blocks on Hanover Lane. As such, having regard to the proposed height, form, scale, layout and massing relative to the bungalows; the relatively dense urban nature of the area; the central location in the City; the narrow street pattern in the area; the established building lines; and the policies, objectives and core strategy of the development plan and national guidelines which seek to promote compact development in this location, I do not consider refusal of the proposal in these regards is warranted.

- 7.26. Regarding the Hanover Square apartments to the north-west, given the site is not directly opposite those apartments, I do not consider the proposal would have a significant detrimental impact in terms of overlooking or overbearance.

Eastern elevations:

- 7.27. Regarding dwellings to the east, these are primarily 2-storey along Hanover Square and Hanover Lane. The proposed block steps down to 2-storey adjacent these dwellings and along the eastern side of the site, with the 3rd and 4th storeys set progressively away from these dwellings. I am generally satisfied the proposed height, scale, massing and form would be appropriately set back and modulated in this regard. I note only 2 no. above-ground level windows in the rear of these dwellings face the subject site. The proposed windows facing these dwellings would be a significant distance away, not directly opposite, or with any potential overlooking largely blocked by existing building projections. I do not consider the proposal would give rise to significant overbearance, overlooking or privacy impacts in this regard.
- 7.28. I note the proposed 2nd and 3rd-floor balconies on this elevation (Units 16 & 21) would be c.11-13m from the rear elevations of the nearest dwellings along Hanover

Square, and c.5 to 6m from the nearest rear garden. Obscure glazing is proposed for the southern elevation of the Unit No. 16 balcony. I am satisfied that with additional obscure glazing this balcony would not have an undue impact on the privacy of dwellings to the east due to its relative elevation. The private amenity space of Unit No. 21 is large (c.29sqm) and wraps around onto the eastern elevation. The side portion of this space could impact neighbouring privacy, however I am satisfied this could be resolved by obscure glazing or a reduction in the size of the space. I consider these matters could be resolved by condition.

- 7.29. Regarding the single-storey building to the south-east (No. 4 Hanover Square), no planning history for it is on the available public record, and access to that end of Hanover Square was not available during my site visit. As such my assessment in this regard is based on the information on file and commercially available aerial photography. I am satisfied this building is in residential use. It is south-facing and does not appear to have dedicated rear/side amenity space, roof lights, or windows facing the site. There is an open area to the front which appears to be used for parking and ancillary residential storage. The proposal steps down in height at this point and would be a mix of 1-, 2- and 4-storeys adjacent. Given the position of this dwelling in close proximity to the boundary; its orientation away from the site; its lack of windows or amenity space to the side or rear; its single storey nature; and the scale, form, and orientation of the proposal which steps down toward - and is generally orientated away from - this dwelling, I consider that on balance the proposal is acceptable in terms of form, scale, overlooking and overbearance.

Courtyard:

- 7.30. Regarding the units proposed facing into the internal courtyard, I have reviewed the arrangement of habitable room windows and private amenity spaces. Of the 13 no. apartments above ground floor, there would be 3 no. points at which habitable room windows would be directly opposite each other (between Units 2 and 10, 5 and 8, as well as 11 and 14). In each case the windows would be c.11.5m apart, with the exception of the first-floor habitable windows of Unit 2 which would be c.9m from Unit 10. The shortest distance between directly opposing habitable room windows and balconies would be c.9.6m, however again I note this distance drops to 7m in relation to Units 2 and 10. The shortest distance between directly opposing balconies would be c.8m. Mitigation in the form of bedroom windows being half obscure is

proposed. I also note the proposed deck access stair would reduce visibility between Units No. 2 and 10. However, given the distances involved; the size of windows proposed; the arrangement of windows and private amenity spaces, and the provisions of SPPR1 of the Compact Settlement Guidelines, I consider the potential for overlooking and impact on privacy that would arise cumulatively is unsatisfactory and cannot be appropriately resolved by condition.

