

Make a Planning Appeal

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AN COIMISIÚN PLEANÁLA
LDG- _____
ACP- _____
11 MAY 2026
Fee: € 220 Type: online appeal
Time: _____ By: _____

Response ID	6a01c39b3c79813dad64b53d
Date submitted	11/05/2026

Check if you can appeal to An Coimisiún Pleanála

What type of appeal are you making?	Third-party appeal (I am appealing the planning authority's decision regarding someone else's application)
Have you made a submission on this development to the relevant planning authority?	Yes
Select the statement that applies to you	I am an agent acting on behalf of the appellant
During the appeal we will post/email information and items to the appellant or to the appellant's agent. For this appeal, who should we write to?	The agent acting on behalf of the appellant or prescribed body
Throughout the appeal process, we may issue correspondence to the appellant/agent as selected above by email. Please confirm that you are satisfied to receive correspondence by email	Yes

Appeal type

This section will determine the type of appeal you wish to make and calculate the fee involved. If you qualify for the reduced fee, only that amount will be charged.

Do you wish to request an oral hearing?	No
Please confirm the following fee details are correct:	Yes

Appellant/company details

This section is for details of the person/company who is making the appeal. If you are an agent submitting an appeal on behalf of a person/company, please include their details on this page. You can submit your agent details on the next page if applicable

Appellant's full name/Company name	BPS Planning Consultants Ltd.
Is the appellant/company's address in the Republic of Ireland?	Yes
Address	PO Box 13658 CHURCHTOWN POST OFFICE 9 BRAEMOR ROAD DUBLIN 14 DUBLIN D14NY27 Ireland
Phone number	+35315394960
Is there more than one appellant associated with this appeal?	Yes

Please be advised that An Coimisiún Pleanála will only correspond with one appellant throughout the appeal process. If you wish to include further appellants on the appeal you may do so in your grounds to appeal document. If the appeal is a third party appeal, you must ensure that you have a planning authority submission acknowledgement letter for each appellant listed. This must be uploaded with your appeal documents.

Agent's details

Agent's full name/Company name	BPS Planning Consultants Ltd.
Is your address in the Republic of Ireland?	Yes

Address

PO Box 13658
Dublin 14
Dublin
D14NY27
Ireland

Phone number

+35315394960

Details about the proposed development

****This section asks for details about the planning authority decision you wish to appeal****

Planning authority

Dublin City Council

Planning authority register reference number

WEBLRD6093/26-S3B

Address of proposed development

MILLTOWN PARK, SANDFORD ROAD,
DUBLIN 6,
Dublin
D06 V9K7
Ireland

Grounds for appeal

**Describe the grounds of your appeal (planning reasons and arguments).
You can enter them here or attach them as a document below**

BPS Planning Consultants Ltd, a firm of Irish Planning Institute accredited town planning and development consultants, have been retained by Cherryfield Avenue Residents' Association, c/o The Chairperson, Dermot Murphy, No. 13 Cherryfield Avenue Upper, Ranelagh, Dublin 6 to submit a Third Party planning appeal to An Coimisiún Pleanála on its behalf in respect of Dublin City Council planning decision, reg ref. WEBLRD6093/26-S3B which pertains to the above-mentioned proposed development sited in close proximity to their properties. Please find this planning appeal attached. Best wishes, Brendan Buck MIPI.

****You can also attach further supporting materials on the next page****

Supporting material

If you wish you can include supporting materials with your appeal. Supporting materials include photographs, plans, surveys, drawings, technical guidance documents and so on.

Please note An Coimisiún Pleanála will receive a complete copy of documents/drawings/maps that were submitted at planning authority stage. When submitting supporting material, please only include new documents. (This does not apply to third party appeals where we will always require a copy of your planning authority submission acknowledgement letter.)

If you have added attachments, submitting the form may take a few moments. Thanks for your patience.



**Planning & Development
Consultants**

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PO Box 13658
Dublin 14

Submitted via the online appeals portal

The Secretary,
An Coimisiún Pleanála,
64 Marlborough Street,
Dublin 1.

11 May 2026

Dear Sir/Madam,

Third Party planning appeal in respect of the decision of Dublin City Council to issue Notification of Intention to Grant Planning Permission, under planning application, reg. ref. WEBLRD6093/26-S3B, for proposed development comprising of: "... a large-scale residential development ... The development will principally consist of: "the demolition of c. 4,847.5 sq m of existing structures on site including Milltown Park House (880 sq m), Milltown Park House Rear Extension (2,031 sq m), the Finlay Wing (622 sq m), the Archive (1,240 sq m) and the Link Building between Tabor House and Milltown Park House Rear Extension to the front of the Chapel (74.5 sq m); the refurbishment and reuse of Tabor House (1,575 sq m) and the Chapel (768 sq m) and the provision of a single storey glass entrance lobby to the front and side of the Chapel (52 sq m); and the provision of 562 No. residential units comprising 6 No. three-bed courtyard houses and 556 No. apartment units (70 No. studios, 176 No. one-bed units, 267 No. two-bed units and 43 No. three-bed units). Block A1 will range in height from 5 No. storeys to 8 No. storeys and will comprise 81 No. apartment units; Block A2 will range in height from 6 No. storeys to 8 No. storeys and will comprise 139 No. apartment units; Block B will range in height from 3 No. to 7 No. storeys and will comprise 74 No. apartment units; Block C will range in height from 4 No. storeys to 7 No. storeys and will comprise 151 No. apartment units; Block D will range in height from 3 No. storeys to 5 No. storeys and will comprise 30 No. apartment units; Block E will be 2 No. storeys in height and will comprise 6 No. courtyard type houses; and Block F will range in height from 5 No. storeys to 7 No. storeys and will comprise 81 No. apartment units" at a c. 4.74 hectare site at Milltown Park, Sandford Road, Dublin 6, D06 V9K7.

BPS Planning Consultants Ltd, a firm of Irish Planning Institute¹ accredited town planning and development consultants, have been retained by Cherryfield Avenue Residents' Association, c/o The Chairperson, Dermot Murphy, No. 13 Cherryfield Avenue Upper, Ranelagh, Dublin 6 to submit a Third Party planning appeal to An Coimisiún Pleanála [hereafter "ACP"] on its behalf in respect of Dublin City Council [hereafter referred to as "DCC"] planning decision, reg. ref. WEBLRD6093/26-S3B which pertains to the above-mentioned proposed development sited in close proximity to their properties.

The proposal is sited in the local authority area of DCC, and the drawings and details have been reviewed on the planning authority's website.² The DCC decision is now appealed to An Coimisiún Pleanála.

The decision of DCC to issue Notification of Intention to Grant Planning Permission was made on the 17 April 2026. The deadline for Third Party appeals is **14th of May 2026**. This appeal is lodged on or prior to this date.

For the purposes of validation of this planning appeal, please find attached:

- (1) Online payment of the €220 fee payable for a 3rd Party appeal for the proposed residential development;
- (2) A completed planning appeal checklist form;
- (3) A Planning appeal letter setting out our client's Grounds for Appeal;
- (4) A copy of the original objection lodged to Dublin City Council;
- (5) A copy of the original acknowledgment letter received from DCC for our client's objection; and

¹ <https://ipi.ie/>

² <https://planning.agileapplications.ie/dublincity/application-details/174303>

(6) A legal submission from FP Logue LLP Solicitors.

Our client made observations and/or submissions to the planning authority on this application, which are 'taken as read' (a copy is attached to this Planning Appeal Letter), and they now want to appeal the decision of the planning authority. They wish to confirm that they have not been consulted by the applicant and have not agreed in advance of the lodgement of this planning application to any part of this development.

The grounds and reasons for this appeal are detailed hereinafter.

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1.0 Purpose of this appeal

Our client is Cherryfield Avenue Residents' Association which can speak on behalf of their part of the surrounding community. The RA's response is the same as that which arose in reaction to the previous – close to identical – SHD and LRD schemes previously lodged for this site.

The response from the area to that proposal when it was first submitted to An Coimisiún Pleanála [hereafter "ACP"] under ACP reg. ref. ABP-311302-21 on 6/9/2021 was incredulity, and that reaction remains.

The previous two SHD and LRD cases have been subject to judicial review proceedings. They remain live cases.

In objecting to the current proposals, our client's concerns are no longer to prevent the entire scheme because of its overall cumulative adverse impacts on them and their area. Instead, the current objection focuses on a list of revisions needed to the scheme to make it acceptable to them.

DCC has not required these changes, despite how they are reasonable requests. The current Grounds for Appeal focus on a request that our client's list of required amendments to the scheme – all based on a thorough assessment of the proposals which is set out in the attached Planning Objection Report – be addressed. This list is as follows:

A revised masterplan is required which:

- Retains the western tree belt – other boundaries are protected by retained trees and open spaces.
- Retains more trees and large shrubs.
- Provides a better distribution of public open space and/or open space across the site including to the west of the site.
- Removes Block E.
- Reduces Block D to 2 and 3 storeys.
- Reduces Block C to 4, 5 and 6 storeys.

- Addresses the excessive number of north facing units and small units in the scheme.
- Provides a better mix of uses and offers fixed details as to the cultural/community floor areas.

There remains a need to reduce the density of the scheme:

Reduce the density of the scheme by 24% or more (to a maximum of 120 uph). This would allow the applicant to bring the scheme into somewhat into line with the density and scale of adjoining properties and properly integrate it with adjoining 2 storey dwellings to the west. The scheme needs to be reduced in height, scale, length, and massing.

Retain the western tree belt or add a tree-filled open space/public open space corridor to the western site boundary:

There is a need to offer landscaped, and tree-filled screening of the scheme from adjoining properties to the west at Cherryfield Avenue Upper. The proposed 1.8m tall boundary treatment is not going to provide any screening. This would offer our client's residents some better distribution of open space to the west of the site.

Our client notes how the applicant and DCC have treated the proposed interface with the scheme differently for Norwood Park than for that with Cherryfield Avenue Upper. Critically, Condition 9 F (iv) of the DCC decision states: "A nature conservation area consisting of the woodland/parkland area at the Norwood Park boundary shall be enclosed and managed for biodiversity.". Why is this not also proposed to adjoin Cherryfield Avenue Upper? The preference would, at all times, be for such a conservation area buffer to be sited to the rear of our client's residents' properties.

In the interests of fairness, balance, the protection of residential amenities, and the mitigation of the adverse impacts of this scheme on our client's residents, there is a need to offer landscaped, and tree-filled screening of the scheme from adjoining properties to the west at Cherryfield Avenue Upper. The proposed 1.8m tall boundary treatment is not going to provide any screening.

This request, if acted on by ACP, would offer our client's residents some better distribution of open space to the west of the site. Ideally, the area would be a landscaped public open space corridor full of trees and vegetation which is designated as a nature conservation area consisting of the woodland/parkland area (as per that conditioned to be provided adjoining the Norwood Park boundary).

Block C should be amended:

Block C should be 1,2, 3, 4 storeys, preferably not 5 storeys, and the 6th and 7th storeys are unacceptable. The taller storeys contain west facing windows and balconies which would adversely overlook our client's residents' Z2 zoned homes and area.

Block E should be removed or at minimum reduced to single storey with no overlooking terraces:

The attached Planning Objection report has confirmed the adverse impacts Block E would have on the established residential and visual amenities of our client's residents' properties. The report has also shown how Block E's removal from the scheme would improve the scheme. The Commission has already removed part of Block E in the SHD decision as it was unacceptable – it is not clear how the rest of Block E is any more acceptable than the removed part (now retained by the applicant). Block E needs to be removed to allow trees and open space to be sited in its place which offer screening to Cherryfield Avenue Lower and Upper.

If ACP wishes to retain Block E then given concerns over the duplex units having poor amenity views to the rear and so on, why not remove the first floor entirely and all overlooking terraces. This would reduce the adverse impacts arising for our client's residents.

Block D should be amended:

Block D should be reduced to 2 storeys as it adjoins Cherryfield Avenue Upper and it should be setback to allow a landscaped tree-filled corridor to be provided along the western boundary. The taller section should be 3 storeys.

The bike/bin store building to the north of Block E:

The decision of DCC to remove this store building is welcomed and ACP is asked to uphold this decision. This structure should be removed and relocated to the basement as per An Coimisiún Pleanála's SHD decision.

The works may cause damage to adjoining properties:

The applicant needs to put in place a scheme of indemnity for possible damage to client properties.

If these revisions can be made to the scheme by way of ACP requiring amended drawings, our client would have no further Grounds for Appeal or objection. There comes a point when compromise is required and our client's remaining requested revisions to the scheme are reasonable. If these requests were addressed, the proposed development would remain a significant one of a scale well beyond that of our client's group's individual properties.

2.0 Grounds for Appeal

2.1 Ground 1: Adoption of grounds for objection submitted to DCC

Our client adopts in full their Planning Objection Report submitted to DCC which contains the grounds on which they objected to this planning application. The contents of this report are 'taken as read' and not repeated in this Planning Appeal Letter. The attached Planning Objection Report contains the following grounds for appeal and then makes the recommendations set out below:

Ground 1: Lands are not specially zoned for housing – this is not an LRD site

Ground 2: The proposal is contrary to the Z12 'Institutional' zoning

- Non-compliance with s. 14.7.12 of the DCDP 2022-2028
- Non-compliance with s. 14.7.12 regarding public open space provision
- Non-compliance with s. 14.7.12 as communal open space for Block A erodes public open space
- Non-compliance with the Z12 zoning regarding community uses
- Insufficient information provided regarding demand for schools at this location

Ground 3: Proposal is contrary to the National Climate Plan 2023, etc.

Ground 4: Excessive scale & density of the scheme comprises overdevelopment

- Comparison to Central Mental Hospital planning permission confirms excess density
- The scheme sites a disproportionate quantum of development to the west of the site
- Dual aspect units claimed to the west of the site are achieved by negative overlooking

Ground 5: Scheme is contrary to planning policy

Ground 6: Material contravention for a density of 149.3 uph is unjustified

Ground 7: Scheme would negatively impact existing residential & visual amenities

Negative amenity impacts arising from Block E on Cherryfield Avenue Lower/Upper

- All existing trees & vegetation sited to the east of client properties should be p.o.s.
- Block E's rear garden depths are too small
- The calculated setbacks include tiny Block E gardens & the tree buffer
- Block E is too close to the western boundary to include first floor terraces
- Negative visual overbearing & obstruction impacts arise from Block E
- Excessive congestion of buildings in the area of Block E adjoining client properties
- Negative overlooking concerns arise
- Conclusion regarding Block E's adverse residential and visual amenity impacts

Negative amenity impacts arising from Block D on Cherryfield Avenue Lower/Upper

- All existing trees and vegetation sited to the east of client properties is to be removed
- The proposed setbacks to the western site boundary from Block E are too small
- The scale of Block D as viewed from the west is excessive
- Negative visual overbearing/dominance/obstruction impacts arise from Block D
- Negative overlooking and perception of overlooking concerns arise
- Negative overshadowing concerns arise
- Conclusion regarding Block D

Negative amenity impacts arising from Block C on Cherryfield Avenue

- Individually the scale of Block C as viewed from the west is excessive
- Cumulative over-scaling & overdevelopment of the site as viewed from the west
- Negative visual overbearing/dominance/obstruction impacts arise from Block C
- Negative overlooking and perception of overlooking concerns arise
- Negative overshadowing impacts arise from Block C
- Conclusion regarding Block C
- Negative amenity impacts arising from Block B on Cherryfield Avenue
- Amenity impacts, etc of the bike/bin store to the north of Block E

Ground 8: Objections to the submitted amenity impact assessment reports

Objections to the applicant assessment of loss of sunlight and/overshadowing
Assessment of visual impacts is incomplete & not accepted
Conclusion regarding the applicant's visual impact assessment

Ground 9: Objections to the removal of trees

- DCC Parks and Landscaping has raised concerns over the tree & large shrub losses
- Why is a large public open space not sited the west side of the site?
- Block E's siting is at odds with achieving a proper sized public open space
- Building heights are not visually mitigated in views from the west
- Cherryfield Avenue is the only adjoining area not protected by a public open space
- Norwood Park has an open space tree belt and an improved setback to Block C
- The provision of public open space in place of Block E would address fragmentation

Ground 10: Block E should be removed

- Tree impact reasons why Block E should be removed (to retain the full tree belt)
- Parking and traffic reasons why Block E should be removed from the masterplan
- The only ground level parking provided serves Block E and is unjustified
- No vehicular traffic would arise in the area of Block E if the block were removed
- Fire tender access to the west and northwest of the site required only for Block E
- Refuse truck access to the west and northwest of the site required only for Block E
- Removal of Block E would significantly improve views & aspect west from Block C
- Removal of Block E would address the limited setback distance to Block C
- Removal of Block E would address archaeological concerns

Ground 11: Specific scheme design issues re. interface with Cherryfield Avenue

- Rear shared boundary treatment with Cherryfield Avenue should be 2m stone walls
- Bike store to the northwestern corner of the site should be removed

Ground 12: Traffic & transport concerns regarding the impact of the scheme on the area

- The proposals exclude details of actual public transport capacity
- Block E should not draw traffic and parking into the site close to Cherryfield Avenue
- Parking provision is inadequate
- Car parking provision is insufficient and will cause overflow car parking, etc.
- The submitted 'Parking Strategy' and 'Mobility Management Plan' are not credible
- No car park management strategy to address internal & external parking impacts
- Traffic safety concerns

Ground 13: Appropriate Assessment and EIAR concerns

- EIAR fails to accept that the loss of trees and shrubs is "significant"
- EIAR assessment of likely impact on bats and bat habitats is inadequate.
- The EIAR and overall application fails to properly assess the development against the Water Framework Directive and the River Basin Management Plan (RBMP)
- The proposed impact on public water supply is not properly assessed
- The EIAR has not been properly assessed against the new Abstraction legislation.
- Proposed water conservation and SuDS measures are inadequate
- The EIAR does not meet the requirements for consultation and public participation.
- Ringsend WWTP – should permissions not be delayed pending further upgrade?

Ground 14: Construction phase concerns

Ground 15: Depreciation in the value of client's residents' properties

Ground 16: The proposed development would set poor precedents

2.2 **Ground 2: A revised masterplan is required**

The proposed master plan must address the land use zoning objectives set out under Section 14.7.12 'Institutional Land (Future Development Potential) – Zone Z12'. Concerns arise as follows:

- The vision presented by the applicant aims to convert the site from institutional land available for future community and educational uses to a high density residential scheme which offers mostly small residential units. The loss of these lands to such a scheme is hard to justify.
- The vision presented by the applicant seeks to push most of the scheme's denser parts into the western half of the site and onto our client's residents. This requires removing an existing bank of trees and shrubbery to the western boundary. No accessible public open space is offered close to our client's residents' properties. The current open character of the site as viewed from our client's residents' properties would be replaced by an overdeveloped vista of large buildings. The latest proposals improve on the previous SHD and LRD proposals, but they are not sufficient.
- Our client is not aware that the applicant has consulted any local person about how best to distribute public open space in the site to benefit the area. The existing tree belt to the western boundary is proposed to be partly removed yet its full retention, widening, and increased planting, would ensure a high-quality public open space linked to the green network. The failure to retain the western tree belt and to offer public access into a new public open space on the western boundary of the site is contrary to Section 10.5.1 of the DCDP 'Green Infrastructure'. The applicant should retain/provide a public route around the full perimeter of the site, and this includes the western boundary.

A revised masterplan is required which:

- Retains the western tree belt – other boundaries are protected by retained trees and open spaces.
- Retains more trees and large shrubs.
- Provides a better distribution of public open space and/or open space across the site including to the west of the site.
- Removes Block E.
- Reduces Block D to 2 and 3 storeys.
- Reduces Block C to 4, 5 and 6 storeys.
- Addresses the excessive number of north facing units and small units in the scheme.
- Provides a better mix of uses and offers fixed details as to the cultural/community floor areas.

The basis for and illustrations of our client's rationale for making this request is set out in the attached Planning Objection Report.

2.3 **Ground 3: There remains a need to reduce the density of the scheme**

ACP is asked to reduce the density of the scheme by 24% or more (to a maximum of 120 uph). This would allow the applicant to bring the scheme into somewhat in line with the density and scale of adjoining properties and properly integrate it with adjoining 2 storey dwellings to the west.

The scheme needs to be reduced in height, scale, length, and massing in the specific ways which are set out in the attached Planning Objection Report.

2.4 **Ground 4: The western tree belt should be retained or replaced with an area of open space**

ACP is asked to require the applicant to provide a better balance to this scheme and to offer our client's residents the same respect as that shown to other boundaries which are served by tree buffers and/or landscaped open space setbacks. The western tree belt should be retained or a tree-filled open space/public open space corridor sited and designed to the western site boundary.

Our client notes how the applicant and DCC have treated the proposed interface with the scheme differently for Norwood Park than for that with Cherryfield Avenue Upper. Critically, Condition 9 F(iv) of the DCC decision states: "A nature conservation area consisting of the woodland/parkland area at the Norwood Park boundary shall be enclosed and managed for biodiversity.". Why is this not also proposed to adjoin Cherryfield Avenue Upper? The preference would, at all times, be for such a conservation area buffer to be sited to the rear of our client's residents' properties.

In the interests of fairness, balance, the protection of residential amenities, and the mitigation of the adverse impacts of this scheme on our client's residents, there is a need to offer landscaped, and tree-filled screening of the scheme from adjoining properties to the west at Cherryfield Avenue Upper. The proposed 1.8m tall boundary treatment is not going to provide any screening.

This request, if acted on by ACP, would offer our client's residents some better distribution of open space to the west of the site. Ideally, the area would be a landscaped public open space corridor full of trees and vegetation which is designated as a nature conservation area consisting of the woodland/parkland area (as per that conditioned to be provided adjoining the Norwood Park boundary).

2.5 **Ground 5: Block C should be amended – storeys 6 & 7 are unacceptable**

Block C should be 1, 2, 3, and 4 storeys; preferably not 5 storeys; while the 6th and 7th storeys are unacceptable. These taller storeys contain west facing windows and balconies which would adversely overlook our client's residents' Z2 zoned homes and area. The following are the main concerns.

- Block C is located approx. 38m to 41m from the rear garden boundaries of our client's resident's properties. It is a large scale block in two sections. The northern Block C maintains a gable end to the west while the southern section comprises a very long unbroken elevation. Block C presents a range of amenity concerns for our client's residents. They consider that Block C when added to Blocks D and E represents overdevelopment of the site as they would experience it.

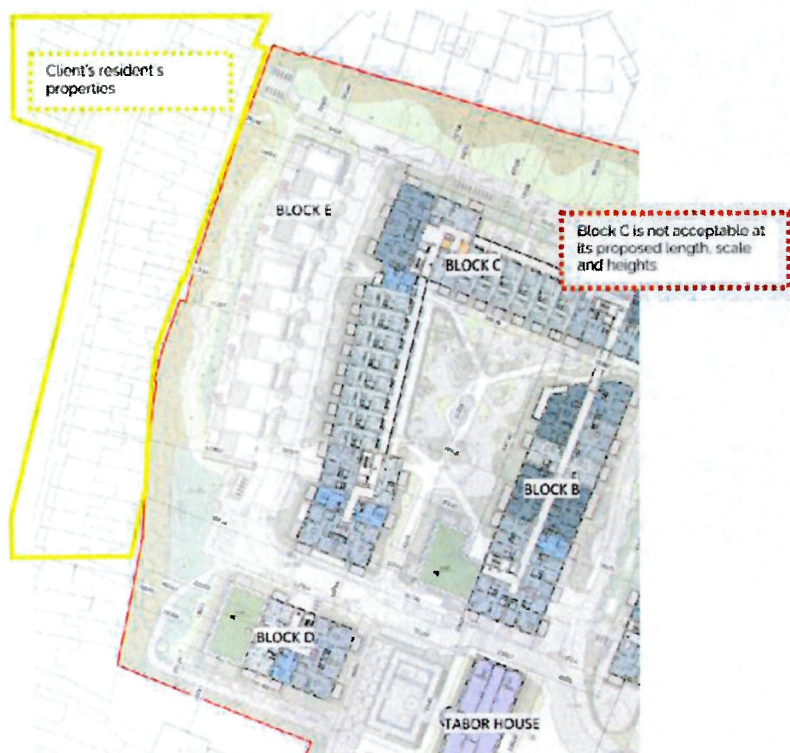


Fig. 1: Block C's location rising above Block E with cumulative negative amenity impacts arising

- Our client's residents would face a Block C whose west elevation is approx. 77m wide and rises to 5, 6 and even 7 storeys. Each of the storeys above 3rd storey would rise above Block E. Block E would look much like a 5, 6 and 7 storey building with a 2 storey part rather than a standalone 2 storey building. Block C is not acceptable as proposed. The block is too close to the boundaries to the west, too tall and too over-scaled to be sited as proposed.
- Block C rises up above Block E and as such, as read from our client's resident's properties, it continues to what they all consider it to represent cumulative over-scaling and overdevelopment of the site as it would be viewed from the west. Block C would appear as part of Block E in views from rear windows and rear gardens.



Fig. 2: Block C rising above Block E with Block B rising above it at 8 storeys

- Our client has reviewed Section 4.2 'Massing Strategy' of the Applicant Design Statement. This offers no adequate public open space along the western boundary. The tree belt is retained but there is no large area of public open space proposed to offer an adequate setback to Block C. Instead, it just offers 2 and then 5, 6, 7 and 8 storeys of buildings with greater heights again to the east of the site.

The extent of massing of buildings which would be visible from the rear of Cherryfield Avenue Lower/Upper properties would be excessive.



Fig. 3: Block C's location rising above Block E with cumulative negative amenity impacts arising



Fig. 4: Block C's location rising above Block E with cumulative negative amenity impacts arising

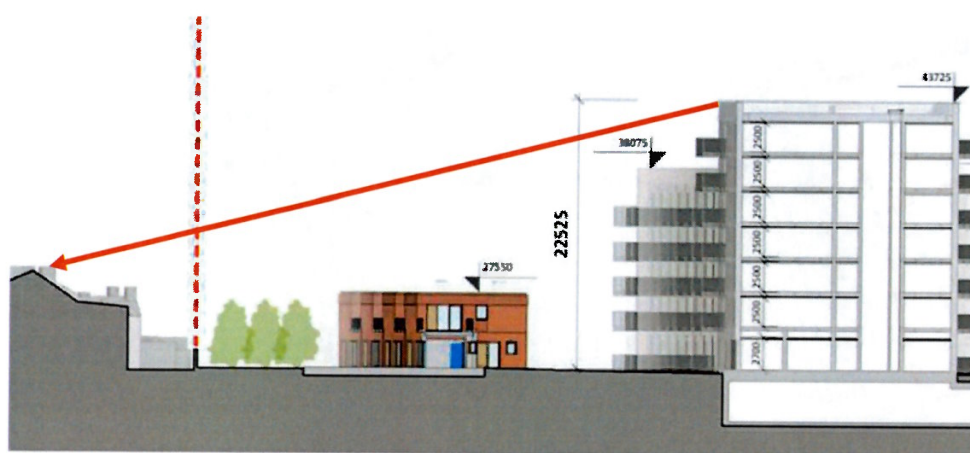


Fig. 5: Unmitigated vista of massive buildings rising up to the west of client's residents' properties

- Our client's residents consider that the proposed 5, 6 and 7 storey Block C is sited too close to their properties to allow anything above 4 storeys to be included. Block C represents substantial scale at this location. The 6th and 7th storeys would cause negative overbearing, visual dominance and visual obtrusion impacts on the existing 2 storey residential dwellings and rear gardens to the west. The building towers over even the apex of the pitched roofs of our client's residents' dwellings. Block C is over 95m wide.

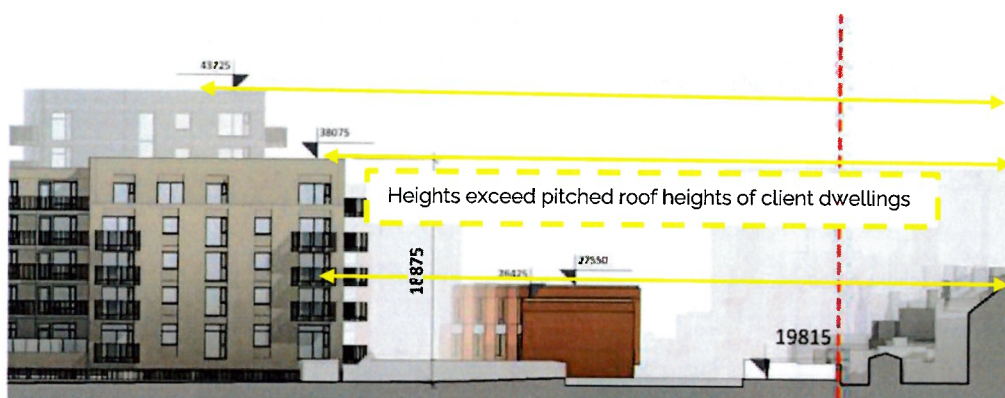


Fig. 6: Block C maintains an approx. 95m wide west elevation up to 7 storeys

- Our client's residents to the west accept that the area of the subject site located closest to their properties is suitable for 2 storeys and, with adequate setbacks of 22m between first floor windows, believe that dwellings could be successfully inserted into the area of proposed Block D.

They have significant concerns however over any storey(s) above 1st floor as these would directly overlook their properties and/or cause the perception of constant overlooking thereby negatively impacting the existing levels of privacy enjoyed by their properties.

The residents have reviewed Block D and they offer the following comments regarding the following storeys:

- ❖ **Storeys 1, 2 and 3** – These storeys are accepted.
- ❖ **Storeys 4 and 5** – These storeys are accepted but they will cause adverse impacts. A cumulative west elevation length of approx. 77m offers overlooking windows and multiple overlooking balconies to the west elevation of Block C. Some windows and balconies directly overlook private properties to the west which maintain private gardens and rear windows. While Block E may prevent some westward views, it will not prevent all and certainly not from the 5th storey. Block C is sited and designed to treat our client's residents' residential area as their view.

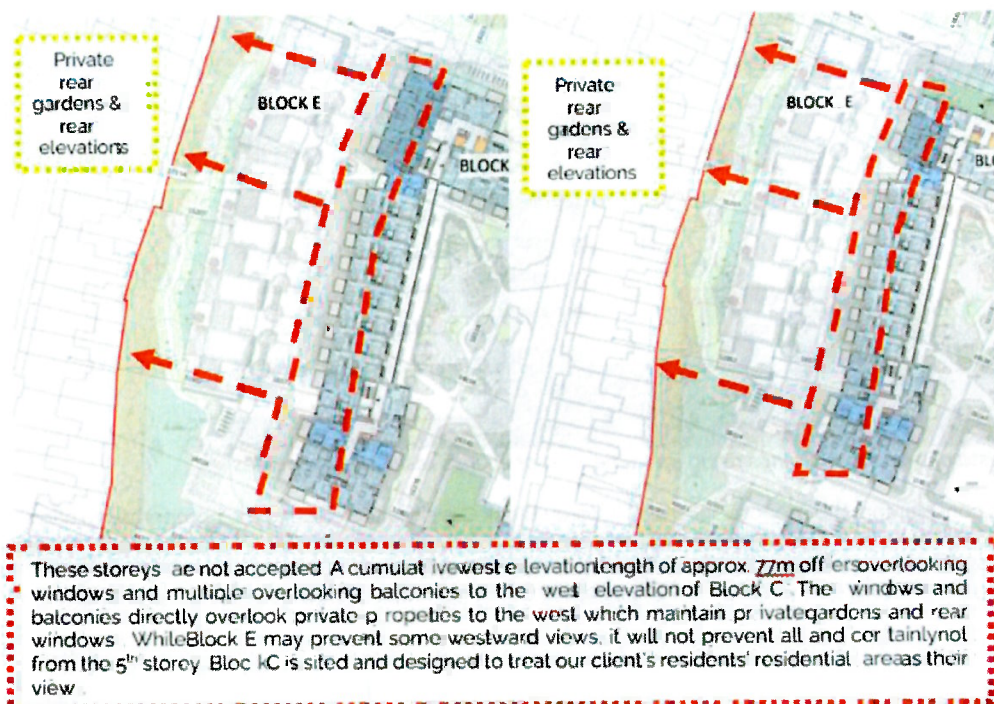


Fig. 7: Siting of 4th and 5th storey overlooking windows and balconies relative to client properties



Fig. 8: Siting of 4th and 5th storey overlooking windows and balconies relative to client properties

- ❖ **Storeys 6 and 7** – Block C rises to 6 and 7 storeys at its south end. These storeys are not accepted. They should be removed. Both levels provide for excessive and negative overlooking and perception of overlooking into our client's residents' private properties and make our client's road the view from this block. Multiple balconies and active windows face west, and this is not acceptable. Combined with Block E and the lower levels of this block, the extent of cumulative overlooking arising is likely to be excessive.

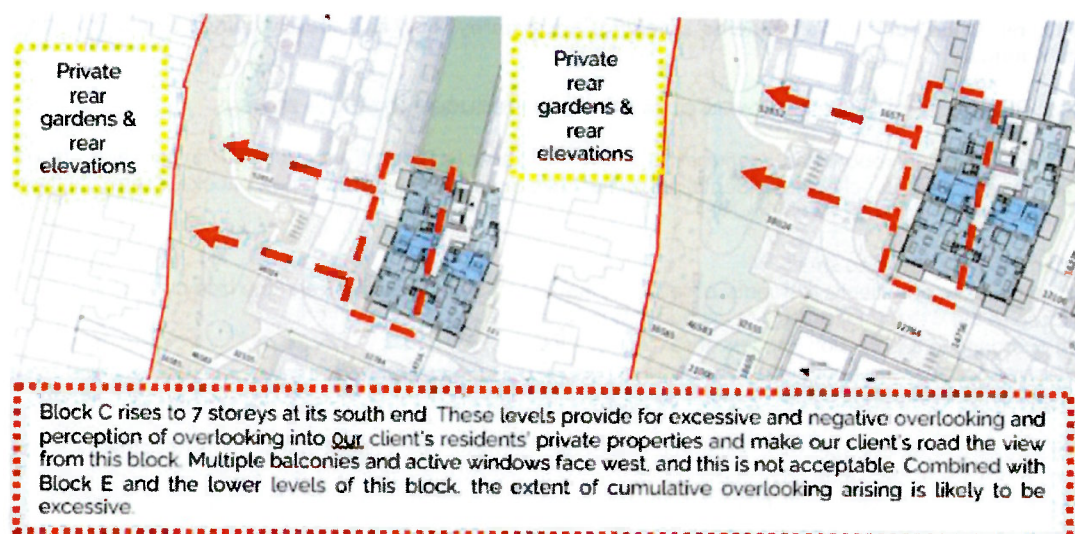


Fig. 9: Siting of 6th and 7th storey overlooking windows and balconies relative to client properties



Fig. 10: Siting of 6th and 7th storey overlooking windows and balconies relative to client properties

- Our client acknowledges how Block C's 5 storey sections are sufficiently setback from the group's residential properties to the west that these will not throw a larger shadow than that already raised as a concern regarding Block E. The group is very concerned however regarding the likely shadow to be thrown by the 6 and 7 storey sections of Block C. The 7 storey south end will throw large morning shadows.
- ❖ **March and September 21st:** From sunrise until nearly 10am, Block C would cause significant overshadowing of our client's residents properties sited to the west. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The removal of the 6th and 7th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.
- ❖ **June 21st:** From sunrise until nearly 10 am, Block C would cause significant overshadowing of our client's residents properties sited to the west. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The removal of the 6th and 7th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.
- ❖ **December 21st:** From sunrise until nearly noon, Block C would cause significant overshadowing of our client's residents properties sited to the west. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The removal of the 6th and 7th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.

To reduce negative visual overbearing/dominance/obtrusion impacts, the overlooking impacts and overshadowing impacts on our client's residents, Block C needs to be reduced to a 5 storey building – with 5 storeys maximum at its south end. This would provide a fair balance between our client's street and this new scheme. Block

C would be 5 storeys while our client's residents' dwellings are 2 storeys only and setback fair distances from the applicant's site boundary.

2.6 Ground 6: Block E should be removed or at minimum reduced to single storey

The attached Planning Objection report has confirmed the adverse impacts Block E would have on the established residential and visual amenities of our client's residents' properties. The report has also shown how Block E's removal from the scheme would improve the scheme. As it stands:

- Block E's rear garden depths are too small
- The calculated setbacks to our client's residents' properties include tiny Block E gardens and the tree buffer.
- Block E is too close to the western boundary to include first floor terrace.
- Negative visual overbearing & obstruction impacts arise from Block E.
- There is an excessive congestion of buildings in the area of Block E adjoining client properties.
- Negative overlooking concerns arise.

The Commission has already removed part of Block E in the SHD decision as it was unacceptable – it is not clear how the rest of Block E is any more acceptable than the removed part (now retained by the applicant). Block E needs to be removed to allow trees and open space to be sited in its place which offer screening to Cherryfield Avenue Lower and Upper.

If ACP wishes to retain Block E, then given concerns over the duplex units having poor amenity views to the rear and so on, why not remove the 2nd storeys and the terraces/roof terraces. This would reduce the adverse impacts arising for our client's residents.

For our clients residents to consider this scheme acceptable after the removal of Block E, the retention of the western tree belt and/or the installation of a tree buffer, all existing trees and vegetation sited to the east of client properties should be public open space. Consider the following points:

- Our client's residents consider that the applicant proposals would impact negatively on the residential and visual amenities of their Z2 zoned properties including rear elevations and rear gardens sited to the west. The Z2 zoning of our client's residents' properties requires that their amenities and the quality of their area be protected from adverse impacts. The properties most impacted by Blocks C, D, B and E would be Nos. 1-19 and Nos. 28-33 Cherryfield Avenue Lower/Upper.

BPS considers that, as proposed, the siting, design, height and scale of the proposed development relative to Cherryfield Avenue Lower/Upper would, given the limited setback to adjoining and nearby properties cause negative, and permanent impacts on our client's residents' existing and established residential and visual amenities. The following concerns arise.

- The existing 2 storey Cherryfield Avenue Lower/Upper properties are proposed to adjoin – to the east – Block E which comprises two storey dwellings with large first floor terraces and tiny rear gardens.
- Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens, so the first floor terraces are not required. However, consideration needs to be given to removing the block entirely and inserting an area of public open space that would improve the scheme's interface with the western boundary of the site. The following concerns arise.

Our client's residents most impacted by Block E are shown in Fig. 11. These are modest properties which maintain limited depth rear gardens. Rear returns extend some distance into the rear gardens. The claimed setbacks from Block E to these properties need to be viewed in this context. The limited existing vegetation including trees sited to the east of our client's residents' rear gardens is to be retained; however, it is not to be an area of public open space. The area is not large enough to mitigate Block E's tiny rear garden depths and first floor terraces. Block E's 1st floor and terraces would be highly visible from and overlook and overbear onto our client's residents' properties.

The applicant has now retained the tree buffer to the western boundary, but they have proposed rear garden depths for Block E which are extremely tiny. The result is that Block E is still sited too close to our clients' residents' property boundaries. Too close that is for the first floor terraces to be mitigated.

Block E's rear garden depths fail to offer any sufficient mitigating distance to ameliorate amenity impacts arising for our client's residents' properties from the first floor terraces.

Consideration should be given to removing Block E and providing a large area of public open space in its place. Blocks C and B are massive, and large setbacks are needed to these. Block E should be setback at least 7m to 11m from the tree buffer. Indeed, Block E could reasonably be removed and the area replaced with public open space so as to offer an adequate setback to Block C. The scheme looms over our client's residents' properties.

- The issue with Block E is that the applicant is still trying to squeeze the block in and has added first floor terraces which are over 20sq.m in size. These are wholly unacceptable given the setbacks to the western boundary. Block E's location is unacceptable. It should be removed. Our client's residents would face a Block E whose total cumulative length is 70m to 75m. While there is a small break in the middle of the block, this would only perhaps be visible by those properties directly to the west. Most would view Block E as an unbroken continuous block. This continuous block maintains first floor terraces spaced out at intervals along the first floor. The applicant is essentially proposing viewing galleries into our client's residents' properties. These terraces are not acceptable and should be removed. Block E is not acceptable as proposed. The block is too close to the boundaries to the west, too long, and contains first floor terraces.

Our client's residents consider that the proposed Block E is sited too close to their properties to allow first floor terraces to be included. As a continuous block this represents substantial scale at this location. The first floor would cause negative overbearing, and visual obtrusion impacts on the existing 2 storey residential dwellings and rear gardens to the west. It is sited on two ground levels. One section is raised and would have more of an adverse impact. Block E needs to be setback with longer rear gardens and to have its first floor terraces removed.

- Our client's residents to the west accept that the area of the subject site located closest to their properties is suitable for single storey development only and, with adequate setbacks of 22m between first floor windows. Block E's current design is not acceptable as it includes first floor and areas and terraces. They have significant concerns over these terraces as they would directly overlook their properties and/or cause the perception of constant overlooking thereby negatively impacting the existing levels of privacy enjoyed by their properties.

Under LRD1, the applicant's Section 3.5 'Height Strategy - Separation Distances - Cherryfield Avenue' of its Design Statement stated: "The potential issue of overlooking has been addressed by removing any upper level rear facing private amenity space or terraces looking West". The applicant has now decided to re-open this issue and to provide first floor terraces in lieu of adequately sized rear gardens.

ACP is asked to address the outstanding concerns which remain as regards the siting and design of Block E.



Fig. 11: Block E's rear garden depths are tiny

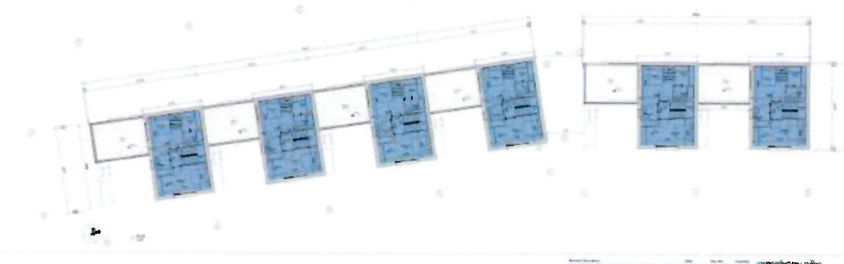


Fig. 12: Block E's proposed first floor terraces sited too close to the western site boundary



Fig. 13: Scheme elevation and Block E facing client's residents' properties

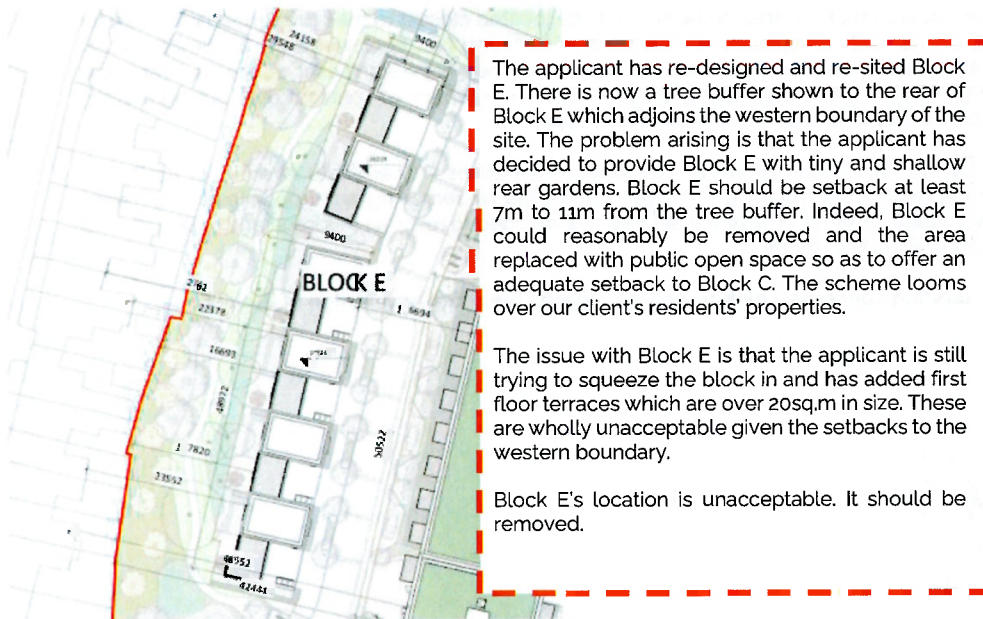


Fig. 14: The setback area is misleading and poorly considered

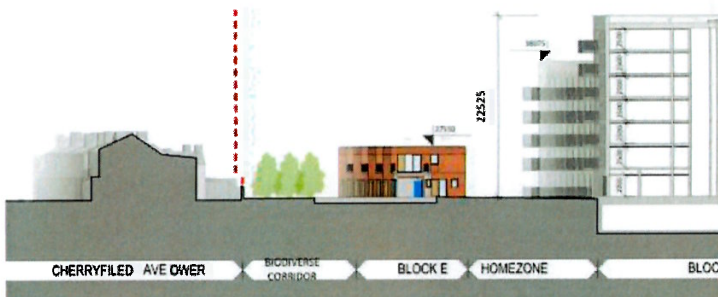


Fig. 15: Cross section does not show Block E's tiny rear gardens

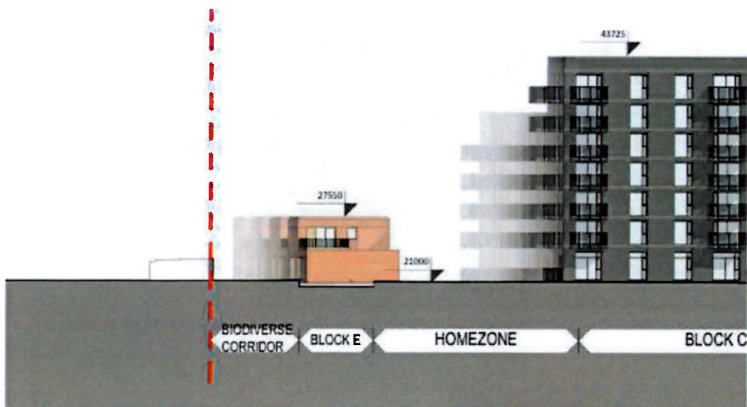


Fig. 16: Cross section does not show Block E's tiny rear gardens

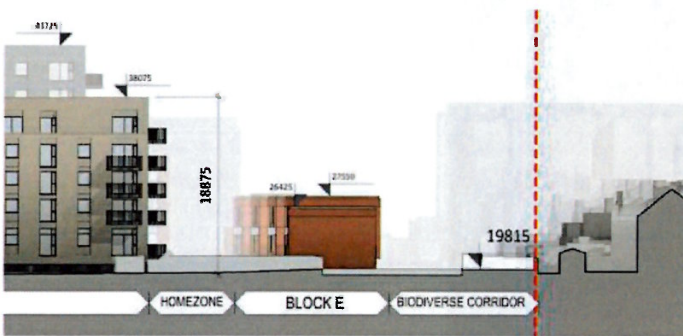


Fig. 17: Cross section does not show Block E's tiny rear gardens

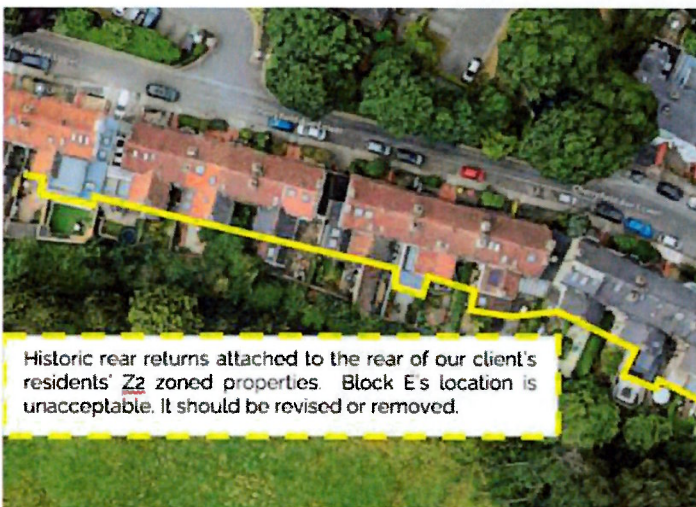


Fig. 1: The existing building line of the rear returns attached to each client dwelling



Fig. 19: Block E will be viewed as a continuous block by most properties to the west and is multiple first floor terraces would cause adverse overlooking



Fig. 20: Block E's two different ground levels have not been addressed by the applicant – first floor terraces are too high and will cause adverse overlooking



Fig. 21: Excessively close proximity of the 2 storey Block E to client's residents' properties



Fig.22: Siting of Block E would create a congested & overdeveloped area adjoining client properties

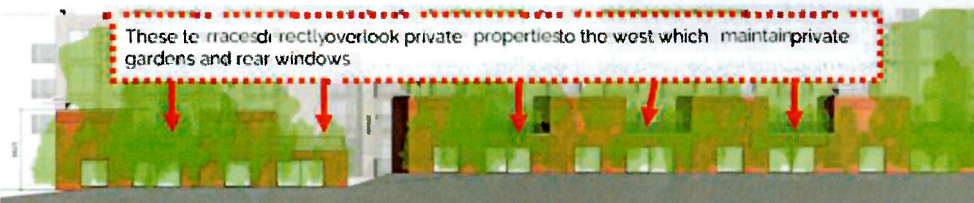


Fig. 23: Siting of first floor storey overlooking terraces facing client properties

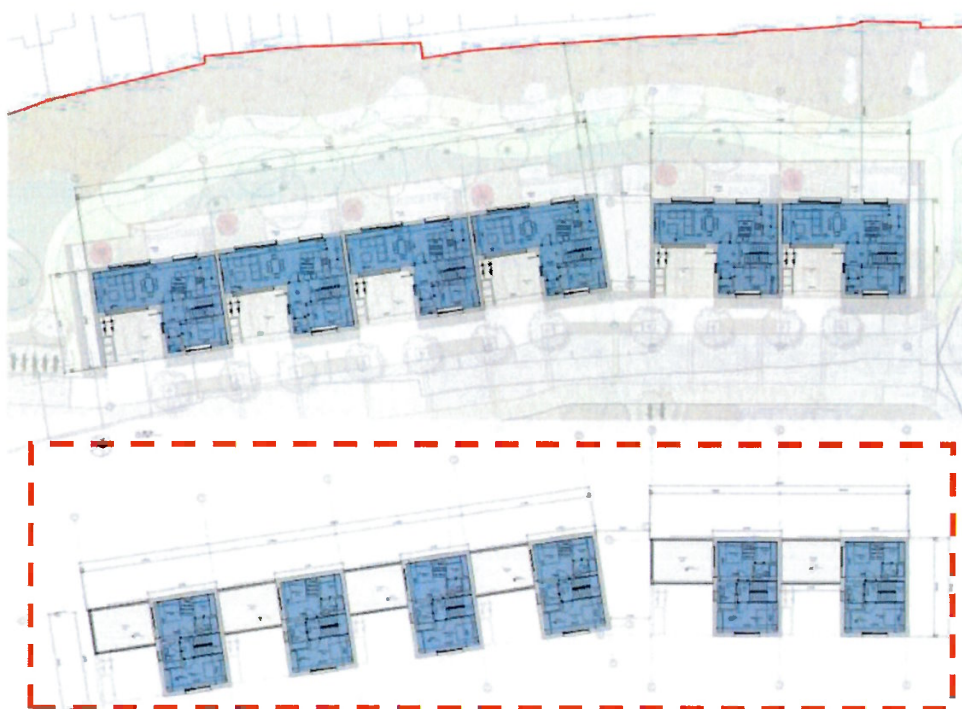


Fig. 24: Rear overlooking 1st floor terraces facing client properties

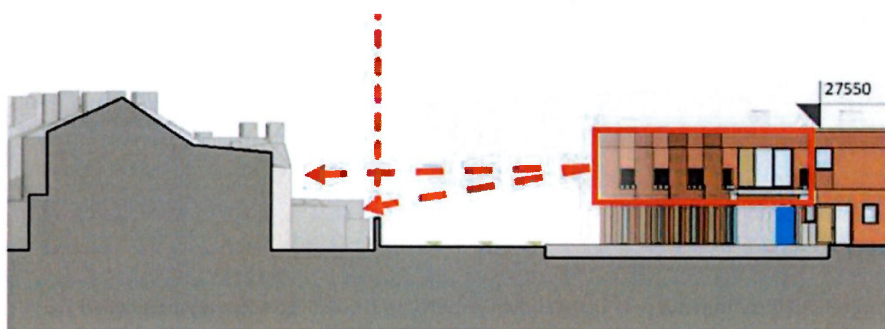


Fig. 25: Direct unmitigated overlooking from Block E's first floor terraces

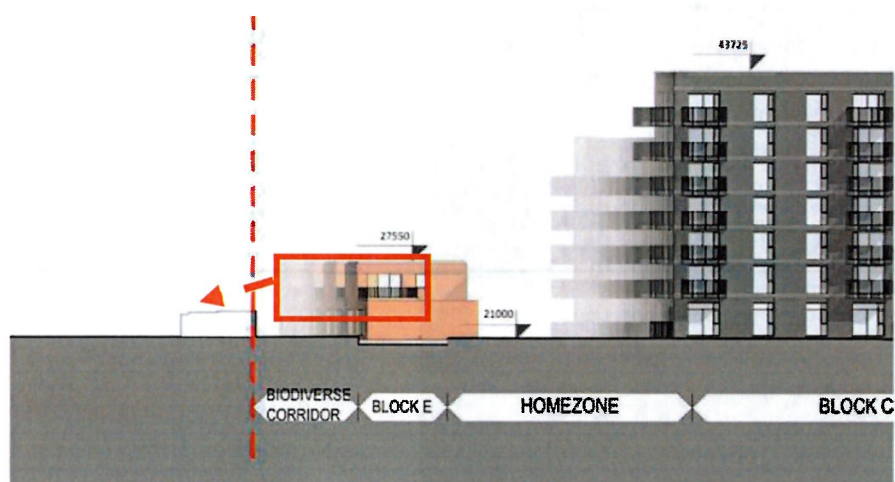


Fig. 26: Direct unmitigated overlooking from Block E's first floor terraces

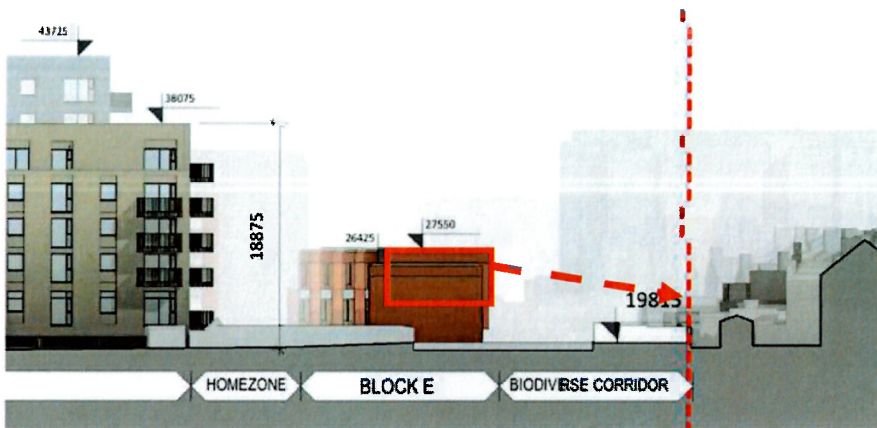


Fig 27: Direct unmitigated overlooking from Block E's first floor terraces

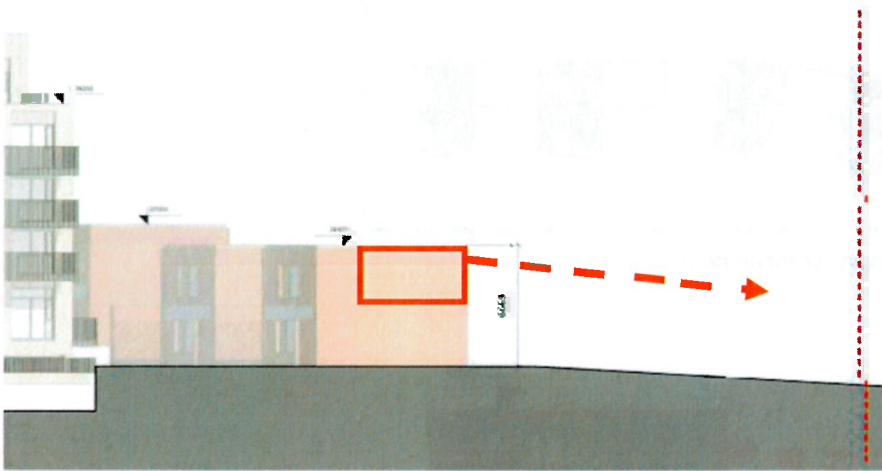


Fig. 28: Direct unmitigated overlooking from Block E's first floor terraces

2.7 Ground 7: Block D should be amended

Block D should be reduced to 2 storeys as it adjoins Cherryfield Avenue Upper and it should be setback to allow a landscaped tree-filled corridor to be provided along the western boundary. The taller section should be 3 storeys.



Fig. 29: Client's residents most impacted by Block D

Our client's residents object to how the applicant has decided to provide setbacks from the western boundary to Block D of a minimum of 19.465m. The standard rear garden depth of a two storey dwelling is generally 11m. The proposed setbacks from this apartment block are approx. this but this is a large apartment block. Such a limited setback distance is unacceptable. It fails to offer any sufficient mitigating distance to ameliorate amenity impacts arising for our client's residents' properties.

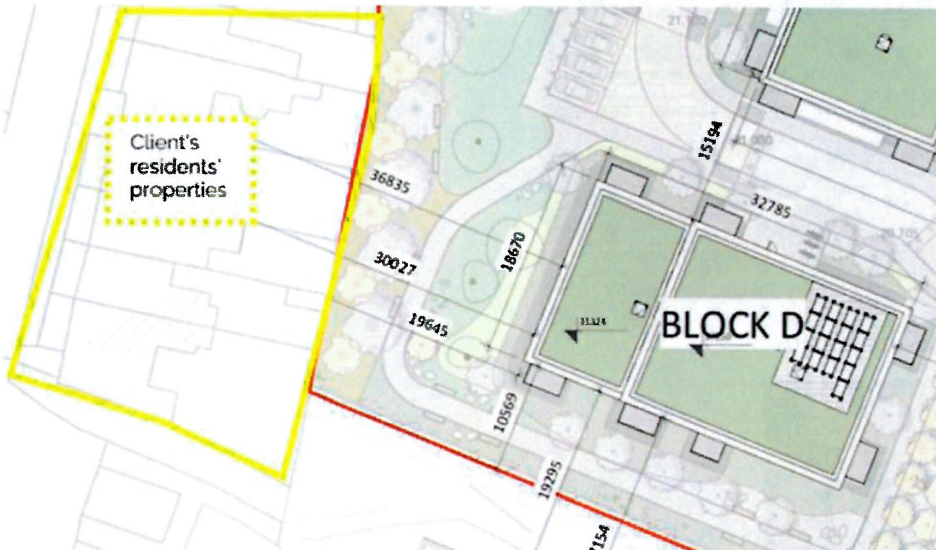


Fig. 30: The setback area is too thin and does not offer sufficient mitigation to Block D



Fig. 31: The setback does not offer sufficient mitigation to the 3 and 5 storey Block D

Our client's residents would face a Block D whose west elevation is 16.67m wide or 19.69m wide (with 1.5m wide side balconies added) and which extends initially to 3 storeys at 11.030m tall and then to 5 storeys at 16.955m tall. While there is a setback to levels 4 and 5, the 3rd storey is simply too tall at its proposed location. Block D should be 2 storeys and then 4 storeys. Block D is not acceptable as proposed. The block is too close to the boundaries to the west, too tall and too over-scaled to be sited as proposed.

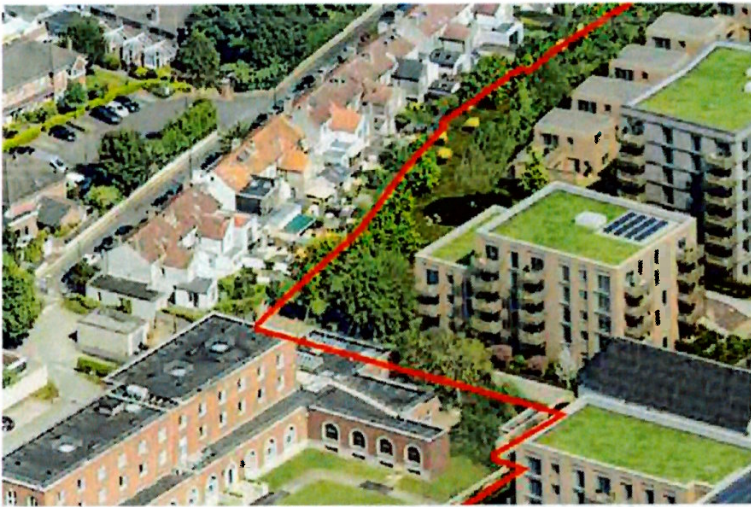


Fig. 32: Scale of client properties relative to Block D



Fig.33: Scale of client properties relative to Block D

Our client's residents consider that the proposed 3 and 5 storey Block D is sited too close to their properties to allow anything above 3rd storey to be included – even then the 3rd storey should be setback as per the proposed 5th and 5th storeys. Block D represents substantial scale at this location. The 3rd, 4th and 5th storeys would cause negative overbearing, visual dominance and visual obstruction impacts on the existing 2 storey residential dwellings and rear gardens to the west. The block is 11.030m and 16.955m tall with a flat roof. Both sections of the building tower over even the apex of the pitched roofs of our client's residents' dwellings.



Fig. 34: Overlooking windows in CGI image benefitting from perspective – Block D is shown

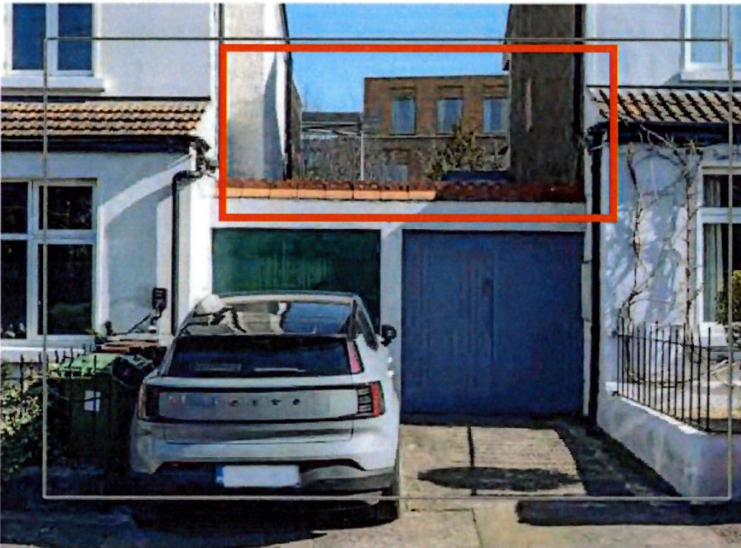


Fig. 35: Overlooking windows in CGI image benefitting from perspective – Block D is shown



Fig. 36: Block D maintains 18.67m wide elevations up to 3 and 5 storeys metres from private rear gardens

Our client's residents to the west do not accept that the area of the subject site located closest to their properties is suitable for 2 storeys but, with adequate setbacks of 22m between first floor windows, they believe that dwellings could be successfully inserted into the area of proposed Block D. They have significant concerns however over any storey(s) above 1st floor as these would directly overlook their properties and/or cause the perception of constant overlooking thereby negatively impacting the existing levels of privacy enjoyed by their properties.

