



An
Bord
Pleanála

Inspector's Report

ABP-319037-24

Development	The construction of a three to seven-storey apartment block comprising 36 residential units and all associated site works.
Location	Irwin Street, Kilmainham, Dublin 8
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4781/23
Applicant(s)	Abbey Building Contractors Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Abbey Building Contractors Ltd.
Observer(s)	None.
Date of Site Inspection	2 nd October 2024
Inspector	Matthew McRedmond

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History	7
5.0 Policy Context	8
5.1. National and Regional Planning Policy	8
5.2. Dublin City Development Plan 2022-2028	9
5.3. Natural Heritage Designations	11
5.4. EIA Screening	11
6.0 The Appeal	12
6.1. Grounds of Appeal	12
6.2. Planning Authority Response	12
6.3. Observations	12
7.0 Assessment	13
8.0 AA Screening	40
9.0 Recommendation	40
10.0 Reasons and Considerations	41
Appendix 1 – Form 1: EIA Pre-Screening & Form 2 EIA Preliminary Examination	

1.0 Site Location and Description

- 1.1. The subject site is a 0.092 hectare, irregular shaped parcel of land located at the junction of Irwin Street and Irwin Court, Kilmainham, Dublin 8.
- 1.2. To the north of the site is the entrance to Irish Museum of Modern Art, with onwards access to Military Road. To the east of the site is an existing 3-storey residential apartment development. To the west of the site is a short cul-de-sac, Irwin Court, that provides access to 10no. 2-storey residential units and on-street parking.
- 1.3. To the south of the subject site are existing two storey residential terraced dwellings, Bow Bridge and the River Camac, and 3/4 storey residential at Kilmainham Lane.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a 3-7-storey apartment block consisting of 36 apartment units (13 no. 1-bed, 21no. 2-bed and 2no. 3-bed) with all associated site works on this vacant site.

3.0 Planning Authority Decision

3.1. Decision

On the 16th January Dublin City Council refused planning permission for the subject proposal for the following reason:

“Having regard to scale, mass and form of the proposed building, and to the significant exceedance of indicative density, plot ratio and site coverage standards, it is considered that the proposed development would constitute overdevelopment of this restricted site, would be visually incongruous in terms of its design, would be out of character with the streetscape and surrounding area and, by reason of its visual prominence. The proposed development would seriously injure the residential amenities of adjoining properties, by reason of overbearing impact, reduced daylight/sunlight and overshadowing. As a result, the proposal is contrary to the City Development Plan 2022-2028 and to the proper planning and sustainable development of the area and would set an undesirable precedent for similar developments in the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Local Authority Planner had regard to the locational context of the site, national and local planning policy, the referral responses received, and submissions made on the application. Their assessment included the following:

- The proposal is considered to be consistent with the Z1 zoning objective.
- The proposed 391 dwellings per hectare (dph) is excessive having regard to the scale and character of adjoining dwellings.
- The site is in a transitional zonal area and a conservation area and there are significant concerns about the visual impact of the proposal abutting existing two storey terraced dwellings.
- The abrupt transition in scale is exacerbated by the design treatment of the upper level of the south façade that presents as a largely blank elevation.
- The stepped increase in height on this sloping site would result in a visually dominant and discordant addition to the street.
- The proposed materials and design offer no relief from the proposal's height, scale and massing.
- The proposal complies with apartment floor area requirements.
- 47% of all apartments are stated to be dual aspect, however 2no. units claim a southern aspect which is a narrow slip window from a bedroom.
- The sunlight and daylight assessment shows significant shading at Bow Bridge Place as a result of the proposal. Only 2 windows tested would have a Vertical Sky Component in excess of 27% with the proposed development in place. 19 windows tested would experience a reduction, resulting in a value that would be less than the 25% recommended level.
- The proposed apartments will achieve high levels of daylight in 97% of the units.
- Planning Report questions the daylight/sunlight analysis of the balconies, which are recessed. It is noted each of the apartments would benefit from

private amenity space. The benefit of ground floor unit 1 amenity space is questioned.

- Adequate communal open space is provided with adequate sunlight on 21st March.
- There is no reference to public open space provision in the submitted documentation.
- The proposal is lacking submitted documentation on climate impact, building lifecycle and blue/green roof provision.
- The subject proposal would have a negative impact on the sensitive surrounding area, would result in overdevelopment of the site due to height, impacts on neighbouring amenity and visual amenity and would be contrary to the Dublin City Development Plan 2022-2028. Permission was recommended for refusal.

3.2.2. Other Technical Reports

- **Archaeology Section:**
 - The proposed development is within the zone of Archaeological constraint for the Recorded Monument (RMP) DU018-020 (Historic City).
 - The site is also located within the historic city and is in a location with high archaeological potential.
 - Additional information sought including an archaeological assessment to be prepared in consultation with the city archaeologist. The assessment should include views from the Royal Hospital Kilmainham, which is a protected structure.
- **Transport Planning Division:**
 - The proposed set down area and overhung footpath are not acceptable to the Transportation section and includes lands not in the control of the applicant. A revised proposal including relevant consents should be obtained by the applicant.
 - There is no objection to the non-provision of car parking.

- Cycle parking is in excess of Development Plan requirements.
Adequate space to the front of all cycle parking spaces should be provided with a minimum of 2m in front of all spaces. A minimum of 2 non standard spaces required for provisions such as cargo bikes.
Additional details on visitor cycle parking gradients required.
- A revised bin collection detail is required that would not infringe on the proposed footpath.
- Further details on construction management and phasing are required.
- The Roads section recommended further information be sought.
- **Drainage Section:**
 - Seek additional information in relation to the satisfactory provision of a green blue roof.
- **Environmental Health Officer:**
 - No objection subject to conditions including submission of a construction management plan and noise level management conditions.

3.3. **Prescribed Bodies**

None on file.

3.4. **Third Party Observations**

3.4.1. A number of submissions were received from adjoining landowners/occupiers and local representatives expressing the following concerns:

- Proposal not appropriately designed for the setting and would negatively impact on the protected structure Royal Hospital Kilmainham due to scale, massing, height and layout of proposal.
- Proposal represents overdevelopment of the site with a negative impact on adjoining residents at Irwin Court and Bow Bridge.
- General redevelopment of this vacant site is welcomed.

- Proposed open space is not public and would be inaccessible.
- Residential amenity and privacy of adjoining dwellings will be significantly impacted with a related impact on property values.
- The proposal would result in unacceptable levels of overlooking and loss of privacy – particularly at Bow Bridge and Irwin Court.
- Shortage of parking will be exacerbated in the area as a result of the proposal.
- Construction of a high rise development overlooking the entrance to Royal Hospital Kilmainham would infringe on the special characteristics and heritage value of this protected structure.
- Impact of sunlight/daylight access for lower floor apartments at Bow Bridge Place is unacceptable.
- Appropriate construction management practices should be implemented.
- Monitoring of noise and dust should be provided along with regular door and window cleaning of homes in the surrounding streets.
- Subject proposal is almost 5m higher than previously permitted development of this site.
- Design of balconies fronting Irwin Court is a concern in terms of overlooking and security.
- The scheme does not reach the required ratio of dual aspect apartments which is 50%.
- Any damage to Irwin Court such as subsidence should be avoided.

4.0 Planning History

Subject Site

Ref. 6663/07: Permission refused for a 13 storey mixed use development consisting of three blocks with residential, media units, two café units and associated works. The proposal was refused permission for 3no. reasons including height impact on

character of the area, overlooking of adjoining properties and inadequate private open space.

