

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 St. James's Terrace Residents Association Ltd., 6 St James's Terrace, South Circular Road, Dolphins Barn, Dublin 8, D08 E2H7 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 clients St. James's Terrace CLG, Terrace Residents Association Ltd., 6 St James's Terrace, South Circular Road, Dolphins Barn, Dublin 8, D08 E2H7; to make the following submission to An Bord Pleanála in respect of this Strategic Housing Development (SHD) 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 SHD nature of this application on what is Z1 (residential) and Z9 (recreational land - along the Grand Canal edge) lands requires the Board to consider this application in a thorough and comprehensive manner relative to the relevant local, regional and national policies. This assessment must include whether the applicant has taken the correct approach to the overall design, layout and scale of development within its local context that includes St. James Terrace to its west; and whether policies and objectives of the Dublin City Development Plan 2016-2022 are being upheld by the proposal and that they are not in conflict with Regional and National planning policies.

It is not in question in this instance whether the principle of residential development is acceptable on the site given that the site is substantially zoned Z1 with a small portion of Z9 (which is not being built upon), nor is it in question that all planning policy at a local, regional and national level is pushing for higher residential densities at appropriate locations. However, 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 and layout proposed by way of this application due to the particular site constraints arising from the adjoining receiving environment.

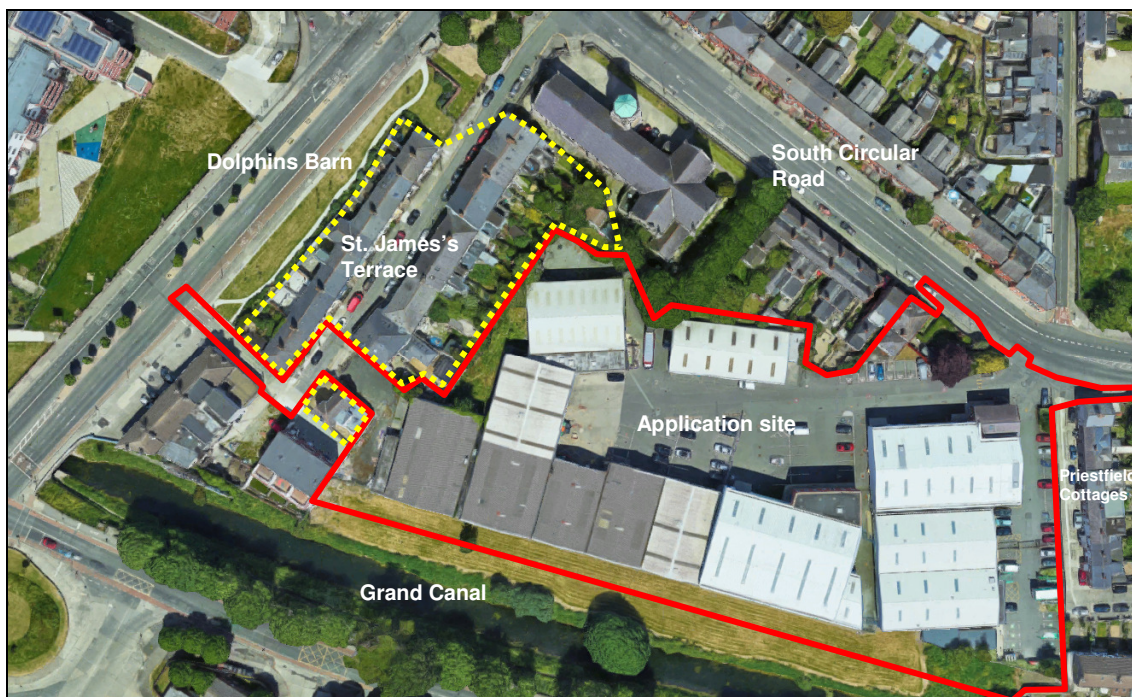
The proposed development will be seriously injurious to existing residential amenity of adjoining residential developments and will negatively impact on the Protected Structure adjoining the subject site, is contrary to the zoning objectives of the subject site and the Building Height Guidelines and must therefore be refused by An Bord Pleanála.

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

2. Subject site and environs

The subject site of 1.535ha. is located to the immediate north of the Grand Canal and includes lands in the ownership of the applicant and lands in the ownership of Dublin City Council. The site is bound by the South Circular Road to the north; by Our Lady of Dolour's Church (A Protected Structure) to the north west (the church is at the junction of the South Circular Road and St. James's Terrace); the Grand Canal to the south; and by our clients two storey dwellings at St James's Terrace to the west.

