



An
Bord
Pleanála

Inspector's Report

ABP-320666-24

Development

Demolition of the existing garage/warehouses; the construction of an apartment building providing 10 residential units and all associated site works.

Location

To the rear of 24, 25 & 26 Richmond Street South, Saint Kevin's, Dublin 2

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3824/24

Applicants

Frank Fitzpatrick and Farhad Kharraji.

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Frank Fitzpatrick and Farhad Kharraji.

Observer(s)

None

Date of Site Inspection

14/11/2023

Inspector

Kathy Tuck

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1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of c.247.32sq.m, is located to the rear of no. 24, no. 25 and no. 26 Richmond Street South, St Kevins, Dublin 2. The site is located to the South of the City Centre and approximately c.140m to the north of the Canal.
- 1.2. The surrounding area, with particular reference to the east, has undergone significant levels of redevelopment as part of the Charlemont Square Regeneration Area which forms part of the wider National Concert Hall Quarter Strategic Development and Regeneration Area (SDRA).
- 1.3. The subject site currently comprises of two story and single storey warehouse like structures which are accessed from a lane way. The southern boundary of the subject site is shared with a single storey dwelling. To the east of the site on the opposing side of the laneway is a 7-storey apartment building. The host buildings,(no. 24, no. 25 and no. 26 Richmond Street South) and the remaining units to the west, which address Richmond Street South, are all in commercial use at ground floor with residential use above. No 26 Richmond Street South is a protected Structure (RPS 7363).

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of existing garages and warehouses located to the rear of 24, 25 and 26 Richmond Street South, Saint Kevins, Dublin 2 and the construction of a 4 storey apartment building providing for 10 no. residential units.
- 2.2. The proposed building comprises of three sections with the central section provided for the access core through the building. The building has been set c.7.039m from the rear elevation of the host buildings at 3rd and 4th level but remains connected centrally to the existing buildings at ground and first floor. The proposed building is finished with a flat roof profile which has a stated ridge level of c.11.44m. The building has a principal length of c.18.9m and a principal depth of c.11.150m.
- 2.3. The unit mix provides for 3 no. studios; 5 no 1 bed units; and 2 no. 2 bed units. Plans submitted indicate that the 4th floor is to be finished with a zinc clad. The central

section of the building is indicated to be finished with a tope colour brick with the remainder of the building finished with a red brick.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a decision on the 31st July 2024 to refuse permission. The reason for refusal was as follows:

Having regard to the excessive scale, height and poor-quality design of the proposed building, whilst taking into account the excessive plot ratio and site coverage it is considered that the proposed development would constitute a poor-quality scheme. The design of the proposed development does not adequately address the site location on a rear laneway, adjacent to both Protected Structures and Conservation Areas, the residential and visual amenities of the adjoining properties or the residential amenities of future occupiers of the development, as it provides for poor quality and insufficient private open space and levels of privacy. The scheme represents an overdevelopment of the subject site which would be contrary to policy BHA14, section 15.13.5.2 and the provisions and guidelines of Appendix 3 of Dublin City Development Plan 2022-2028. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

This sets out the site location, the proposed development, the site history, and all relevant national, regional, and local planning policy. The report makes reference to a pre-planning meeting which was held on the 7th of November 2023.

The assessment considers the principle of the development to be acceptable in terms of the land use zoning but identifies key issues which need to be considered in order to determine if planning permission should be granted.

The Planning Authority concluded with a recommendation to refuse permission which is in line with the decision issued by the Planning Authority on the 31st of July 2024.

3.2.2. **Other Technical Reports**

The following reports were received:

Conservation

The report from the Conservation Officer notes concern over the scale of the proposed development in its current form and considers it not sympathetic to the character and setting of the rear of the protected structure, the historic terrace and mews lane.

The report states that the overall scale, height and bulk of the proposed development in close proximity to the protected structure and historic terrace would be overbearing on the existing buildings and would have an injurious impact on the character and rear setting of the protected structure, the historic terrace and the neighbouring NIAH Regionally-rated building.

The report recommends that the following Additional Information be requested:

- Revised design to include for:
 - No higher than three storeys
 - take the form of a terrace of mews dwellings
 - Provide a greater separation distance between the proposed development and the rear building line of the historic terrace
 - greater articulation of the historic building plot.
- Conservation Statement including an Architectural Heritage Impact Assessment shall be submitted for the written agreement of the Conservation Officer.
- A detailed survey, including photographs of the existing fabric on the site shall be carried out.
- An Architectural Heritage Impact Assessment describing the impact of the proposed development on the mews plots shall also be submitted.

Transportation Planning Division

The report received notes concern over a number of issues relating to the arrangements for refuse storage and collection. Concerns are also raised with regard to the quantum of cycle parking being provided and the quality of cycle storage facilities. The report states that given the constraints of the site and the laneway, a Construction Management Plan (CMP) should be provided.

The report recommends that the following Additional Information be requested:

- Details for vehicular access for servicing, deliveries and emergency vehicles.
- Demonstrate provision of cycle parking in accordance with the requirements of Table 1 of Appendix 5 of the Dublin City Development Plan, 2022-2028.
- outward opening doors from the refuse storage onto the laneway are not acceptable and a revised design should be submitted.
- submit a preliminary construction management plan and auto tracking of relevant construction access requirements.

Engineering Department – Drainage Division

No objection subject to condition.

Environmental Health Officer

No objection subject to condition.

3.3. Prescribed Bodies

Transportation Infrastructure Ireland - no objection to the proposed development subject to a condition. The submission notes the location of the subject site within the area for an adopted Section 49 Supplementary Development Contribution Scheme - Luas Cross City. As such the report request that in the event of a grant of permission that a condition be included requiring a Section 49 Financial Contribution.

3.4. Third Party Observations

None were received.

4.0 Planning History

4.1. Subject site

PA Ref 3482/13X1 Permission GRANTED for an extension of duration.

PA Ref 3482/13: Permission GRANTED for an infill residential development to the rear of 25 & 26 Richmond Street South, Dublin 2. The development comprised of the demolition of the existing single and two storey structures and the construction of 2 no. 3 bedroom 3 storey dwellings and associated courtyard gardens and 2 no. car parking spaces.