Ref. 2811/09: Permission granted in July 2009 for the development of an 80 bed private nursing home over 2-6 storeys in height.

Ref. 3067/13: Permission granted for amendments to a previously permitted nursing home (Ref. 2811/09) to meet health and quality standards and to include No. 20 Bow Bridge within the application site to provide an 88 bed nursing home.

Adjoining Site

Ref. 3690/05: Permission granted for the re-aligning of the existing east entrance to Royal Hospital Kilmainham and providing a second set of gates.

5.0 Policy Context

5.1. National and Regional Planning Policy

- 5.1.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. National Strategic Outcome No. 1 is 'Compact Growth'. Activating strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.
- 5.1.2. The NPF contains several policy objectives that articulate the delivery of compact urban growth as follows:
- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
 - NPO 6 aims to regenerate cities with increased housing and employment.
 - NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
 - NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.

- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

- 5.1.3. Relevant national policy also includes Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities, 2024 ('the Compact Settlement Guidelines') which require higher residential densities in city/town centres and in areas with good public transport links and existing public services and facilities.
- 5.1.4. The current apartment standards are the Sustainable; Urban Housing Design Standards for New Apartments (Dept. of Housing, Local Government and Heritage, December, 2022) ('The Apartment Guidelines').
- 5.1.5. In relation to building height, the relevant guidelines are Urban Development and Building Height, Guidelines for Planning Authorities, 2018, (the 'Building Height Guidelines').
- 5.1.6. The Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019-2031 is relevant in terms of the Metropolitan Area Strategic Plan for Dublin, which also includes objectives for compact growth.

5.2. **Dublin City Development Plan 2022-2028**

- 5.2.1. The Dublin City Development Plan 2022-2028 came into effect on the 14th of December 2022 and is therefore the operative plan that relates to the subject development. The site is zoned 'Z1 – Sustainable Residential Neighbourhoods', the objective for which is 'To protect, provide and improve residential amenities'. 'Permissible Uses' in Z1 zoned areas include 'residential'.

- 5.2.2. The following vision for the Z1 zoning is provided:

"The vision for residential development in the city is one where a wide range of high-quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities such as

shops, education, leisure and community services. The objective is to ensure that adequate public transport, in conjunction with enhanced pedestrian and cycling infrastructure, provides such residential communities good access to employment, the city centre and the key urban villages in order to align with the principles of the 15-minute city.”

- 5.2.3. Section 4.5.3. of the City Development Plan addresses ‘Urban Density’, promotes sustainable density, compact development, and the efficient use of urban land. Relevant policies can be summarised as

SC10 – Ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in the Sustainable Residential Development in Urban Areas Guidelines (2009) ...and any amendment thereof.

SC11 – Promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, while respecting the established character of the area and being supported by a full range of social and community infrastructure such as schools, shops and recreational areas.

SC12 – Promote a variety of housing and apartment types to create a distinctive sense of place.

- 5.2.4. SC14 and SC15 of Section 4.5.4 contain policies relating to ‘Building Height Strategy’, and ‘Building Height Uses’, which should be consistent with SPPR’s 1 to 4 of the ‘Building Height Guidelines, while SC16 ‘Building Height Locations’ recognising the potential and need for increased height in appropriate locations, which are identified in Appendix 3 *‘Achieving Sustainable Compact Growth Policy for Density and Building Height in the City’*.
- 5.2.5. Objective CSO7 seeks *‘To promote the delivery of residential development and compact growth through ...a co-ordinated approach to developing appropriately zoned lands aligned with key public transport infrastructure, ...and underutilised areas’*.
- 5.2.6. QHSN6 – Urban Consolidation: *To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of*

existing housing stock and use of upper floors, subject to the provision of good quality accommodation.

- 5.2.7. Policy QHSN10 'Urban Density' seeks *'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'.*
- 5.2.8. QHSN11: 15 Minute City *To promote the realisation of the 15-minute city which provides for liveable, sustainable urban neighbourhoods and villages throughout the city that deliver healthy placemaking, high quality housing and well designed, intergenerational and accessible, safe and inclusive public spaces served by local services, amenities, sports facilities and sustainable modes of public and accessible transport where feasible.*
- 5.2.9. Policies QHSN36-39 inclusive address and promote apartment developments, while Section 15 sets out the development standards that apply to developments.

5.3. Natural Heritage Designations

- 5.3.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are South Dublin Bay and River Tolka Estuary SPA located c 4.6 km north-east and South Dublin Bay SAC located c 5.4 km south-east.

5.4. EIA Screening

Having regard to the nature of the proposed development comprising the demolition of an existing dwelling and the construction of an apartment development on a brownfield site, in an established urban area and where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See completed Form 2 at Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has appealed against the decision made by Dublin City Council to refuse permission for the proposed development.

The grounds of appeal can be summarised as follows:

- The proposed development is fully compliant with Local, Regional and National planning guidelines, which support the efficient and sustainable use of zoned and serviced lands.
- The proposed development achieves a high standard of contemporary architecture, which improves the visual amenity of Irwin Street and is of a scale and height that is appropriate at this location.
- The proposed building has been designed to positively reinforce the context of the streetscape.
- The development will present minimal impacts to existing levels of residential amenity that could be considered undue in the context of efficient urban development.
- The appeal includes an alternative design option that reduces the proposal from 3-7 storeys to 2-6 storeys.

6.2. Planning Authority Response

The Planning Authority sought their decision to be upheld by An Bord Pleanála. Recommended conditions if the Board are minded to grant permission.

6.3. Observations

None on file.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the grounds of appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered can be assessed under the following headings:

- Alternative Design Option
- Principle of Development
- Scale, Design and Layout
- Compliance with Residential Standards
- Impacts on Residential Amenity
- Daylight and Sunlight
- Public Open Space / Public Realm
- Impact on Protected Structure
- Archaeology

7.2. Alternative Design Option

7.2.1. To address the reasons for refusal the applicant/appellant has provided an alternative design solution in the appeal that would reduce the proposal in height from 3-7 storeys to 2-6 storeys. This is included in Drawing ABP-PA-00, Drawing ABP-PA-01, Drawing ABP-PA-02, Drawing ABP-PA-03, Drawing ABP-PA-04, Drawing ABP-PA-05, Drawing ABP-PA-06, Drawings ABP-PA[EL]-01 to PA[EL]-04 and ABP-PA[SC]-01 & 02 submitted with the appeal. I consider the revised design is a reasonable proposal to reduce the density, plot ratio, height and associated impacts of the proposal, subject to detailed assessment below. I base my assessment in the following sections on this revised proposal.

7.3. Principle of Development

7.3.1. The reason for refusal by the Planning Authority refers to the scale, mass and form of the proposal and the exceedance of indicative density, plot ratio and site coverage standards. The Planning Authority considered that the subject proposal would lead to

overdevelopment of the site with unacceptable impacts on the character of the area and would seriously injure the residential amenities of adjoining properties due to overbearing, overshadowing and reduced sunlight/daylight.

