



An  
Coimisiún  
Pleanála

## Inspector's Report

**ABP-322679-25**

---

### Development

Large Scale Residential Development which consists of the following: The demolition of all existing buildings on site. The construction of 119 no. apartments and all associated site and ancillary works.

### Location

43-50, Dolphins Barn Street, Dublin 8.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

LRD6060/25-S3

### Applicant(s)

The Iveagh Trust.

### Type of Application

Permission.

### Planning Authority Decision

Grant Permission.

### Type of Appeal

First Party V Condition

### Appellant(s)

The Iveagh Trust.

### Observer(s)

None.

**Date of Site Inspection**

16<sup>th</sup> July 2025.

**Inspector**

Kathy Tuck.

## **1.0 Site Location and Description**

- 1.1. The subject site which has a stated area of c.0.358ha is located at 43-45 Dolphins Barn Street, Dublin 8. The site is situated approximately c.900m to the south of the new Children's Hospital site which is currently under construction and c.360m to the north of the Grand Canal.
- 1.2. The site is situated on the northern side of Dolphins Barn Street and currently comprises of a mix of derelict buildings which range in 2 to 3 storeys addressing Dolphins Barn Street and a single storey derelict warehouse building and associated out buildings to the rear. The site shares its northern boundary with the rear boundary of dwellings located along Emerald Square and its western boundary with the rear boundary of dwellings located along Reuben Street. There is a motor garage located to the south at the site operating from no. 42 Dolphins Barn Street.
- 1.3. A number of bus services operate along Dolphin's Barn Street and there are bus stops located within 5 minutes walking distance of the proposed development. The Red Luas Line, Fatima Stop is within 10 minutes walking distance. Dolphin's Barn Street forms part of the proposed Bus Connects, CBC 09 Greenhills to City Centre route.
- 1.4. The subject site is also located within the Special Development and Regeneration Area 15 the Liberties and Newmarket Square as per the Dublin City Development Plan 2022-2028.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the demolition of all existing buildings on site comprising the former factory building to the rear of the site and buildings which front onto Dolphin's Barn Street (No's 43-50), which have a total gross floor area of c.3,243.5sqm.
- 2.2. The development also provides for the construction of 119 no. residential units comprising of 70 no. 1 bed units; 37 no. 2 bed units; and 12 no. 4 bed units. The proposed accommodation is provided for in 1 no. L-shaped block which ranges in height from 1 to 9 storeys in height.
- 2.3. In addition, the proposal provides for 2 no. community hubs, 15 no. car parking spaces, 240 no. cycle parking spaces and 707 sq.m of communal; open space.

- 2.4. The proposal includes for alterations and upgrade of the site boundary walls / treatment. The proposal includes 1 no. shared pedestrian/ vehicular entrance point from Dolphin's Barn Street, alterations to the public footpath/street along Dolphins Barn Street, the provision of 2 no. ESB sub-station's, plant and storage rooms, a comms room, a LV switch room, a life safety room, bin stores and all associated and ancillary works.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority issued a decision to grant planning permission on the 8<sup>th</sup> May 2025 subject to 23 conditions.

Condition No. 2 (a) is relevant for the purposes of this appeal and states the following:

2. The development hereby permitted shall be amended as follows:

- a) Apartment nos. 2-16, 3-16 and 4-15 located on the second, third and fourth floors to the rear of the building, shall be omitted.

Revised drawings and full details showing compliance with these above requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity and to ensure an adequate set back of the units from 2nd floor and above to protect existing residential amenity, and to ensure the community uses are completed in tandem with the residential units.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The report of the Planning Officer, dated the 8<sup>th</sup> May 2025, sets out details of:

- The site location, the proposed development;
- The land use zoning;
- The planning history of the site;

- The pre-planning consultations which are a statutory part of the LRD process;
- Consultee reports received;
- Submissions/observations received;
- All relevant National, Regional and Local Planning Policy; and
- EIA and AA Screening.

The report notes considered the proposal to be consistent with the Z4 land use zoning objectives set out in the Dublin City Development Plan 2022-2028.