The residents have reviewed Block D, and they offer the following comments regarding the following storeys:

- **Storeys 1 and 2** – These storeys are accepted subject to retaining the existing tree belt.
- **Storey 3** – This storey is not accepted. A west elevation length of over 18.67m including side balconies offers overlooking windows to the west elevation of Block D. North and south facing balconies will allow overlooking to the southwest and northwest. The windows directly overlook private properties to the west which maintain private gardens and rear windows. The proposed setbacks to these private properties are insufficient to mitigate the overlooking, perception of overlooking and privacy impact arising from this storey (see Fig. 38). This storey should be removed and replaced by the setback 4th storey.
- **Storeys 4 and 5** – These setback storeys are not accepted as a 4th storey; however, one would be acceptable as a 3rd storey in a 3 storey only building. While it is acknowledged that the setback to the 4th storey prevents views from the central windows in the west facing elevation, it does not prevent northwest and southwest views from living room windows and balconies (on the north and south elevations). The setback does not prevent downward views from the 5th storey windows and balconies (see Fig. 59). It also does not address concerns as to the perception of overlooking.

The applicant's Block D is sited to the east of our client's residents' properties sited to the west of the block; therefore, the issue of overshadowing cannot be ignored. BPS has reviewed the proposed development on www.sulcalc.org for the 11.03m tall and the 16.955m tall sections of the building and we find:

- **March and September 21st:** From sunrise until nearly 10am, Block D would cause overshadowing of our client's residents' properties sited to the west, southwest and northwest. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The setting back of the 3rd storey and removal of the 4th and 5th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.
- **June 21st:** From sunrise until nearly 10 am, Block D would cause overshadowing of our client's residents' properties sited to the west, southwest and northwest. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The setting back of the 3rd storey and removal of the 4th and 5th would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.
- **December 21st:** From sunrise until nearly noon, Block D would cause overshadowing of our client's residents' properties sited to the west, southwest and northwest. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The setting back of the 3rd storey and removal of the 4th and 5th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.

ACP is asked to require that Block D be amended to provide an improved compromise between the applicant's ambitions and the rights of adjoining properties to expect their established residential and visual amenities to be protected.



Fig. 37: Siting of 3rd storey overlooking windows and balconies relative to client properties

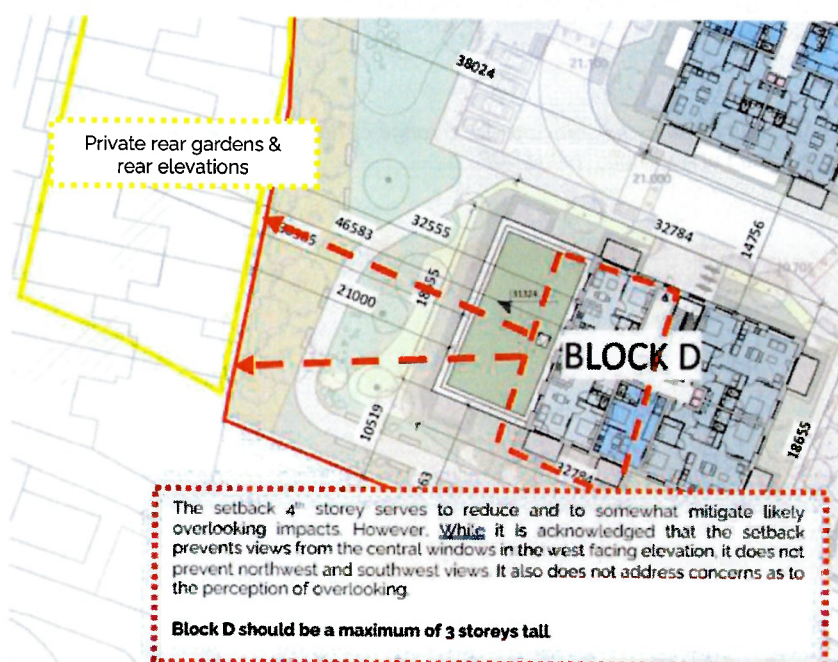


Fig. 38: Siting of 3rd and 4th storey overlooking windows and balconies relative to client properties



Fig. 39: Siting of 4th and 5th storey overlooking windows and balconies relative to client properties

2.8 Ground 8: The bike/bin store building to the north of Block E

The decision of DCC to remove this store building is welcomed and ACP is asked to uphold this decision. This structure should remain removed also as per the Commission's SHD decision.

2.9 Ground 9: The works may cause damage to adjoining properties

The works may cause damage to adjoining properties. The applicant needs to put in place a scheme of indemnity for possible damage to client properties.

2.10 Ground 10: Legal concerns

Please find an accompanying submission attached prepared by FP Logue Solicitors.

There are three legal areas over which BPS and FP Logue are concerned:

- **Density.** The applicant's Statement of Consistency claims the location doesn't fit into any of the categories listed in Appendix 3 to the development plan. This is not correct since the CDP aims to cover all areas within the city. This area is "outer suburbs". The same issue was addressed by the Commission in a planning application at Rydalmount where Milltown Road meets the Luas, case 322089. In that case the Inspector said:

I recognised that there are conflicting definitions of the 'Outer City' in the development plan and as stated above there is no definition in the Development Plan for 'Outer Suburb'. However, while the neighbouring dwellings of Rydalmount House and Rydalmount Villas are 19th Century structures, I consider the site is located in a suburban area which is some distance from the 19th Century key urban villages of Rathmines, Ranelagh and Donnybrook and is adjacent to the Dublin City Council administrative area boundary. I therefore consider that in terms of the density ranges as detailed in Table 1; the site is in the outer suburbs. I note also that the CDP definitions refer only to the Dublin City

Council administrative area and should be read and understood in this context. The location of the site on the southern periphery of this area therefore supports this conclusion.

Mr Logue noted how:

- The Dublin City Development Plan 2022 to 2028 (CDP) makes provision for a range of densities depending on location within the city. This is captured in Table 1 of Appendix 3 to the CDP.

Table 1: Density Ranges

Location	Net Density Range (units per ha)
City Centre and Canal Belt	100-250
SDRA	100-250
SDZ/LAP	As per SDZ Planning Scheme/LAP
Key Urban Village	60-150
Former Z6	100-150
Outer Suburbs	60-120

Fig. 40: Table 1 of Appendix 3 to the CDP

- The Statement of Consistency submitted with the planning application justifies a density of 140 units per hectare primarily on the basis that none of the categories listed in this table accurately represent the locational characteristics of the subject site, and that it does not fall within the "outer suburbs" because it is not a newly developing area. The statement of consistency claims that it is an "inner suburb" because it is located outside the inner city within the 19th century built up area and forms part of an established urban community. The Statement of Consistency claims that there is no density specified for "inner suburbs".
- The Statement of Consistency then proceeds to justify 140 units per hectare based on the Compact Settlement Guidelines where it is claimed that the location is "City-Urban Neighbourhoods" justifying density in the range 50 to 250 units per hectare.
- In my view this analysis is incorrect.
- First it is the intention of the CDP to specify density for the entire functional area of the City Council. There is no basis to suggest that the City Council in adopting the CDP left out certain areas where density could be specified on a case by case basis. Therefore the interpretation of the CDP advocated by the developer is not correct.
- In my view the site is in the "Outer Suburbs" based on the following.
- Section 4.5.2 of the CDP states 'The inner suburbs comprise the established suburban communities, largely, located outside of the canal belt e.g., such as Phibsborough and the outer city refers to the newly developing areas on the fringe of the city administrative area including Clongriffin-Belmayne, Ashtown-Pelletstown, Park West and Cherry Orchard.'
- Inner Suburbs is not identified as a location in Table 1 Density Ranges.
- While it may be the case that some of the buildings on the site date from the 19th century the location is outside the 19th century built up area as is clearly demonstrated by Appendix 7.1 of the EIAR where the maps show that even as late as 1936 the site was outside the built-up area of Dublin. Certainly the map of 1909 shows this. Therefore, the location cannot be an inner suburb.
- It is also some distance from the 19th century key urban villages of Rathmines, Ranelagh and Donnybrook and is adjacent to the Dublin City Council administrative area boundary. In that regard to CDP definitions refer only to the Dublin City Council administrative area and should be read and understood in that context. The location of the site on the southern periphery of this area supports the conclusion that the location is in the "outer suburbs".
- In light of this a density of 140 units per hectare contravenes the development plan. The contravention is also material since it is 17% greater than the maximum density for this area. It is also an element that has been raised in observations by members of the public.

- My view is reinforced having regard to the Compact Settlements Guidelines. Section 3.4 concerns refining density and defines various locations with regard to accessibility. The site is at best an "accessible location" given that most if not all of the site is more than 1km walking distance from the nearest Luas stop.
- Moreover these guidelines provide "The NTA's Public Transport Accessibility Level (PTAL) tool will provide detail of public transport accessibility at settlement level and should be used to support the preparation of statutory development plans at a settlement level and in the consideration of individual applications."
- This tool shows that the site only has a medium level of service, indicating that it is not one which is suitable for increased heights and/or high density development.³

BPS agrees with this analysis.

2. **Application of the 2025 Apartment Guidelines.** Is the applicant proposing a material contravention of the CDP policies on Apartment design which are in conflict with the SPPRs in the 2025 Apartment Guidelines? The reason for this concern is that the guidelines were not subject to SEA and there is now a legal challenge to their validity. Is it legally possible to materially contravene a CDP based on guidelines which haven't been assessed under SEA. Has the CDP has been complied with in relation to the SPPRs? Mr Logue states:

In so far as the Commission may be considering granting planning permission in material contravention of the CDP, this would be contrary to EU law since the CDP is a plan within the scope of Article 3(2)(a) of the SEA Directive and therefore it is a binding plan which sets the framework for development consents under the EIA Directive. The objective of the SEA Directive would be undermined if it were possible to derogate from the framework defined by a plan or programme which has been subjected to an environmental assessment, within the meaning of Directive 2001/42, and was prepared taking into account, in accordance with Article 8 of that directive, the conclusions drawn from that assessment, without such a derogation being subject, at the very least, to the obligation, arising from Article 3(3) of that directive, to establish whether that derogation is likely to have significant effects on the environment.

BPS agrees with Mr Logue.

3. **Review of Table 3 of Appendix 3 of the CDP.** These are stringent criteria for proposals with enhanced height density and scale. They are hard to achieve with standard LRD type schemes. As the attached BPS Planning Objection Report for the current scheme confirms, these are not achieved in the current scheme. The proposal's Statement of Consistency for this aspect of the application is forced to argue that most of the scheme is acceptable. DCC, which acknowledges areas various shortcomings, has agreed to take the good with the bad. A lower density scheme would however contain a smaller number of comprised units. Mr Logue states:

Significant reliance is place on the Planning Design Standards for Apartments – Guidelines for Planning Authorities 2025 (the 2025 Apartment Guidelines) and the SPPRs contained therein. The problem with this approach is that these guidelines were not subject to SEA and therefore these guidelines cannot be used to derogate from the CDP. In addition these guidelines do not form part of the "hierarchy", within the meaning of article 4(3) of the SEA Directive and cannot be used to justify the environmental effects of the project.

It is also a case the issues concerning the applicability of the SEA Directive to the 2025 Apartment Guidelines are subject to pending litigation in the High Court (McDonald and others v Minister for Housing and others 2025/1464 JR) and the Court of Justice (C-116/26).

BPS agrees with this analysis.

The Commission is asked to consider the above matters which are set out in detail in the attached legal submission.

3.0 Conclusion

Our client adopts the conclusions of the attached Planning Objection Report insofar as all parts of the DCC decision excepting the removal of the bike/bin store building to the north of Block E.

The group has clearly set out its Grounds for Appeal and how these can be addressed by way of significant revisions to the scheme.

The group considers that the time has come for compromise on both sides. It would be best for all to avoid further judicial review proceedings. ACP is asked to find a compromise which is fair to both sides. The DCC decision does not offer any compromise at all as the removal of the bike/bin store building to the north of Block E was required by the Commission under its SHD decision.

³ https://experience.arcgis.com/experience/dc0507c5c9a2419c8f67efd167aa8836/page/Maps#data_s-id%3AdataSource_15-3%3A5

Of all the communities which adjoin this site, our client's community is the one which has been proposed to be most impacted. The scheme is heavily weighted to development to the centre and west of the site. Our client will accept a more reasonable and balanced amended version of this scheme. The DCC decision just does not deliver this.

BPS and FP Logue are appointed to continue with this matter as required. Please find the FP Logue appeal submission attached.

Perhaps the applicant might respond to this appeal by offering scheme revisions. These could be agreed by way of mediated consultation. Our client awaits the applicant's decision on whether to, once again, ignore our client's concerns or to try to reach some agreement.

Otherwise, we wait the outcome of this appeal. The position of our client is clearly laid out.

4.0 Recommendation

Arising from the above, BPS recommends that the Commission either:

1. Refuse planning permission for the reasons given in Section 4.1 of this letter; or
2. Require significant revisions to the scheme by way of a request to the applicant for amendments to the scheme or by way of condition in line with the list set out in this letter at Sections 2.2 to 2.9 and/or in the attached Planning Objection Report (adopted as part of this planning appeal).

Both options would provide for the scheme to be altered. However, it would be preferable for all parties to reach a compromise on the matters which remain of concern to our client.

4.1 Recommended reasons for refusal

Our client submits that unless significant revisions to the scheme are required by way of a request for revised drawings and details or by way of condition, the proposed development should be refused by the Commission for the following reasons:

1. The proposal which is sited in the 'Outer Suburb' as defined by the Development Plan fails to comply with Table 1 of Appendix 3. The Statement of Consistency submitted with the planning application incorrectly justifies a density of 140 units per hectare. It is the intention of the CDP to specify density for the entire functional area of the City Council. Inner Suburbs is not identified as a location in Table 1 Density Ranges. While it may be the case that some of the buildings on the site date from the 19th century the location is outside the 19th century built up area as is clearly demonstrated by Appendix 7.1 of the EIAR where the maps show that even as late as 1936 the site was outside the built-up area of Dublin. Certainly the map of 1909 shows this. Therefore, the location cannot be an inner suburb. It is also some distance from the 19th century key urban villages of Rathmines, Ranelagh and Donnybrook and is adjacent to the Dublin City Council administrative area boundary. In that regard to CDP definitions refer only to the Dublin City Council administrative area and should be read and understood in that context. The location of the site on the southern periphery of this area supports the conclusion that the location is in the "outer suburbs". In light of this a density of 140 units per hectare contravenes the development plan. The contravention is also material since it is 17% greater than the maximum density for this area. It is also an element that has been raised in observations by members of the public. Further, the Compact Settlements Guidelines, Section 3.4 concerns refining density and defines various locations with regard to accessibility. The site is at best an "accessible location" given that most if not all of the site is more than 1km walking distance from the nearest Luas stop. Moreover, these guidelines provide "The NTA's Public Transport Accessibility Level (PTAL) tool will provide detail of public transport accessibility at settlement level and should be used to support the preparation of statutory development plans at a settlement level and in the consideration of individual applications." This tool shows that the site only has a medium level of service, indicating that it is not one which is suitable for increased heights and/or high density development.⁴
2. In so far as the Commission may be considering granting planning permission in material contravention of the CDP, this would be contrary to EU law since the CDP is a plan within the scope of Article 3(2)(a) of the SEA Directive and therefore it is a binding plan which sets the framework for development consents under the EIA Directive. The objective of the SEA Directive would be undermined if it were possible to derogate from the framework defined by a plan or programme which has been subjected to an environmental assessment, within the meaning of Directive 2001/42, and was prepared taking into account, in accordance with Article 8 of that directive, the conclusions drawn from that assessment, without such a derogation being subject, at the very least, to the obligation, arising from Article 3(3) of that directive, to establish whether that derogation is likely to have significant effects on the environment.
3. Significant reliance is place on the Planning Design Standards for Apartments – Guidelines for Planning Authorities 2025 (the 2025 Apartment Guidelines) and the SPPRs contained therein. The problem with this approach is that these guidelines were not subject to SEA and therefore these guidelines cannot be used to derogate from the CDP. In addition these guidelines do not form part of the "hierarchy", within the meaning of article 4(3) of the SEA Directive and cannot be used to justify the environmental effects of the project. It is also a case the issues concerning the applicability of the SEA

⁴ https://experience.arcgis.com/experience/dco507c5c9a2419c8f67efd167aa8836/page/Maps#data_s=id%3AdataSource_15-3%3A5

Directive to the 2025 Apartment Guidelines are subject to pending litigation in the High Court (McDonald and others v Minister for Housing and others 2025/1464 JR) and the Court of Justice (C-116/26).

4. Having regard to the National Climate Plan 2023 and the National Energy & Climate Plan 2021-30 and to Sections 3.5.2, 15.7 and 15.7.1 and to Objective CA6 and Table 15-1 of the Dublin City Council Development Plan 2022-2028, the proposed development includes proposals for substantial demolition and reconstruction works which cannot be justified having regard to the 'embodied carbon' of existing structures as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. Compliance with the climate action principles set out in Chapter 3 have not been fully addressed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
5. Having regard to how the proposed development would be constructed on Z12 zoned lands, the proposals are contrary to Section 14.7.12 of the Dublin City Development Plan as the proposals fail to deliver an acceptable masterplan which respects the Z12 zoning and is compliant with other development plan policies including density. The scheme contains: (i) Too many north facing units; (ii) Too many units with poor amenity and poorly designed windows (iii) Too many studio and one bed units; (iv) A poor distribution of public open space with none provided to the west of the site; (v) The scheme removes too many trees at 283, too many 238 large shrubs and removes the western tree belt; (vi) The extent of demolition is excessive; and (vii) The siting of Block E is not acceptable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
6. Having regard to the established character and pattern of development in the vicinity, the provisions of the Dublin City Development Plan 2022-2028 and the nature and scale of the proposed development, with a proposed Block E designed and sited poorly relative to the western boundary of the site, it is considered that the proposed development would have an overbearing, overshadowing and overlooking impact on adjoining properties on Cherryfield Avenue Lower and Upper. Accordingly, the proposed development would seriously injure the residential amenities of the stated adjoining properties, and would be contrary to the provisions set out under the Dublin City Development Plan 2022-2028, which require infill development not to cause significant loss of amenity to existing properties and infill housing to have regard to the existing character of the street. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
7. The proposed development is located on a site located in the 'Outer Suburbs'. Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the Dublin City Development Plan 2022-2028, provides for between 60 uph and 120 uph on this site. The scheme is 140.3 uph. It is considered that the design, scale, height, length and massing of the proposed development is contrary to Objectives QHSN10, SC8, SC10 and SC11 and to Tables 1 and 3 of Appendix of the City Development Plan. Having regard in particular to the scale, design, height, length and massing of the building which extends up to 8 storeys and which would be the tallest residential building in the immediate area, the development as proposed fails to incorporate design and layout elements which could help to absorb and mitigate the tall and over-scaled elements envisaged for this site, thereby militating against the successful integration of what is a landmark scale building for this area. The development as proposed would, therefore, adversely impact on the amenity of the local area, the skylines enjoyed by adjoining properties and residential areas and adjoining residential properties. As such, the proposal would militate against the successful achievement of the objectives for the site as outlined in the County Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.
8. The proposed development by reason of its height, design, scale, length, bulk and massing and being located adjoining to a lower density and height residential dwellings and apartment blocks, would comprise a dominant and visually incongruous scheme which would have a profound negative effect on the appearance and visual amenity of the local and wider area. The development as proposed would be inconsistent with and would adversely impact on the existing scale and established character of the local area and the existing scale and established character of this area. The proposal would contravene Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the Dublin City Development Plan 2022-2028, which seeks to ensure that all proposals for buildings of scale make a positive contribution to the urban character of the city. The 'Building Heights Strategy' also requires that proposals demonstrate sensitivity to areas including to local residents. Furthermore, the proposal of itself would have an adversely overbearing visual impact on neighbouring residential properties in the vicinity of the site. The proposed development would be contrary to the proper planning and sustainable development of the area.
9. The proposal in its current form, by virtue of the density, proximity, scale, height and massing of this building and its design and layout, especially at ground level, would be injurious to the future residential amenities of residents of the scheme and of surrounding residents. It is a policy of the planning authority to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas. In promoting more compact, good quality, higher density forms of residential development, it is the policy to have regard to the policies and objectives contained in the 'Sustainable Residential Development & Compact Settlements Guidelines' and the 'Urban Design Manual - A Best Practice Guide'. It is considered that the proposed development, by reason of the design, height orientation, scale, and massing on an infill site, would cause unacceptable overbearing impacts and would constitute significant overdevelopment of the site. The proposed development would, therefore, conflict with the provisions of the development plan, would adversely impact on adjoining residential amenity and would, thereby, be contrary to the proper planning and sustainable development of the area.

10. Having regard to the location of the site and to the established built form, pattern and character of the area, it is considered that the proposed development would be incongruous in terms of its design, height, bulk and form, would be out of character with this infill site, would constitute overdevelopment of the site and would have a detrimental impact to the residential amenities of adjacent properties, particularly those located to the west on Cherryfield Avenue Lower and Upper. The proposed development provides an inadequate design response to this sensitive infill site, would be of insufficient quality and would seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.
11. Having regard to the design, density, height, scale, length and massing of the scheme in particular its scale within a site zoned 'Z2: To protect and/or improve the amenities of residential conservation areas', it is considered that the proposed development represents overdevelopment and would result in a development that would detract from the residential amenity of the area and would be contrary to the residential zoning objective of the site. The proposed development would seriously injure the amenities, or depreciate the value, of property in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.
12. Having regard to Objectives SMT6, 7, 11, 27 and 29 of the Dublin City Development Plan 2022-2028 and to advice in the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2025) and the car parking standards in the Dublin City Development Plan 2022 – 2028, the proposal would fail to provide at least one car parking space per unit or any adequate parking provision, would be sub-standard in terms of car-parking provision and be likely to lead to overspill car parking in the surrounding area. The proposed development would endanger public safety by reason of a traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area.
13. It is considered that, by reason of the layout proposed, particularly the location and design of the public/communal/useable open spaces, the proposed development would result in a substandard form of development and would provide a poor level of amenity for future residential occupants and for the general public. The submitted area of primary public open space fails to comply with Section 14.7.12 of the Dublin City Development Plan 2022-2028 as it has Block A in the centre of it. The area of public open space between Blocks A and B is not acceptable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
14. This proposal does not meet standards with regards to tree retention. The 252 no. trees and 200+ large shrubs located within the scheme and the western tree belt of mostly B quality trees which form part of this site are a significant ecological feature in the local landscape and support a local wildlife and/or offer habitat to wildlife, birds and bats. The proposed development, by reason of its form and layout, would result in the loss or removal of these trees from the site which would be contrary to Section 10.5.7 'Trees', Section 15.6.9 and Objective GI41 'Protect Existing Trees as Part of New Development', Chapter 16 (Development Standards) of the City Development Plan and the City Tree Strategy of the Dublin City Development Plan 2022- 2028.
15. The proposed development would materially contravene the Dublin City Development Plan 2022-2028 as regards the CUO25 requirement. This is large floor area scheme where Objective CUO25: 'SDRAs and Large Scale Developments' applies. The policy states: "All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage. The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need. Such developments shall incorporate both cultural/arts and community uses individually or in combination unless there is an evidence base to justify the 5% going to one sector. In the absence of such full provision and detailed proposals as regards these future uses, the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Finally

If you require any further details, please contact BPS using the details supplied on this letterhead.

With best wishes,

Brendan Buck

Brendan Buck MIPI
Managing Director
BPS Planning & Development Consultants LTD

Our Reference: FPL/825/03343

Your Reference:

8 May 2026

Re: WEBLRD6093/26-S3B

Applicant: Sandford Living Limited

Proposed Development: The development will principally consist of: the demolition of c. 4,847.5 sq m of existing structures on site including Milltown Park House (880 sq m), Milltown Park House Rear Extension (2,031 sq m), the Finlay Wing (622 sq m), the Archive (1,240 sq m) and the Link Building between Tabor House and Milltown Park House Rear Extension to the front of the Chapel (74.5 sq m); the refurbishment and reuse of Tabor House (1,575 sq m) and the Chapel (768 sq m) and the provision of a single storey glass entrance lobby to the front and side of the Chapel (52 sq m); and the provision of 562 No. residential units comprising 6 No. three-bed courtyard houses and 556 No. apartment units (70 No. studios, 176 No. one-bed units, 267 No. two-bed units and 43 No. three-bed units).

Development address: Milltown Park, Sandford Road, Dublin 6, D06V9K7

A Chara

Introduction

1. I have set out in this letter a legal note in relation to your proposed appeal of the decision of Dublin City Council of 17 April 2026 to grant permission.

Density

2. The Dublin City Development Plan 2022 to 2028 (**CDP**) makes provision for a range of densities depending on location within the city. This is captured in Table 1 of Appendix 3 to the CDP.

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Consultant: TJ McIntyre

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Table 1: Density Ranges

Location	Net Density Range (units per ha)
City Centre and Canal Belt	100-250
SDRA	100-250
SDZ/LAP	As per SDZ Planning Scheme/LAP
Key Urban Village	60-150
Former Z6	100-150
Outer Suburbs	60-120

3. The Planning Report and Statement of Consistency submitted with the planning application justifies a density of 140 units per hectare primarily on the basis that none of the categories listed in this table accurately represent the locational characteristics of the subject site, and that it does not fall within the "outer suburbs" because it is not a newly developing area. The statement of consistency claims that it is an "inner suburb" because it is located outside the inner city within the 19th century built up area and forms part of an established urban community. The Statement of Consistency claims that there is no density specified for "inner suburbs".
4. The Statement of Consistency then proceeds to justify 140 units per hectare based on the Compact Settlement Guidelines where it is claimed that the location is "City-Urban Neighbourhoods" justifying density in the range 50 to 250 units per hectare.
5. In my view this analysis is incorrect.
6. It is the intention of the CDP to specify density for the entire functional area of the City Council, in my view the notional informed user would interpret it in this way. There is no basis to suggest that the City Council in adopting the CDP left out certain areas where density could be specified on a case by case basis, if that were the intention it would have been done expressly. Therefore the interpretation of the CDP advocated by the developer is not correct.
7. In my view the site is in the "Outer Suburbs" based on the following.
8. Section 4.5.2 of the CDP states 'The inner suburbs comprise the established suburban communities, largely, located outside of the canal belt e.g., such as Phibsborough and the outer city refers to the newly developing areas on the fringe of the city administrative area including Clongriffin-Belmayne, Ashtown-Pelletstown, Park West and Cherry Orchard.'
9. Inner Suburbs is not identified as a location in Table 1 Density Ranges.
10. While it may be the case that some of the buildings on the site date from the 19th century the location is outside the 19th century built up area as is clearly demonstrated by Appendix 7.1 of the EIAR where the maps show that even as late as 1936 the site was outside the built-up area of Dublin City. Certainly the map of 1909 shows this. Therefore, the location cannot be an inner suburb.
11. It is also some distance from the 19th century key urban villages of Rathmines, Ranelagh and Donnybrook and is adjacent to the Dublin City Council administrative area boundary. In that regard

the CDP definitions refer only to the Dublin City Council administrative area and should be read and understood in that context. The location of the site on the southern periphery of this area supports the conclusion that the location is in the “outer suburbs”.

12. In light of this a density of 140 units per hectare contravenes the CDP. The contravention is material since it is 17% greater than the maximum density for this area. It is also an element that has been raised in observations by members of the public.
13. My view is reinforced having regard to the Compact Settlements Guidelines. Section 3.4 concerns refining density and defines various locations with regard to accessibility. The site is at best an “accessible location” given that most if not all of the site is more than 1km walking distance from the nearest Luas stop.
14. Moreover these guidelines provide “The NTA’s Public Transport Accessibility Level (PTAL) tool will provide detail of public transport accessibility at settlement level and should be used to support the preparation of statutory development plans at a settlement level and in the consideration of individual applications.”
15. This tool shows that the site only has a medium level of service, indicating that it is not one which is suitable for increased heights and/or high density development.¹

Material Contravention unlawful

16. In so far as the Commission may be considering granting planning permission in material contravention of the CDP, this would be contrary to EU law since the CDP is a plan within the scope of Article 3(2)(a) of the SEA Directive and therefore it is a binding plan which sets the framework for development consents under the EIA Directive. The objective of the SEA Directive would be undermined if it were possible to derogate from the framework defined by a plan or programme which has been subjected to an environmental assessment, within the meaning of Directive 2001/42, and was prepared taking into account, in accordance with Article 8 of that directive, the conclusions drawn from that assessment, without such a derogation being subject, at the very least, to the obligation, arising from Article 3(3) of that directive, to establish whether that derogation is likely to have significant effects on the environment.

Planning Design Standards for Apartments – Guidelines for Planning Authorities 2025

17. Significant reliance is place on the Planning Design Standards for Apartments – Guidelines for Planning Authorities 2025 (the **2025 Apartment Guidelines**) and the SPPRs contained therein. The problem with this approach is that these guidelines were not subject to SEA and therefore these guidelines cannot be used to derogate from the CDP. In addition these guidelines do not form part of the “hierarchy”, within the meaning of article 4(3) of the SEA Directive and cannot be used to justify the environmental effects of the project.
18. It is also a case the issues concerning the applicability of the SEA Directive to the 2025 Apartment Guidelines are subject to pending litigation in the High Court (*McDonald and others v Minister for Housing and others* 2025/1464 JR) and the Court of Justice (C-116/26).

Conclusion

¹
https://experience.arcgis.com/experience/dc0507c5c9a2419c8f67efd167aa8836/page/Maps#data_s=id%3AdataSource_15-3%3A5

19. Based on the above, the appeal should be allowed unless the application is modified.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Fred', followed by a stylized flourish.

Fred Logue, BSc, PhD, MInstP, MISEP, CEnv

Phone: (01) 531 5310

Email: fred.logue@fplogue.com



**Planning & Development
Consultants**

Third Party LRD Planning Appeal Check List

1. Name and address of the appellant: **THIS PLANNING APPEAL IS LODGED BY CHERRYFIELD AVENUE RESIDENTS' ASSOCIATION, C/O THE CHAIRPERSON, DERMOT MURPHY, NO. 13 CHERRYFIELD AVENUE UPPER, RANELAGH, DUBLIN 6.**
2. If an agent is involved, state the name of the agent: **BRENDAN BUCK MIPI.**
3. Address of the agent: **BPS Planning Consultants LTD., BPS PLANNING & DEVELOPMENT CONSULTANTS, PO BOX 13658, DUBLIN 14, D14NY27.**
4. State the Subject Matter of the appeal: **THIRD PARTY PLANNING APPEAL IN RESPECT OF THE DECISION OF DUBLIN CITY COUNCIL TO ISSUE NOTIFICATION OF INTENTION TO GRANT PLANNING PERMISSION, UNDER PLANNING APPLICATION, REG. REF. WEBLRD6093/26-S3B, FOR PROPOSED COMPRISING OF: "... A LARGE-SCALE RESIDENTIAL DEVELOPMENT ... THE DEVELOPMENT WILL PRINCIPALLY CONSIST OF: "THE DEMOLITION OF C. 4,847.5 SQ M OF EXISTING STRUCTURES ON SITE INCLUDING MILLTOWN PARK HOUSE (880 SQ M), MILLTOWN PARK HOUSE REAR EXTENSION (2,031 SQ M), THE FINLAY WING (622 SQ M), THE ARCHIVE (1,240 SQ M) AND THE LINK BUILDING BETWEEN TABOR HOUSE AND MILLTOWN PARK HOUSE REAR EXTENSION TO THE FRONT OF THE CHAPEL (74.5 SQ M); THE REFURBISHMENT AND REUSE OF TABOR HOUSE (1,575 SQ M) AND THE CHAPEL (768 SQ M) AND THE PROVISION OF A SINGLE STOREY GLASS ENTRANCE LOBBY TO THE FRONT AND SIDE OF THE CHAPEL (52 SQ M); AND THE PROVISION OF 562 NO. RESIDENTIAL UNITS COMPRISING 6 NO. THREE-BED COURTYARD HOUSES AND 556 NO. APARTMENT UNITS (70 NO. STUDIOS, 176 NO. ONE-BED UNITS, 267 NO. TWO-BED UNITS AND 43 NO. THREE-BED UNITS). BLOCK A1 WILL RANGE IN HEIGHT FROM 5 NO. STOREYS TO 8 NO. STOREYS AND WILL COMPRISE 81 NO. APARTMENT UNITS; BLOCK A2 WILL RANGE IN HEIGHT FROM 6 NO. STOREYS TO 8 NO. STOREYS AND WILL COMPRISE 139 NO. APARTMENT UNITS; BLOCK B WILL RANGE IN HEIGHT FROM 3 NO. TO 7 NO. STOREYS AND WILL COMPRISE 74 NO. APARTMENT UNITS; BLOCK C WILL RANGE IN HEIGHT FROM 4 NO. STOREYS TO 7 NO. STOREYS AND WILL COMPRISE 151 NO. APARTMENT UNITS; BLOCK D WILL RANGE IN HEIGHT FROM 3 NO. STOREYS TO 5 NO. STOREYS AND WILL COMPRISE 30 NO. APARTMENT UNITS; BLOCK E WILL BE 2 NO. STOREYS IN HEIGHT AND WILL COMPRISE 6 NO. COURTYARD TYPE HOUSES; AND BLOCK F WILL RANGE IN HEIGHT FROM 5 NO. STOREYS TO 7 NO. STOREYS AND WILL COMPRISE 81 NO. APARTMENT UNITS" AT A C. 4.74 HECTARE SITE AT MILLTOWN PARK, SANDFORD ROAD, DUBLIN 6, D06 V9K7.**
5. Location of development: **MILLTOWN PARK, SANDFORD ROAD, DUBLIN 6, D06 V9K7.**
6. Local authority area: **DUBLIN CITY COUNCIL**
7. Planning authority register reference number: **REG. REF. WEBLRD6093/26-S3B.**
8. Attach, in full, the grounds for appeal and the reasons, considerations and arguments on which they are based. **PLEASE FIND A PLANNING APPEAL LETTER ATTACHED SETTING OUT THE GROUNDS FOR APPEAL AND THE REASONS, CONSIDERATIONS AND ARGUMENTS ON WHICH THEY ARE BASED.**



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Consultants**

9. Provide a copy of the acknowledgement letter received from Dublin City Council: **PLEASE FIND THIS ATTACHED TO THIS APPEAL SUBMISSION.**
10. Enclose/Pay the correct fee for the third party appeal: €220.
11. Ensure that the APPEAL is received by An Bord Pleanála in the correct manner and in time. **THE DECISION OF DCC TO ISSUE NOTIFICATION OF INTENTION TO GRANT PLANNING PERMISSION WAS MADE ON THE 17 APRIL 2026. THE DEADLINE FOR THIRD PARTY APPEALS IS 14TH OF MAY 2023. THIS APPEAL IS LODGED ON OR PRIOR TO THIS DATE.**

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3,
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Planning & Property Development Department, Dublin City Council,
Block 4, Floor 3, Civic Offices, Wood Quay, Dublin 8

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BPS Planning Consultants O.B.O
Cherryfield Avenue Residents
Association
1, PO Box 13658
Dublin 14
Dublin 14
D14NY27

IMPORTANT: Please retain this letter. You will be required to produce it should you wish to appeal the decision issued by the Planning Authority to An Coimisiún Pleanála in relation to this development

PLAN NO.
DATE RECEIVED:
LOCATION :
PROPOSAL :

WEBLRD6093/26-S3B

25-Feb-2026

Milltown Park, Sandford Road, Dublin 6, D06V9K7

Sandford Living Limited intend to apply for permission for a Large-Scale Residential Development at a c. 4.26 hectare site at Milltown Park, Sandford Road, Dublin 6, D06 V9K7. Works are also proposed on Milltown Road and Sandford Road to facilitate access to the development including improvements to pedestrian facilities on an area of c. 0.16 hectares. The development's surface water drainage network shall discharge from the site via a proposed 300mm diameter pipe along Milltown Road through the junction of Milltown Road / Sandford Road prior to outfalling to the existing drainage network on Eglinton Road (approximately 200 metres from the Sandford Road / Eglinton Road junction), with these works incorporating an area of c. 0.32 hectares. The development site area, road works and drainage works areas will provide a total application site area of c. 4.74 hectares.

The development will principally consist of: the demolition of c. 4, 847.5 sq m of existing structures on site including Milltown Park House (880 sq m), Milltown Park House Rear Extension (2, 031 sq m), the Finlay Wing (622 sq m), the Archive (1, 240 sq m) and the Link Building between Tabor House and Milltown Park House Rear Extension to the front of the Chapel (74.5 sq m); the refurbishment and reuse of Tabor House (1, 575 sq m) and the Chapel (768 sq m) and the provision of a single storey glass entrance lobby to the front and side of the Chapel (52 sq m); and the provision of 562 No. residential units comprising 6 No. three-bed courtyard houses and 556 No. apartment units (70 No. studios, 176 No. one-bed units, 267 No. two-bed units and 43 No. three-bed units). Block A1 will range in height from 5 No. storeys to 8 No. storeys and will comprise 81 No. apartment units; Block A2 will range in height from 6 No. storeys to 8 No. storeys and will comprise 139 No. apartment

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units; Block B will range in height from 3 No. to 7 No. storeys and will comprise 74 No. apartment units; Block C will range in height from 4 No. storeys to 7 No. storeys and will comprise 151 No. apartment units; Block D will range in height from 3 No. storeys to 5 No. storeys and will comprise 30 No. apartment units; Block E will be 2 No. storeys in height and will comprise 6 No. courtyard type houses; and Block F will range in height from 5 No. storeys to 7 No. storeys and will comprise 81 No. apartment units.

The development also includes the provision of: cultural/community space within Tabor House (4 No. storeys including lower ground floor level) and the Chapel (2 No. storeys including lower ground floor level and mezzanine level) (1, 698 sq m) with associated outdoor space (248 sq m); a café/restaurant (179 sq m) and a creche (375 sq m) within Block F with associated outdoor creche play area; ancillary residents' amenities and facilities (324 sq m) within Blocks B & C; and a single storey bin store and substation adjacent to Block F (101 sq m).

The development also provides a new access from Milltown Road (which will be the principal vehicular entrance to the site) in addition to utilising and upgrading the existing access from Sandford Road as a secondary access principally for deliveries, emergencies and taxis; new pedestrian access points; pedestrian/bicycle connections through the site; 319 No. car parking spaces (288 No. at basement level and 31 No. at surface level); set down area for deliveries; bicycle parking; 22 No. motorcycle spaces; bin storage; boundary treatments; private balconies and terraces facing all directions; hard and soft landscaping including public open space and communal open space; green/blue roofs; PV panels; substations; lighting; plant; lift cores and overruns; and all other associated site works above and below ground.

The proposed development has a gross floor space of c.50, 196 sq m above ground level over a partial basement (under part of Blocks A1 and A2 and under Blocks B and C) measuring c. 10, 550 sq m, which includes parking spaces, bin storage, bike storage and plant.

An Environmental Impact Assessment Report has been prepared in respect of the proposed development. The planning application together with the Environmental Impact Assessment Report may be inspected or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of Dublin City Council, Planning Department, Block 4, Ground Floor, Civic Offices, Wood Quay, Dublin 8 during its public opening hours (9.00a.m.- 4.30p.m.). The Planning Application may also be inspected online at the following website set up by the applicant: www.sandfordplanninglrd2.ie. A submission or observation in relation to the application may be

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Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Planning & Property Development Department, Dublin City Council,
Block 4, Floor 3, Civic Offices, Wood Quay, Dublin 8

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made in writing to the planning authority on payment of the prescribed fee (€20.00) within the period of 5 weeks beginning on the date of receipt by the authority of the application, and such submissions or observations will be considered by the planning authority in making a decision on the application. The planning authority may grant permission subject to or without conditions, or may refuse to grant permission.

Note: Submissions/Observations may be made on line at:

<https://www.dublincity.ie/residential/planning/planning-applications/object-or-support-planning-application>

To Whom It May Concern,

The Planning Authority wishes to acknowledge receipt of your **submission/observation** in connection with the above planning application. It should be noted that the Dublin City Council as the Planning Authority will consider this application strictly in accordance with the provisions of the Dublin City Development Plan. The contents of your submission/observation will be considered by the **Case Officer** during the assessment of the above application, and you will be notified of the decision in due course.

- All queries should be submitted to the e mail address shown above.
- Please note that a request for Further Information or Clarification of Further information is not a decision.
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Yours faithfully,

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3,
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Planning & Property Development Department, Dublin City Council,
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For ADMINISTRATIVE OFFICER



**Planning & Development
Consultants**

Planning Objection Report

Third Party Planning Objection Report in respect of Dublin City Council planning application, reg. ref. WEBLRD6093/26-S3B, for proposed comprising of: "... a large-scale residential development ... The development will principally consist of: "the demolition of c. 4,847.5 sq m of existing structures on site including Milltown Park House (880 sq m), Milltown Park House Rear Extension (2,031 sq m), the Finlay Wing (622 sq m), the Archive (1,240 sq m) and the Link Building between Tabor House and Milltown Park House Rear Extension to the front of the Chapel (74.5 sq m); the refurbishment and reuse of Tabor House (1,575 sq m) and the Chapel (768 sq m) and the provision of a single storey glass entrance lobby to the front and side of the Chapel (52 sq m); and the provision of 562 No. residential units comprising 6 No. three-bed courtyard houses and 556 No. apartment units (70 No. studios, 176 No. one-bed units, 267 No. two-bed units and 43 No. three-bed units). Block A1 will range in height from 5 No. storeys to 8 No. storeys and will comprise 81 No. apartment units; Block A2 will range in height from 6 No. storeys to 8 No. storeys and will comprise 139 No. apartment units; Block B will range in height from 3 No. to 7 No. storeys and will comprise 74 No. apartment units; Block C will range in height from 4 No. storeys to 7 No. storeys and will comprise 151 No. apartment units; Block D will range in height from 3 No. storeys to 5 No. storeys and will comprise 30 No. apartment units; Block E will be 2 No. storeys in height and will comprise 6 No. courtyard type houses; and Block F will range in height from 5 No. storeys to 7 No. storeys and will comprise 81 No. apartment units" at a c. 4.74 hectare site at Milltown Park, Sandford Road, Dublin 6, D06 VgK7.

This Planning Objection Report has been produced by BPS Planning Consultants LTD for and on behalf of the Cherryfield Avenue Residents' Association, c/o The Chairperson, Dermot Murphy, No. 13 Cherryfield Avenue Upper, Ranelagh, Dublin 6.

Document Control Sheet

Project	Third Party planning appeal in respect of Dublin City Council planning decision, reg. ref. WEBLRD6093/26-S3B.
Project No.	2026-118
Document title	Planning Objection Report.

Contents	No. of pages
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Date: 16 March 2026

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1.0 Introduction

BPS Planning & Development Consultants Ltd, a firm of Irish Planning Institute accredited town planning consultants, has been retained by Cherryfield Avenue Residents' Association, c/o The Chairperson, Dermot Murphy, No. 13 Cherryfield Avenue Upper, Ranelagh, Dublin 6 to submit a Third Party planning objection to Dublin City Council [hereafter "DCC"] on their behalf in respect of planning application for a Large-scale Residential Development [hereafter "LRD"], reg. ref. WEBLRD6093/26-S3B¹. In summary, the proposed development² comprises of:

... a large-scale residential development ... the demolition of c. 4,847.5 sq m of existing structures on site including Milltown Park House (880 sq m), Milltown Park House Rear Extension (2,031 sq m), the Finlay Wing (622 sq m), the Archive (1,240 sq m) and the Link Building between Tabor House and Milltown Park House Rear Extension to the front of the Chapel (74.5 sq m); the refurbishment and reuse of Tabor House (1,575 sq m) and the Chapel (768 sq m) and the provision of a single storey glass entrance lobby to the front and side of the Chapel (52 sq m); and the provision of 562 No. residential units comprising 6 No. three-bed courtyard houses and 556 No. apartment units (70 No. studios, 176 No. one-bed units, 267 No. two-bed units and 43 No. three-bed units). Block A1 will range in height from 5 No. storeys to 8 No. storeys and will comprise 81 No. apartment units; Block A2 will range in height from 6 No. storeys to 8 No. storeys and will comprise 139 No. apartment units; Block B will range in height from 3 No. to 7 No. storeys and will comprise 74 No. apartment units; Block C will range in height from 4 No. storeys to 7 No. storeys and will comprise 151 No. apartment units; Block D will range in height from 3 No. storeys to 5 No. storeys and will comprise 30 No. apartment units; Block E will be 2 No. storeys in height and will comprise 6 No. courtyard type houses; and Block F will range in height from 5 No. storeys to 7 No. storeys and will comprise 81 No. apartment units.

The proposal is sited in the local authority area of DCC, and the drawings and details have been reviewed at a website created by the applicant.³

This planning application was lodged to DCC on the 25th of February 2026. The deadline for the lodgement of Third Party objections is the 31st of March 2026. This objection is lodged prior to this date.

Our client wishes to confirm that they have not been consulted by the applicant and have not agreed in advance of the lodgement of this planning application to any part of this development. Our client is concerned, *inter alia*, over non-compliance with the Z12 zoning, the lack of proper public open space area to the west of Cherryfield Avenue (the retained tree line is thin as only part of the tree belt is shown retained), the design and siting of Block E with tiny shallow rear gardens and overlooking first floor terraces, the siting, scale, and height of Blocks C and D (with Block B rising above), overdevelopment of the applicant site relative to adjoining and nearby residential properties, and the consequent impacts of the scheme, and therefore maintains several serious concerns in respect of this planning application. These are set out below.

For the convenience of DCC, BPS has set out a conclusion and recommendation in Sections 8.0 and 9.0 of this report.

1.1 Site notice query

Our client notes that when this planning application was first lodged it was invalidated. A new planning application was lodged with no new site notices being erected. DCC is asked to confirm that the second planning application was lodged during the two week period in which a planning application can be lodged after a dated site notice is erected.

2.0 Rationale for this objection

Our client is Cherryfield Avenue Residents' Association which can speak on behalf of their part of the surrounding community. The RA's response is much the same as that which arose in reaction to the previous – close to identical – Large-scale Residential Development ("LRD") lodged for this site under reg. ref. LRD6026/23-S3). That was an LRD planning application for 636 No. dwellings, a creche, cultural/community space and public and communal open spaces, with heights ranging from part 2 No. to part 10 No. storeys. That LRD planning application was Judicially Reviewed and a decision from the High Court is awaited at the time of writing this objection report.

¹ <https://planning.agileapplications.ie/dublincity/application-details/174303>

² As advertised on the planning notices (description shortened to include the main parts of the scheme).

³ <https://www.sandfordplanninglrd.ie/>

Dublin City Council will also be aware that this site has also been the subject of a Strategic Housing Development planning application, reg. ref. TA29S.311302. The decision in that case was also Judicially Reviewed. The Commission decision in that case was quashed by Order of the High Court (Perfected on 12 June 2024). This application was subsequently remitted back to ACP. No decision has been made to date. This application's new reg. ref. is TA29S.322160.

The response from the area to the previous LRD and SHD schemes were then and remain incredulity. Local residents remain extremely concerned over the proposals contained in all of the planning applications, including this current one.

The main changes proposed in the new LRD scheme (referred to hereafter as 'LRD 2') relate to additional commercial floor space, a reduction in the number of units proposed, in building heights, and the in cultural/community floor space (albeit an increase in residential amenity space). The scheme then reduces cultural/community floor space while increasing commercial floor space.

Under the Dublin City Development Plan 2016–2021, these lands were zoned Objective Z15 'Institutional and Community' and clearly meant to be developed for community uses (if developed at all). This is in an area which needs new schools, more public open space and more community facilities.

The zoning of the site changed with the adoption of the new Dublin City Development Plan 2022–2028 ('DCDP') to Objective Z12 'Institutional Land (Future Development Potential)'. This re-zoning does not alter the fact that the lands remain institutional lands whose redevelopment needs careful planning.

The scheme remains a re-packaged version of the SHD scheme. This scheme did receive permission from the Commission; however, the decision was signed by Paul Hyde and arose at a time when the SHD process had lost credibility arising from the sheer volume of successful Judicial Review cases arising. Given the involvement of Paul Hyde, the grounds on which proceedings were issued, and the passing of a new DCDP 2022–2028 to which the previous SHD scheme is non-compliant, our client is confident the decision will be quashed.

Our client is equally confident that the LRD1 scheme will be quashed. It was submitted too quickly and without adequate consideration for all planning and environmental requirements arising.

This Planning Objection Report carefully reviews the applicant's LRD2 proposals and sets out whether they have addressed concerns which have contributed to and/or caused two ongoing Judicial Review cases to arise.

As noted above, there has been the adoption of the new DCDP 2022–2028 (since December 2022). The new DCDP has made alterations to the zoning of the site which is now Objective Z12 'Institutional Land (Future Development Potential)'. Our client's RA made submissions to the Draft DCDP and DCC's new zoning reflects many of these comments.

The applicant planning application again seizes on the new Z12 zoning as though it has been specifically applied to facilitate this scheme. DCC is told that, "This zoning change is in our opinion, a recognition of the fact that the lands are no longer institutional and have not been since prior to 2019 when the lands were sold to the Applicant." In this way, the applicant's intention is to self-assess this planning application and to interpret the zoning in a manner which supports their case. This is not accepted.

DCC is aware that, for example, the Department of Education has recommended that the SHD scheme currently the subject of JR proceedings be refused. The Department's submission recommended that approval is not given for the development at this time on the basis that, *inter alia*, the lands have the potential to meet both existing and future educational needs. The applicant's KPMG report fails to provide that schools in this area can accommodate the current scheme's likely demand for school places and/or demand from any other new scheme permitted in recent years. LRD1 did not address this concern; instead, it forcefully argued that the lands can only be developed for a mostly residential scheme. This is not accepted.

Our client does not understand how these lands can reasonably be transferred almost wholly into residential use when they are needed and/or likely to be needed in the future for community facilities in the context of a growing Dublin population.

Our client accepts how Section 14.7.12 of the DCDP aims: "To ensure existing environmental amenities are protected in the predominantly residential future use of these lands", that 'Residential' is a use that is a 'Permissible Use' under the Z12 zoning and that "Where such lands are redeveloped, the predominant land use will be residential". However, they do not accept that the current scheme offers an acceptable response to the Z12 zoning. The submitted proposals are for a residential scheme which would be appropriate within areas zoned Z1, Z4, Z5 or Z14. It is a high density residential scheme of a type which defined the SHD process. LRD1 was SHD2. It is not a scheme suitable for an institutionally

zoned site. All development that is not residential is ancillary to an overall development for the lands which would effectively re-zone them purely residential.

This zoning change is in our client's opinion, a recognition of the fact that there is the potential to develop community facilities, provide publicly needed institutional type developments (hospitals, colleges, sports facilities, etc.) and offer public open space provision within the lands. It is clearly the case that the new zoning was not and is not designed to facilitate the applicant scheme's excessive scale of residential development. It is meant to be residential development and other uses. The future uses in the Chapel and Tabor House buildings are not fully defined and the rest of the residential amenity spaces and creche are residentially ancillary to this scheme alone.

Our client maintains serious and significant reservations regarding how the applicant proposes to develop the site in effectively the same way as they proposed to develop it under the previous planning application. The arguments set out in the planning application essentially seeks to reverse engineer the scheme to fit the new zoning and new DCDP rather than offering a new planning application. The submitted 'masterplan' is essentially the previous planning application. In this way, the applicant is in fact effectively ignoring the DCDP.

There is significant opposition to the scheme as is demonstrated by the volume of objections submitted previously to ACP in respect of the SHD and LRD1 schemes. That mostly the same planning application has now been re-submitted even with the new zoning in place, is difficult for our client's residents to understand.

This planning objection has been lodged following detailed discussions with residents regarding this new planning application. The decision has been made to again oppose this scheme and to take this objection. The grounds for this objection are many and detailed (see Section 7.0 of this Planning Objection Report).

Our client objects to the proposed development of this site including in principle. They do not consider that the proposals are compliant with the Z12 zoning of the site 'or' compatible with adjoining and nearby properties and lands zoned Z2.

Regarding our client's residents' homes zoned Z2, we note how Section 14.7.2 'Residential Neighbourhoods (Conservation Areas) – Zone Z2' states the aim of the 'Land-Use Zoning Objective Z2' which is: "To protect and/or improve the amenities of residential conservation areas".

Section 14.7.2 of the DCDP states:

*The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. **The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area** [emphasis added].*

These proposals fail to comply with the Z12 zoning because they would:

- Remove vast numbers of trees and shrubs from the site. This Planning Objection Report sets out how the quantum of tree removal is contrary to DCC climate policies, tree protection policies, biodiversity policies, etc. The tree belt to the west should be retained and the area designated public open space offering a perimeter walk around the site.
- Detract from our client's residential conservation area at Cherryfield Avenue Lower/Upper where there is a grouping of dwellings with an attractive quality of architectural design and scale. The particular concerns regarding the likely impact of the scheme on our client's residents' Z2 zoned properties and on Cherryfield Avenue Lower/Upper are set out in Section 7.7 of this Planning Objection Report and pertain primarily to objections to the design, siting and scale of Blocks E, D and C (also Block B remains too tall at 8 storeys).
- Detract from the streetscape and quality residential environment at Cherryfield Avenue Lower/Upper. Chapter 11: 'Built Heritage and Archaeology' and Chapter 15: 'Development Standards', detail the policies and objectives for residential conservation areas and standards, respectively and state: "the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area". This Planning Objection Report sets out how Blocks E, D and C, and the cumulative scheme as viewed from the Z2 zoned properties to the west, would cause negative residential amenity and visual amenity impacts.
- Overdevelop the site with buildings that are out of context in terms of scale, height, length, and bulk.

- Include a uph density proposed is too high and which is contrary to the DCDP 2022-2028. Signs that the scheme is too dense are visible throughout the proposals. For example:
 - Blocks A1 and A2 are sited in the centre of the public open space area with poor ground level communal open spaces.
 - The siting of Block E is hard to justify on such a large site when a large area of public open space is needed to the west side. The retention of part of the tree line is welcomed but it is not enough. No public access to this area is offered and Block E is sited in the middle of what should be an enlarged area of public open space offering an adequate setback to Block C.
 - Too many one bed and studio units are proposed.
 - Too many north facing units are proposed (as noted by DCC at pre-planning stage.
 - There are many units with poor internal amenities arising from poor window positions, their siting, their size, etc.
 - Many units including those at Block E have no adequate private open space. Block C has tiny shallow rear gardens and relies on overlooking first floor terraces. This is not acceptable.
 - 6, 7 and 8 storeys are too high for this area, and this high rise will detract from the aesthetics of this area including Z2 lands. The maximum height on the site should be 5 storeys.
 - The height, appearance and scale of the development is out of character with the surrounding area, which is predominated by two-storey housing which would be adversely impacted as shown in this Planning Objection Report.
 - Construction noise from Block E is sited too close to rear gardens to the west and is beyond any acceptable standard. Block E needs to be re-sited.

Sections 8.0 and 9.0 of this Planning Objection Report sets out a conclusion and recommendations for how the scheme needs to be revised to address our client's residents' concerns.

3.0 Site location and description

The application site is located at the corner of Sandford Road and Milltown Road, Dublin 6 with a site area of c. 4.74ha. (it was net 4.3ha. and 4.26ha. under the previous applications). Proposed road works and drainage works areas within the red line boundary provide a total application site area of c. 4.74 hectares.

The site is bounded to the north by Norwood Park and Sandford Road, to the east by the Milltown Road, to the south by a carpark associated with the Milltown Park Institutional and Community buildings and to the west by existing two storey residential dwellings located on Cherryfield Avenue Lower/Upper. The site is formerly part of the Milltown Park Jesuit Centre is comprised of two main parts:

- A complex of buildings (Milltown Park House, the 'Extension', Tabor House, the Chapel, Finlay Wing and the Archive) in the southern part of the site near the existing Milltown Park entrance off Milltown Road;
- A large area of parkland character, through which an access road leads from Sandford Road towards the buildings. This area incorporates a large grassland field and several smaller grassland patches, a hard standing area, and - most significantly - a broad belt of mature woodland inside the east and north east boundaries (along Milltown Road and Sandford Road respectively).

There is a line of mature trees inside the north boundary (shared with the neighbouring estate, Norwood Park).

There is a tall (2m+) boundary wall, of exposed stone along the Milltown Road frontage and cement render along the Sandford Road frontage.

The site is currently accessed from Sandford Road to the north of the site while it is noted that the existing second entrance from Milltown Road into the remaining Jesuit lands and Gonzaga school is not in the control of the applicant.

Milltown Park House was constructed in the late 18th century as a residence fronting Milltown Road, but has been accessed principally from Sandford Road. The original Milltown Park House has been modified beyond recognition in its extension to the south, east and north, with significant alterations internally. The building is not included on the Record of Protected Structure.

3.1 Existing relationship between the area & the applicant site⁴

The subject site is located to the east of Cherryfield Avenue Lower/Upper. Our client's residents' residential dwellings and rear gardens comprise the form of development along Cherryfield Avenue Lower/Upper which adjoin the subject site. These are Z2 architectural heritage area zoned properties.

These rear gardens adjoining the subject site are approx. 10m to 13m in depth; however, each one of the residential dwellings they serve has been extended to the rear leaving some rear garden depths as low as 5m. The applicant proposals repeatedly fail to accept that the setbacks from Block D and E to these properties is far below 22m because of the rear returns. This raises concerns over the applicant's shadow study and other reports seeking to undermine our client's residents' established residential and visual amenities.

There is a tree belt inside the applicant's western boundary which runs the entire length of our client's residents' rear gardens. This offers significant screening of the site from these properties and also provides a very sylvan environment. The site itself has been de facto open space forever so the views from the rear of these properties has always been of trees and a green area.

Our client notes how surrounding roads around the subject site were each photographed and analysed by the applicant in Section 2.7 'Site Opportunities - Photographic Study'. This analysis excludes Cherryfield Avenue Lwr despite it being zoned Z2 Architectural conservation zoning area.

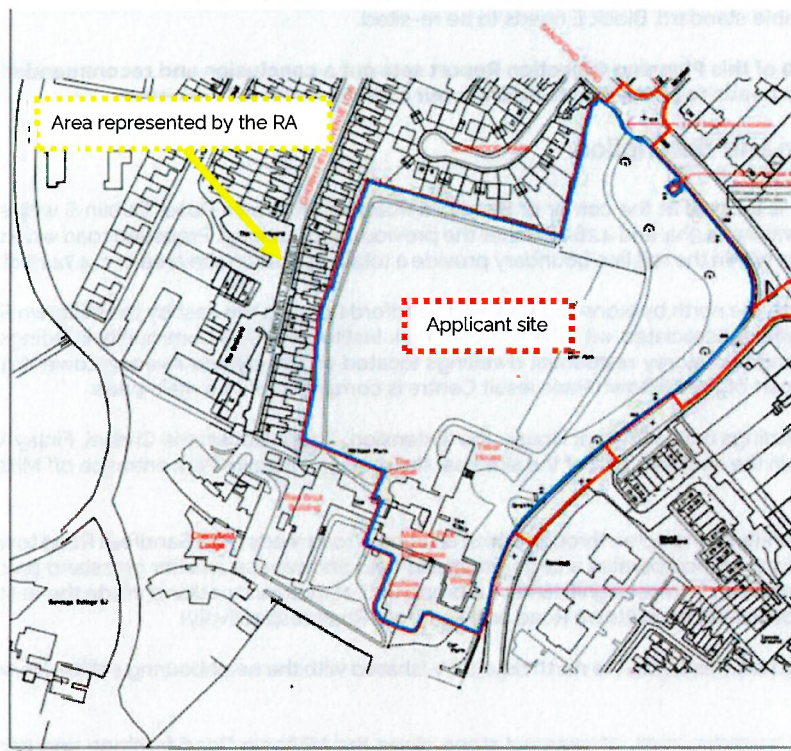


Fig. 1: Client's residents' properties relative to applicant site (1)

⁴ Google images are used to ensure objectivity in the presentation of this objection. These images can be checked online or in person by the ABP Planning Inspector.



Fig. 2: Client's residents' properties relative to the applicant site (2)

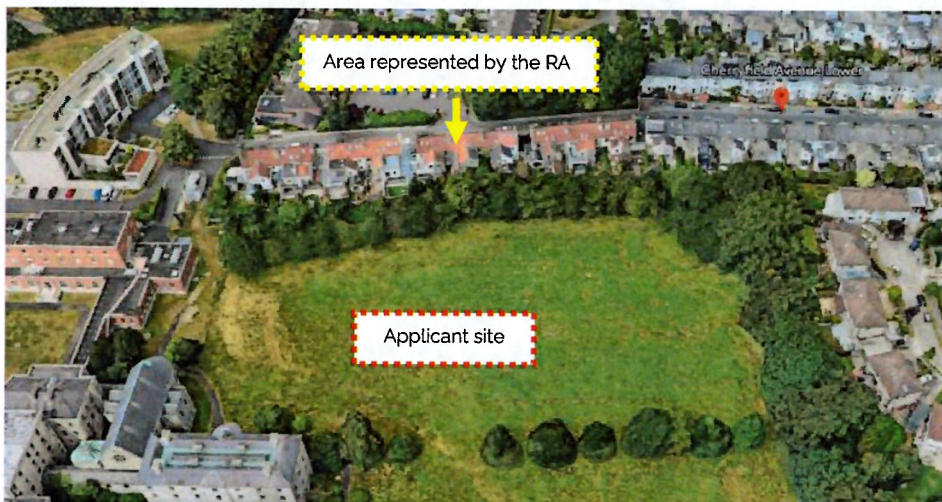


Fig. 3: Client's residents' properties relative to the applicant site (3)

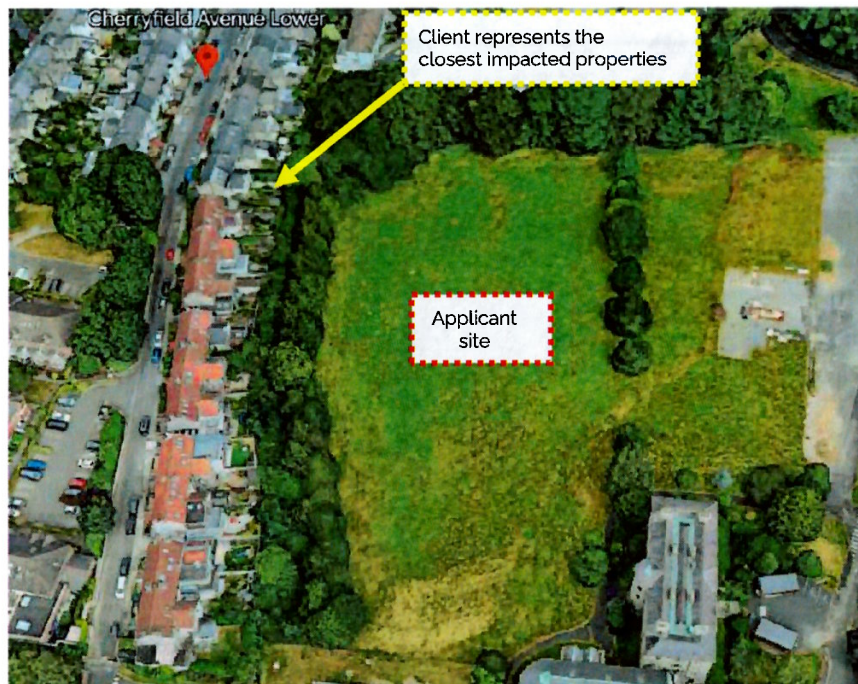


Fig. 4: Client's residents' properties relative to the applicant site (4)



Fig. 5: Client's residents' properties' rear garden depths adjoining the applicant site (1)



Fig. 6: Client's residents' properties' rear garden depths adjoining the applicant site (2)

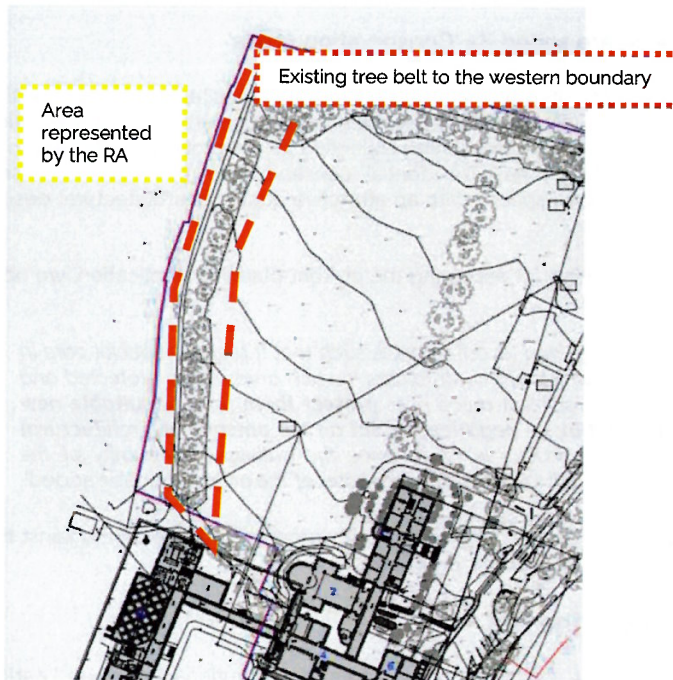


Fig. 7: Existing trees and vegetation inside the western boundary to client's residents' properties

4.0 Zoning and designations

4.1 The existing institutional lands are zoned Z12

The zoning of the site changed with the adoption of the new Dublin City Development Plan 2022-2028 ("Development Plan"), changing from Objective Z15 'Institutional and Community' in the Dublin City Development Plan 2016 – 2022 to Objective Z12 'Institutional Land (Future Development Potential)' under the newly adopted Development Plan (came into effect in December 2022).