- 7.3.2. National Strategic Outcome No. 1 outlines 'Compact Growth' as a top priority. The NPF seeks to make better use of under-utilised land, with higher housing densities and which are better served by existing facilities and public transport.
- 7.3.3. The site is zoned 'Z1 – Sustainable Residential Neighbourhoods', the objective for which is 'to protect, provide and improve residential amenities'. 'Permissible' uses in Z1 include 'residential'.
- 7.3.4. Section 4 of Appendix 3 of the Dublin City Development Plan sets out a number of criteria which must be met by proposals for increased height and density. This includes compliance with the criteria set out in Table 3 of Appendix 3, which I have assessed the subject proposal against in the following sections. All proposals in this regard must demonstrate development of new homes in line with compact growth principles set out in the NPF, proximity to high quality public transport, employment, services and facilities, provision of social and community infrastructure, and provide a mix of units and illustrate that the site is suitable for the area in question.
- 7.3.5. The proposed development would animate and enhance the existing site which currently consists of a derelict and long term vacant site that has surrounding hoarding at the site boundaries. The re-development of the site for apartments would bring added vitality to the site and the area, would be consistent with a predominantly residential area and would provide a built form that is appropriate at this location.
- 7.3.6. As required under national policy for compact growth, the site is located in a serviced area with associated shops, amenities and facilities for the public. The site is within easy walking distance of a range of supporting infrastructure and services and is close to a range of employment locations associated with the City Centre and surrounds. Public Transport is easily accessible from the site with LUAS and bus transport within walking distance.
- 7.3.7. I am satisfied that the proposed residential development would be consistent with the Z1 zoning objective, and I have no objection to the development of the subject site or

the construction of a residential development at this location, subject to other standards and requirements being met.

7.4. Scale, Design and Layout

- 7.4.1. The proposed development as put forward in the appeal provides for a two to six-storey structure, comprising a three storey element facing Irwin Street with setbacks from the southern boundary at third, fourth and fifth floor. The revised proposal also provides a flat treatment to the roof of the sixth/top floor, in comparison with the scheme refused permission by the Planning Authority, which projected into an A-shaped roof format, giving the building extra height that is now reduced. The height of the building rises gradually from south to north with the taller element at the northern end of the street. Parapet heights in the revised proposal are indicated as approximately 18.6m for the six-storey element facing Irwin Street when measurement is taken from the northern end of this street, with heights of approximately 11m given at the southern, 3-storey element of the proposal. The maximum height of the proposed building is approximately 19.7m, when taken from a mid-point along the frontage of the site to Irwin Street where the 6 storey element begins to step down towards the southern boundary of the site.
- 7.4.2. The prevailing built character of the area consists of a mixture of two storey terraced residential buildings, three storey apartment buildings and more recent infill developments with modern facades at Heuston South Quarter that rise up to 8 storeys. All buildings in the area present a variation in parapet levels. Immediately adjacent 2-storey dwellings on Irwin Street have ridge heights of approximately 7.9m. To the east, the three storey residential buildings at Bow Bridge Place have an approximate height of 16.3m as well as the blocks of up to 8-11 storeys (approx. 49m) at Heuston South Quarter.
- 7.4.3. I consider the proposed height is in keeping with the surrounding streetscape. Whilst I note that the total height of the proposal is higher than the existing dwellings at Irwin Court and on the east side of Irwin Street, I consider the proposed height is not significantly out of context at this location and provides a gradual increase in height towards the taller buildings at Heuston South Quarter. I do not consider it to be visually dominant or obtrusive and I consider the location to be suitable noting the presence of increased height in the vicinity, including further north at Heuston South

Quarter and the Garda Headquarters at Military Road which are visible from Irwin Street. The proposed building does however represent an increase from the prevailing height in the immediate surrounds of the site as defined in Appendix 3 of the Development Plan. Given the reasons for refusal and grounds of appeal, I consider it necessary to apply the performance criteria relating to building height set out in Table 3 of Appendix 3 of the Development Plan, and I do so in the following sections.

- 7.4.4. The proposal incorporates a mixture of light coloured buff brick cladding, with light-silver colored metal panels making up the secondary cladding finish. Considering the site constraints, I am of the view that the overall design and scale, is of sufficient quality to be considered appropriate to the character of the area as well as having regard to the existing built form and scale of adjacent properties.
- 7.4.5. I am satisfied that the design and layout of the building is appropriate, and I consider that the material finishes proposed by the applicant are also acceptable at this location.

Density and Building Height

- 7.4.6. The proposed development as put forward at appeal stage by the applicant/first party appellant consists of a single building, which would be stepped from part 3 storey at the southern end adjacent to the residential buildings to the south at Irwin Street rising incrementally to 6 storey at its northern end closest to the junction with Irwin Court and the entrance to Royal Hospital Kilmainham/IMMA. At the western elevation, the proposed building rises from 2-storeys facing west at Irwin Court, to 5 storeys at the northern end of the site. In assessing the height and density of a proposed development, it is necessary to first examine the plot ratio and site coverage followed by the nature/classification of the subject area in the context of national and local policies.
- 7.4.7. The plot ratio of 3.2 is considerably above the range of 1.5-2.0 set out in Table 2 of Appendix 3 to the development plan for a Conservation Area, while site coverage at 54.3% is above the recommended 45%-50% range. However, the Development Plan provides that higher plot ratio and site coverage may be permitted in sites adjoining major public transport corridors, where an appropriate mix of residential and

commercial uses is proposed and on sites that facilitate comprehensive re-development in areas in need of urban renewal. As set out in Appendix 3 of the Development Plan, plot ratios above 3.0 must be accompanied by a compelling case.

- 7.4.8. The 29 no. apartments in the revised scheme put forward at appeal would have a density of 315 units per hectare (uph) which is higher than the net density range of 100-250 units per hectare set out in Table 1 of Appendix 3 to the Development Plan and the 300uph maximum recommended in the Compact Settlement Guidelines. A density of 250 would equate to 23 units at the subject site, or a further reduction of 6no. units from that put forward at appeal stage, which could be generally achieved by removing another floor of the building and I will consider this matter further below.
- 7.4.9. Appendix 3 to the Development Plan identifies that public transport corridors including BusConnects corridors are appropriate locations where enhanced density and scale will be promoted, while the Compact Settlement Guidelines recommend that densities up to 300uph apply to sites such as the application site (Dublin City Centre sites, defined as the area within the Canals). The Compact Settlement Guidelines state that there is a presumption against densities in excess of 300uph and this should only be facilitated through a plan lead process.
- 7.4.10. As noted, while it would be possible to reduce the density to 250 units per hectare by removing a further 6-7 units from the scheme, and therefore lowering the height of the building by two storeys in total, I do not consider it to be appropriate to alter the scheme so significantly that it would compromise the design merits of the overall building proposed. I am satisfied that the alternative proposal put forward by the applicant in the first party appeal to reduce the proposed development by one storey and the overall number of apartments to 29no. (11no. 1-bed, 16no. 2-bed and 2no. 3-bed) is appropriate to reduce the visual impact of the proposal and provide a more appropriate height at this location. However, the revised density of 315 units per hectare, and plot ratio of 3.2, would be above any recommended density and plot ratio standards in the Dublin City Development Plan or the Compact Settlement Guidelines and therefore I do not consider this level of development to be acceptable at this location. There are provisions in place to allow the recommended plot ratio to be exceeded such as requirements for urban renewal and access to high quality public transport, which I consider the subject proposal to be consistent with.

However, I recommend refusal of permission in relation to the proposed density, which is above the Dublin City Development Plan recommended range of 100-250uph and contrary to the presumption against schemes above 300uph. The Compact Settlement Guidelines also recommend a density range of 100-300uph in Dublin City Centre, within the Canals. While the Compact Guidelines do allow density above the recommended ranges in exceptional circumstances, due to other impacts caused by the subject development I do not consider an exceedance of 300uph to be appropriate in this instance and recommend refusal of permission for this reason. The very high density gives rise to significant sunlight and daylight impacts and concerns in relation to over-development of the subject site, which I assess in the following sections.

