

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

11th May 2022

Our Ref. 22051

Re: Planning & Development Act 2000 and the Statutory Regulations made thereunder (as amended). Third party observation by Mr. James Gibbons, 13 St. James's Terrace, Dublin 8 in relation to Strategic Housing Development for the demolition of the existing industrial buildings within the site, the change of use of No. 307/307a St. James Terrace from residential to shared workspace/office space, construction of a build to rent development including 335 no. residential units, creche, café and all associated site development works at White Heather Industrial Estate, South Circular Road, Dublin 8, a residential dwelling at No. 307/307a, South Circular Road, Dublin 8 and an industrial building at 12a St James's Terrace, Dublin 8.

An Bord Pleanála Ref. ABP-TA29S.313278

Date of application: 11th April 2022

Five week period for observations ends: on or before end of 16th May 2022

Dear Sir / Madam

We, Marston Planning Consultancy, 23 Grange Park, Foxrock, Dublin 18, are instructed by our client Mr. James Gibbons, 13 St. James's Terrace, Dublin 8 to make the following submission to An Bord Pleanála in respect of this Strategic Housing Development application for approval lodged by U and I (White Heather) Limited (the applicant), for the above described development.

In accordance with the statutory regulations, we enclose payment to An Bord Pleanála for the appropriate statutory observation fee of €20. Our submission and the full reasons and considerations upon which this is based are set out below. We confirm that the submission is made within the statutory five week period in accordance with the Planning and Development Regulations 2001 (as amended). We have inspected the subject site and examined the planning drawings and other particulars that form part of this Strategic Housing Development (SHD) planning application.

1. Overview

The proposed development will be seriously injurious to existing residential amenity of our client's residential property at No. 13 St. James's Terrace (which adjoins the site to the south west), negatively impact their privacy, result in overshadowing, be overbearing in nature, visually obtrusive, result in noise disturbance as well as causing traffic hazards and conflicts within the local street network. The level of negative impact that would be experienced by our client is clearly contrary to the zoning objectives of the subject site and our client's property and the proper planning and sustainable development of the area, on that basis the proposed development must therefore be refused by An Bord Pleanála.

We respectfully submit that the subject site is not an appropriate location for the scale and density of the residential component of the proposal given the proposed heights, mass, scale and layout proposed by way of this application due to the particular site constraints arising from the adjoining receiving environment.

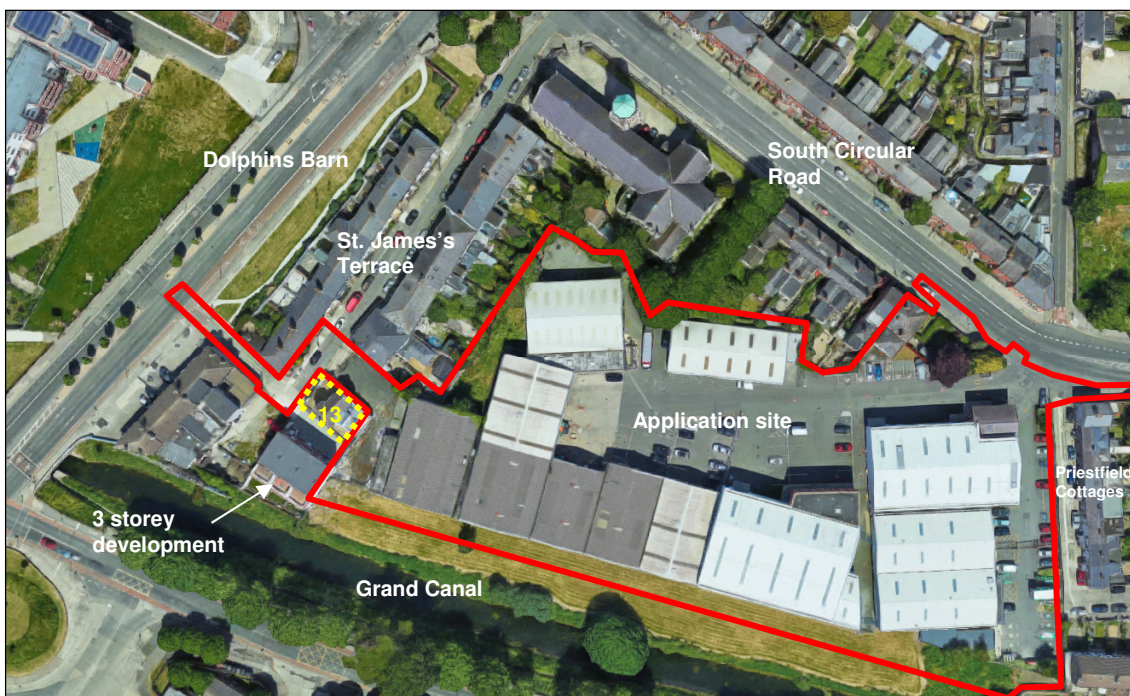
Prior to outlining the detailed grounds for our client's observation it is useful that the context of this application relative to our client's property is laid out before the Board.