Daylight, sunlight and overshadowing

- 7.31. Regarding the natural lighting of the proposed development, I have reviewed the submitted drawings and sunlight/daylight report. I note the report commentary regarding IS/EN 17037 versus BS/EN 17037, and I have reviewed the different assessments put forward in relation to the performance of the development utilising these different standards. I am broadly satisfied with the approach taken in relation to natural lighting of the proposed apartments.
- 7.32. Regarding daylight, the report indicates the apartments would perform well. Only 3 of the 56 no. windows assessed would not meet guideline requirements (c.5%) and these windows would only fall marginally below target internal illuminance levels. In relation to sunlight to living rooms, 7 of the 21 no. rooms assessed would not receive guideline sunlight levels (that is, 1.5 hours on the 21st March) with 6 no. of these windows receiving no sunlight on this date. Of these, 4 no. rooms would be dual aspect and the remaining 2 no. rooms would be solely north facing. Given the proportion of dual aspect units overall, and that these windows would continue to receive daylight at other times of the year, I consider this is acceptable.
- 7.33. However, I have some concern regarding the consistency of the sunlight/daylight report and the submitted architectural drawings. I note that for almost all of the windows which are shown to be half transparent and half obscure, the sunlight/daylight report appears to indicate these windows are fully transparent. In a number of these cases I consider mitigation in the form of fully transparent windows would give rise to impacts in terms of overlooking and privacy (eg. the rear bedroom windows of Unts 6 and 12). I do not consider the applicant has satisfactorily demonstrated the proposed apartments would provide appropriate levels of natural lighting and residential amenity in these regards.

- 7.34. Regarding impact on neighbouring dwellings, the submitted 'Sunlight, Daylight & Shadow Assessment' states the analysis was carried out to accord with 'Site Layout Planning for Daylight and Sunlight A Guide to Good Practice' (BRE 2022). The report states the BRE guidelines allow for an alternative baseline to be utilised in some circumstances. The report then considers the impact of the proposal on existing neighbouring dwellings (that is, on visible sky component and overshadowing) assuming there was a 6-storey building on the subject site. In this context, the report indicates the natural lighting of every neighbouring window assessed would *improve* if the proposed development was constructed on the site. No clear details of the form or layout of this alternative baseline are provided.
- 7.35. In arriving at this alternative baseline the report identifies existing buildings in an area from Patrick Street to the Coombe which range in height from 4- to 12-storeys (pg. 4) and concludes that in this context 6 storeys generally matches the height and proportions of existing surrounding buildings. Acknowledging the BRE guidelines provisions for an alternative baseline to be utilised, I do not concur that a model for a 6-storey development is appropriate for this site, and as such I consider the results of the alternative baseline scenario are not appropriate to the assessment of impact.
- 7.36. Appendix 2 of the report includes analysis of the impact of the development on neighbouring dwellings based on the existing site conditions (that is, the vacant site). It indicates that of the c.47 no. neighbouring windows assessed, c.64% would not meet BRE guideline levels as a result of the proposal. Regarding sunlight to rooms, the proposal would perform better with only 2 no. of the 47 rooms not meeting either annual or winter guideline levels, and 11 no. not meeting both the annual and winter guideline levels. Regarding sunlight to amenity spaces, 2 of the 8 no. spaces assessed would not meet guideline levels. I consider these results indicate the proposed development would perform reasonably well in terms of sunlight to habitable rooms and open spaces, but that it would have a significant detrimental impact on existing neighbouring dwellings in terms of daylight.
- 7.37. However I consider there are a number of factors which should be taken account in the assessment of the proposal in these regards:
- This is a vacant, irregularly shaped, and largely undeveloped site in a central location in the City;

- There is existing residential development backing onto the site in close proximity on all four sides, some of which is single storey;
- The narrow width of Hanover Lane, the proximity of dwellings along it, and the mix of dwellings both fronting onto and backing onto Hanover Lane;
- All of the adjacent private amenity spaces, and more than half the neighbouring windows assessed would currently not meet guideline levels, and a sizeable proportion of those windows are in close proximity to existing adjacent walls or other building projections.