With regard to impact on amenities, the assessment notes that on plan the nearest residential units, along the western boundary of the site, appear to be separated from the site via a laneway. However, the situation on site appears to be that some of these rear garden areas have been extended to the common boundary with the subject site. The assessment states *“The proposed height of block to the rear and its proximity to rear garden areas of houses on Rueben Street is concerning. The proposed building is shown sited c. 1.9m from the boundary with the laneway/rear gardens to the west (at its closest point).”*

The assessment concluded that the proximity of the proposed building to the western boundary, notwithstanding the fact that no window directly overlooks the adjoining property, and the location of balconies proximate to same, that there are concerns over issues of undue overbearing and overlooking impacts on the residents of the dwellings located along Reuben Street. As such, it was recommended that apartment no's 2-16, 3-16 and 4-15 be omitted by way of condition to reduce the impact at this area of the site.

The report of the Planning Officer reflects the decision to grant permission for the proposed development.

### 3.2.2. Other Technical Reports

- *Drainage report* dated 3<sup>rd</sup> April 2025 notes no objection subject to condition.
- *Roads report* dated the 14<sup>th</sup> March 2025 notes no objection subject to condition.
- *Environmental Health Report* dated 15<sup>th</sup> April 2025 notes no objection subject to condition.
- *Parks Report* dated the 16<sup>th</sup> April 2025 notes no objection subject to condition.
- *Conservation report* dated the 10<sup>th</sup> April 2025 recommends that permission be refused on the basis that the development would involve the demolition of “early buildings”, would result in an unacceptable loss of architecturally and culturally

significant housing which is of an early Dublin typology dating from c.1725. The proposed demolition would therefore contravene the provisions of the Dublin City Development Plan 2022-2028 Policy BHA6 – Buildings on Historic Maps.

- *Archaeology* report dated the 24<sup>th</sup> April 2025 recommends that further information be sought to include for an archaeological assessment.

### 3.3. Prescribed Bodies

#### National Transport Authority

Report dated the 16<sup>th</sup> April 2025 notes a conflict between the area indicated to be taken in charge and the permitted Tallaght / Clondalkin to City Centre Bus Connects Core Bus Corridor (CBC) Scheme (ABP Reg. Ref. No. HA29.316828-23). The report recommends that prior to approving the proposed development, the local authority should be satisfied that all relevant transport assessments have been undertaken, including Road Safety Audits, with the full Bus-Connects CBC taken into account and that all plans to service the site both during construction and in the operational phase were devised with the full Bus-Connects CBC taken into account.

#### Uisce Eireann

Report dated the 15<sup>th</sup> April 2025 notes no objection subject to condition.

### 3.4. Third Party Observations

The Planning Authority received 5 no. observations relating to the LRD application. Concerns raised can be summarised as follows:

- Potential impact on foundations and boundary wall.
- Impact on services.
- Loss of Privacy.
- Overlooking.
- Overbearing.
- Out of character with area.
- Undermines the visual cohesiveness of area – negative visual impact.

- Loss of residential amenity.
- Loss of natural light.
- Security concerns.
- Traffic.
- Lane-way between site and dwellings on Rueben Street in residents care.
- Impact on health – asbestos.
- Proposal exceeds acceptable mass and density for the area.
- Lack of public amenities in the area.
- Concern over long term management of building.
- Inappropriate mix of uses.
- Deficient communal open space.
- Proliferation of access points.
- Excessive height.

## 4.0 Planning History

### Subject site

PA Ref 3853/17	Permission GRANTED for the demolition of the existing former factory building to the rear of the site and buildings which front onto Dolphin's Barn Street and the construction of a part four to part seven storey residential and retail building with a gross floor area including basement car parking of the new mixed use building is 13,150 sq.m comprising of 1 no. retail unit at ground floor level with a total GFA of 1,405 sq.m and 70 no. apartments.
ABP.312295.21	SHD0030/21 Permission sought for a Build-to-Rent residential and commercial development comprising of demolition of all existing buildings on site, construction of a part four to part nine storey building to provide for 1 no. commercial unit, with an area of 369 sq.m (for Class 1- Shop or Class 2- Office / Professional

Services or Class 8- Medical Centre or Class 11 – Gym or Restaurant / Café, including ancillary takeaway use) at ground floor level, and 116 no. Build-to-Rent apartments and resident's support / amenity facilities from ground to eighth floor level. This application was withdrawn.