PA Ref 3917/08: Permission REFUSED for the demolition of demolition of the existing single and two storey structures to the rear of 25 & 26 Richmond Street South and the construction of a part 3 part 4 over entrance level apartment building providing for 4 no. apartment units, 2 no. car spaces, 6 no. bicycle spaces, bin storage, surface water attenuation tank. Permission was refused for the following reason:

- *The proposed development by reason of its excessive height and bulk would result in the overdevelopment of the site and an overbearing impact on the adjacent single storey house at no. 20 Richmond Place South. Furthermore, the proposed development would result in excessive overlooking due to the inadequate separation distances and screening between the proposed balconies and the windows serving the existing residential units located above no's. 25 and 26 Richmond Street South. The proposed development would therefore, seriously injure the amenities of property in the vicinity, detract from the setting of the protected structure, be contrary to the provisions of the Dublin City Development Plan 20005-2011, and be contrary to the proper planning and sustainable development of the area.*

PA Ref 6220/07: Permission REFUSED for the demolition of the existing single storey rear structures and the construction of a 4-storey apartment building which would provide for 4 no. apartment units, 3 no. car parking spaces, 8 no. cycle spaces and all associated site works. The reason for refusal was as follows:

- *The Planning Authority have considered that the proposal by reason of its excessive height and bulk would result in overdevelopment of the site would be unacceptably obtrusive and cause overlooking of the surrounding residential properties and would seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and development of the area.*

4.2. Within the vicinity

No. 34- 37 Richmond Street South, Dublin 2

ABP Ref 31177/Planning Authority Ref: 3014/23: Permission GRANTED for demolition of no. 12 Richmond Row (c. 273.5sqm), no. 34-35 Richmond Street South (c. 184.2sqm), no. 36 Richmond Street South (c. 40.9sqm), no. 37 Richmond Street South (c. 200.5sqm) and ancillary buildings and structures (c. 48.9sqm), all located with the subject site and the construction of a 5 storey over basement office building and ground floor café extending to c. 2,930sqm (gross floor area), with external courtyard located to the rear of the café at ground floor level and roof terraces at fourth floor level.

13 Richmond Street South and 17 Richmond Street South, Dublin 2.

ABP Ref. 318150/Planning Authority Ref: 4148/23: Permission GRANTED for the demolition of extension to protected structure, construction of mixed use 2/4/6 storey building, and associated site works at 11/12 Richmond Street South, Dublin 2, D02 HX76.

No. 8-20 Richmond Street South and 14 Gordon Place

Planning Authority Reference 3546/21: Permission was granted in March 2022 for a part six/part seven storey mixed use building comprising retail at ground floor level

and 22 no. apartments on the upper levels. This is part of the wider Charlemont Square development (Block 7) and directly abuts the appeal site on its southern boundary.

Site Bound by Charlemont Street, Harcourt Street and Richmond Street South

Planning Authority Reference 4628/18: Planning permission was granted by Dublin City Council in June 2019 for redevelopment of the site to provide a part seven/part eight/part nine storey office led, mixed use development.

Planning Authority Reference 3581/20: Amendments to permission 4628/18 and 4476/19 were granted in February 2021. The approved amendments include the provision of an additional floor, resulting in a ten-storey building.

22 Richmond Street South

Planning Authority Reference 4235/18 – permission Granted for change of use of the existing office use to restaurant, residential and storage and the carrying out of internal and external alterations to No. 22 Richmond Street South providing for 4 no. studio apartments.

Charlemont Square

The land bounding the site to the east and north form part of a large regeneration scheme known as Charlemont Square which is bound by Charlemont Mall, Richmond Street South, Charlemont Street, and Harcourt Street. The development is formed of five blocks. Blocks 1 and 2 are offices and the remaining three blocks are in residential use. The parent permission is set out below, followed by relevant amending permissions.

ABP Ref. 238212/Planning Authority Ref. 3742/10: A 10 year permission was granted in May 2011 for a mixed use urban regeneration project comprising 260 new residential units, retail units, offices, restaurants, multiplex cinema, community sports centre, and childcare facility, across five blocks rising to between five and eight storeys on a c.2.0 ha site with a new public street. The proposed heights of the various blocks were:

- Block 1: 6 storeys
- Block 2: 7-8 storeys
- Block 3: 5-7 storeys

- Block 4: 4-6 storeys
- Block 5: 4-5 storeys

Condition 4 of this permission set out various amendments that were required. In terms of heights, the conditioned amendments were as follows:

Block 2 shall be reduced in height from eight/seven storeys to six storeys.

Block 3 shall be amended such that the southern side adjoining the Charlemont Clinic, proposed as 6 storeys high, shall be reduced to 5/4 storeys.

The required amendments reduced the total number of homes by 7 (Block 3)

Amending Permissions

There is a detailed history of amendments to the parent permission. Those of direct relevance to the appeal are set out below:

ABP Ref. 240620/Planning Authority Ref. 2286/12: This appeal sought permission for various amendments including an increase in height of the approved Block 2 to provide a sixth floor element (seven storeys) and changes to the total number of homes provided in Block 3 to 79 (bringing the permitted total to 257). The Board granted permission in May 2012 to all of the amendments with the exception of the additional storey on Block 2 which was refused on the basis that the additional storey would be an obtrusive element in the streetscape which would adversely affect the historic setting of the Protected Structures at numbers 5, 6, 7 and 8 Charlemont Street and that the proposal would materially contravene a condition attached to an existing permission for development, namely, condition number 4(a), attached to the permission granted by the Board (238212).

Planning Authority Reference 4443/16: Permission was granted in July 2017 for amendments to Blocks 1, 2, 4 and 5. These amendments resulted in the omission of the cinema, an increase in officer floorspace and an overall increase in housing, bringing the total number of apartments permitted on the wider site to 263.

Planning Authority Reference 3735/18: Permission was granted in November 2018 for amendments to Block 1. The most substantive amendment was the change of use of 41 residential units to office space.

Planning Authority Reference 4707/18: Permission was granted in February 2019 for amendments to Block 2 which included an overall increase in height from six storeys to eight storeys.

Planning Authority Reference 4758/18: Permission was granted in April 2019 for amendments to Block 1 increasing its height to eight storeys.

5.0 Policy Context

5.1. National Policy and Guidance

5.1.1. Project Ireland 2040: National Planning Framework (2018)

National Strategic Outcome 1, Compact Growth, recognises the need to deliver greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Of relevance to the subject application are the following:

- National Policy Objective 2a: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
- National Policy Objective 5: Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
- National Policy Objective 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing

buildings, infill development schemes, area or site-based regeneration and increased building heights.