7.38. In my opinion these factors mean that development of the site in line with local policy and national guidelines will give rise to significant detrimental impacts on neighbouring dwellings in terms of natural lighting, particularly dwellings to the north. As such, I consider it warranted to set out additional details which illustrate how the proposal would impact daylight to windows in buildings on each side of the site:

- To the west: All windows in the rear of No. 58-59 Francis St. would meet guideline requirements. Only 3 no. in the rear of No. 57 Francis St. and No. 34 Hanover Ln. would not meet guideline requirements, and of these, 2 no. would be marginally below guideline requirements. I consider this is acceptable;
- To the east: Of the 10 no. assessed, 5 no. would not meet guideline requirements. Seven of the 10 no. are in close proximity to existing walls/projections, or are at ground floor. I consider all of the windows would continue to receive a reasonable degree of daylight and sunlight after the proposal is built. As the proposal is positioned away from these dwellings and steps down to 2-storeys adjacent, I consider this extent of impact is acceptable;
- To the north: Of the 19 no. assessed, 14 no. would not meet guideline requirements. As set out above, I consider the height, form, scale and positioning of the proposed building at this point follows the existing buildings to the west and is in line with local policy and national guidelines. I consider that whilst there would be significant overshadowing of these dwellings, this is to a large extent unavoidable if the site is to be developed in line with policy. These dwellings would continue to receive what I consider would be a reasonable degree of daylight and sunlight, given their form and context. As such I consider refusal in these regards is not warranted;

- To the south: Of the 8 no. assessed, none would meet guideline requirements. The extent of daylight loss to some of these windows would be significant (that is, half the windows would receive only c.25% of their existing level). Given the scale, layout and form of development in the area; the height and scale of the proposed block at this point; and its location in close proximity to these windows, I do not consider this extent of impact is acceptable.

7.39. Having regard to the foregoing, I consider the extent of impact indicated in terms of daylight on neighbouring properties, is, in the context of the existing form of development to the north, east and west, broadly acceptable. However, given the proximity, form and layout of the development adjacent the southern boundary, I consider the proposal would have a significant detrimental impact on the residential amenity of apartments within Jellet House to the south in terms of natural lighting. I do not consider the extent of impact shown is acceptable or that appropriate mitigation is achievable by condition.

Summary:

7.40. Having regard to the foregoing, on balance I consider the proposed development would give rise to significant detrimental impacts in terms of overlooking, privacy and natural light which cannot reasonably be resolved by condition. These issues would arise in relation to overlooking to the south between existing dwellings and proposed Units 6 and 12, as well as across the proposed courtyard between Units 5 and 8 and 11 and 14. I also consider the proposed private amenity spaces of Units 7, 13 and 19 would have a significant detrimental impact on the privacy of neighbouring private amenity spaces to the west. I also consider the poor natural lighting that would be received by the main communal open space is not acceptable, as well as the impact on the daylight received by existing apartments to the south in Jellet House. I further have concerns regarding the design relation between Units 5, 6, 17 and 18 and the clarity of the information submitted.

7.41. I note the extent of mitigation proposed throughout the development. I do not consider the above matters could be resolved appropriately by further mitigation measures by condition. Given the extent of impacts identified, and the high proportion of the proposed dwellings affected, cumulatively I consider the proposal

would not provide for an acceptable level of residential amenity and as such on balance it should be refused permission.

- 7.42. I note the development complies with local policy and national guideline requirements in terms of height and density but exceeds development plan indicative plot ratio and site coverage requirements. I am satisfied these issues correlate with the poor residential amenity that would arise as set out above.

Impact on development potential of adjoining lands

- 7.43. The second refusal reason stated the proposal would prejudice the future development of adjoining land at 32 Hanover Lane. I consider the primary issues here are 3 no. high level windows and 2 no. balconies proposed within the northern elevation abutting the adjacent vacant site, as follows:
- The windows are to habitable rooms in Units 4, 7 and 13 (ground, 1st and 2nd floor). They would be high-level windows, finished in obscure glazing, which would not give rise to overlooking, and are not required for natural light. Each of these rooms would have a second, main window. The windows would be orientated directly toward the adjacent site and would abut the site boundary;
 - The two balconies would be west-facing (Units 7 and 19, 2nd and 3rd floor) and would side onto the neighbouring site.
- 7.44. I note an observation on behalf of the owner of the adjacent site was submitted to the planning authority. It stated no objection to the proposed development, with the exception of the above windows and balconies. The observation stated the design would place an unfair burden and limit the development of that site.
- 7.45. The windows do not appear to be required for natural light or outlook. I consider the windows have the potential to place an unnecessary restriction on development of the adjacent site. I am satisfied this matter could be resolved by omission of these windows by condition. Regarding the balconies, I consider obscure, full-height glazing could be incorporated into the northern elevations of these balconies and that this could be achieved by condition.
- 7.46. I also note high-levels windows abutting the site boundary are also proposed in the south-eastern elevations (Units 3, 5, 11 and 17). Those windows are not proposed to be obscure and would be orientated toward No. 4 Hanover Square. Given their

height, I do not consider they would give rise to overlooking. In each case these windows are shown in the submitted sunlight/daylight report as providing additional light to the kitchens they serve. As set out above the adjacent building along Hanover Square currently appears to be used as a dwelling. On balance I consider these windows are acceptable.