## 5.0 Policy Context

### 5.1. National Planning Policy

#### 5.1.1. National Planning Framework – First Revision (April 2025).

A number of overarching national policy objectives (NPOs) are of relevance, targeting future growth within the country's existing urban structure. NPOs for appropriately located and scaled residential growth include:

National Policy Objective 2 The projected level of population and employment growth in the Eastern and Midland Regional Assembly area will be at least matched by that of the Northern and Western and Southern Regional Assembly areas combined

**National Policy Objective 3:** Eastern and Midland Region: approximately 470,000 additional people between 2022 and 2040 (c. 690,000 additional people over 2016-2040) i.e. a population of almost 3 million Northern and Western Region: approximately 150,000 additional people between 2022 and 2040 (c. 210,000 additional people over 2016-2040) i.e. a population of just over 1 million; Southern Region: approximately 330,000 additional people over 2022 levels (c. 450,000 additional people over 2016-2040) i.e. a population of just over 2 million.

**National Policy Objective 4:** 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 7:** Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.

**National Policy Objective 8:** Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and



Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth.

**National Policy Objective 11:** Planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.

**National Policy Objective 12:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

**National Policy Objective 22:** In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.

**National Policy Objective 43:** 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 45:** 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, increased building height and more compact forms of development.

## **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.*

### **Sustainable Urban Housing: Design Standards for New Apartments**

The minimum floor area for one-bedroom apartments is 45m<sup>2</sup>, for two-bedroom apartments it is 73m<sup>2</sup> and for three-bedrooms it is 90m<sup>2</sup>. 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 3m<sup>2</sup> storage for one-bedroom apartments, 6m<sup>2</sup> for two-bedroom apartments and 9m<sup>2</sup> 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

#### **Other relevant guidance:**

- Delivering Homes, Sustaining Communities (2008) and the accompanying Best Practice Guidelines- Quality Housing for Sustainable Communities.
- Design Manual for Urban Roads and Streets (2013).
- Smarter Travel – A New Transport Policy for Ireland (2009-2020).
- Architectural Heritage Protection Guidelines, Dept. of Arts Heritage and the Gaeltacht (2011).
- The Planning System and Flood Risk Management Guidelines (2009).

## **5.4. Dublin City Development Plan 2022-2028**

- 5.4.1. The site is zoned under Objective Z4 - Key Urban Villages and Urban Villages which seeks to provide for and improve mixed-services facilities.

5.4.2. 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

5.4.3. 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

5.4.4. 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

5.4.5. 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.

5.4.6. 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

5.4.7. 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

5.4.8. 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

#### 5.4.9. 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 proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the Grand Canal Proposed NHA (site code pNHA002104) which is located c.286m to the south of the subject site and the South Dublin Bay SAC (site Code 000210), the South Dublin Bay and River Tolka Estuary SPA (site code SPA 004024) and the South Dublin Bay pNHA (Site Code NHA 000210) which are situated c.5.097km to the west of the subject site.

## 6.0 EIA Screening

The scale of the proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10), and I do not consider that any characteristics or locational aspects (Schedule 7) apply.

I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.



## 7.0 The Appeal

### 7.1. Grounds of Appeal

This first party appeal relates to condition number 2(a) of the planning authority's decision to grant permission. The grounds of appeal may be summarised as follows:

- The Planning Officer in their assessment stated that screens to the balconies associated with apartment no's 2-16, 3-16 and 4-15 could be conditioned to ensure no overlooking – but the assessment still proceeded to recommend that they be omitted.
- No undue issues of overlooking arise from the balconies associated with apartment no's 2-16, 3-16 and 4-15 – this is indicated on drawings submitted as part of the original application documentation:
  - Dwg. no PE23056-02-A-2102
  - Dwg. no PE23056-03-A-2103
  - Dwg. no PE23056-04-A-2104
- The subject units have been designed in a manner that they face away from the rear elevations of any of the existing dwellings along Reuben Street.
- Whilst it is noted that the balconies associated with the units to be omitted face towards the rear gardens associated with nos. 55 and 56 Reuben Street – the proposed development and rear gardens meet at a right angle and so there is no overlooking potential.
- Rear boundaries of 55 and 56 Reuben Street are separated from the balconies associated with apartment no's 2-16, 3-16 and 4-15 by approximately 10m at the closest point – considered acceptable in the urban context of Dublin City Centre.
- Applicant is willing to implement screening to the balconies of the subject apartments in respect of overlooking as a solution.

## **7.2. Planning Authority Response**

A response was received from Dublin City Council on the 2<sup>nd</sup> July 2025 which requests that the Commission uphold the decision of the Planning Authority.