- National Policy Objective 27: seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- National Policy Objective 33: seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.2. Regional Policy

5.2.1. Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing builtup urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens. The RSES seeks to build a resilient economic base and promote innovation and entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

The followings RPOs are of particular relevance:

RPO 3.2: Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 4.3: Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas

is co-ordinated with the delivery of key water infrastructure and public transport projects.

RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

- Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

5.3. Section 28 Ministerial Guidelines

Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

Sustainable Residential Development & Compact Settlement Guidelines 2024

The guidelines expand on the higher-level policies of the National Planning Framework (NPF) in relation to the creation of settlements that are compact, attractive, liveable and well-designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlement.

In accordance with the provisions of Section 34 of the Act when making a decision in relation to an application that includes a residential element or other elements covered

by these guidelines, the planning authority is required to have regard to the policies and objectives of the Guidelines and to apply the specific planning policy requirements (SPPRs).

Of relevance to the subject application are the following:

- Residential densities of 100-300dhp for city centre sites within Dublin and Cork
- SPPR1 – separation distances of c.16m between directly opposing first floor windows.
- SPPR2 - Apartments and duplex units shall be required to meet the private and semi-private open space requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023 (and any subsequent updates). All residential developments are required to make provision for a reasonable quantum of public open space.
- SPPR3: In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.
- SPPR4: It is a specific planning policy requirement of these Guidelines that all new housing schemes (including mixed-use schemes that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors. The following requirements for cycle parking and storage are recommended:
 - i. Quantity – in the case of residential units that do not have ground level open space or have smaller terraces, a general minimum standard of 1 cycle storage space per bedroom should be applied. Visitor cycle parking should also be provided. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/ enlargement, etc. It will be important to make provision for a mix of bicycle parking types including larger/heavier cargo and electric bikes and for individual lockers.

- ii. Design – cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining purpose-built structure of permanent construction. Cycle parking areas shall be designed so that cyclists feel safe. It is best practice that either secure cycle cage/compound or preferably locker facilities are provided.

Urban Development and Building Heights, Guidelines for Planning Authorities (2018).

The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated, but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.

Of particular reference within these guidelines is Section 2.8 which states:

Historic environments can be sensitive to large scale and tall buildings. In that context, Planning Authorities must determine if increased height buildings are an appropriate typology or not in particular settings. An Initial assessment of the existing character and setting of a place will assist in a robust framework for decision-making that will facilitate increases in building height and involve an integrated understanding of place. With regards to large-scale and tall buildings in historic urban areas, an examination of the existing character of a place can assist planning authorities, and others to:

- *establish the sensitivities of a place and its capacity for development or change and;*
- *define opportunities for new development and inform its design.*

Architectural Heritage Protection – Guidelines for Planning Authorities (2011) -

This guidance is a material consideration in the determination of applications and sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principal of minimum intervention (Para.7.7.1)

and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).

Sustainable Urban Housing: Design Standards for New Apartments

The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.

5.4. Dublin City Development Plan 2022-2028

- 5.4.1. The site is zoned Z10: Inner Suburban and Inner City Sustainable Mixed Uses, the stated objective of which is ‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses’.
- 5.4.2. The area within the blue line of the subject application is located within a Conservation Area. Number 26 Richmond Street South is a Protected Structure and listed as RPS Ref. 7363 and described within the record of protected structures as commercial premises.
- 5.4.3. Chapter 3: Climate Action contains the Council’s policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policies from this section include:
 - CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility
 - CA8: Climate Mitigation Actions in the Built Environment
 - CA9: Climate Adaptation Actions in the Built Environment
 - CA24: Waste Management Plans for Construction and Demolition Projects
 - CA27: Flood Risk Assessment and Adaptation

5.4.4. Chapter 4: Shape and Structure of the City, sets out the Council's strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this chapter are:

- SC5: Urban Design and Architectural Principles
- SC10: Urban Density
- SC11: Compact Growth
- SC13: Green Infrastructure
- SC14: Building Height Strategy
- SC15: Building Height Uses
- SC16: Building Height Locations
- SC19: High Quality Architecture
- SC20: Urban Design
- SC21: Architectural Design

5.4.5. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin remains competitive as a place to live and invest in. The relevant policies from this chapter include:

- QHSN6: Urban Consolidation
- QHSN10: Urban Density

5.4.6. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related CO2 emissions.

5.4.7. Chapter 9: Sustainable Environmental Infrastructure and Flood Risk, aims to address a broad range of supporting infrastructure and services including water, waste, energy,

digital connectivity, and flood risk/surface water management. The relevant policies of this section are

SI14: Strategic Flood Risk Assessment

SI15: Site Specific Flood Risk Assessment

5.4.8. Chapter 11: Built Heritage and Archaeology, recognises that the city's heritage contributes significantly to the collective memory of its communities and to the richness and diversity of its urban fabric. It is key to the city's character, identity and authenticity and is a vital social, cultural, and economic asset for the development of the city. The Development Plan plays a key role in valuing and safeguarding built heritage and archaeology for future generations. The plan guides decision-making through policies and objectives and the implementation of national legislation to conserve, protect and enhance our built heritage and archaeology. The relevant policies of this section include:

- BHA2: Development of Protected Structures
- BHA4: Ministerial Recommendations
- BHA9: Conservation Areas

5.4.9. Chapter 15: Development Standards contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed, both in terms of how they contribute to the achievement of the core strategy and related policies and objectives. Relevant sections of Chapter 15 include (but are not limited to):

15.4: Key Design Principles

15.5: Site Characteristics and Design Parameters

15.6: Green Infrastructure and Landscaping

15.15.1: Archaeology

15.15.2: Built Heritage

15.18: Environmental Management

5.4.10. Relevant Appendices include

Appendix 3: Achieving Sustainable Growth sets out the height strategy for the city, with criteria for assessing higher buildings and provides indicative standards for density, plot ratio and site coverage.

Appendix 16: Sunlight and Daylight provides direction on the technical approach for daylight and sunlight assessments.

5.5. Natural Heritage Designations

The subject site is located c.3.6km to the west of the South Dublin Bay SAC and the South Dublin Bay and Tolka River SPA.

5.6. EIA Screening

Having regard to the limited nature and scale of the proposed development, 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 Appendix 1 and Appendix 2).