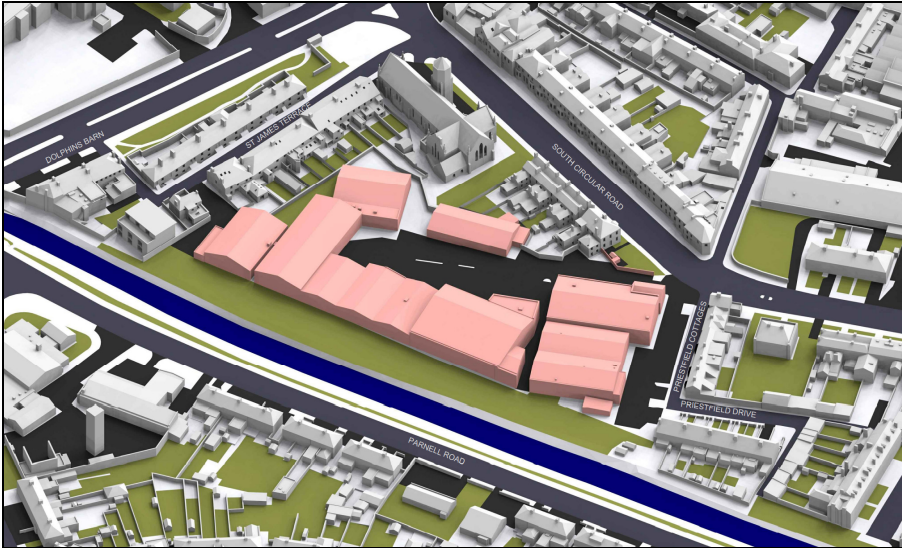
The site of this SHD is described within the application documentation as including a former industrial estate known as 'White Heather' which is generally 2 storey. There are up to 10 buildings within the subject site according to the SHD documentation. The SHD site also includes a residential dwelling 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.



Aerial view of the application site outlined in red, and the location of St. James's Terrace properties outlined in yellow (source: Google Earth)

The White Heather industrial estate is primarily accessed via the South Circular Road with one unit (12a) being accessed from St James's Terrace between nos. 12 and 13 St. James's Terrace.

There are existing bus services along South Circular Road and Dolphin's Barn. Dolphin's Barn is a proposed BusConnects Core bus Corridor (CBC), Greenhills to City Centre. However, the Bus Connects arrangements have not been put in place as of yet. As An Bord Pleanála will be aware recent legal judgements have determined that future route or transportation arrangement should not be relied upon in the assessment and determination of an SHD. The Fatima Redline Luas Stop is c. 10 minutes walking distance. Dublin city centre is c.2.8 km, c. 35 minutes walking distance or c. 10 minutes cycling distance.



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

The site location plan prepared by OMP Architects identified a wayleave within the subject site. The site is located within the Dublin City Council administrative area, and includes two 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.

3. Recent Planning History

The subject site include large warehouse type units, ancillary car parking areas and hard standing as well as one residential unit. The planning history at the subject site relates entirely to the use of the White Heather Industrial estate for warehouse related/industrial uses. The Industrial estate was the subject of rezoning in March 2020, where it was rezoned for residential use (Z1).

Comments on the planning history:

Simply because the former industrial estate lands were the subject of a rezoning change to provide residential development at an urban location in close proximity to existing transport does not provide the applicant with an opportunity to overdevelop the subject site in the manner proposed via this SHD. Any development at the subject site needs to be of a scale, mass, form, height and layout that does not detract from the Protected Structure at Our Lady of Dolour's Church and the modestly scaled residential streets surrounding the site, in particular our clients properties at St. James's Terrace (to the west of the site).

4. Proposed development

The proposed development at the subject site (c.1.535ha), which is described as a build to rent development, comprises of the demolition of the existing industrial buildings within the subject site, with no. 307/307A South Circular Road to be retained within the subject site and redeveloped, the proposal seeks a change of use of No. 307/307a from residential to shared workspace/office space.