Compact Settlement and Building Height Policy

- 7.4.11. The Compact Settlement Guidelines (2024) have replaced the now revoked 'Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- 7.4.12. Section 3.3 sets out a series of settlement and area types and recommends density ranges that should be applied to them. Table 3.1 states that 'City - Centre' in Dublin includes lands within the canals, where it is a policy and objective of the Guidelines that residential densities in the range 100 dph to 300 dph (net) shall generally be applied.
- 7.4.13. The Apartment Guidelines (2023) note at paragraph 2.23 that the NPF signalled a move away from general blanket restrictions on building height in development plans, and that this should be replaced by performance criteria, appropriate to a site's location. The Apartment Guidelines also state that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and that this is addressed in the Building Height Guidelines.
- 7.4.14. The Building Height Guidelines note that some development and local area plans have set generic maximum height limits which if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the NPF.
- 7.4.15. Paragraph 1.10 of the Height Guidelines considers that it is appropriate to support building heights of at least 6 storeys at street level as the default objective, with

scope to consider even greater building heights. Paragraph 1.20 notes that a key objective of the NPF is to see that greatly increased levels of residential development in urban centres and significant increases in building heights and overall density of development. The Guidelines also state that setting height limits effectively displaces development and represents a lost opportunity in locations where demand for accommodation is high.

7.4.16. Section 3.2 of the Height Guidelines states that development should satisfy the following criteria:

- At the scale of the relevant city/town, high capacity, frequent public transport should be available, and the development should successfully integrate into/ enhance the character and public realm of the area,
- At the scale of district/ neighbourhood/ street, the proposal should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered and should positively contribute to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.
- At the scale of the site/building, the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light, regard should be given to daylight and include compensation where necessary, for a lack of daylight.

7.4.17. While the subject proposal is appropriately located in relation to public transport connections and is suitable to the character of the area, is appropriately designed and modulated within the streetscape and is of an acceptable height at this location, I have concerns in relation to the impacts of overshadowing and daylight provision to adjoining properties which I review in detail below.

7.4.18. Appendix 3 to the Development Plan sets out specific guidance regarding the appropriate locations where enhanced density and scale including increased height will be promoted via performance criteria for the assessment of such development and states that where a scheme proposed buildings and density that are significantly

higher and denser than the prevailing context, the performance criteria set out in Table 3 shall apply.

- 7.4.19. Appendix 3 also states that in accordance with SPPR 1 of the Building Height Guidelines, a default position of 6 storeys will be promoted for new development within the Canal Ring, subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities. It also states that where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided to protect existing amenities.
- 7.4.20. Policy QHSN10 Urban Density seeks 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.
- 7.4.21. As I concluded above, the proposed density of 315uph is not acceptable at the subject site, given the overshadowing and sunlight/daylight impacts caused by the subject proposal. I recommend refusal of permission for this reason.

Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale

- 7.4.22. One of the key elements of the Planning Authority reason for refusal and first party appeal against that refusal is regarding the density and scale of the proposed development and consequent overlooking, overshadowing and overbearance that would follow. In that context, I will assess the proposed development against the performance criteria set out in Table 3 of Appendix 3 to the City Development Plan.

No	Objective	
1	To promote development with a sense of place and character	<p>The architectural design statement highlights that while the whole site will be filled in by the proposed development, Irwin Street will gain a renewed liveliness as a result of the occupation of the west side of this street.</p> <p>The immediate context is that the buildings to the south, east and west within Irwin Court and Irwin Street make up the perimeter of the urban block. Building heights in the immediate</p>

		<p>vicinity range from two storeys at Kilmainham Lane and Irwin Court, three storeys at Bow Bridge Place, four storeys at Bow Bridge Court and up to eight storeys at Heuston South Quarter.</p> <p>The proposed development is designed to respond to the increasing heights at Heuston South Quarter to the north by being 6 storeys at the northern end of the site before stepping down at the southern end to 2-3 storeys to respond to the lower residential buildings to the south.</p> <p>The presented view, view 2, as submitted by the applicant illustrates the proposed development looking south from Military Road. At the junction of Irwin Court and Irwin Street, the proposal rises to 6/7 storeys in height. As can be seen from view 2, the proposed building rises somewhat incongruently in this skyline, primarily due to surrounding building heights and the falling ground levels further south from the site. I consider that the reduction in height by one-storey (as put forward in the appeal) would reduce the visual impact of the proposal from this viewpoint. Furthermore, the view from Bow Bridge to the south (view 1 as presented by the applicant) would also benefit in a reduction of one storey and this would assist in assimilating the subject proposal into the existing environment by reducing the scale of the largely blank, south facing elevation. The applicant has provided an alternative option illustrating the proposal reduced by one-storey and I consider this an appropriate solution in this regard. Further assessment of this principle is provided in the following sections.</p>
2	To provide appropriate legibility	<p>This generally triangular site and proposed building is surrounded on two sides by public roads and/or footpaths. The development would include for an upgrade to the public realm, that will retain and improve access and permeability for pedestrians, cyclists and those with disabilities. I consider the height of the proposal would add to the legibility of the area by providing a landmark building at this urban infill site and would frame Irwin Street looking both north and south, with the</p>

		existing development to the east (Bow Bridge Place) providing enclosure to the street.
3	To provide appropriate continuity and enclosure of streets and spaces	<p>The site is limited in size and where the building would be located close to existing residential units to the south, it has been stepped back from the building edge at upper floors (fourth floor and above) to reduce the scale relative to those buildings, which are two storey. I am satisfied that the approach taken by the applicant as set out in the Architectural Design Report has taken the potential impacts on residences to the south into account.</p> <p>The width of Irwin Street is 11m. The proposed height of the building is approximately 19.6m, which gives a street width to building height ratio of 1:78 within the range recommended in Appendix 3 of the Development Plan. I also consider the building will provide a level of enclosure to the street and spaces at this location when considered with the existing 3-storey apartment building to the east of Irwin Street.</p> <p>The building will significantly enhance passive surveillance on the eastern, northern and western sides of the site with residential elements at ground floor and windows or balconies on all of these sides. This will also enhance street level activity in the area.</p>
4	To provide well connected, high quality and active public and communal spaces	<p>Although the site is small, it is surrounded by public roads and/or footpaths. The applicant proposed to enhance the public realm by upgrading the surfaces to provide access for those with disabilities and mobility impairments. The site will prioritise pedestrians with new paving and cyclists through the placement of a public cycle parking space in the public realm, while access is available to the bus network and cycle lane network in the immediate surrounds of the site, as well as easy access by 5-10min walk to light and heavy rail transport.</p> <p>Communal roof terraces are proposed within the development that will provide amenity to future residents.</p> <p>Access surrounding the site will be available during all phases of the development and will be addressed through a</p>

		construction and Demolition Waste Management Plan and a Construction and Environmental Management Plan.
5	To provide high quality, attractive and useable private spaces	All 29 units would be provided with the required quantum of private open space. The applicant proposes to upgrade the public realm surrounding the site and the planning authority did seek to impose a development contribution in lieu of a lack of public open space, and while communal open space is provided for residents, I am satisfied that the site is centrally located, in close proximity to a number of large public open spaces including Royal Hospital Kilmainham and the Phoenix Park to mitigate the absence of a public open space within the site.
6	To promote mix of use and diversity of activities	Although the site would be entirely residential, it is located in a central location with a wide range of other uses available to future residents within a short walking distance and the development would enhance the residential population in the area, which is appropriate in a residential zoned area in a central City location.
7	To ensure high quality and environmentally sustainable buildings	<p>The Architectural Design Statement states that maximum separation distances are provided to maintain a high level of privacy and amenity for existing residents of houses and apartments and to reduce the level of overlooking and overshadowing. The submitted sunlight and daylight assessment illustrates a high level of impact on the windows of the Bow Bridge Place apartments to the east. I consider that any building above two storeys in height at the subject site would result in impacts on this property and this needs to be weighed against wider objectives for the densification of land use in our cities and towns. The matter of sunlight and daylight is discussed later in my assessment.</p> <p>16 of the 29 apartments would be dual aspect, while the building will be finished in durable material that would not require specific regular maintenance. Double glazed windows and modern methods of construction are proposed which will provide for an environmentally efficient development.</p>