Section 7.0 of this Planning Objection Report sets out our client's grounds for objection against the proposed development of these lands zoned Z12 to facilitate what is a fully residential development.

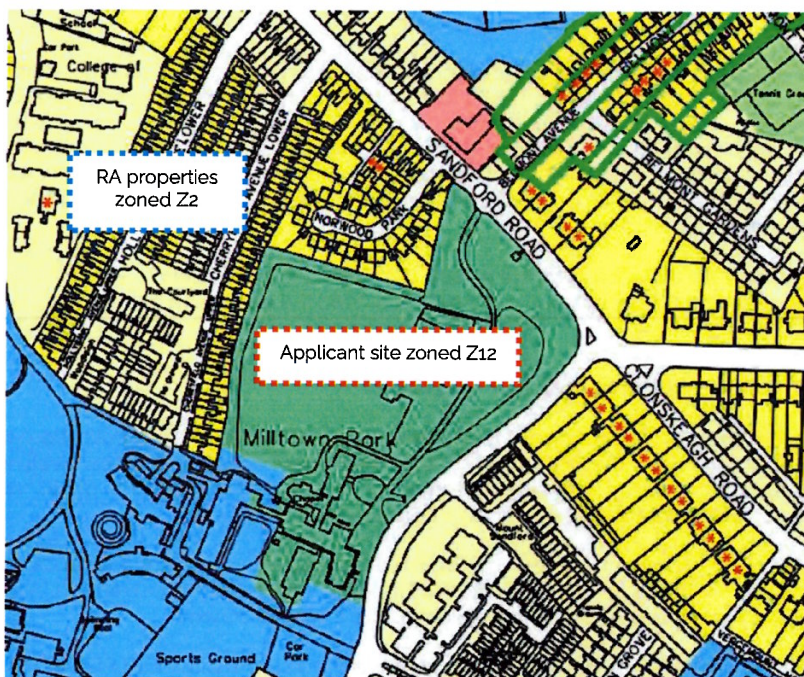


Fig. 8: Zoning of applicant and client's residents' properties

4.2 Client properties to the west are zoned Z2 'Conservation Areas'

As Fig. 8 illustrates, our client's residents sited to the west of the applicant site maintain properties which are zoned Z2 'Conservation Areas'. Section 14.7.2 'Residential Neighbourhoods (Conservation Areas) – Zone Z2' of the DCDP refers to "Land-Use Zoning Objective Z2: To protect and/or improve the amenities of residential conservation areas. Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale".

In terms of the implications of the Z2 zoning for assessing the current planning application, we note how Section 14.7.2 further states:

*The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to **protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area** ... the guiding principle is to enhance the architectural quality of the streetscape and the area, and to **protect the residential character of the area** [emphasis added].*

Section 7.0 of this Planning Objection Report sets out our client's grounds for objection against the proposed development of these lands in the manner proposed.

5.0 Relevant planning history of the site

The planning history of the site shows how it has long been used as an institutional facility and park. It is known as Milltown Park (even on Google Maps and on the DCDP zoning lands). The current planning application would cause the loss of the existing institutional/community use of these lands and convert what is mostly open parkland into ancillary residential open space.

5.1 Planning permission – DCC Reg. Ref. LRD6026/23-S3 / ACP Ref. ABP-317921-23)

On the 19th of December 2023, the Commission granted permission subject to revised conditions for 'Construction of 636 apartments and associated site works. Demolition of structures on site including Milltown Park House'.

The decision did not require the scheme to be reduced in density, in scale, in design, and did not otherwise address the concerns of our client.

This decision under currently the subject of Judicial Review proceedings. No decision has issued from the High Court at the time of the lodgement of this objection.

Limited changes are proposed in the current LRD2 planning application to this LRD1 scheme. While it is of course the case that the applicant's starting point for this new planning application is the previous LRD scheme, it must be borne in mind that the starting point for it is the previous SHD scheme. The SHD process lost all credibility, and it was replaced by the LRD process. Judicial Review proceedings in so many cases resulted from unsatisfactory schemes of overdevelopment. The current LRD planning application continues to contain many of the elements which the adjoining and surrounding communities opposed under the SHD.

The conditions pertaining LRD1 are not listed here as with the exception of condition 4 – pertaining to the use of community, arts, and culture spaces – they did not amend the scheme to reflect Third Party concerns.

5.2 Planning permission – ABP Reg. Ref. ABP-311302-21

Under ABP Reg. Ref. ABP-311302-21, a Strategic Housing Development (SHD) planning application was previously made to An Bord Pleanála in December 2021 on the subject site for 667 3 No. dwellings (principally Build-to-Rent), a creche, communal internal amenity and facilities and public and communal open spaces, with heights ranging from part 2 No. to 10 No. storeys.

Permission was granted on 23rd December 2021. This Grant of Permission was subsequently Judicially Reviewed and a decision from the High Court is awaited at time of writing this objection report. Limited changes are proposed in the current LRD planning application to that SHD scheme.

While it is of course the case that the applicant's starting point for LRD2 is the previous LRD1 and SHD schemes, the critical point is that the current LRD2 planning application continues to contain many of

the elements which the adjoining and surrounding communities opposed under the SHD. The scheme is a hangover from a time when the SHD process had caused a loss of confidence in the Irish planning process amongst communities.

5.2.1 Revisions to Block E & removal of bike store required by the ABP's SHD decision

Two particular aspects of this LRD scheme raise concerns for our client regarding how it seeks to disregard the SHD assessment of the Commission that Block E was not acceptable as proposed, and neither was the bike store to the north of Block E. The applicant appears to want to argue that ACP was correct to grant permission but wishes to pick and choose those areas of that decision it agrees with and/or disagrees with.

Regarding Block E:

Having reviewed this new LRD2 planning application, it is the opinion of BPS that the scheme would benefit from the removal of Block E in its entirety such that the existing tree belt to the west of the site can be retained and likely adverse impacts on Cherryfield Avenue Lower/Upper can be somewhat mitigated. In the context of the overall scheme this would not be an unduly significant change.

Indeed, we note how under the SHD decision made by the Commission, revisions were to be required to Block E in any case. The Commission removed the entire northern part of Block E with it replaced by open space (see Fig. 9). We consider that the Commission did not go far enough. This may reflect that our client did not present a strong enough case for the retention of the western tree belt (see Appendix 1), but that case is now made. The tree belt should be retained, and public open space provided along the western boundary. Block E is not compatible with this. Further, Block E draws surface traffic and parking into an area which needs neither. Why remove only part of Block E when all parts have the same impacts?

[**Note:** The applicant EIAR for LRD1 stated at page 20-20: "A further change to mitigate against visual effects was the removal of four units at the southern end of Block E, to the rear of the Cherryfield Avenue houses. This was a condition of the permission granted by ACP for the SHD scheme". The condition in fact refers to the removal of 4 units from the southern section of Block E (see Fig. 9)].

2. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with the planning authority:
- (a) The omission of the standalone duplex apartment block that comprises four units at the southern section of Block E (units BE.0001, BE.0002, BE.0201 and BE.0101) and their replacement with open space or for a use to be determined by a future planning application.
 - (b) The omission of the Bin and Bike Store buildings located to the north and south of Block E (two structures in total) and the relocation of these facilities to the basement level of Block B and C. The space vacated by the Bin and Bike Store buildings shall be replaced with open space.
 - (c) Units BE.G206 and BE.0113 shall be reconfigured to address and face across the new area of open space to the north of Block E as a consequence of (b) above. This will require internal modifications and a revised fenestration to the northern elevation.
- Reason:** In the interests of the residential amenity of existing and future occupants of the scheme.

Fig. 9: Condition No. 2 of ACP decision reg. ref. ABP-311302-21



Overview of Changes

1 Removal of 4 units in Block E by Condition

Fig 10: Condition No. 2 of ACP decision reg. ref. ABP-311302-21

Regarding the bin and bike store located to the north of Block E:

The applicant current LRD2 application seeks to ignore the ACP decision and to retain a bike and bin store directly north of Block E and adjoining a number of our client's residents' properties to the west. This area was meant to become public open space, but the applicant has once again placed this structure at ground level and not in the basement. This structure should be removed. The tree belt should be retained, and public open space provided along the western boundary.

The ACP Planning Inspector's Report for the SHD scheme noted of the bin store/bike store:

Many observers at Cherryfield and Norwood are critical of the location of the bike/bin stores and anticipate high levels of nuisance from noise and odour. I agree that the location of bike/bin stores at the north and south ends of Block E are haphazard and appear as an afterthought. According to the applicant, the position of the bike/bin stores has been chosen to suit the future occupants and servicing requirements of the development. However, I think that a more suitable location could have been selected that did not impact upon neighbouring properties, the basement level of Block B/C for example. In the interests of preserving residential amenity, I recommend the relocation of these bike/bin stores to a more suitable and better integrated location within the site.

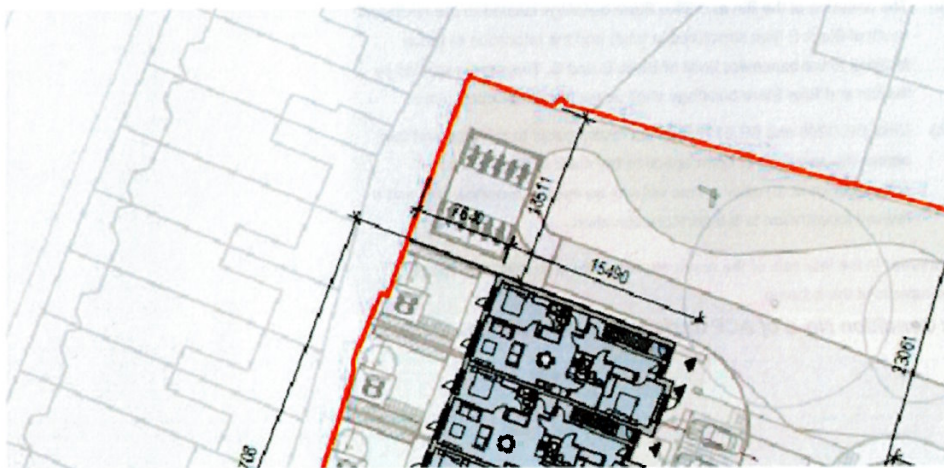


Fig 11: Bike/bin store to the north of Block E contrary to ACP decision reg. ref. ABP-311302-21 (LRD1)



Fig 12: Bike/bin store to the north of Block E contrary to ACP decision reg. ref. ABP-311302-21 (LRD2)

5.1.2 The assessment of loss of sunlight and/or overshadowing

In line with the extremely lenient approach taken by ACP regarding loss of sunlight/overshadowing to adjoining properties arising from new large buildings, its decision to grant the SHD scheme arose despite its Planning Inspector accepting that many rear windows serving our client's residents' properties would experience a loss of Annual Probable Sunlight Hours (APSH) and/or a loss of sunlight to existing gardens which in many cases would be significant, very significant and profound. The Inspector allowed the applicant to argue that the Z2 zoned Cherryfield Avenue Lower/Upper properties themselves are to blame because of their small gardens and dwelling design features. That more loss of sunlight would not be that bad. The Inspector noted how "Even the omission of Block E altogether did not yield improved results along Cherryfield Avenue" – yet this was because the Inspector allowed the applicant to argue that existing vegetation and trees prevent sunlight ingress which is not the case. The Inspector noted:

In some instances an already poor situation concerning direct sunlight to some windows along Cherryfield will be made worse by the proposed development during the wintertime when the angle of the sun will be lower. It is noted however, that the removal of foliage in some locations will actually make matters somewhat better for some properties.

How has Ireland has reached a point where a Planning Inspector can state: "Whilst direct sunlight is not considered by the relevant guidelines as a critical factor to consider, it does provide pleasant living environments".

DCC is invited to visit our client's residents' properties on any sunny day to see that in the absence of this scheme, the properties receive excellent sunlight throughout each day. The loss of sunlight would be bad (adverse, negative, etc.), and this is not justified. It adds to a cumulative amenity impact overall especially for Block E which is not acceptable.

5.2 Other planning applications

BPS has carried out a planning history search and we note the following two planning applications also lodged previously on this site:

- *Reg. Ref. 3044/13:* Planning permission granted for the erection of a single storey temporary structure to accommodate a school on the subject site. The proposed development comprised of 9 No. classrooms, ancillary offices and staff facilities. The proposed development also included amendments to the existing car parking layout to provide drop off/pick up area and an external play area enclosed by a 2.1 m high palisade fence, the provision of 34 No. replacement car parking spaces and all associated site development works.

- *Reg. Ref. 3913/18:* Permission granted to retain the temporary accommodation permitted under register reference 2673/16 / PL29S.246869 until the 31st August 2019 on the society of Jesus Lands, Milltown Park, Sandford Road, Dublin 6. The number of classrooms and overall footprint of the building at 745 sqm, will remain unchanged. All other ancillary accommodation including external play area, carparking and drop-off / pick-up area will also remain unchanged. Access/egress to/from the temporary school will continue to be via the Sandford Road entrance to Milltown Park only.

53 Pre-planning

5.3.1 Pre-planning for the previous SHD planning application

Pre-Application Consultations Pre-application meetings were held in the offices of the planning authority, on 22nd January 2020 and 10th November 2020. A tripartite meeting was held on the 23rd October 2020. ACP issued the Notice of Pre-Application Consultation Opinion, which considered that the following issues needed to be addressed:

1. *Further elaboration, including a map to an appropriate scale, of land uses across the entire Z15 land use zoning at Milltown Park.*
2. *Further elaboration of how the proposed extent and layout of public open space meets the specific requirements of the Z15 land use zoning objective. This shall consider the treatment of the proposed Public Plaza and access road from Sandford Road as public open space, as well as measures to improve public access to, and interaction with, the proposed public open space.*
3. *Further consideration and/or justification of the documents as they relate to the height and design strategy. In this regard, the prospective applicant should satisfy themselves that the design strategy for the site as it relates to height provides the optimal architectural solution for this location within the city and should submit a rationale/justification for the heights, focussing in particular on Block A1. Such justification shall include details of alternative studies or design approaches considered.*

Our client considers that these concerns were never fully addressed under the previous ABP decision currently the subject of JR proceedings.

5.3.1.1 Pre-planning feedback from the Department of Education

The Department of Education recommended that the SHD scheme currently the subject of JR proceedings be refused. The Department's submission recommended that approval is not given for the development at this time on the basis that the current zoning should determine the future use of the lands in question and notes that the lands have the potential to meet both existing and future educational needs. The submission noted that when more specific and detailed population and housing growth figures become available for specific areas in the context of the then draft Dublin City council development Plan 2022-2028, the Department of Education will analyse them in the context of existing and planned school provision in order to identify potential additional school accommodation requirements in this particular area.

Our client considers that these concerns remain unresolved.

5.3.1.2 Pre-planning feedback from DCC Parks, Biodiversity and Landscape Services

Under the previous SHD scheme's assessment, DCC Parks, Biodiversity and Landscape Services raised concerns regarding the application due the failure of the proposals to comply with Development Plan zoning and standards policies and objectives. In summary the public and communal open space spatial distribution, the high loss of existing trees and large shrubs and the deficiencies in biodiversity assessment and impact were of significant concern.

Our client considers that these significant concerns remain unresolved.

5.3.2 Pre-planning consultation with DCC for the LRD1 plan nhg application

Our client has reviewed the DCC Planning Department's pre-planning meeting consultation notes for the LRD1 scheme. They offer the following comments on the basis that DCC asked for a new masterplan and not a re-working of the SHD scheme's masterplan which was submitted for Z15 zoned lands under the previous zoning. The zoning is now Z12 but a justifying masterplan is crucial. The problems arising were:

- The scheme continued to be primarily a residential scheme. The tiny percentage of the total scheme's overground and underground floor area indicated to be cultural or community in use remains undefined as to their actual likely future use and no tenant or likely contractual management arrangements have been submitted. It was likely these areas of the site would end up being used for other more feasible uses in the absence of defined arrangements that DCC can grant.
- The scheme overdeveloped the site with buildings that were out of context in terms of scale, height, length, and bulk but which were also above the maximum allowed 120 uph for this outer suburban site under Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the DCC DCDP 2022-2028. The applicant Planning Report argued that their site does not fit the areas set out in the table - this was not accepted. These proposals merely ignored the density ceiling for the site with overdevelopment impacts arising as a result. Signs that the scheme was too dense were visible throughout the proposals. For example:
 - The loss of the western tree belt and the siting of Block E was hard to justify on such a large site. There should be a perimeter walk around public open space surrounding the site.
 - Too many one bed and studio units were proposed.
 - Too many north facing units were proposed (as noted by DCC at pre-planning stage).
 - There were many units with poor internal amenities arising from poor window positions, their siting, their size, etc.
 - Many units including the duplexes at Block E have no real private open space.
 - 7 to 10 storeys was too high for this area and this high rise would have detracted from the aesthetics of this area including Z2 lands
 - The height, appearance and scale of the development was out of character with the surrounding area, which is predominated by two-storey housing which would be adversely impacted as shown in this Planning Objection Report.
 - Construction noise from Block E was sited within 10m of rear gardens and this was beyond any acceptable standard. Block E needed to be re-sited.
- All public open space was effectively perimeter open space for apartment blocks. No single park was provided.
- There was an imbalance in the scheme design with overdevelopment of the western half of the site.
- There was an imbalance in public open space provision on the west and east sides of the site. The west side received almost no open space. Why was the western tree belt not required to be retained when every other tree belt was to be retained?
- The masterplan removed vast numbers of trees from the site including the western tree belt (see Appendix 1) which presently screens the site from our client's residents' properties. The quantum of tree removal was contrary to DCC climate policies, tree protection policies, biodiversity policies, etc. The tree belt to the west should have been retained and the area designated public open space offering a perimeter walk around the site. The LRD2 new masterplan proposes the removal of many of the trees also to be removed under the previous masterplan. The removal of 283 trees under LRD1 was very concerning as they constitute important wildlife corridors within the area. Trees should be retained on the site. The ecologist indicates potential for permanent impact on birds, birds and other wildlife.
- The LRD1 masterplan effectively ignored our client's residential conservation area at Cherryfield Avenue Lower/Upper where there is a grouping of dwellings with an attractive quality of architectural design and scale. The particular concerns regarding the likely impact of the scheme on our client's residents' Z2 zoned properties and on Cherryfield Avenue Lower/Upper were set out in a detailed objection and pertained primarily to objections to the siting and scale of Blocks E, D and C.
- The LRD1 masterplan proposals detracted from the streetscape and quality residential environment at Cherryfield Avenue Lower/Upper. Chapter 11: 'Built Heritage and Archaeology' and Chapter 15: 'Development Standards', detail the policies and objectives for residential conservation areas and standards, respectively and state: "the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area". Blocks E, D and C, and their cumulative scheme as viewed from the Z2 zoned properties to the west, would have caused negative residential amenity and visual amenity impacts.

Our client submits that the applicant's LRD1 scheme failed to re-design the SHD scheme with a fully new masterplan. This was a scheme and a masterplan with almost all the same problems

which were included in the previous scheme. The zoning had changed but the scheme was much the same as the SHD scheme.

5.3.3 Pre planning consultation with DCC for this LRD2 planning application

Our client has reviewed the DCC Planning Department's pre-planning meeting consultation notes for the LRD2 scheme including the LRD Opinion. They offer the following comments on the basis that DCC again asked for a new masterplan and not a re-working of the SHD and/or LRD1 schemes' masterplans which were originally submitted for Z15 zoned lands under the previous zoning. The zoning is now Z12 but a justifying masterplan is crucial. The problems arising are:

- The scheme continued to be primarily a residential scheme. The tiny percentage of the total scheme's overground and underground floor area indicated to be cultural or community in use remains undefined as to their actual likely future use and no tenant or likely contractual management arrangements have been submitted. It was likely these areas of the site would end up being used for other more feasible uses in the absence of defined arrangements that DCC can grant. The proposals are a material contravention of Objective CUO25: 'SDRAs and Large Scale Developments' applies (see Section 7.5.5.1 and 7.5.5.1.1 of this Planning Objection Report). The policy states:

All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage.

The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity.

The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need.

Such developments shall incorporate both cultural/arts and community uses individually or in combination unless there is an evidence base to justify the 5% going to one sector.

Emphasis added.

Section 8.7 of the applicant Planning Report states:

In response, the development will provide high-quality community/cultural spaces within the refurbished and converted Tabor House and Chapel. An external pavilion (Secret Garden) is also provided to the rear of Tabor House. The specific use and layout of these community/cultural spaces will be agreed with Dublin City Council via compliance post-planning. This is considered a reasonable approach as by the time planning permission is secured and the scheme is constructed, it will be c. 2-3 No. years and an appropriate end-user(s) will be found for the spaces at that juncture. We understand that the requirement for community/cultural space is 5% of the net floor area (c. 38,431.5 sq m) of the scheme, resulting in a need for 1,922 sq m of space. This space within the Chapel will be c. 662 sq m and within Tabor House will be c. 1,036 sq m providing a total of c. 1,698 sq m internal community/cultural space. In addition, an external pavilion/secret garden to the rear of Tabor House and the Chapel will also be provided which measures c. 248 sq m, giving a total of c. 1,946 sq m, equivalent to c.5.1% of the development's net floor area. Therefore, the provision of community/cultural space, which has been provided predominately internally, is in accordance with Policy CUO25 of the Development Plan. The pavilion/secret garden to the rear of Tabor House will represent a natural extension to the proposed community/cultural space which can host a variety of events for the community or for the cultural occupiers.

These proposals are undeveloped and lack detail. For example, "The specific use and layout of these community/cultural spaces will be agreed with Dublin City Council via compliance post-planning". This is not sufficient. It means the spaces may never be delivered. The proposals lack credibility. It is unclear how the applicant's Social Infrastructure Audit has not identified exactly who will manage and use the claimed spaces. They have not been designed to address identified need. The planning application is a material contravention of the DCDP and the planning application is premature pending agreement on these matters. One would now allow such a lack of detail were a supermarket proposed on the site or a café.

- The scheme overdevelops the site with buildings that were out of context in terms of scale, height, length, and bulk but which were also above the maximum allowed 120 uph for this outer suburban site under Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the DCC DCDP 2022-2028. The applicant Planning Report argued that their site does not fit the areas set out in the table - this was not accepted. These proposals merely ignored the density ceiling for the site with overdevelopment impacts arising as a result.

DCC has noted concerns over the scheme's scale and the siting of blocks and amendments arise in LRD2. For example, regarding Block E, DCC states:

- Submit revised drawings for Block E addressing the Planning Authorities concerns with regard to the size of the rear gardens and appropriate screening to this open space to provide adequate privacy.
- The tree buffer to the rear of Block E should be retained.

Our client welcomes how the area behind the rear gardens of Block E is now shown to be a biodiversity corridor. There is a mown pathway through this zone so will not be heavily used by the residents of the scheme.

The setback provided by the applicant to the shared boundaries behind Block E is much improved.

The only remaining difficulty is that the rear garden depths of Block E dwellings are tiny and so additional private open space is needed. Our client objects to the large proposed first floor terraces which would allow direct views into private homes and rear gardens. The first floor terraces measure 22.5 sq.m, providing a total private amenity space of 65.2 sq m for each 3 No. bedroom house. The applicant should provide each house in Block E with sufficient ground level private open space such that our client's residents live back to back with standard houses. Block E's dwellings need to be setback further into the scheme to achieve this. They need deeper rear gardens.

We understand the western tree belt is to be retained. This is welcomed.

In addition to issues with the first floor terraces at Block E, our client raises concerns over:

- Too many one bed and studio units are proposed.
- Too many north facing units are proposed.
- There were many units with poor internal amenities arising from poor window positions, their siting, their size, etc.
- 7 and 8 storeys is too high for this area and this high rise would have detracted from the aesthetics of this area including Z2 lands
- The height, appearance and scale of the development was out of character with the surrounding area, which is predominated by two-storey housing which would be adversely impacted as shown in this Planning Objection Report.
- All public open space is effectively perimeter open space for apartment blocks. No single park is provided.
- There was an imbalance in the scheme design with overdevelopment still dominating the western half of the site.
- There was an imbalance in public open space provision on the west and east sides of the site. The west side now has a tree buffer behind Block E but not much else.
- The masterplan removes vast numbers of trees from the site. The quantum of tree removal is contrary to DCC climate policies, tree protection policies, biodiversity policies, etc. The LRD2 new masterplan proposes the removal of many of the trees also to be removed under the previous masterplan. The removal of trees under is very concerning as they constitute important wildlife corridors within the area. Trees should be retained on the site. The ecologist indicates potential for permanent impact on birds, birds and other wildlife.
- The LRD2 masterplan is somewhat better at addressing our client's residential conservation area at Cherryfield Avenue Lower/Upper where there is a grouping of dwellings with an attractive quality of architectural design and scale. The particular concerns regarding the likely impact of the scheme on our client's residents' Z2 zoned properties and on Cherryfield Avenue Lower/Upper are set out in this detailed objection and pertain primarily to objections to the siting and design of Block E and the scale and siting of Blocks B, C, and D.
- The LRD2 masterplan proposals detract from the streetscape and quality residential environment at Cherryfield Avenue Lower/Upper. Chapter 11: 'Built Heritage and Archaeology' and Chapter 15: 'Development Standards', detail the policies and objectives for residential conservation areas and standards, respectively and state: "the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area". Blocks E, B, D, and their cumulative scheme as viewed from the Z2 zoned properties to the west, would have caused negative residential amenity and visual amenity impacts.

Our client submits that the applicant's LRD2 scheme fails to fully re-design the SHD and LRD1 schemes with a fully new masterplan. This was a scheme and a masterplan with almost all the same problems which were included in the previous scheme. The zoning had changed but the scheme was much the same as the SHD and LRD1 schemes. The tree buffer behind Block E is welcomed but the first floor terraces on Block E are not acceptable – the units may need to be setback to allow larger rear gardens. Block B, C, and D remain too over-scaled.

6.0 Proposed development

Permission is sought for a Large-Scale Residential Development at a c. 4.26 hectare site at Milltown Park, Sandford Road, Dublin 6, D06 VgK7. Works are also proposed on Milltown Road and Sandford Road to facilitate access to the development including improvements to pedestrian facilities on an area of c. 0.16 hectares. The development's surface water drainage network shall discharge from the site via a proposed 300mm diameter pipe along Milltown Road through the junction of Milltown Road / Sandford Road prior to outfalling to the existing drainage network on Eglinton Road (approximately 200 metres from the Sandford Road / Eglinton Road junction), with these works incorporating an area of c. 0.32 hectares. The development site area, road works and drainage works areas will provide a total application site area of c. 4.74 hectares.

The development will principally consist of: the demolition of c. 4,847.5 sq m of existing structures on site including Milltown Park House (880 sq m), Milltown Park House Rear Extension (2,031 sq m), the Finlay Wing (622 sq m), the Archive (1,240 sq m) and the Link Building between Tabor House and Milltown Park House Rear Extension to the front of the Chapel (74.5 sq m); the refurbishment and reuse of Tabor House (1,575 sq m) and the Chapel (768 sq m) and the provision of a single storey glass entrance lobby to the front and side of the Chapel (52 sq m); and the provision of 562 No. residential units comprising 6 No. three-bed courtyard houses and 556 No. apartment units (70 No. studios, 176 No. one-bed units, 267 No. two-bed units and 43 No. three-bed units). Block A1 will range in height from 5 No. storeys to 8 No. storeys and will comprise 81 No. apartment units; Block A2 will range in height from 6 No. storeys to 8 No. storeys and will comprise 139 No. apartment units; Block B will range in height from 3 No. to 7 No. storeys and will comprise 74 No. apartment units; Block C will range in height from 4 No. storeys to 7 No. storeys and will comprise 151 No. apartment units; Block D will range in height from 3 No. storeys to 5 No. storeys and will comprise 30 No. apartment units; Block E will be 2 No. storeys in height and will comprise 6 No. courtyard type houses; and Block F will range in height from 5 No. storeys to 7 No. storeys and will comprise 81 No. apartment units.

The development also includes the provision of: cultural/community space within Tabor House (4 No. storeys including lower ground floor level) and the Chapel (2 No. storeys including lower ground floor level and mezzanine level) (1,698 sq m) with associated outdoor space (248 sq m); a café/restaurant (179 sq m) and a creche (375 sq m) within Block F with associated outdoor creche play area; ancillary residents' amenities and facilities (324 sq m) within Blocks B & C; and a single storey bin store and substation adjacent to Block F (101 sq m).

The development also provides a new access from Milltown Road (which will be the principal vehicular entrance to the site) in addition to utilising and upgrading the existing access from Sandford Road as a secondary access principally for deliveries, emergencies and taxis; new pedestrian access points; pedestrian/bicycle connections through the site; 319 No. car parking spaces (288 No. at basement level and 31 No. at surface level); set down area for deliveries; bicycle parking; 22 No. motorcycle spaces; bin storage; boundary treatments; private balconies and terraces facing all directions; hard and soft landscaping including public open space and communal open space; green/blue roofs; PV panels; substations; lighting; plant; lift cores and overruns; and all other associated site works above and below ground.

The proposed development has a gross floor space of c.50,196 sq m above ground level over a partial basement (under part of Blocks A1 and A2 and under Blocks B and C) measuring c. 10,550 sq m, which includes parking spaces, bin storage, bike storage and plant.

An Environmental Impact Assessment Report has been prepared in respect of the proposed development.

7.0 Grounds for Objection

7.1 Ground 1: Lands are not specially zoned for housing – this is not an LRD site

Our client considers that the subject planning application sited on Z12 'Institutional' zoned lands where the focus is meant to be on future community facility provision, does not fall within the definition of a site suitable for a Large Scale Residential Development as defined under the Planning and Development (Amendment) (Large-scale Residential Development) Act 2021.

While the applicant may disagree and DCC's pre-planning feedback appears to suggest it agrees with the applicant, our client notes how the Act refers, *inter alia*, to: "a) The development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses". These lands are not zoned specifically for residential or for a mixture of residential and other uses. Residential is meant to be ancillary to any large-scale development of these lands.

Ground 2 for this objection raises concerns as to whether this proposal is compliant even in principle with the Z12 zoning as articulated in the DCDP 2022-2028. This is a scheme which contains 562 dwellings and other floor area.

The scheme proposes 58,403sq.m and would retain 2,343sq.m. This is a total of 60,746sq.m.

The creche, as yet undefined community buildings, and the café add to 2,502sq.m.

Only 4.1% of the scheme comprises non-residential uses (above and below ground new buildings are all residential in use including basement parking, etc. adding to 65214sq.m).

The quantum of community floor area has been reduced by 246sq.m in LRD2.

This is not a scheme that responds appropriately to the Z12 zoning as the percentage of non-residential uses is tiny. This is a vast residential scheme which will replace an existing tree lined green lung parkland type area. Future operator(s) of these cultural/community uses is/are not yet specified.

This proposal is inappropriate at the subject site whose future development should be driven by uses that increase the availability of facilities in this area and which do not increase the numbers of those placing demands on existing facilities which cannot be improved as these lands are removed to essentially wholly residential use.

7.2 Ground 2: The proposal is contrary to the Z12 'Institutional' zoning

The zoning of the site changed with the adoption of the new Dublin City Development Plan 2022-2028 ("DCDP") changing from Objective Z15 'Institutional and Community' in the Dublin City Development Plan 2016 – 2022 to Objective Z12 'Institutional Land (Future Development Potential)' under the newly adopted DCDP (which came into effect in December 2022). While the lands are now owned by the applicant, they are still institutional. One cannot reasonably claim the removal of institutional use from a site merely by its sale.

For the following reasons, our client submits that the proposals are non-compliant with the zoning.

7.2.1 Non-compliance with s. 14.7.12 of the DCDP 2022-2028

Our client has reviewed s. 14.7.12 of the DCDP and notes how it makes clear that:

*In considering any proposal for development on lands subject to zoning objective Z12, **other than development directly related to the existing community and institutional uses**, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future development of **the entire landholding** [emphasis added].*

Our client further notes how the DCDP states:

*... **the masterplan will need to identify the strategy for the provision of the 25% public open space requirement associated with any residential development, to ensure a co-ordinated approach to the creation of new high-quality public open space linked to the green network and/or other lands**, where possible. In addition, development shall have regard to the standards in Chapter 15. On Z12 lands, **the minimum 25% public open space shall not be split up into sections/fragmented** and shall comprise soft landscape suitable for relaxation and children's play, unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 25%*

minimum public open space shall be apportioned otherwise. Where there is an existing sports pitch or sports facility on the Z12 lands subject to redevelopment, commensurate recreational/social infrastructure will be required to be provided and retained for community use where appropriate as part of any new development (see also Chapter 10: Green Infrastructure and Recreation, Policy GI49) (emphasis added).

The applicant was asked by DCC at pre-planning stage to

*... comply fully with the Z12 zoning objective on institutional lands which requires that the masterplan is for the entirety of the institutional lands i.e. 'Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future development of the entire landholding.' The applicant is required to submit a **revised Masterplan** for the entirety of the institutional land ... (emphasis added).*

That is, DCC made clear that the previously submitted SHD scheme masterplan needed to be revised.

- A number of concerns arise regarding non-compliance with s. 14.7.12 of the DCDP: These are set out in this Planning Objection Report. Particular concerns arise regarding:
- The imbalance in the masterplan between the overdeveloped western part of the site adjoining Cherryfield Avenue Lower and Upper and the eastern half of the site.
- The failure to offer significant public open space at the western boundary adjoining Z2 zoned properties. A tree belt is now proposed but this is not deep. Further, the rear gardens of Block E are tiny. It is in fact the case that Block E needs to be setback into the scheme to provide adequate rear gardens and the tree buffer open space area. The first floor private open space terraces need to be removed.
- The unavailability of school places in this area and the need for schools within this site
- The lack of any defined use or confirmed operator of the claimed community/cultural spaces which are meant to justify this scheme.
- A proposed masterplan must align with the DCC 2022-2028 Development Plan – **it does not as it is too dense.**
- A proposed masterplan must respect its context.

Our client's residents' properties are sited in a Zone 2 Residential Conservation Area. The site borders such areas to the west and north. The applicant proposals are, for the reasons set out in Section 7.7 of this Planning Objection Report, incompatible with the adjoining Z2 zoned lands. The proposals do not respect their context. Section 2.3 'Conservation and Heritage Assets' of the Applicant Design Statement notes: "The Sandford Road site is abutted by three Z2 Residential Conservation Areas, along the West boundary edge and adjacent to the North entrance and the East corner of the site".

This scheme seeks permission to cut down 252 of 404 trees on the site and will remove a *de facto* park which offers a green lung to the city and a habitat for wildlife including birds, bats and foxes.

- A proposed master plan must address the land use zoning objectives set out under Section 14.7.12 'Institutional Land (Future Development Potential) – Zone Z12'. These include:
 1. "Preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding".

Response: The vision presented by the applicant aims to convert the site from institutional land available for future community and educational uses to a high density residential scheme which offers mostly small residential units. The loss of these lands to such a scheme with a poor mix of units cannot be justified.

2. "Minimum of 25% of the site will be retained as accessible public open space to safeguard the essential open character and landscape features of the site. Where such lands are redeveloped, the predominant land-use will be residential".

Response: The vision presented by the applicant seeks to push most of the scheme's denser parts into the western half of the site and onto our client's residents. Blocks E, B, C, and D need to be amended.

3. "To ensure a co-ordinated approach to the creation of new high-quality public open space linked to the green network and/ or other lands, where possible".

Response: Our client is not aware that the applicant has consulted any local person about how best to distribute public open space in the site to benefit the area. The existing tree belt to the western boundary of the subject site is now proposed to be retained but Block E's rear gardens are consequently too shallow and first floor terraces have now emerged raising overlooking concerns.

4. "The minimum 25% public open space shall not be split up into sections/fragmented and shall comprise soft landscape suitable for relaxation and children's play".

Response: Our client considers the applicant to be proposing to remove the existing western boundary landbank of trees and shrubs which has been in place for as long as anyone can remember. This is not being replaced by open space.

The proposed development is essentially the SHD and LRD1 schemes with some revisions. This is despite DCC making clear at pre-planning stage that a full and detailed masterplan would be required. The applicant has listened to some of our client's residents' concerns but there remain problems.

7.2.2 Non-compliance with s. 14.7.12 regarding public open space provision

The application indicates that 35.3% (LRD1 offered 34.8%) of the site is given to public open space (the SHD scheme proposed 34.9%). The Development Plan policy under s. 14.7.12 states: "The minimum 25% public open space shall not be split up into sections/fragmented and shall comprise soft landscape suitable for relaxation and children's play" and requires "The creation of new high-quality public open space linked to the green network and/or other lands".

The applicant has split up the public open space provision. The public open space proposals do not meet the development plan requirements as it is split up by the proposed development's buildings and does not address the site's characteristics.

The public open space is not in one area but has Blocks A1 and A2 in the middle of it and there is fragmentation of the public open space. This concern was also raised by DCC Parks and Landscape Section under the previous SHD scheme – its report stated:

It is considered that the public open space proposals do not meet the development plan requirements as it is split up by the proposed development buildings and not the site characteristics. The key site characteristics to be included in public open space are the woodland belts located A & B as below, however the development layout has not respected this approach. In addition it is considered that the location of private residential buildings surrounded by public open space is not a normal arrangement and will give rise to issues of privacy to residents (emphasis added).

The applicant has failed to adequately update/revise the masterplan and/or the design of this primarily residential apartment scheme. DCC has been ignored in its request for a new masterplan addressing this point.

The Development plan outlines policies and objectives under Chapter 10.5.4 – 'Parks and Open Spaces': 'Gl27':

To seek the provision of additional public open spaces in areas of deficiency as identified in the Dublin City Council Parks Strategy 2019 (and any future update) and the forthcoming public open space audit for the city centre by: a) securing open space as part of new development / the redevelopment of brownfield lands; b) the upgrading of existing Flagship Parks and Community Grade 1 & 2 Parks to better serve their communities; c) investigating opportunities for access to local schools and colleges; and, d) the development of pocket parks/parklets.'

The proposed Sandford Road scheme sits within the South East City Council and administrative area, and within the Dublin City Parks Strategy 2019-2022 at a local level it is identified that there is a deficit in parks area with a park provision of 11.76sqm per person, which falls below the city average of 36sqm per person. In addition to this, the provisions of parks within close proximity are considered of poor quality due to under use, poor levels of maintenance and unresolved connectivity to their surroundings. The Dublin City Park Strategy document highlights a unique opportunity which the development seeks to utilise: 'The South East area has in fact a lot of open space but this is in private or institutional use and may or may not be freely accessible.'

The applicant has failed to address this deficiency by failing to provide acceptable public open space. The public open space is inconsistent with the Z12 objective. The public open space is not sited in one continuous area but is interrupted by a block.



Fig. 13: Purported public open space contains Blocks A1 and A2 and underground service works



Fig. 14: Purported public open space contains blocks and underground service works (2)



Fig. 15: Areas A and B required to be retained as public open space only

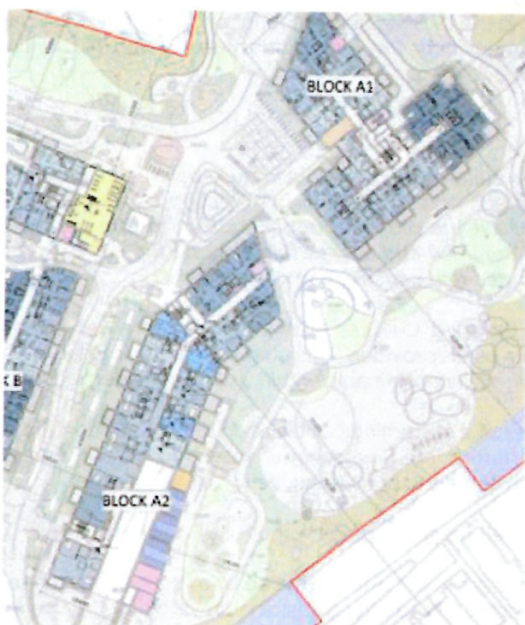


Fig. 16: Areas A and B disconnected by a block – an arch does not address the visual connection

7.2.2.1 Non-compliance with s. 14.7.12 as communal open space for Block A further erodes public open space

Under the SHD scheme, DCC Parks and Landscape raised concerns over the lack of any communal open space at ground level for Block A. Block A sits within the public open space area for this entire scheme and raises the concerns set out in Section 7.2.2 of this report.

To try to address the communal open space issue, the applicant has added communal open space at ground level to Block A but only by re-tagging what was public open space and by making the area of purported public open space between Blocks A and B worse, less connected to the overall public open space and poorly in future amenity terms for the general public. This is not acceptable.

Both the DCDP 2022-2028 and the Apartment Guidelines require public open space and communal open space. One should not detract from the other.

The applicant has tried to provide communal open space at ground level for Block A but in doing so has further compromised the public open space area making it less compliant with Section 14.7.12 of the DCDP 2022-2028

7.2.3 Non-compliance with the Z12 zoning regarding community uses

The applicant site comprises of Z12 zoned lands. These are institutional lands that have generally been available for the development of community facilities. The revised Z12 zoning in the DCDP 2022-2028 allows that residential can be the primary land use. However, it does not state that the lands should comprise a wholly residential scheme with some modest community use areas retained. Under LRD1 the applicant offered 218gsq.m (Chapel 662, Tabor House 1574.9, Secret Gardens 248). The current scheme offers "Tabor House and Chapel (net area = c. 1,698 sq m). In addition, an external pavilion ('Secret Garden') to the rear of Tabor House and the Chapel will also be provided which measures c. 248 sq m, totalling c. 1,946 sq m of cultural/community space (5.1%)". This scheme offers less than LRD1.

Our client asks how this scheme can be justified when these *de facto* parklands should be better used as public facilities.

The applicant offers no proposed use for the Chapel building other than as a "Cultural hub for the new development" which is a residential scheme. How are these buildings to be maintained and made available to the community? The Design Statement notes of the drawings: "They indicatively depict dance and music rehearsal spaces within the re-purposed existing buildings, the interior image below explores the Chapel's as the new cultural hub in use". There is a lack of detail and concerns arise that they will eventually be converted into other uses. These are buildings which would be better attached to a school and/or a major public project.

The applicant states of Tabor House that "It is proposed that the exact layout of these spaces will be agreed with DCC post-planning, as agreed during the LRD Opinion Meeting" and "The following pages go on to detail these spaces which, as per agreement in the Pre-application meeting with DCC will have their final use / occupant allocated by condition by DCC".

The applicant EIAR goes further stating:

*In addition, the final layout of the community/cultural spaces will ultimately be agreed through compliance with Dublin City Council, as agreed at the LRD Opinion meeting **as identifying occupiers at this juncture is likely futile whilst the planning application goes through the planning and construction process as any identified end user at this juncture may no longer need the space once planning has been secured and construction completed.***

Again, there is a lack of detail. The proposed Block A1 Cultural + Community spaces are again just general spaces. No detail as to future sustainable use is provided. This purported planning gain may be no gain at all as this floor area may be almost wholly unsustainable within a wholly residential scheme.

One cannot imagine a scheme including a school or a swimming pool with no detail as to how it will be developed, managed and maintained into the future, etc. The scheme seems to contain two large buildings – the Chapel and Tabor House – which bear little or no relationship to the scheme.

The rush to develop this site into residential has left these buildings without any real purpose.

The submitted 'Cultural Infrastructure (Impact) Assessment' report tries to offer some detail as to the future use of these buildings but – again – the report fails to offer a sustainable vision for the use of the buildings. Concerns arise that the applicant proposals are being proffered on the basis of a community gain which cannot be delivered at this location. Our client is concerned that in the absence of a cultural/community tenant such as the Government or Dublin City Council, these buildings will be converted to other uses.

The applicant's report for Tabor House refers to other "feasibility explored options" including for:

- a hotel.
- additional scheme accommodation in the form of studios / 1 bed apartments.
- a community of potential residents who are actively seeking accommodation and work studio options in the city either to purchase or to rent.
- an affordable hub of live work units would contribute to establishing a creative community, if this use was deemed suitable.

The Chapel is effectively described as a new theatre for the area. Theatres are expensive to manage. Some agreement in principle should have been submitted with a potential tenant otherwise, again, in the future the applicant could be seeking other feasible uses.

As it stands, DCC and in due course ACP do not know what permission is being sought for.

There is no clear proposal for managing these buildings. The conclusion to the applicant's report states:

*There are also a number of governance and management models that are active across Ireland, UK and Europe that could be adopted with the proposed cultural/community complex. These include: a) Market-led single operator through some form of commercial license agreement. Within this model there is still an option to include contractual clauses that ensure levels of social impact. For example, requirement to work with local organisations etc. b) Existing organisation to take on lead role whether that be as charitable, co-operative, community interest, social enterprise or other legal entity. This could be an extension of an existing portfolio or an opportunity for an organisation to become an anchor tenant. These options do encourage investing resources and expertise in the development of the longer term proposition. c) Setting up of new legal entity - special interest company to specifically fulfil function of meanwhile use with option to some form of charitable body for ongoing development. 7.19. Whether operated separately or under one management structure, the complex offers an opportunity to deliver on a fully integrated vision for all the cultural and community spaces in Tabor House and the Chapel and Block A1. **There is no current operator lease or artist tenancy agreement to assess. However, consideration should be given to long-term leasing arrangements (operators), and minimum 6 month tenancy contracts (artists) to ensure capacity and a stable artistic community can be established** [emphasis added].*

There is no clarity on the future management of these buildings.

In *Balz v An Bord Pleanála*⁵, O'Donnell J stated:

It is a basic element of any decision-making affecting the public that relevant submissions should be addressed and an explanation given why they are not accepted, if indeed that is the case. This is fundamental not just to the law, but also to the trust which members of the public are required to have in decision making institutions if the individuals concerned ...

The explanation provided as to what the public gain is from the proposed development of this Z12 land which the Department of Education has previously stated is required for the development of future schools is not sufficiently detailed, etc. Relative to the detail provided for the residential units, it is woolly and hard to follow.

DCC stated as pre-planning under the heading 'Community, Arts and Cultural Spaces'

(vi) Further detailing on their 5% community, arts and cultural spaces and it should be noted that a commercial café would not constitute community, arts and cultural spaces. The applicant is also requested to provide further detail on the external pavilion/secret garden within the compliance requirement as this presently appears to be more of a landscape feature and while this would be a welcomed addition to the overall landscaping plan the applicant is required to show full compliance with their 5% requirement. The applicant is required to submit a report showing compliance with the 5% community, arts and cultural spaces.

The applicant claims to provide 5.1% (down from 5.3%) of floor area as community uses. In response, and as noted above, this has largely been achieved in the existing buildings of Tabor House and the Chapel.

The applicant's response to DCC pre-planning feedback is a repeat of part of the applicant Design Statement. It offers no detail over which our client could be confident about these community uses.

7.2.4 Insufficient information provided regarding demand for schools at this location

The Department of Education has previously objected arguing that a school will be needed at this location in due course. The ACP Planning Inspector's Report⁶ for the SHD scheme summarises the Department's objection as follows:

Department of Education – Z15 zoning assists with the delivery of educational facilities, the site was used in the past to house temporary school accommodation. The area is experiencing demographic growth in primary and post-primary level and there is limited expansion capacity at existing schools. To meet existing and projected need, permission should not be granted on suitably zoned land until more specific and detailed population and housing growth figures are available in the Dublin City Development Plan 2022-2028. Once figures are available future analysis will take place to identify suitable sites.

⁵ [2019] IESC 90.

⁶ <https://www.pleanala.ie/anbordpleanala/media/abp/cases/reports/311/r311302.pdf?r=622543614169>

The applicant must reasonably prove that there is no demand for a school at this location as there are existing places in local schools to cater for the scheme.

KPMG previously furnished DCC with SHD and LRD scheme 'Community and Social Infrastructure Audit' reports.

This time around a 'Community and Social Infrastructure Audit (incl. Schools and Childcare)' is provided by the applicant's planning consultant and project advocate.

The report again lists schools within the likely catchment of this site. In recent years, the Department of Education has begun to raise concerns over how all lands previously zoned institutional and available for building schools are increasingly being used to build residential schemes which increase demand for school places.

The report tries to respond to this concern by carrying out a schools audit to determine if there are sufficient school places to meet demand from this current scheme and other granted in recent years or currently lodged for planning.

The KPMG reports had great difficulties in carrying out the audit with no responses and a lack of adequate detail in any responses received.

The new report's methodology states:

3. Determining the extent and provision of existing educational facilities and schools within the Study Area; and 4. Estimating the level of demand for schools that may arise from the development proposal. In accordance with current guidelines, the following Section provides an examination of local need for educational facilities at the subject site and its wider surroundings. Accordingly, the latest data was obtained from the Department of Education and Skills, Primary Online Database (POD)2 and the National School Census, for existing educational facilities in the locality. Reporting also provides detail on the current and future capacity of existing and planned schools in the area. The aim of this assessment is to establish projected demand for school places within the existing schools network generated by the proposed development.

Not one school was contacted directly by phone, email or letter.

We note how the KPMG reports stated:

The phone survey revealed that there is a general reluctance within schools in providing information regarding the level of capacity available and on that basis, the immediate ability of the schools to accommodate students remains undetermined [emphasis added].

Our client is not convinced by the desk-based assessment carried out by the applicant's planning consultant.

Having read the report, it is also difficult to determine if it has accounted for the demand from all other granted residential schemes in this area including:

- Reference: 3159/17 ABP-300024-17 Granted: 09/10/2019.
- Reference: 2189/20 ABP-307375-20 Granted: 11/03/2021.
- Reference: 2115/19 Granted: 25/04/2019.
- Reference: 4578/22 Granted: 27th January 2023 Third Party Appeal to An Bord Pleanála Submitted on 22nd March 2023 (ABP-315883-23). Decision Due on 27th June 2023.

The scheme is premature pending a determination of whether there is adequate capacity in local schools to accommodate student demand generated by the proposed scheme and other schemes recently granted and/or currently proposed. The proposal fails to comply with the Sustainable Residential Development and Compact Settlements Guidelines, published in January 2024 which must be read alongside the DCDP 2022-2028.

The guidelines require that planning authorities should phase development in line with the availability of essential social and community infrastructure such as schools, amenities, and other facilities. Planning for new development needs to carefully take account of the needs of the community in the small town or village in question. Particular attention needs to be paid to planning for future school's needs. Planning authorities should also phase development in line with the availability of essential social and community infrastructure such as schools, amenities, and other facilities.

Under Section 4, on 'Planning for Sustainable Neighbourhoods', the Guidelines further sets out the importance of a wider range of community facilities required to support sustainable neighbourhoods.

In that regard, it requires that planning authorities should seek to ensure that facilities for social and cultural use, such as community centres, and personal and community development, such as resource centres, are available within the wider community. The Guidelines also notes that facilitating efficient and integrated provision of community facilities such as Schools, Childcare, Community Centres, Health Facilities, District/neighbourhood Centre Uses (includes retail provision) – is imperative to establishing sustainable neighbourhoods.

Section 3.2 states: "... the planning authority will need to account for net and gross areas when calculating land requirements. It will be necessary to make an informed estimate of net developable area taking account of factors such as the need for major roads and parks, schools, commercial uses and the presence of flood zones and other environmental sensitives etc., and to determine an appropriate density range for each area".

Section 4.3 states: "The masterplan should address ... where there is residential development the provision and location of amenities and services for the community (e.g. schools, crèches and other community services)".

The proposal is also contrary to the following policies set out in the DCDP 2022-2028:

- **QHSN50** 'Inclusive Social and Community Infrastructure': "To support the development of social and community infrastructure that is inclusive and accessible in its design and provides for needs of persons with disabilities, older people, migrant communities and children and adults with additional needs including the sensory needs of the neurodiverse".
- **QHSN51** 'Amenities and Retail': "To ensure all areas of the city, including those that have Local Area Plans, deliver social infrastructure, sports and recreational facilities, retail outlets, schools and infrastructure in accordance to an agreed phasing programme to ensure large neighbourhoods are not left isolated without essential services".
- **Policy QHSN48**: "To ensure that all residential applications comprising of 50 or more units shall include a community and social audit to assess the provision of community facilities and infrastructure within the vicinity of the site and identify whether there is a need to provide additional facilities to cater for the proposed development. Refer to Section 15.8.2 of Chapter 15: Development Standards."

7.3 Ground 3: Proposal is contrary to the National Climate Plan 2023, etc.

The issue of failing to address the National Climate Plan 2023⁷ and the National Energy & Climate Plan 2021-30 can no longer be ignored following the An Coimisiún Pleanála conceding in the Friends of the Irish Environment case against the Galway ring road that it was not aware of the climate plan. That decision was quashed by the High Court.⁸

Ireland's 4th National Energy Efficiency Action Plan (2017), National Mitigation Plan (2017), Long Term Renovation Strategy (2017) and National Development Plan (2018) cannot be ignored by this planning application.

The 2012 National Climate Change Adaptation Framework (NCCAF) was Ireland's first step in developing a national policy on adaptation actions to combat the impacts of climate change. The National Policy Position on Climate Action and Low Carbon Development 2014 restated the policy position of the NCCAF, 2012. Greenhouse gas mitigation and adaption to the impacts of climate change were to be addressed in parallel national plans under an evolving climate policy to 2050. The Climate Action and Low Carbon Development Act 2015 was a landmark national milestone in the evolution of climate change policy in Ireland. It provides the statutory basis for the national transition objective laid out in the National Policy Position (as per above). Further to this, it made provision for and gives statutory authority to both the National Mitigation Plan (NMP), published in 2017 and the National Adaptation Framework (NAF) published in 2018. Climate Change Action Plans form part of the National Adaptation Framework. In July 2021, the Climate Action and Low Carbon Development (Amendment) Act 2021 was signed into law. The act will commit the Government to moving to a climate-resilient and climate-neutral economy by the end of 2050.

The DCDP 2022-2028 accepts that there are now policies, measures, and programmes that Ireland is already undertaking, developing and considering how to achieve climate objectives. This proposed development must address these.

⁷ <https://www.gov.ie/en/publication/7bd8c-climate-action-plan-2023/>

⁸ <https://www.irishtimes.com/transport/2022/10/14/permission-for-galway-ring-road-quashed-as-planning-board-concedes-legal-action/>

One of these objectives is to retain trees and to retain green lungs in urban areas as carbon sinks. This scheme seeks permission to cut down 252 of 404 trees on the site which currently act as green lungs for the area and are a significant carbon sink. How can this be justified under the National Climate Plan? Loss of trees globally contributes to 10% of global warming.⁹ The number of A and B quality trees to be chopped down is extraordinary in this context.

The submitted 'Climate Action, Energy & Sustainability Report' does not mention trees. It does not refer to the loss of the western tree belt or to how much sequestered carbon is currently contained in all these trees and how much carbon is harvested each day by these trees. The report is essentially a long description of the proposed development.

The submitted 'Climate Action, Energy & Sustainability Report' does not mention the current use of the site as a green lung for this area of the city. This green lung offers climate benefits which are proposed to be lost.

What will be the carbon emissions from this scheme at construction stage and operational stage relative to those from the site at present? Is this justified?

Another of these objectives is to reduce demolition and demolition waste. Section 14.1 'State of Play' of the National Climate Plan states: "As traditional buildings represent a significant resource of 'sunk' or embodied carbon, their retention and reuse will be critical to avoiding unnecessary emissions associated with demolition and replacement". This scheme proposes to demolish no less than 4,847.50 sq.m of buildings ("the Archive, Finlay Wing, Milltown Park House and Milltown Park House Rear Extension, and the link building between Tabor House and Milltown Park House within the subject lands are proposed to be demolished").

There is little evidence of proposals being made of the re-use of these structures.

Section 19.4 'Actions' of the National Climate Plan 2023 includes Action no. CE/23/3 which requires built developments to: "Reduce demand for virgin raw materials and support re-use, by keeping material out of waste streams through streamlined end-of-waste and by-product decision-making processes, and national end-of-waste decisions for specific construction and demolition waste streams".

19.4 Actions

The detailed implementation maps for actions, including timelines and responsible organisations, are set out in the accompanying Annex.

Action Number	Action
CE/ 23/3	Reduce demand for virgin raw materials and support re-use, by keeping material out of waste streams through streamlined end-of-waste and by-product decision-making processes, and national end-of-waste decisions for specific construction and demolition waste streams

Fig. 17: Excerpt from Section 19.4 'Actions' of the National Climate Plan 2023

There are concerns that this proposal is contrary to DCC's DCDP 2022-2028 as it seeks to play its part in meeting Ireland's climate objectives.

The applicant has submitted a 'Justification For Demolition Report' and a 'Climate Action, Energy & Sustainability Report' but both are relatively light on detail regarding the likely impact of the scheme on climate and argue that the operational phase scheme justifies the tree removal, the demolition and the construction of the proposals. This may not be the case.

The Climate Action Plan sets out a number of actions to support communities to take local action yet this project proposes to remove a green lung from the area remove trees, demolish buildings and to allow the construction of a massive carbon intensive residential scheme.

The Climate Action, Energy & Sustainability Report prepared by OCSC concludes only that: "This report confirms that if the energy and sustainability strategy is successfully implemented, the proposed Sandford Road development will satisfy all Part L and BER requirements." Full details of the intended

⁹ <https://www.wwf.org.uk/learn/effects-of/deforestation>

sustainable technologies, energy efficiencies and climate resilience are detailed in the enclosed report. This is effectively a statement of compliance with Building Regulations.

This development is based on building at high density in a greenfield site. The Climate Action Plan 2023 is focused on greenhouse gas emissions generated from the subsequent use of those buildings. This is flawed as energy efficiency and climate adaptation are only part of the story. Construction uses up significant resources and demolition generates construction waste. Already around half of the world's resource extraction is used for building and construction (Source: World Green Building Council, 2022). A development of this size and scale depends on significant resources of cement, concrete, steel, copper and plastics, to name just a few. This is NOT sustainable development and a proper analysis of the environmental impact of this development would show it is not in compliance with the Climate Action Plan.

This scheme cannot be justified as proposed as it is contrary to the National Climate Plan 2023¹⁰ and the National Energy & Climate Plan 2021-30 which are adopted as part of the DCDP 2022-2028.

7.4 **Ground 4: Excessive scale & density of the scheme comprises overdevelopment**

Our client submits that the proposed development, by way of how the proposed density of development, at 140.3 units per hectare within Z12 zoned lands in an outer suburb represents overdevelopment of this Z12 zoned site adjoining Z2 residential conservation areas to the west and north.

Table 1 'Density Ranges' of the DCDP 2022-2028 provides that the range of allowable density within an 'Outer Suburb' are 60 uph to 120 uph. The applicant scheme is 20.3uph too high.

Our client objects to any overdevelopment of this site given that it was not zoned at all to allow for residential development under the previous DCDP. To be permitted to develop the site for residential, the applicant must propose a development of 60 uph to 120 uph – **this is not achieved**. The context immediately surrounding the site is predominantly semi-detached and detached houses, with some terraced houses to the West. The areas surrounding the site are zoned as residential, conservation, community and social infrastructure. This is not a site suitable for higher than 120 uph.

The plot ratio of the scheme – when the net site area is applied – is approx. 1.43. Section 8.3.1 of the applicant Planning Report offers a figure based on the Gross Area of the site. This figure of 1.18 is incorrect. The plot ratio is higher than claimed and areas of the site must be retained as public open space, etc. which causes the developable areas of the site to have a higher density.

Under Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the DCC DCDP 2022-2028, the maximum allowable density on this site is 120 uph while, given the above constraints, a density far below this is more realistic. The DCDP allows for between 60 uph and 120 uph on this site (see Fig. 18). **This scheme is therefore too dense for this site and exceeds the maximum allowable density. The current scheme's density appears, to our client's residents, to represent a material contravention of the DCDP.**

The applicant refers to this scheme being located in the inner suburbs, but our client disagrees with this as they understand the inner suburbs to mean within the canal ring.

We note how in *Dublin City Council v An Bord Pleanála*,¹¹ Humphreys J held that the Board had acted without jurisdiction in granting permission for development which exceed height limits specific in a planning scheme. The current proposal is far in excess of the allowable density under the extant DCC planning scheme for this area.

Fig. 19 from Appendix 3 of the DCDP shows approx. what 75 uph would look like on this site and this is what our client's residents would support. That is, a mixture of 2 and 3 storeys.

This new scheme continues to fail to strike a reasonable balance between increasing density while respecting the residential and visual amenities of adjoining and neighbouring residential properties.

The manifestation of the density of the block as viewed from Cherryfield Avenue Lower/Upper remains problematic as the scheme will loom large when viewed from our client's residents' properties.

The density, height, scale, and massing of this scheme fails to respect the existing setting of the west side of the site which are 2 storeys. Our client submits that the proposed density is excessive when

¹⁰ <https://www.gov.ie/en/publication/7bd8c-climate-action-plan-2023/>

¹¹ 39 [2020] IEHC 151.

viewed in the context of national, regional, and local planning policy as it has been applied to adjoining sites.