The main element of the proposed development will be the construction of 335 no. residential units, a creche, café, residential amenities and all associated development works. The proposed development will provide:

- 328 apartments (build to rent) arranged in a series of blocks
- 7 no. houses along the western boundary
- Overall heights within the proposed development range from 2 -10 storey
- Block 03, which is located centrally along the southern boundary, is the tallest proposed block at 10 storeys
- 106 no. car parking spaces (at grade and at undercroft)
- 558 no. cycle parking spaces (491 secure and 67 visitor)
- change of use of No. 307/307a South Circular Road from residential to workspaces/office space
- 3 no. substations

- Realignment and improvement works to the existing entrance junction on South Circular Road and the existing entrance to Priestfield Cottages to provide road markings, footways and formal uncontrolled crossing points;
- Works to surface treatments to provide pedestrian and cycle access only to the proposed entrance at St James's Terrace; and
- All enabling and site development works, hard and soft landscaping, public realm works, public art, lighting, services and connections, waste management and all other ancillary works.

The proposed density of the proposed development is referenced as 262 units per hectare within the SHD application (Design Statement OMP Architects). The proposal is to be developed over two phases from west to east. The scale and massing of the development relative to St. James's Terrace is clearly shown below.



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

The proposed 7 no. terraced houses bounding St. James's Terrace are all three storeys in height and with the top two containing an open plan living space at ground floor, a double and single bedroom at first floor and a further double bedroom and office space at second floor level. The other five units contain an undercroft type area at ground floor, for parking, and include a living space at first floor plus a double bedroom with two double bedrooms at second floor level. These five units also contain a window at second floor level at floor level serving the landing area. The southern end terrace unit contains a pop-out element to its southern elevation at first floor. The potential negative impact that this terrace will have on the residents of St. James's Terrace is reflected in the incongruous design and narrow depth of only 6m to their rear gardens. Their distance to rear elements of our client's properties ranges from 16.5m to 22.4m. It is also notable that the rear gardens of both nos. 2 and 3 St. James's Terrace are longer in length and therefore are located to the immediate north of this terrace and will be seriously impacted by the scale and height of the terrace.

Block B01 is located to the south of these houses and forms a five storey block of apartments with generally five units on each level. It is positioned within 5m of the rear boundary of no. 13 St. James's Terrace; and 6.8m from the rear boundary of no. 12. This block contain north facing balconies towards the rear of nos. 11 and 12 at each level, as well as windows facing the rear of no. 13. 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.

5. 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.

Over-concentration of Large Scale Development in the wider Area

The proposed development for 335 residential units is only one of the many large scale residential developments currently in the system or recently granted / under construction in the immediate vicinity of the subject site. This includes the redevelopment of Fatima, St. Teresa's Gardens, the former Bailey Gibson site and the Dolphin House redevelopment. There is a clear significant concentration of these applications in this area, that we would question whether the applicants have fully considered in making their application. Their cumulative impact and effect on the area, both during construction and if all are completed, will have a profoundly negative impact on the area.

We request the Board to severely question the impact of such an over-concentration of similar type developments on this area, given the presence of modestly scaled residential streets, the Grand Canal conservation area and Protected Structures adjoining this site.

We respectfully submit that there is an over-concentration of "big block" residential development existing, permitted (not yet constructed) and proposed in the vicinity of the subject site. Such an over-concentration of such uses would be contrary to the proper planning and sustainable development of the area.

There is a need for synergy between such accommodation i.e. a Build to Rent scheme and higher density employment locations. The subject site does not provide such a location and at best can be described as being on the outer periphery of such an area, despite its location close to the LUAS. We respectfully submit that when all of the above is considered it is incumbent on the Board to conclude that the over-concentration of similar forms of development in the vicinity of the subject site must lead to a refusal of this application.

Overbearing impact on St. James Terrace and the Residential Amenity of adjoining Residents and Streets

The proposed development includes heights, massing and scale that fails to respect the protected structure and the adjoining residential areas located in close proximity to the Grand Canal Conservation area. The proposed development includes heights that range from 2 to 10 storeys across the site in a series of 7 no. blocks.