## **8.0 Assessment**

### **8.1. Introduction**

8.1.1. I consider the main issues in determining this appeal are as follows:

- Scope of Appeal
- Condition 3 (a)

### **8.2. Scope of the Appeal**

8.2.1. This is a first-party appeal against Condition No. 2 (a) set out in the Notification of Decision of the planning authority to grant permission for the proposed development. As detailed at section 3.1 above, Condition 2(a) requires the omission of apartment no's 2-16, 3-16 and 4-15.

8.2.2. I note that no other appeal or observation has been received & I consider that a de novo assessment of the proposed development is not warranted in this instance. I am satisfied that the proposal is otherwise in accordance with the proper planning and sustainable development of the area. As such and in accordance with section 139 of the Planning and Development Act 2000, as amended, the assessment of the proposed development will be confined to condition 2(a).

### **8.3. Condition 2(a)**

8.3.1. As set out within section 3.1 above, condition no. 2(a) of the Planning Authority's grant of permission requires the applicant to omit 3 no. apartment units which are located at the south-west corner of the permitted apartment block. The Planning Officer within section 11.7 of their assessment, 'Impacts on Residential Amenity', sets out concern over the impact of the proposed block to the rear amenity space serving dwellings situated on Rueben Street in terms of overlooking and overbearance. The Planning Officer notes that the proposed block is set c.1.9m from the western boundary of the

site which is shared with the laneway/rear gardens to the west. The report considers that *'a reduction is considered necessary, and a condition will be attached in this regard to ensure that a greater set back is achieved at 2nd, 3rd and 4th floor levels to ensure no undue negative impacts occur in terms of overbearing impact.'*

- 8.3.2. The appellant contends that no undue issues of overlooking will arise from the balconies associated with apartment no's 2-16, 3-16 and 4-15 and that this is clearly demonstrated on plans submitted. It is further argued that the position of the proposed apartment block forms a right angle to the rear gardens associated with the rear amenity space associated with no's 55 and 56 Reuben Street and as such there is no overlooking potential. In addition, it is states that a separation distance of c.10m is also provided which is acceptable in the context of the city centre location.
- 8.3.3. From undertaking an assessment of plans submitted I note that the western (side) elevation of the proposed block is set c.1.9m from the western boundary of the site. At this point the proposed building has a ridge height of c.16.28m, sitting c.11.7m higher than the western boundary treatment of the site.
- 8.3.4. From the plans, it appears that the subject site is segregated from the rear boundary of the dwellings along Reuben Street by a laneway. However, I note from undertaking a site visit that this space has now been incorporated into the private amenity space serving the dwellings located along Reuben Street. This was also noted by the Planning Officer.
- 8.3.5. The appellant has stated that they are happy to provide for privacy screens to serve the balconies of the units subject to this condition in order to overcome the Planning Authorities concerns of overlooking. While I welcome this and consider that the provision of such screens could mitigate against issues of overlooking, I would have some concern that it would reduce the amenity of any future potential residents of the subject 3 no. apartments as they would not have outlook and it would cause a perception of enclosure due to the use of screening along the western and southern elevation of the balcony.
- 8.3.6. Notwithstanding the above, the main concern I consider to be is that of overbearance which was raised by the Planning Officer but not addressed within the 1<sup>st</sup> party appeal. Having regard to the height of the proposed apartment block at this point and the limited separation distance provided, I consider that this section of the development

would give rise to significant levels of overbearance upon the private amenity spaces serving a number of dwellings along Reuben Street, with a particular reference to No.51, 52 and 53.

- 8.3.7. I therefore consider that a reduction in height, which is achievable through the omission of apartment units no's 2-16, 3-16 and 4-15, as per condition no. 2(a) of the grant of permission, alleviates the concerns with regard to overbearance and should therefore be retained within the decision. The omission of these 3 no. apartments would allow for the building at this point to be reduced by c.9.6m, having a ridge level of c.6.7m sitting c.2.1m above the height of the existing boundary wall. As such, I consider that the requirements of Condition 2(a) would overcome the concerns with regard to overbearance raised by the Planning Authority.