Related matters raised in the course of the appeal

Architectural heritage

- 7.47. Elevation drawings and computer-generated images of the block are submitted. I am satisfied with the design, form, finishes and materials proposed. I consider the character of the area is mixed, including in terms of both the historical period of development, and in terms of character and design. I consider the building design and form is directly comparable to others in the vicinity, including No. 34 Hanover Lane, with a comparable degree of modulation of form and elevations. Whilst the building line at ground floor is set back, the building overall would follow the established building line on this side of the Lane. I consider the building would integrate well with development along Hanover Lane in terms of building line, height, form and materials. In the latter regard I consider the mix of brick and stone complements the prevailing materials in the ACA.
- 7.48. No comment was received from the planning authority conservation officer.
- 7.49. I am satisfied the proposal complies with development plan requirements in this regard, including Policy BHA7. I am satisfied it would not harm the ACA; would protect the special interest and character of this ACA; and would contribute positively to the character and distinctiveness of the area. I also consider it would be complementary and sympathetic to its context; be sensitively designed and appropriate in terms of scale, height, mass, density, building line and materials; and would protect and enhance the appearance of the ACA.
- 7.50. I note refusal reason No. 1 in the previous application on the site (Ref. 5052/22) was on account of the impact on the special interest and character of Thomas Street & Environs ACA. The planning authority did not refuse permission on these grounds in the subject case. Having regard to the information submitted, and the nature of the matters identified, I consider the subject proposal has addressed these matters.

Archaeology

7.51. The planning authority archaeology section recommended the applicant submit a final archaeological monitoring report detailing results of archaeological works undertaken for the basement excavation as required under Condition 11(h) of Ref. 5588/03. The appellant states the basement was previously constructed (c.2007) under a separate planning permission and was temporarily backfilled. Given that no changes to the basement depth or volume are proposed, I am satisfied this matter could be resolved by condition requiring submission of the necessary documentation. I note refusal reason No. 4 of the previous application on site (Ref. 5052/22) related to archaeology and the absence of an archaeological assessment. Having regard to the information submitted, and the nature of the matters identified, I consider refusal in this regard is not warrant subject to conditions as set out above.

Access

- 7.52. The application indicates the existing basement on site is to be incorporated into the proposed development to provide for waste, storage, cycle parking and services. The planning authority roads section recommended further information in relation to details for emergency vehicles; clarification of whether vehicle access is proposed at basement; construction phasing & access; and cycle access & parking.
- 7.53. Regarding cycling, the roads section report stated one-tier rather than two-tier cycle parking should be investigated. Having regard to the size and design of the existing basement and the internal layout proposed, I am satisfied this matter could be resolved by condition, including in terms of cycle access and there being sufficient space for single-tier parking if required.
- 7.54. Regarding construction, the planning authority roads report stated a construction & environment management plan was not submitted with the application, and recommended further information in relation to construction phasing and access arrangements to include construction access auto tracking. Review of the application documentation shows a CEMP was provided which set out construction management details including site access, swept path analysis, and traffic management. I am satisfied the outstanding matters including phasing could be dealt with by standard construction management conditions.
- 7.55. Regarding emergency vehicle access, the submitted CEMP included swept path analyses for large vehicles serving the site. It showed such vehicles can serve the

site by Hanover Lane and John Dillon Street. Pedestrian access to the rear of the site will be available as will access to the core, basement and courtyard deck. I am satisfied emergency vehicles including fire tender could serve the site.

- 7.56. Regarding vehicle access to basement, no resident vehicle parking is proposed. Services are proposed at basement. Vehicle parking in this basement was previously permitted (Ref. 5580/07). Having regard to the layout proposed I am satisfied no parking at basement is proposed, and that service vehicle access is achievable.
- 7.57. Regarding taking in charge, the roads section report stated the site area alongside Hanover Lane which would be under the proposed building overhang would not be taken in charge. No taking in charge plan is submitted, however the applicant states that no areas are proposed to be taken in charge. I am satisfied this would be acceptable subject to a standard taking in charge condition.
- 7.58. Regarding the approved Hanover Lane Improvement Scheme (Ref. 2792/17), the proposed development does not appear to conflict with the approved works.