Site Context Elevation – South (noting that St. James Terrace is located to the left of this image and the 5 storey block 01 is located in close proximity to No. 13 James Terrace)

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)

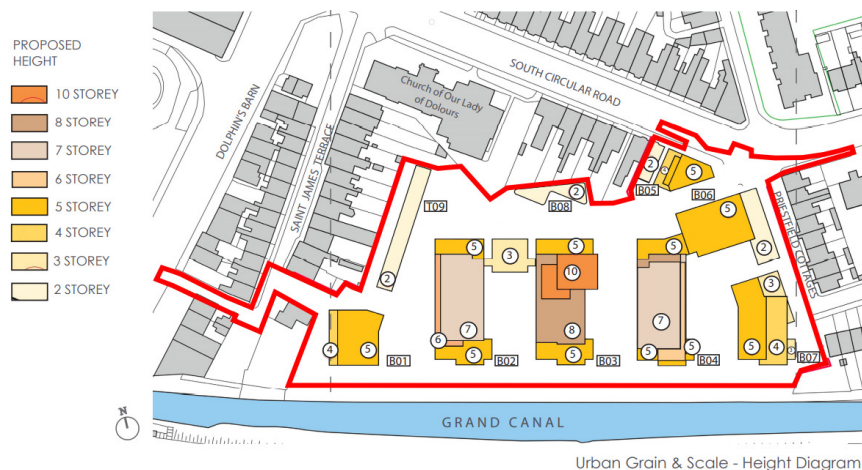
It is clear from the drawings and 3D images submitted with the SHD application that the proposed development is of a scale, mass, height and layout that will completely dominate, and negatively impact upon the residential amenity of and be highly obtrusive within the immediate surroundings of the subject site which is generally one and two storey. This includes our client’s residential properties at St. James’s Terrace (located along the subject site’s western boundary). The architectural drawings submitted with the application have completely failed to reflect this relationship, and it is notable that within the continuous elevations and the sections (including those extracted above and below) that the properties at St. James’s Terrace are not replicated in an accurate manner to reflect their true scale and form.



Section prepared by OMP Architects (St. James Terrace shown to the left of the image in the context of the proposed houses and residential blocks within the subject site).

We respectfully urge An Bord Pleanála to examine the proposed development in the context of our clients properties at St. James’s Terrace. We 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 and c.6.7m from the rear boundary wall of No. 12 St. James’s Terrace.

These properties will experience loss of privacy, loss of light, noise disturbance, overbearing as a result of the proposed development. Nor could it be considered that the provision of a row of 7 no. 3 storey houses in close proximity to St. James’s Terrace represents an appropriate transition in scale, particularly given the close proximity of the new dwellings to existing dwellings, c.16.5m from the rear elevation of No. 8 St. James’s Terrace and c.17.8m from the rear elevation of No. 5 St. James’s Terrace. This is also exacerbated by the fact that proposed Block 02 which is located behind the new dwellings will be 5 and 6 storey and Block 01 which is primarily 5 storey will have outlooks over the existing residences and their rear garden area at St. James Terrace.



Proposed Heights Diagram within the site (extracted from page 22 of OMP Architects Design Statement)

Furthermore, the position of this terrace will significantly overshadow and be overbearing to both nos. 2 and 3 St. James’s terrace, whose rear gardens overlap and are located due north of the block. We respectfully submit that our client’s residential amenity at St. James’s Terrace will be irreversibly eroded as a result of the proposed development. The current relationship of these houses are that they address the generally one and two storey warehouse and industrial buildings within the White Heather Industrial estate which are to be demolished (noting that the site also includes a residential dwelling which is to be changed into

office/workspace facilities).

Despite the references to the contrary within the SHD application, the lack of transition between the proposal and the existing houses along St. James's Terrace is stark (as presented within the sections and elevations shown above); and it is clearly evident that the proposed development will be highly overbearing to the existing houses along St. James's Terrace in particularly the closest dwellings referenced above. This is contrary to the zoning of this area and will have a negative impact upon the Grand Canal conservation area. The development would significantly detract from and alter the physical character and fabric of the existing residential streetscape along St. James Terrace and the Grand Canal, and should be refused.

Pedestrian and Cyclist Access via St. James Terrace

Our client's note 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. St. James's Street is narrow and has on-street car parking for residents with none of the houses 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 clients are 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.

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 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.

Overlooking

Our clients are collectively concerned with the location of balconies on the north and south elevation of Block B01. There are balconies proposed at all level above ground floor that will seriously overlook the rear of the houses at nos. 10, 11 and 12 St. James's Terrace. This impact will be compounded and extended to the rest of the terrace as a result of overlooking balconies within blocks 2 and 3 that will be seriously injurious to the privacy and residential amenity of all the St. James's Terrace properties, and particularly those backing onto the site.