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted. The grounds of appeal are as follows:

1. Site context and character of area

- Site Context/Character of the area incorrectly considered by the Planning Authority. The redevelopment of surrounding area in recent past now contribute to an altered sense of place and identity – character has modernised.
- Reference to policy surrounding mews development incorrect - Richmond Place is no longer a mews lane – it was widened as part of the development of the surrounding area. The lane now only provides access for commercial offerings and the basement car parking serving the constructed apartment units. Records indicate that there are no historic mews structures on Richmond place. All have been replaced with permitted developments.

- Previous permitted development on site not acted on and provides no basis for the redevelopment taking into account current national/regional/local planning policy, section 28 guidelines, the redevelopment of the surrounding area and location of site within the city centre and canal ring.
- Planning Authority is harking back to pre- Strategic Development Regeneration Area with this decision.
- Decision of the Planning Authority not in accordance with the proper planning and sustainable development and efficient use of zoned serviced land.

2. Design and Layout

- Proposed development is half the height of the building located to the north (7-8 storey). The proposal is not higher than the original buildings addressing Richmond Street and sits below the parapet level of the host buildings.
- Height of the proposal is less than that identified within Appendix 3 of the Dublin City Development Plan – 6 storeys identified for inner city sites. 4 storeys has been designed in response to concerns raised by Planning Authority at pre-application meeting.
- Imagery submitted indicates the juxtaposition of old versus the new in the surrounding area – 7 storeys flanked by original Victorian street frontage.
- Proposal will improve the visual presentation of the area.
- Current situation provides 100% site coverage – the proposed development reduces such.
- 'No. 22 Richmond' development provides for 100% site coverage and is located in the same heritage context of the subject area.
- Daylight and Sunlight Assessment demonstrates habitable rooms exceed BRE guidance.

3. Residential Amenity

- Floor by floor assessment is provided setting out the relationship between the proposed scheme to the host building and also the opposing existing residential development

- proposed unit 9 is provided with a 7m separation distance to opposing living room of the constructed block and provided with a louver panel as a mitigation to overlooking; and
- proposed unit 6 is provided with a 7m separation distance to opposing living room of the constructed block and is provided with a privacy screen.
- Proposal maximises separation distances and access to light and achieves a scheme which is fundamentally compliant with guidelines.
- Refusal relates to residential amenity is not supported by objective reasoning – small issues of overlooking appropriately mitigated.
- Proposal provides animated and passive surveillance over a widened road.

4. Planning Context

- Site is within the inner city and located on a high-quality transportation corridor in close proximity to services and jobs.
- The subject site is a Brownfield infill site suitable for more intense redevelopment and capable of achieving a higher density that is consistent with its location.
- Reference to Policy BHA 14, Section 15.13.5.2 and the provision of Appendix 3 of the Dublin City Development Plan is completely misguided.
- Site does not abut low density development – it abuts high density all of which approved by the planning authority. There is no proposal for increased height as such performance criteria of Table 3 of appendix 3 of the City Development Plan not relevant.
- Proposal complies with the 2023 design guidelines for new apartment developments – reference is made to Section 3.39 where it states “....*urban infill schemes on sites of up to 0.25ha , private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.*”
- In the proposed scheme anything less than 4 stories will be subject to overbearance by existing and recently permitted/constructed development which is of a significantly greater scale on adjoining sites – appendix 3 of the Dublin City Development Plan promotes 4-8 stories.
- Plot ratio in Dublin City Development Plan is a guidance.

- Site was included within the boundary of the Strategic Development Regeneration Areas (SDRAs) in previous development plan period – development of Charlemont area has met and gone beyond core strategy so SDRA designation was not carried through to the current City Plan.
- Sustainable Compact Guidelines:
 - Site identified as ‘Inner City’ where densities can range from 100 300 units/ha
 - Densities are not site specific – they are general targets.
 - Some development sites will fall short of the density targets, and some will exceed.
 - The Planning Authority has not previously been restricted by these considerations in the immediate context of the site.
- Site was included in the National Concert Hall Quarter Strategic Development and Regeneration Area (SDRA) boundary under previous development plan – since on the ongoing development within the immediate vicinity of the site has met and gone beyond Core Strategy SDRA was not carried through to new plan.

5. Planning Precedent

- Planning Authority have been inconsistent in their application and interpretation of the policies and objectives of the City Plan:
 - Precedent created under PA Ref 3546/21 at 18-29 Richmond Street for a 6/7 storey building.
 - Precedent created under PA Ref 4235/18 at 22 Richmond Street for a modern insertion of a 4 storey building with a 100% plot ratio.
- Planning Authority in recent decision have noted that design criteria should be considered and assessed in a wider context and not on a site-specific basis – Gatehouse Redevelopment.
- Along Richmond Street South the Planning Authority have allowed for modern interventions in the streetscape which adjoins the subject terrace.

6.2. Planning Authority Response

A response from the Planning Authority was received on the 17th of September 2024. The response requests that the decision of the Planning Authority be upheld and in the event that the decision be overturned it outlines a number of conditions to be included which are as follows:

- Section 48 contribution.
- Section 49 special contribution – Luas X City Development.
- Contribution in lieu of open space (if applicable).
- Payment of a bond.
- Naming and numbering.
- Management company.

6.3. Observations

None Received.

7.0 Assessment

Having reviewed the 1st party appeal and all other documentation on file including the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Character of Area.
- Density and Quantum of Development; and
- Amenity.

7.1. Principal of Development

- 7.1.1. The subject site is zoned under Objective Z10 of the Dublin City Development Plan 2022-2028 (DCDP). Objective Z10 seeks to consolidate and facilitate the development

of inner city and inner suburban sites for mixed-uses. 'Residential' is listed under the permissible use's matrix associated with the Z10 zoning objective. I therefore consider that the proposed development is considered to be acceptable in principle on the subject site.