2. Subject site and environs

The site (c.1.535ha.) is bound by our clients two storey dwelling at no. 13 St. James's Terrace to the south-west. The subject site is generally bound by the South Circular Road to the north, Our Lady of Dolour's Church (A Protected Structure) is located to the north-west, Priestfield Cottages bound the site to the east, residences at St James's Terrace to the west and the Grand Canal to the south. The SHD site includes the following:

- Generally one and two storey Warehouses/industrial buildings which formed the industrial estate known as 'White Heather'
- A residential dwelling at No. 307/307a South Circular Road (which is the subject of a change of use as part of this proposal from residential to workspace/offices), and
- No. 12a St. James's Terrace, a vacant industrial unit.

Access to the site is via the South Circular Road and to one unit from St James's Terrace. The subject site is surrounded by single storey and 2 storey residential areas at St. James's Terrace, Priestfield Cottages as well as the Church (a Protected Structure). The site has access to Dublin Bus services and Fatima Redline Luas Stop which is c. 10 minutes walking distance.



Aerial view of the application site outlined in red, and the location of our client's property outlined in yellow (source: Google Earth)

The site is located within the Dublin City Council administrative area, it includes 2 zoning objectives - zoned **Objective Z1** 'to protect and provide for and improve residential amenities' and **Objective Z9** with a strip of OS area along the Grand Canal Conservation area.

Existing Context of No. 13 St. James's Terrace

Our clients dwelling at No. 13 St. James's Terrace is a detached 2 storey dwelling, with associated enclosed ancillary space for car parking to the front enclosed by a wall and vehicular gate addressing the end of St. James's Terrace and its connecting road down to Dolphin's Barn Road. Our client's property has been extended at ground floor only to the rear, and which opens along its southern aspect onto a small patio area that measures c. 20sqm. The context of no. 13 within St. James's Terrace is unique at this location, in that it is a standalone dwelling set within a streetscape that it primarily terraced houses. No. 13 is bound to the south by a recently constructed terrace of 3 no. three storey town houses (new build); that is located to the immediate south and perpendicular to our client's home that have obscure glazing at second floor level facing our client's property; and to the north by the access to a single warehouse unit.

The site survey drawing submitted with the SHD application shows the existing warehouse building c.5.2m to the rear of our clients property at No. 13 St. James's Terrace. No height dimensions are provided on the

warehouse closest to our client's dwelling within the application details submitted, however, it is estimated to be c.7m in height (to ridge level) based on the heights shown on the drawing. This is one of the lowest buildings within the application site currently. It is noted that other warehouses within the subject site include heights of 8.47m and 10.36m. The image below shows the existing context of our client's property to the existing buildings within and adjacent to the subject site.

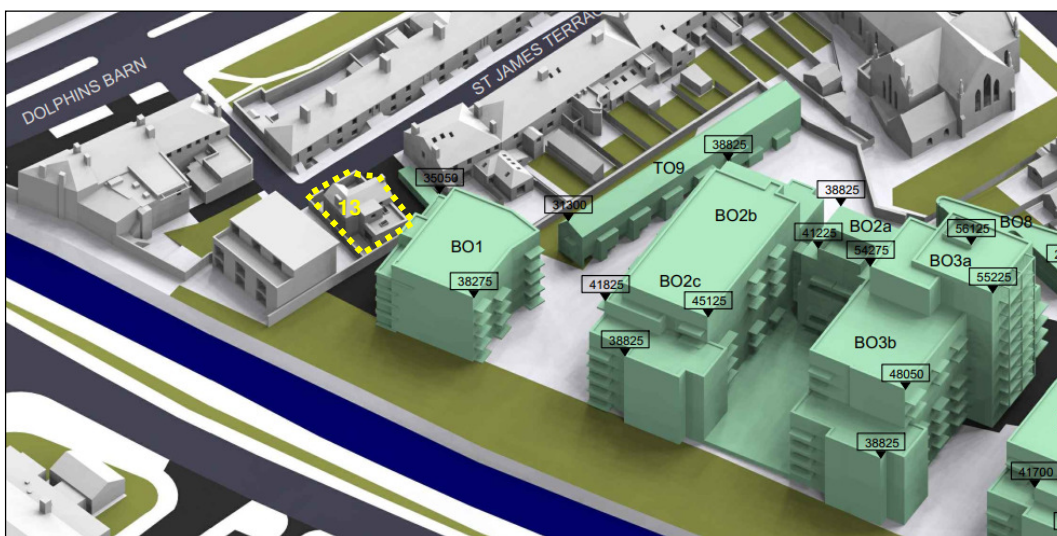


Aerial view of the context of our client's property outlined in yellow to existing warehouse buildings to be demolished and three storey townhouses (source: Google Earth)