Negative impact on the adjoining Protected Structure at Our Lady of Dolour's (Protected Structure)

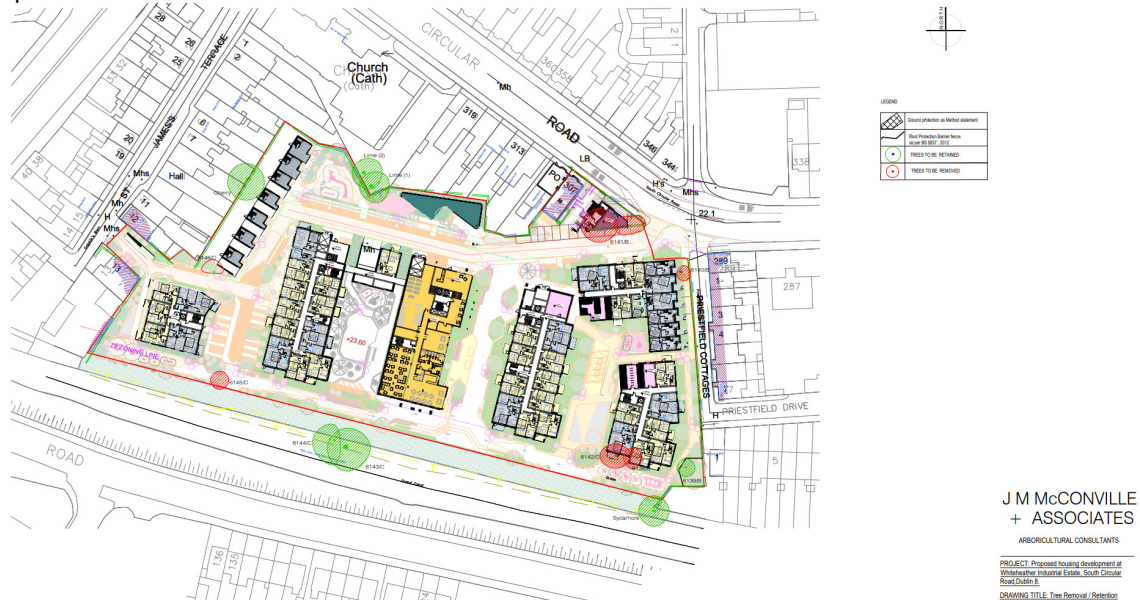
The church which adjoins the subject site to the north-west is a Protected Structure. There are without doubt several elements of the proposed development that will negatively impact on the existing Protected Structures at the boundaries of the subject site.

In adding the Church to the Record of Protected Structures Dublin City Council have sought to ensure the protection of the existing building and its curtilage within the provisions of the Planning and Development Act 2000 (as amended). It is clear that the proposed development will dominate, engulf and diminish the architectural form and distinct setting and character of the Protected Structure in this case.

The proposed architectural form of this SHD application is an overdevelopment of the site in terms of its mass, scale, height and detail. It will result in an overbearing form and overdevelopment of this site and have resultant negative impacts upon the Protected Structure and the modestly scaled residential development (including our client's properties). The impacts that the proposed development would have on the Protected Structure (the Church) is contrary to the Dublin City Development Plan conservation policies under Policy CHC2. The development should be refused on this basis.

Excessive levels of Tree Removal and reference to tree retention outside of the subject site

Based on the drawings submitted with the SHD, notably the Tree retention and Tree removal plan (shown below), we note that all the trees shown to be retained appear to be located outside of the red line area or at the boundary of the subject site with adjoining properties. Based on the drawing presented above, there is only one tree shown to be retained within the site. The tree shown in the south eastern corner of the subject site. It is considered that the applicant intends to substantially denude the site of its existing trees to accommodate the proposed development. This is contrary to the policies and objectives of the Dublin City Development Plan.



Tree Removal/Retention Plan prepared by J Mc Conville + Associates. (Trees hatched green to be retained and trees hatched red to be removed).

There appears to be conflicts between the proposed surface car parking spaces and proposed trees within the subject site. There are several instance where car parking spaces are shown overlaid upon proposed trees, there is evidence of this on the proposed site layout plan prepared by OMP Architects.