		<p>The development will improve the surface water management in the area as the proposed development will incorporate a green roof and a surface water attenuation system that will reduce the level of water generated by the site, particularly at times of intense rainfall.</p> <p>I am satisfied that the proposed development will provide for a high quality and environmentally sustainable building.</p>
8	To secure sustainable density, intensity at locations of high accessibility	<p>Public bus services including the high frequency route No's 13, 40, and 123 are serviced by a bus stop located approx. 100m from the development site. A bus lane runs along the R148 at Heuston Station and cycle lanes run in both directions. Bus connects upgrade routes (C-Spine, G-Spine) are planned to run in close proximity to the site. Heuston railway station and the red LUAS line are located within a 5-10 minute walk from the site.</p> <p>I am satisfied that the site is located in a universally accessible location.</p> <p>As assessed, I consider the proposed density of 391 units per hectare, reduced to 315dph with the revised proposal submitted with the appeal, to be inappropriate for this small scale, urban infill site and above any recommended density standards in the Compact Settlement Guidelines or the Dublin City Development Plan.</p>
9	To protect historic environments from insensitive development	<p>The site is located within the Royal Hospital Conservation Area, and the Royal Hospital Kilmainham Protected Structure curtilage. The impact of the subject proposal on built and archaeological heritage is discussed in detail in the following sections, however, a certain level of development is considered to be appropriate at the subject site, to promote compact development within the existing built footprint of the urban area, without negatively impacting on the built heritage of the area and given the existing level of development that has successfully taken place in the area.</p> <p>There is a range of modern designs and contemporary architecture in the surrounding area at the Garda Headquarters and at Heuston South Quarter for example. I</p>

		consider the area can absorb a modern development proposal that is sensitive to the historic environment.
10	To ensure appropriate management and maintenance	<p>The site consists of upgrades to the public realm surrounding the site, which is owned by Dublin City Council. The application proposes to upgrade the public footpath as part of the application and to provide a set down area, and Dublin City Council has noted they do not have the consent to do so. I consider the final details can be subject to agreement through a compliance condition.</p> <p>An Operational Waste Management Plan was included as part of the application and a final plan can be conditioned, that will ensure waste collection and disposal is managed appropriately in the future.</p> <p>A condition requiring submission and agreement on a management plan for the operation of the residential development would be appropriate if the Board are minded to grant permission. I am satisfied that the proposed development would provide for appropriate management and maintenance of the public realm and communal areas of the development.</p>

7.4.23. I am satisfied that the proposed development as put forward at appeal stage is generally in accordance with the requirements of Table 3 of Appendix 3 of the Dublin City Development Plan as the proposal provides an acceptable quality of architectural treatment for this infill site that would enhance the streetscape, provide adequate accessibility and provide an adequate level of private amenity for residents. However, as noted, the proposed density is above standard recommended levels, which is not acceptable, particularly in relation to the matter of sunlight/daylight impacts on adjoining properties. Sunlight and daylight impacts are principally noted on properties to the east, which requires a dedicated assessment that is provided in the following sections.

Separation Distances

7.4.24. Separation distances, to guide the protection of privacy, are set out in the city development plan and the Compact Settlements Guidelines. The Dublin City

Development Plan 2022-2028 (Section 15.11.4) refers to a separation distance of a minimum of 22 metres between directly opposing rear first floor windows, unless alternative provision has been designed to ensure privacy. The Sustainable Residential Development and Compact Settlements Guidelines state that a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, shall be maintained and development plans shall not include minimum separation distances that exceed 16 metres. 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.

- 7.4.25. The application is accompanied by an Architectural Design Statement prepared by the applicant's Architects that provides a significant level of detail regarding the overall design and layout and how it responds to the location and context. Balconies have been set back within the building to maximise separation distance to properties to the east. I note a number of windows are present on the western façade of the Bow Bridge Place complex, which would be faced by windows on the eastern façade of the subject proposal, despite the appeal stating a number of times that the eastern elevation contains no fenestration to purposely avoid overlooking. The proposed windows on the eastern elevation include windows to bedrooms as well as windows to the kitchen/living/dining space for a number of apartments and the acceptability of this arrangement is a key consideration in the context of the appropriateness of the subject proposal.
- 7.4.26. While I am conscious of the previous grant of permission at this site for a 6 storey nursing home (Ref. 2811/09), this grant of permission is expired and is not directly relevant to modern residential standards and requirements that are now applicable to the subject site. However, considering the urban context, the infill nature of the subject site, the vacant nature of the site currently and the separation of the subject site from Bow Bridge Place by the width of Irwin Street, I am satisfied that a reduction in separation distances is acceptable in this instance. The presence of Irwin Street between the subject site and Bow Bridge Place to the east is a significant mitigating factor in terms of separation. Irwin Street is a public space that already results in a level of reduced privacy, that otherwise might be associated with

overlooking an amenity space or communal area. In this regard, I am satisfied that a reduced separation distance would not result in a significant detracting from existing levels of private amenity at Bow Bridge Place.

- 7.4.27. Balconies are set back within the footprint of the building, and I am conscious of the Juliet type balconies on the western façade of Bow Bridge Place that would not constitute a meaningful outdoor space for these residents. The upper floors (third, fourth and fifth floor in the revised proposal submitted with the appeal) are setback distances of between 5-20+ metres to provide separation from properties to the south and to provide roof terraces/communal areas for future residents. The treatment of balustrades to the roof terrace is not defined in the application material but this can be conditioned to include opaque glazing of at least 1.8m to prevent overlooking, if the Board are so minded to grant permission.

7.5. Compliance with Residential Standards

- 7.5.1. Having regard to the grounds of appeal that refer to the scale, design and form of the subject proposal as being appropriate, contrary to the decision of Dublin City Council, I consider a number of design parameters can be objectively measured to assess the subject proposal. The updated Apartment Guidelines 2023 and the Dublin City Development Plan are relevant in this regard. The development put forward at appeal stage which would have 29 apartments with one floor removed from the refused scheme, would have a gross internal area of 2,945.6sqm. The Housing Quality Assessment (HQA), submitted with the application, provides details of unit sizes, aspect, aggregate living floor areas, bedroom sizes, storage areas, private open space and whether or not the units are compliant with the 10% additional floor space requirement.

- 7.5.2. Paragraph 1.18 of the guidelines states that the Board are required to apply any specific planning policy requirements (SPPRs) set out in the guidelines.

SPPR 1 and Mix of Units

- 7.5.3. Specific Planning Policy Requirement 1 (SPPR 1) stipulates that housing developments may include up to 50% one-bedroom or studio type apartments (with no more than 20-25% of the total proposed development as studios).

- 7.5.4. SPPR 2 allows a relaxation of this mix on urban infill sites up to 0.25 hectares in size, on the first 9 units. SPPR2 also states:

‘All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.’