3. Proposed development

The proposed development is a build to rent development that requires the demolition of the existing industrial buildings within the subject site; and the construction of 335 no. residential units, a creche, café, residential amenities and all associated development works. Overall heights within the proposed development range from 2 -10 storey and includes a proposed pedestrian and cycle access to the immediate north, and adjacent to the gable of their property. The proposed density is referenced in the SHD as 262 units per hectare (Design Statement OMP Architects).

The proposed development includes for the development of Block B01 that will be located to the immediate south-east of their property. This 5 storey residential block (Block B01) is proposed to the immediate rear and within 5m of our client's property, and contains balconies overlooking their home at every level, as well as being highly overbearing. The red line of the application also includes the part of St. James's Terrace street that is located directly in front of No. 13. The proposed development includes proposed construction works or other forms of works which address three sides of our client's detached dwelling. It is notable that this entire block also forms part of the Part V proposal for the proposed development. This has the potential to further denude the amenity of the nearest properties to this block.



Proposed 3D site plan Avison Young (SHD EIAR Appendix)

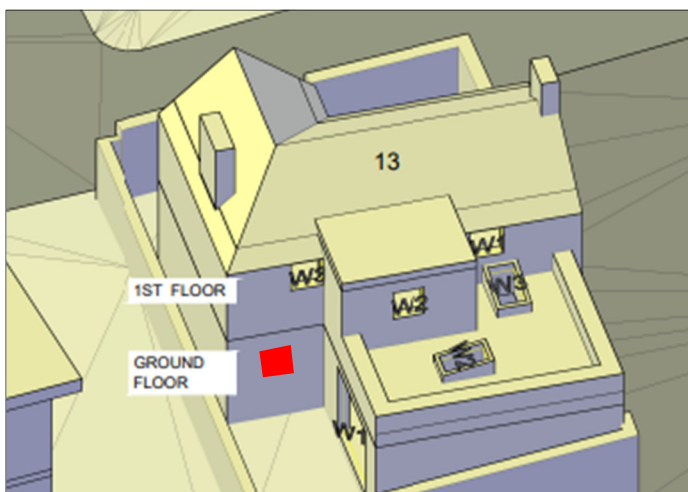
4. Grounds of observation

The full grounds of our clients' submission together with the arguments, reasons and considerations upon which it is based is set out below. We respectfully submit that the proposed development, by nature of its scale, density, design and layout at this location would be seriously injurious to the amenities of the area and would be contrary to the proper planning and sustainable development of the area and should be refused.

Loss of Residential Amenity and Overbearing impact on No. 13 St. James's Terrace

The proposed development includes heights that range from 2 to 10 storeys across the site in a series of 7 no. blocks. We respectfully submit that the 5 storey residential Block B01 (to be delivered in phase 1) with overall heights ranging from 15.5m to 16.92m (the later including plant at roof) is to be provided in very close proximity to our clients property). Block 01 will be positioned c. 5m from the boundary wall, and only 9m from the first floor return and 11m from the two rear facing first floor windows of the two storey dwelling at no. 13 St. James Terrace. We refer the Board to the fact that the western elevation of this Block has c. 12 large floor to ceiling windows above ground floor that will overlook our client's property to the rear.

The rear of No. 13 St. James's Terrace (a 2 storey dwelling with a single storey element to the rear) has one window at ground floor facing Block B01, and three rear windows at 1st floor level addressing the subject site. The dwelling also has 2 no. roof lights which provide light to a single storey element to the rear of the dwelling. There are patio doors addressing a yard area to the rear as well as the ground floor window to the rear of the original house of No. 13 and all of these will be materially and significantly impacted by the proposed development. It is notable that the ground floor window is not assessed under the daylight, sunlight and overshadowing assessment



Excerpt showing that the daylight analysis did not assess our client's rear ground floor assessment, and photograph indicating its location

Having examined the floor plans of Block B01, it is noted that much of the proposed fenestration of this block is associated with the main living areas of the proposed apartments as well as circulation areas. In addition there are corner balconies at all upper levels located on the southern and western elevations of Block 01 which will have outlooks over our clients dwelling. Whilst these will be partly screened to the side they will overlap these screens, and will provide overlooking of our client's home. This will be seriously detrimental to our client's privacy and residential amenity.