Parking

- 7.59. Regarding parking, no car parking is proposed. I have reviewed the applicant's planning statement which sets out a rationale in this regard. The report references that the development is an apartment scheme in a central location; the provision of cycle storage; that high frequency public transport services are a 10-minute walk away; the permeable nature of the area; the range of services nearby; and that there are shared mobility services in the area. A travel plan is included.
- 7.60. I have reviewed relevant development plan provisions. Development plan Appendix 5 Table 2 'Maximum Car Parking Standards for Various Uses' indicates a maximum car parking standard of 0.5 spaces per dwelling for apartments in this area. The development plan states a relaxation of maximum standards will be considered in this zone for a site within a highly accessible location. I note the provisions of the Apartment Guidelines and Compact Settlement Guidelines; I am satisfied SPPR 3 of the latter provides in principle for car parking to be minimised, reduced or wholly eliminated in this case.
- 7.61. Parking on Hanover Lane and neighbouring streets is mostly managed. The Lane is a shared surface and connects directly to Patrick's Street for pedestrians and cyclists. There are cycle and bus lanes on Patrick Street. The site is less than 170m

walk to high-frequency bus services on Patrick Street (that is, less than every 10 minutes frequency). The site is c.250m from the city centre. The proposal is for mainly studio, 1-, and 2-bed apartments which I consider give rise to lower-than-average car ownership levels. Overall I would characterise this as a highly accessible location, with good connections by foot, cycle or bus to the city centre.

- 7.62. The planning authority roads section stated no objection in this regard.
- 7.63. Having regard to the foregoing, I consider the proposal would be acceptable in this regard, subject to attachment of a standard management company condition.
- 7.64. Refusal reason No. 5 of the previous application on the site (Ref. 5052/22) related to access and servicing arrangements. The 3 no. car parking spaces proposed in that case are now omitted and the number of apartments is reduced. In the subject case the planning authority roads section did not recommend refusal, and the proposal was not refused on these grounds. Having regard to the information submitted, and the nature of the matters identified, I consider the subject proposal has satisfactorily addressed these previous matters.

Waste

- 7.65. Waste storage is proposed in the existing basement. Temporary holding space for waste collection is indicated along the basement access ramp away from the public road. The planning authority roads section did not state an objection in this regard. I am generally satisfied with the proposal in this regard subject to the attachment of a standard management company condition.

Drainage

- 7.66. I have reviewed the application documents in this regard, including the Engineering Services Report. No flood risk assessment was submitted with the application.
- 7.67. Whilst the planning authority drainage section report requested submission of a surface water management plan outlining how surface water would be managed and to incorporate sustainable urban drainage systems (SUDS) and proposals for a green / blue roof and attenuation & reuse of rainwater, these items were actually submitted with the application. The submitted engineering services report sets out proposals for surface water management incorporating sustainable urban drainage. The report and drawings indicate a green-blue roof is proposed. The report indicates

storm water is to be attenuated on site by permeable paving, green/blue roofs, and planter boxes, and discharged to the public surface water network. The report states the ground level will be tanked over the existing basement. Drainage layouts for the existing basement are provided. The report states stormwater flow from the site to the sewer will be restricted to 2l/s, and that attenuation volumes are sufficient to accommodate a 1-in-100 year storm event with a 20% climate change provision.

- 7.68. The site is served by mains drainage and supply. No submission from Irish Water was received. A confirmation of feasibility letter from Irish Water is submitted with the application and acknowledges feasibility without the need for upgrades.
- 7.69. Regarding flood risk, I have reviewed the flood risk management provisions of the development plan. The site is not within development plan Flood Zones A or B. Review of OPW flood records do not indicate a history of flooding in the area. No significant change to the existing basement or ground levels on site are proposed. The nearest areas of higher flood probability are along Patrick Street to the west and The Coombe to the south, and these areas are at a considerably lower level to the subject site. As such I am satisfied the risk of flooding for the proposal is low.
- 7.70. In summary, the application included surface water management proposal which incorporate green/blue roofs as required by the planning authority drainage division. The site is not in an area of higher flood risk. Given the central location within the city and the information provided I am satisfied sufficient water supply and drainage capacity will be available to serve the proposal. I am satisfied with the proposal in these regards, subject to agreement of design details with the planning authority to incorporate proposals for the reuse of rainwater.