- 7.5.5. The development would have 29 apartments, including 11 no. 1 bed apartments (37.9%), 16no. 2 bed apartments (55.2%) and 2no. 3-bed apartments (6.9%). While SPPR 2 applies as the site is 0.092ha in area, the scope for discretion is not required in relation to unit mix.
- 7.5.6. As there is no more than 50% of the units proposed as 1-bed apartments, I am satisfied that the proposed development is consistent with the unit mix requirements of SPPR1 of the apartment guidelines.

SPPR 3

- 7.5.7. SPPR 3 sets minimum floor area standards for apartment developments.

Minimum floor area

- 7.5.8. It is a requirement of the Guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. Paragraph 3.12 states that the requirement that more than half of the apartments in relevant schemes would exceed the minimum floor area standard by at least 10%, may be applied differently to schemes of 10 up to 99 units. In such schemes, it is acceptable to redistribute the minimum 10% additional floorspace requirement throughout the scheme, i.e. to all proposed units, to allow for greater flexibility
- 7.5.9. The reference to majority means that at least 15 apartments in the subject proposal must exceed the minimum floor area by 10%. As set out in the submitted Housing Quality Assessment and application drawings, 18no. apartments exceed the minimum floor area by more than 10% and the development would therefore be compliant with this requirement.

Bedroom sizes

7.5.10. The applicant's Housing Quality Assessment and submitted drawings indicate that all apartments would have bedrooms of at least 11.4sqm, which meets or exceeds standard requirements compliant with Appendix 1 of the Guidelines. I am therefore satisfied that the requirements of SPPR 3 have been complied with.

SPPR 4 - Dual Aspect Ratios

7.5.11. SPPR 4 states that 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. With the removal of the third floor in the revised proposal, 18 (62%) of all apartments are set out by the applicant as dual aspect, meaning that the proposed development would be compliant with SPPR4. Two of these units refer to south facing windows of bedrooms as providing a secondary aspect. As these are narrow windows from a proposed bedroom, I do not consider these to be true dual aspect apartments that would provide daylight to the living area throughout the day or allow cross ventilation benefits. 16 dual aspect apartments provide a result of 55% of the overall scheme and therefore the scheme is compliant with the requirements of SPPR4.

Floor to Ceiling Heights

7.5.12. The ground floor apartments would have ceiling heights of 3.15m, which is more than the suggested minimum height of 2.7 for ground floors, while all other floors would have heights of 2.7m, which exceeds the suggested minimum height of 2.4m.

SPPR 6

7.5.13. SPPR 6 provides that apartment schemes may have a maximum of 12 apartments per floor per core. The maximum number of apartments on any one floor is 6 and I am satisfied that the development would be compliant with SPPR6.

Private Open Space

7.5.14. Each of the apartments would be provided with the required quantity of private open space in the form of balconies or terraces ranging from 5.7sqm to 23.4 sqm, compliant with the requirements of Appendix 1 of the Apartment Guidelines.

Communal Open Space

- 7.5.15. For Communal open space, Appendix 1 of the guidelines requires 5sqm per 1-bed, 7sqm per 2-bed and 9sqm per 3-bed apartment. This equates to a total overall requirement of 185sqm.
- 7.5.16. The subject proposal provides communal roof terraces at fourth, fifth and sixth floor levels totalling 260sqm.
- 7.5.17. Paragraph 4.12 of the guidelines provides that on 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. I am satisfied that adequate communal open space is provided in the proposed scheme, subject to appropriate treatment of the terrace balustrades as discussed later in this assessment.

Communal Facilities

- 7.5.18. All apartments would be accessed from a single access point and entrance lobby with a single lift core in the centre of the building, with adequate circulation space available on each floor.
- 7.5.19. Appendix 7 to the Development Plan - Guidelines for Waste Storage Facilities states that provision shall be made for the storage and collection of waste materials in apartment schemes in accordance with the Apartment Guidelines. Sections 4.8 and 4.9 of the Guidelines refer to refuse storage and state that refuse facilities shall be accessible to each apartment stair/lift core and designed with regard to the projected level of waste generation and types and quantities of receptacles required. An Operational Waste Management Plan was submitted with the application. Access to the proposed bin store for collection would be provided from the street, at the eastern side of the building. The apartment guidelines state that access for residents to waste storage areas shall be from the stair/lift, the subject proposal is consistent with this principle. The planning authority raised concerns about the proposed means of access to the waste storage area and potential for infringement on the public footpath. I am satisfied that the proposed external access arrangement can be agreed by way of condition if the Board are so minded to grant permission.
- 7.5.20. I am also satisfied that the bin storage area would provide adequate capacity for the proposed development with 5,350 litres total storage per unit per week and has been designed in accordance with the criteria of Sections 4.8 and 4.9 of the guidelines.

Conclusion on Apartment Guidelines

- 7.5.21. I am satisfied that subject to a condition requiring amendments to be made to the bin storage area access, the proposed apartments would comply with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines - December 2022 (2023).

7.6. Impacts on Residential Amenity

Overlooking

- 7.6.1. Having regard to the size of the site, the width of the existing streets and therefore the separation distances involved, it is difficult to provide for an efficient use of serviced land, good daylighting to rooms, and security to the street, while avoiding overlooking of the properties to the east and west of the site. The first party has pointed out that with the nature of the proposed development and that which exists in the surrounding area, a certain level of impact is to be expected.
- 7.6.2. I note that the site is surrounded on three sides by streets, and I am satisfied that no overlooking issues arise to the north, north-west or north-east as there are no buildings close enough to the proposed development in those directions.
- 7.6.3. The southern gable of the proposed development does not include any substantial windows that would result in overlooking of properties to the south. The upper floors are adequately set back, to protect residential amenity and overbearing impacts and to provide communal roof terrace space and these can be appropriately screened to further minimise occurrences of overlooking. There is also an established level of mature planting between the subject site and properties to the south that provides additional screening.
- 7.6.4. While the separation distance of 11m to the properties at Irwin Court and Bow Bridge Place are less than the recommended 16m in the Compact Settlement Guidelines, I consider there to be mitigating circumstances to permit a reduction in permissible separation distances in this instance.
- 7.6.5. The proposed development faces the eastern gable of the properties at Irwin Court. There are no visible windows on this elevation and there is substantial screen fencing and planting in place along the eastern boundary of this site. The Irwin Court properties are also elevated to a degree above existing street level, further reducing

any potential for overlooking. I consider the revised option put forward in the appeal, that would reduce the proposal to two storeys facing the Irwin Court properties will be adequate to minimise instances of overlooking and to protect existing levels of residential amenity at this interface.

- 7.6.6. I note Irwin Street is a busy public place linking to Heuston Station and a host of services and amenities in the area. Any windows overlooking this street will not enjoy the degree of privacy that they would if overlooking private gardens or semi-private communal space. In my opinion the value of having windows overlooking the street, and the environment which eyes on the street would create for occupants of buildings on either side of the street, far outweighs the proximity of an apartment building within a compact City Centre setting. In my opinion restricted privacy distances of between 11-12m between windows, with an intervening street should not be a reason to refuse permission in this instance.