7.2. Character of Area

- 7.2.1. The appellant, in the grounds of the appeal considers the assessment of the Planning Authority to be flawed in that the consideration placed upon the character of the surrounding area as being a 'mews lane' was incorrect having regard to the quantum of development which has been undertaken in the immediate vicinity of the subject site in recent years. The appellant considers that having regard to works which have been undertaken, which includes the widening of the lane which the subject site addresses and the previous designation of the site within the National Concert Hall Strategic Development Regeneration Area, that the reference to Policy BHA14 and section 15.13.5.2 of the current Dublin City Development Plan (DCDP) were incorrect.
- 7.2.2. The appellant further contends that the subject site is suitable for more intense redevelopment and capable of achieving a higher density consistent with its location proximate to a high-quality transportation corridor. Reference is also made to appendix 3 of the Dublin City Development Plan and states that heights of 4-8 storeys are promoted within such and also submits with regard to density and plot ratio that Table 1 and Table 2 of Appendix 3 and that set out in Table 3.1 of the Sustainable Compact Guidelines for Planning Authorities, 2024, are general targets.
- 7.2.3. It is further contended that the subject site does not abut low density development but rather it is adjacent to an area of high density which was permitted by the Planning Authority and as the proposed development is not seeking a deviation from the permitted height within the vicinity criteria set out in Table 3 is not relevant.
- 7.2.4. The area to both the north and east of the subject site has undergone major redevelopment. However, the SDRA designation was not carried over to the current Dublin City Development Plan and reference to such by the appellant will not form part of this assessment. The proposed development must therefore comply with the requirements set out within Appendix 3 of the current Dublin City Development Plan.

- 7.2.5. While it is accepted that the character of the area has undergone change there still remains some historic fabric with the buildings addressing Richmond Street South. This is evident with the level of protection placed upon no. 26 Richmond Street South and the conservation designation on the terrace of dwellings which are within the ownership of the applicant (included within the blue line of the application site). This is evident in the report of the Conservation Officer.
- 7.2.6. The report noted concern over the scale of the development in its current form and considered it not sympathetic to the character and setting of the rear of the protected structure, the historic terrace and mews lane. The report states that the overall scale, height and bulk of the proposed development in close proximity to the protected structure and historic terrace would be overbearing on the existing buildings and would have an injurious impact on the character and rear setting of the protected structure, the historic terrace and the neighbouring NIAH Regionally rated building.
- 7.2.7. I consider that the development of this site needs to represent a balance between the location of the site proximate to an area of high-density development and a high-quality transportation corridor to the historic character of the host buildings and traditional residential development to the south. This site forms part of the curtilage of a protected structure (no. 26) and directly abuts a designated conservation area and as such consideration needs to be given to these designations as part of my assessment. Please refer to section 7.3.5 and 7.3.6 of my report below.

7.3. Density and Quantum of Development

- 7.3.1. The applicant is seeking permission for the provision of 10 apartment units on a site with a stated area of 0.024ha which is located within the City Centre and within the Canal Belt. The proposal would generate a density of 417 dwellings per hectare (DPH).
- 7.3.2. Table 1 of appendix 3 of the Dublin City Development Plan sets out a density range of 100-250 dph for sites located within the City Centre and Canal Bank. It further states that *'there will be a general presumption against schemes in excess of 300 units per hectare'* and that *"where a scheme proposes buildings and density that are significantly higher and denser than the prevailing context, the performance criteria set out in Table 3 shall apply."* Furthermore, Table 3.1 of the Compact Sustainable

Guidelines state that it is a policy objective of these Guidelines that residential densities in the range 100 dph to 300 dph (net) shall generally be applied in the centres of Dublin and Cork.

- 7.3.3. The proposed development would generate a plot ratio of 2.86, while the site coverage is given as 94.5%. Table 2 of appendix 3 of the Dublin City Development Plan identifies an indicative plot ratio of 2.5-3.0 and an indicative Site Coverage of 60-90% for central areas. While I note that the plot ratio is considered to be acceptable, the site coverage is in excess of that set out within table 2.
- 7.3.4. While I note that the proposed building is 4 storeys in height, it does not exceed the ridge level of the host buildings addressing Richmond Street South. In this instance the main concern for my assessment is therefore considered to be the proposed density. It is evident that the proposed density is significantly in excess of the standards set out both within Appendix 3 of the current Dublin City Development Plan and also Table 3.2 of the Compact Sustainable Guidelines.
- 7.3.5. I do not consider the assumption of the appellant that criteria set out in Table 3 of appendix 3 of the Dublin City Development Plan is not relevant. As previously stated, I recognise that the prevailing density of the area to the north and east of the subject site has undergone change as part of the development of the National Concert Hall Quarter Strategic Development and Regeneration Area (SDRA). I note that the National Concert Hall SDRA was not included within the current Dublin City Development Plan 2022-2028.
- 7.3.6. However, the density of the host buildings together with the buildings to the south and the west located along Richmond Street South and Richmond Place have remained unchanged. I consider that the development, if permitted, would introduce a significant deviation into the historic area of Richmond Street South and Richmond Place.
- 7.3.7. Having regard to the deviation of the proposed development from the density of the surrounding area together with the ranges identified within both section 28 Guidelines and the current Dublin City Development Plan, the proposed development needs to be considered in terms of Table 3 of Appendix 3 of the Dublin City Development Plan 2022-2028. I have applied the relevant performance criteria in my assessment in Table 1 below:

Table 1: Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale

<p><i>Criteria 1 – To Promote Development with a Sense of Place and Character</i></p>	<p>In my opinion while the proposed building may appropriately address the urban block to which it opposes, the design may have implications in terms of impacts upon residential amenity having regard to the separation distances proposed and also the impact upon the conservation designation and protected structure to the east, and existing dwellings to the south.</p> <p>I consider that the overall design strategy is acceptable having regard to the LUAS and Quality Bus Corridor which are all within walking distance of the subject site. However, I would contend that the design would need further consideration as it would appear monolithic in terms of its horizontal juxtaposition to the established historic character of the host buildings along Richmond Street South.</p>
<p><i>Criteria 2 – To Provide Appropriate Legibility</i></p>	<p>The subject site represents a back-land brownfield infill development site, as such the provision of or enhancement of permeability would not be achievable. The site currently addresses a laneway which provides pedestrian and cycle access to existing apartment buildings which are gated and do not provide for a permeable connection to the wider area. The appellant contends that this laneway</p>

	<p>provides access to the underground carpark serving the neighbouring building known as '22 Richmond'. On undertaking a site visit I inspected this access and note it is only provided as gated pedestrian and cycle access.</p> <p>The proposed development is y seeking to re-develop part of the western side of this laneway and the remaining units will remain in use as warehousing. I consider that in a more comprehensive development of this lane way would be a more appropriate approach which would in turn reinforce the function of this laneway. While I accept that a comprehensive development may not be accessible to the developer, I do not consider that the piecemeal approach to the redevelopment of the western side of this laneway would create a sense of place.</p>
<p><i>Criteria 3 - To provide Appropriate Continuity and Enclosure of Streets and Spaces</i></p>	<p>The street would be appropriately enclosed and in my opinion the development would not provide any canyons on surrounding streets. I acknowledge the scale of the proposed building and the adjacent completed development at Charlemont Square and how they present to Richmond Villas, but I am concerned that the scale of the proposed development would not be an appropriate response to a site which abuts a designated conservation area</p>