We note that the Design Statement prepared by OMP Architects (page 22) sets out the following in relation to the proposed heights within the site:

*"The site consists of 7 apartment blocks and two 2-Storey terraces. The block range in height from 2 - 10 storeys, with the 2 and 3 storey sections being located adjacent to the 2 storey houses on Priest Field Cottages. The principle of the development massing is to keep the blocks low to the perimeter of the site, with an emphasis **on a locally sensitive 5 storey "Shoulder"**, which then rises up to a 10 Storey Marker building in the centre of the site". (our emphasis)*

It is clear from the proposed elevation and floor plan drawings and 3D images submitted with the SHD application that the proposed development is of a scale, mass, height and layout that will tower above,

completely dominate, deplete the residential amenity of no. 13 St. James's Terrace and be highly obtrusive when viewed from the residential property.

The degree of overshadowing, irrespective of the failure of the applicant to identify and therefore assess our client's rear ground floor window, will be severe with a seriously injurious impact on their residential and visual amenity. We refer the Board to the EIA Report that sets out these in detail. It is clear that the loss of daylight and sunlight will be seriously injurious to our client's residential amenity, irrespective of the overbearing impacts.

The existing warehousing to the rear of No. 13 is c. 7m in height. These are to be removed and replaced by an apartment building of 5 storeys which will overshadow, dominate and deplete the privacy of our client's property to the rear. This proposal will completely alter and erode the residential amenity of our client's property and will result in a decline in the quality of their internal living space and external areas (which we note is already limited in nature to the rear).

We respectfully submit that it is not in question that no. 13 St. James's Terrace will be negatively impacted by the proposed development to the front, side (northern gable) and the rear. Ultimately, it is considered that the proposed development will be negatively impacted to such an extent that it will wholeheartedly diminish the existing residential amenity of our client's property.

The SHD application has made no attempt to mitigate the negative impacts that will arise to our client's property nor have they provided a robust justification for the provision of a 5 storey apartment block in close proximity to our client's dwelling, when the boundary to the north is bounded, irrespective of their negative impacts, by a three storey terrace.

The photomontages presented by Modelworks with the SHD application do not show views from our clients property in the context of the proposed development, this is despite the fact that our client's property is the most sensitive receptor in this area, and that uninterrupted view of the site and development are available from the proposed access to the north of their home.. Proposed Photomontage View 15, when considered in relation to the streetview below, provides a glimpse of the excessive mass and scale of the proposed development along the canal. It is clear that the Block B01 will tower over and be highly overbearing to our client's property.



Proposed photomontage view 15 prepared by Modelworks (showing excessive mass and scale of the proposed development) in context of new townhouses, and streetview of our client's property and new townhouses from Dolphins Barn (Source : Google Maps)

We urge An Bord Pleanála to closely examine the proposed development in the context of our clients property at 13 St. James's Terrace. We respectfully submit that there is nothing "*locally sensitive*" about locating a 5 storey apartment (such as Block 01) c. 5m from the boundary wall of a two storey dwelling at No. 13 St. James's Terrace. Our client's property will experience a seriously injurious loss of privacy, loss of light, noise disturbance, overbearance as a result of the proposed development.

We submit that our client's residential amenity at St. James's Terrace will be irreversibly eroded as a result of the proposed development. This is contrary to the zoning of this area, and given their scale, must be considered as being entirely contrary to the proper planning and sustainable development of the area and should be refused on the basis of its negative impacts on our clients property at No. 13 St. James's Terrace.

Pedestrian and Cyclist Access via St. James Terrace

Our client notes that the SHD proposal intends to channel pedestrians through St. James's Terrace. It is also noted that cyclists will be channelled through our client's residential street.

This route will run along the northern gable of our client's property. The proposed site layout plan prepared by OMP Architects shows that bicycle parking will be located immediately adjacent to the gable wall of their property. Our clients are concerned in terms of the impacts arising from increased pedestrian and cyclist activity within their street. St. James's Street is narrow and has on-street car parking for residents with none of the houses, apart from that of our client's having off-street car parking that reduces the street to having the capacity for a single lane of traffic only, with a significant pinch point at the corner to the front of no. 13 and no. 14. Our client's vehicular access point (see below) is significantly constrained and would offer no visibility of either pedestrians or cyclists exiting the application site. This amounts to a serious traffic concern of our client.