This is site zoned Z12 which means that the predominant land-use will be residential, but this does not mean the site cannot offer other uses. The single use proposal set out in this planning application is essentially that to which the Department of Education has previously objected arguing that a school will be needed at this location in due course. The ACP Planning Inspector's Report¹² for the previous SHD scheme summarises the Department's objection as follows:

Department of Education – Z15 zoning assists with the delivery of educational facilities, the site was used in the past to house temporary school accommodation. The area is experiencing demographic growth in primary and post-primary level and there is limited expansion capacity at existing schools. To meet existing and projected need, permission should not be granted on suitably zoned land until more specific and detailed population and housing growth figures are available in the Dublin City Development Plan 2022-2028. Once figures are available future analysis will take place to identify suitable sites.

While the site's zoning has been altered, it remains suitable site for school development and the applicant has failed to prove that there is adequate provision in this area to serve primary and post-primary student demand arising from this scheme.

The scheme should be developed at a lower density partly into a community facility. The site is 4.74 hectares in size (gross) and could accommodate this.

According to the Sustainable Residential Density Guidelines (2009), the site faces multiple constraints in trying to achieve a higher density.

The Applicant Planning Report argues that the uph density is acceptable. Our client disagrees. To our client's residents, the scheme is vastly overdeveloped.

The applicant's Planning Application Report claims the proposed development is designed to take account of the DCC DCDP 2022-2028. There is little evidence in this planning application to suggest the applicant has sought to comply with the development parameters that the DCDP sets out for this site. Our client acknowledges that the DCDP 2022-2028 includes a new policy on density and height. Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' responds to the National Planning Framework and to the Building Height Guidelines with a wholly reasonable new policy.

It sets a policy for the 'Outer City (Suburbs) Outside of the canal ring' providing for heights of 3 to 4 storeys and states:

Greater heights will be considered on a case by case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out in Table 3.

This planning application provides for 140.3 uph and a height of 8 storeys at its apex. This density and this building height is vastly in excess of the parameters set by the DCDP of up to 120 uph and 4 storeys.

The proposed development's approach to achieving the scheme's density, height, scale, length, massing, and bulk on this site are at odds with the content of the DCC DCDP 2022-2028 including with its building heights policies, the site's Z12 and Z2 zonings and all other policies which seek to protect the existing and established residential and visual amenities of adjoining properties. The applicant approach is to refer to the planning constraints on this site and then to argue that these can all be addressed despite widespread objections from adjoining property owners and/or their representative groups.

The applicant is continuing to ask DCC to treat this site as though it is located in a town centre – and not in the Outer Suburbs. High density is proposed at above the maximum uph density allowable for this area, but this would come at a cost to proposed residents and to surrounding properties.

Sections 7.7 of this Planning Objection Report confirms that the applicant is asking DCC to treat adjoining and/or neighbouring residential properties and private rear gardens as secondary to the applicant's ambitions for this site.

¹² <https://www.pleanala.ie/anbordpleanala/media/abp/cases/reports/311/r311302.pdf?r=622543614169>

The result is a scheme which would be significantly denser and heavier-scaled than anything ever granted in the immediate vicinity. The scheme's density is reflected in the scale of the blocks which despite some changes from the SHD and LRD1 schemes remain monolithic in scale. The scheme proposals constitute overdevelopment of the site including of Z12 zoned areas that should be undevelopable – such as the western tree belt (see Appendix 1).

The applicant refers to the National Planning Framework and statutory guidance, including the 'Urban Development and Building Heights Guidelines for Planning Authorities' (December 2018) as purportedly providing a basis for this scheme. Our client does not agree and submit the following concerns:

1. The proposed scheme is out of scale with its context. There is no objection in principle to a residential development on this site but a density of 140.3 uph cannot be achieved in the manner proposed. This is 20.3 uph above the maximum allowable uph density for this site under the DCDP.
2. For the reasons set out in Section 7.7 of this Planning Objection Report, our client submits that the scheme fails to successfully achieve a wholly residential scheme on this site without causing impacts, including on adjoining residential and visual amenities, that are substantially in excess of what is reasonable. **These arise because the scheme is 15% too dense and offers no adequate area of public open space to the western boundary. The tree belt is welcomed but it is not wide enough when Block E's tiny rear gardens are factored in.**
3. The proposed density must reasonably – for the reasons set out in Sections 7.2 to 7.16 of this Planning Objection Report – be viewed as overdevelopment of the site which would lead to significant adverse impacts on the amenities of neighbouring properties.
4. The applicant proposal to add a heavily scaled, tall, excessively long, bulky, and massive building of up to 8 storeys in height on a site zoned Z12 is materially at odds with the **DCC DCDP 2022-2028**.

Unlike some counties in Ireland where there is no existing building height strategy that is based on empirical research and contextual assessments, DCC does have such a strategy. Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' makes clear that only uph densities of 60 to 120 uph can be achieved at an outer suburban site such as this one.

The applicant seeks to replace this well-considered and much respected strategy with a developer-driven assessment that seeks permission for a development density far above what the new DCDP considers acceptable. The new DCDP takes full cognisance of the National Planning Framework and all relevant statutory guidelines and there are no conflicting objectives.

Our client's residents submit that the claimed basis for this scheme's blocks' high densities, heights, scales, lengths, and massing go beyond the requirements and guidance provided by national, regional, and local planning policy. The cumulative scale of this scheme clustered mostly in the western portion of the site cannot be accepted. The scheme bulges outwards towards adjoining rear gardens and residential properties sited to the west in Z2 zoned lands. **The balance has been lost in this scheme between protecting the established pattern and character of development of the area and its existing residential and visual amenities, while seeking to provide for increased density of residential development.**

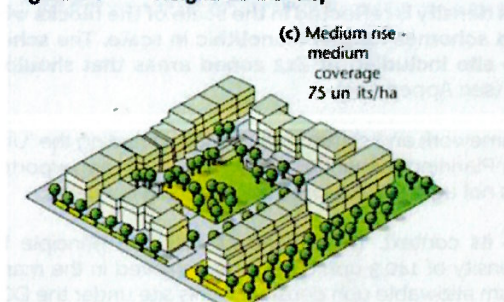
In colloquial terms, regarding this scheme, the pendulum has swung too far in the direction of overdevelopment and over-intensification of the site. These planning policies were not introduced to encourage over-development of sites. The extent of the swing toward high density development achieved here via a bulky, over-scaled, up to 8 storey buildings on a site cannot be justified in light of the consequent impacts of this proposed overdevelopment as set out in this Planning Objection Report.

The density, height and scale (including of the cumulative west facing elevations) of the scheme proposed cannot be absorbed into the applicant site without impacting unduly on the character and pattern of development of the area and on adjoining properties. Our client's residents consider the proposals as submitted to constitute overdevelopment of the site.

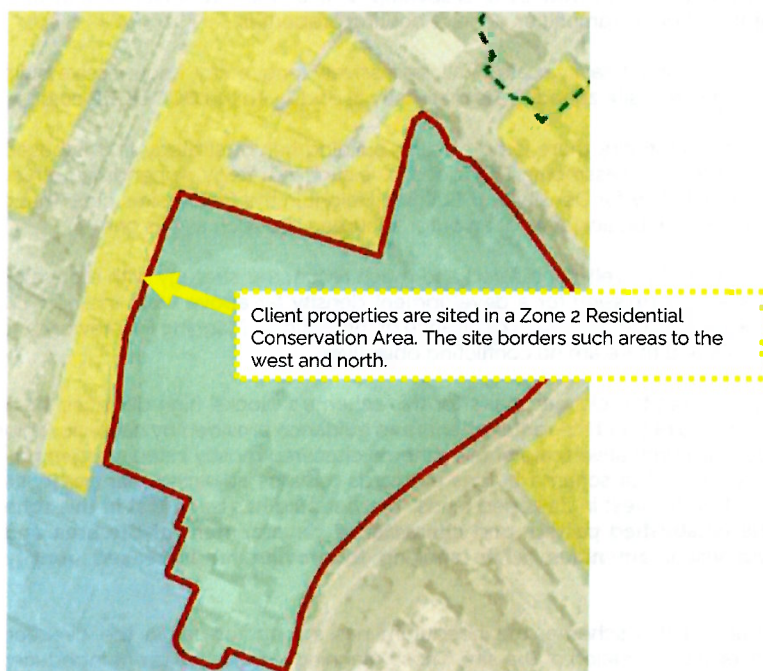
Table 1: Density Ranges

Location	Net Density Range (units per ha)
Outer Suburbs	60-120

Fig. 18: Excerpt from Table 1 'Density Ranges' of the DCDP

Figure 1 : Height and Density**Fig. 19: Excerpt from Fig. 1 'Height and Density' of the DCDP**

	Cherryfield Avenue	Current scheme
Units per hectare	10uph	140.3uph
Compliance/non-compliance with DCDP	Non-compliant as units per hectare 60 uph	Non-compliant as 20.3 uph above 120 uph

Fig. 20: Density comparison between adjoining development & the applicant scheme**Fig 21: Z12 zoning of the site adjoining sensitive Z2 zoned architectural heritage areas**

7.4.1 Comparison onto Central Mental Hospital planning permission confirms excess density

The LDA was recently granted planning permission for 852 units ranging from 2 to 7 stories at the site of the former Central Mental Hospital in Dundrum. The site is 11.3 hectares.

By comparison, this application is for 562 units on a site of net 4.26 hectares (as stated under LRD1). That equates to 66% of the unit on a site that is 2.5 times smaller. An equivalent rate of 75 units per hectare shows that 320 units is a more realistic scale for this development. The proposed density of 140.3 uph is extremely high for the current site.

7.4.2 The scheme sites a disproportionate quantum of development to the west of the site

Our client's residents object to how the applicant has sited the vast majority of the scheme into the western half of the site where it impacts on existing residential communities such as that of our client's. The eastern half of the site is effectively a park with one large building placed within it.

Almost all public open space is on the eastern side of the site with our client's residents offered nothing by way of public open space (see Fig. 24). The applicant site comprises Z12 zoned lands adjoining Z2 zoned lands at a location where there is an existing tree belt to the western boundary. A minimum of 25% of the site is to be retained as accessible public open space to safeguard the essential open character and landscape features of the site – yet the applicant could find no way to deliver any open space to the western boundary?

We are told that "The proposed development retains the large parkland along the eastern boundary of the site and incorporates a series of pathway routes or tree trails through for residents and the wider public to utilise", yet, again, our client's residents are offered nothing.

The opening up of the site to the public should include providing additional open space for the surrounding neighbourhood to the west to utilise. Without this there is no planning gain and public amenity given to our client's residents.

This appears to be an unfair sharing out of the negative impacts of the scheme with the most sensitive areas of the site left to carry the main burden of the scheme.



Fig. 22: The applicant's proposals site the majority of the scheme on the western side of the site



Fig. 23: The applicant's proposals site the majority of the scheme on the western side of the site

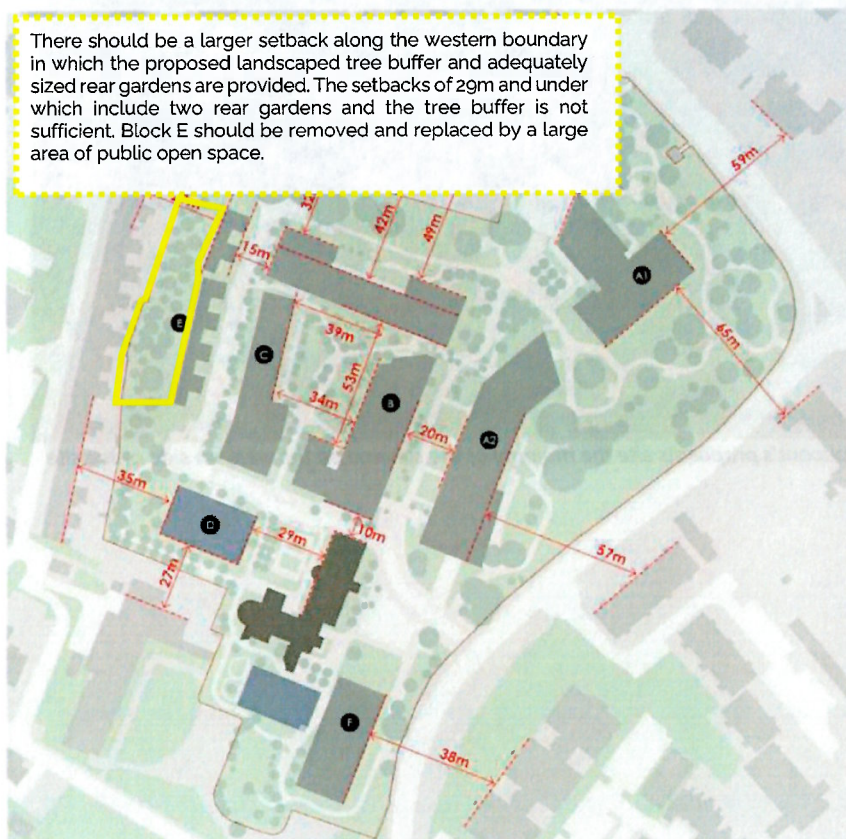


Fig. 24: The applicant's proposals site the majority of the scheme's public open space on one side of the site

7.4.3 Dual aspect units to the west of the site are achieved by negative overlooking

The applicant proposes a significant volume of west facing units as being dual aspect. Many of those can only be achieved by directly overlooking our client's residents' properties. If all units causing adverse overlooking impacts on our client's residents' properties were removed the dual aspect figures would be lower. Blocks E, D and C are designed to cause negative impacts on our client's residents.

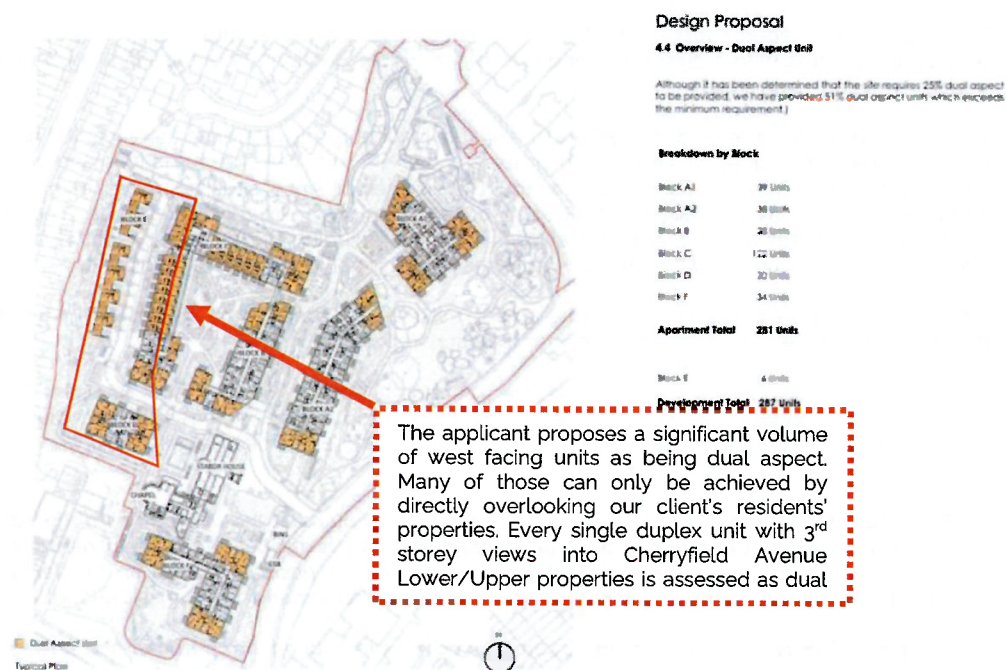


Fig. 25: Dual aspect units facing west are dual aspect only by way of negative overlooking

7.5 Ground 5: Scheme is contrary to planning policy

7.5.1 Proposal's density, scale, height, length & massing is contrary to the NPF

National Policy Objective 33 of the National Planning Framework prioritises the provision of residential development at appropriate scales within sustainable locations. Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' states: "As a general rule, the following density ranges will be supported in the city". Table 1 refers to uph densities of 60 to 120 at an outer suburban site such as this one (see Fig. 18). The prevailing density context to the north and west is 10 uph to 15 uph. The applicant scheme's density is vastly above the prevailing context and 20.3 uph+ above the maximum density for the site which is 120 uph. The scheme's density is 15% too high (29 divided by 120). A reduction of 15% on density would allow the removal of Block E, the setting back of Block D further from the western boundary, the western tree belt to be more substantial than proposed (the provision of an actual public open space corridor along the western boundary).

This site is not located close to any town centre or city centre. This is not an unduly sustainable site location. It is a site comprising of some street frontage, but which closely adjoins Z9 architectural heritage zoned areas to the west and north. This should cause a reduction in the developable scale of the scheme.

The scheme is sited opposite 2 storey residential dwellings and gardens the west. The site cannot accommodate a tightly clustered, over-sized, up to 8 storeys tall, apartment block without causing the negative impacts set out in this Planning Objection Report.

This scheme, as submitted, is not at an appropriate density, height, length, or scale – the overall quantum of development is excessive. The scheme comprises overdevelopment of the site. Block E is reduced to two storeys but it is now sited too close to the western boundary with tiny rear gardens and first floor overlooking terraces. Blocks B, C and D are 5 and 7 storeys of over-scaled buildings close to the western boundary and in the layout proposed (especially with regard to the proximity of the western elevations to our client's residents' properties) would impact negatively on adjoining areas and adjoining

properties, would negatively impact on Z2 zoned lands, and would negatively impact on the established pattern and height of development in this area.

The proposed building heights of the apartment blocks rising up to 8 storeys with some staggering down to the west (the heights also vary depending on where the buildings are viewed from). The widths, scales and/or lengths of the elevations are also significant. The west elevation of Block C is excessively long and tall rising above Block E when viewed from the west.

From our client's residents' properties, this scheme would appear as one unrelenting mass of tall and over-scaled building whose cumulative negative impacts – see Sections 7.7 of this Planning Objection Report – would be significant.

Our client's residents have read the NPF and are unable to identify any reference therein to the need to disregard newly produced DCDPs (which post-date the NPF) of planning authorities and building heights strategies around the country and to require overdevelopment of sites; to impose up to 8 storey and over-scaled apartment building at a density of 140.3 uph onto existing communities. The DCDP 2022-2028 post-dates the NPF and all statutory guidance including the Building Height Guidelines. There is no contradiction between the NPF and local planning policy applicable to this site.

This scheme's overall quantum of development eclipses the density of any nearby residential development (see Section 7.4 of this Planning Objection Report).

The DCC building height strategy is articulated in Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City'. It requires proposals for increased building heights to address Table 3: 'Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale' which includes the following criteria:

Enhanced density and scale should: respect and/or complement existing and established surrounding urban structure, character and local context, scale and built and natural heritage and have regard to any development constraints, have a positive impact on the local community and environment and contribute to 'healthy placemaking' ... [emphasis added].

Enhanced density and scale should: not have an adverse impact on the character and setting of existing historic environments including ... Protected Structures and their curtilage ... [emphasis added].

Our client's residents do not consider these proposals to respect and/or complement the existing and established surrounding urban structure, character and local context, scale and built heritage and to have had adequate regard to all development constraints. They consider it would have a negative impact on the local community and environment and fail to contribute to 'healthy placemaking' especially regarding their Z2 zoned properties, while also having an adverse impact on the character and setting of the area.

To respect its context, the applicant scheme should be revised as per the recommendations set out in Section 9.2 of this Planning Objection Report.

National Policy Objectives 3a, 3b and 35 seek additional housing via increased residential density on appropriate infill sites to achieve compact growth. There is no reason why a scheme designed at a reduced scale could not achieve these objectives without causing each of the negative impacts set out in this Planning Objection Report. This scheme has been submitted without any consultation with our client's residents (despite there having been previous SHD and LRD schemes on this site over which many objections were lodged).

Our client's residents object to how the applicant Planning Statement refers to this scheme as though the alternative is an undeveloped, empty, under-utilised infill site – that this scheme represents the only development option for this site. This is despite the building acting as a green lung *de facto* informal park for decades and offering hundreds of trees to the benefit of the area. These lands and the western tree belt thereon (see Appendix 1) have offered an attractive green environment to the rear of our client's residents' properties for as long as anyone can remember. This area needs to be treated as a proper public open space of at least 20m wide to our client's residents' adjoining property boundaries before Block E's tiny rear gardens are installed.

The applicant is fully aware that all residential dwellings to the west are 2 storeys tall. How then can this scheme propose 5 to 7 storeys at Blocks C and D with Block B rising above to 8 storeys? And very close to these properties? Even a 2 storey scheme would need to be properly sited, designed and set out in a well-argued planning application.

The site's current appearance is that of a park containing older buildings and it is recognised locally as such. Its redevelopment into a private scheme subsuming Z12 zoned lands would detract from the area.

The problem is the applicant's ambitions for the site. 140.3uph can only be achieved by way of overdevelopment within the site. The site is unsuitable for such a scale and footprint of development.

This scheme is approx. 14/15 times denser than adjoining residential properties to the west.

This scheme highlights and reinforces criticisms that there appears to be no 'rules-based' development control planning framework in place at present, even with the new DCC DCDP 2022-2028 to which applicants are responding. Once again, the NPF is used by the applicant Planning Report to justify the current scheme when it could just as easily be required to justify heights of 2 storeys to the west of the site. What is and what is not acceptable has become difficult for adjoining residents to predict or understand with any certainty.

Despite the DCC DCDP 2022-2028 now being adopted, the NPF has encouraged a scheme which is at odds with this site's own constraints, with adjoining properties and with national, regional, and local planning policy. The NPF points to "Performance-Based Design Standards" and these are used by the applicant to justify this scheme – that is, to justify increasing the number of units per hectare on this site and taking the tallest of these building on the site up to 8 storeys or 5 to 7 storey blocks close to rear gardens serving 2 storey dwellings. In fact, the NPF clearly wishes to avoid the mistakes of the past wherein ad hoc, unplanned, developments – especially residential schemes – were granted without their being fully in line with national, regional, and local planning policies.

Our client's residents ask how can the mistakes of the past be addressed when schemes such as that now being assessed can – the applicant claims – disregard the DCC DCDP 2022-2028 maximum allowable density guidance for this area and proceed as though all existing planning policies (often hard fought planning policies that recognise the need to balance new developments with the need to protect existing communities) and the assessment conclusions of previous planning applications/appeals on adjoining and nearby sites which have repeatedly found that the appropriate building height to the west of the site is 2 storeys and the achievable density is 15% below what the applicant proposes here? The problem is the overdeveloped footprint of the scheme's blocks which are all suited too close to the site's boundaries.

The DCDP 2022-2028, the Sustainable Residential Development and Compact Settlements Guidelines, published in January 2024, the 'Sustainable Urban Housing: Design Standards for Apartments' (2025) and the Building Height Guidelines provided the basis for DCC's FI stage comments. DCC repeatedly made it clear to the applicant at pre-planning stage for the SHD scheme and for the current scheme that the scheme's impact on the Z12 and Z2 zoned lands and on our client's residents would need to be fully addressed. This has not happened to any acceptable degree – see Section 7.7 of this Planning Objection Report.

However, the applicant has made no change to the fundamental footprint of this scheme since the previous SHD scheme. The scheme's density is 20.3uph above the maximum DCDP guideline density for this area.

This scheme needs to be reduced substantially in density and scale – by at least 24% - to ensure national planning policy is seen to be being implemented consistently. Our client understood that the allowable and appropriate density range for this site is 60 uph to 120 uph. This scheme is 140.3 uph and up to 8 storeys tall. Higher densities and taller heights than those prevailing in a given area (here 2 storeys to the west and north) are only meant to be exceeded where they would not cause residential and visual amenity impacts which would fail to protect adjoining lands which are also zoned existing residential, and which are sensitive to new development. Why should our client's residents have to face a scheme that is more than 120 uph when they are meant to be protected by the DCDP and its accompanying building height policies?

The National Planning Framework (NPF) seeks 'Compact Growth'. The NPF states:

All our urban settlements contain many potential development areas, centrally located and frequently publicly owned, that are suitable and capable of re-use to provide housing, jobs, amenities and services, but which need a streamlined and co-ordinated approach to their development, with investment in enabling infrastructure and supporting amenities, to realise their potential. Activating these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.

Our client acknowledges that this site is suitable for a partly residential scheme as per the new Z12 zoning. Our client does not object to the principle of residential development, but to the scale of this residential scheme which converts institutional lands into an apartment scheme. Our client's residents

adjoin the scheme to the west. They find it difficult to understand what has changed in their area that this site has been viewed by the applicant as possibly suitable for this scheme when the Department of Education has made clear these lands may be needed for schools and the "master plan" is effectively a residential key plan for an apartment scheme set within a large site. .

There was a rush between 2018 and 2022 to claim that all existing policies in DCDPs were out of date as they failed to include references to the NPF and to statutory guidelines such as the Building Heights Guidelines and the Apartment Guidelines all published in 2018. This argument is no longer valid. There is now a new DCC DCDP 2022-28 in place which sets out how DCC and the citizens it represents consider the planning of the area should be managed. It is reasonable now to point out that this scheme, while it would provide housing (with impacts on adjoining properties – see Section 7.7 of this Planning Objection Report), fails to comply with planning policies set out in the DCC DCDP 2022-2028. Respecting the DCDP 2022-2028 is critical to ensuring that the public finds the planning framework and planning process credible. The applicant scheme is not credible when assessed against planning policies on any basis except the need for housing. If every green lung de facto parkland area of the city is to have most of its trees removed to make way for dense residential development, then within a short number of years there will be none left. Climate policy demands more than the removal of such areas and their carbon intense redevelopment.

This planning application does not "perform". Chapter 6 of the NPF entitled 'People, Homes and Communities' sets out that place is intrinsic to achieving good quality of life – our client submits that this scheme would impact negatively on the community into which it is proposed to be located. The scheme needs to be revised to address our client's recommendations set out in Section 9.2 of this Planning Objection Report.

National Policy Objective 11 states: "In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth" (emphasis added). Our client is concerned at how the applicant appears to have been able to pick and choose which planning policies to comply with and which not. What then are "appropriate planning standards"? The standards for development to the west of the site have always been:

- Maximum building heights of 2 storeys.
- The siting of blocks to avoid impacts on adjoining properties.

The maximum density is meant to be between 60 uph and 120 uph.

The applicant argues that this planning application accords with the DCDP 2022-2028. It continues to ask DCC to disregard local planning policy and to possibly materially contravene the DCC statutory planning framework on density in the Outer Suburbs even when there is no longer any possible justification for doing so.

National Planning Objective 13 provides that:

... in urban areas, planning and related standards, including in particular, 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. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected (emphasis added).

Our client submits that the proposed scheme's density, scale, height and massing fails when assessed against national and local planning policies in a consistent fashion. **This scheme fails to meet performance criteria that would offer a high-quality outcome for the area. The impact of the scheme on the existing residential and visual amenities of residential properties in the vicinity would compromise the local environment.**

National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location" (emphasis added). Our client's residents consider that the applicant scheme as submitted is not at an appropriate scale of provision relative to location. The scheme is, as submitted, too dense, excessively tall at a maximum of 8 storeys and 5 storeys close to the western boundary (in Blocks C and D) , over-scaled and inappropriately sited and designed for this location.

National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights". The applicant site faces multiple

acknowledged site constraints, including being sited on Z12 zoned lands, adjoining Z9 zoned lands and adjoining residential dwellings. It is not a city centre – an urban core site – it is a suburban residential scheme in a mature residential area with a defined character and pattern of development.

There is an existing relationship between the applicant site and our client's residents' properties which protects each of their respective residential and visual amenities. The applicant scheme seeks to alter this and to introduce a scheme whose density, scale, height, bulk, and massing would alter this relationship in a substantially negative manner (as set out in Sections 7.7 of this Planning Objection Report). Our client submits that this site is not suitable for the scale and height of the scheme proposed.

This proposal does not fully comply with the relevant guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended). It is also considered that the proposals are not, as submitted, compliant with the relevant objectives of the DCC DCDP 2022-2028.

Our client submits that DCC should substantially revise and/or refuse planning permission on the basis that the applicant scheme would set a poor precedent for similar schemes to be developed at excessive densities and scales on sites containing Z12 zoned lands with negative impacts on the surrounding area and on adjoining properties. The scheme would also set a poor precedent for densities of over 120 uph (the maximum allowable in the Outer Suburbs under the DCDP) and for tall and over-scaled buildings to be developed where this would cause substantial impacts on adjoining residential properties. This planning application if permitted, would set a negative precedent for encouraging developers to ignore context, the established character and pattern of a given area and the need for neighbourly development.

7.5.1.1 The DCDP 2022-2028, the NPF & statutory guidance are compatible in this case

Our client notes that the National Planning Framework (NPF), Regional Spatial and Economic Strategy (RSES), and various statutory guidelines were issued before the DCC DCDP 2022-2028 was adopted and that each of these has now been taken into account by the local planning framework applicable to this proposed development. Notwithstanding this, the NPF, the RSES and all relevant statutory guidelines have been considered by our client in arriving at their conclusion and recommendations set out below.

There is now the DCC Development Plan 2022-2028, the NPF, and the full suite of national statutory guidance documents. The applicant is asking DCC to dismiss not only the DCDP 2022-2028, but all these other planning policy documents.

Our client objects strongly to the applicant's arguments that, in summary, the DCDP 2022-2028 and its density policy for the Outer Suburbs of 60 uph to 120 uph be over-ruled despite 'all' relevant planning policies and objectives contained in the NPF and in the full suite of statutory planning guidance being compatible with same.

The applicant wanted to proceed with SHD and LRD schemes that were fundamentally at odds with DCC's previous DCDP Z15 zoning and the current Z12 zoning – both were taken to Judicial Review. An applicant submission to the drafting of the DCC DCDP 2022-2028 caused the site to be re-zoned Z12. The Z12 zoning does not come with particular site designation for these lands that can allow a scheme of 140.3 uph and to 8 storeys, this current proposal must be refused and/or reduced in density by 15% and revised as per Section 9.2 of this Planning Objection Report.

This scale of development is vastly higher than any adjoining or nearby residential development. The fact that this site also adjoins Z2 zoned lands suggests that the density of this scheme should be much lower than 120 uph.

The DCC DCDP 2022-2028 considers the NPF, statutory guidance and all other planning guidance and in fact increases protections for existing residential communities confronted by high density residential schemes.

The applicant planning application proposes overdevelopment. It seeks to ignore the DCDP 'and' to pick and choose the national planning policies that they consider may support their case. The result is a scheme which causes all the consequent impacts on the residential and visual amenities of adjoining residential properties that are set out in Section 7.7 of this Planning Objection Report.

7.5.2 Regional Spatial & Economic Strategy for the Eastern & Midlands Region

Our client has reviewed the Regional Spatial and Economic Strategy (or RSES) for the East and Midland Regional Assembly was adopted on 28th June 2019 and referred to in the applicant's Planning Report. This strategy document, like the DCC DCDP 2022-2028, was subject to consultation with residents of the region.

Our client can identify no designation or policy therein which would indicate the applicant site is of local, strategic, or national importance. It is only an Outer Suburban site, but it is a large site now re-zoned Z12.

The RSES supports high density development within or alongside city centres, major town centres, town centres, district centres, etc. This site is none of these. The RSES also supports high density development on high frequency public transport corridors. There is nothing pointing to this suburban site as being a strategic priority site for development.

The guidelines do not propose that existing Development Plan policies be over-ruled and/or materially contravened to allow increases in residential density, taller and over-scaled buildings, etc. to be developed at compromise locations.

The guidelines require that all large developments be plan-led and infrastructure-led. The applicant scheme is developer-led at 140.3 uph (20.3 uph above the maximum for an Outer Suburban site) and up to 8 storeys designed in a manner which impacts negatively on adjoining residential properties and on the Z2 zoned lands.

The overarching vision statement of the RSES is "to create a sustainable and competitive region that supports the health and wellbeing of our people and places, from urban to rural, with access to quality housing, travel and employment opportunities for all". Our client submits that the density, height and scale of this scheme is incompatible with supporting the health and wellbeing of the people and places that adjoin this scheme. It is simply out of scale with its adjoining and surrounding environment to an extent that constitutes acute overdevelopment.

The current planning application is not in accordance with the DCC DCDP 2022-2028 which is itself in accordance with existing regional planning policy.

Our client notes that the regional guidelines contain multiple policies which all refer to the need for infill development, increased density, appropriate building heights, consolidated growth, reducing commuting, building near public transport, etc. Each of the arguments made by the applicant's Planning Report apply to – and more closely align with – a less tall, less dense, scheme which better integrates into the existing character and pattern of development in this area, which causes less negative impact on the Z9 zoned lands.

The applicant argues that developments should be located at the right locations – the RSES agree with this. Our client submits that this infill site surrounded by established residential properties to the west at 2 storeys and containing Z2 zoned lands is not appropriate for the density and scale of the scheme proposed.

7.5.3 Non-compliance with Section 28 guidelines

Our client submits that the Applicant scheme fails to comply with several guidance documents which were issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended). These are set out below.

7.5.4 Non-compliance with the Development Management Guidelines (2007)

The proposed development is contrary to the existing DCC DCDP 2022-2028, including with its Z12 and Z2 zonings and with its density policy. There is no designation applicable to this site set out in these plans to support this proposal. This being the case, the proposal cannot, according to the Development Management Guidelines (2007), be permitted.

The Development Management Guidelines (2007) state that the DCDP represents the adopted vision for DCC. This vision is for much of the applicant site to be used for a community facility including open space.

The DCDP sets out a range of development density for the Outer Suburbs of 60 uph to 120 uph and confirms the allowable heights as 1 to 4 storeys with any additional height above this requiring justification. The applicant scheme is 140.3 uph and up to 8 storeys. This is not compliant with the DCDP.

In the absence of the inclusion of this site within the DCDP as a "special case", concerns arise with respect to the planning process being applied to this scheme and whether it is in accordance with the Development Management Guidelines (2007) which state:

*The guidelines seek to build on a culture within the planning service which is positive, responsive and promotes high standards. **If this is to be achieved, it is vital that the process of development management is driven by an ambition to implement a positive vision for the area as set out in***

the development plan; planning authorities are required by the Planning Act to take all necessary steps to secure the objectives of the plan. This means that planning authorities should adopt a pro-active approach towards development proposals that help achieve plan objectives. The role of pre-application discussions (see Chapter 2) is of particular importance here. **In all cases, proposed developments, however acceptable in principle, must be sensitive to their local environment** (p. 9 & 10) [emphasis added].

The applicant scheme being ad hoc and piecemeal as it is outside of the parameters for this site, including the Z12 zoning and the adjoining Z2 zoned lands, as set out in the DCC DCDP 2020-2028 and would, if granted, damage the culture within the planning service and the public's perception of that culture. This planning application is not sensitive to its local environment and the DCDP confirms the site is not suitable for tall and/or over-developed buildings at the scale, massing, bulk and density proposed. Our client's residents must, like all members of the public, be able to have confidence in the planning system – this planning application is not compatible with this.

Section 1.5.2 'Statutory requirements and fair procedures' of the guidelines state:

Decisions on planning applications affect people's rights, whether those of the applicant or of third parties, and determine the form of the future built environment. The planning process is therefore governed both by statutory requirements and the principles of natural justice and fair procedures under administrative law. If a planning decision is held by the courts to breach such principles, it risks being set aside. **Relevant principles include: Procedural fairness: Decision-makers must be seen to evaluate all material considerations for and against a proposed development in an open and transparent manner** [emphasis added].

Section 1.5.2 'Consistency' states:

Consistency in the interpretation of development plan policies is essential if public confidence in the planning system is to be maintained, although of course decisions on individual applications will vary in light of the land use considerations that apply to them [emphasis added].

Our client noted that all adjoining houses to the west are 2 storeys and their massing is broken up. The applicant scheme is 2 to 8 storeys and is located close to the western boundary. The existing western tree belt is to be retained; however, Block E and its first floor 20sq.m+ terraces, is sited too close to our client's residents' rear gardens. The gardens of Block E need to be increased in depth to 11m and the first floor terraces removed.

Section 1.5.3 'Third Parties' states: **"Third parties: Those who may have an interest in a planning application are entitled to ready access to the application and to the policy context in which it will be determined ..."** [emphasis added].

Our client submit that the Development Plan was produced in accordance with the procedures set out in the Planning Act 2000, as amended. The applicant scheme is non-compliant with the DCDP. Fair procedures demand that those who live in an area can take part in the development plan drafting process and their elected representatives adopt it. This planning application seeks to remove this fair procedure and to seek permission for an ad hoc and piecemeal planning application that by-passes material considerations set out in the DCDP.

This planning application, if granted, would be incompatible with ensuring the credibility of the planning system as viewed by those who adjoin and/or who live near this scheme.

7.5.5 Non-compliance with the Design Standards for New Apartments Guidelines (2025)

The principle of an apartment development on this site is questioned by our client as is the siting of Blocks C, D and E so close to the western site boundary. The scheme is effectively imposing itself onto Z2 zoned properties and areas to the west. The scheme must be reduced in density, scale, length, and height 'and' redesigned to address impacts on the Z2 zoned lands.

It is no longer difficult for an applicant to argue that the drive for higher densities means that apartment blocks must be provided, but the density and volume of apartments sought by the applicant in this scheme has resulted in buildings being proposed which impact adversely on adjoining and surrounding properties. The guidelines do not encourage high density apartment development at all costs; they are clear that apartment blocks must be suitable in their respective contexts. This is not the case here. Here residents expected Z2 zoned properties to be respected, trees to be retained on the western boundary, buildings to be setback from the shared boundary, etc.

According to the DCC DCDP 2022-2028, this is an Outer Suburban site Para. 2.2 of the 'Design Standards for New Apartments Guidelines' (2025) states:

In general terms, apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments (emphasis added).

The applicant scheme proposes a heavily scaled, bulky and tightly clustered apartment scheme in the western portion of the site which is up to 8 storeys tall. This is the scale and height of development appropriate to designated locations within city, town centres and major town centres. This site is surrounded by mature 2 storey dwellings to the west. The applicant scheme is 140.3uph (reduced from 149.3 uph under LRD1) and rises to 8 storeys. This is 20.3 uph denser than allowed even if all other planning criteria are met.

The applicant claims the scheme complies with the guidelines. Our client does not consider that the scheme either complies with the guidelines and/or that its density, scale, massing, and height is justified at this location.

The scheme should be reduced in density, height, scale, and massing and better address the Z2 zoned lands and properties to the west at Cherryfield Avenue Lower/Upper. This would cause a reduction of 15% in the scheme's uph density, but this would be justified to ensure an appropriate balance between the right of the applicant to develop this site – including developing Z12 zoned lands – and the rights of our client's residents to expect that their residential and visual amenities will be protected. This is best achieved by revising the scheme as recommended in Section 9.2 of this Planning Objection Report.

7.5.5.1 Reliance on the Apartment Guidelines 2025 raises concerns

The proposed development relies on the "Planning Design Standards for Apartments Guidelines for Planning Authorities, 2025" (the "Apartment Guidelines") in a number of respects. For example, the Planning Report states as follows regarding SPPR6:

SPPR 6	EVALUATION OF CONSISTENCY
The provision of new Communal, Community and Cultural facilities within apartment schemes shall only be required in specific locations identified within the development plan and shall not be required on a blanket threshold-based approach in individual apartment schemes.	Whilst there is no longer a requirement to provide Culture/Community space on foot of SPPR 6 of the Apartment Guidelines 2025, the Applicant has retained this use in the scheme and it is provided in both Tabor House and the Chapel, the two retained buildings in the proposed development.

Fig. 26: Applicant's response to Objective CU025an devaluation of consistency

Reliance is also placed on SPPR 1 of the Guidelines which relates to unit mix to exceed the 50% limitation in the development plan on 1-bedroom units.

The following issues arise with this approach.

First, SPPR 6 of the Apartment Guidelines when properly construed relates to the content of development plans rather than the assessment of an individual application. This is clear from the text accompanying the SPPR, at section 4.7: "As set out in the Development Plans Guidelines for Planning Authorities (2022), the need for community facilities (such as community centres, local hubs and cultural spaces) should be determined by an audit process, including a 'gap analysis' of existing local amenities and facilities relative to the existing demand and the anticipated demand generated by programmed new development. The form and location of such facilities should be identified in a statutory plan, which is subject to Strategic Environmental Assessment. Such facilities should not be required on a threshold basis in relation to individual apartment schemes. The provision of such facilities is likely to have significant implications for viability of the development and in terms of management and maintenance costs for future residents and/or local authorities."

What the SPPR and the accompanying text are referring to is what must be required in a development plan.

Importantly, SPPR 6 does not say what should happen in the context of an individual planning application. This is in contrast to SPPR 1 of the Guidelines, which states:

"Specific Planning Policy Requirement 1

- ❖ *With the exception of social housing developments, social/affordable housing provided for under Part V the Act or schemes to provide housing for older persons where a specific mix of unit sizes may be required, such as in accordance with a Housing Need and Demand Assessment (HNDA), there shall be no restrictions within statutory plans in relation to the mix of unit sizes or types to be provided within apartment developments. There shall be no minimum or maximum requirements for apartments with a certain number of bedrooms.*
- ❖ *Where any such restriction or requirement is set out within a statutory plan, this Specific Planning Policy Requirement shall apply to any single apartment scheme and there shall be no restriction in relation to the mix of unit sizes or types and there shall be no minimum requirements for apartments with a certain number of bedrooms within the development, except in the circumstances set out above.” (Emphasis added.)*

SPPR 1 specifically states that where a restriction on unit mix is set out in a development plan, the SPPR is to be applied to any single apartment scheme. There is no equivalent statement with regard to SPPR 6, indicating again that it is not applicable to individual planning applications.

As such, the proposed development materially contravenes Policy CUO25 of the Dublin City Development Plan 2022-2028.

Secondly, and without prejudice to the foregoing, the Apartment Guidelines are currently the subject of legal challenge, on the basis that a strategic environmental assessment (“SEA”) should have been, but was not, carried out. In *McDonald & Ors. v Minister for Housing, Local Government and Heritage* [2025] IEHC 728, Humphreys J. concluded that it was necessary to refer questions to the Court of Justice of the European Union (“CJEU”) to clarify questions of EU law. As yet, that preliminary reference has not been formally made. When it is made, it will take approximately 12 months until the CJEU delivers its response. Until that response is received and final judgment delivered by the High Court, the legal status of the Apartment Guidelines is in doubt.

Thirdly, if it is concluded in the *McDonald* proceedings that SEA of the Apartment Guidelines was not required, this does not avail the applicant in the present instance. This is because a plan that was itself subject to SEA (the Dublin City Development Plan) cannot be derogated from by a plan that was not subject to SEA (the Apartment Guidelines). This is set out in the judgment of the CJEU in *Site of St Teresa’s Gardens* Case C-9/22 where it was explained that the objective of the SEA Directive would be “undermined if it were possible to derogate from the framework defined by a plan or programme [...] without such a derogation being subject, at the very least, to the obligation, arising from Article 3(3) of that directive, to establish whether that derogation is likely to have significant effects on the environment.”

Therefore, either the Apartment Guidelines should have been subject to SEA, in which case they will be quashed and permission should not be granted pursuant to them, or they should not have been subject to SEA, in which case they cannot be relied upon to derogate from the Dublin City Development Plan which was itself subject to SEA.

7.5.5.1.1 Material contravention of the Community/Cultural/Arts (CUO25) requirement

The Applicant has not provided any space under the CUO25 requirement of the City Development Plan. This is a significant shortcoming of this planning application which is for a large-scale redevelopment of a historic industrial estate which has offered local employment for decades.

This is a 20,333sq.m floor area scheme where Objective CUO25: ‘SDRAs and Large Scale Developments’ applies. The policy states:

All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage.

The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity.

The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need.

Such developments shall incorporate both cultural/arts and community uses individually or in combination unless there is an evidence base to justify the 5% going to one sector.

(emphasis added).

DCC is asked to note how our client has pointed out that the applicant has not complied with this policy requirement which is a material contravention of the DCDP 2022-2028.

The Applicant's 140 page Planning Report fails to mention the policy at all.

The following points are relevant to its application to this project:

- **Threshold** — Applies to any large-scale developments with a total area over 10,000 sq. m. (not limited to residential; includes mixed-use or regeneration schemes).
- **Quantum** — Minimum 5% of the development's floorspace dedicated to these uses (predominantly internal).
- **Flexibility** — Up to 50% may be off-site if adjacent and justified; balance between cultural/arts vs. community uses based on an audit/evidence; preferably a mix unless justified otherwise.
- **Purpose** — Ensures spaces (e.g., exhibition, performance, artist workspaces) are integrated early in design to support vibrant, sustainable neighbourhoods.

CUO25 specifically targets cultural and community vibrancy in larger schemes. Dublin City Council has also published a 'Building Culture – Culture Infrastructure Toolkit' to guide implementation.

The failure of the Applicant to address CUO25 represents an unacceptable material contravention of a policy aims specifically at supporting older and emerging denser residential communities.

To try to avoid this requirement, the proposed development relies on the "Planning Design Standards for Apartments Guidelines for Planning Authorities, 2025" (the "Apartment Guidelines") in a number of respects. For example, the Planning Report has set out their position regarding SPPR6 (see Fig 27).

The following issues arise with this approach. SPPR 6 of the Apartment Guidelines when properly construed relates to the content of development plans rather than the assessment of an individual application. This is clear from the text accompanying the SPPR, at section 4.7:

As set out in the Development Plans Guidelines for Planning Authorities (2022), the need for community facilities (such as community centres, local hubs and cultural spaces) should be determined by an audit process, including a 'gap analysis' of existing local amenities and facilities relative to the existing demand and the anticipated demand generated by programmed new development. The form and location of such facilities should be identified in a statutory plan, which is subject to Strategic Environmental Assessment. Such facilities should not be required on a threshold basis in relation to individual apartment schemes. The provision of such facilities is likely to have significant implications for viability of the development and in terms of management and maintenance costs for future residents and/or local authorities.

What the SPPR and the accompanying text are referring to is what must be required in a development plan.

Importantly, SPPR 6 does not say what should happen in the context of an individual planning application. This is in contrast to SPPR 1 of the Guidelines, which states:

"Specific Planning Policy Requirement 1 (A) With the exception of social housing developments, social/affordable housing provided for under Part V the Act or schemes to provide housing for older persons where a specific mix of unit sizes may be required, such as in accordance with a Housing Need and Demand Assessment (HNDA), there shall be no restrictions within statutory plans in relation to the mix of unit sizes or types to be provided within apartment developments. There shall be no minimum or maximum requirements for apartments with a certain number of bedrooms. (B) Where any such restriction or requirement is set out within a statutory plan, this Specific Planning Policy Requirement shall apply to any single apartment scheme and there shall be no restriction in relation to the mix of unit sizes or types and there shall be no minimum requirements for apartments with a certain number of bedrooms within the development, except in the circumstances set out above. (Emphasis added.)"

SPPR 1 specifically states that where a restriction on unit mix is set out in a development plan, the SPPR is to be applied to any single apartment scheme. There is no equivalent statement with regard to SPPR 6, indicating again that it is not applicable to individual planning applications.

As such, the proposed development materially contravenes Policy CUO25 of the Dublin City Development Plan 2022-2028.

One cannot provide only residential development and no supporting development especially when this is specifically required by the Development Plan.

7.5.6 Sustainable Residential Development & Compact Settlements Guidelines

The Sustainable Residential Development & Compact Settlements Guidelines (2025) raise considerable concerns about how the proposed development has been proposed and how it has been designed. These include:

1. The proposals seek to effectively remove Z12 (previous Z15) zoned lands into an apartment scheme. This is contrary to Chapter 4 'Quality Urban Design and Placemaking' which refers to (iv) 'Public Open Space' and states:

Public open spaces should be designed to cater for a range of active and passive recreational needs (including play, physical activity, active travel, cultural uses and community gardens and allotments, as appropriate to the context) and to conserve and restore nature and biodiversity. It will be necessary to balance improved access to natural assets with the need to protect the environment as increased levels of tourism, sports and leisure can impact negatively on nature and biodiversity. In addition, the provision of public open spaces should not result in any direct or indirect adverse effects on the integrity of European Sites. Chapter 5 includes minimum requirements for the provision of open space in new residential developments, based on the net site area.

Section 5.3.3 'Public Open Space' states:

Public open spaces in residential schemes refers to the open spaces that form part of the public realm within a residential development. This is distinct from a public park. Open spaces provide for active and passive recreation, nature conservation, pedestrian and cycle connection and provide an important visual break between streets and buildings. All residential developments are required to make provision for a reasonable quantum of public open space. There is a need to focus on the overall quality, amenity value and biodiversity value of public open spaces. The spaces should integrate and protect natural features of significance and green and blue infrastructure corridors within the site and should support the conservation, restoration and enhancement of biodiversity. The public open spaces should also form an integral part of the design and layout of a development and provide a connected hierarchy of spaces, with suitable landscape features, including seating and provision for children's play.

Policy and Objective 5.1 – 'Public Open Space' states:

It is a policy and objective of these Guidelines that statutory development plans include an objective(s) relating to the provision of public open space in new residential developments (and in mixed-use developments that include a residential element). The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances. Different minimum requirements (within the 10-15% range) may be set for different areas. The minimum requirement should be justified taking into account existing public open space provision in the area and broader nature conservation and environmental considerations. In the case of strategic and sustainable development sites, the minimum public open space requirement will be determined on a plan-led basis, having regard to the overall approach to public park provision within the area. In the case of sites that contain significant heritage, landscape or recreational features and sites that have specific nature conservation requirements, a higher proportion of public open space may need to be retained. The 10-15% range shall not therefore apply to new development in such areas. In some circumstances a planning authority might decide to set aside (in part or whole) the public open space requirement arising under the development plan. This can occur in cases where the planning authority considers it unfeasible, due to site constraints or other factors, to locate all of the open space on site. In other cases, the planning authority might consider that the needs of the population would be better served by the provision of a new park in the area or the upgrade or enhancement of an existing public open space or amenity. It is recommended that a provision to this effect is included within the development plan to allow for flexibility. In such

circumstances, the planning authority may seek a financial contribution within the terms of Section 48 of the Planning and Development Act 2000 (as amended) in lieu of provision within an application site.

There is no adequate justification for the current proposal to erode the existing Z12 zoned lands at this location set out in the submitted masterplan which is effectively an updated version of that submitted with the previous SHD and LRD1 schemes.

The existing use of the lands is as a green lung, carbon sink, home to hundreds of trees, an existing and potential habitat for wildlife including birds and bats.

These lands offer potential as a public park containing multiple schools which are badly needed in this area. A residential scheme merely causes more demand for school places and other services.

2. The applicant argues that the masterplan provides a public park, yet all the public open space is to be sited alongside or around apartment blocks and it will be recognised as such. It will not appear as public parklands but as lands ancillary to the scheme. The large apartment block which rises to 8 storeys is set within the area of the site which purportedly was to offer this park to the public. This is the argument given for why such a disproportionate quantum of the scheme's floor areas is pushed onto the western part of the site.
3. Section 2.1.1 'Statutory Development Plans' states: "The Planning and Development Act 2000 (as amended) "the Act" **supports a plan-led system** aimed at ensuring proper planning and sustainable development through a hierarchy of inter-related and complementary plans and policies from the NPF at national level, the Regional, Spatial and Economic Strategies (RSES) at regional level and development plans and local plans at a city and county level. The development plan is at the heart of the planning system ..." [emphasis added]. This scheme's density is non-compliant with the DCC DCDP 2022-2028. How can the Development Plan remain the heart of the planning system unless it is respected? This planning application asks DCC to disregard the existing democratically produced DCDP. This scheme is 20.3 uph denser than the DCDP is meant to allow at Outer Suburban (if all other planning criteria are fully addressed which they are not here). The proposed density is 10-15 times the uph density of adjoining properties to the west.
4. Section 2.1 also states: "The scale, location and nature of major new residential development will be determined by the development plan, including both the settlement strategy and the housing strategy" [emphasis added]. This planning application seeks undermine the DCDP within the process of assessing the suitability of this scheme for this site. The applicant has argued to DCC that this site which is zoned Z12 is suitable for a scale of development above that of adjoining residential properties. This block would adversely alter the existing pattern and character of development at this location and in a negative manner. This is not how the guidelines encourage planning to be undertaken. This is not a plan-led scheme. A plan-led scheme would not permit the Z12 lands to be subsumed wholly into a residential scheme with some ancillary floor area. There is no school provide and no defined sustainable use offered for the claimed cultural community spaces.
5. Section 1.3.2 'Compact Growth' states:

It will also be necessary to adapt the scale and form of development to the receiving environment and to ensure a proportionate response. Higher densities and taller buildings that exceed the traditional scale will be encouraged in the most central and accessible parts of our cities and large towns, particularly in large regeneration areas, and subject to the protection of historic fabric, character, amenity, natural heritage, biodiversity and environmental quality. Mid-rise medium density housing will have a critical role to play outside of the urban cores at accessible and intermediate locations in particular, in combination with traditional housing. This approach will provide greater diversity in housing stock at all locations and support a critical mass of population that will make services, including public transport, more viable [emphasis added].

Our client's residents submit that the proposed development, for the reasons set out in Section 7.7 of this Planning Objection Report, does not strike an acceptable balance between reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The design approach is not based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities. The proposed design seeks to achieve excessive density, scale height, bulk, and massing on a site unsuitable, due to its physical context and multiple constraints, for same.

The proposed development, being located on Z12 zoned lands and adjoining Z2 zoned lands to the west is proposed in a manner non-compliant with the Development Plan, and causing

negative and permanent impacts on the established residential and visual amenities of adjoining and surrounding residential dwellings in all directions is not, when considered on balance, in compliance with the DEHLG's 'Sustainable Residential Development in Urban Areas' (2009). Our client's residents submit that, as Section 7.7 of this Planning Objection Report illustrate, the proposed development does not provide an acceptable approach to the development of Z12 zoned lands or provide a balance between the density proposed and protecting their residential amenity and the character and pattern of development in the area. The proposals also fail to comply with the Urban Design Manual as set out below.

7.5.7 Non-compliance with the Urban Design Manual (2007)

The 'Urban Design Manual – a Best Practice Guide (May 2009) is a companion document to the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas'. Contrary to the Applicant's claims – set out in the Design Statement and Planning Report – to comply with the Urban Design manual, numerous concerns arise. Several examples are provided below. The manual sets out 12 criteria with indicators for designers to follow:

- A. The first indicator is '**Context**' and asks: "How does the development respond to its surroundings?" and provides guidance on how this can be achieved:

The starting point for the design of any (residential) development is an assessment of its surroundings. This covers existing landscape and buildings, as well as the social and economic needs of the existing communities. Widening out the assessment of the context in this way will help to ensure that the development is of its place and time – and informed by more than just its physical surroundings (p. 15).

Any departure in massing should be informed by a consideration of how the amenity of others will be affected, especially views, privacy and rights of light. Where there are existing buildings, newer ones should connect gracefully and if the massing is more intense, show respect for the existing by graduating the change in steps (p. 16) [emphasis added].

A new development has to make the most positive contribution possible to its neighbourhood or landscape. The aim of those planning for, designing or building schemes should be to ensure that the development in some way improves on or enhances the existing situation (p. 18) [emphasis added].

The following points confirm that the proposed development does not comply with the above guidance:

1. **"The development seems to have evolved naturally as part of its surroundings":**

This proposal seeks to develop Block E close to what our client's residents view as a *de facto* parkland containing trees. Revisions are needed to Block's E's siting and design. The rear gardens need to be increased to 11m in depth and the first floor terraces removed.

The blocks rise from 2 to 8 storeys starting to close to our client's residents' rear gardens. It cannot be considered to have evolved naturally. It would have a poor relationship with existing dwellings to the west.

Rather than appear as natural additions to the area, the blocks would, if built appear as excessively tall with excessive massing. They would be viewed as overdevelopment of this area of the site. It would visually dominate nearby properties, Z2 zoned lands, and the immediate area.

2. **"Appropriate increases in density respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring users":** This scheme's proposed abrupt increase in height, scale, length, and massing of built form relative to the Z2 zoned 2 storey dwellings that adjoin or neighbour the site along Cherryfield Avenue Lower and Upper provides for no adequate visual integration of the scheme with adjoining development. This proposed density of 140.3 uph, as manifested through the applicant's proposed design of Blocks E, D and C, fails to respect the form of adjoining residential dwellings and the tight knit established suburban residential community landscape around the site's western edge.

The proposal fails to respect the amenities of our client's residents' properties. The proposal would cause all the negative amenity impacts that are set out in Section 7.7 of this Planning Objection Report. Our client opposes is the height, scale, and cumulative massing of this scheme, as it would be viewed from adjoining properties and within the surrounding area. The

up density must be reduced by 15% and the revisions recommended by our client's addressed (see Section 9.2 of this Planning Objection Report).

3. **"Form, architecture and landscaping have been informed by the development's place and time":** This scheme's scale and height is out of keeping with the established character and pattern of development adjoining this site to the west. The proposed monolithic, bulky, and over-scaled, blocks are not informed by the development's place and time. This scheme may appear appropriate in the canal ring or the city centre, but within an outer suburban infill site zoned Z12 and adjoining Z2 zoned lands it is out of place. The scheme represents overdevelopment of the site. See Section 7.7 of this Planning Objection Report for our client's residents' detailed objections on the incompatibility of the scheme's proposed height, scale and layout relative to our client's residents' adjoining properties.
4. **"The development positively contributes to the character and identity of the neighbourhood":** The proposed development would dominate the character and identity of the mature residential area adjoining the site to the west with an abrupt increase in height, scale, and bulk adjoining more appropriately scaled development including 2 storey dwellings.

The scheme would, despite the applicant's misleading photomontages, be highly visible from adjoining properties and would cause significant adverse visual impacts at construction and operational phases. The existing identity of this *de facto* institutional parkland site would be compromised by overdevelopment and an excessively over-scaled and poorly sited blocks that is located too close to the western site boundary. The scheme aims to sacrifice the existing character of the Z2 zoned conservation area to the west to provide Blocks C, D and C whose scale and heights are far above those ever found to be acceptable in the vicinity before. The scheme, as submitted, would negatively alter the established residential and visual amenities of an entire residential community.

5. **"Appropriate responses are made to the nature of specific boundary conditions":** Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens so the first floor terraces are not required.

B. The next indicator refers to **"Connections"**. The following points indicate non-compliance:

1. **"Parking" at surface level:** As Section 7.10 of this Planning Objection Report confirms, the only apparent reasons for surface parking within this scheme is to serve Block E. The scheme would offer a better ground level environment were Block E and its parking removed.
2. **"Traffic" at surface level:** As Section 7.10 of this Planning Objection Report confirms, the only apparent reasons for surface traffic within this scheme is to serve Block E. The scheme would offer a better ground level environment were Block E and its traffic access requirements removed.

C. The next indicator refers to **"inclusivity"**. The following points indicate non-compliance:

1. **"Design and layout enable easy access by all":** The scheme is purportedly designed to offer public access for all. There appears to be no access into the scheme from Cherryfield Avenue Lower and the scheme is not, in any case, designed to encourage this. The western side of the site is treated like a major development site while the eastern side is offered much more open space. The scheme is imbalanced.
2. **"New buildings present a positive aspect to passers-by":** The scheme's height, scale and positioning mean it will be visible from surrounding properties to the west where it will rise up above existing buildings. The selective photomontages are not representative of the actual visual impact that will arise (see Sections 7.7 and 7.8 of this Planning Objection Report).

D. The next indicator refers to **"Variety": "facilities and services that complement those already available in the neighbourhood"** are meant to be provided. The scheme seeks to remove an existing *de facto* parkland, to cut down many trees, to remove a green lung from this area of the city and to remove habitat/potential habitat for wildlife. It will replace these with apartments and other units. This is a scheme which is inward focused and provides maximum apartment density. Some community/cultural spaces are proposed but the detail is incomplete, and our client's residents do not consider that they would benefit from this.

E. The next indicator is **"Efficiency": "How does the development make appropriate use of resources, including land?"** This point must be assessed in light of the DCC DCDP 2022-2028 vision of "appropriate" development that protects existing areas and residents, while providing for new

sustainable development. The proposed development fails to address this indicator as the density, scale, length, and heights of the scheme's block exceeds what a sustainable balanced development would include at this Z12 zoned site. The scheme would result in negative impacts on adjoining residential properties. The applicant proposes to over-develop the site with a building whose height and scale would be highly visible from surrounding properties. This is contrary to the appropriate urban design of this area.

The scheme also seeks to take from and detract from what is an existing de facto parkland, to cut down many trees, to remove a green lung from this area of the city and to remove habitat/potential habitat for wildlife.

- F. The next indicator is '**Distinctiveness**': **"How do the proposals create a sense of place?"** The proposed development would be distinctive but in an overly, and cumulatively, dominant, and visually obtrusive manner which is contrary to the Urban Design Guide. It would provide for excessive building heights and a scale and length of block that would impact negatively on the site and surrounding and adjoining properties (see also Sections 7.4 to 7.16 of this Planning Objection Report).
- G. The next indicator is '**Privacy/Amenity**': **"How do the buildings provide a high-quality amenity?"** The proposed development will negatively impact on the existing and established residential amenities while also offering compromised amenities to future residents as the DCC pre-planning feedback regarding the future amenity of many units has not been addressed, for example, regarding north facing units.
- H. The next indicator is '**Parking**': **"How will the parking be secure and attractive?"** The applicant scheme's parking proposals are inadequate in terms of numbers, but the surface parking is of most concern given it is only to serve Block E. Block E should ideally be removed and replaced with parkland to balance the site's development.
- I. The next indicator is '**Detailed Design**': **"How well thought through is the building and landscape design?"** The applicant scheme seeks to over-develop these Z12 zoned lands. The scheme's west facing elevations are over-scaled. They should be constrained by proximity to adjoining properties at Cherryfield Avenue Lower and Upper.

The applicant's photomontages confirm that the applicant is unconcerned by the extent of negative impacts, especially visual impact impacts, arising on adjoining or neighbouring properties. The applicant's reports refer to our client's residents' homes and gardens as providing screening to the scheme which is unacceptable when they are those most impacted by it.

The Applicant scheme – see the applicant Design Statement and Planning Report – picks and chooses those parts of the 'Urban Design Manual' to try to comply with. This is not appropriate. The scheme is, on balance, non-compliant, on the basis that it represents over-development of the site which closely adjoins 2 storey houses and rear gardens. This is an overdeveloped apartment scheme at the western section of the site.

BPS wishes to note that while in places the applicant drawings appear contextually misleading, there is no doubt the project architect has tried very hard to try to fit the proposed density onto this site. However, there are signs of overdevelopment throughout the scheme's design, urban design, and landscape plans. The developer's brief of 109.3 uph on the site is simply too much for this outer suburban site where uph densities of 60 uph to 120 uph are acceptable only. The consequences of over development arising are obvious from any detailed review of the submitted scheme.

7.5.8 Non-compliance with the Urban Development and Building Height Guidelines (2018)

The applicant's Planning Report and Design Statement place emphasis and weight upon claims that this scheme is justified by the 'Urban Development and Building Heights Guidelines for Planning Authorities' (December 2018). However, it is not clear on what basis the applicant can make these claims. The scheme's proposed height, scale, massing, and bulk (and cumulative scale) is at odds with our clients' residents' adjoining properties.