	<p>and which forms part of the curtilage of a protected structure.</p> <p>Given the size of the development site and the nature of the proposed use, there is limited ability to provide any public open space. Significant microclimate impacts in terms of wind would not be anticipated on a building of this scale and as such surrounding streets would not be expected to experience negative impacts in this regard.</p>
<i>Criteria 4 - To provide well connected, high quality and active public and communal spaces.</i>	<p>Given the size of the development site and the nature of the proposed use, there is limited ability to provide any public open space. Significant microclimate impacts in terms of wind would not be anticipated on a building of this scale and as such surrounding streets would not be expected to experience negative impacts in this regard.</p>
<i>Criteria 5 - To Provide High Quality, Attractive and Useable Private Spaces</i>	<p>All the units, with the exception of the studio units, are served with balconies which are located along the eastern elevation of the building which all exceed the scale of the minimum standards. Areas are provided as winter gardens to serve the ground floor units which are served with a defence to pedestrians utilising the laneways. The studio units are served with 'Juliet' balconies. They</p>

	<p>have no access to any level of private amenity space which does not accord with the criteria of appendix 1 of the apartment guidelines.</p> <p>The ground floor units have access to lightwell spaces located between the host building and the proposed development which have a western orientation but from review of the daylight assessment submitted would be overshadowed for almost the entire year.</p> <p>The balconies proposed to serve the upper floors are set c.7m from the elevation of the opposing residential block known as 'lock gate 4' where windows serve habitable rooms such as living and bedrooms. I further note concern over issues of overlooking from the proposed scheme to the residential units which are located within the host buildings addressing Richmond Street South. This is addressed further within section 7.4 of my report.</p>
<p><i>Criteria 6 - To Promote Mix of Use and Diversity of Activities</i></p>	<p>The proposed development does not provide for a mix of activities. Permission is being sought solely for a residential development. However, given the restrictive scale of the subject site I consider that this is acceptable.</p> <p>The proposal provides for a mix of studios (30%), 1 bed (50%) and 2 bed</p>

	(20%) units which is considered to be acceptable and in accordance with SPPR1 and SPPR 2 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, 2023.
<i>Criteria 7 - To ensure high quality and environmentally sustainable buildings.</i>	The application was not accompanied by a Construction Management Plan. It is considered that one would be required in order to undertake the development proposed given the restrictive nature of the site which is accessed via a number of very limited laneways in terms of width. This would be required to be submitted by way of condition to be agreed with the Planning Authority in the event the Board were minded to grant permission.
<i>Criteria 8 - To Secure Sustainable Density, Intensity at Locations of High Accessibility</i>	<p>The development is appropriately located in a central, highly accessible area with excellent access to frequent public transport. Issues identified by the Transport section within their assessment regarding cycle parking and quantum's to overcome lack of car parking could be addressed by condition or further information should the Board be minded to grant permission</p> <p>However as previously stated, I consider that the development of this site needs to represent a balance between the location of the site proximate to an area</p>

	<p>of high density development and a high-quality transportation corridor to the historic character of the host buildings and traditional residential development to the south.</p>
<p><i>Criteria 9 - To Protect Historic Environments from Insensitive Development</i></p>	<p>The proposed development site comprises the curtilage of a protected structure and abuts a conservation area. The Planning Authority in their assessment notes and acknowledges that the proposed development must contend with the large multi-storey development opposite the site on Richmond Place South, however the proposal in its current form cannot be supported from a conservation standpoint.</p> <p>The Planning Authority further acknowledges that the rear gardens of Nos. 24-26 Richmond Street South have been previously infilled by shed/warehouse structures, with all development, conservation and planning gain should be provided and the replacement of these shed structures with an infill four storey building would have a detrimental impact on the rear of the protected dwellings.</p> <p>While the appellant contends that the subject site can no longer be considered as a 'mews lane' given the quantum of development the Planning Authority</p>

	<p>permitted on the opposing side of the lane, I have already, within section 7.2.7 of this report, set out that I do not agree with the appellants contention and consider that the subject site does represent a mews development given that it forms part of the curtilage of a protected structure and directly abuts a conservation area.</p> <p>Section 15.13.5.1 of the current Dublin City Development Plan states <i>“that the form and layout of the new development of mews structures should:</i></p> <p><i>Acknowledge the historic building plots where possible. Where a proposal extends over more than one building plot, articulation in the design and layout should be introduced to make reference to the original plot layout. The amalgamation or subdivision of plots on mews lanes will generally not be encouraged.”</i></p> <p>A Conservation Statement has been submitted with the application. While this is welcomed it does not provide for an assessment of the existing fabric on the site. While I do consider, in line with the report received from the Conservation Officer of the Local Authority, that the subject site could provide for some form of infill development it would need to be of a reduced scale that accords with the</p>
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	requirements of Policy BHA14 of the Dublin City Development Plan and that meets a balance between the location of the subject site and the historic context of the host buildings.
<i>Criteria 10 - To Ensure Appropriate Management and Maintenance</i>	Matters of security, management of public/communal areas, waste management, servicing and delivery can all be satisfactorily addressed by condition in the event that the Board grant permission.

7.3.28. Overall, while I consider that the character of the surrounding area has undergone some level of change and redevelopment, the subject site remains part of the curtilage of a protected structure and abuts a designated conservation area.

7.3.29. The quantum of development being proposed, which significantly exceeds the recommended density levels of both Appendix 3 of the Dublin City Development Plan 2022-2028 and the Sustainable Residential Development & Compact Settlement Guidelines, 2024, represents overdevelopment of the site and does not meet the performance criteria as set out within Table 3 of appendix 3 of the City Development Plan. Furthermore, the proposal which is monolithic in form would negatively impact upon the historic context of the host buildings. Furthermore having regard to the forgoing I recommend that permission be refused.

7.4. Amenity

7.4.1. The Planning Authority further considers that the proposed development would not adequately respect the residential amenities of the adjoining properties or the residential amenity of future occupiers of the development, as it provides poor quality and insufficient private open space and levels of privacy.