#### **8.4. Conclusion**

- 8.4.1. The concern raised by the Planning Authority with regard to issues of overbearance has not been addressed within the appeal submission from the 1<sup>st</sup> party. I consider, as set out above, that the omission of unit's no's 2-16, 3-16 and 4-15 would reduce the impact of the proposed dwelling on the adjoining residential units to the west, most notably No.51, 52 and 53 Reuben Street.
- 8.4.2. Therefore, I recommend that the appeal be rejected and Condition no. 2(a) be retained within the decision.

#### **9.0 AA Screening**

- 9.1. See Appendix 3 of this report for Appropriate Assessment Screening Determination. 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 the South Dublin Bay SAC (stie Code 000210), the South Dublin Bay and River Tolka Estuary SPA (site code SPA 004024) or any other European site, in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.
- 9.2. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
  - Distance from and weak indirect connections to the European sites.
  - Taking into account screening determination by LPA
- 9.3. No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

## 10.0 Water Framework Directive

- 10.1. The subject site is located along Dolphins Barn Street within the urban context of Dublin City Centre. The proposed development comprises of the demolition of the existing structures on site and the construction of 119 apartment units all in 1 no. 1-9 storey building and all associated site works. No water deterioration concerns were raised in the assessment of the Planning Authority. The Grand Canal Main Line (Liffey and Dublin Bay) flows approximate c.349.5m to the south of the subject site.
- 10.2. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 10.3. The reason for this conclusion is as follows:
- Nature of works regard the scale;
  - Location-distance from nearest Water bodies and/or lack of hydrological connections.
- 10.4. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 11.0 Recommendation

- 11.1. Having regard to the assessment above and based on the reasons and considerations set out below, I recommend that the Planning Authority be directed to retain condition 2(a) as attached to the decision to grant permission.

## 12.0 Reasons and Considerations

Having regard to the design and scale of the proposed development and its relationship to surrounding properties, it is not considered that other aspects of the proposed development would have a significant impact on residential or visual amenity and that they are in accordance with the proper planning and development of the area. It is therefore considered appropriate in accordance with section 139 of the Act, that the appeal should be considered against conditions only.

Having regard to limited separation distances being provided from the proposed apartment block to the western boundary of the site and the significant deviation in height from the established character of the surrounding area proposed at this juncture of the site to Reuben Street it is consider that condition no. 2 (a) should be retained in order to overcome issues of overbearance and to protect the current level of residential amenity enjoyed at this location which would accord with 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

16<sup>th</sup> July 2025

## Appendix 1

### EIA Pre-Screening

<b>Case Reference</b>	ABP-322649-25
<b>Proposed Development Summary</b>	Large Scale Residential Development which consists of the following: The demolition of all existing buildings on site. The construction of 119 no. apartments and all associated site and ancillary works.
<b>Development Address</b>	43-50, Dolphins Barn Street, Dublin 8.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.

<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<b>Yes</b> <input type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## Appendix 2

### EIA Preliminary Examination

<b>Case Reference</b>	ABP-322649-25
<b>Proposed Development Summary</b>	Large Scale Residential Development which consists of the following: The demolition of all existing buildings on site. The construction of 119 no. apartments and all associated site and ancillary works.
<b>Development Address</b>	43-50, Dolphins Barn Street, Dublin 8.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (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 subject site has a stated area of 0.358 ha and currently comprises of a number of derelict two storey buildings that front onto Dolphins Barn Street and a large vacant single storey warehouse to the rear. It is proposed to demolish all buildings on site and construct a 1 – 9 storey apartment building which will provide for 119 apartment units, 2 no. community hubs, 707 sq.m of communal open space and all associated site works.</p> <p>The condition under appeal relates to the omission of 3 no. units.</p> <p>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>
<b>Location of development</b>  (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. 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>

<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the location of the subject site within the city centre which is removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<p style="text-align: center;"><b>Conclusion</b></p>	
<p><b>There is no real likelihood of significant effects on the environment.</b></p>	<p><b>EIA is not required.</b></p>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 3

### Screening for Appropriate Assessment

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

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

The subject site is located along Dolphins Barn Street within the urban context of Dublin City Centre and situated c.286m to the south of the subject site and the South Dublin Bay SAC (stie Code 000210), the South Dublin Bay and River Tolka Estuary SPA (site code SPA 004024). The proposed development comprises of the demolition of the existing structures on site and the construction of 119 apartment units all in 1 no. 1-9 storey building and all associated site works

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Nature of works and the limited scale of what is being proposed.
- The location of the site from nearest European site and lack of connections

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.