In addition our client is significantly concerned in relation to the negative impacts arising from increased pedestrian and cyclist activity within their street which at present does not experience high traffic volumes, pedestrian footfall or high levels of cyclist usage. This when presented in the current manner, where there is a lack of car parking within the proposed development, and the lack of other on-street car parking bounding the site, for the street to be the focus of significant spill over car parking from the proposed development. Increase demand for car parking in the area, will most seriously impact on the existing residential amenity (car parking) available to the existing residents and as a result of the narrow nature of the adjoining streets in particular St. James Terrace and will result in a serious traffic hazard as well as public safety concerns. This will compound the issues raised in the previous paragraph.

Given that the proposed development seeks to provide over 500 cycle spaces as well as pedestrian usage of St. James Terrace to access the main road network, there is very real potential for significant traffic conflicts to arise between a merging of road users including vehicles, pedestrians and cyclists on St. James Terrace. This is compounded by the lack of any co-ordinated proposals to improve cycling infrastructure or access into the site from elsewhere.



Proposed streetview of our client's property in context of proposed new pedestrian and cycling link (Source : Google Maps)

Lack of consideration of Sunlight and Daylight Analysis for No. 13 St. James's Terrace

We note that our client's rear garden has not been included in the assessment of sun hours/overshadowing diagrams presented in pages 27-30 of the Supplementary Daylight/Sunlight and Overshadowing report prepared by Avison Young dated March 2022. This is a serious omission of the assessment.

It is considered that the Sunlight and Daylight report before An Bord Pleanála must be severely questioned in terms of its accuracy in order to fully assess the proposed SHD application. While there are a series of modelled visuals presented with the SHD planning application the finding/results of these have been presented in a way that is difficult to interpret.

A clear set of findings would need to be presented to An Bord Pleanála in order for them to have all of the information before them in order to make a considered, reasoned determination based on evidence. To our mind, An Bord Pleanála does not have this information before them currently. This is an important omission

from the SHD planning application. We respectfully request the Board to refuse permission on the significant levels of overshadowing and loss of light that will occur to neighbouring properties in particular our clients property at 13 St. James's Terrace.

Negative impact on Property Values

The proposed development will have a seriously negative impact on the value of our client's dwelling at no. 13 St. James's Terrace which adjoins the subject site given the profound overbearing nature of the proposed development, the proximity of the proposed Blocks to our clients dwelling, the heights proposed, the decrease in light, privacy, and the significant loss of residential amenity that will occur as a consequence of the proposed development.

5. Conclusion

Our client's residential amenity at No. 13 St. James's Terrace will be seriously negatively impacted and fundamentally altered by the proposed development. We respectfully submit that the applicant has failed to adequately address the concerns of our clients in terms of respecting the appropriate density and building heights that the subject site should be developed at particularly in relation to this corner of the site. The proposed development is a serious overdevelopment of the site and will be overbearing and obtrusive in nature; result in a loss of privacy; cause serious overshadowing, negatively impact visual amenity; as well as cause potential traffic hazards and road user conflicts in the vicinity of our client's property.

The proposed layout, the lack of distance and meaningful transition in scale to the edges of the subject site particularly as they relate to our client's dwelling at no. 13 St. James's Terrace, and particularly in relation to Block B01 must lead the Board to issue a refusal of permission in this instance. Furthermore, we are of the considered opinion that the scale of the proposed development, its massing, height and density proposed in this instance is not justifiable given the specific constraints immediately adjoining the site in the form of existing residential properties (2 storey) at St. James Terrace as well as the location of Our Lady of Dolours Church (a Protected Structure).

We respectfully submit that when considering all elements of this SHD application it is incumbent on the Board to conclude that the proposal reflects a massing, design and layout that has not addressed or respected the site or its context. We respectfully submit that the proposal cannot be justified as the proposed mass, height and density proposed and that it would be contrary to the proper planning and sustainable development of the area.

We request the Board to assess this SHD on its individual merits and conclude that it forms a Build to Rent scheme and non-residential uses in a location where there is already an over-concentration of similar large scale residential developments in the vicinity of the site. The SHD application should be refused on the basis that the development will be contrary to the proper planning and sustainable development of the area, would result in excessive build to rent residential density at this location.

We respectfully request the Board based on these considered and objective planning arguments to refuse permission in this instance.

We trust that An Bord Pleanála will give due consideration to all matters raised in this submission and request that planning permission be refused for the proposed development.

Yours faithfully,



Anthony Marston (MIPI, MRTPI)
Marston Planning Consultancy