7.4.2. I consider that issues relating to residential amenity need to be considered with regard to the impact on the current level of residential amenity enjoyed at this location and the future potential residential amenity of future residents.

Existing Residential Amenity

- 7.4.3. The appellant contends that the section of the reason for refusal relating to residential amenity is not supported by objective reasoning. While the appellant accepts that there is a small issue of overlooking, it is stated that this has been appropriately mitigated through the use of privacy screens and fin panels. The first party appeal provides a breakdown of each unit and what they address and how mitigation from overlooking has been provided for.
- 7.4.4. The rear elevation of the proposed block is setback c.7m from the rear elevation of the buildings addressing Richmond Street South. The second and third floors of these buildings are in residential use as demonstrated on floor plan submitted as part of the application. The window ope serving bedroom 2 of unit no. 9 and the bedroom ope of unit no. 6 of the proposed block both directly opposing window opes serving living room areas of the existing residential units within the host buildings. Sections submitted indicate the use of a fin panels on the ope serving unit 9 and a privacy screen is indicated as being proposed from ground floor to the second floor.
- 7.4.5. The eastern elevation of the proposed building also addresses 'lock gate 4', Richmond Place. The private amenity balconies serving the proposed building are all located along the eastern elevation. The applicant/appellant has not provided any drawing or details indicating the relationship between the proposed building and the opposing apartment building. From undertaking a site visit I noted that the western elevation of the constructed apartment building is served with a number of large window opes which would address the balconies of the proposed block.
- 7.4.6. SPFR 1 of the Compact Residential Guidelines for Planning Authorities clearly states that *when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms¹ at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained.* It further states that *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.*

7.4.7. I note that the Compact Guideline allow for the use of mitigation measures to overcome instances where separation distances may be reduced and the appellant in this instance has incorporated such along the western elevation. However, I would have significant concerns of issues of overlooking between the proposed building and the opposing apartment building known as 'Lock Gate 4', Richmond Place. The separation distance of 7m falls significantly below that of SPPR1 of the Compact Residential Guidelines and from plans submitted no apparent mitigation has been provided to overcome this.

7.4.8. While I have accepted the use of mitigation measures to overcome issues of overlooking from the proposed block to the host buildings to the west, I do consider that overreliance upon such to be a clear indication of over development of the subject site. In addition, with particular reference to Unit 9 I consider that the use of a louvered window would impact negatively upon the amenity level of bedroom no. 2. As such I consider to permit the proposed development would give rise to significant negative impact upon the residential amenities of the residents of 'Lock Gate 4', Richmond Place by virtue of overlooking from the balconies along the western elevation of the proposed block.

Overbearance

7.4.9. The proposed building shares its southern boundary with no. 20 Richmond Place, a single storey dwelling. The southern elevation of the proposed building presents as a blank façade which is finished entirely with brick.

7.4.10. It is my opinion that the design of the proposed building has failed to consider its relationship to the dwellings located to the south and has placed all emphasis on that to the north and east. The juxtaposition of the proposed 4 storey building to that of no. 20 Richmond Place in my opinion would give rise to a significant level of overbearance which in turn would give rise to undue levels of negative impact upon the residential amenities enjoyed at this location.

Future Potential Residential Amenity

7.4.11. While I note that all the one bed and two bed apartment units have been provided with adequate levels of private amenity space, the 2 no. proposed studio apartments have not. Plans submitted indicate that they have been served with 'Juliette balcony's' which allow for the window to open but do not provide for any external private amenity space.

Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities require the provision of a minimum of 4sq.m of private amenity space to serve studio apartment units.

- 7.4.12. The appellant, within the Architectural Design Statement submitted with the Planning Application, refers to the development permitted at no. 22 Richmond Street South which they consider has established a precedent for not providing for any private amenity space to serve the studio units.
- 7.4.13. On review of the permission at no. 22 Richmond Street (PA Ref 4235/18) I note that all studio units were provided with private open space (balconies and winter gardens). As such I do not consider that the permitted development under PA Ref 4235/18 creates such a precedent for no private amenity space.
- 7.4.14. Section 3.39 of the Design Standards for New Apartments provides for a relaxation in part or whole on urban infill sites of up to 0.25ha subject to design. The proposal does not provide for any compensation for the lack of private amenity space by way of communal open space, which is accessible to all the units proposed, or any level of additional amenities. I do not consider it appropriate in this instance to allow for the omission of private amenity space for the studio units.
- 7.4.15. I consider that the proposed development would fail to comply with the requirements Section 15.9.7 of the Dublin City Development Plan 2022-2028 and of Appendix 1 of the Design Standards for New Apartments, 2022 and would not provide for an adequate level of residential amenity for the future potential residents of the proposed 2 no. studio apartment units.

7.5. Conclusion

- 7.5.1. Overall, I consider that the proposed development would fail to provide for an adequate level of residential amenities for any future potential residents, fails to comply with the requirements of Appendix 1 of the Design Standards for New Apartments (2022) and SPPR 1 of the Compact Residential Guidelines for Planning Authorities (2024), and in addition if permitted would negatively impact upon the current level of residential amenities enjoyed by the existing residents of the surrounding area, most notably no. 20 Richmond Place and Lock Gate 4, Richmond Place. I therefore consider that permission should be refused having regard to the foregoing.

8.0 Appropriate Assessment Screening

- 8.1. Article 6(3) of the Habitats Directive requires that any plan or project not directly connected with or necessary to the management of a European site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to Appropriate Assessment of its implications for the sites in view of the sites' Conservation Objectives. The Board is the competent authority in this regard and must be satisfied that the development in question would not adversely affect the integrity of the European sites having regard to their conservation objectives.
- 8.2. The Applicant has submitted an Appropriate Assessment Screening Report prepared by Open field Ecological Services (May 2024). This report considers the potential impacts arising from the project, the location of the Natura 2000 sites and pathways between the development and the Natura 2000 network and evaluates and screens the proposed development to assess if full Appropriate Assessment is required, with all European sites screened out and no direct pathways identified. This assessment examines the implications of proceeding with the project in view of the conservation objectives for the protected habitats.
- 8.3. The Applicant's AA Screening Report concludes that the project would have no direct or measurable indirect impacts on any European sites in close proximity to the appeal site and that no significant impacts of the qualifying interests of any SPA or SAC is likely. Having reviewed the AA Screening Report, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects.
- 8.4. The proposed development is not located within or immediately adjacent to any European site. In my opinion the nearest European sites of relevance are the South Dublin Bay and River Tolka Estuary SPA (004024), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), North Bull Island SPA (004006), and the North-West Irish Sea SPA (004063).
- 8.5. There are no watercourses running through the site and the operational development would connect to existing municipal services in terms of water supply and

wastewater/drainage. Therefore, there is an indirect pathway to the European sites of Dublin Bay via the Ringsend Waste Water Treatment Plant. I therefore acknowledge that there are potential connections to the European sites within Dublin Bay via the wider drainage network and the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.