Overbearance

- 7.6.7. The reason for refusal refers to the overbearing impact of the proposed development arising from the scale of the development and its proximity to the development opposite. The difference in scale between the proposal and the properties to the south is considerable. The first party states that the proposal is designed to reinforce the context of the streetscape and is well informed to take account of the established setting.
- 7.6.8. Reference was made in the Local Authority Planner's Report to plot ratio and site coverage and overdevelopment of the site. While the subject proposal, and revised proposal, would exceed the recommended plot ratio and site coverage figures for sites within a conservation area, the site does comply with the specified circumstances where a higher plot ratio and site coverage may be permitted as it is adjoining major public transport corridors and is a site that is in need of urban renewal. The proposed density is above 300dph, which there is a general presumption against in the Compact Settlement Guidelines.
- 7.6.9. Overbearing impacts are impacts that a development would have on neighbouring properties by reason of the height, mass and scale which is a function of the separation distance between the buildings or properties. This issue has been

addressed in sections 7.4.21-7.4.25 of this assessment. While there is a certain level of impact from the subject proposal on properties to the east, west and south; the separation distances, intervening streets in the case of properties to the east and west and urban context of the site does lend itself to a building of scale at this location. The 6-storey development proposed would have no significant overbearing impact when viewed in the context of the existing streetscape and would provide for an appropriate transition between the high rise mixed use character adjoining Heuston Station and the existing residential area to the south that has building heights of 2, 3 and 4 storeys.

- 7.6.10. While I consider the revised design option of a 2-6 storey development as put forward by the applicant in the first party appeal would provide a suitable design solution for this infill site and is generally acceptable at this location, the constrained nature of the site gives rise to a very high density that has other impacts on surrounding properties as set out below.

7.7. Daylight and Sunlight

- 7.7.1. Under the grounds of appeal, the applicant submits that the subject proposal is designed to an appropriate scale and height. One of the indicators of appropriate scale is the level of impact on sunlight and daylight for surrounding properties. I therefore consider it relevant to include an assessment of sunlight and daylight in the consideration of this appeal.
- 7.7.2. Section 3.2 of the Urban Development and Building Height Guidelines (2018), refers to the criteria to be considered in assessing applications at the scale of the site/building and states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light and that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like BRE 2009 (2nd edition 2011) or BS 8206-2: 2008. The Development Plan 2022-2028, the Apartment Guidelines (2023) and the Compact Settlements Guidelines (2024) refer to a more up-to-date version of the BRE 209 Guide from 2022.
- 7.7.3. I consider that this updated guidance provides a degree of flexibility and does not have a material bearing on the outcome of the assessment and that the relevant

guidance documents remain those referred to in the Urban Development and Building Heights Guidelines and the Dublin City Development Plan. I have carried out a site inspection and had regard to the proposed development and its surroundings. A sunlight and daylight assessment was included with the application but no updated assessment was included in relation to the revised proposal submitted with the appeal. The appellant noted that a certain level of daylight and sunlight impact is to be expected in a built-up urban setting. The Planning Authority noted the sunlight and daylight impacts on adjoining properties and included this in the reason for refusal.

Daylight and Sunlight to Existing Buildings

- 7.7.4. In designing new development, it is important to safeguard the daylight to nearby buildings. The applicant's assessment contains a 'light from the sky' (VSC) analysis for the windows of surrounding properties. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum and that if the VSC is both less than 27% and less than 0.8 times its former value, with the new development in place, occupants of the existing building would notice the reduction in the amount of skylight.
- 7.7.5. The applicant's assessment considers the VSC impacts on surrounding properties at Bow Bridge Place, Irwin Court and Kilmainham Lane (Irwin Street south).
- 7.7.6. A total of 45 windows were tested. All 6no. windows tested at Irwin Court retain a VSC in excess of 27% and are not reduced below 80% of the existing. I consider the impact on Irwin Court from the perspective of sunlight and daylight is therefore negligible and consistent with the recommendations of the BRE Guidelines.
- 7.7.7. 3no. of the 7 windows at No. 19 and 20 Kilmainham Lane are forecast to experience a minor reduction in VSC levels, marginally below 80% of the existing value. This level of impact is considered to be imperceptible in the submitted assessment. It is also worth noting that the assessment does not allow for the considerable shading effect of trees and vegetation on the steep embankment between the properties at 19 and 20 and the subject site. I do not consider the impact on properties to the

south to be significant and VSC levels will be generally in accordance with the BRE Guidelines.

- 7.7.8. Only two of the 32 windows tested at Bow Bridge Place would meet the VSC value of greater than 27% with the development in place and each window would experience a reduction in VSC. The VSC values ranges from 8.96% to 30.14% at the windows on the western façade of Bow Bridge. The BRE guidelines state that occupants of the existing building would notice the reduction in the amount of skylight, if the VSC is both less than 27% and less than 0.8 times its former value, with the development in place. When considered in the context of the BRE Guidelines for VSC values, the subject proposal does not therefore, meet recommended standards of the guidelines.
- 7.7.9. The submitted Sunlight and Daylight assessment also assesses the impact of the proposed development on Bow Bridge Place and Irwin Court for Annual Probable Sunlight Hours (APSH). Sunlight to existing buildings is assessed by the applicant in terms of annual probable sunlight hours (APSH), and if a room can receive more than one quarter of annual probable sunlight hours 25% (APSH), including at least 5% of APSH in the winter months between 21 September and 21 March, then it should still receive enough sunlight.
- 7.7.10. Again, Irwin Court meets all of the recommended values and is therefore not considered to be significantly impacted by the proposal. In the context of Bow Bridge Place, only 27 of the 32 tested windows would reach the recommended values for WPSH (winter), with only 13 of the 32 windows reaching recommended APSH values of 25%.
- 7.7.11. Section 5.3.7 of the Compact Settlements Guidelines notes that when considering new residential development, it is important to safeguard against a detrimental impact on the amenity of other sensitive occupiers of adjacent properties. The guidelines outline that planning authorities do not need to undertake a detailed technical assessment in all cases and may apply a level of discretion in relation to daylight performance. The Development Plan, in Section 15.13.3, provides that in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed.

- 7.7.12. The appeal site is currently vacant and levels of daylight available in surrounding properties would, as a result, be above that which would normally be available on such sites within the city centre. As a result the impact of the proposed development on neighbouring properties may appear more significant than would otherwise be the case. I note the scale of the proposed development is in keeping with the scale of immediately surrounding development as discussed earlier in this assessment, as well as separation distances of 11m between the proposed apartment building and existing buildings to the east side of Irwin Street.
- 7.7.13. I note that the BRE standards derive from a low density suburban housing model and that greater flexibility is warranted in city centre locations. In this regard, the Board has discretion in applying the daylight standards referred to in the Compact Settlements Guidelines taking into account site constraints and the need to achieve wider planning objectives such as securing comprehensive urban regeneration and an effective urban design and streetscape solution, which I consider relevant to the proposed development.
- 7.7.14. However, I note the impacts of the subject proposal on sunlight and daylight at Bow Bridge Place to be significant, with only 2 of 32 windows achieving appropriate VSC values of 27% and less than 80% of the former value, and less than half reaching recommended APSH values of 25%. While a revised sunlight and daylight assessment has not been submitted with the revised proposal, the reduction in height by one storey is not considered adequate to sufficiently reduce the level of sunlight and daylight impacts as a result of the proposed scheme. When considered in conjunction with the excessive density proposed for the subject site, which is above 300dph, I consider the daylight and sunlight impacts on adjoining properties to be unacceptable as a result of the proposed development and should be refused permission on this basis.

Sunlight to existing amenity spaces

- 7.7.15. The BRE 2009 guidelines recommends that amenity areas should receive at least two hours of sunlight on the 21st of March. The Daylight and Sunlight assessment includes an assessment of sunlight availability to neighbouring amenity areas, as a result of the proposed development, and the analysis has demonstrated that there will be no impact on sunlight as a result of the proposed development, with the

amenity space at Irwin Court receiving more than 2 hours of sunshine over 96.5% of its area and will continue to receive the same amount of sunshine with the development in place. I am therefore satisfied the proposed development would not have a negative impact on existing amenity spaces in the surrounding area.