Noise

- 7.71. No assessment of noise impacts arising from the proposed internal communal space including the proposed gym on the adjoining units at ground and first floor is provided. No report from the Environmental Health Officer is recorded on the file. Considering the size of the proposed gym I am satisfied the proposal would be acceptable subject to conditions requiring internal noise mitigation for adjacent units.

Planning history

- 7.72. I note the appellant points regarding older proposal on site which were comparable in height, form and layout to the subject proposal. Those cases date from c.2003-

2008 and were decided in an older local policy and national guideline context. I am satisfied those cases are not of direct relevance to the assessment of this appeal.

Procedure

- 7.73. I note the appellant points regarding the planning authority assessment, including that some documents did not appear to have been reviewed, in particular the submitted construction environment management plan and shadow assessment. I have considered these documents in my assessment.

Conclusion

- 7.74. Having regard to the cumulative issues identified above, I consider the proposed development would have an unacceptable detrimental impact on adjacent residential amenities, and would not provide an appropriate level of residential amenity for future occupants. I have had regard to the relatively dense urban context; the location within the city; and that the development is a vacant plot with existing residential development on all sides, including some of which is a very low height for a central location. However, having regard to the provisions of local policy and national guidelines, I consider the proposal falls short of an appropriate quality and requirements in relation to the provision of residential amenity for future occupants, and has not demonstrated due regard to surrounding residential amenity. In particular I consider the proposal would give rise to unacceptable impacts in terms of overlooking and natural lighting in relation to the existing apartments to the south, and unacceptable impacts in terms of privacy in relation to existing apartments to the west. These issues arise in relation to a high proportion of the units proposed with no options evident for satisfactory mitigation by condition.
- 7.75. I am satisfied the matters identified above which I recommended to be addressed by condition were, individually and cumulatively, not of such seriousness as to warrant refusal of permission.
- 7.76. I note that whilst the proposed development complies in principle with the local and national provisions regard building height and density, it exceeds development plan indicative requirements in relation to site coverage and plot ratio, and that this correlates with the impacts identified above in terms of residential amenity.
- 7.77. As such, on balance I consider the proposed development should be refused.

7.78. Regarding the refusal reasons for the previous application on the site (Ref. 5052/22), I have addressed reasons No. 1, 4 and 5 above, and consider the proposal satisfactorily addresses these matters. However, refusal reasons No. 2 and 3 also referenced overdevelopment and the impact on the residential amenities of adjoining properties, and I do not consider the applicant has satisfactorily addressed these matters in the subject application, albeit not in relation to the same neighbouring dwellings. In this regard I note the building form in the subject application is broadly similar in terms of height, layout, form and scale to the most recent proposal refused on the site, with the exception of the 3rd and 4th floors being stepped back away from the boundary with No. 11 Hanover Lane to the east, and the addition of a 2-storey townhouse adjacent the rear of dwellings on Hanover Square.

Revised proposal

7.79. Revised proposals are submitted with the appeal, summarised as follows:

- The 2-storey Unit 2 is to be omitted. This provides for increased communal amenity space and visitor cycle parking within the courtyard;
- Reduction in height of the proposed block along Hanover Lane by 0.825m.

A number of documents are also submitted, including revised drawings; details of waste storage & collection including a waste management strategy; flood risk assessment; revised engineering services report; revised design & access report; and a sunlight & daylight addendum report. The Board may wish to circulate the revised proposal to interested parties, however given the information submitted and the modest extent of changes proposed I do not consider this is necessary.

7.80. Regarding impact on natural light for neighbouring dwellings, the addendum report presents an assessment of the impact on neighbouring dwellings by illustrating how incremental increases in height (1m increments) above 1-storey on this site would impact neighbouring dwellings. The report seeks to illustrate how any significant increases in height over 1-storey will have a significant impact on neighbouring dwellings, particularly to the north. I note the report only shows the impact up to height on site of 9.6m which is considerably below the proposed height. The report also presents figures showing the resulting impact if a now lapsed permission on the adjacent site to the north-west (No. 32 Hanover Lane) dating from 2007 is included.