- 8.6. In terms of potential effects, habitat loss and fragmentation would not arise given the location and nature of the site. Given the site characteristics in terms of location and scale of development, I consider that surface water drainage and wastewater generation should be considered for examination in terms of implications for likely significant effects on European sites.
- 8.7. I note that surface water and foul water would discharge to the combined sewer for onward treatment at the Ringsend WWTP. I do not consider that the increased loading from the proposed development would generate any significant demands on the existing municipal sewers for foul water. I acknowledge that there would be a marginal increase in loadings to the sewer and the WWTP, however, upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening. I also note that evidence shows that negative effects to European sites are not arising.
- 8.8. Therefore, having regard to the location, nature and scale of the development, the dilution capacity of Dublin Bay and the insignificant additional loading on the Ringsend WWTP, I am satisfied that there is no potential for the development to result in significant effects on the Dublin Bay European sites, either on its own or in combination with other developments.
- 8.9. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise. The measures to be employed at construction stage are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.
- 8.10. The proposed development was considered in light of the requirements of section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites, including (but not limited to)

European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) European Site No. 000210 (South Dublin Bay SAC) and North-West Irish Sea SPA (004063) in view of the sites' Conservation Objectives, and Stage II Appropriate Assessment is not, therefore, required.

9.0 Recommendation

I recommend that the Board uphold the decision of Dublin City Council and refuse planning permission for the reasons set out below.

10.0 Reasons and Considerations

Having regard to the scale and massing of the proposed development and its proximity to the Protected Structure and designated Conservation Area, it is considered that the proposed development would be overbearing on the Protected Structure, would be injurious to its special architectural character, setting, significance, and legibility.

Furthermore, the proposed development represents overdevelopment of a restrictive infill site, would fail to provide for an adequate level of residential amenity for any future potential residents, and would give rise to undue negative impact upon the current residential amenities enjoyed in the surrounding location.

Therefore, the proposal fails to comply with SPPR 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) which sets out the required separation distances, Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (2022) in terms of private amenity space and is considered to be contrary to the Dublin City Council Height Strategy (Appendix 3) and policy BHA14 of the Dublin City Council Development Plan 2022- 2028 which relates to mews developments and would be contrary to the proper planning and sustainable development of the area.

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.

Kathy Tuck
Planning Inspector

19th December 2024

Appendix 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320666-24		
Proposed Development Summary	The proposed development comprises of the Demolition of the existing garage/warehouses; the construction of an apartment building providing 10 residential units and all associated site works.		
Development Address	To the rear of 24, 25 & 26 Richmond Street South, Saint Kevin's, Dublin 2		
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	Tick if relevant. 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)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.
No	X		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?

No	X	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: _____

Date: 19th December 2024

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-320666-24
Proposed Development Summary	The proposed development comprises of the Demolition of the existing garage/warehouses; the construction of an apartment building providing 10 residential units and all associated site works.
Development Address	To the rear of 24, 25 & 26 Richmond Street South, Saint Kevin's, Dublin 2
<p>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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	The proposed development site has a stated area of 247.32sq.m and currently comprises of single and two storey warehouses. The subject site forms part of the curtilage of a protected structure (the rear of no. 26 Richmond Street South). It is proposed to demolish the existing warehousing and construct a 4-storey apartment building which has proposed area of 707.93sq.m. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	The development site is located within the inner city in an area which has undergone significant redevelopment. The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan.
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent,</p>	Having regard to the location of the subject site within the city centre which is removed from sensitive habitats/features, likely limited

nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		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: 19th December 2024 _____

Appendix 3

Screening the need for Appropriate Assessment

Appropriate Assessment :Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development comprises the demolition of single and two storey warehouse buildings and the construction of a 4 storey apartment building providing for 10 no. apartment units and all associated site works.

The applicant submitted an Appropriate Assessment Screening Report as part of the planning application documentation which was prepared by Openfield Ecological Services. The screening concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites. The Planning Authority, within their assessment, accepted the findings of the screening report submitted.

European Sites

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

The boundary of the nearest European Site is within 15 km or 5 no. of European sites are located within a potential zone of influence of the proposed development. These are:

- South Dublin Bay and River Tolka Estuary SPA (004024)
- South Dublin Bay SAC (000210)
- North Dublin Bay SAC (000206)
- North Bull Island SPA (004006)
- North-West Irish Sea SPA (004063).

There are no direct natural hydrological connections from the subject site to Dublin Bay. Notwithstanding the location of the subject site proximate to the Grand Canal it is noted that the canal is an artificial waterway with minimal flow. Furthermore, the

site is separated from the canal by a public road and buildings so there is no direct connection between the development site and the canal.

The applicant is proposing to connect to existing municipal services in terms of water supply and wastewater/drainage. Therefore, there is an indirect pathway to the European sites of Dublin Bay via the Ringsend Waste Water Treatment Plant. I therefore acknowledge that there are potential connections to the European sites within Dublin Bay via the wider drainage network and the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.

Likely impacts of the project (alone or in combination)

Surface water and foul water would discharge to the combined sewer for onward treatment at the Ringsend WWTP. I do not consider that the increased loading from the proposed development would generate any significant demands on the existing municipal sewers for foul water. I acknowledge that there would be a marginal increase in loadings to the sewer and the WWTP, however, upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening. I also note that evidence shows that negative effects to European sites are not arising.

Having regard to the distance separating the site to the nearby Natura 2000 site there is no pathway for loss or disturbance of important habitats or important species associated with the feature of interests of any of the SPA/SAC's identified above.

Furthermore, there are no plans or projects which can act in combination with the proposed development which can give rise to significant effect to Natura 2000 sites located within the zone of influence.

Overall Conclusion

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The scale of the development;
- The location of the subject site within the urban context of Dublin City Centre;
- The lack of any direct connections to the nearest Natura 2000 site; and
- Taking into account appropriate assessment screening report submitted with the application.

Inspector: _____ Date: 19th December 2024