The current scheme's density, scale, length and heights and proximity to the western boundary is unacceptable and excessive and not justified by the guidelines which do not allow for existing context and established residential and visual amenities of adjoining properties to be wholly discounted.

Section 2.8 of the Development Management Guidelines state:

In the case of larger proposed developments, or where it is not certain that the proposal would be acceptable, it is important that issues of principle be resolved before proceeding to more

detailed design issues. *In such cases, the proponent should clearly explain the rationale for the proposed development. Equally, the planning officer will need to be explicit about what are "sticking points" from a development plan viewpoint. Relevant national policy which applies to the development should also be explained. While both sides should endeavour to find a constructive solution to problems, in some cases it may not be possible to reconcile the two positions. In such a case, it may be necessary for the planning authority to indicate that the proposal is unlikely to be considered favourably* (p. 22) [emphasis added].

In this case, DCC (and Dublin Corporation before it) has consistently made decisions over decades on nearby sites to the west that schemes must respect their context and adjoining residential and visual amenities and be a maximum of 2 storeys in height. The current proposals provide for a density of 140.3 uph with this manifesting itself in the excessively close and over-scaled Blocks C, D and B which need to be amended as they are too tall and massive. Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens so the first floor terraces are not required.

A gradually growing scale of development has changed this area, but it has been consistent. The applicant now wishes to introduce a new higher density, taller, and heavier scaled form of development into this site. This is not permitted by existing planning policies nor is it in line with any planning decision made adjoining this site.

A scheme of the scale and height proposed is therefore not acceptable on this site. The current application is non-compliant with the DCC DCDP 2022-2028 'and' with the 'Urban Development and Building Heights Guidelines for Planning Authorities' (December 2018). There is no difference of opinion or contradiction between national and local planning policy in this case as it applies to building heights in this scheme.

The densities of surrounding houses to the west are 10 uph to 15 uph. The proposal is for an excessively abrupt increase in density of 140.3 uph relative to adjoining residential properties.

Unlike other local authorities, DCC's DCDP has a legitimate, and thoroughly researched, framework for assessing density. The applicant scheme fails to comply with the guidelines. Why have a policy if, as the applicant claims, the 'Building Heights Guidelines' can over-rule it? What is the incentive for local authorities to produce development control policies if they are not followed? The density of this scheme is 24% above the maximum allowed under the DCDP on the entire site.

The applicant Planning Statement argues that the proposed development complies with the 'Urban Development and Building Heights Guidelines for Planning Authorities' (December 2018). Our client's residents submit that the Applicant has wholly misinterpreted the content of the guidelines to attempt to by-pass established DCC planning policy and previous planning decisions in this area with regard to building density and heights (particularly where building height is accompanied by buildings with unnecessarily large scale, bulk and massing).

In issuing these guidelines, the Department did not state that they are meant to replace the existing planning framework, development plans and certainly not the DCC DCDP 2022-2028 and their building heights policies. It did not state that it hoped that ad hoc, piecemeal, proposals for taller, bulkier, longer, buildings at any location that applicants see fit would be encouraged. It did not want to facilitate a scheme which would have the negative impacts that are set out in this Planning Objection Report.

The applicant has chosen to ignore what these guidelines state. The guidelines clearly require that planning authorities identify through their statutory plans areas where increased density and building height will be actively pursued. It does not provide for applicants to decide themselves where high density can be located. The DCC DCDP 2022-2028 does not identify this site as suitable for 149.3 uph.

Specific Planning Policy Requirement (SPPR) 1 states, inter alia:

... planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height [emphasis added].

Para. 2.3 of Section 2.0 'Building Height and the Development Plan':

... the development plan must include the positive disposition towards appropriate assessment criteria that will enable proper consideration of development proposals for increased building height linked to the achievement of a greater density of development [emphasis added].

Para. 2.7 of Section 2.0 'Building Height and the Development Plan':

To give effect to these broad policy directions and a more active land management-centred approach as set out in the NPF, the preparation of development plans, local area plans and Strategic Development Zone (SDZ) Planning Schemes and their implementation in city, metropolitan and wider urban areas must therefore become more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights, while also being mindful of the quality of development and balancing amenity and environmental considerations ... [emphasis added].

The current planning application proposes an over-scaled up to apartment scheme on a site that is considered locally to be a de facto park with hundreds of trees. The scheme offers no acceptable transition to the 2 storey houses and their rear gardens adjoining the site to the west. The scheme adversely impacts Z2 zoned lands.

This planning application is therefore premature pending DCC considering and addressing the above requirements and points below:

1. For this site to be considered suitable for the proposed development as submitted, DCC would need to explicitly identify, through its statutory plan, that this site is an area where up to 140.3 uph is acceptable. At present, the established statutory plan for the area allows only a maximum of 120 uph where this can be integrated into a site without impacting negatively on adjoining properties and the surrounding environment.
2. Our client cannot identify any mention anywhere that the area around this site has ever – before this planning application was lodged – been considered by DCC as suitable for buildings up to 8 storey tall. There is also no indication that it would ever have been had this planning application not been lodged. It is the cart leading the horse. The future planning of DCC is, the applicant would prefer, to be directed by private developers by-passing DCC's planning policies.
3. DCC's DCDP contains criteria that enable proper consideration of development proposals for increased density of development. Since the publication of these guidelines, DCC has not, insofar as our client is aware, given any indication that uph densities of over 120 uph are acceptable in outer suburban sites.
4. The intention of the Department was clearly not to signal a 'free-for-all' in respect of excessively dense buildings, but to encourage planning authorities to make even clearer where large buildings would be permitted. There is no direction that large buildings, in achieving some planning objectives such as higher densities, should be allowed to ignore other planning considerations. Indeed, the guidelines specifically require the balancing amenity and environmental considerations.
5. **The guidelines state that identification and siting of areas suitable for increased densities and height will need to consider the environmental sensitivities of the receiving environment as appropriate, throughout the planning hierarchy. It does not say through individual planning applications that ignore the existing planning policies in place.**
6. The above issues need to be considered and/or addressed before the applicant site can reasonably be considered an appropriate location for a high density scheme of 140.3 uph. This is not in line with para. 3.1 of Section 3.0 'Building Height and the Development Management process' which states: "In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased **in appropriate urban locations**" [emphasis added]. There is no planning designation, objective, policy, or any other indication that the applicant site is an "appropriate urban location" for up to 8 storey buildings. Our client submits therefore that this planning application is premature and unacceptable at this location.

The applicant may be seeking to rely on the SPPR 3 of the 'Urban Development and Building Heights Guidelines' (Dec 2018) to try to by-pass the DCDP; however, SPPR 3 clearly states that DCC must "concur" with the applicant if a development is to proceed that is not in line with the DCDP.

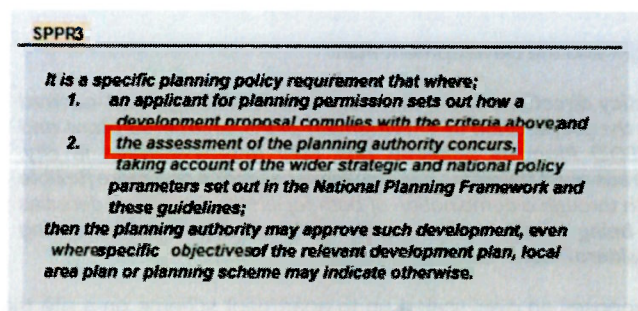


Fig. 27: SPPR 3 of the 'Urban Development and Building Heights Guidelines' (Dec., 2018)

Our client submits that SPPR 3 does not apply in this case as the proposal does not comply with Section 3.0 'Building Height and the Development Management Process' and the proposal is contrary to the DCC DCDP 2022-2028 as it pertains to density and height.

This Planning Objection Report also sets out how the proposed development fails to comply with Section 3.0 'Building Height and the Development Management process' of the guidelines. The guidelines advise that the scheme should be assessed to ensure it achieves the following:

Development proposals incorporating increased building height ... should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views [emphasis added].

On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making ... using massing and height to achieve the required densities but with sufficient variety in scale and form **to respond to the scale of adjoining developments** and create visual interest in the streetscape [emphasis added].

[At the scale of district / neighbourhood / street] **The proposal responds to its overall natural built environment** and makes a positive contribution to the urban neighbourhood and streetscape [emphasis added].

The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks ... [emphasis added].

The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner [emphasis added].

[At the scale of the site/building] **The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light** [emphasis added].

For the following reasons, the proposals fail to address the requirements set out above.

1. The proposal is abruptly out of scale alongside 2 storey dwellings and their rear gardens:

The applicant Planning Report claims that the proposed building's density and height will make optimum use of the lands which are suitable for residential development and compatible with the established surrounding land use in the area. Our client objects to this statement for the following reasons:

- The site is zoned Z12 and its redevelopment if as residential is meant to retain an open character with public open space, etc. There is nothing about the proposals as they adjoin the western boundary which is open or containing public open space. The western boundary is overdeveloped to an extent beyond what a standard residential zoned site would be developed into.
- There is no 'new' or "emerging" planning context at this location. Nothing has changed beyond the site being rezoned Z12 that could have suggested this scheme's density as suitable for this site. The applicant appears to consider that merely mentioning the 'Urban Development and Building Heights Guidelines for Planning Authorities' (December 2018) is a sufficient change. It is not. Why does the applicant planning application expect to be able to by-pass DCC's policies on building density when there has been no further change in the current planning framework?

- The applicant scheme would have a cumulatively negative, and permanent impacts on adjoining and neighbouring properties to the west. As Sections 7.7 and 7.8 of this Planning Objection Report show, these impacts would likely be worse than the applicant claims.
- The applicant proposals would be highly visible within the immediate and surrounding area and would not integrate into/ enhance the character and public realm of the area. The proposal would impact of the residential and visual amenities of existing residents in all directions.
- The proposed development is excessively dense in scale but offers no adequate contribution to place making in this area. It would be an out of place scheme. A tall and over-scaled and over-long block that would, despite the project architect's possibly best efforts, fail to achieve quality integration with adjoining properties.
- The scale and form of the proposed development wholly fails to respond to the scale of adjoining development. The scheme would visually dominate what is a residential neighbourhood of 2 storey Z2 zoned properties to the west.

2. *At the scale of district/ neighbourhood/street this proposal is massively over-scaled:*

At the scale of district/ neighbourhood/street, the proposal fails to respond sensitively to the adjoining and surrounding built environment:

- Due to its height, scale, bulk, and massing - that cause visual impacts and overbearing impacts - the scheme fails to make a positive contribution to our client's residents' neighbourhood. The scheme would shift the area from being one with an established pattern and character of development to a high density, overdeveloped and excessively tall, urban block visually defined by this scheme.
- The scheme's proposed scale and quantum of development is not in any way in line with either the existing or the emerging character and/or pattern of development of this area to the west of the site. The consequence of the proposed density is heavily scaled buildings to the west of Cherryfield Avenue Lower/Upper. The proposal's cumulative massing as it would be viewed from the west is excessive. This is a development of the scale of a city centre or major town centre or business district. Instead, it is proposed on an infill site immediately adjoining residential rear gardens in an outer suburban area.
- The proposal would not enhance a sense of scale and enclosure in the area; instead, it would cause adjoining dwellings at Cherryfield Avenue Lower/Upper to experience visual overbearing, overlooking, and more noise and disturbance.
- Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens, so the first floor terraces are not required.

3. *At the scale of the site & individual buildings the proposal would be overwhelming in scale:*

At the scale of the site and individual buildings the proposal would be overwhelming in scale:

- The form, length, massing, and height of the proposed development close to Cherryfield Avenue Lower/Upper, has been designed in total disregard for what would be an appropriate height, scale, bulk and layout of development for this site as set out in this Planning Objection Report.
- The proposed development, as sited, would cause overshadowing, overlooking and visual overbearing of Cherryfield Avenue Lower/Upper. The scheme would cause many cumulative negative impacts that the proposed development would cause both for our client's residents and for the area.
- The block contains significant numbers of windows, balconies, terraces, etc. that are only possible by directly overlooking our client's residents' properties to the west. The amenity of the proposed scheme would come at the cost of the substantial, negative, and permanent loss of amenity to adjoining properties (see Sections 7.7 and 7.8 of this Planning Objection Report).

Specific Assessments

Our client's comments with respect to submitted specific assessments are set out, where relevant, below.

It is our client's residents' opinion that the applicant's attempt to use these guidelines to justify the subject scheme should not be permitted. The proposed development is unacceptable. For it to be granted, DCC would need to provide:

1. An explanation to adjoining residents as to why the extant DCC DCDP policy on density for outer suburban areas is to be contravened. It provides for a range of 60 uph to 120 uph on this site;
2. An explanation being given as to why in correctly assessing this scheme in line with the guidelines, it has not been found to be non-compliant;
3. An explanation as to the reasons (if any) the DCC DCDP 2022-2028 and their building height policies should be updated given that they provide a more than adequate framework for assessing this planning application under the guidelines; and
4. An explanation as to how this planning application can be reasonably considered to comply with the existing planning framework set out in the DCC DCDP 2022-2028.

In the absence of any basis that could allow for adequate and proper explanations as listed above, this planning application should be refused and/or the scheme be revised to better respect Cherryfield Avenue Lower/Upper which contains Z2 zoned residential dwellings.

7.5.9 Scheme is contrary to the DCC DCDP 2022-2028

Our client submits that the applicant has selectively referred to those planning requirements that they can comply with and not with those they do not. This is not clear from the planning application as the applicant claims compliance with almost every planning objective in the DCC DCDP 2022-2028, when, clearly, this is not the case.

For the reasons given in Section 8.1 of this Planning Objection Report, the proposal presents an excessive planning risk on this site. DCC is being asked to decide if this scheme should be permitted to deviate from existing DCC DCDP 2022-2028 planning policy. For our client, the applicant scheme constitutes over-development and would cause negative impacts on existing residential properties and on the area.

Our client's residents rely on Development Plan policies to protect them from inappropriate developments that would, if built, impact on their established residential and visual amenities. Our client submits that for the reasons set out below, the proposed development is unacceptable when assessed under DCC DCDP 2022-2028 policies.

7.5.9.1 The density, height & scale of this scheme is contrary to the zoning of the site

Concerns regarding non-compliance with the zoning of the site and over the submitted masterplan are set out in this Planning Objection Report.

7.5.9.2 The density of this scheme is contrary to the adjoining Z2 zoned 'Conservation Area'

Our client's residents at Cherryfield Avenue Lower/Upper note that they are located in a Z2 'Conservation Area' which is meant to be protected from inappropriate adjoining developments. For the reasons set out in Sections 7.1 and 7.2 of this report, the applicant scheme fails to deliver these protections.

7.5.9.3 Density, scale, heights, lengths & massing are contrary to the DCC DCDP's core vision

The proposed development's density, height, bulk, and scale relative to Cherryfield Avenue Lower/Upper requires consideration as to whether the scheme is compatible with Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the DCC DCDP 2022-2028, the maximum allowable density on this site is 120 uph while, given the above constraints, a density below this is more realistic. The DCDP allows for between 60 uph and 120 uph on this site (see Fig. 18). This scheme is therefore between 20.3 uph too dense for this site and exceeds the maximum allowable density.

Section 15.5.5 'Density' of the DCDP states:

All proposals for higher densities must demonstrate how the proposal contributes to place-making and the identity of an area. New development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood. The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future amenity. An urban design and quality-led approach to creating urban

densities will be promoted, where the focus will be on creating sustainable urban villages and neighbourhoods. All proposals for higher densities must demonstrate how the proposal contributes to place making and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods. Refer to Appendix 3 for further details [emphasis added].

Section 3.2 'Density' of Appendix 3 states:

*Density is defined as the intensity of development on any given area of land. It can have a significant influence on the quality of a development and successful placemaking. **Residential densities are predominantly expressed as dwellings per hectare ... Excessive density however, can be problematic. Significantly higher density schemes, particularly when coupled with high buildings, can generate problems in terms of creating successful, well designed and sustainable communities. In some instances, it can have impacts on the amenities of existing residential communities and for the future occupiers of such schemes, as well as how such developments integrate with the existing urban fabric.** There can also be concerns regarding the capacity of existing social and physical infrastructure to absorb denser developments. Appropriate higher density schemes are considered to be ones that combine mixed tenure homes, public space and community infrastructure ... higher density does not necessarily equate to high rise buildings ... [emphasis added].*

***The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future residential amenity** [emphasis added].*

- Section 4.5.3 'Urban Density' states:

*Dublin's City core is characterised by a low to medium rise built form. **Densities vary across the city and are typically much lower in the suburbs ... it is acknowledged that good quality, higher density developments can make a positive contribution to the evolving urban form and structure of the city and can help to achieve sustainable land use and movement patterns. Increasing density can however, bring challenges in terms of ensuring appropriate levels of amenity for existing and future residents and integrating higher density schemes successfully with the existing built fabric.** The objective is to provide opportunities for increased density in a sustainable manner whilst ensuring the highest standards of design as well as the protection of existing amenities and the natural and historical assets of the city ... [emphasis added].*

The applicant's submitted reports do not include this vision but instead refers to supply and demand for residential development in Dublin. The applicant focus is on convincing DCC that supply of new housing at the scale, height and density proposed should outweigh the rights of existing residents surrounding this scheme to expect "appropriate" development. The proposed 140.3 units per hectare can only be achieved by negatively impacting on our client's residents' adjoining properties at Cherryfield Avenue Lower/Upper.

Our client has reviewed the applicant's planning application. The applicant does not convince the group that this scheme provides for an appropriate development that would protect or improve this area or respect it's the existing character, context, or urban form of Cherryfield Avenue Lower/Upper.

Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens, so the first floor terraces are not required.

There should reasonably be an area of public open space between the scheme and our client's residents' properties. Block E could be removed to reduce the density of the scheme, improve its interface with the western site boundary, and better balance the scheme (which mostly places public open space to the east and northeast of the site).

The vision for Dublin City set out in the DCDP does not encourage the loss of trees and the proposals are contrary to Section 10.5.7 'Trees', Section 15.6.9, Objective GI41 'Protect Existing Trees as Part of New Development' and to the Dublin City Biodiversity Action Plan 2021 – 2025 which form part of the Dublin City Development Plan 2022- 2028. The Z12 zoning of part of the applicant site under the current DCDP presents an opportunity to add to the green infrastructure of this area but instead these new Z12 lands are to be removed from de facto Z15 use to becoming, in fact, Z1.

The scheme does not present an equitable balance between the rights of the developer and the rights of adjoining property owners – such as our client's residents – to protect their established residential and visual amenities.

Our client offers the following points for consideration as to whether the applicant scheme is compliant with the DCC DCDP 2022-2028 vision for the development of this area and those for with open space, housing and settlement policies:

1. The DCC DCDP seeks more open space, more schools, and more community facilities. Existing Z12 and Z15 lands should only be lost in exceptional circumstances. There are no exceptional circumstances here to justify the loss of 100s of trees, a green lung, a wildlife habitat, a community space, etc.
2. Our client's residents are the owners of homes they are proud of. Most have lived in their homes adjoining the site for many years. They are concerned at the amenity impacts this scheme would have on their properties. The proposed development would, for our client's residents, reduce the attractiveness of the environment in which they live as the scheme would, for the reasons given in Sections 7.7 and 7.8 of this Planning Objection Report, impact negatively on their existing residential and visual amenities.
3. The applicant reports repeatedly refer to this site as though it is in a town centre on in the canal ring. It is not. It is some distance out in the suburbs. This context is not respected by the applicant scheme. Instead, the applicant seeks a significantly higher density and residential building heights than have ever been achieved in the immediate area. There is no residential 8 storey building within 500m of the site. The submitted photomontages do not offer an acceptable defence of the scheme's likely visual impact.
4. The DCC DCDP vision refers to the need to "appropriate" development. The applicant refers to various DCDP policies, but merely referring to DCDP policies does not justify the scheme. The same points raised by the applicant – densification, infill, development of an under-utilised site, more housing, use of public transport, provision of open space, etc. – are the same arguments that would need to be put forward for a scheme that was 15% less dense, less long, bulky and massive, and less tall.

Our client highlights that the applicant planning application is not clear and does not present a justification for this scheme in light of the DCDP's vision for this area, its core strategy and its strategic policies. Our client submits that a less over-scaled scheme at a 15% lower density with the western portion of the site better respected would more closely align with the DCC DCDP's vision and policies local planning policy than does the current applicant scheme. As submitted, the scheme is not consistent with the Core Strategy.

7.5.9.4 The proposed density is contrary to Table 1 of Appendix 3 of the DCDP 2022-2028

APPENDIX 3 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' provides Table 1 'Density Ranges' for allowable development densities in the DCC area. Section 3.2 'Density' states: "As a general rule, the following density ranges will be supported in the city". The applicant site can be developed up to a maximum density of 120 uph (see Fig. 28 for the full table). The current proposal is in excess of this at 140.3 uph.

The proposal is categorically at odds with the DCC DCDP 2022-2028 as it pertains to density. **BPS considers that this scheme is 15% too dense.** The submitted scheme is proposed as a density that can only be sustained in an SDRA or at a City Centre/Canal Belt site.

Table 1: Density Ranges

Location	Net Density Range (units per ha)
City Centre and Canal Belt	100-250
SDRA	100-250
SDZ/LAP	As per SDZ Planning Scheme/LAP
Key Urban Village	60-150
Former Z6	100-150
Outer Suburbs	60-120

Fig. 28: The allowable densities of development under Table 1 of Appendix 3 of the DCDP

7.5.9.5 Non-compliance with Section 15.5 'Site Characteristics and Design Parameters'

Section 15.5 Site Characteristics and Design Parameters' of the DCDP states:

*The following section provides guidance on identifying the high level characteristics which shape the urban design response to a site to ensure the creation of good quality urban environments. Development proposals should make the most efficient use of land by delivering an optimum density and scale of development for the site having regard to its location within the city ... **In considering the appropriateness of a development at a city scale, applicants should demonstrate that the scheme proposed has adopted an appropriate approach to urban intensification broadly consistent with its location** [emphasis added].*

Notwithstanding the constraints facing this site's development, especially the Z12 zoning and adjoining Z2 zoned lands and 2 storey properties, the extent of overdevelopment arising by way of this scheme is excessive. The scheme has not adopted an appropriate approach to urban intensification broadly consistent with its location adjoining Cherryfield Avenue Lower/Upper.

The DCDP refers to the general building height designation for Dublin City as being 'pre-dominantly low-rise'. The proposed apartment building reaches 8 storeys tall. The density of the scheme relative to Cherryfield Avenue Lower/Upper is excessive.

For the reasons set out in Sections 7.6 to 7.16 of this Planning Objection Report, the proposed blocks fail to respect their context and impacts negatively on the receiving environment including Cherryfield Avenue Lower/Upper. The proposal, as submitted, is non-compliant with Section 15.5 of the DCDP.

7.5.9.6 Proposal is contrary to urban density objectives which allow a max. of 120 uph

Our client submits that it is objective of Dublin City Council to allow only 60 uph to 120 uph densities at outer suburban sites such as that wherein the proposal is located. The applicant Statement of Consistency responds to Table 1 of Appendix 3 of the DCDP by refusing to admit non-compliance and instead stating:

It is considered that none of the above categories accurately represent the locational characteristics of the subject site, less than 2 km from the City Centre [emphasis added].

By default, as it doesn't naturally fit into any other specific category, it is possibly classified as 'Outer Suburb'. However, it is our opinion that the Milltown/Ranelagh area in which the site is located is not comparable to Santry for example, which is clearly an Outer Suburb in the Dublin City Council administrative area. The proposed development provides a residential density of 149.3 No. units per hectare which is considered consistent with the guidance set out in national planning policy for central and/or accessible locations such as the subject site. In addition, we note that a slightly higher density was accepted by Dublin City Council and An Bord Pleanála under the SHD Application where some 667 No. units were granted on the subject site. It should be noted that the provision of a higher proportion of studios, 1 No. bedroom units and 2 No. bedroom units within the subject scheme also disproportionately inflates the density figure and should be considered in this context [emphasis added].

Rather than argue that the rules do not apply, the applicant seeks to argue that there are no applicable rules. This is not acceptable. This is a new scheme and not the old SHD or previous LRD1 schemes – the failure of the Commission to defend many of its SHD and LRD1 decisions confirms many of its decisions and positions on matters such as density were incorrect. The current DCDP is wholly up to date with all national and regional planning policy and guidelines. The proposed density may be a material contravention of Table 1. The applicant seeks to argue that their suburb should be treated differently to other suburbs – this is not accepted. Finally, the applicant seeks to blame the poor mix of proposed units as the reason for the high uph density. Now we are getting to the heart of the matter. The applicant has designed a large scheme with vast numbers of small units. These Z12 lands should be designed to promote community. Studios are not a form of accommodation to encourage community and they are not appropriate in an outer suburb. The problem is the design and not the density range. The scheme should have responded to the rules. The masterplan has ignored the maximum density figure as so many SHD schemes did before.

This site's location is outer suburban, and its context is very sensitive. The maximum density of 120 uph is very high for this location where adjoining properties are at densities of approx. 10 uph to 15 uph.

The proposed density significantly exceeds the prevailing context and is contrary to the following DCC DCDP objectives pertaining to density:

- QHSN10 'Urban Density':

*To promote residential development **at sustainable densities** throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and **to successfully integrate with the character of the surrounding area** [emphasis added].*

- SC8 'Development of the Inner Suburbs':

To support the development of the inner suburbs and outer city in accordance with the strategic development areas and corridors set out under the Dublin Metropolitan Area Strategic Plan and fully maximise opportunities for intensification of infill, brownfield and underutilised land where it aligns with existing and pipeline public transport services and enhanced walking and cycling infrastructure.

- SC10 'Urban Density':

To ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (Department of Environment, Heritage and Local Government, 2009), and its companion document, Urban Design Manual: A Best Practice Guide and any amendment thereof [emphasis added].

- SC11 'Compact Growth':

*In alignment with the Metropolitan Area Strategic Plan, to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, which will: enhance the urban form and spatial structure of the city; be appropriate to their context and **respect the established character of the area; include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future residents**; be supported by a full range of social and community infrastructure such as schools, shops and recreational areas; and have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture [emphasis added].*

For the reasons given in Sections 7.7 to 7.16 of this Planning Objection Report, the proposed development would not successfully integrate with the character of the surrounding area – especially Cherryfield Avenue Lower/Upper to the west – because it does not respect the design of the surrounding development and the character of the area.

Objectives QHSN10, SC8, SC10, and SC11 do not provide for higher density at any cost to adjoining residential communities, including our client's residents' houses sited to the west. The proper application of Policies QH7 and QH8 would require this scheme's density, scale, bulk, and height to be reduced adjoining Cherryfield Avenue Lower/Upper. The quantum of proposed development is excessive (see Sections 7.7 and 7.8 of this Planning Objection Report). Such revisions would be wholly in line with statutory guidance.

At pre-planning stage, DCC raised concerns over the poor quality of many units including wholly north facing units and other with poor amenity including badly positioned and designed windows. This has not been addressed in full because the applicant refuses to adequately revise the SHD and LRD1 schemes. Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens, so the first floor terraces are not required. However, consideration needs to be given to removing the block entirely and inserting an area of public open space that would improve the scheme's interface with the western boundary of the site.

BPS has reviewed the submitted scheme, and we do not consider that strong design reasons have been submitted for doing anything but reducing the scale of the scheme facing our client's residents' properties.

As submitted, the scheme is too close to our client's residents' properties and at too large a scale. It is incentive and unscreened by any trees. The scheme does not have adequate regard for the character and scale of our client's residents' existing properties and no strong design reasons for doing otherwise have been submitted. The proposal, as submitted, is contrary to Objectives QHSN10, SC8, SC10 and SC11 and to Tables 1 and 3 of Appendix 3 of the Development Plan.

7.5.9.7 Proposal contravenes Table 3 of the DCC DCDP 2022-2028

Table 3 'Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale' is contravened in this case. The DCDP states: "All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3".

The applicant's scheme is 140.3 uph which is 20.3 uph above the maximum density permitted in the outer suburbs and vastly more than the minimum.

The scheme would cause an abrupt increase in building density and height relative to adjoining and nearby residential properties at Cherryfield Avenue Lower/Upper. There are protections built into the DCC DCDP 2022-2028 which seek to avoid conflict between proposed building heights and scales which are too high and the protection of the area in which those densities and heights are to be received.

The applicant planning application's attempts to justify the proposed density and building heights on this site are not credible. The submitted proposal negatively impacts on our client's residents' properties.

While it is acknowledged that ground levels on the site change somewhat across the site, there is no amount of rising and falling that can integrate this scheme into the site as it addresses Cherryfield Avenue Lower/Upper.

Our client submits that the following points would suggest the scheme's density should be reduced when Table 3 'Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale' is addressed:

- The site's context is for densities of far under 60 uph – adjoining dwellings at Cherryfield Avenue Lower/Upper are approx. 10 uph to 15 uph. The proposed scheme is 140.3 uph. Some density reduction would make a big difference to our client's residents.
- The site would not contribute to any publicly beneficial and substantial urban design benefits to Cherryfield Avenue Lower/Upper the area that could balance the negative impacts on the residents' adjoining properties.
- Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens, so the first floor terraces are not required. However, consideration needs to be given to removing the block entirely and inserting an area of public open space that would improve the scheme's interface with the western boundary of the site.
- The proposed development would adversely affect the existing residential living conditions of our client's residents to the west through overlooking and/or visual and/or overbearing impacts and/or overshadowing arising from the excessive height, length, bulk, and scale of Blocks D, C and B.
- This would be a 'monolithic' scheme as viewed from our client's residents' dwellings and rear gardens. The scheme would not frame local or wider views; instead, it would impact negatively on those views due to its size and scale. The scheme is not, as currently set out, designed to gently integrate into the area. It would be a domineering visual presence. It would visually enclose our client's residents' properties in an adverse manner.
- The scheme is not of undue civic, social, or cultural importance. It offers no significant new social facilities or culture, education, leisure, or health facilities for existing residents of the area that could not be delivered in a lower density scheme. The scheme offers no new school despite the clear need for school places in this area and the previous objection of the Department of Education.
- The scheme would remove 100s of trees from the Z12 zoned lands within the red line boundary.
- The built environment and/or topography to the west of the site would **not** permit higher development without damaging the appearance or character of the area. This area is comprised of two storey Z2 heritage zoned residential properties.

The positive benefits of the proposal, that of providing housing only, are not of such a significance as to demonstrate that additional density and height is justified.

The applicant site cannot adequately accommodate an over-scaled scheme of either 140.3 uph and proposed building heights of up to 8 storeys in the manner proposed. The proposal's layout and design do not allow for the excessive proposed density and heights at this location:

The applicant Planning Report has sought to focus on their own interpretation of the DCC building density and heights policy and national building height planning policies without adequate regard for the local impacts of that building height on our client's residents' properties, other adjoining properties, and the area.

For the reasons given above, our client submits that the proposed development does not accord with Table 3 'Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale'. The scheme is 15% above the maximum allowable density of 120 uph. The scheme is vastly higher density than the prevailing density to the west.

7.5.9.8 The Block E's west facing 1st fl. terraces are non-compliant with s. 15.9.17 of the DCDP

Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens, so the first floor terraces are not required. However, consideration needs to be given to removing the block entirely and inserting an area of public open space that would improve the scheme's interface with the western boundary of the site.

This is contrary to Section 15.9.17 of the DCDP. DCC states that it will assess such proposals on a case by case basis. BPS notes how the excessively close proximity of the block to the dwellings to the west means that the dwellings and even the block itself would experience adverse overlooking. No mitigation measures are proposed to address a situation whereby the existing dwellings and proposed units would each maintain poor levels of privacy.

The applicant Planning Report argues that this is acceptable, but this is hard to understand when every other apartment block in the scheme (except Block D – see Section 7.7 of this report) is setback further from boundaries and normally with existing trees retained to offer a screened setback.

Cherryfield Avenue Lower/Upper would suffer from Block E's poor siting – despite the size of this site and the existing tree belt – so the applicant can squeeze the block onto only part of the site. This is not acceptable.

7.5.9.9 The proposal is contrary to the open space policies of the DCC DCDP 2022-2028

Our client has reviewed the applicant scheme and find it to be non-compliant with:

- Section 15.8.6 'Public Open Space'. It is recognised that the scheme would offer public open space but this is located around proposed buildings and is disproportionately located to the east of the site. There is a poor distribution with Cherryfield Avenue Lower/Upper served by none. Section 14.7.12 of the DCDP 2022-2028 states:

On Z12 lands, the minimum 25% public open space shall not be split up into sections/fragmented and shall comprise soft landscape suitable for relaxation and children's play, unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 25% minimum public open space shall be apportioned otherwise (emphasis added).

The large area of public open space serves as almost a private parkland area surrounding the scheme's eastern block and its tallest building. It would read as communal open space for use by residents. It is not a pure new park for the area but a building set within open space.

The western part of the site and southwestern part of the site loses any sense of open space. The area is overdeveloped. The masterplan is unbalanced and punishes our client's residents.

A revised masterplan layout is required to address the unbalanced and unfair distribution of public open space to the west of the site. There should be a larger and permanent public open space corridor along the western boundary of the site with new planting to enhance the tree belt that exists at this location.

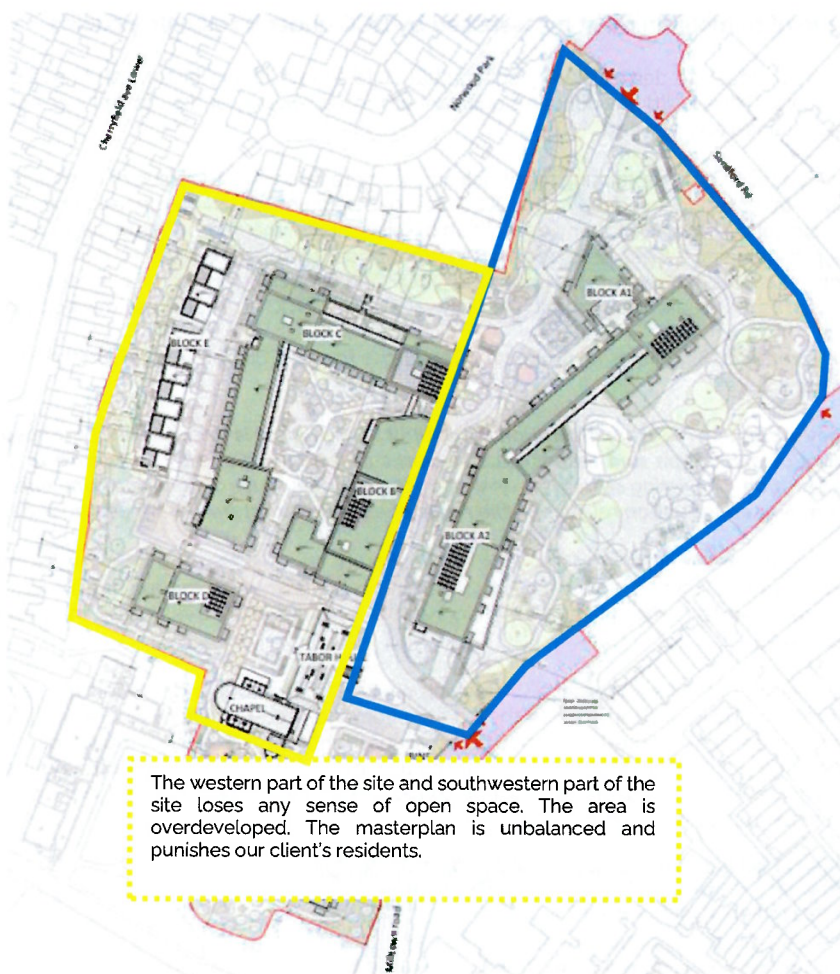


Fig. 29: The scheme's public open space design is unbalanced and unfair to the west of the site

- Section 15.9.8 'Communal Amenity Space'. The scheme's communal open space areas are set within overdeveloped parts of the site. There is no ground level provision for proposed Block A. Suitable provision should be made to provide residents recreational space and act as buffer space to public open space.
- The courtyard area between Blocks D and E, bits here and there, etc. is unsatisfactory on a site this size that there is not more of a hierarchy of communal open spaces which gives a sense of space.
- The private open space proposals pertaining to the duplex units at Block E are not acceptable. The balconies that directly or indirectly face our client's residents' properties to the west from above 2nd storey are not justified as these properties would never be allowed balconies to the rear. There must be a balance in property development rights.

For the above reasons, our client submits that the applicant proposals are contrary to the DCC DCDP's policies on open space provision including with Sections 15.8.6 and 15.9.8.

7.5.9.10 Parking & vehicular access proposals are contrary to Objectives SMT6, 7, 11, 27 & 29

Our client's concerns regarding parking and vehicular access to this proposed scheme as set out in Section 7.12 of this Planning Objection Report. Primarily Block E should be removed as it draws surface parking and traffic into the scheme when this would not be required were the block removed. The DCC objectives SMT6, 7, 11, 27 & 29 make clear that minimum parking is now preferred and that in apartment schemes this should not be at surface level if possible. It is possible to have no surface residential parking in this scheme by removing Block E.

7.5.9.11 The issue of demolition must be assessed by DCC under its climate policies

The applicant has applied to demolish very substantial buildings which are historic and have been on site for many years. These buildings contain significant embodied energy and our client's preference is for them to be retained and re-used.

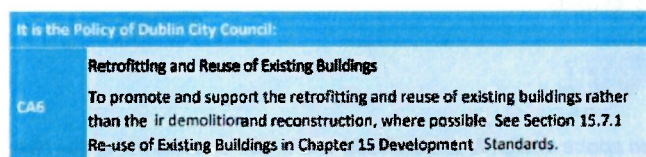
BPS has reviewed the DCC pre-planning feedback and we note that while the issue of demolition is not addressed but is taken as a given despite the DCDP 22-2028 being much stricter on requiring a detailed assessment justification be made for any demolition of this scale on many grounds but also on climate grounds. The pre-planning assessment does not in fact appear to consider whether demolition of the existing structures is or is not acceptable under the DCDP and especially under the climate policies set out therein. It is in fact the case that, as with the Galway By-pass, DCC must address this point in detail.

The DCC DCDP 2022-2028 contains an entire chapter whose focus is 'Climate Action'. Section 3.5.2 'The Built Environment' states:

Another key mitigation measure in relation to the built environment is to ensure that proposals for substantial demolition and reconstruction works can be justified having regard to the 'embodied carbon' of existing structures as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures [emphasis added].

There is no evidence in the submitted planning application to suggest that the proposed substantial demolition works can be justified having regard to the 'embodied carbon' of the existing structures and the resources required to carry out the demolition and to dispose of all the waste. The proposal is contrary to Section 3.5.2.

The proposal is also contrary to Objective CA6 which seeks: "To promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible". The applicant has offered no credible basis for DCC to assess whether the existing buildings could be reused. The starting point is the new scheme and the argument made is that to get the new scheme the old buildings must be removed. This is not correct. The starting point should be whether the buildings can or cannot be retained. If not, why not.

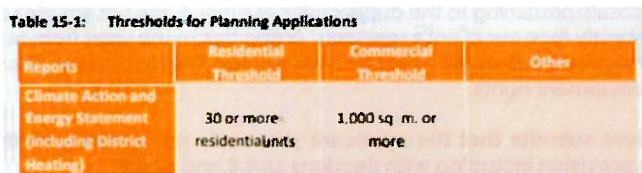


It is the Policy of Dublin City Council:	
CA6	Retrofitting and Reuse of Existing Buildings To promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible. See Section 15.7.1 Re-use of Existing Buildings in Chapter 15 Development Standards.

Fig. 30: Objective CA6 of the DCDP 2022-2028

The proposal is non-compliant with Chapter 15 of the DCDP as address the issue of climate and demolition including with:

- The applicant has in fact failed to submit a properly detailed Climate Action Energy Statement as per Table 15-1 of Chapter 15: 'Development Standards' of the DCDP 2022-2028. The content of the statement is more of a Building Regulations compliance document that a climate statement.



Reports	Residential Threshold	Commercial Threshold	Other
Climate Action and Energy Statement (including District Heating)	30 or more residential units	1,000 sq. m. or more	

Fig. 31: Excerpt from Table 15-1 of the DCDP 2022-2028

- The applicant proposal is non-compliant with Section 15.7 'Climate Action' which sets out the policies and objectives for climate action in the city and states:

*Dublin City Council will encourage the use of sustainable development principles to combat climate impacts in line with the Dublin City Climate Action Plan (2019- 2024) or as amended. **To mitigate against negative climatic impacts, all new developments will be required to demonstrate compliance with the climate action principles set out in Chapter 3 and as detailed below*** [emphasis added].

The applicant has failed to demonstrate compliance with Section 15.7.1 'Re-use of Existing Buildings' which states:

Where development proposal comprises of existing buildings on the site, applicants are encouraged to reuse and repurpose the buildings for integration within the scheme, where possible in accordance with Policy CA6 and CA7. Where demolition is proposed, the applicant must submit a demolition justification report to set out the rational for the demolition having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. Existing building materials should be incorporated and utilised in the new design proposals where feasible and a clear strategy for the reuse and disposal of the materials should be included where demolition is proposed (emphasis added).

Our client can identify no adequate applicant demolition justification which sets out the rational for the demolition having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. The applicant should be re-using the existing buildings and/or its materials.

The DCC planning assessment needs to assess this issue and not to take demolition as a given despite the clearly negative climate impact this will have.

7.5.9.12 The loss of trees is contrary to DCDP planning objectives and policies

The no. mature trees located on the impact G9 zoned lands part of this site are a significant ecological feature in the local landscape and support a significant local wildlife. The proposed development, by reason of its form and layout, would result in the loss or removal of these trees from the site which would be contrary to Section 10.5.7 'Trees', Section 15.6.9 and Objective GL41 'Protect Existing Trees as Part of New Development' of the Dublin City Development Plan 2022- 2028.

7.6 Ground 6: Material contravention for a density of 149.3 uph is unjustified

Our client is aware that other communities in DCC have objected to planning applications on the basis that they contravened building heights in their areas. In many cases, DCC or ABP has granted permission nonetheless and justified this based on the NPF, the Building Height Guidelines, etc.

While our client objects to the 3 to 8 storey buildings proposed in this scheme, the issue is not one of building height per se. If the issue was only height, then a different design might achieve the 3 to 10 storey heights with no negative impacts,

The issue is density. The current scheme is 140.3 uph which is extremely high for this site which faces multiple constraints (despite its size) arising from the Z12 zoning, adjoining Z2 zoned lands to the west, the need to retain trees, the need to try to retain as many older buildings as possible to address climate policy, etc. While DCC may disagree and consider the DCDP now to be performance based, it is nonetheless the case that our client's residents are not planning specialists and expect the DCDP to mean what it says. Table 1 of Appendix 3 of the DCDP allows a maximum density on this outer suburban site of 120 uph. The applicant Planning Report argues that the scheme should be considered a special case and that none of the categories set out in Table 1 apply – this is not acceptable. The Development Management Guidelines require that 3rd parties must be able to understand how decisions are made. This is not an inner suburban or city centre site – it is an outer suburban site. This is the proper category. The DCDP has been written in light of the Building Height Guidelines, the NPF, etc. and it has determined a maximum density of 120 uph for this area. This means the scheme is 15% too dense. This explains why the western areas of the site adjoining Cherryfield Avenue Lower/Upper are so overdeveloped right up to the shared boundary and why there is no public open space or adequate open space on the western side of the scheme.

DCC has noted various concerns by way of pre-planning which all arise from overdevelopment and excessive density such as too many north facing units and insufficient amenity for future residents in various units. These issues arise from excessive density. The applicant has failed to address them and even the 252 trees to be removed despite new climate policies being included in the current DCDP.

To our client's residents, this scheme appears to materially contravene Table 1 by a significant margin. This is achieved by pushing what should be a scheme in a *de facto* park right up close to the western boundary to achieve 140.3 uph.

No statutory process has taken place to date since the adoption of the new DCDP under which our client could have reasonably set out their residents' concerns and opposition to any designation, policy or objective being included in the DCDP to allow densities of above 120 uph on this site.

Our client submits that the proposed development is massive in scale and should not be hurried through the planning process. To our client, the proposal to materially contravene the DCDP to facilitate this scheme would represent an undue and unwarranted departure from standard planning practice in the city and set a precedent for other new (previously institutional) landowners to try to do likewise.

The following points confirm why material contravention is unjustified:

1. The site adjoins Z2 zoned lands. Areas of the development proposed to the west are not in accordance with protecting these heritage zoned areas of the site and/or those of our client's residents' adjoining properties because they fail to protect and/or improve residential amenity. These areas are highlighted throughout this Planning Objection Report.
2. In the DCDP, the site is not given any special building height or density designation.
3. APPENDIX 3 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' does not refer to our client's area or to the applicant site as one suitable for a density of 140.3 uph.
4. "Outer Suburbs" are not defined in the DCDP but they are different to inner suburbs, the city centre, etc. They are the area with the lowest existing densities.
5. Table 3: 'Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale'. For the reasons set out in this Planning Objection Report, our client submits that the Applicant site does not meet the following criteria and should therefore provide for no more than 120 uph:
 - The proposal **does not** "respect and/or complement existing and established surrounding urban structure, character and local context, scale and built and natural heritage and have regard to any development constraints".
 - The proposal **would not** "have a positive impact on the local community and environment and contribute to 'healthy placemaking'".
 - The proposal **would not** "enhance the quality design of the area".
 - The proposal **would not** "be appropriately located in highly accessible places of greater activity and land use intensity".
 - The proposal **would not** "have sufficient variety in scale and form and have an appropriate transition in scale to the boundaries of a site/adjacent development in an established area".
 - The proposal **would be "monolithic"** with a large over-scaled blocks.
 - The proposal **would be over-scaled** as it addresses the adjoining road to the north and as it addresses adjoining properties.
 - The proposal **would produce "canyons"** of excessive scale and overbearing adjoining or opposite existing residential properties to the north, south and west.
 - The proposal **would compromise** the ability of existing buildings and adjoining lands to achieve passive solar gain and the scheme would cause negative overshadowing.
 - The proposal would **impact negatively** on Z2 zoned lands.
 - The proposal offers **poor internal open spaces** for use by future residents.
 - The proposal **removes trees** sited within Z12 zoned land.

Our client submits that the implications for this scheme arising from the publication of the DCC DCDP 2022-2028 is that it cannot be permitted as it fails to comply on the grounds of density. The proposal is 24% too dense and should be reduced in scale, bulk, length and massing with public open space provided to the west.

7.7 Ground 7: Scheme would negatively impact existing residential & visual amenities

BPS has viewed the applicant's LRD2 scheme plans and we have carried out a site visit.

Our client's residents consider that the applicant proposals would impact negatively on the residential and visual amenities of their Z2 zoned properties including rear elevations and rear gardens sited to the west.

The Z2 zoning of our client's residents' properties requires that their amenities and the quality of their area be protected from adverse impacts. The properties most impacted by Blocks C, D, B and E would be Nos. 1-19 and Nos. 28-33 Cherryfield Avenue Lower/Upper.

We consider that, as proposed, the siting, design, height and scale of the proposed development relative to Cherryfield Avenue Lower/Upper would, given the limited setback to adjoining and nearby properties cause negative, and permanent impacts on our client's residents' existing and established residential and visual amenities. The following concerns arise.



Fig. 32: Client's resident's properties relative to the cumulative scale, massing & height of the scheme

7.7.1 Negative amenity impacts on arising from Block E on Cherryfield Avenue Lower/Upper

The existing 2 storey Cherryfield Avenue Lower/Upper properties are proposed to adjoin – to the east – Block E which comprises two storey dwellings with large first floor terraces and tiny rear gardens.

Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens, so the first floor terraces are not required. However, consideration needs to be given to removing the block entirely and inserting an area of public open space that would improve the scheme's interface with the western boundary of the site.

The following concerns arise.

7.7.1.1 All existing trees & vegetation sited to the east of client properties should be p.o.s.

Our client's residents most impacted by Block E are shown in Fig. 33. These are modest properties which maintain limited depth rear gardens. Rear returns extend some distance into the rear gardens. The claimed setbacks from Block E to these properties need to be viewed in this context. The limited existing vegetation including trees sited to the east of our client's residents' rear gardens is to be

retained; however, it is not to be an area of public open space. The area is not large enough to mitigate Block E's tiny rear garden depths and first floor terraces. Block E's 1st floor and terraces would be highly visible from and overlook and overbear onto our client's residents' properties.

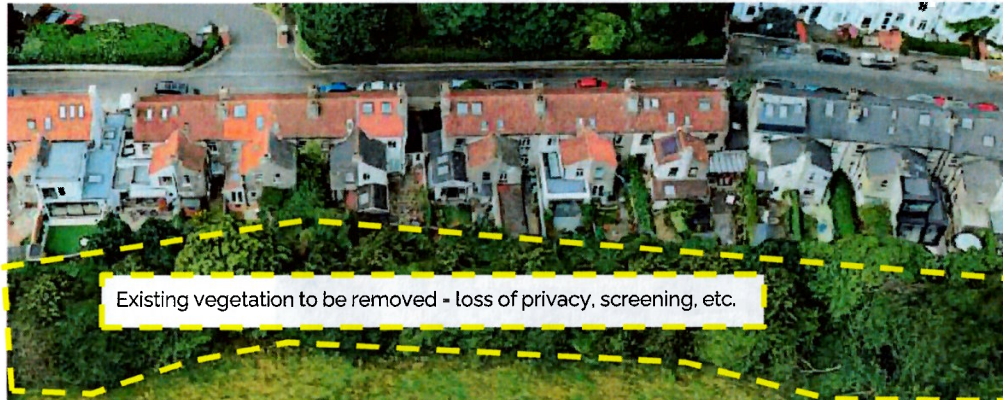


Fig. 33: Client's residents most impacted by Block E

7.7.1.2 Block E's rear garden depths are too small

Our client's residents object to how the applicant has now retained the tree buffer to the western boundary but they have proposed rear garden depths for Block E which are extremely tiny. The result is that Block E is still sited too close to our clients' residents' property boundaries. Too close that is for the first floor terraces to be mitigated.

Block E's rear garden depths fail to offer any sufficient mitigating distance to ameliorate amenity impacts arising for our client's residents' properties from the first floor terraces.

Consideration should be given to removing Block E and providing a large area of public open space in its place. Blocks C and B are massive, and large setbacks are needed to these.



Fig. 34: Block E's rear garden depths are tiny

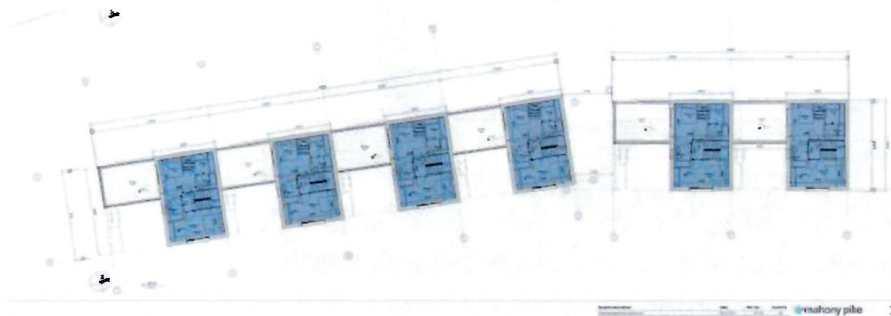


Fig. 35: Block E's proposed first floor terraces sited too close to the western site boundary



Fig. 36: Scheme elevation and Block E facing client's residents' properties

7.7.1.3 The calculated setbacks include tiny Block E gardens & the tree buffer

The applicant has re-designed and re-sited Block E. There is now a tree buffer shown to the rear of Block E which adjoins the western boundary of the site. The problem arising is that the applicant has decided to provide Block E with tiny and shallow rear gardens. Block E should be setback at least 7m to 11m from the tree buffer. Indeed, Block E could reasonably be removed and the area replaced with public open space so as to offer an adequate setback to Block C. The scheme looms over our client's residents' properties.

The issue with Block E is that the applicant is still trying to squeeze the block in and has added first floor terraces which are over 20sq.m in size. These are wholly unacceptable given the setbacks to the western boundary. Block E's location is unacceptable. It should be removed.

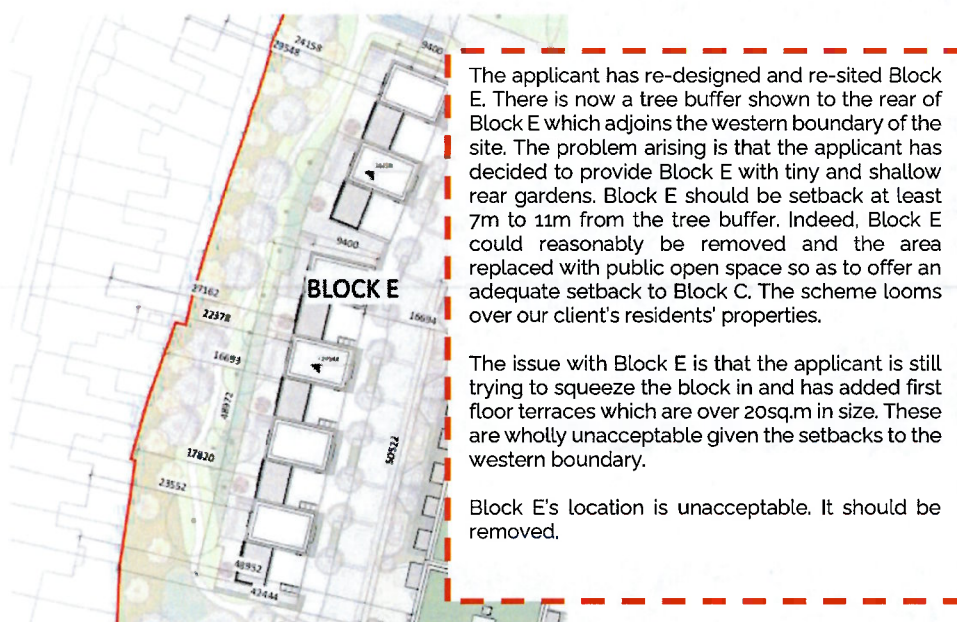


Fig. 37: The setback area is misleading and poorly considered

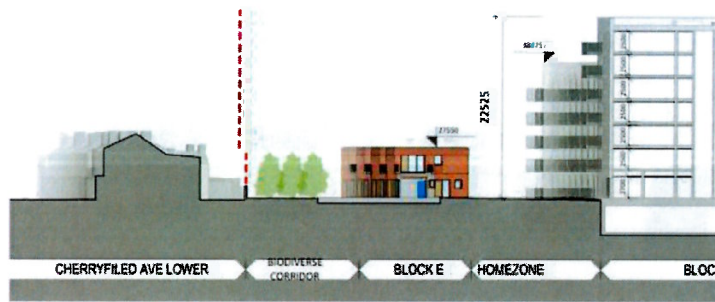


Fig. 38: Cross section does not show Block E's tiny rear gardens

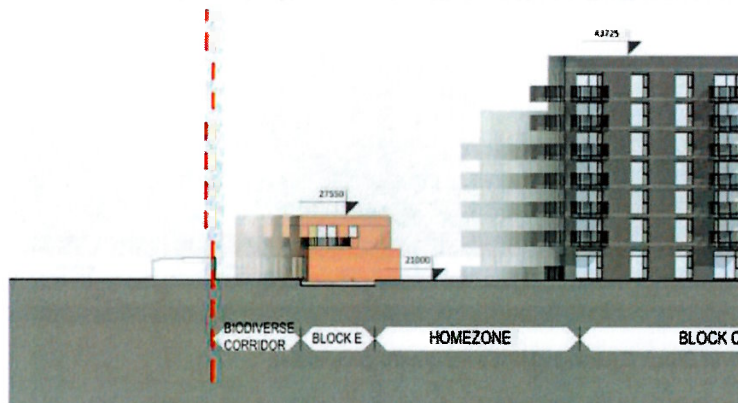


Fig. 39: Cross section does not show Block E's tiny rear gardens

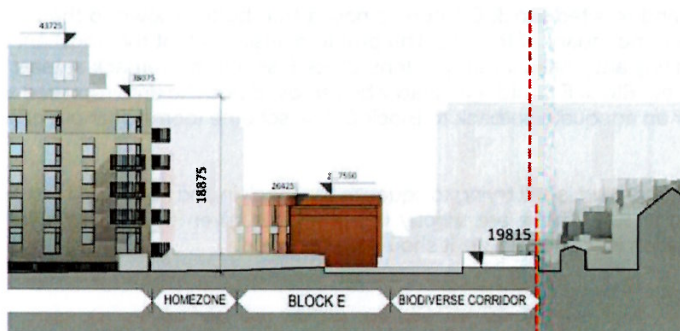


Fig. 40: Cross section does not show Block E's tiny rear gardens

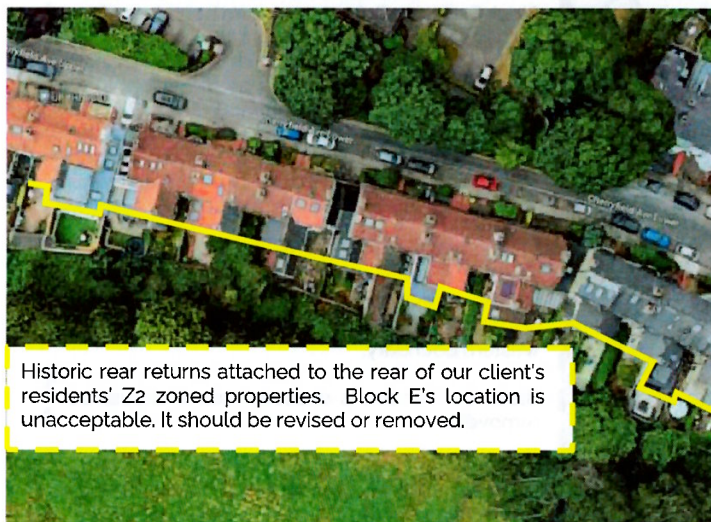


Fig. 41: The existing building line of the rear returns attached to each client's dwelling

7.7.1.4 Block E is too close to the western boundary to include first floor terraces

Our client's residents would face a Block E whose total cumulative length is 70m to 75m. While there is a small break in the middle of the block, this would only perhaps be visible by those properties directly to the west. Most would view Block E as an unbroken continuous block.

This continuous block maintains first floor terraces spaced out at intervals along the first floor. The applicant is essentially proposing viewing galleries into our client's residents' properties. These terraces are not acceptable and should be removed.

Block E is not acceptable as proposed. The block is too close to the boundaries to the west, too long, and contains first floor terraces.



Fig. 42: Block E will be viewed as a continuous block by most properties to the west and is multiple first floor terraces would cause adverse overlooking

7.7.1.5 Negative visual overbearing/obtrusion impacts arise from Block E

Our client's residents consider that the proposed Block E is sited too close to their properties to allow first floor terraces to be included. As a continuous block this represents substantial scale at this location. The first floor would cause negative overbearing, and visual obtrusion impacts on the existing 2 storey residential dwellings and rear gardens to the west. It is sited on two ground levels. One section is raised and would have more of an adverse impact.

Block E needs to be setback with longer rear gardens and to have its first floor terraces removed.



Fig. 43: Block E's two different ground levels have not been addressed by the applicant – first floor terraces are too high and will cause adverse overlooking



Fig.44: Excessively close proximity of the 2 storey Block Eto clients residents' properties

7.7.1.6 Excessive congestion of buildings in the area of Block E adjoining client properties

The proposed siting of Block E would create a congested and overdeveloped area adjoining client properties. Fig. 45 shows how the block is to be inserted alongside our client's resident's properties a ndto the south of Norwood Park. Block E would represent overdevelopment of this area of the site.



Fig. 45: Siting of Block E would create a congested & overdeveloped area adjoining client properties

7.7.1.7 Negative overlooking and perception of overlooking concerns arise

Our client's residents to the west accept that the area of the subject site located closest to their properties is suitable for 2 storeys and, with adequate setbacks of 22m between first floor windows.

Block E's current design is not acceptable as it includes first floor terraces. They have significant concerns over these terraces as they would directly overlook their properties and/or cause the perception of constant overlooking thereby negatively impacting the existing levels of privacy enjoyed by their properties.

Under LRD1, the applicant's Section 3.5 'Height Strategy - Separation Distances - Cherryfield Avenue' of its Design Statement stated: "The potential issue of overlooking has been addressed by removing any upper level rear facing private amenity space or terraces looking West". The applicant has now decided to re-open this issue and to provide first floor terraces in lieu of adequately sized rear gardens.