- 7.81. In broad terms I consider the addendum report further illustrates the point that developing the subject site in line with policy and in a similar manner to existing buildings along Hanover Lane to the west will have significant detrimental impacts on neighbouring residential development, particularly to the north. The report however does not provide significant additional assessment of the impact of the actual development proposed. I note that with the omission of Unit 2 and the increase in size of the central courtyard communal amenity space to c.124sq the sunlight/daylight addendum report indicates the larger space would meet guideline requirements of sunlight. I am satisfied the revised proposal satisfactorily addresses this matter.
- 7.82. Regarding the relationship to adjoining properties, no changes to the high-level obscured windows adjacent the boundary are proposed, and no changes to the relationship with other units to the south, east or west are proposed.
- 7.83. Having regard to the foregoing, I do not consider the revised proposal satisfactorily addresses the substantive matters identified in my report above, and that as such I consider that the revised proposal should not be permitted.

8.0 Appropriate Assessment screening

- 8.1. I have considered the proposed student accommodation development in light of the requirements of Section 177U of the Planning & Development Act 2000 as amended. The subject site is not located within or adjacent any European Site designated SAC or SPA. The closest European sites, part of the Natura 2000 Network, are South Dublin Bay & River Tolka Estuary SPA and South Dublin Bay SAC which are located c.4.0km from the proposed development. The proposed development is located in a serviced urban area, and comprises 21 no. apartments. No significant nature conservation concerns were raised as part of the appeal. Having considered the nature, scale and location of the development I am satisfied it can be eliminated from further assessment as there is no conceivable risk to any European Site. The reason for this conclusion is the nature of the site and its location in an urban area, served by mains drainage, the distance to any European Sites, and the urban nature of intervening habitats and absence of ecological pathways to any European Site. I conclude that on the basis of objective information the proposed development would

not have a likely significant effect on any European Site(s) either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment Stage 2 under Section 177V of the Planning & Development Act 2000 as amended is not required.

9.0 Recommendation

9.1. I recommend permission be **Refused** for the reasons and considerations below.

10.0 Reasons and Considerations

Having regard to form, scale and design of the proposed development, both as proposed at application stage and as per the revised proposals submitted at appeal, it is considered that the proposed development would have an unacceptable impact on the residential amenity of neighbouring dwellings and would not provide an appropriate level of residential amenity for future occupants on grounds of overlooking, privacy, noise and natural light, and would be contrary to Policies QHSN37 Houses and Apartments and SC11 Compact Growth of the Dublin City Development Plan 2022-2028, and SPPR 2 of the Compact Settlement Guidelines 2024. Given the high proportion of the units proposed which would give rise to the impacts identified, it is considered the proposed development would be contrary to the proper planning and sustainable development of the area and should be refused.

-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.-

D. Aspell
Inspector
6th January 2025

APPENDIX 1

Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference		ABP-318661-23	
Proposed Development Summary		Construction of 21 apartments, gym, coffee bar, external communal spaces and site development works.	
Development Address		Site bounded by 11 & 32 Hanover Lane, Dublin 8.	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) 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			No EIAR or Preliminary Examination required
Yes	X	Class/Threshold 10(b)(i)	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X	Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____

Date: __ 11/10/2024__

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-318661-23.	
Proposed Development Summary	Construction of 21 apartments, gym, coffee bar, external communal spaces and site development works.	
Development Address	Site bounded by 11 & 32 Hanover Lane, Dublin 8.	
The Board carried 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. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.		
Characteristics of proposed development	Proposed development comprises construction of 21 no. apartments. The proposed development has a modest footprint, comes forward as a standalone project, requires minimal demolition works, does not require the use of substantial natural resources, or give rise to production of significant waste, significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, human health or is vulnerable to climate change.	
Location of development	The development is located in an urban area on a brownfield site. The receiving location is not environmentally sensitive and is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the City Development Plan. The area is of historic and cultural significance in an Architectural Conservation Area, however given the scale and nature of development there will be no significant environmental effects arising.	
Types and characteristics of potential impacts	Having regard to the characteristics and modest nature of the proposed development, the sensitivity of its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ Date: __11/10/2024_____

DP/ADP: _____ Date: _____
(only where Schedule 7A information or EIAR required)