Daylight within the Proposed Apartments

- 7.7.16. Both SPPR3 of the Building Height Guidelines and the Development Plan, refer to guidelines which use Average Daylight Factor (ADF) as a means of assessment of daylight. The submitted assessment refers to BS EN 17037 which supersedes BS8206 Part 2 'code of practice for daylighting' which contained a method of assessment based on Annual Daylight Factor, which is now no longer recommended. The assessment confirms that all of the windows have been assessed and 97% of rooms would achieve appropriate levels of daylight and 100% would receive at least 1.5hours of sunlight, indicating that all rooms meet the requirements of the daylight and sunlight provision, which I consider to be satisfactory.

Conclusions on Daylight/Sunlight

- 7.7.17. I am satisfied that the BRE guidelines allow for flexibility in terms of their application and note the Board has discretion in applying the guidelines taking into account site constraints and the need to secure wider planning objectives, such as higher density along key transport corridors. While noting the concerns expressed by the Planning Authority, I am not satisfied that the availability of sunlight and daylight to existing residents would fall within acceptable ranges at this urban infill location, would result in unacceptable impacts at this central city site, and that the development is therefore not acceptable from the perspective of daylight and sunlight to adjoining properties and should therefore be refused permission.

7.8. Public Open Space/Public Realm

- 7.8.1. Table 15-4 of the Development Plan provides that a minimum of 10% of the overall site area will be provided as public open space for residential developments in Z1 zoned areas, while section 15.8.7 provides that in some instances, for schemes of more than nine apartments, it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity in cases where it would not be feasible, due to site constraints or other factors, to locate the open space on

site. Taking into consideration the size of the site at 0.092ha, that the building would take up the entire footprint of the site and that the site is surrounded on all sides by roads, footpaths and other buildings, I consider that it is not possible or feasible to provide functional on-site public open space, which would be a minimum of 92sqm, while also providing appropriate density for this urban infill site.

- 7.8.2. The Dublin City Development Contribution Scheme 2023-2026 permits the attachment of a condition to a grant of permission requiring the payment of a financial contribution in lieu of open space in the sum of €5,000 per apartment. The Planning Authority in responding to the grounds of appeal did request that a contribution be attached in lieu of the provision of open space if permission was to be granted. If the Board is minded to grant permission, I am satisfied that a contribution can be included requiring the payment of a contribution in lieu of the provision of open space.
- 7.8.3. While the applicant/appellant has not addressed the issue of providing open space for future residents, there are several large areas of public open space within 600-800m of the site including the Royal Hospital Kilmainham Grounds, the Phoenix Park and The Irish War Memorial Park, which I am satisfied would be accessible to all future occupants of the development.
- 7.8.4. The applicant has not received consent from Dublin City Council, the owner of the public realm on all sides of the existing building, for the proposed works to amend the public realm as part of the proposed development. By the placement of new pavements and a set down area, relevant consents and agreement will need to be obtained by the applicant with Dublin City Council Roads Department.
- 7.8.5. If the Board is minded to grant permission, I am satisfied that a condition can be included to address the proposed set down area to be provided within the red lined application boundary to the satisfaction of the Planning Authority, so that the proposed development would not adversely impact on pedestrian or cyclist movements in the immediate area. Any works to the public road outside the red line boundary can be subject to agreement with the Planning Authority, prior to the commencement of development.

7.9. **Impact on Protected Structure**

- 7.9.1. The appeal site is located within a red hatched area on the zoning map denoting the conservation area for Royal Hospital Kilmainham , RPS Ref. No. 5244 *Royal Hospital (Kilmainham), former Adjutant General's office, former Deputy Master's offices, steel house, tower at western gate, garden house in formal gardens, garden features, entrance, gates and walls*, which fronts onto Military Road to the north of the subject site. Protected Structures Ref. 5245 (East gate Lodge, Royal Hospital) is also located to the north and RPS 5246 (Phoenix Deer Park Wall) is located to the west.
- 7.9.2. The Dublin City Council Archaeology Section Report on the application is noted, whereby a concern was raised on the impact the proposal may have on the entrance gates to Royal Kilmainham.
- 7.4.3 I note the Planning Officer's reports did not indicate any concerns in terms of the relationship between the proposed development and Royal Hospital. Furthermore, the refusal reason did not relate to the potential impact the proposed development may have on Royal Hospital Kilmainham. The original gates at this location were not installed until after 1860 and were amended by permission c.2005. There is considerable screening and a boundary wall between the subject site and the Royal Hospital that will further reduce any impacts on the main building. I consider the existing mature screen planting that exists along the western boundary of the Royal Hospital grounds is sufficient to provide appropriate visual separation from the Royal Hospital Protected Structure itself and any impacts would be limited to the access gate.
- 7.4.4 Given that the proposed development is located on the approach into the conservation area, and in the existing scenario the gates are only visible on the approach from the south once you pass the subject site and the existing hoarding that surrounds it, and also considering the alteration to the gates c.2005 that confirmed the limited heritage value of the access gates, I am therefore satisfied that the proposed development would not impact adversely on it and would not detract from its setting. The reduction in height to 2-6 storeys would reduce the visual impact on the gates when viewed on the approach from the north and the subject proposal provides a useful focal point of architectural quality at this junction of Irwin Court, Irwin Street and Military Road, which is consistent with the requirements of Section 15.4.2 of the Development Plan. It is the case that the new apartment block will be

visible from the access gate protected structure, along with other development permitted in the vicinity, and I consider this to be acceptable having regard to the city centre context of the area.

7.10. Archaeology

- 7.10.1. The appeal site is located within the Zone of Archaeological Interest for the Recorded Monument DU018-020 (Historic City), which is listed on the Record of Monuments and Places. As such there is potential for archaeological features to exist at sub-surface level on the appeal site. The Archaeology Section Report is noted whereby they recommend by way of additional information, that an archaeological assessment is undertaken including views to assess the visual impact on the protected structure No. 4244 (Royal Kilmainham).

I have considered the visual impact on the protected structures in the area above. If the Board is minded to grant permission for the proposed development, I would recommend inclusion of conditions that the site be subject to archaeological assessment and testing prior to commencement of construction requiring submission to the planning authority for approval.

8.0 AA Screening

- 8.1. Having regard to the nature and scale of the proposed apartment development, the location of the site in a serviced urban area, the absence of a hydrological or other pathway between the site and European sites and the separation distance to the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that permission be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

- 10.1.1. Having regard to the provisions of Appendix 3 of the Dublin City Development Plan 2021-2027 and the provisions of the Compact Settlement Guidelines, it is considered that the proposed density of the scheme is excessive, particularly in the context of adjoining development, which would result in an inadequate level of sunlight and daylight to adjoining properties and therefore constitutes overdevelopment of the subject site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 10.1.2. 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.

Matthew McRedmond
Senior Planning Inspector

23rd October 2024

Appendix 1 - Form 1 & Form 2

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP- 319037-24			
Proposed Development Summary	Construction of a 7-storey apartment block with 36 residential units and all associated site works.			
Development Address	Irwin Street, Kilmainham, 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	✓	
		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)	Proposed 36 unit development does not meet or	Proceed to Q.4

			exceed 500 unit threshold	
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4. Has Schedule 7A information been submitted?		
No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____