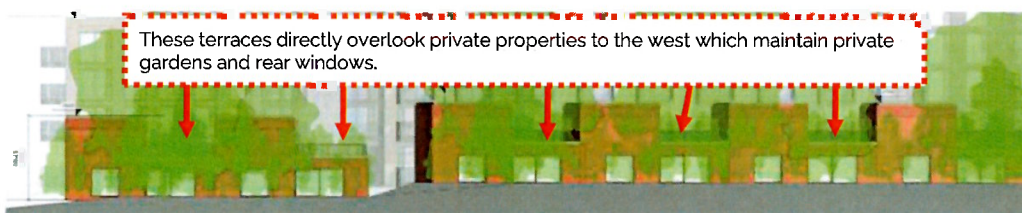


Fig. 46: Siting of first floor storey overlooking terraces facing client properties

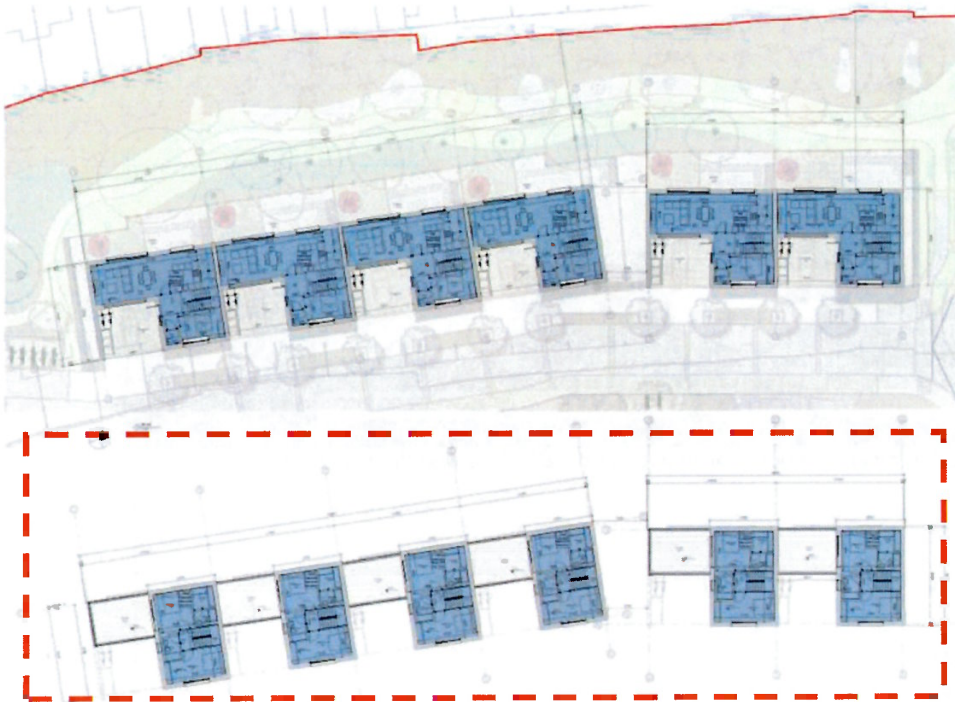


Fig. 47: Rear overlooking 1st floor terraces facing client properties

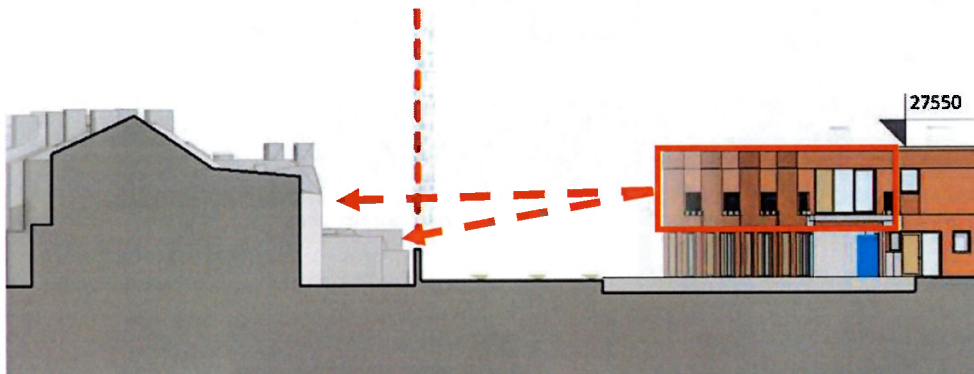


Fig. 48: Direct unmitigated overlooking from Block E's first floor terraces

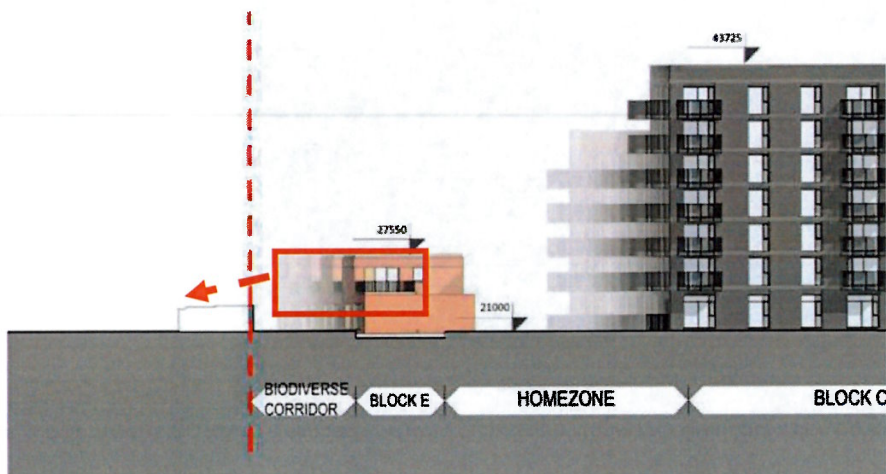


Fig. 49: Direct unmitigated overlooking from Block E's first floor terraces

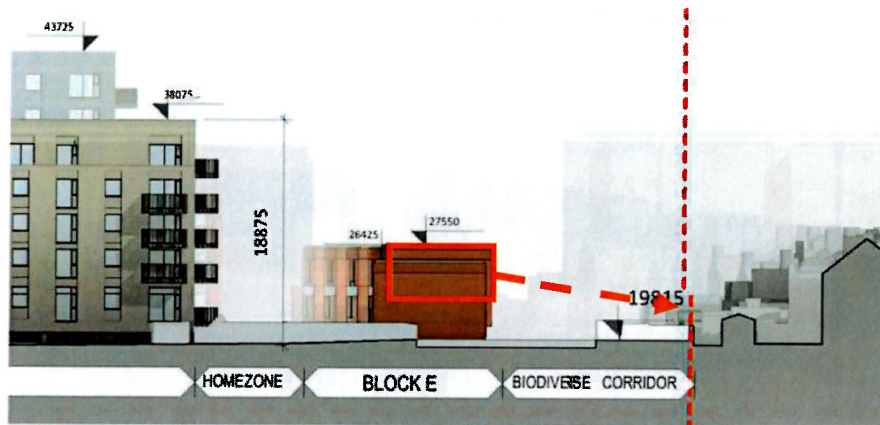


Fig.50: Direct unmitigated overlooking from Block E's first floor terraces

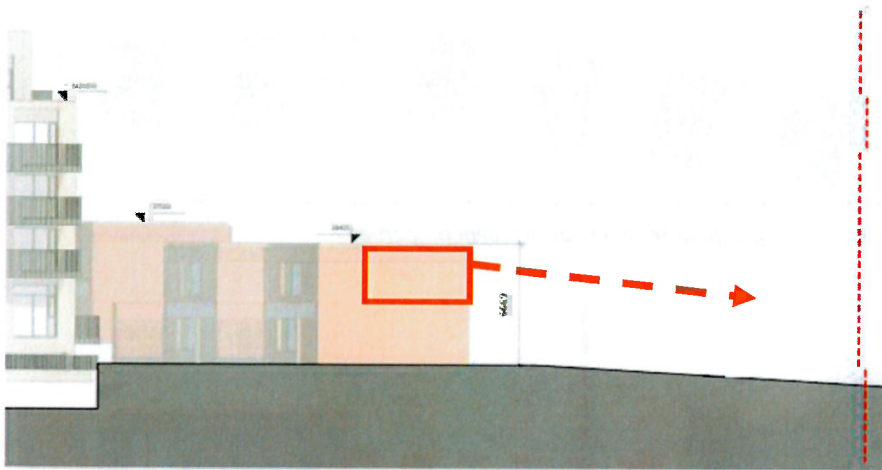


Fig.51: Direct unmitigated overlooking from Block E's first floor terraces



Fig. 52A: Overlooking windows in CGI image benefiting from perspective – Block C is shown, where is Block E?



Fig. 52B: Overlooking windows in CGI image benefitting from perspective – Block C is shown, where is Block E?

7.7.1.8 Conclusion regarding Block E's adverse residential and visual amenity impacts

Block E has been re-sited and re-designed. However, its rear gardens are not deep enough, and the block has first floor terraces which will cause overlooking. The block needs to be setback into the site to allow 11m rear gardens, so the first floor terraces are not required. However, consideration needs to be given to removing the block entirely and inserting an area of public open space that would improve the scheme's interface with the western boundary of the site.

7.7.2 Negative amenity impacts on arising from Block D on Cherryfield Avenue

The existing 2 storey Cherryfield Avenue Lower/Upper properties are proposed to adjoin – to the east – Block D which comprises a single large scale block. The following concerns arise.

7.7.2.1 All existing trees and vegetation sited to the east of client properties to be removed

Our client's residents most impacted by Block D are shown in Fig. 53 (and the existing views from their properties are shown in Appendix 1 of this report). These are modest properties which maintain limited depth rear gardens. Rear returns extend some distance into the rear gardens. The claimed setbacks from Block D to these properties need to be viewed in this context. Further, the existing vegetation including trees sited to the east of our client's residents' rear gardens is all to be removed from within the applicant site. The result of this is that Block D will not be mitigated by this existing vegetation and existing privacy will already be diminished by its loss. Block D's upper storeys - above 2nd storey - would be highly visible from and overlook and overbear onto our client's residents' properties.



Fig.53: Client's residents most impacted by Block D

7.7.2.2 The proposed setbacks to the western site boundary from Block D are too small

Our client's residents object to how the applicant has decided to provide setbacks from the western boundary to Block D of a minimum of 19.465m. The standard rear garden depth of a two storey dwelling is generally 11m. The proposed setbacks from this apartment block are approx. this but this is a large apartment block. Such a limited setback distance is unacceptable. It fails to offer any sufficient mitigating distance to ameliorate amenity impacts arising for our client's residents' properties.

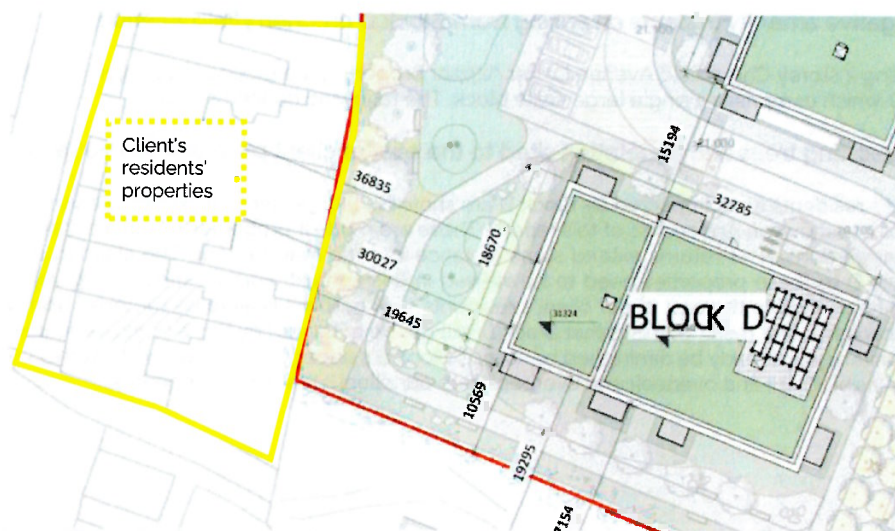


Fig. 54: The setback area is too thin and does not offer sufficient mitigation to Block D



Fig. 55: The setback does not offer sufficient mitigation to the 3 and 5 storey Block D

7.7.2.3 The scale of Block D as viewed from the west is excessive

Our client's residents would face a Block D whose west elevation is 16.67m wide or 19.69m wide (with 1.5m wide side balconies added) and which extends initially to 3 storeys at 11.030m tall and then to 5 storeys at 16.955m tall.

While there is a setback to levels 4 and 5, the 3rd storey is simply too tall at its proposed location. Block D should be 2 storeys and then 4 storeys.

Block D is not acceptable as proposed. The block is too close to the boundaries to the west, too tall and too over-scaled to be sited as proposed.



Fig. 56A: Scale of client properties relative to Block D



Fig 56B: Scale of client properties relative to Block D

7.7.2.4 Negative visual overbearing/dominance/obtrusion impacts arise from Block D

Our client's residents consider that the proposed 3 and 5 storey Block D is sited too close to their properties to allow anything above 3rd storey to be included – even then the 3rd storey should be setback as per the proposed 5th and 5th storeys. Block D represents substantial scale at this location. The 3rd, 4th and 5th storeys would cause negative overbearing, visual dominance and visual obtrusion impacts on the existing 2 storey residential dwellings and rear gardens to the west. The block is 11.030m and 16.955m tall with a flat roof. Both sections of the building tower over even the apex of the pitched roofs of our client's residents' dwellings.



Fig. 57: Block D maintains 18.67m wide elevations up to 3 and 5 storeys metres from private rear gardens

7.7.2.5 Negative overlooking and perception of overlooking concerns arise

Our client's residents to the west do not accept that the area of the subject site located closest to their properties is suitable for 2 storeys and, with adequate setbacks of 22m between first floor windows, believe that dwellings could be successfully inserted into the area of proposed Block D.

They have significant concerns however over any storey(s) above 1st floor as these would directly overlook their properties and/or cause the perception of constant overlooking thereby negatively impacting the existing levels of privacy enjoyed by their properties.

The residents have reviewed Block D and they offer the following comments regarding the following storeys:

Storeys 1 and 2 – These storeys are accepted subject to retaining the existing tree belt.

Storey 3 – This storey is not accepted. A west elevation length of over 18.67m including side balconies offers overlooking windows to the west elevation of Block D. North and south facing balconies will allow

overlooking to the southwest and northwest. The windows directly overlook private properties to the west which maintain private gardens and rear windows. The proposed setbacks to these private properties are insufficient to mitigate the overlooking, perception of overlooking and privacy impact arising from this storey (see Fig. 58). This storey should be removed and replaced by the setback 4th storey.

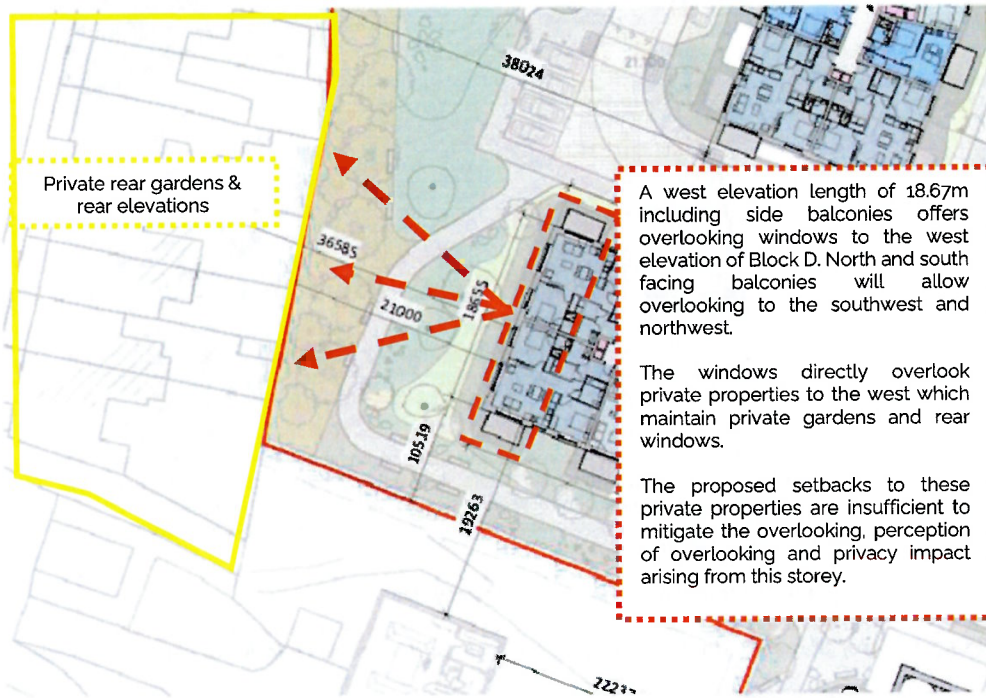


Fig. 58: Siting of 3rd storey overlooking windows and balconies relative to client properties

Storeys 4 and 5 – These setback storeys are not accepted as a 4th storey; however, one would be acceptable as a 3rd storey in a 3 storey only building. While it is acknowledged that the setback to the 4th storey prevents views from the central windows in the west facing elevation, it does not prevent northwest and southwest views from living room windows and balconies (on the north and south elevations). The setback does not prevent downward views from the 5th storey windows and balconies (see Fig. 59). It also does not address concerns as to the perception of overlooking.

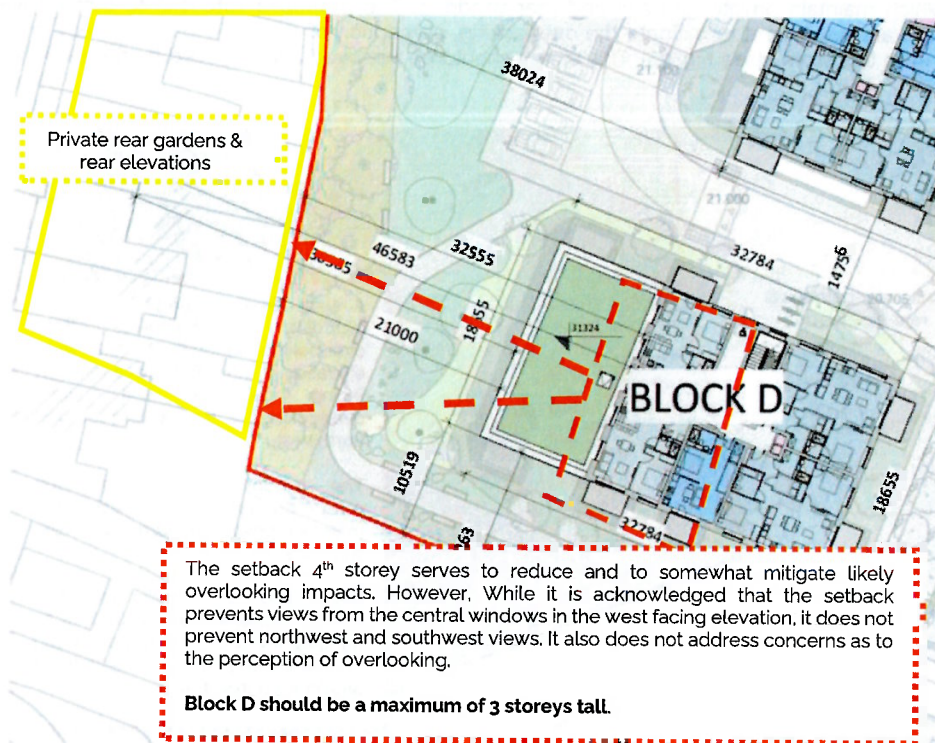


Fig. 59: Siting of 3rd and 4th storey overlooking windows and balconies relative to client properties



Fig. 60: Siting of 4th and 5th storey overlooking windows and balconies relative to client properties

7.7.2.6 Negative overshadowing concerns arise

The applicant's Block D is sited to the east of our client's residents' properties sited to the west of the block; therefore, the issue of overshadowing cannot be ignored.

BPS has reviewed the proposed development on www.sulcalc.org for the 11.03m tall and the 16.955m tall sections of the building and we find:

March and September 21st: From sunrise until nearly 10am, Block D would cause overshadowing of our client's residents properties sited to the west, southwest and northwest. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The setting back of the 3rd storey and removal of the 4th and 5th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.

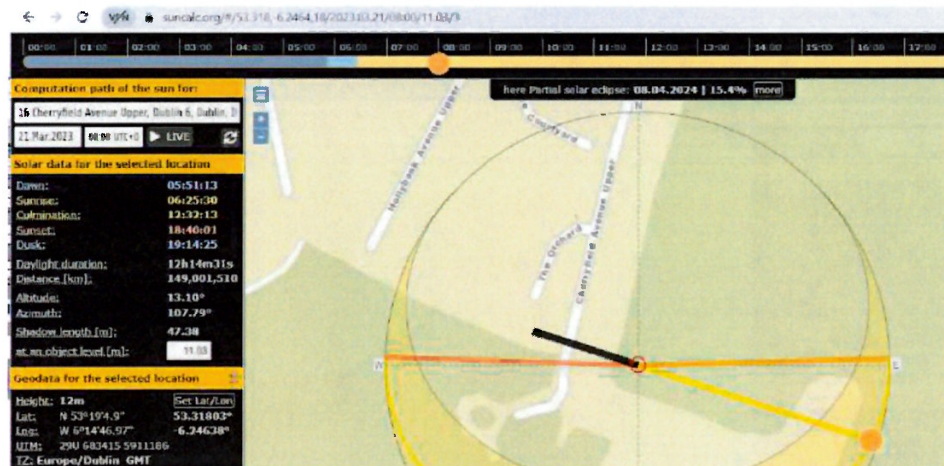


Fig. 61: Block D's 3 story section proposed shadow at 8am on March and September 21st

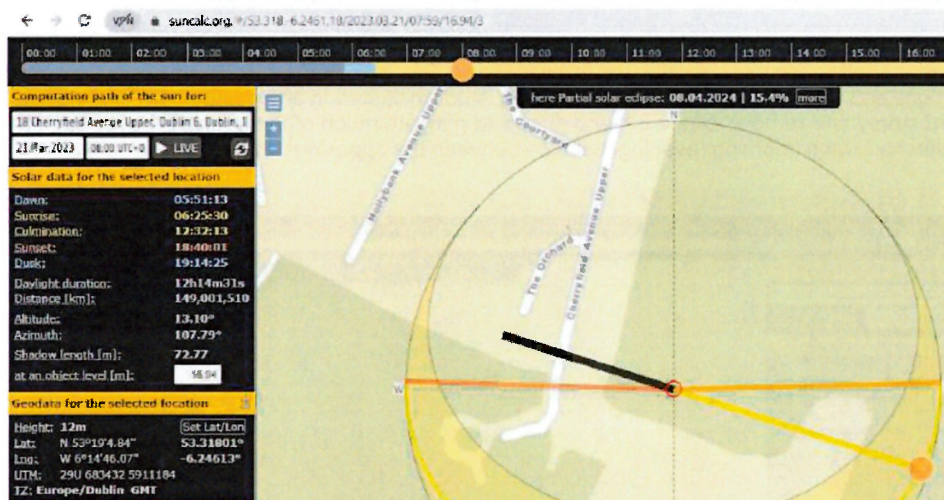


Fig. 62: Block D's 5 story section proposed shadow at 8am on March and September 21st

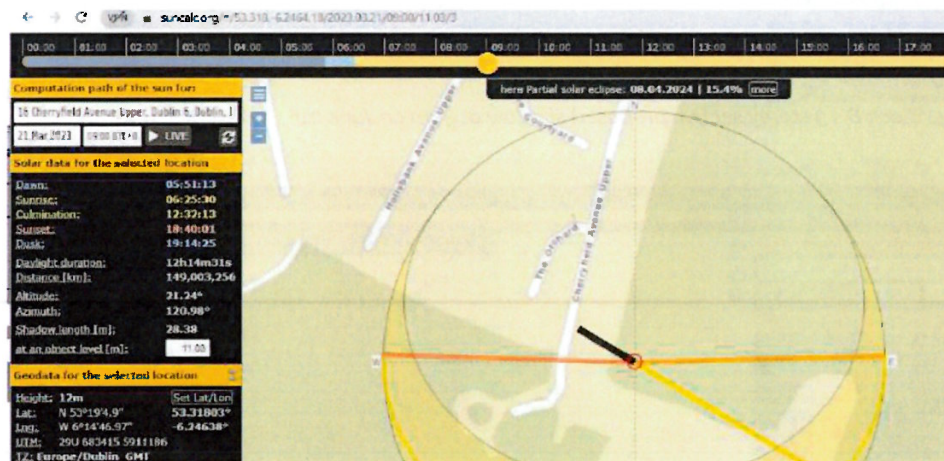


Fig. 63: Block D's 3 storey section proposed shadow at 8am on March and September 21st

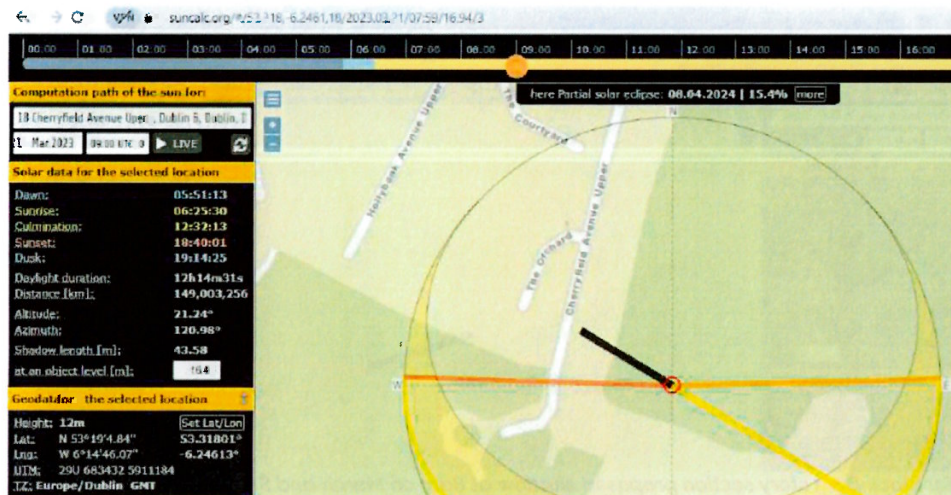


Fig. 64: Block D's 5 storey section proposed shadow at 9am on March and Septem b^r 21st

June 21st: From sunrise until nearly 10 am, Block D would cause overshadowing of our client's residents properties sited to the west, southwest and northwest. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The setting back of the 3rd storey and removal of the 4th and 5th would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.

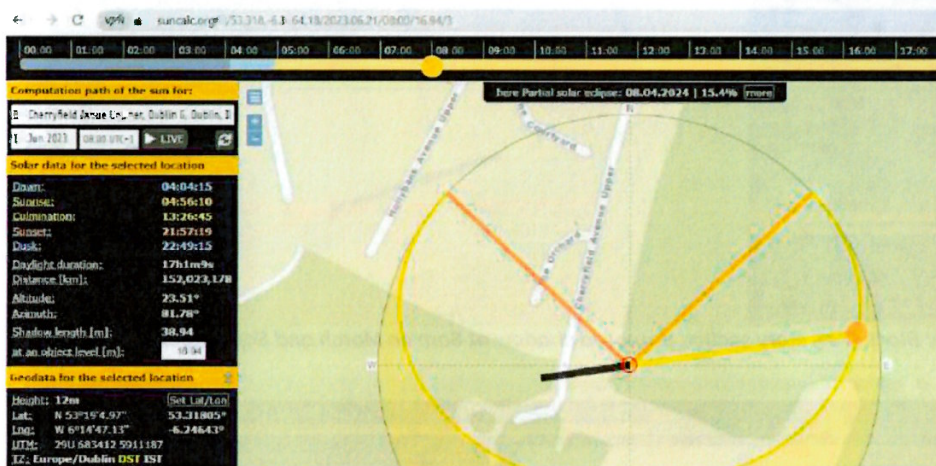


Fig. 65: Block D's 3 storey section proposed shadow at 8am on June 21st

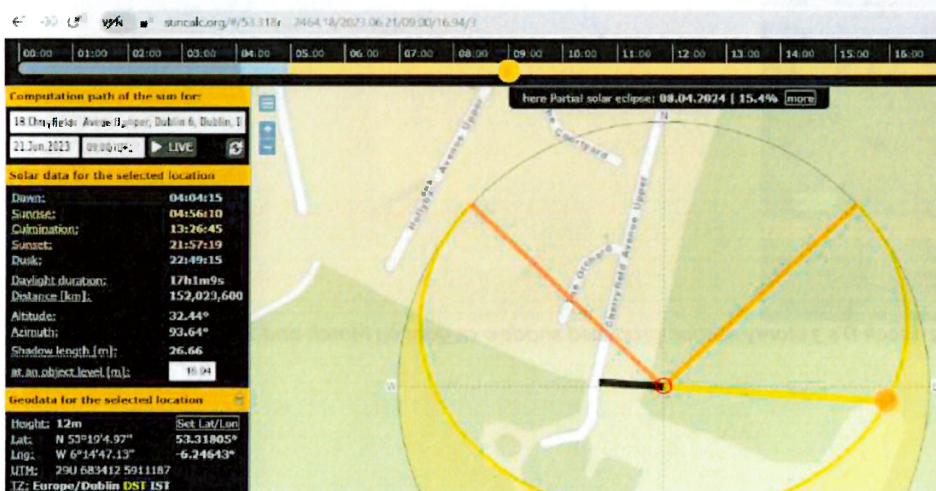


Fig. 66: Block D's 3 storey section proposed shadow at 9am on June 21st

December 21st: From sunrise until nearly noon, Block D would cause overshadowing of our client's residents properties sited to the west, southwest and northwest. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The setting back of the 3rd storey and removal of the 4th and 5th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.

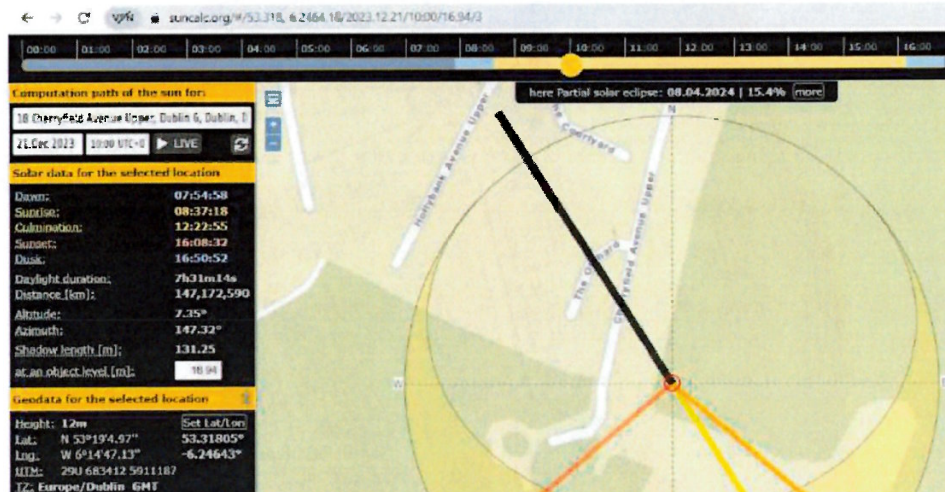


Fig. 67: Block D's 3 story section's proposed shadow at 10am on December 21st

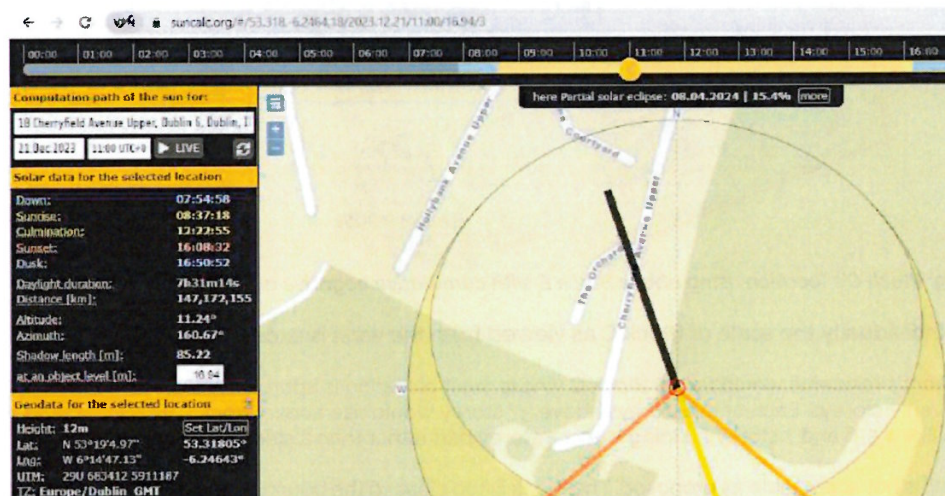


Fig. 68: Block D's 3 story section's proposed shadow at 12 noon on December 21st

7.7.2 Conclusion regarding Block D

To reduce negative visual overbearing/dominance/obtrusion impacts, the overlooking impacts and overshadowing impacts on our client's residents, Block D needs to be setback at 3rd storey level from the west and the 4th and 5th storey removed. This would provide a fair balance between our client's street and this new scheme. Block D would be a mix of 2 and 3 storeys while our client's residents' dwellings are 2 storeys only and setback fair distances from the applicant's site boundary.

7.7.3 Negative amenity impacts on arising from Block C on Cherryfield Avenue

Block C is located approx. 38m to 41m from the rear garden boundaries of our client's resident's properties. It is a large scale block in two sections. The northern Block C maintains a gable end to the west while the southern section comprises a very long unbroken elevation.

Block C presents a range of amenity concerns for our client's residents. They consider that Block C when added to Blocks D and E represents overdevelopment of the site as they would experience it. The following are the main concerns.

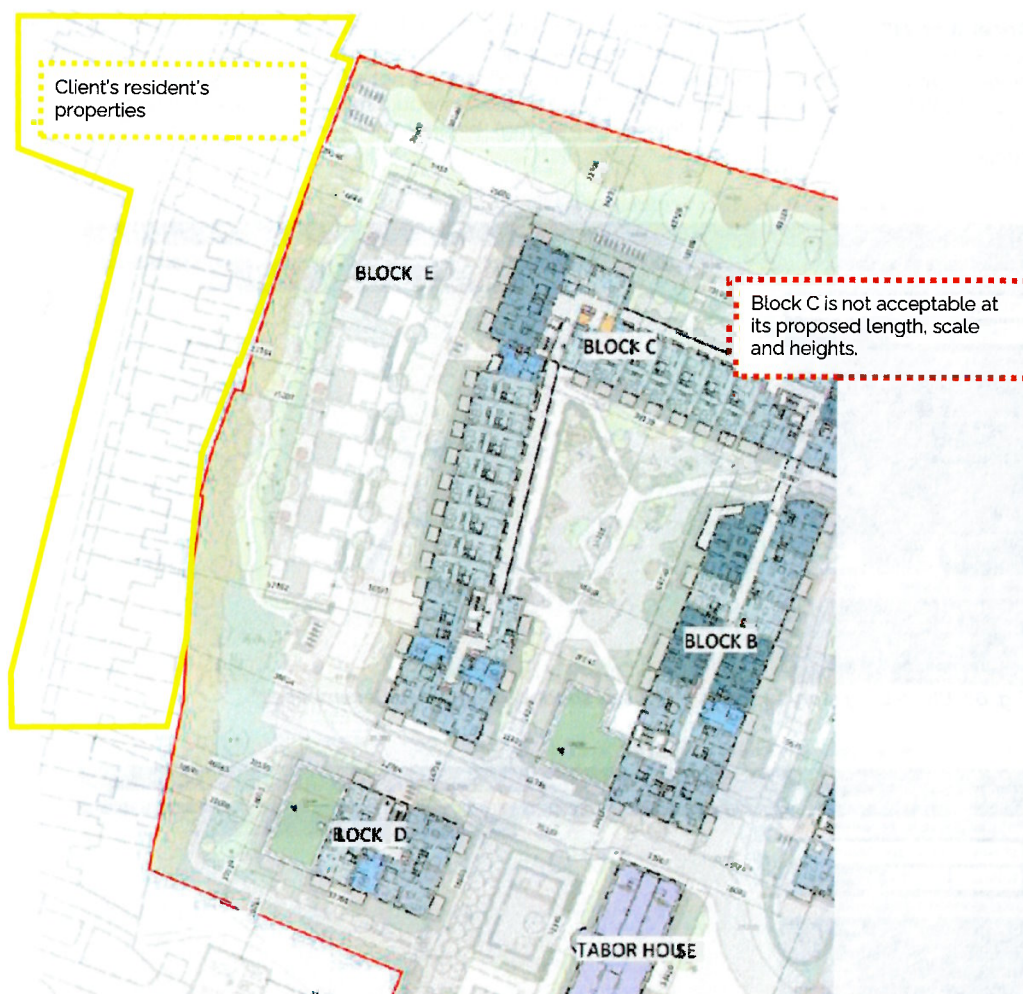


Fig. 69: Block C's location rising above Block E with cumulative negative amenity impacts arising

7.7.3.1 Individually the scale of Block C as viewed from the west is excessive

Our client's residents would face a Block C whose west elevation is approx. 77m wide and rises to 5, 6 and even 7 storeys. Each of the storeys above 3rd storey would rise above Block E. Block E would look much like a 5, 6 and 7 storey building with a 2 storey part rather than a standalone 2 storey building.

Block C is not acceptable as proposed. The block is too close to the boundaries to the west, too tall and too over-scaled to be sited as proposed.

7.7.3.2 Cumulative over-scaling & overdevelopment of the site as viewed from the west

Block C rises up above Block E and as such, as read from our client's resident's properties, it continues to what they all consider it to represent cumulative over-scaling and overdevelopment of the site as it would be viewed from the west. Block C would appear as part of Block E in views from rear windows and rear gardens.



Fig. 70: Block C rising above Block E with Block B rising above it at 8 storeys

Our client has reviewed Section 4.2 'Massing Strategy' of the Applicant Design Statement. This offers no adequate public open space along the western boundary. The tree belt is retained but there is no large area of public open space proposed to offer an adequate setback to Block C. Instead, it just offers 2 and then 5, 6, 7 and 8 storeys of buildings with greater heights again to the east of the site.

The extent of massing of buildings which would be visible from the rear of Cherryfield Avenue Lower/Upper properties would be excessive.

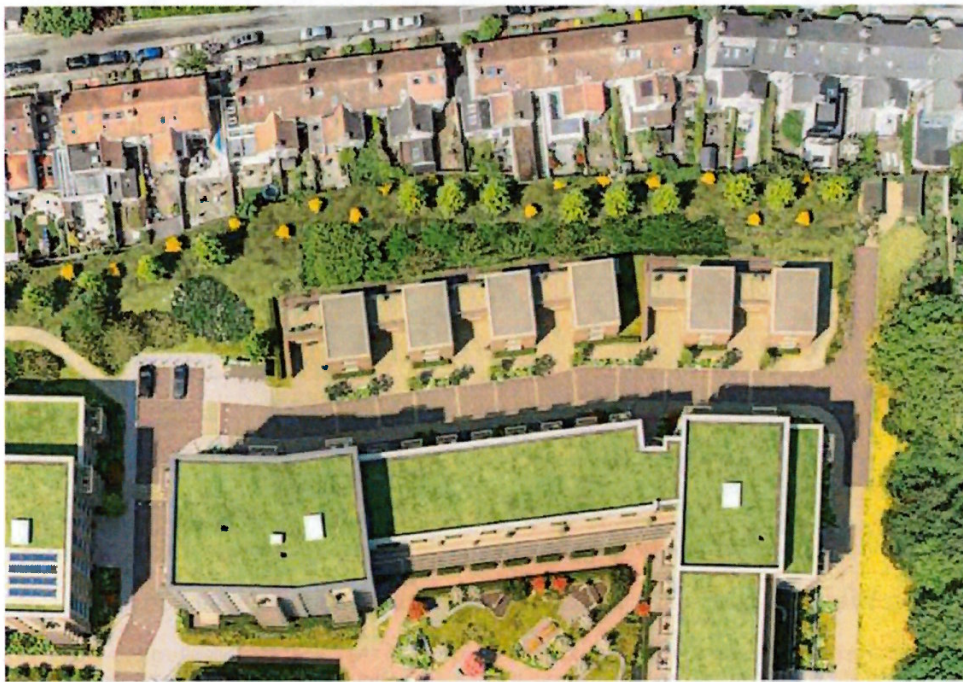


Fig. 71: Block C's location rising above Block E with cumulative negative amenity impacts arising



Fig.72: Block C's location rising above Block E with cumulative negative amenity impacts arising

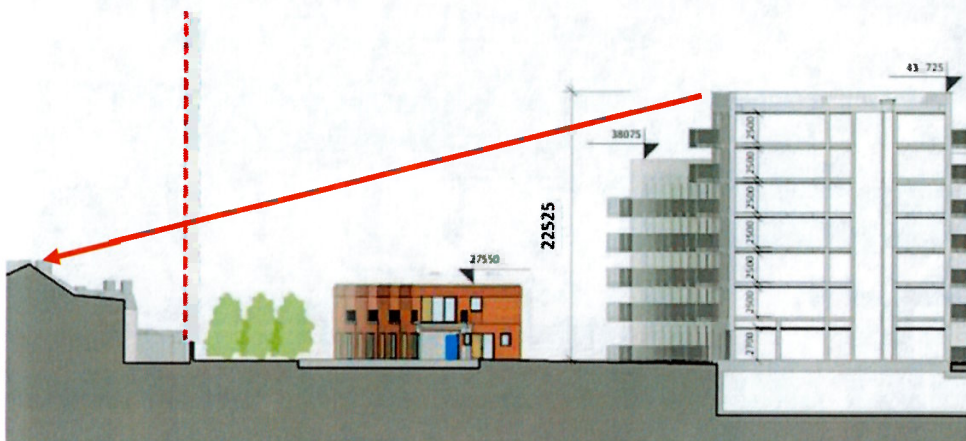


Fig. 73: Unmitigated vista of massive buildings rising up to the west of client's residents' properties

7.7.3.3 Negative visual overbearing/dominance/obtrusion impacts arise from Block C

Our client's residents consider that the proposed 5, 6 and 7 storey Block C is sited too close to their properties to allow anything above 4 storeys to be included. Block C represents substantial scale at this location. The 6th and 7th storeys would cause negative overbearing, visual dominance and visual obtrusion impacts on the existing 2 storey residential dwellings and rear gardens to the west. The building towers over even the apex of the pitched roofs of our client's residents' dwellings. Block C is over 95m wide.

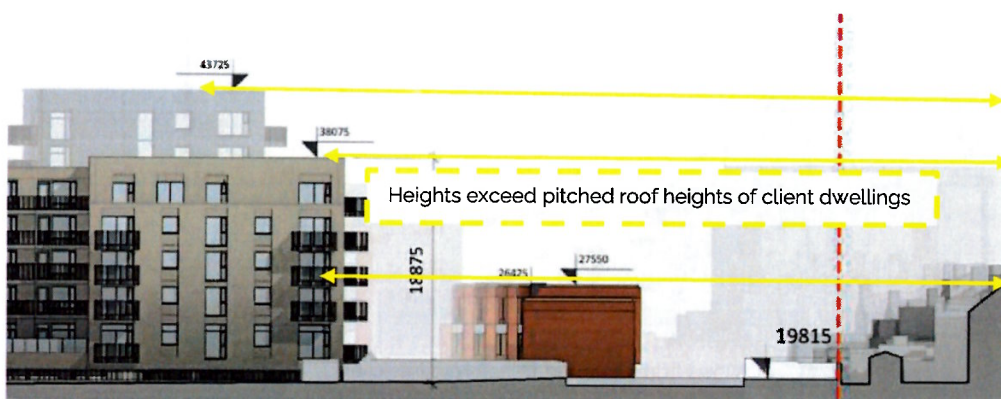


Fig. 74: Block C maintains an approx. 95m wide west elevation up to 7 storeys

7.7.3.4 Negative overlooking and perception of overlooking concerns arise

Our client's residents to the west accept that the area of the subject site located closest to their properties is suitable for 2 storeys and, with adequate setbacks of 22m between first floor windows, believe that dwellings could be successfully inserted into the area of proposed Block D.

They have significant concerns however over any storey(s) above 1st floor as these would directly overlook their properties and/or cause the perception of constant overlooking thereby negatively impacting the existing levels of privacy enjoyed by their properties.

The residents have reviewed Block D and they offer the following comments regarding the following storeys:

Storeys 1, 2 and 3 – These storeys are accepted.

Storeys 4 and 5 – These storeys are accepted but they will cause adverse impacts. A cumulative west elevation length of approx. 77m offers overlooking windows and multiple overlooking balconies to the west elevation of Block C. Some windows and balconies directly overlook private properties to the west which maintain private gardens and rear windows. While Block E may prevent some westward views, it will not prevent all and certainly not from the 5th storey. Block C is sited and designed to treat our client's residents' residential area as their view.

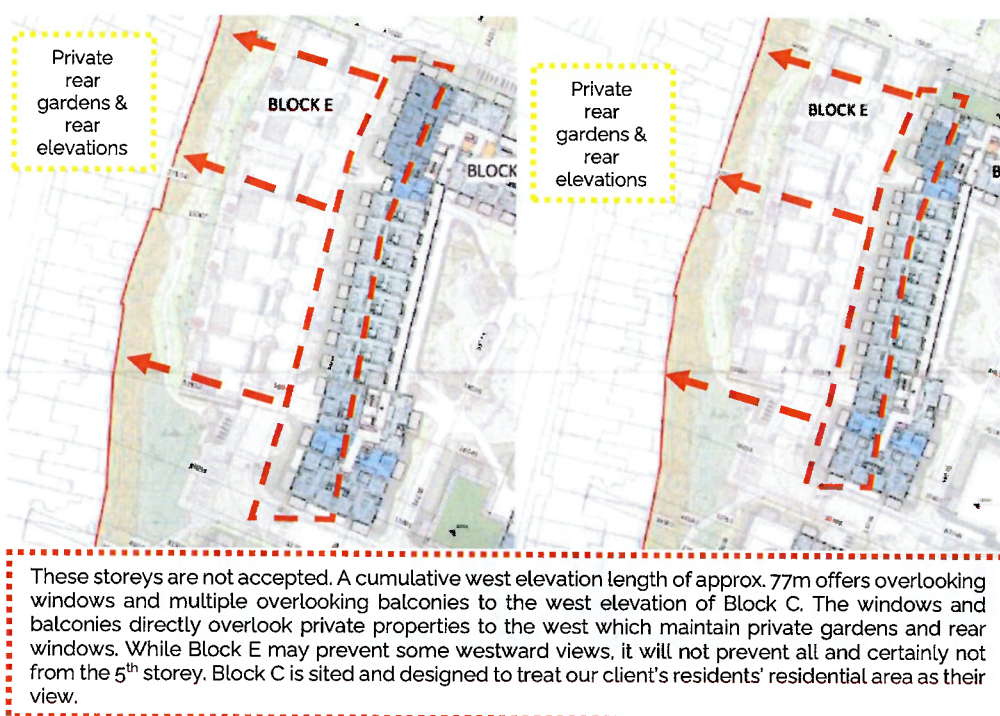


Fig. 75: Siting of 4th and 5th storey overlooking windows and balconies relative to client properties

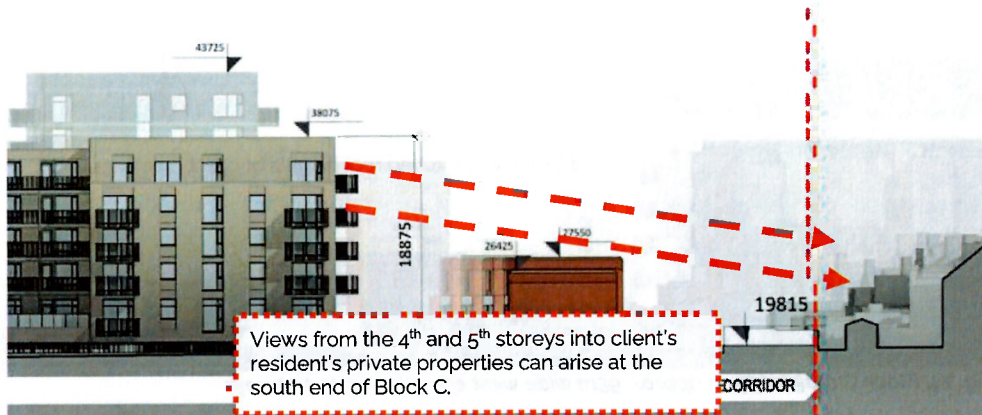


Fig. 76: Siting of 4th and 5th storey overlooking windows and balconies relative to client properties

Storeys 6 and 7 – Block C rises to 6 and 7 storeys at its south end. These storeys are not accepted. They should be removed. Both levels provide for excessive and negative overlooking and perception of overlooking into our client's residents' private properties and make our client's road the view from this block. Multiple balconies and active windows face west, and this is not acceptable. Combined with Block E and the lower levels of this block, the extent of cumulative overlooking arising is likely to be excessive.

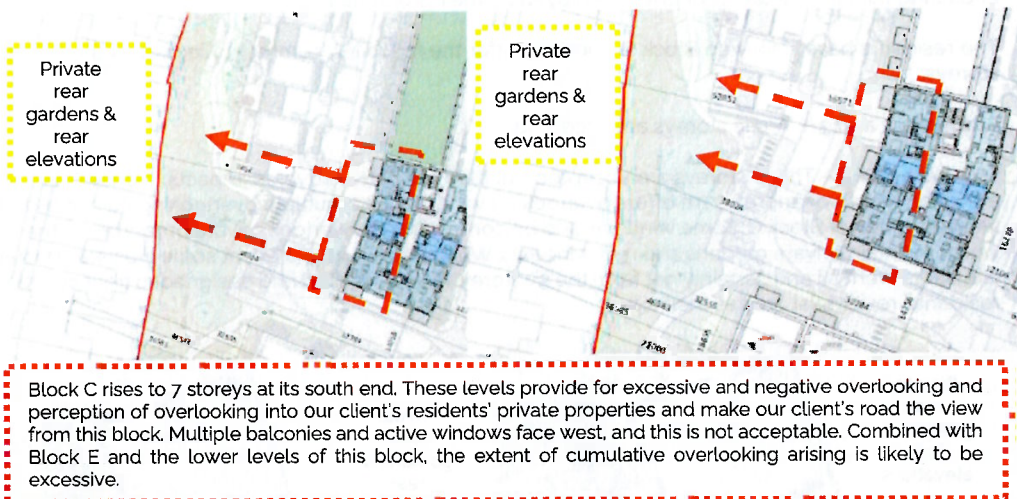


Fig. 77: Siting of 6th and 7th storey overlooking windows and balconies relative to client properties



Fig. 78: Siting of 6th and 7th storey overlooking windows and balconies relative to client properties

7.7.3.5 Negative overshadowing impacts arise from Block C

Our client acknowledges how Block C's 5 storey sections are sufficiently setback from the group's residential properties to the west that these will not throw a larger shadow than that already raised as a concern regarding Block E.

The group is very concerned however regarding the likely shadow to be thrown by the 6 and 7 storey sections of Block C. The 7 storey south end will throw large morning shadows.

March and September 21st: From sunrise until nearly 10am, Block C would cause significant overshadowing of our client's residents properties sited to the west. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The removal of the 6th and 7th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.

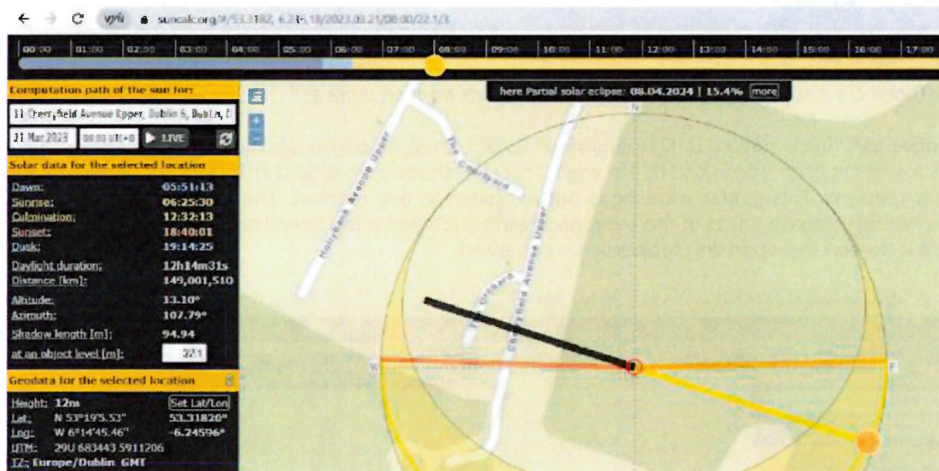


Fig. 79: Block C's 7 story section's proposed shadow at 8am on March/September 21st

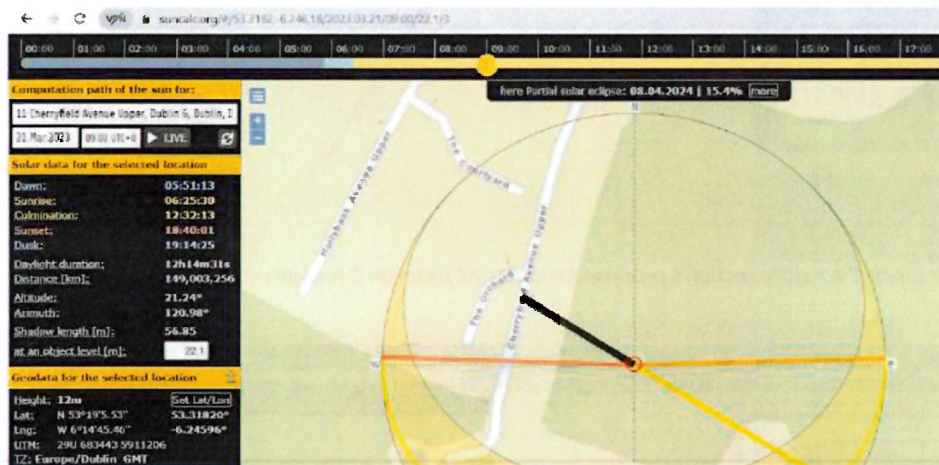


Fig. 80: Block C's 7 story section's proposed shadow at 9am on March/September 21st

June 21st: From sunrise until nearly 10 am, Block C would cause significant overshadowing of our client's residents properties sited to the west. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The removal of the 6th and 7th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.

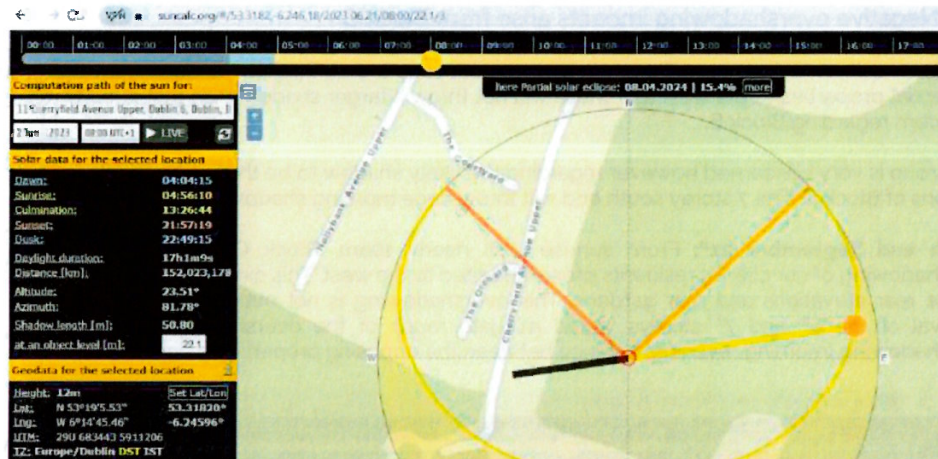


Fig.81: Block C's 7 story section's proposed shadow at 8am on June 21st

December 21st: From sunrise until nearly noon, Block C would cause significant overshadowing of our client's residents properties sited to the west. This overshadowing would impact private rear elevations and rear gardens. This overshadowing is not mitigated in any manner. The removal of the 6th and 7th storeys would mitigate much of the overshadowing such that a fair overshadowing (morning/evening) balance between the opposing properties is achieved.

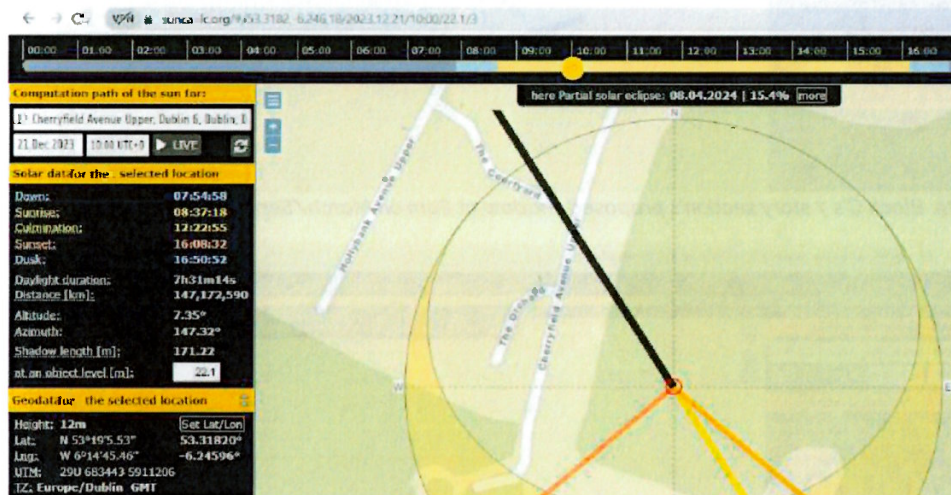


Fig. 82: Block C's 7 story section's proposed shadow at 10am on December 21st

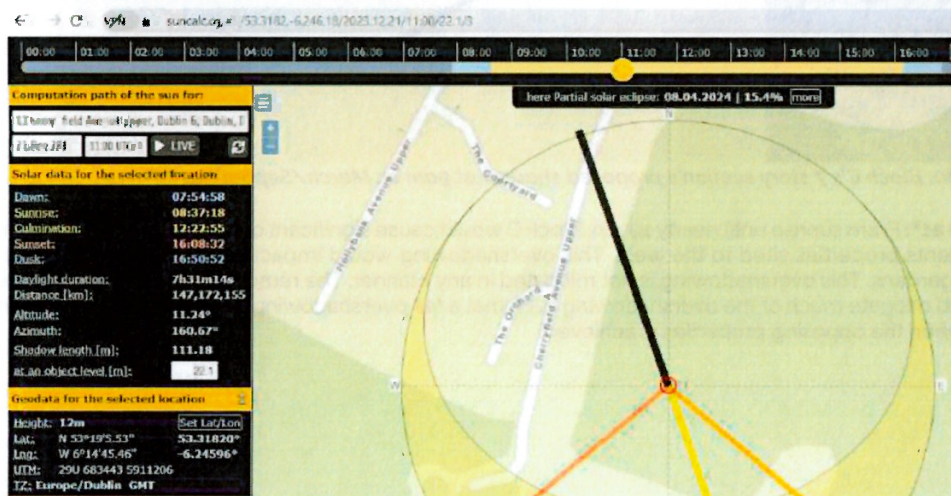


Fig. 83: Block C's 7 story section's proposed shadow at 11am on December 21st

7.7.3.6 Conclusion regarding Block C

To reduce negative visual overbearing/dominance/obtrusion impacts, the overlooking impacts and overshadowing impacts on our client's residents, Block C needs to be reduced to a 5 storey building – with 5 storeys maximum at its south end. This would provide a fair balance between our client's street and this new scheme. Block C would be 5 storeys while our client's residents' dwellings are 2 storeys only and setback fair distances from the applicant's site boundary.

7.7.4 Negative amenity impacts on arising from Block B on Cherryfield Avenue

Our client's residents accept that Block B is setback considerably from their properties. However, they consider that its height, massing, bulk and scale contribute to a scheme which is over-scaled and overdeveloped relative to their properties. They consider that the maximum acceptable heights for this scheme at the location of Block B should be 6 storeys.

If Block B is allowed to be taller, then it will rise above even Block C which is excessive in scale. It creates a roofline to the rear of our client's residents' properties which will appear out of context and cumulatively overdeveloped.

Concerns arise that that Block B's current scale would contribute negatively to the cumulative amenity impacts that this scheme would impose on our client's residents' properties.

7.7.5 Amenity impacts, etc of the bike/bin store to the north of Block E

The applicant current LRD application seeks to ignore the ABP SHD decision and to retain a bike and bin store directly north of Block E and adjoining a number of our client's residents' properties to the west. This area was meant to become public open space, but the applicant has once again placed this structure at ground level and not in the basement. This structure should be removed. The tree belt should be retained, and public open space provided along the western boundary.

The bike/bin store at this location would create noise and be visually unacceptable at this location so close to our client's residents' properties.

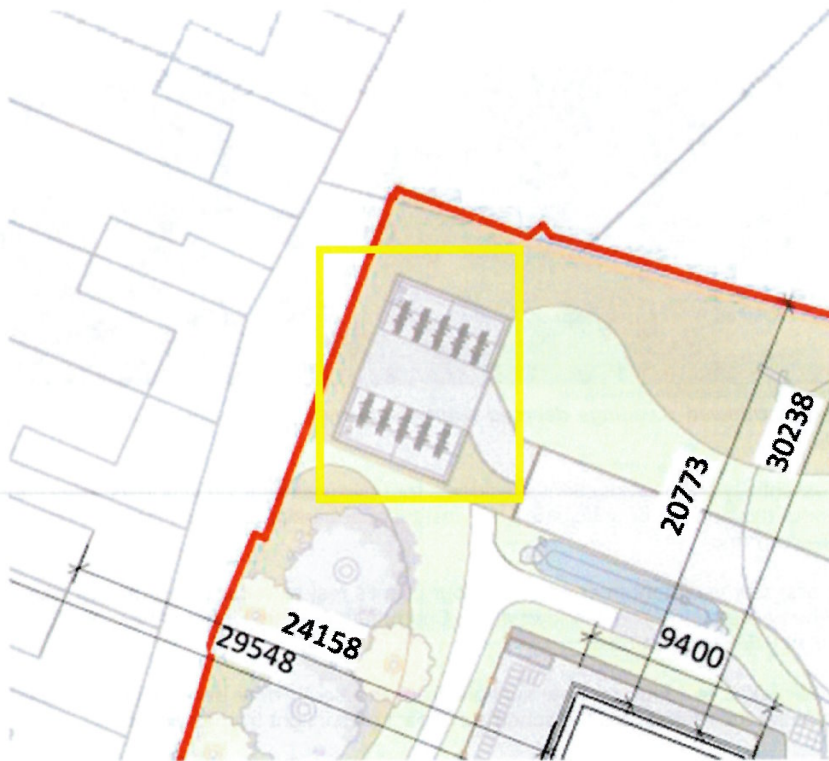


Fig 84: Bike and bin store to the north of Block E contrary to ABP decision reg. ref. ABP-311302-21

7.8 Ground 8: Objections to the submitted amenity impact assessment reports

7.8.1 Objections to the applicant assessment of loss of sunlight and/overshadowing

Our client has reviewed the applicant's 'Daylight and Sunlight Assessment Report' regarding the likely overshadowing impact of the scheme and especially the loss of sunlight which would arise for Cherryfield Avenue Lower/Upper properties.

It is acknowledged that Block E is now two storeys and it has been setback somewhat. However, Blocks C and D remain 3, 5, and 7 storeys.

BPS was critical of LRD1's assessment as the assessor did not come across as objective. Where clear concerns arose, these were downplayed. The assessor now accepts this but in a backhand manner stating: "Although the results of the VSC impact assessment in the previous application were considered to be favourable, the current proposal shows an improvement in this regard ... the previous scheme also showed some 'minor adverse' impacts to properties along Norwood Park and Cherryfield Avenue Upper and Lower". Clearly, there were concerns and DCC can refer back to our previous objection to note our objections to that assessment.

In the current assessment, the assessor is more bullish on the scheme's claimed compliance with the BRE Guidelines. Some of the same tactics are applied again to dismiss clear concerns.

BPS would ask DCC to carefully consider the following points:

- The assessor states: "The 5 no. windows that have shown a 'minor adverse' level of effect in the APSH assessment are all located along Cherryfield Avenue Upper". That is, our client's residents would be deemed adversely impacted unless the assessor can find a way to undermine this concern. The assessor subjectively states: "In each instance, the affected window is located in a recessed part of the building facade, with localised obstructions to the south. An example of this can be seen in Fig. 3.6 below [see Fig. 85], which demonstrates the relationship between window '12a', of 12 Cherryfield Upper and the extension of the neighbouring dwelling, 13 Cherryfield Upper". Our client does not accept this assessment. This is an older neighbourhood of conservation area dwellings. The applicant scheme must avoid overshadowing these properties. It is not sufficient to blame them for their own contexts when the applicant would take away much of their sunlight from the east each morning.



Fig 3.6: Aerial views of No 12 & 13 Cherryfield Avenue Upper

Fig. 85: The overshadowed dwellings deemed subjectively by the assessor to cause their own overshadowing

The assessor essentially blames our client's residents for having east facing windows. They cannot do anything about this and never anticipated that institutional parklands would be developed into an up to 8 storey scheme.

The applicant assessor is blatant in condemning our client's residents for being mostly reliant on sunlight from the east stating: "The windows along Cherryfield Avenue Upper have a predominant orientation of c. 103° (East-South-East).

The assessor asks DCC to focus on how sunlight from the south may be impacted by existing circumstances when the real issue is the scheme's impact on sunlight from the east.

- The report's WPSH study finds the impact of the scheme on some Cherryfield Upper properties to be 'major adverse'. Again, instead of modifying the scheme, the assessor tries to identify ways to undermine the concern stating: "While the categorisation 'major adverse' appears negative, it must be viewed in the context of orientation and existing obstructions". BPS notes that were this scheme

not proposed at all, there could not possibly be a WPSH impact of 'Major Adverse' so other than semantics, for what reason would DCC accept the assessor's subjective claims. It is remarkable how the existing dwellings all receive excellent sunlight from the east each morning, but the assessor now tells DCC that: "All instances of non-compliance in the APSH and WPSH assessments occur on windows along Cherryfield Avenue and are subject to the same constraints detailed for No. 12". DCC is welcome to visit any property in the Avenue and to witness the excellent morning sunlight they receive.