Car Parking Proposals

The proposed development provides for 106 no. car parking spaces. The vehicular access to the subject site will be via the South Circular Road. Our clients are concerned that this additional level of additional car parking and the vehicular traffic generated by the proposed developed will result in traffic hazards within the local road network as well as generating overspill car parking. Our clients are also concerned that the cumulative impacts of the numerous large scale residential developments in the vicinity of the subject site have not been taken into account in this SHD application. The proposed development should be refused on this basis.

Notwithstanding the concerns in relation to the local road network, the proposal provides a low level of car parking for 335 no. units, and will certainly generate a demand for additional car parking. This will place pressure on the residential streets in the area in particular St. James's Terrace which will be easily accessible to the subject site via a pedestrian/cyclist linkage. This will result in a serious loss of residential amenity (on street car parking) for our clients along St. James's Terrace.

Sunlight and Daylight Analysis

Our clients have particular concerns in relation to the accuracy of the Sunlight and Daylight Impact report which is included as part of the SHD application. 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.

Whilst 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. In our considered opinion An Bord Pleanála does not have this information before them currently. This lack of clarity 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 properties at St. James's Terrace. Furthermore, our clients are significantly concerned in relation to the impact of the proposal in relation to the capacity of already installed solar panels, or that it would significantly deter and make it inefficient to install solar panels on other houses that would be contrary to the policies at local, regional and national level in relation to climate change.

Negative impact on Property Values

The proposed development will have a negative impact on the value of properties adjoining the boundaries of the subject site in particular our client's properties along St. James's Terrace given the profound overbearing nature of the proposed development, the decrease in light, privacy, significant loss of residential amenity which will occur as a consequence of the proposed development. Such degrees of negative impact are unacceptable when considering the proper planning and sustainable development of the area.

Inconsistencies between the Statutory Notices and the Application Drawings

Having examined the statutory notices we note there is reference to the provision of car parking within an undercroft area. However there are several drawings presented with the planning application including those prepared by OMP Architects and Systra that show and make reference to "basement" car parking. There is also reference in the EIAR to a basement. The term basement is not referenced within the statutory notices. The full nature and extent of the proposed development does not appear to be accurately described within the statutory notices presented with the planning application. This leaves the overall SHD open to potential legal challenges in the future.

Negative impact on the residential amenity of future residents

The proposed development if permitted, would result in overlooking and create a substandard level of residential amenity for future occupants of the proposed residential scheme and would be contrary to the Dublin City Development Plan 2016 – 2022 and to the proper planning and sustainable development of the area. Furthermore, the scale, design and positioning of the blocks adjacent to the canal would negatively impact the visual amenity of the canal and overbear the streetscape and proposed public realm. We note that the applicant has failed to address this within their Material Contravention Statement.

6. Conclusion

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. Given the zoning, the principle of a primarily residential development (in the form of a Built to Rent proposal) with a very small component of non-residential facilities (a creche/café and office/workplaces), on this site must be significantly questioned.

In addition, the proposed layout, the lack of distance and meaningful transition in scale to the edges of the subject site particularly as they relate to the existing dwellings along St. James's Terrace; as well as the Protected Structure (Our Lady of Dolours Church) 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 (1 storey over semi-basement and 2 storey) at St. James's Terrace and similar properties to the east.

The proposed layout and design will be incongruous and will be highly overbearing in nature within the site itself and the wider area particularly along the boundaries of the subject site where they adjoin and are located in close proximity to existing residential buildings along St. James Terrace. 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.

The proposed development fails to accord with the Building Height Strategy of the City Development Plan and fails to meet the criteria set out in Section 3.2 of Specific Planning Policy Requirement 3 of the Urban Development and Building Heights Guidelines for Planning Authority, December 2018, in that at the neighbourhood/ street level, the proposed development, ranging in height from three to ten no. floors fails to integrate with the existing and adjacent two storey and single storey housing. The proposed development, by virtue of its height in combination with the proposed setbacks from adjacent boundaries and properties, would therefore result in a visually dominant and overbearing form of development when viewed from surrounding areas, and particularly from St. James's Terrace and would seriously injure the visual and residential amenities of the area.

We request the Board to assess this SHD application 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,

A handwritten signature in dark ink, reading "Anthony Marston". The signature is fluid and cursive, with the first name "Anthony" and the last name "Marston" clearly distinguishable.

Anthony Marston (MIPI, MRTPI)
Marston Planning Consultancy