- The assessor has decided conveniently that "There are 17 windows categorised as 'non-applicable' (n/a) in the WPSH impact assessment". We are told: "The majority are categorised as such because their baseline values are particularly low, primarily due to the previously described localised obstructions to the south". That is, windows which are already adversely impacted are to be further impacted but the assessor will not properly assess that impact. It makes no common sense and confirms why the BRE Guidelines are pointless in this context. The overshadowing impact is clear and obvious. Our client has no confidence in this assessment.
- The assessor decides to exclude some gardens from the 'Sun on Ground' assessment. Unsurprisingly, these are two of our client's residents' properties. 35 Cherryfield Avenue Lower and 5 Cherryfield Avenue Upper which enjoy excellent sunlight from the east each day are now told that they do not qualify to be assessed. This ludicrous situation arises as the BRE Guidelines are not suited to this context where adverse impacts on small terraced conservation dwellings from an up to 8 storey scheme need to be assessed. The assessor states: "these gardens receive limited sunlight even at the height of summer". These properties receive excellent sunshine from the east all year long. The applicant scheme will impact on this sunshine. The assessor finds that the scheme will reduce, in their subjective assessment, sunlight received by these gardens even at the summer solstice when the sun is very high in the sky.
- Unsurprisingly, the 'Sun On Ground in Existing Gardens' with its extremely low standard under the BRE is passed. This is because the gardens receive sunlight from the south. Even if a block of 100 storeys was placed on the shared boundary with our client's residents' properties, the BRE would still be passed. The test is pointless. A number of rear gardens will lose sunlight to a very noticeable extent. Again, the applicant assessor excludes a number of those over which concerns might arise.

In all, the applicant BRE report may be summarised as a pointless exercise as regards third parties. The report might as well have not been done because: "The few instances of non-compliance along Cherryfield Avenue Upper are attributable to localised factors, such as existing rear extensions and orientation, rather than the proposed development itself". In other words, the assessor finds the properties already fail the BRE and the applicant scheme will make them worse, but this is not their problem. This is not acceptable.

7.8.2 Assessment of visual impacts is incomplete & not accepted

Table 15-1 of the DCDP 2022-2028 allows that Landscape and Visual Impact Assessment reports will be required on a "case by case basis having regard to the height and density of the proposal". Appendix 3 of the DCDP allows a density range for the outer suburbs of 60uph-120uph. This scheme is 140.3 uph on Z12 zoned lands. The site adjoins residential properties and is opposite residential properties. It adjoins a Z2 conservation area to the west.

The applicant has submitted a Landscape and Visual Impact Assessment as part of the project EIAR. This is reviewed as follows.

The applicant LVIA refers to Cherryfield Avenue and states:



Fig. 86: The appearance of Cherryfield Avenue - Z2 zoned

The LVIA's assessment and conclusions are not supported by our client 'sassessment:

The following concerns arise:

- Blocks E, C, D and B would be highly visible as an overall scheme of development from when viewed from Cherryfield Avenue. This is not clearly outlined by the assessor.
- The assessor states: "The building typologies and height of Blocks D and E are intended to avoid overbearing of the neighbouring houses". What does this in fact mean. Block D is 3 and 5 storeys in scale sited close to Cherryfield Avenue homes and gardens. It is out of scale with the prevailing density of development. Block E steps quickly up to Block C which is 5 to 7 storeys tall. This is an overbearing scheme.
- The assessor misses the first floor terraces sited at Block E.
- The assessor states: "Block E thus forms a buffer between Cherryfield Avenue and the taller Block C in the central part of the site". This is not the case. Block E is sited in what should be the setback area to mitigate the adverse overbearing, overlooking, and overshadowing impacts of Blocks C and D.
- The assessor states: "The trees in this biodiversity corridor would also serve a visual screening function for the houses of Cherryfield Avenue". This thin line of trees is not proposed to be a public open space. It is to be a left over space with some trees in it. It cannot screen the first floor of Block E which is partly located on higher ground levels, and it certainly cannot screen Blocks C, D, and B.
- The assessor correctly states: "Cherryfield Avenue (the part zoned Residential Conservation area) is lined by a continuous terrace of houses positioned close to the street, generating a high degree of visual enclosure". A difficulty arises that the applicant scheme will provide an overbearing and obtrusive, verging on incongruous, backdrop to the rear elevations and rear gardens of the conservation area properties.
- The assessor incorrectly states: "The proposed apartment buildings are further to the east, within the site, removed from Cherryfield Avenue". In fact, Blocks C and D are sited very close to Cherryfield Avenue properties. The setbacks are insufficient to mitigate the significant jump in building heights from to storeys to seven storeys in Block C.

- The assessor accepts that: "The proposed Block E houses would be visible from the rear windows and gardens of the Cherryfield houses". This confirms that the first floor terraces of Block E would enjoy views into our client's properties as the view would go both ways.
- Block E's tiny rear gardens are not the subject of any comment from the assessor. The assessor is willing to disregard this and to find that the tree buffer area offers a setback which should be provided in large part by sufficiently deep rear gardens.
- The assessor erroneously and without foundation finds that the proposal "responds to the sensitivity of Cherryfield Avenue" and finds "No effect". This conclusion is not accepted as it is not supported when one stands in our clients' residents' homes and rear gardens and looks toward the applicant site. It is highly visible through and over what is an existing tree line.
- The assessor relies for alleged evidence of no adverse visual impact on photomontages which are wholly non-representative. Not one photomontage is provided showing the proposed view from one of our client's properties or rear gardens. Photos taken with the existing terrace immediately in front of it or taken through the gap between homes in the terrace are clearly not fit for purpose.
- The assessor's consideration of Viewpoint 13 is concerning. The corner of the roof of Tabor House can be seen in the distance through the gap, yet the assessor finds no concern with the view then being filled up with Block E, C, D, or B. The assessor refers to how Block D would be glimpsed from the street between the Cherryfield Avenue terraces. In fact, depending on where one stands and at what angle, it would be possible to see Blocks E, C, and B. The assessor refers to how the tree buffer will cause "softening" of the building's presence. How will it do this? The blocks rise up very tall very fast immediately to the rear of our client's residents' properties.
- The assessor states of the proposed view from the rear gardens of our client's conservation area located properties and rear gardens which are presently into institutional *de facto* parklands: "In the urban environment, the resulting view would not be unusual, and there would be no significant change in visual amenity". The proposed density is approx. 6 times that of our Cherryfield Avenue properties and Block C is 5 storeys taller. No, the view is not a typical one in this area. The assessor is wrong.
- The assessor states: "There would be limited effect on Cherryfield Avenue to the west (Viewpoints 12 and 13)". This reliance again on two photomontages whose base photos are derived from the street to the front of our client's residents' properties and not to the rear and side of the properties which face the applicant site offers no basis for any conclusions.
- The assessor states: "Block D is a small apartment building, three storeys at its western end, stepping up to five storeys (behind a deep setback) away from Cherryfield Avenue". The block is significantly denser and taller than Cherryfield Avenue properties and the setback is not sufficient to prevent adverse amenity impacts.
- The assessor states: "There is considerable variation in the height and massing of built form across the site in response to the character and conditions around the boundaries". Our client's residents will face a scheme of 2, 3, 5, 7 and 8 storeys looking above their properties. Is this variation reasonable or cumulatively excessive. We submit it is excessive.
- The assessor's claims as to likely visual impacts are offered without adequate supporting evidence. They are subjective opinions and advocate on behalf of the scheme. They do not reflect the prevailing heights and densities of surrounding properties. Cherryfield Avenue will be adversely impacted by a scheme whose scale, massing, and height could not have been anticipated by local residents. The assessor's conclusions should be disregarded.
- The assessor states: "The reduction in height of the proposed buildings towards the western site boundary limits the extent to which the proposed development would intrude in views from Cherryfield Avenue and the houses on the east side of the street, which back onto the site". Again, these buildings comprise massive blocks of up to 8 storeys. The CGIs prepared by the applicant confirm the sheer volume of buildings which would rise up above our client's residents' properties. The assessor states: "... these houses would experience change in their views", but reached, a conclusion, again not supported by any evidence, that, "the residual views would be similar to those of the majority of the houses in the area, which are typically arranged back-to-back with other houses". How is being sited very close to 3, 5, 7, and 8 storey buildings typical. How is this in any way similar to being located in nearby roads where 2 storey houses back onto each other. What is the assessor talking about?

- The assessor states in Section 9.7.2.1 'Construction Phase': "The magnitude of townscape change in the immediate vicinity of the site would be medium". What then would be high? How big would this scheme have to be to be high? 10 storeys was assessed under LRD1 as not being high. Would it be 20 storeys? 50? 100?
- The sensitivity of the townscape is deemed by the assessor to be "medium" yet Cherryfield Avenue is a conservation area. What then would a high sensitivity townscape be? It is hard to imagine a more subjective assessment. Under Section 9.5.1.2 'Operational Phase Townscape Sensitivity' of the LVIA for LRD1 it stated: "There are several sensitive receptors (both areas and elements/features of the townscape) in the receiving environment. These include: ... Cherryfield Avenue Residential Conservation Areas". Why then are these now deemed medium?

Appendix 1 illustrates the sensitivity of Z2 zoned Cherryfield Avenue Upper and Lower. Our client agrees with the assessor that the houses all have a high degree of visual exposure to the scheme. However, while the site is presently screened to a small extent at ground level by the western tree belt (see Appendix 1) within the site behind these houses, these trees, etc. cannot screen anything from first floor level upwards. This is not mentioned immediately by the assessor.



Fig. 87. The appearance of Cherryfield Avenue - Z2 zoned

The proposed scale, height, length, massing, and cumulative massing of the scheme is such that our client's residents' properties on Cherryfield Avenue Lower and Upper would be visually overborne and intruded on by the abrupt and sudden transition from their two-storey dwellings to Blocks D, C, and B. While our client acknowledges the need for infill residential development in existing residential areas, this scheme goes too far. The scheme would visually dominate our client's residents' existing residential environment.

It is our client's preference that this scheme be set back from Cherryfield Avenue Lower and Upper by way of the removal of Block E and the setting back of Block D with the tree belt full expanded as a public open space.

Sections 7.7 and 7.8 of this Planning Objection Report sets out how this scheme will visually impact and visually overbear onto and over our client's residents' properties. Our client's residents are concerned over the CGI/photomontage images that have been submitted - they are unrepresentative of likely visual impact on their adjoining properties to the west.

The 'CGIs and Photomontages' of the scheme are produced by 3D Design Bureau. However, not one of these images is provided from the rear gardens of our client's residents' properties sited to the west.

BPS considers that the submitted scheme documentation does not provide a sound basis for making a decision on this planning application with regard to the scheme's likely visual impacts on its surrounding environment, etc.

If one is part of the design team then you have been given a brief to – with the project architect – achieve a given density on a site, then you do so. This should then be independently assessed using visual impact assessment tools to determine if that design is acceptable on visual impact grounds. This methodology requires the assessment of independently verified viewpoints of the scheme from all sensitive receptors. This mostly includes our client's residents' properties.

Under the Landscape Institute's guidelines, viewpoint sensitivity is classified as: "high" for occupiers of residential properties with views affected by the development. This is extremely important as, under the guidelines, viewpoint sensitivity is classified as: "high" for occupiers of residential properties with views affected by the development.

It is clear to BPS from discussing this scheme with adjoining and nearby property owners and occupiers, including our client that:

1. This scheme has not been well received by the surrounding public.
2. Those who live in the area and who would view the scheme are opposed to its visual impact.
3. Those who live in the area know what beautiful buildings are and are not opposed to an appropriately scaled scheme on this site. The applicant scheme is simply too close, too tall, and too over-scaled.
4. Adjoining properties have comprised primarily two storey buildings for decades. The 3, 5, 7, and 8 storey apartment buildings would represent an abrupt visual change. The visual impact of this scheme will not diminish over time.

There is a need for the visual impact on adjoining residential properties to be properly and objectively assessed. Paras. 6.13 to 6.15 of the guidelines require that applicant:

- Identify all the people living in the area who will be affected by the changes in views and visual amenity (the 'Visual Receptors').
- Set out the location of each individual dwelling and rear garden that would be exposed permanently (during all times of the day, during every season and from which parts of their residential properties) to the proposed development.

Why does the applicant not estimate or provide (by knocking on doors) the number of residents living in adjoining properties that would be exposed permanently to the proposed development? Why have our client's residents not been contacted by the assessor? Why has the applicant not sought to assess the proposals from our client's residents' perspective by standing in their properties?

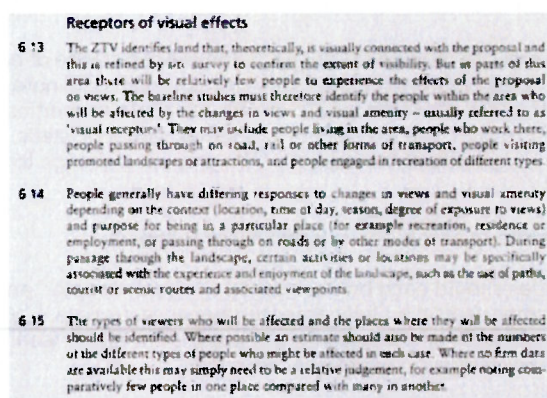


Fig. 88: Excerpt from p. 106 of the 'Guidelines for Landscape and Visual Impact Assessment'

In addition, the guidelines note how: **"In some instances it may also be appropriate to consider private viewpoints"** (emphasis added). This would be an appropriate incidence.

3D Design Bureau provide no private viewpoints notwithstanding that the scheme is sited alongside rear gardens and residential properties to the west. The residential dwellings located near the proposed development are its most sensitive visual receptors. As noted above, under the guidelines, viewpoint sensitivity is classified as: "high" for occupiers of residential properties with views affected by the development.

Para. 6.24 of the guidelines states: "A baseline report should combine information on the type and relative numbers of people (visual receptors) likely to be affected ..." Our client's residents' properties are not individually listed by the applicant assessor, nor are our client's residents mentioned individually as being impacted on.

Paras. 6.31, 6.32 and 6.33 note in respect of the 'Sensitivity of visual receptors' and the 'Susceptibility of visual receptors to change' that "visual receptors are people", "the particular group of people likely to be affected at a specific viewpoint should be assessed in terms of:

... **their susceptibility to change**" – Our client's residents' properties are very susceptible to visual change.

The value attached to particular views" – Our client's residents place significant value on the existing visual amenity of their dwellings. Their rear gardens provide significant and positive residential and visual amenity.

The susceptibility of ... visual receptors to changes in views and visual amenity is a function of the ... activity of people experiencing the view" – Our client's residents oppose the proposed development. The proposal would significantly alter the views from and visual amenity of these properties.

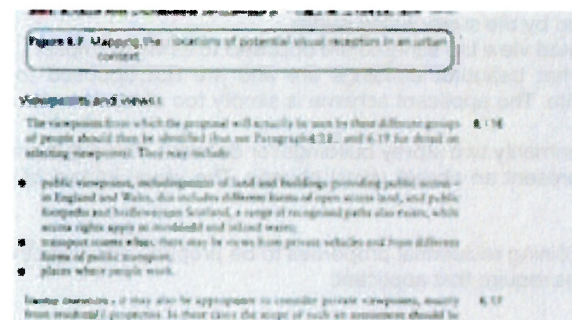


Fig. 8.9: Excerpt from p. 107 of the 'Guidelines for Landscape and Visual Impact Assessment'

As it stands:

1. The applicant planning application fails to fully assess the scale or magnitude of visual effects or the degree / quantity of change to the field of view (towards the site) resulting from the development as it would be experienced from our client's residents' properties.
2. The applicant fails to sufficiently consider the extent to which views from within adjoining houses to the west would be impacted and/or views from their rear gardens would be impacted.
3. This visual intrusion is matched by an invasion of privacy and quiet enjoyment by a 3, 5, 6, 7 and upwards storey buildings with floor after floor of windows, balconies, terraces, etc. only metres from the shared boundary.
4. The applicant scheme planning application fails to provide full details of the exact distance of each of our client's residents' dwellings and garden areas from the proposed development or to note the importance of the location of the block in the field of view from our client's residents' properties.
5. The applicant fails to note how the views from our client's residents' properties would be static.
6. The applicant fails to properly classify the magnitude of the impact of the proposed change to the view from our client's residents' properties.

The submitted photomontages are not sufficient to assess the scheme's visual impact.

Our client's residents submit that their properties should each be considered a "visual receptor" and a "private viewpoint". The impact on their properties should be fully assessed because, as para. 6.36 of the Landscape Institute (UK) 'Guidelines for Landscape and Visual Impact Assessment' states (see Fig. 90), "residents may be particularly susceptible to changes in their visual amenity".

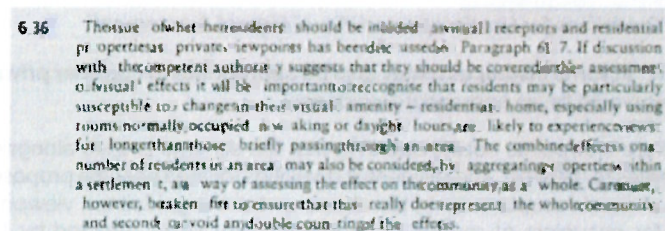


Fig. 90: Excerpt from page 114 of the 'Guidelines for Landscape and Visual Impact Assessment'

Our client's adjoining properties to the north and south and those across the road to the west would, if this scheme were built as proposed, experience: impacts on their privacy and residential amenities; visual overbearing and obtrusion from the buildings' heights, lengths, scale, etc; and a substantial change in the visual environment in which their properties exist.

Due to the scale and close proximity of the apartment block to our client's residents' properties, the proposal would constitute an overbearing, incongruous and visually obtrusive addition to the area with severe negative impact on the existing residential amenity of the area.

To improve the relationship between our client's properties and the scheme, the scheme needs to be revised (as set out in Section 9.2 of this Planning Objection Report).

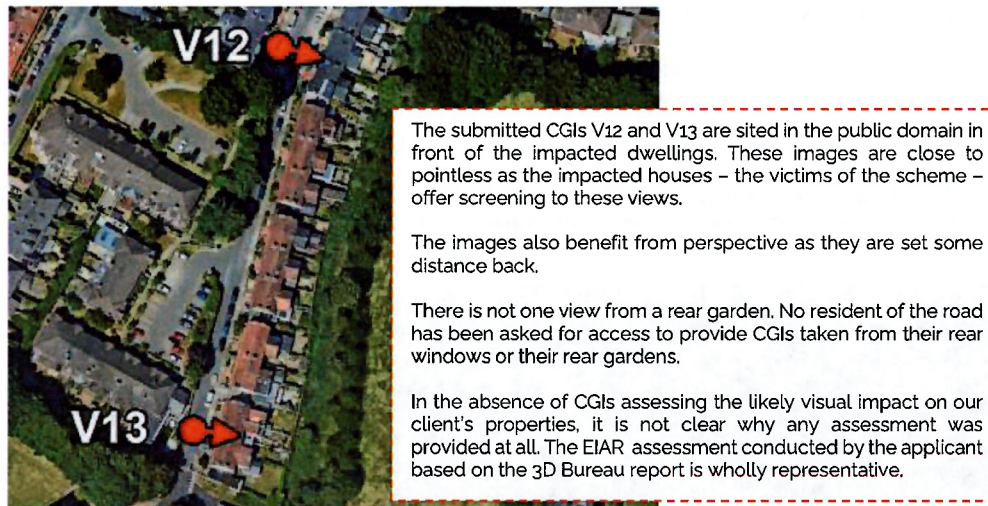


Fig. 91: Applicant viewpoints are from the public domain and not from the impacted properties (1)

8.10.1 Specific issues with the 3D Bureau viewpoints chosen

It can be concluded from the previous LRD1 scheme's assessment that the likely visual impact of the scheme on Cherryfield Avenue Lower and Upper is of significant concern.

BPS has reviewed the planning application in full, and we can confirm that the scheme would be significant in its visibility from our client's residents' properties sited to the west. We can find nothing within the entire planning application which shows what the scheme will look like when viewed from the rear of our client's residents' properties.

Where is any image showing the likely appearance of Block E with Blocks C, D and B rising above it to the east of our client's residents' properties? There are CGIs provided from the public domain at either end of the area of Cherryfield Avenue Lower/Upper as it adjoins the scheme but none in between.

Views V12 and V13 – just two CGI images for the most impacted residential Z2 zoned road impacted by the scheme – are unrepresentative of the actual visual impact given the selective and self-serving choices of viewpoints, the setback distances to these locations, that buildings (including our client's dwellings) stand in the foreground, and the use of perspective causes things that are far away to seem smaller (Father Ted, etc.):

Review of photomontage View 12:

View 12 avoids providing an image of the likely appearance of the scheme from the rear of the photographed properties shown. In deciding how best to consider the likely visual impact of the scheme on the established residential and visual amenities of these properties which will be significantly exposed the scheme from their rear windows and rear gardens, the applicant assessor has chosen to take a photo of the front elevations and not to provide views from rear windows or rear gardens. This is much like arguing that no overlooking will occur because the front windows of the dwellings are unaffected. It is ridiculous.

The EIAR states of the context: "The northern section of Cherryfield Avenue (the part zoned Residential Conservation area) is lined by a continuous terrace of houses positioned close to the street, generating a high degree of visual enclosure". Yes, if one stands at ground level in front of these dwellings you stand in a road with terraces 2 storey dwellings on either side. However, the other side of the dwellings

if fully exposed to the applicant site and scheme where the existing tree belt is to be removed leaving no screening at all.

The sensitivity is incorrectly given as 'Medium' yet these are Z2 zoned residential dwellings which have a 'High' sensitivity. All adjoining residential dwellings to a proposed development are meant to have a high sensitivity under LVIA methodology.

The applicant steers the reader away from looking at how the scheme would impact the rear of Cherryfield Avenue Lower properties and seeks to focus attention only on public areas where the houses screen the scheme from ground level. This is wholly misleading. The scheme's visual impacts are all to the rear of the properties where the scheme will be highly visible and cause visual enclosure which will feel claustrophobic as these properties have small gardens and the proposed setbacks to Blocks E, D, and C are too small.

The applicant assessment of visual impact, even as limited as it is regarding Cherryfield Avenue Lower/Upper properties is misleading and unacceptable.

Based on this limited and misleading CGI and its assessment, the applicant finds a magnitude of change of 'Low' when in fact this would be 'High'. The 'Significance of Townscape and Visual Effects' would be 'Significant' yet the applicant assessor finds these Z2 properties will suffer only a 'Slight/Neutral' visual impact. Our client does not understand how this assessment conclusion could be reached. The applicant assessment is subjective and should reasonably be disregarded as inaccurate.



Fig 92: The impacted areas of the properties shown in CGI View 12 are to the rear

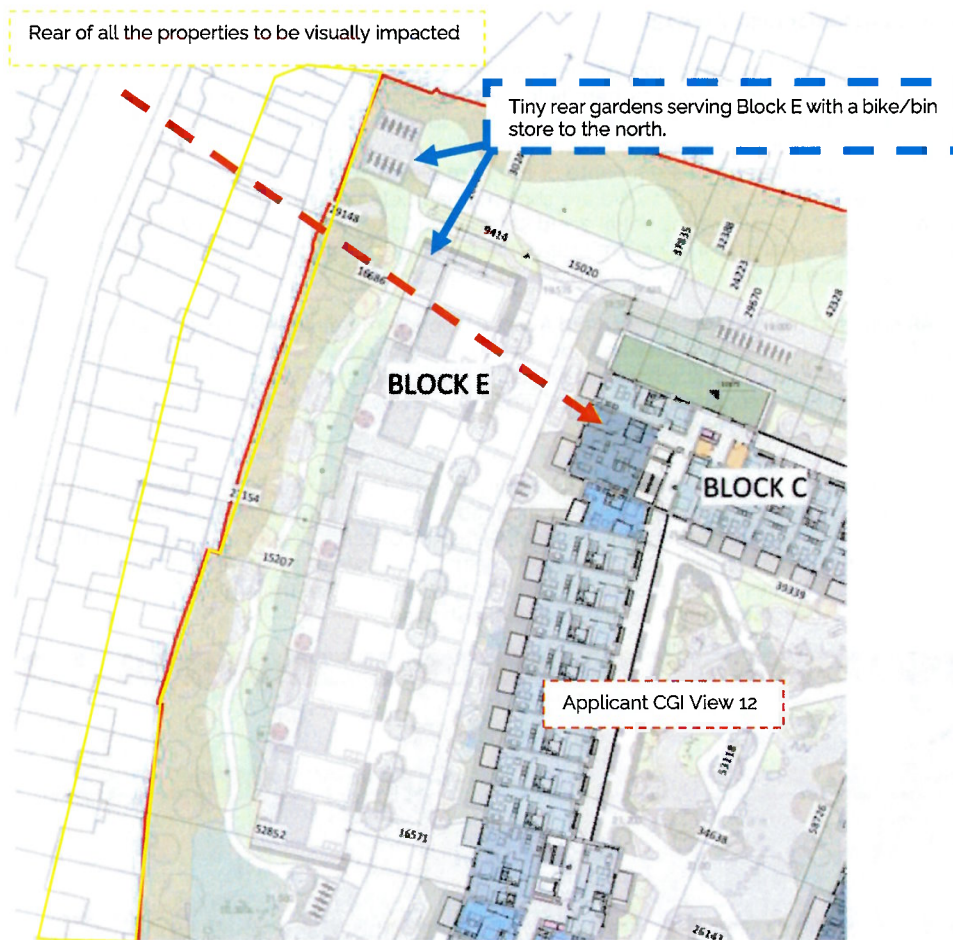


Fig. 93: The impacted areas of the properties shown in CGI View 12 are to the rear



Fig. 94: Excerpt from applicant's CGI View 12 images

Review of photomontage View 13:

View 13 avoids providing an image of the likely appearance of the scheme from the rear of the photographed properties shown at Cherryfield Avenue Upper. In deciding how best to consider the likely visual impact of the scheme on the established residential and visual amenities of these properties which will be significantly exposed the scheme from their rear windows and rear gardens, the applicant assessor has again chosen to take a photo of the front elevations and not to provide views from rear windows or rear gardens. This time we are shown a gap between two dwellings wherein Block D is shown as though it is 2 storeys tall yet at 3 and 5 storeys tall it would be extremely visible from the rear gardens and rear elevations of our client's residents' properties. Also, it would be possible to stand in the gap at an angle and see Block C with Block B rising above it.

The EIAR states of the context: "Cherryfield Avenue Upper is more recently developed than the lower section. Rather than a continuous terrace, the mid-20th century houses are arranged in terraces of four or six houses. The end of terrace houses have adjoining garages, and there are views from the street towards the site over the garages. At one of these gaps (Viewpoint 13) the corner of a roof of Tabor House can be glimpsed in the distance".

This contextual analysis fails to mention the existing tree belt to the western elevation or just how far away is Tabor House. The distance is significant to Tabor House, yet it is visible and this shows just how visible the site is from these houses. The assessor raises no concerns about the unrepresentative nature of View 13 given perspective and that the image is meant to be assessing visual impact on the Cherryfield Avenue Upper properties whose rear elevations and rear gardens are the areas of concern. The entire road is zoned Z2 though the applicant seeks to diminish this.



fig. 95: The context photograph

The sensitivity is incorrectly given as 'Medium' yet these are Z2 zoned residential dwellings which have a 'High' sensitivity. All adjoining residential dwellings to a proposed development are meant to have a high sensitivity under LVIA methodology.

The assessor states:

Block D is located in the south west corner of the site. This is a small apartment block 3 storeys in height at its western end (to the rear of the Cherryfield houses), stepping up to 5 storeys internal to the site (facing Tabor House across a courtyard). Block D would be glimpsed from the street between the Cherryfield terraces, the stepped profile of the red brick building screening the small part of Tabor House that is currently visible. The building would be visible from the rear windows and gardens of the Cherryfield houses, resulting in an increase in visual enclosure, but the change

would not be inappropriate. The proposal clearly responds to the sensitivity of Cherryfield Avenue in the arrangement and height of the buildings.

The applicant steers the reader away from looking at how the scheme would impact the rear of Cherryfield Avenue Upper properties and seeks to focus attention only on public areas where the houses screen the scheme from ground level or what might be "glimpsed" between houses. This is wholly misleading. The scheme's visual impacts are all to the rear of the properties. The scheme will be highly visible and cause visual enclosure which will feel claustrophobic as these properties have small gardens and the proposed setbacks to Block D are too small. The applicant does not mention the cumulative scale of the entire scheme which will be visible from these properties. **In View 13 one can see the 3 storey section of Block D and Tabor House but not the 5 storey section of Block D or the 7 and 8 storey Blocks C and B – how is this even possible?**

Block E will be inserted with Block C rising above. The applicant assessment of visual impact, even as limited as it is regarding Cherryfield Avenue Lower/Upper properties is misleading and unacceptable.

Based on this limited and misleading CGI and its assessment, the applicant finds a magnitude of change of 'Low' when in fact this would be 'High'. The 'Significance of Townscape and Visual Effects' would be 'Significant' yet the applicant assessor finds these Z2 properties will suffer only a 'Slight/Neutral' visual impact. Our client does not understand how this assessment conclusion could be reached. No account is given at all the removal of all existing screening provided by the western tree belt. The applicant assessment is subjective and should reasonably be disregarded as inaccurate.



Fig. 96: The impacted areas of the properties shown in CGI View 13 are to the rear

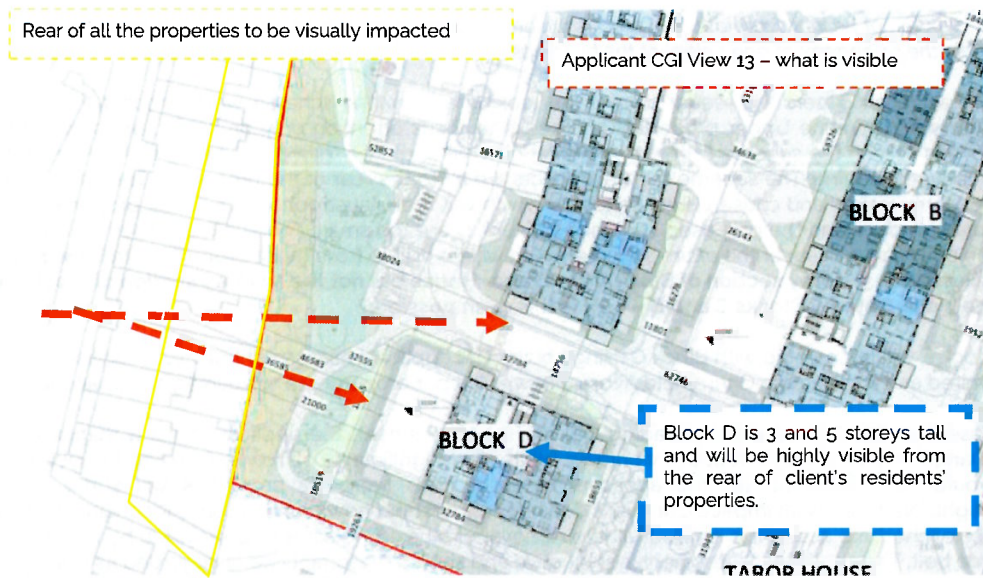


Fig. 97: The impacted areas of the properties shown in CGI View 13 are to the rear



Fig 98: Excerpt from applicant 'sCGI View 13 images

7.8.2.1 Conclusion regarding the applicant's visual impact assessment

Our client does not consider the applicant to have provided any credible visual impact assessment of the likely impact this scheme would have on the established residential and visual amenities of the Z2 zoned properties along Cherryfield Avenue Lower.

Views 12 and 13 are the only CGIs provided and these are taken from the public domain and not from the rear of the impacted properties. The assessment of those CGIs is inaccurate and misleading.

Our client submits that no adequate justification for this scheme's anticipated adverse visual impacts has been submitted, no adequate assessment offered to DCC or in time ACP, and no realistic mitigation of the likely adverse visual impacts is offered to the west of the site.

The tree buffer is welcomed but it will not even screen Block E's first floor terraces.

The EIAR states by way of conclusion to the likely visual impacts on Cherryfield Avenue Lower/Upper:

Limited visual effects on Cherryfield Avenue (Residential Conservation zoned area). The reduction in height of the proposed buildings towards the western site boundary limits the extent to which the proposed development would intrude in views from Cherryfield Avenue and the houses on the east side of the street, which back onto the site. While these houses would experience change in their views, the residual views would be similar to those of the majority of the houses in the area, which are typically arranged back-to-back with other houses.

This assessment is more or less a repeat of the submitted Design Statement and offers no objective analysis – no assessment has actually really taken place. It is subjective opinion which is possible only because no CGIs are provided from the rear of the impacted properties which would immediately contradict this conclusion. For example, a view from No. 1 Cherryfield Avenue's rear windows or garden would face Block E's first floor terraces with Block C rising above this at 5 and 7 storeys. The scheme would entirely enclose this property and utterly alter its visual environment. No screening is offered, and no new trees are to be planted to replace the western tree let which offers privacy to the property at present. This is unacceptable.

Based on a review of the likely adverse visual impacts of the scheme on Cherryfield Avenue Lower and Upper, our client submits that Block E should be removed, Block D setback, Block C reduced in height, and the bike/bin shed to the northwest corner of the site removed.

7.9 **Ground 9: Objections to the removal of trees**

Our client's residents object to the extent of proposed tree removal which extends to the loss of 252 trees. They welcome the retention of the western tree belt buffer; however, they consider this should be a larger area of public open space encompassing the area in which Block E is sited. This would address Block E's tiny rear gardens issue and the adverse overlooking large first floor terraces, while offering a proper setback to Blocks C and #D.

7.9.1 **DCC Parks and Landscaping has raised concerns over the tree & shrub losses**

Under the SHD and LRD1 schemes, DCC Parks and Landscaping raised concerns regarding that application due to the failure of the proposals to comply with Development Plan standards, policies and objectives. The public and communal open space spatial distribution, the high loss of existing trees and the deficiencies in biodiversity assessment and impact are of significant concern.

DCC Parks and Landscaping's report stated of the SHD scheme, inter alia:

*There are a stated 404 existing trees and the proposals would fell 283, or 70% of the tree population which is a high loss rate and of **significant concern**. A further 238 large shrubs are also proposed for removal. The overall tree population shows good variability in species and an overall fair to good condition. The trees, both individually as specimens and also as woodland provide good habitat and biodiversity for the local area. They contribute positively to the historical setting of Milltown House as well as providing a notable green edge to the surrounding streetscape.*

It is clear that existing vegetation has not been used as an important constraint in creating the development layout in a sustainable manner. As such development blocks and services are located on existing trees rather than avoiding them. In contrast, the recent development proposals for the Clonliffe institutional lands shows how conservation of the arboreal framework results in a significantly lower impact on trees, and a similar approach should have been undertaken on this application site. Chapter 16 (Development Standards) of the City Development Plan and the City Tree Strategy note the importance of trees in the urban environment and the importance of their retention in development. It is apparent that this proposal does not meet standards with regards to tree retention.

Conclusions- Parks, Biodiversity and Landscape Services **object to the application due the failure of the proposals to comply with Development Plan zoning and standards policies and objectives. In summary the public and communal open space spatial distribution, the high loss of existing trees and the deficiencies in biodiversity assessment and impact are of significant concern** (emphasis added).

The loss of such a vast quantum of trees and the western tree belt cannot be justified in this context. The western tree belt should be retained as an area of public open space. This would address many of the issues raised by DCC Parks and Landscaping.



Fig. 99: Development proposals map including blocks, drainage attenuation and services located within the existing tree belts contribute to the proposed high tree and shrub loss

7.9.2 Why is a large public open space not sited the west side of the site?

Our client welcomes the retention of the existing western tree belt. However, concerns arise that this area is not designated as a public open space and is not in fact of adequate size to mitigate the scale of Blocks C and D. Block E should be removed to allow the tree belt to expand into a full sized public open space which would balance the scheme's currently east/west imbalance as regards the distribution of public open space.

This is contrary to the Z12 zoning which requires a masterplan that aims: "To ensure a co-ordinated approach to the creation of new high-quality public open space linked to the green network and/ or other lands, where possible".

Our client is not aware that the applicant has consulted any local person about how best to distribute public open space in the site to benefit the area.

7.9.3 Block E's siting is at odds with achieving a proper sized public open space

The scheme continues to try to shoe-horn a Block E into the west side of the site. This block is now shown with tiny rear garden depths and first floor overlooking terraces to achieve adequate private open space per unit.

Block E should be removed to create an adequate scaled public open space to the west side of the site which offers adequate setbacks to Block C and D.

Block E is at odds with the Z12 zoning. Block E impacts on the Z2 houses to the west. Block E should be removed. The removal of Block E would help to mitigate the adverse impacts arising from the scheme's blocks onto our client's properties as set out in Section 7.7 and 7.8 of this Planning Objection Report.



Fig. 100: Block E prevents the provision of a landscaped area such as this to the west

7.9.4 Building heights are not visually mitigated in views from the west

Our client's residents face rising building heights from their property to the east and across the applicant site. A new skyline is proposed of tall and then taller and then taller buildings. No visual mitigation of heights above ground level can be achieved by the existing tree belt. Further mitigation is needed by way of removing Block E and enlarging the western tree belt to become a public open space.

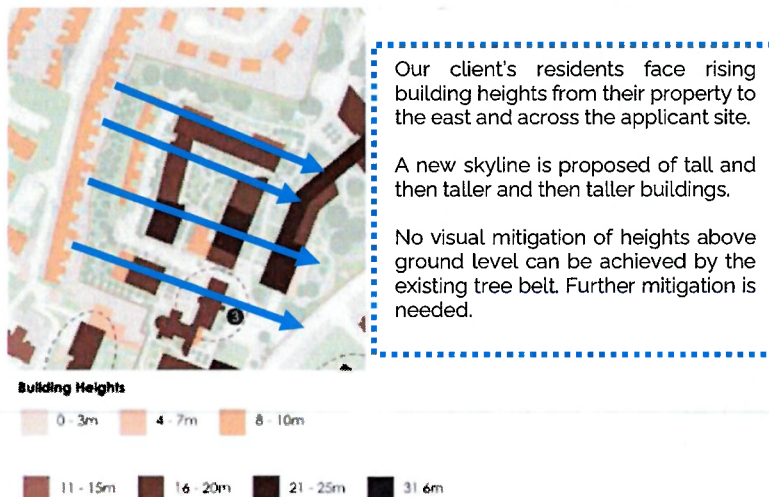


Fig. 101: No visual mitigation is offered to client's residents regarding rising building heights

7.9.5 Cherryfield Avenue is the only adjoining area not protected by a public open space

It is not clear to our client's residents why Cherryfield Avenue Lower/Upper to the west is not also deserving of being visually protected by a public open space green belt – especially as a tree line already exists at this location. Our client's area is Z2 zoned and should also be protected by a greenbelt. In order to balance the scheme and offer adequate public open space to the east of our client's boundaries, Block E should be removed.



Fig. 102: Cherryfield Avenue is the only adjoining area not protected by a public open space

7.95.1 Norwood Park has an open space tree belt and an improved setback to Block C

Our client's residents cannot understand why it is that Norwood Park is now offered a large public open space to the south of their estate 'and' improved setback to Block C. Cherryfield Avenue Lower/Upper does not get a large public open space area and Block E is issued with tiny rear gardens and first floor terraces.

Block E needs to be removed, and our client's residents offered the same arrangement as that shown in Fig. 103. That is, a large tree filled public open space to the western boundary and a large setback to Blocks C and D. The existing tree belt cross section serving the west of the site should be part of a larger area of public open space (see Fig. 104).

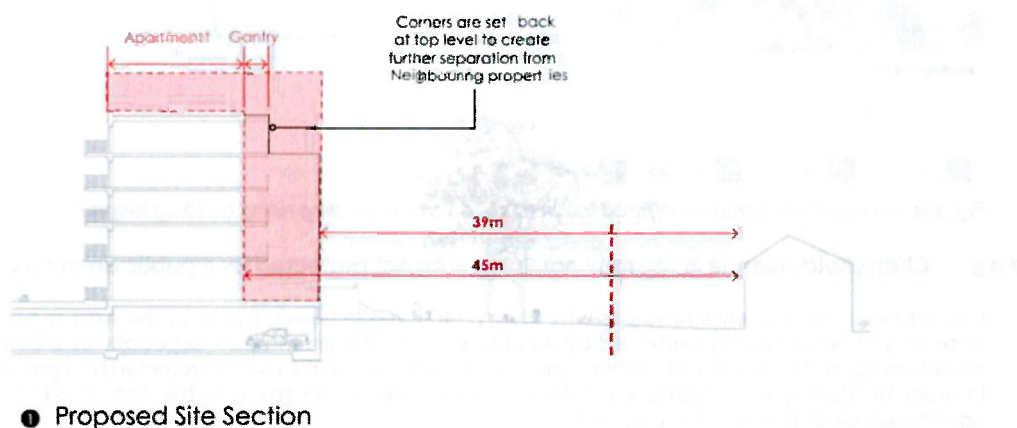


Fig. 103: Proposed cross section showing designed relationship to Norwood Park



Fig. 104: The existing tree belt cross section serving the west of the site

7.9.6 The provision of public open space in place of Block E would address fragmentation

The two main zones of open space provided at present are shown in Fig. 105 and they exclude the western side of the site.

The applicant has now shown a tree belt to the west side of the site. A review of Fig. 105 shows that despite the overall scheme public open space design, the western area of open space to the north of Block C is fragmented and disconnected. It needs to be connected to an area of open space in place of Block E. This could be integrated into the applicant's Landscape Plan with little difficulty.



Open Space Key

Public Open Space

Communal Open Space

Fig. 105A: Cherryfield Avenue is the only adjoining area not protected by a public open space

7.10 **Ground 10: Block E should be removed**

Our client's residents accept that Block E is now two storeys and is setback behind a retained western tree belt. Their difficulty is that the tree belt is thin and is not a public open space, a proper setback area is needed to mitigate Blocks C and D, and Block E's design with its tiny shallow rear gardens and first floor terraces is not considered acceptable.

The negative impacts arising from Block E which are set out in this Planning Objection Report. The following points provide further practical masterplan reasons why Block E should be removed and be replaced by a larger landscaped and tree filled corridor of public open space.

We note that even the project visual impact assessor accepted that, at best, the proposed thin tree belt could mitigate ground level buildings. Block E's first floor and its terraces would be highly visible from our client's residents' properties.

7.10.1 **Tree impact reasons why Block E should be removed (to retain the full tree belt)**

Fig. 105D is an excerpt from the Tree Impact Assessment drawing provided by the project Arborist. It confirms how a large number of trees – all those in blue and red bubbles – are proposed to be removed from the existing mature western tree belt to facilitate the installation of Block E and an area of carparking, bike parking, attenuation, vehicle turning, etc. to the south of Block E.

These proposals are wholly unacceptable. The applicant has accepted that the western tree belt should be retained. It should therefore be fully retained and the area converted into a public open space which cannot be amended in the future.

The applicant proposals for Block E and all the scheme ancillary development to the south of the block causes not only the loss of trees but the loss of some very large mature trees and, critically, the loss of screening. Views from our client's resident's properties toward the site are currently dominated by the western tree belt (see Appendix 1). The applicant would remove many of these screening trees, thin the tree buffer and offer less or no screening of the scheme. Indeed, all existing trees would be removed to the south of Block E causing unbroken views from our client's residents' properties toward Block D.

At this point, Block E is compromised. The design has tiny rear gardens and overlooking first floor terraces. The units appear out of context and out of place. The units are too few to justify the loss of any part of the western tree belt. The specific tree proposed to be lost are listed in the Arborist Report and in Figs. 105C and 105D. A great many area trees of moderate value and quality which are mature. These should be viewed on site as they are large trees. None would be removed were the scheme not proposed. Block E is incompatible with the proper retention of existing trees. The area to the south of Block E which is full of scheme services arises primarily to serve the road needed to serve only Block E. The area results in the unjustified removal of trees. The area outlined in pink is very hard to understand. Why would the scheme designers go out of their way to remove trees to facilitate ground level development?

Re-design of the scheme is required which retains the full western tree belt. No buildings, roads, services, parking spaces, bike parking areas, bike stores, etc. are justified in removing any part of the western tree belt and its mature trees. Even the applicant's Landscape Plan recognises these trees as offering screening.

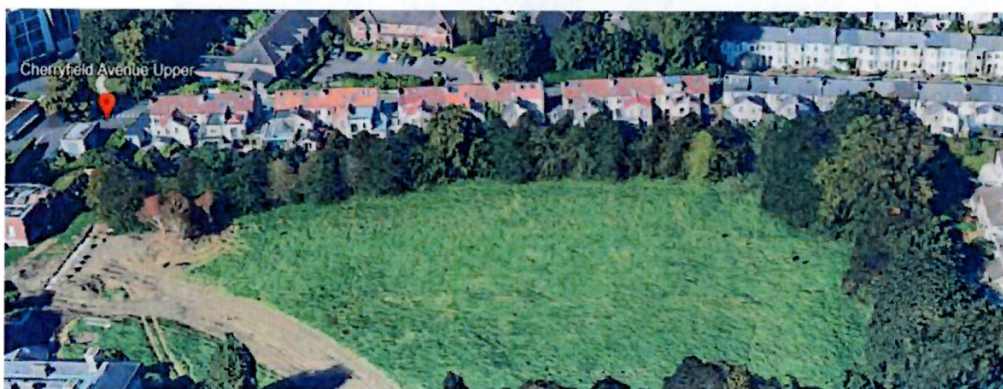


Fig. 105B(1): The existing screening western tree belt to the rear of Cherryfield Avenue Upper & Lower



Fig. 105B(2): The existing screening western tree belt to the rear of Cherryfield Avenue Upper & Lower (excerpt from the Landscape Plan)

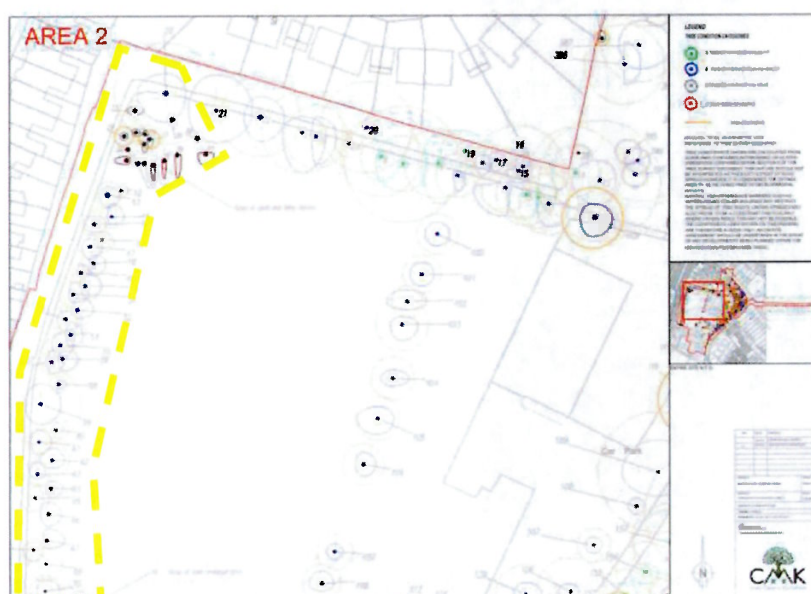


Fig. 105C: The western tree belt in full as set out in the submitted Tree Survey



Fig. 105D: The yellow hatched area superimposed onto the proposed Tree Impact drawing shows the extent of tree losses proposed to facilitate Block E and a scheme service area to the south of the block

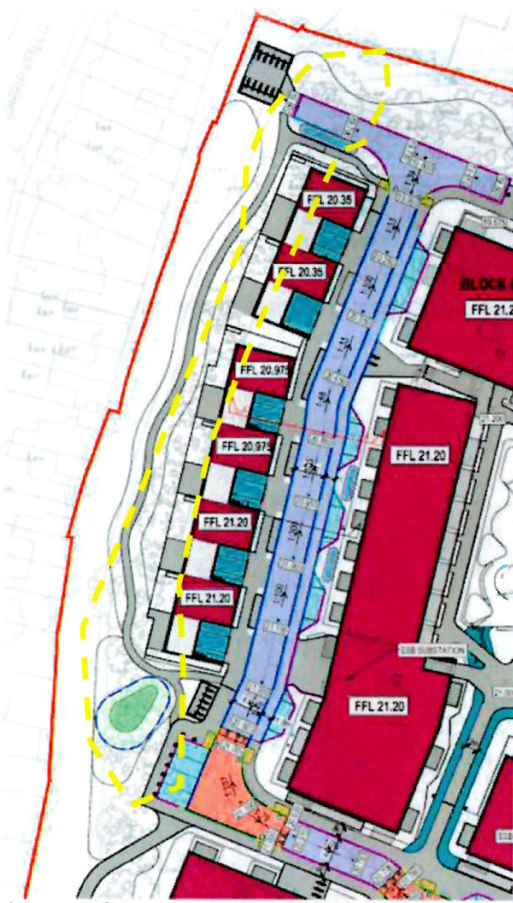


Fig. 105E: The yellow hatched area superimposed onto the proposed scheme engineering drawing shows the extent of tree losses proposed to facilitate Block E and a scheme service area to the south of the block

7.10.2 Parking and traffic reasons why Block E should be removed from the masterplan

7.10.2.1 The only ground level parking provided serves Block E and is unjustified

The proposed development offers a significant volume of car parking for this outer suburban site. Most of this is hidden in an underground car park. The only significant surface parking is that provided for Block E and this has caused the inclusion of surface level access road and a suburban type of development which is not compatible with this scheme.

Block E and its surface car parking should be removed.



Fig. 106: Surface roads and parking required to deliver cars to Block E

7.10.2.2 No vehicular traffic would arise in the area of Block E if the block were removed

Surface traffic is only required in this area to serve Block E. Remove Block E and no surface traffic is required – except to access the underground car park. This would improve the scheme by allowing more of a parkland type environment, more open space, more pedestrian friendly area and less noise.

The applicant's Landscape Plan states:

The proposed shared surface will only be accessed by vehicles belonging to residents of Block E of the development, as the remainder of the development car parking will be located within the basement car park.

Based on the above details, it is difficult to understand how Block E can be justified in drawing traffic into this area of the site at all. It is much like having a mini suburban housing estate within an urban apartment scheme. Block E is out of place within this scheme and should be removed. This part of the scheme could be re-designed without the road and Block E.

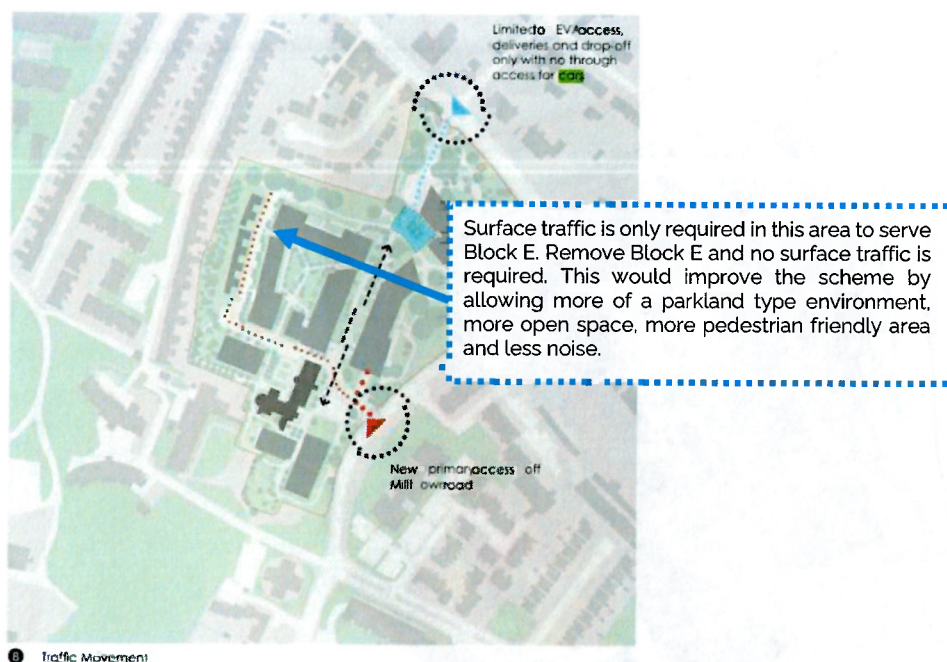


Fig. 107: Surface roads and traffic required within the scheme to serve only Block E

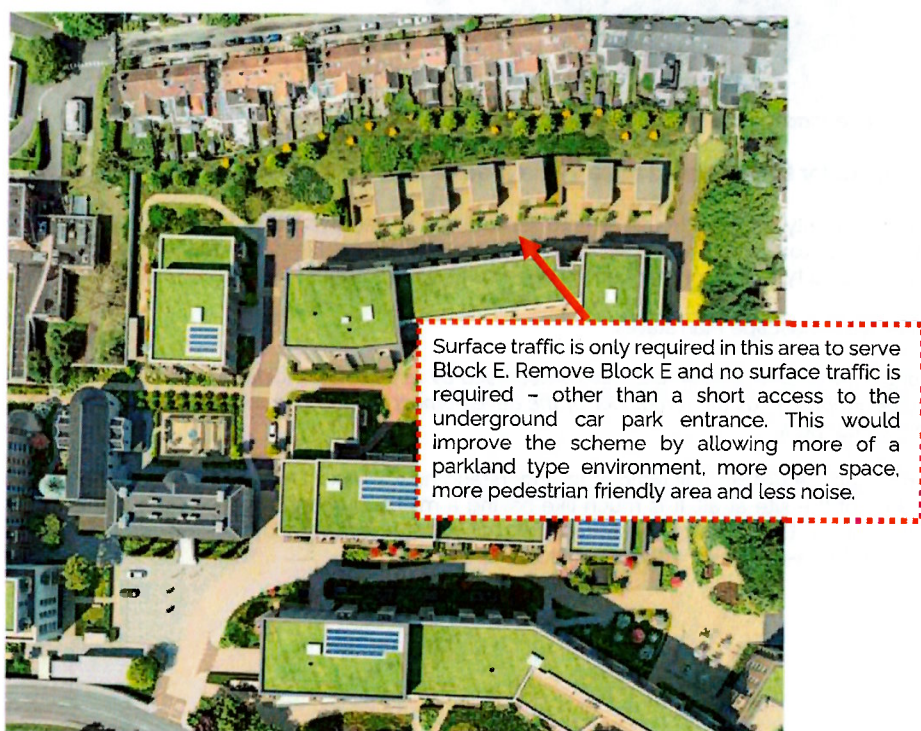


Fig. 108: Surface roads and traffic required within the scheme with Block E

7.10.2.3 Fire tender access to the west and northwest of the site required only for Block E

The removal of Block E would mean that the fire tender access route shown by the applicant is not required. This would allow the removal of any road at the west side of the site.

7.10.2.4 Refuse truck access to the west and northwest of the site required only for Block E

The removal of Block E would mean that the refuse truck access route shown by the applicant to the west of the site is not required. This would allow the removal of any road at this location.

7.10.3 Removal of Block E would significantly improve views & aspect west from Block C

Block E is pushed very close to the western boundary and to our client's residents' properties. The block is squeezed into this area. Blocks B and C are then pushed together into an overdeveloped courtyard arrangement with good external aspect only northwards. The removal of Block E would allow Block C to achieve a higher quality of aspect and views to the west. While our client has recommended reductions in height for Blocks B and C, any height building on the site of Block C with westward views would benefit from not overlooking / looking directly at Block E.

7.10.4 Removal of Block E would address the limited setback distance to Block C

Block C is 5 and 7 storeys tall yet it is located just a minimum of 15m from Block E (this had been 20m minimum). Block E would be negatively impacted by Block C and vice versa. The setback distances shown exclude balconies which reduce the setback further to well under 16m.

There is a need to address the very limited setback between these two buildings by removing Block E.

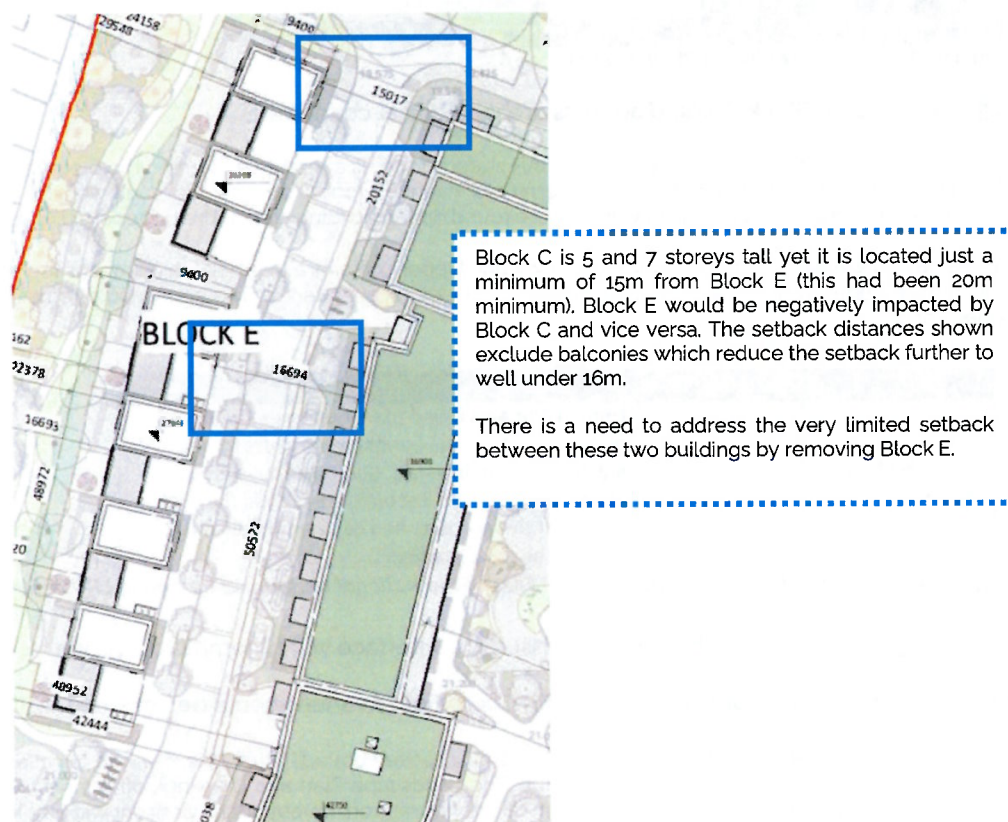


Fig. 109: The removal of Block E would address the limited setback to Block C

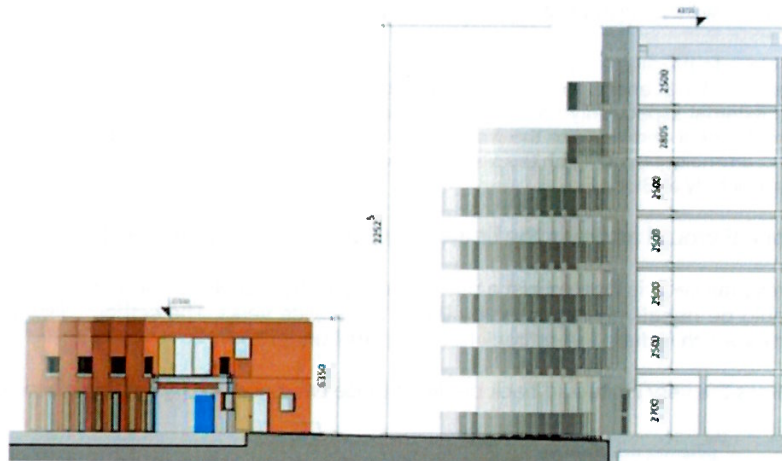


Fig 110: This setback between Block E and Block C

7.10.5 Removal of Block E would address archaeological concerns

Section 6.7.6 'Topographical Files' of LRD1's EIAR stated: "there is a report concerning the discovery of human remains on an adjacent site at Cherryfield Avenue Upper, beyond the southwestern site boundary. The long bones of 2-3 individuals were found during building works. The bones are undated".

The area to the east of Cherryfield Avenue Lower and Upper contains a tree belt which means the area has remain undisturbed. This area could contain archaeological materials. The area should remain an open space.

Location	Museum No.	Description
Cherryfield Ave Upper	2014:158	Human Remains found to rear of house during building works. Long bones but no skulls found indicating 2-3 individuals. Clay pipe found close to bones. The houses were built in 1901 and the back garden of this property had been artificially raised prior to the current owners.

Fig. 111: Excerpt from Table 6.4: Topographical Files of the National Museum of Ireland of LRD1's EIAR

7.11 Ground 11: Specific scheme design issues re. interface with Cherryfield Avenue

7.11.1 Rear shared boundary treatment with Cherryfield Avenue should be 2m stone walls

The applicant's landscaping proposals as regards the proposed boundary treatment(s) with our client's residents' rear gardens are not confirmed in full. The Landscape Plan and Drawings offer insufficient detail. The applicant is requested to provide 2m tall stone walls on the boundary. Consent will be given for this. The existing fence offers no adequate boundary treatment, screening, acoustic barrier effect, etc.

7.11.2 Bike store to the north western corner of the site should be removed

Under ACP decision reg. ref. ABP-311302-21, surface bike/bin stores adjoining Block E were to be removed and relocated to the basement. The applicant current LRD2 application seeks to ignore the ACP decision and to retain a bike and bin store directly north of Block E and adjoining a number of our client's residents' properties to the west. This area was meant to become public open space, but the applicant has once again placed this structure at ground level and not in the basement. This structure should be removed. The tree belt should be retained, and public open space provided along the western boundary.

The ACP Planning Inspector's Report notes of the bin store/bike store:

Many observers at Cherryfield and Norwood are critical of the location of the bike/bin stores and anticipate high levels of nuisance from noise and odour. I agree that the location of bike/bin stores at the north and south ends of Block E are haphazard and appear as an afterthought. According to the applicant, the position of the bike/bin stores has been chosen to suit the future occupants

and servicing requirements of the development. However, I think that a more suitable location could have been selected that did not impact upon neighbouring properties, the basement level of Block B/C for example. In the interests of preserving residential amenity, I recommend the relocation of these bike/bin stores to a more suitable and better integrated location within the site.

DCC is asked to uphold the position of ACP as regards this haphazard bin/bike store which would be located immediately to the east and on the boundary of our client's residents' properties at Cherryfield Avenue Lower. This bin/bike store has the potential to generate noise and disturbance at this location and it would detract from the visual environment at surface level.

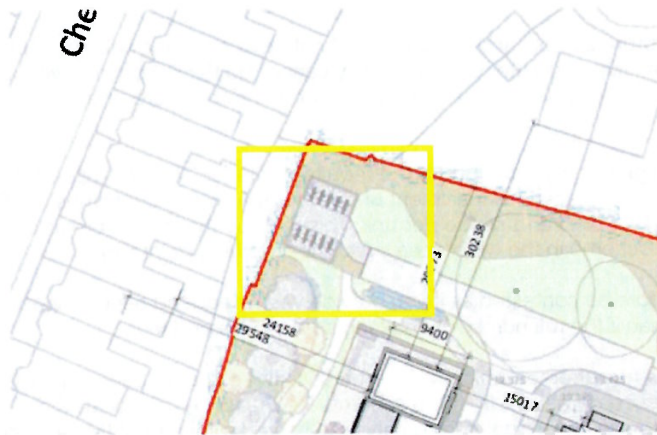


Fig. 112: Location of the bike store to the north of Block E adjoining Cherryfield Avenue gardens

7.12 Ground 12 Traffic & transport concerns regarding impact of the scheme on the area

The following comments are those made by BPS in discussions with our client's residents. They address aspects of concern raised by the scheme from a town planning perspective. It is acknowledged that Cherryfield Avenue Lower is located to the west of the scheme and wishes to minimise any traffic impacts the scheme may have on their properties, etc.

7.12.1 The proposals exclude details of actual public transport capacity

Concerns arise that the applicant's vehicular and parking proposals rely for large measure on there being available capacity on the public transport which serves this area.

The applicant has submitted a detailed report titled: 'Theoretical Capacity of Public Transport' which does not appear to actually provide details of the surveyed capacity at any given time of local public transport. It is a report which seeks to use desk based data rather than carrying out seat availability surveys on local services.

The applicant has failed to "demonstrate" that the site has adequate capacity based on peak time assessments of available seats, etc. on current services. That is, if a resident waits for a bus will it be full at peak times? The report though detailed is based on a number of assumptions and not on actual 'in person' surveys.

Ballyboden Tidy Towns v An Bord Pleanála¹³ saw Holland J quashing a grant of permission by the Board on the basis that indicating available services and stating capacity and frequency must be stated. DCC may consider sufficient detail to have been provided. The comments made by our client's residents however is that the assumptions made in the applicant report do not reflect what they experience at peak times.

7.12.2 Block E should not draw traffic and parking into the site close to Cherryfield Avenue

Our client considers that Block E should not be permitted to draw traffic and parking into the western section of the site when no other part of the site is to experience surface level traffic and parking. This would generate noise and add to construction works, etc.

¹³ 36 [2022] IEHC 7.

7.12.3 Parking provision is inadequate

Our client submits that the parking provision provided is insufficient for the quantum, of units proposed. This is an outer suburban site and despite public transport in the area, there will be demand for more parking than is provided at this site.

The applicant has submitted a 'Parking Strategy'. A 'Mobility Management Plan' and a 'Traffic and Transportation Plan'. These reports are not convincing regarding the excessively low numbers of parking spaces provided for such a large number of units. This scheme offers just inadequate parking spaces.

Smaller units does not mean the future owners and occupiers will not have car and will not need to use cars. Indeed, older people often live in smaller units, and they cannot do their shopping without a car. This scheme includes no shop despite its scale and the need for this to be more of a mixed use scheme.

The scheme should be providing significantly more under the requirements for Zone 2, Map J, of the DCC DCDP 2022-2028 and at least one space per apartment under the Apartment Guidelines (2018). But instead, the scheme is vastly short of even 1 space per unit. This may be the lowest provision of parking for a residential apartment scheme in the wider area ever. The following points arise:

1. The traffic figures cannot therefore be contested as if you provide vastly reduced parking spaces, it means less trips (in principle) than if the full number of parking spaces was provided.
2. The trip rates are based on data for schemes which have not artificially restricted parking provision to well below actual parking space demand within the scheme. If all units were allocated parking spaces, then the trip rates would rise accordingly. The analysis only works if we treat those without parking spaces as though they could never have a car, never need a car, and will never use a car. If no parking were provided in the scheme, then we would still get an engineer's report which tells us that there will be no traffic impacts on adjoining roads and nearby junctions. It is a pointless exercise.
3. The impact of excessively reduced parking spaces will be on the future amenities of the residents of the scheme. Those without parking spaces must find a way to:
 - Visit their families.
 - Get their grocery shopping.
 - Get to work in areas where there is no direct bus, etc. This is an over 60s scheme.

. The question is whether they can live a quality life without a car at this location. Given the size of the units in this scheme – all one beds – residents need to be able to travel by car.
4. No adequate visitor parking is provided. Where will visitors park? What will happen at Christmas, Easter, and other public holidays when visitors want to enter the site?
5. The trips in and out exclude the large number of delivery vans, etc. from online shopping, etc.

The applicant was asked by DCC to justify the parking ratio as it is substantially below the DCC DCDP 2022-2028 requirements and causes the traffic generation figures to be reduced to levels that are artificially low. The applicant's justifications are not convincing. The site is surrounded by one and two storey houses which offer at least 2 parking spaces per unit. The result of the lack of parking provision is that parking spaces are not allocated per unit but will be managed by a management company. Such arrangements did not work in the 1980s and it is not clear why they are now being allowed again.

7.12.3.1 Car parking provision is insufficient and will cause overflow car parking, etc.

BPS acknowledges that it has become commonplace in many apartment scheme planning decisions for lower parking ratios to be accepted. However, we are also aware of schemes where insufficient car parking exists and where management of parking is very difficult and there are overflow parking problems into surrounding areas. There are concerns as to overflow parking into adjoining areas for long periods.

These roads are already over-subscribed with existing parking demand. The applicant scheme would merely increase demand for parking spaces in the area which may result in conflict.

The applicant argues that the development has been designed to encourage sustainable modes of transport given the site's excellent transport links and proximity to local amenities. However, many amenities and services are beyond a reasonable pedestrian travel distance even with public transport.

The proposed parking provision is far below DCC DCDP standards (and which are substantially less than 1 car parking space per unit), and this issue is poorly considered. It would not be difficult to offer 1 parking space per unit. The matter comes down to cost. It suits to provide less parking. It means that apartments will not get any parking at all. This scheme's population will be significant and its parking under provision similarly so.

Insufficient parking spaces may result in parking chaos in the access road. The scheme proposes measures to manage internal parking problems but not external. The scheme details offer no answer to what will be done when scheme residents realise that they can just park in adjoining and nearby roads and schemes.

7.12.3.2 The submitted 'Parking Strategy' and 'Mobility Management Plan' are not credible

Our client's residents have reviewed the submitted 'Parking Strategy'. The aim of the report is to justify how so many individuals and households in the scheme will not have access to car parking. The under provision of car parking merely means overflow parking into the surrounding area. The claims made by ACP in recent LRD decisions that parking controls need to be put in place by local authorities and/or management companies in given areas is not something over which individual Third Parties have any control and it is unfair and unreasonable to acknowledge there will be overflow car parking and then to simply to allow these impacts to arise in an unregulated manner.

The applicant's proposals for reducing car use by residents of the scheme are not credible. They are in fact more applicable to a commercial scheme than a residential one (it reads as cut and pasted from a large office scheme). The plan's proposals include:

1. A Travel Plan Pyramid which essentially just says that residents should use buses, bikes or walk.
2. Mobility Management Plan which essentially just says that residents should use buses, bikes or walk.
3. A Travel Strategy which essentially just says that residents should use buses, bikes or walk.
4. Pretending that residents over 50 years old can be encouraged to use a bike when they don't own a bike or to use buses when they can use their cars is not a reasonable basis for this scheme to proceed on.
5. Travel coordinator – will the person really exist just to tell people to use buses, bikes and walk?
6. Advertise details of public transport – this is the few buses which already have timetables on every stop.
7. Establish a Resident Bicycle User Group – what staff and who joins such a group in a scheme?
8. Offering residents walking initiatives during the day - who lives in a scheme which organises such activities and who is at home on working days without children to take part?
9. Broadband – work from home so you won't need a car ...
10. Promote the use of buses as there is no LUAS or the Dart.

For those residents without parking, the site has access to some public transport, or they can walk or cycle. That's it. This is not a city centre site. This is not a town or district centre site. It is an outer suburban site surrounded by houses. That residents need cars at this location is obvious. Not having car parking spaces means overflow parking into the wider area and dissatisfied future residents and limited transport choices.

7.12.3.3 No car park management strategy to address internal & external parking impacts

Despite inadequate parking space provision and no gates on the scheme, the applicant has not submitted a Car Parking Management Strategy. In the absence of such a strategy it is inevitable that there will be:

- Fly parking within the scheme on internal footpaths, etc.
- Parking at the site entrance which may interfere with sightlines.
- Overflow parking into adjoining roads, streets, and other schemes.

The applicant needs to provide a convincing case for how this scheme can expect many of its residents not to own cars.

The reality is that many similar schemes built in recent years are experiencing massive levels of unplanned parking given that residents often have no choice of any other housing and yet need a car. The applicant scheme assumes people will like in this scheme whose jobs are all conducive to buses, walking and cycling.

7.12.3.4 Traffic safety concerns

The site poses a danger to pedestrians, cyclists and motorists. The access to and from Sandford Road is for emergency services, disabled parking and taxis. There is no way traffic coming out can safely make a right turn when cars are also turning right from Belmont Avenue into yellow box and with all the new bollards there, as well as the pedestrian crossing.

7.13 **Ground 13: Appropriate Assessment and EIAR concerns**

7.13.1 **EIAR fails to accept that the loss of trees and shrubs is "significant"**

Our client submits that the proposed loss of trees, large shrubs and the western tree belt to facilitate this scheme's under- and over-ground development is unacceptable. The applicant design and masterplan hasn't taken as its starting point the retention of trees, large shrubs, etc. but instead has prioritised new buildings. The applicant EIAR fails to accept that even with mitigation the loss of so many trees, large shrubs and the western tree belt is significant environmental impact. This is confirmed by the DCC Parks and Landscaping's report for the SHD scheme which stated, inter alia:

*There are a stated 404 existing trees and the proposals would fell 283, or 70% of the tree population which is a high loss rate and of **significant concern**. A further 238 large shrubs are also proposed for removal. ... **It is clear that existing vegetation has not been used as an important constraint in creating the development layout in a sustainable manner. As such development blocks and services are located on existing trees rather than avoiding them** (emphasis added).*

A revised masterplan and EIAR is required which addresses this significant environmental impact and which takes as its starting point the retention of existing historic mature and semi-mature trees located in this institutional parkland environment.

7.13.2 **EIAR assessment of likely impact on bats and bat habitats is inadequate.**

The assessment of the impact of the development on the existing bat population and their habitats is restricted to lighting and any remediation actions are also focussed solely on lighting. However, studies show that noise has become a major global pollutant that can affect bats. There is no analysis included in the EIAR of how the noise of 3 years of heavy construction followed by the noise of up to 2,000 residents and the much touted users of any open spaces and cultural areas will affect this protected population. We note how Hansjoerg P. Kunc and Rouven Schmidt (2019) state: "Anthropogenic noise must be considered as a serious form of environmental change and pollution as it affects both aquatic and terrestrial species".¹⁴

7.13.3 **The EIAR and overall application fails to properly assess the development against the Water Framework Directive and the River Basin Management Plan (RBMP)**

The requirements of Article 3 (1) of the amended Directive are clear.

The "existing drainage network on Eglington Road" outfalls to the River Dodder. The Water Framework Directive (WFD) water quality status for the River Dodder is "Moderate" and the waterbody is "At Risk" and a designated Area for Action (AFA) under the Third Cycle River Basin Management Plan 2022-2027.¹⁵ This aspect has not been appropriately assessed under the EIAR.

As the EPA coordinates WFD implementation in Ireland and carries out monitoring, assessment and setting of objectives for waterbodies along with the Local Authority Waters Programme (LAWPRO) I fail to see how a proper assessment of this application can be carried out or properly assessed without consultation with both or one of these agencies.

Any assessment needs to also consider the environmental impacts of this application and the cumulative impact of all the proposed developments with the catchment areas of the River Dodder, the River Slang (a tributary of the River Dodder) and the River Liffey (where the Dodder River outfalls). All the developments in the map below (source: ACP) are, or will be, discharging to the Dodder River, Slang River or Liffey River.

¹⁴ Source: The effects of anthropogenic noise on animals: a meta-analysis
Hansjoerg P. Kunc and Rouven Schmidt <https://doi.org/10.1098/rsbl.2019.0649>

¹⁵ <https://www.gov.ie/pdf/?file=https://assets.gov.ie/199138/ed726b60-2e23-4e7b-aa08-dc1f9e9f3663.pdf#page=null>

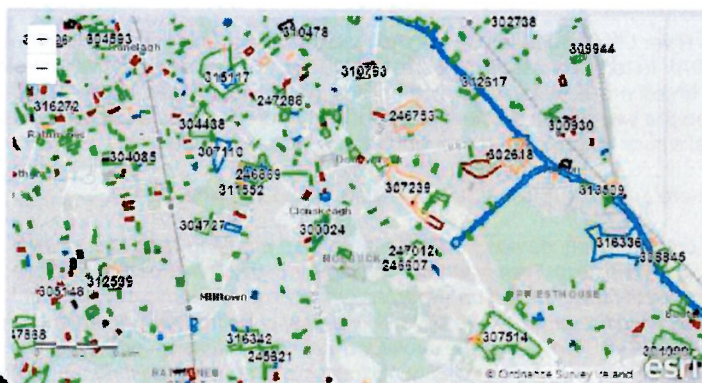


Fig. 113: Permitted discharging or to discharge to the Dodder River, Slane River or Liffey River

Risk assessment data produced to support Cycle 3 of the RBMP identifies water bodies at risk of failing WFD objectives or at risk of deteriorating from their current status due to a number of pressures – **this list includes the Dodder River.**

Cycle 3 of the RBMP indicates that currently 47% (453 out of 969) River Water Bodies (RWBs) in the Eastern and Midlands Region are 'At Risk'. For the "at risk" waterbodies, Hydromorphology and Urban Run Off are high pressures.

The applicant EAR fails to assess this significant concern.

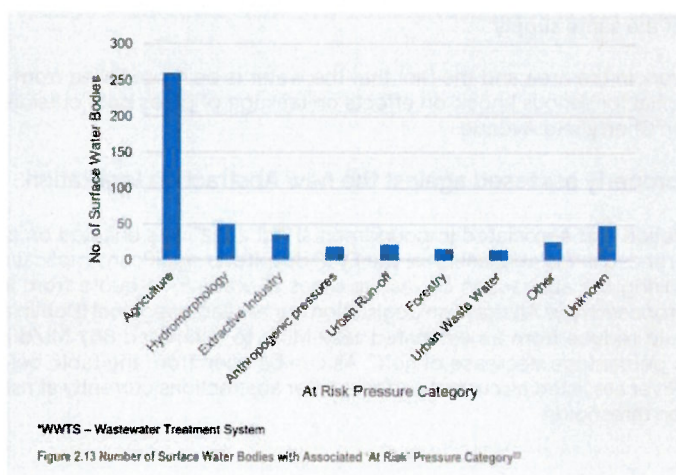


Fig. 114: Number of surface water bodies with associated 'at risk' pressure category

7.13.4 The proposed impact on public water supply is not properly assessed

The application states that the development has no impact on a public water supply. This is incorrect.

Any deterioration in the quality of the Dodder River waterbody as a result of the proposed development also has a direct impact on the water supply.

The ecological status of the Dodder River is "Moderate" and the waterbody is "At Risk". Irish Water considers the ecological status through the requirements for abstraction licences and discharge permits. The ecological status impacts drinking water quality.
Source: Irish Water

The supply of water for the development will come from the GDA Public Water Supply. The largest WTPs in the GDA abstract surface water from the River Liffey, Vartry, Dodder and Barrow catchments. The following link is taken from Irish Water's Regional Water Resources Plan for the East and Midlands:

<https://www.water.ie/projects/strategic-plans/national-water-resources/rwrp/eastern-midlands/>

The GDA water resource zone has significant issues in relation to quality, quantity, reliability and sustainability of the existing water supply.

Currently a single source, the River Liffey, supplies 85% of the water requirements for 1.7 million people in the Greater Dublin Area (GDA). In terms of catchment size the Liffey is the 19th largest river in Ireland, yet we abstract nearly five times more water from it than any other waterbody in the state. This dependency on the Liffey (and the two main treatment plants of Ballymore Eustace and Leixlip) results in a serious vulnerability to risks such as prolonged drought and/or contamination.

According to Uisce Eireann there are serious issues with the water supply for the GDA:

*At present the GDA has a critical supply demand balance issue, with planning deficits in normal conditions in the order of 48 ML/d in 2019. Even when accounting for heavy investment in leakage reduction, this deficit will increase further based on expected growth and economic development (aligned with the National Planning Framework). We have a number of ongoing supply intervention projects including the new WTP at Vartry and the Srowland network extension project which alongside leakage and water conservation measures will allow us maintain the existing Level of Service (LoS) to our customers **while facilitating growth to 2025** (emphasis added).*

Even if the green light is given to this development, the completion date is not until after 2025. The proposed solution in the Irish Water Plan is the proposed Shannon to Dublin Pipeline which is not even on the table yet and could take decades to build)

Irish Water is taking all feasible measures to reduce the risk to customers in the near term but the risk of loss or reduction in water supply remains. In the longer term, it is certain that without a significant new supply source, homes and businesses in the Greater Dublin Area will not have enough water to meet their future water needs (emphasis added).

So not only does the overdevelopment of this site affect the future supply of any future residents, it poses a risk to all current users of the same supply.

Given the age of the water network in the area and the fact that the water is being supplied from old cast iron pipes, this has the potential for serious knock-on effects on leakage of pipes both outside on the road and within the houses on Cherryfield Avenue.

7.13.5 The EIAR has not been properly assessed against the new Abstraction legislation.

The "Water Environment (Abstraction and Associated Impoundments) Act 2022" was enacted on 20th December 2022.¹⁶ This is not referenced in the application or the EIAR despite its significant implications for this large scale scheme requiring the abstraction of vast volumes of water.¹⁷ To quote from Irish Water's own report: "Under the proposed new Abstraction Legislation our available regional (Dublin and the Midland) water supplies could reduce from an estimated 1227 ML/d to estimated 867 ML/d in a normal year, which represents a percentage decrease of 30%". As can be seen from the table below, the Dodder River and the Liffey River are listed as current surface water abstractions currently at risk of exceeding sustainable abstraction thresholds.

Background:

This Act was signed into law by President Higgins on the 20th of December 2022 and will have significant implications for the regularisation of water abstractions in Ireland. Previous water abstraction legislation in Ireland was deemed by the European Commission to be non-compliant with the Water Framework Directive. The European Commission found that Ireland lacked a comprehensive and modern abstraction-management and control regime, and subsequently brought an infringement action against Ireland to fully transpose the Directive in respect of water abstractions.

Previous water abstraction legislation in Ireland, the Water Supplies Act 1942, only applied to public water supplies. Its focus was very much on procedures for compensating riparian owners affected by water abstractions, and other issues such as providing compensation flows downstream of the abstraction. It did not fully consider the environmental implications of such abstractions, and this deficiency became more evident following the advent of the Water Framework Directive in 2000, which requires all Member States to protect and improve water quality in all waters so that good ecological status is achieved by 2015 or, at the latest, by 2027.

¹⁶ <https://www.oireachtas.ie/en/bills/bill/2022/87/>

In response to the infringement action, Ireland, as an interim measure, introduced the European Union (Water Policy) (Abstraction Registration) Regulations 2018, which required all abstractions of 25m³ per day or more to be entered on a register of abstractions maintained by the EPA.

Following further work on the issue by the Oireachtas between 2018 and 2022, the Water Environment (Abstractions and Associated Impoundments) Act 2022 was enacted in December 2022.

The new Act sets out a system of controls on the abstraction and impoundment of water, to protect the environment and to ensure full compliance with Ireland's responsibilities under the Water Framework Directive.

The Act provides for a modern registration, licensing and control regime for water abstractions. It includes a graduated and proportionate registration and licensing system for the abstraction of water, including:

- a simple registration system for abstractions above a threshold of 25 m³ per day, and **a licence requirement for abstractions above a threshold of 2,000 m³ per day and in certain other circumstances (depending on the significance of the abstraction, discussed below).**

A significant abstraction is defined in Section 18(1) of the Act as:

an abstraction that the Agency determines, following an assessment under subsection (3), on its own or together with other abstractions:

- (a) *alters, or is likely to alter, the hydrological regime of a body of surface water or a body of groundwater such that the water body fails or is likely to fail to meet its environmental objectives,*
- (b) *alters or modifies, or is likely to alter or modify, the flow condition, continuity or morphological condition of a body of surface water as a result of the existence or operation of an associated impoundment, such that the water body fails or is likely to fail to meet its environmental objectives,*
- or*
- (c) *causes or is likely to cause a protected area to fail to achieve its environmental objectives.*

In terms of this definition of a significant abstraction, the EPA is required to assess each proposed abstraction above the registration threshold and below the licensing threshold, to determine if it constitutes a significant abstraction. Where the EPA determines an abstraction to be significant, a licence will be required. Each assessment of significance is to be reviewed not less than once every six years.

Table 2.4 Surface Water Abstractions Potentially At Risk of Exceeding Sustainable Abstraction Thresholds

Study Areas	Surface Water Abstractions Potentially At Risk of Exceeding Sustainable Abstraction Thresholds	
	Number of Abstraction Sites	Site Name (WRZ) / WFD Waterbody Name
SA1	4	Derry River (Tinahely Regional Supply) / Derry River Tributary of Avonbeg Balinder (Rathdrum Public Supply) / Mill Glen Stream Three Wells Stream (Aughrim Annamara Public Supply) / Three Wells Stream Tributary of Avonbeg River (Avoca Balindash Public Supply) / Avonbeg Tributary
SA2	0	n/a
SA3	3	Lough Skeagh (Balleboro RWSS) / Lough Skeagh River Blackwater - Liscarrow (Navan Mid Meath) / River Blackwater Lough Bane (Kells-Oldcastle) / Lough Bane
SA4	2	Lough Lene (Bellary) / Lough Lene Lough Owel (Mulling Regional) / Lough Owel
SA5	1	Gageborough River (Clara/Ferbane/Moyclare) / River Gageborough
SA6	2	Clodiagh River (Tullamore) / River Clodiagh Bunren River (Carlow Central Regional) / River Bunren
SA7	1	Little Broona River (Roscrea) / Little Broona
SA8	3	River Deel (Shannon Estuary Water Supply) / River Deel Loobagh River (Glencohen/Jamesstown/Kinallock) / River Loobagh Mulkarr River (Newport RWSS) / River Newport
SA9	4	River Liffey - impoundment (Greater Dublin Area) / Leask Reservoir Dodder River (Greater Dublin Area) / Glensmole Upper Varrity River (Greater Dublin Area) / River Varrity River Liffey (Greater Dublin Area) / Pella Phuca

Fig. 115: Surface water abstractions potentially at risk of exceeding sustainable thresholds

7.13.6 Proposed water conservation and SuDS measures are inadequate

Two further water related concerns arise. They suggest the scheme could be better designed to address the issue of water shortage and the better use of rainwater

7.13.7 The EIAR does not meet the requirements for consultation and public participation.

The EIAR does not meet the requirements for consultation and public participation. The EIAR makes no reference to any form of consultation with any third parties. This is a requirement for EIA. For this reason, all the material contained in the EIAR is from private reports commissioned by the developers.

Section 2.4 Fundamental Principles of the EPA Guidelines on the Information to be contained in Environmental Impact Assessment Report 2017 states "EIA provides a system of sharing information about the environment which enables effects to be foreseen and prevented during the design and consent stages. This protects the environment and informs decision-making. The fundamental principles to be followed when preparing an EIAR are:

- Anticipating, avoiding and reducing significant effects
- Assessing and mitigating effects
- Maintaining objectivity
- Ensuring clarity and quality
- Providing relevant information to decision makers
- **Facilitating better consultation**

The reports included in the EIAR exclude site visits to our client's residents' properties to carry out amenity impact assessments. For example:

- The daylight and sunlight impact assessor has not visited the impact dwellings and rear gardens and is forced to make assumptions on the depth of rooms inside windows, on the quantum of daylight and sunlight each window currently receives, on the amount of time each rear garden currently receives sunlight for on the 21st of March of each year, etc. The assessor's report is incomplete as it avoids consultation with those most impacted by the scheme.
- The Landscape and Visual Impact Assessor has failed to visit any Cherryfield Avenue property to determine the likely visual impact on its rear windows and rear gardens. The adverse impacts are all to the rear yet the assessor stood only on the other side of the dwellings – within the road – and did not even attempt to assess the actual impact which will arise but instead argues the impacted houses screen the scheme. This is much like telling our client's residents that if they only look out of their front windows and never use their rear gardens then there will be no adverse visual impact. It is not acceptable. The assessor's report is incomplete as it avoids consultation with those most impacted by the scheme.
- No attempt has been made to consult with our client's residents regarding the impact of the loss of the tree belt to the rear of their properties would have (see Appendix 1 of this report). The Arborist has not visited any of the impacted properties and neither has the project landscaper or architect. The project has closed its eyes to impacts on Cherryfield Avenue.

7.13.8 Ringsend WWTP – should permissions not be delayed pending further upgrade?

An Appropriate Assessment and an EIAR have been submitted which seek to address concerns regarding the potential direct and indirect effects of the proposed development during construction and operational phase on 4 no. European Sites; Dublin Bay South SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and Rockabill to Dalkey Island SAC.

The big issue is load capacity as Ringsend is a constrained site with no room for any further upgrades. The GDD project is needed to take the extra capacity, but this is stalled at planning stage and is years behind delivery.

The applicant argues that the scheme can be accommodated by the Ringsend WWTP and that cumulative impacts concerns do not arise.

The AA and EIAR reports are less than credible re. on the capacity of Ringsend WWTP to cope with further loading from this scheme's foul water. It accepts that the proposed upgrade is some years away yet but argues on that the existing WWTP's failings which include discharging raw sewage into Dublin Bay are not having any impact on European sites and this proposal will not exacerbate this. The ecologist goes so far as to state that even if the WWTP was not upgraded then there would still be no impacts or cumulative impacts on any Natura 2000 sites. This conclusion does not appear credible. If every scheme argues that its foul waste can just be passed to a WWTP making regular discharges of raw sewage into the sea and that this is no issue at all then what is the point of the Natura 2000 sites? The NIS refers to cumulative impacts but finds no issue with the vast number of planning permissions now granted in Dublin whose foul water will pass to the Ringsend WWTP.

Our client is concerned at the extent of mitigation and avoidance measures which the applicant's contractor would need to adhere to in order to avoid negatively impacting on any European Site. It is our client's opinion having read the EIAR that there remain potentially significant adverse impacts which are unlikely to be fully mitigated and/or avoided.

At what point does DCC begin to pause permissions for large residential schemes to allow the Ringsend WWTP to catch up with every growing demand from giant residential schemes?

7.14 Ground 14: Construction phase concerns

7.14.1 Working hours – client concerns

Section 4 'Working Hours' of the submitted 'Preliminary Construction Management Plan' states:

For the duration of the proposed infrastructure works, typical working hours shall be 07:00 to 19:00 Monday to Friday (excluding bank holidays) and 09:00 to 13:00 Saturdays, subject to the restrictions imposed by the local authority. No working will be allowed on Sundays and Public Holidays. Subject to the agreement of the local authority, out of hours working may be required for water main connections, foul drainage connections etc.

Our client's residents ask that working hours be restricted from 8am to 6pm on weekdays. This site adjoins family homes, and they should not have to put up with extremely early construction works for years.

Our client is concerned that the applicant suggests flexible working hours. Our client asks that no flexibility be permitted to ensure that working hours can be enforced on the site in the event planning permission is granted. There should be no justification for any works, traffic movements, deliveries, etc. to take place outside of working hours.

Our client also asks that consideration be given to ensuring that 8am is the real start time and 6pm each day the real finish time for site activities. Most sites tend to have workers arriving/departing, deliveries and other construction activities taking place before 8am and after 6pm. These should be closely restricted by way of condition and enforced.

Our client submits that no flexibility should be permitted around possible out of hours work, Sunday, or Bank Holiday work. If any loophole is provided for such work, then inevitably it happens. This is a backland site in an established residential area. No loophole should be allowed. DCC should not allow work on such days as our client's residents would be excluded from such discussions which impact on their residential and visual amenities.

7.14.2 Proximity of road works, excavations, etc. residential properties is unacceptable

Our client's residents sited on Cherryfield Avenue Lower and Upper strenuously object to the proximity to their properties and rear gardens of the proposed works required to facilitate the development of Block E. The submitted noise assessment report confirms would cause these properties to experience noise levels which are above any acceptable threshold.

Noise levels that will be generated by construction phase machinery will, based on details submitted by other schemes, range from 61 to 84 dB LAeq (1hour) with figures for 'Cumulative Site Preparation', 'Cumulative General Construction' and 'Cumulative General Landscaping and Road Work' of between 78 and 84 dB LAeq (1hour). These noise levels would represent a significant increase in the measured baseline noise environment.

Our client's closest residents would experience the highest construction noise levels – between 74 and 80 LAeq at distance (m) - that would arise from the 'Site Preparation' (Phase 1), the 'General Construction' (Phase 2) and 'Road Works/ Landscaping' (Phase 3) phases of this scheme.

BPS submits that our client's residents will experience noise above any acceptable construction noise criteria, i.e. the level at which a potential significant impact could be expected to occur, i.e. at noise sensitive locations. This will have a potential significant impact at all construction phases in the absence of mitigation. The likely noise levels at our client's residents' properties are above the criteria at which a significant impact is deemed to occur (65dB LAeq,T) and therefore, in the absence of noise mitigation, a negative, significant and short-term impact is likely.

Noise assessors normally provide a 'worst case' scenario where no mitigation measures were not carried out or they do not work and the ProPG Internal Noise Levels guidelines, BS 8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings are not met.

BPS has reviewed the applicant proposals, and we submit that that the construction phase will cause significant and negative noise impacts on our client's properties. We have also reviewed the proposed "mitigation" measures which are in no way reassuring.

BPS considers that without improved mitigation measures to address construction noise impacts, our client's properties will fall into a worst-case noise scenario, and this is wholly unacceptable.

The setback distances are unacceptable. These works would not have to take place so close to the shared boundary if Block E was removed or setback further from the boundary and a more reasonable approach to the development of the site was pursued.

7.14.2.1 Actual noise mitigation is required to protect adjoining residential properties

Actual noise mitigation measures are needed to address construction phase noise concerns. The applicant needs to:

- Carry out continuous noise monitoring with proper oversight.
- Provide 3m to 6m tall acoustic barriers on the boundaries shared with rear garden boundaries (at our client's residents' ground levels).
- Provide acoustic barriers on the external face of all scaffolding facing a where works are to face and/or adjoin private residential properties and to take place above first floor level.
- Noisy construction work should not begin on the site until 8:30am and it should stop at 5pm.

BPS considers that without improved mitigation measures to address construction noise impacts, our client's residents' adjoining properties will fall into a construction noise worst case scenario and this is wholly unacceptable.

7.14.2.2 Monitoring required & consequences must arise if noise levels are exceeded

To effectively manage noise and vibration at our client's residents' properties adjoining the site, installation of a continuous data logging live noise and vibration monitoring system is required. This software will require remote login, data download and text/email alert functionality. It will measure key noise and vibration parameters (e.g. LAeq, LAFMAX, LA90, LA10, PPV(mm/sec) and Frequencies as Hz. If noise levels on the site – as monitored from within or alongside our client's properties - rise above 65dB LAeq,T, construction works should stop until the noise level is reduced.

The details submitted to date are inadequate regarding complaints. Planning conditions attached to a possible grant of planning permission should direct the applicant to ensure a complaints management procedure is properly implemented. This needs to be agreed before any permission is granted and this should include independent assessment of all complaints. Independent assessment can be achieved by the involvement of local residents in the process. Serious complaints should be reported to DCC and the process for doing this and when this should be done requires inclusion in any DCC decision.

7.14.3 Construction phase vibration concerns arise

The applicant has not adequately assessed the impact that vibration caused by the scheme at construction phase would have on existing adjoining properties. DCC will likely despite the scale of this scheme apply a standard condition such as:

The developer shall adhere to Dublin City Councils Construction and Demolition Good Practice Guide for Construction Sites for mitigation measures regarding air, noise and vibration pollution throughout the duration of the works. Reason: in the interests of public health.

There are differences in proposed ground levels that could result in subsidence and there are concerns over vibration damage from properties being so close to the works to Block E.

Our client submits that the applicant should have consulted with DCC regarding appropriate vibration limits and carried out pre-application surveys of adjoining and surrounding dwellings to identify a baseline for the pre-project status of those properties such that any visual signs of building damage because of vibration from the project can be properly apportioned to that source.

Our client's residents ask that DCC not grant a planning permission in a situation where the existing baseline status of the ground within the site and adjoining properties is unknown, and the pre-project vibration status of surrounding properties is unknown.

All adjoining properties should be monitored regarding structural vibration impacts during the construction phase. The applicant should put in place movement tell-tales and vibrograph monitoring

at the surrounding properties plus put in place a mitigation plan to minimise the impacts should the monitoring identify any issues.

No results of ground investigations have been submitted. The submission of such information is desirable and notwithstanding the results, the construction phase would have clear potential adverse impact on residential amenity during the construction phase, particularly for the properties to the north and south of the scheme.

Details are required regarding how the applicant proposes to indemnify our client's residents against possible structural impacts on their properties arising from construction vibration.

7.14.4 Construction phase could cause light overspill impacts on residential dwellings:

The applicant's construction phase lighting is to be agreed after planning permission is granted (if it is). Our client's residents object to this. Construction phase lighting proposals may impact on the residential and visual amenities of adjoining properties and, as such, should be considered and properly assessed by DCC.

7.14.5 Construction phase dust impacts would need to be carefully managed

Adjoining residential properties to the west maintain a relatively dust free environment given the location of their properties. The proposed development will generate significant dust and measures are needed to ensure this does not unduly impact on our client's residents' properties.

While some dirt and dust would be expected on any site, the extent of dust from a site this close to rear gardens could be excessive. Our client's residents ask that insofar as is possible a Dust Minimisation and Mitigation Strategy be put in place to minimise the transmission of dust into adjoining and surrounding residential properties. They ask that external measures such as the operation of a road sweeper / sprayer be minimised as these are just more noisy vehicles driving along adjoining roads.

Our client asks that in the event of a grant of planning permission that these measures be conditioned to be fully implemented by the contractor. Our client also asks that the external face of all scaffolding surrounding the scheme be covered to reduce dust (our client has asked that acoustic barrier material be used as the covering to also minimise noise).

Our client submits that in this case, an up to 10 storey scheme of multiple large apartment blocks and associated surface development works, located alongside rear gardens, a condition can be applied requiring dust deposition gauges (either Bergerhoff beakers or similar) to be located and monitored at locations specified during the period when construction work is in progress in the vicinity of residential properties. The maximum permissible deposition rates at such sites should be specified in the contract documents. Dust deposition gauges should be located along all boundaries.

7.15 Ground 15: Depreciation in the value of client's residents' properties

Our client's residents are concerned that the proposed development would seriously injure the amenities and depreciate the value of their properties adjoining the applicant's proposed development. The potential impact that a proposed development can have is recognised by the Planning Acts which include a reason for refusal reason 10. (c) of the Fourth Schedule 'Reasons for the Refusal of Permission which Exclude Compensation' of the Planning Acts 2000-2015:

10. In the case of development including any structure or any addition to or extension of a structure, the structure, addition or extension would— (c) seriously injure the amenities, or depreciate the value, of property in the vicinity.

The only basis for this scheme to proceed is that the interests of the developer are placed above the established residential and visual amenities of our client's properties and the best interests of the Z9 zoned lands which benefit adjoining and nearby properties.

7.16 Ground 16: The proposed development would set poor precedents

For the reasons set out in Sections 7.1 to 7.15, the proposed development, if granted, would set a poor precedent for, inter alia:

1. The overdevelopment of institutional lands for general residential development which should better be used on wholly residentially zoned lands.
2. The erosion of the remaining institutional land bank for uses such as schools.

3. For the granting of permission for Z12 lands to be developed as residential with:
 - Some tiny portion of cultural/community used provided which are undefined and may be unfeasible etc.
 - A poor distribution of public open space through the site which all reads as ancillary to apartment blocks.
4. The removal of excessive numbers of trees – 252 – and the removal of a tree belt of B standard trees. A further 200+ large shrubs are also proposed for removal.
5. Allowing proposals which adversely impact a Z2 Conservation Area.
6. Excessive residential densities at an outer suburban site which exceed those allowed under the DCDP 2022-2028.
7. The excessive under provision of car parking at an outer suburban site.
8. The excessively close siting of a block of houses and apartments to existing residential properties with consequent negative impacts.

Our client asks DCC to protect this area by refusing planning permission thereby avoiding setting a negative precedent for future development in this area or to substantially revise the scheme.

80 Conclusion

BPS has reviewed this amended LRD/SHD scheme in light of all relevant planning policies, the planning history of the site, the applicant's arguments and associated documents, carried out a site visit, and discussed the proposals with our client. We consider that while LRD1 has been amended, these amendments are insufficient to protect Cherryfield Avenue properties and the households who live in those properties.

Our client's residents object to the proposed development of this site including in principle. They do not consider that the proposals are compliant with the Z12 zoning of the site 'or' with the Z2 'Conservation Area' sited immediately to the south. This arises in part because the proposals are for 140.3 uph which is contrary to Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the DCC DCDP 2022-2028 which allows only 120 uph maximum at outer suburban locations. The scheme is 15% too dense.

Section 14.7.2 'Residential Neighbourhoods (Conservation Areas) – Zone Z2' of the DCDP 2022-2028 aims:

*To protect and/or improve the amenities of residential conservation areas. Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale ... The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. **The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area** (emphasis added).*

The proposed development would negatively impact on our client's residents' properties at Cherryfield Avenue Lower/Upper for the reasons set out in Sections 7.7 and 7.8 of this Planning Objection Report which in summary are:

- The scheme overdevelops the western part of the site adjoining the Z2 properties with buildings that are out of context in terms of scale, height, length, and bulk.
- The scheme retains the existing thin tree belt to the western boundary, but to achieve this Block E's design and siting remains unacceptable. The Block is designed with tiny and shallow rear gardens and with first floor terraces to make up for a deficiency of private open space. These terraces overlook our client's residents' properties. Block E is sited where a designated area of public open space is required which offers an adequate setback to Block C. The submitted site layout now places Block E extremely close to Block C such that they would adversely impact on one another and appear as a single block of cumulative development when viewed from our client's residents' properties. These are institutional lands where new housing is meant to be developed in a parkland setting with adjoining properties respected.
- Block C is overscaled at 5 and 7 storeys and sited too close to our clients' residents' properties.
- Block D is 3 and then 5 storeys tall very close to our client's residents' properties. This could be more sensitively designed and scaled. It really should comprise of 2 storey houses.

Our client considers that the subject planning application sited on Z12 'Institutional' zoned lands where the focus is meant to be on future community facility provision, does not fall within the definition of a site suitable for a Large Scale Residential Development as defined under the Planning and Development (Amendment) (Large-scale Residential Development) Act 2021.

While the applicant may disagree and DCC's pre-planning feedback appears to suggest it agrees with the applicant, our client notes how the Act refers, inter alia, to: "a) The development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses". These lands are not zoned specifically for residential or for a mixture of residential and other uses. Residential is meant to be ancillary to any large-scale development of these lands. This is a scheme which contains a tiny percentage of non-residential uses (above and below ground new buildings are all residential in use including basement parking, etc.). This is not a scheme that responds to the Z12 zoning as the percentage of non-residential uses is tiny. This is a vast residential scheme which will replace an existing tree filled green lung parkland type area. Future operator(s) of these cultural/community uses is/are not yet specified yet new schools are needed in this area. This proposal is inappropriate at the subject site whose future development should be driven by uses that increase the availability of facilities in this area and which do not increase the numbers of those placing demands on existing facilities which cannot be improved as these lands are removed to essentially wholly residential use.

This Planning Objection Report has raised significant concerns over the proposed masterplan. This is fundamentally the SHD scheme's masterplan with minor changes despite DCC requiring a fully new masterplan. Even the 252 trees and 200+ shrubs to be removed is the same between masterplans. DCC has been ignored.

The applicant planning application seizes on the new Z12 zoning as though it has been specifically applied to facilitate this scheme. This is despite the fact that the Department of Education recommended that the SHD scheme currently the subject of JR proceedings be refused. The Department's submission recommended that approval is not given for the development at this time on the basis that, inter alia, the lands have the potential to meet both existing and future educational needs. The applicant's KPMG report and new Social and Community Infrastructure Reports fail to provide that schools in this area can accommodate the current scheme's likely demand for school places and/or demand from any other new scheme permitted in recent years.

Our client does not understand how these lands can reasonably be transferred almost wholly into residential use when they are needed and/or likely to be needed in the future for community facilities in the context of a growing Dublin population. Section 14.7.12 of the DCDP aims: "To ensure existing environmental amenities are protected in the predominantly residential future use of these lands", that 'Residential' is a use that is a 'Permissible Use' under the Z12 zoning and that "Where such lands are redeveloped, the predominant land use will be residential". However, they do not accept that the current scheme offers an acceptable response to the Z12 zoning. The submitted proposals are for a residential scheme which would be appropriate within areas zoned Z1, Z4, Z5 or Z14. It is a high density residential scheme of a type which has defined the SHD process. It is not a scheme suitable for an institutionally zoned site. All development that is not residential is ancillary to an overall development for the lands which would effectively re-zone them purely residential.

This zoning change is in our client's opinion, a recognition of the fact that there is the potential to develop community facilities, provide publicly needed institutional type developments (hospitals, colleges, sports facilities, etc.) and offer public open space provision within the lands. It is clearly the case that the new zoning was not and is not designed to facilitate the applicant scheme's excessive scale of residential development. It is meant to be residential development and other uses. The future uses in the Chapel and Tabor House buildings are not fully defined and the rest of the residential amenity spaces and creche are residentially ancillary to this scheme alone.

Our client maintains serious and significant reservations regarding how the applicant proposes to develop the site in effectively the same way as they proposed to develop it under the previous planning application. The arguments set out in the planning application essentially seeks to reverse engineer the scheme to fit the new zoning and new DCDP rather than offering a new planning application. The submitted 'masterplan' is essentially the previous planning application. In this way, the applicant is in fact effectively ignoring the DCDP.

The applicant was asked by DCC at pre-planning stage to

*... comply fully with the Z12 zoning objective on institutional lands which requires that the masterplan is for the entirety of the institutional lands i.e. 'Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future development of the entire landholding.' The applicant is required to submit a **revised Masterplan** for the entirety of the institutional land ... [emphasis added].*

That is, DCC made clear that the previously submitted SHD scheme masterplan needed to be revised.

- A number of concerns arise regarding non-compliance with s. 14.7.12 of the DCDP: These are set out in this Planning Objection Report. Particular concerns arise regarding:
 - The imbalance in the masterplan between the overdeveloped western part of the site adjoining Cherryfield Avenue Lower and Upper and the eastern half of the site.
 - The Western side of the site is offered a watered down tree belt when a proper scaled public open space area is needed. Block E should be removed such that a credible landscaped setback is offered to Block C from the western boundary.
 - The unavailability of school places in this area and the need for schools within this site
 - The lack of any defined use or confirmed operator of the claimed community/cultural spaces which are meant to justify this scheme.
- A proposed masterplan must align with the DCC 2022-2028 Development Plan – **it does not as it is too dense.**
- A proposed masterplan must respect its context.

Our client's residents' properties are sited in a Zone 2 Residential Conservation Area. The site borders such areas to the west and north. The applicant proposals are, for the reasons set out in Section 7.7 and 7.8 of this Planning Objection Report, incompatible with the adjoining Z2 zoned lands. **The proposals do not respect their context.** Section 2.3 'Conservation and Heritage Assets' of the Applicant Design Statement notes: "The Sandford Road site is abutted by three Z2 Residential Conservation Areas, along the West boundary edge and adjacent to the North entrance and the East corner of the site".

This scheme seeks permission to cut down 252 of 404 trees and a further 200+ large shrubs on the site and will remove a de facto park which offers a green lung to the city and a habitat for wildlife including birds, bats and foxes.

- A proposed master plan must address the land use zoning objectives set out under Section 14.7.12 'Institutional Land (Future Development Potential) – Zone Z12'. Concerns arise as follows:
 - The vision presented by the applicant aims to convert the site from institutional land available for future community and educational uses to a high density residential scheme which offers mostly small residential units. The loss of these lands to such a scheme – one with mostly small units is hard to justify.
 - The vision presented by the applicant seeks to push most of the scheme's denser parts into the western half of the site and onto our client's residents. The thin tree belt offered to the western boundary is inadequate when large public open spaces are provided to the east and north of the site.
 - No accessible designated public open space is offered close to our client's resident's properties. The thin tree belt is not a public open space. The current open character of the site as viewed from our client's resident's properties would be replaced by an overdeveloped vista of large buildings.
 - Our client is not aware that the applicant has consulted any local person about how best to distribute public open space in the site to benefit the area. The existing tree belt to the western boundary of the subject site is proposed to be removed yet this would ensure a high-quality public open space linked to the green network. The failure to offer a large west side of the scheme public open space and to offer public access into such a new public open space on the western boundary of the site is contrary to Section 10.5.1 of the DCDP 'Green Infrastructure'.

The proposed development is essentially the SHD and LRD1 schemes with some minor revisions. This is despite DCC making clear at pre-planning stage that a full and detailed masterplan would be required. The applicant has failed to listen to our client's residents.

There is significant opposition to the scheme as is demonstrated by the volume of objections submitted previously to DCC and ACP. That mostly the same planning application has now been re-submitted even with the new zoning in place, is difficult for our client's residents to understand. This planning objection has been lodged following detailed discussions with residents regarding this new planning

application. The decision has been made to again oppose this scheme and to take this objection. The grounds for this objection are many and detailed (see Section 7.0 of this Planning Objection Report).

Our client objects to the proposed development of this site including in principle. They do not consider that the proposals are compliant with the Z12 zoning of the site 'or' compatible with adjoining and nearby properties and lands zoned Z2.

Our client's residents are strenuously opposed to the scheme for all the reasons set out in this report which show how this proposal is poorly considered. However, they must also look to protect their own properties.

If this site is to be developed, then it should be developed properly and in line with DCC DCDP 2022-2028 planning policies, including pertaining to the minimum and maximum per unit density allowed in this area. **This is 60 uph to 120 uph.**

Under Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the DCC DCDP 2022-2028, the maximum allowable density on this site is 120 uph while, given the above constraints, a density far below this is more realistic. The DCDP allows for between 60 uph and 120 uph on this site. **This scheme is therefore too dense for this site and exceeds the maximum allowable density.**

The current scheme's density appears, to our client's residents, to represent a material contravention. As submitted, our client's residents do not consider the applicant proposals to comply with the DCDP. The DCDP is meant to protect their properties from visual overbearing and intrusion/obtrusion, from overlooking, from overshadowing and to protect their area from inappropriately scaled development that is at odds with the local environment.

The applicant scheme seeks to substantially disregard the agreed planning policy understanding of how this site and similar sites will be developed as articulated in the DCDP. How is it reasonable that our client's residents are faced with a scheme that disregards all the specific planning policies that apply what are agreed development parameters for this site? And, that the scheme can wholly ignore the context, pattern of development and character of adjoining development to the west that rises to 2 storeys maximum?

Our client's residents are asking DCC to respect and to follow the applicable uph density maximum for this site which is 120 and other development control policies that pertain to this site and to this area. These planning policies are clear. The scheme substantially and unacceptably contravenes these policies and proposes a building which would be the tallest building in the immediate area despite being on a relatively small site. The applicant has offered no relevant planning permission precedents for this scheme or for its lack of adequate parking provision that are actually from this area.

Section 7.0 of this Planning Objection Report raises serious concerns as to whether the Applicant's heavily congested, dense, tall, and over-scaled scheme can be considered – even in principle – to qualify as a grantable scheme for this site. The applicant scheme should be refused and then re-submitted at a reduced scale and height, or it should be substantially cut back.

The scheme is fundamentally at odds with the established planning permission parameters in this area. The applicant site is an infill suburban site outside of any city, district, or town centre. This scheme does not respect its context.

While the applicant is entitled to apply for planning permission for anything there is an onus on all applicants to try to identify a scheme that is compatible with a site, its site context and with planning policy. The applicant has not shown themselves willing to try to do so at any stage of the planning process to date.

There is a need for any proposed scheme's density, scale, height, and massing to represent a fair balance between the right of the applicant to develop their site and the rights of adjoining and surrounding residents to expect their area to be protected and or improved by any new development. Our client's residents do not think a fair balance is achieved here (or any balance at all). They consider that a scheme for this site at a lower density (of approx. 15% less), lower height, less scale, less massing, less length, less overlooking, less visual overbearing, less overshadowing, less noise, etc. would better respect the site, the area, and the rights of adjoining and surrounding residents. **That residential development is permissible on a site does not mean residential development of any scale: without any constraints.**

What must be kept in mind is that what is proposed is not a critical piece of nationally required infrastructure or a single building of world class architectural design. What is proposed is simply an over-scaled and over-ambitious apartment scheme. This scheme seeks to maximise density, scale,

height, length, and massing across the scheme. **In our client's opinion, the proposed compromises regarding negative impacts of the scheme on adjoining and surrounding residential and visual amenities required in respect of developing this scheme at the massively bulky heights and scales proposed cannot be tolerated. The scheme also cannot be justified when compared to the density, scale, height, and massing of any adjoining residential development in the immediate area.**

As much as the applicant has sought to argue that the compromises necessary would be outweighed by the provision of the subject development, this Planning Objection Report illustrates why this is not the case. **This proposal as it comes before DCC on the subject site would, in our client's opinion, give rise to a number of residual environmental effects of such significance in respect of their adverse impact that they cannot be reconciled with the need for the proposed development.**

What appears key, in the consideration of this proposal, is that the application before DCC is the culmination of a process where the consideration of the impacts on the receiving environment have been second to the applicant's own requirements and plans, particularly in respect of negative impacts on the area, on Z12 zoned lands, on Z2 zoned lands and on our client's residents' properties. **The suitability of the site in principle and the ability of the receiving environment to absorb the proposed buildings are two very different considerations and this, in our client's residents' opinion, is where the needs of the applicant and the concerns of adjoining and surrounding residents diverge.**

Where such divergence in vision exists and a large development proposal is made irrespective of its clear and apparent divergence from the established pattern and character of an area and its abrupt differences in height relative to adjoining properties, there is a need to identify appropriate assessment criteria by which to judge the proposal.

The critical development frameworks for this area, as noted above, are the DCC DCDP 2022-2028. It is our client's position that the applicant scheme requires material contravention of the DCDP regarding density and is far from compliant in multiple other areas as set out in Section 7.0 of this Planning Objection Report. It is also our client's view that this should not be permitted because, to any independent observer, the applicant scheme is too tall, too dense, too congested, too over-scaled and would constitute overdevelopment of this site.

The bottom line is that this scheme shows inadequate respect for our client's properties to the west. Inadequate respect for climate, demolition, open space and parking planning policies. Inadequate respect for established development parameters in this area or those in the DCDP.

There is a responsibility on DCC to do the right thing by adjoining residents. This planning application's proposals do not constitute the right thing. The proposed development would significantly and adversely alter the visual environment by the provision of visually prominent and visually dominant structures. A significant and in some instances profound visual change would occur within and outside the environs of the site.

Our client considers that the visual and other impacts of this scheme could be mitigated by reducing the scale, massing, length, and heights of the proposed scheme, but re-design is also required to reduce the significant and negative impacts that the proposed development as currently designed would have on the residential and visual amenities of our client's residents' adjoining properties.

Our client's residents have a range of other concerns with respect to this project, its construction and operation. These are set out in Section 7.0 of this Planning Objection Report.

Cumulatively, the negative impacts of the proposed development on the area, on Z12 zoned lands, on the Z2 Conservation Area to the west, on climate, on adjoining and surrounding residential dwellings and on the environment of the site and the surrounding area are such that this scheme cannot be granted in its current form. It would set a negative precedent. This scheme is over 20 uph too dense and too tall in areas. Adequate mitigation measures are not offered to the west of the site.

8.1 Performance-based planning risk assessment conclusions

In this era of 'performance-based' standards in respect of the assessment of a proposed scheme's density, scale, height, massing, bulk, and parking, it is necessary to carry out a planning risk assessment in light of the likely performance of this scheme. BPS has carried out this assessment by assessing the scheme in light of its locational and planning context. The conclusions of this exercise are:

- There is a **substantial planning risk** that this scheme's proposed demolition of existing buildings and the construction of this significant scheme with the loss of 252 trees and 200+ large shrubs (existing green lung areas with carbon sequestering) is contrary to national, regional, and local climate and climate and energy planning policies.

- There is a **substantial planning risk** that this scheme's imbalance of public open space with the western side of the site not offered any large and publicly accessible area is contrary to all DCDP 2022-2028 planning policies. The existing tree belt is not sufficient to mitigate the adverse impacts of the scheme on our client's residents' properties – it is not large enough and not publicly accessible.
- There is a **substantial planning risk** that this LRD scheme's proposals are contrary to the Z12 zoning and to s. 14.7.12 of the DCDP 2022-2028. The submitted masterplan is essentially that submitted with the SHD scheme when the site was zoned Z15. The applicant has not responded to DCC's concerns regarding the need for a new masterplan.
- There is a **significant planning risk** that this scheme's public open space proposals are contrary to the Z12 zoning and to s. 14.7.12 of the DCDP 2022-2028.
- There is a **substantial planning risk** that these Z12 zoned lands are needed for school development. The applicant has failed to confirm that the area has sufficient primary or post-primary places to serve this scheme and the Department of Education has previously raised objections to the use of these lands as almost wholly residential.
- There is a **substantial planning risk** that the proposed community/cultural uses mooted by the applicant have no feasible basis. They need to be replaced with sustainable proposals for schools or other community facilities for which there is sufficient ongoing revenue to ensure they can be maintained into the future. The current proposals are woolly and general and there is a risk the applicant will argue in due course that they are unfeasible and should be considered into other commercial uses and/or into residential.
- There is a **substantial planning risk** that these Z12 zoned lands are required to offer public open space in one area but that provided adjoins and forms part of an apartment block to which it appears visually related. The public open space proposals require review with a perimeter corridor of public open space recommended around the site.
- There is a **substantial planning risk** that this scheme would impact negatively on Z2 zoned lands to the west arising from the siting of Blocks E, D and C. The siting, height, scale, length, massing, and bulk of the proposed blocks may cause substantial and negative visual and visual overbearing impacts and overlooking impacts on adjoining and surrounding properties.
- There is a **substantial planning risk** that this scheme's proposed siting and density would be incompatible with the established character and pattern of development of adjoining residential developments which are of a substantially lower density. The abrupt increase in density has resulted in equally abrupt increases in scale, height, length, and massing of the proposed buildings.
- There is a **substantial planning risk** that this planning application proposes the excessive overdevelopment and over-scaling of a site suitable under the **DCC DCDP 2022-2028** for densities of between 60 uph and 120 uph as per Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the DCC DCDP 2022-2028. **This scheme is too dense for this site.** The scheme should be designed at a substantially – minimum 15% - lower scale and with no undue negative impacts on adjoining properties.
- There is a **substantial planning risk** that this planning application proposes the excessive overdevelopment and over-scaling of the site that would significantly, negatively, and permanently impact on the visual amenities and visual environment of areas adjoining this site.
- There is a **substantial planning risk** that this scheme's Block E cannot be justified as it offers poor amenity to future residents, causes adverse amenity impacts to properties to the west, draws traffic and parking into an area that needs none, causes the scheme not to offer a large west side public open space, and all for a small number of units.
- There is a **significant planning risk** that the submitted daylight and sunlight assessment report understates and seeks to disregard many instances of adverse overshadowing of residential windows and rear gardens to the west. The cumulative overshadowing impact may be far worse than claimed as the BRE Guidelines may not be suitable to assess the impact of loss of sunlight and daylight only from the south when averages are applied to achieve the applicant's desired result.
- When the CGI images are viewed objectively and other viewpoints into the scheme (e.g. from adjoining rear gardens whose views are excluded from the assessment entirely) are included, it is clear that there is a **substantial planning risk** that the adjoining residential properties to the west will experience a substantial negative and permanent reduction in their existing residential and

visual amenities arising from this scheme and especially from its eastern elevations. This impact would be **adverse**.

- When the noise monitoring results are reviewed and the proposed construction noise predictions considered for properties close to Block E, the results raise concerns that **these properties may experience adverse noise impacts from the construction phase**.
- **Significant adverse impact and substantial risk** arises in regard to the proposed insufficient car parking spaces. This could have a significant adverse impact on adjoining roads arising from overflow parking from scheme residents' and scheme visitors' cars. The proposed development would cause substantial and negative impacts on the internal quality of the scheme and on adjoining roads and apartment schemes by way of nuisance parking, traffic hazard, etc.

Our client's residents submit that following their assessment, the applicant planning application represents too high a risk of failing to comply with the DCDP 2022- 2028, of impacting on Z2 zoned lands, and causing significant and negative impacts on adjoining and surrounding properties, on other adjoining properties and on the area and would also risk providing only insufficient amenity to its proposed future residents, for DCC to consider granting planning permission. A revised masterplan is required.

9.0 Recommendation

Arising from the above, BPS recommends that Dublin City Council either:

1. Refuse planning permission for the reasons given in Section 9.1 of this Planning Objection Report; or
2. Require significant revisions to the scheme by way of condition in line with the list set out in Section 9.2 of this Planning Objection Report.

Both options would provide for the scheme to be altered. However, the extent of changes required by condition may make this option untenable.

Our client's residents maintain a range of concerns with respect to this project, its construction and operation. These are set out above.

9.1 Recommended reasons for refusal

Our client submits that the proposed development should be refused for the following reasons:

1. Having regard to the National Climate Plan 2023 and the National Energy & Climate Plan 2021-30 and to Sections 3.5.2, 15.7 and 15.7.1 and to Objective CA6 and Table 15-1 of the Dublin City Council Development Plan 2022-2028, the proposed development includes proposals for substantial demolition and reconstruction works which cannot be justified having regard to the 'embodied carbon' of existing structures as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. Compliance with the climate action principles set out in Chapter 3 have not been fully addressed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to how the proposed development would be constructed on Z12 zoned lands, the proposals are contrary to Section 14.7.12 of the Dublin City Development Plan as the proposals fail to deliver an acceptable masterplan which respects the Z12 zoning and is compliant with other development plan policies including density. The scheme contains: (i) Too many north facing units; (ii) Too many units with poor amenity and poorly designed windows (iii) Too many studio and one bed units; (iv) A poor distribution of public open space with none provided to the west of the site; (v) The scheme removes too many trees at 283, too many 238 large shrubs and removes the western tree belt; (vi) The extent of demolition is excessive; and (vii) The siting of Block E is not acceptable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the established character and pattern of development in the vicinity, the provisions of the Dublin City Development Plan 2022-2028 and the nature and scale of the proposed development, with a proposed Block E designed and sited poorly relative to the western boundary of the site, it is considered that the proposed development would have an overbearing, overshadowing and overlooking impact on adjoining properties on Cherryfield Avenue Lower and Upper. Accordingly, the proposed development would seriously injure the residential amenities of the stated adjoining properties, and would be contrary to the provisions set out under the Dublin City Development Plan 2022-2028, which require infill development not to cause significant loss of amenity to existing properties and infill housing to have regard to the existing character of the street.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. The proposed development is located on a site located in the 'Outer Suburbs'. Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the Dublin City Development Plan 2022-2028, provides for between 60 uph and 120 uph on this site. The scheme is 140.3 uph. It is considered that the design, scale, height, length and massing of the proposed development is contrary to Objectives QHSN10, SC8, SC10 and SC11 and to Tables 1 and 3 of Appendix of the City Development Plan. Having regard in particular to the scale, design, height, length and massing of the building which extends up to 8 storeys and which would be the tallest residential building in the immediate area, the development as proposed fails to incorporate design and layout elements which could help to absorb and mitigate the tall and over-scaled elements envisaged for this site, thereby militating against the successful integration of what is a landmark scale building for this area. The development as proposed would, therefore, adversely impact on the amenity of the local area, the skylines enjoyed by adjoining properties and residential areas and adjoining residential properties. As such, the proposal would militate against the successful achievement of the objectives for the site as outlined in the County Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.
5. The proposed development by reason of its height, design, scale, length, bulk and massing and being located adjoining to a lower density and height residential dwellings and apartment blocks, would comprise a dominant and visually incongruous scheme which would have a profound negative effect on the appearance and visual amenity of the local and wider area. The development as proposed would be inconsistent with and would adversely impact on the existing scale and established character of the local area and the existing scale and established character of this area. The proposal would contravene Table 1 of Appendix 3: 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City' of the Dublin City Development Plan 2022-2028, which seeks to ensure that all proposals for buildings of scale make a positive contribution to the urban character of the city. The 'Building Heights Strategy' also requires that proposals demonstrate sensitivity to areas including to local residents. Furthermore, the proposal of itself would have an adversely overbearing visual impact on neighbouring residential properties in the vicinity of the site. The proposed development would be contrary to the proper planning and sustainable development of the area.
6. The proposal in its current form, by virtue of the density, proximity, scale, height and massing of this building and its design and layout, especially at ground level, would be injurious to the future residential amenities of residents of the scheme and of surrounding residents. It is a policy of the planning authority to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas. In promoting more compact, good quality, higher density forms of residential development, it is the policy to have regard to the policies and objectives contained in the 'Sustainable Residential Development & Compact Settlements Guidelines' and the 'Urban Design Manual - A Best Practice Guide'. It is considered that the proposed development, by reason of the design, height orientation, scale, and massing on an infill site, would cause unacceptable overbearing impacts and would constitute significant overdevelopment of the site. The proposed development would, therefore, conflict with the provisions of the development plan, would adversely impact on adjoining residential amenity and would, thereby, be contrary to the proper planning and sustainable development of the area.
7. Having regard to the location of the site and to the established built form, pattern and character of the area, it is considered that the proposed development would be incongruous in terms of its design, height, bulk and form, would be out of character with this infill site, would constitute overdevelopment of the site and would have a detrimental impact to the residential amenities of adjacent properties, particularly those located to the west on Cherryfield Avenue Lower and Upper. The proposed development provides an inadequate design response to this sensitive infill site, would be of insufficient quality and would seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.
8. Having regard to the design, density, height, scale, length and massing of the scheme in particular its scale within a site zoned 'Z2: To protect and/or improve the amenities of residential conservation areas', it is considered that the proposed development represents overdevelopment and would result in a development that would detract from the residential amenity of the area and would be contrary to the residential zoning objective of the site. The proposed development would seriously injure the amenities, or depreciate the value, of property in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.
9. Having regard to Objectives SMT6, 7, 11, 27 and 29 of the Dublin City Development Plan 2022-2028 and to advice in the Sustainable Urban Housing Design Standards for New Apartments Guidelines

(2025) and the car parking standards in the Dublin City Development Plan 2022 – 2028, the proposal would fail to provide at least one car parking space per unit or any adequate parking provision, would be sub-standard in terms of car-parking provision and be likely to lead to overspill car parking in the surrounding area. The proposed development would endanger public safety by reason of a traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area.

10. It is considered that, by reason of the layout proposed, particularly the location and design of the public/communal/useable open spaces, the proposed development would result in a substandard form of development and would provide a poor level of amenity for future residential occupants and for the general public. The submitted area of primary public open space fails to comply with Section 14.7.12 of the Dublin City Development Plan 2022-2028 as it has Block A in the centre of it. The area of public open space between Blocks A and B is not acceptable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
11. This proposal does not meet standards with regards to tree retention. The 252 no. trees and 200+ large shrubs located within the scheme and the western tree belt of mostly B quality trees which form part of this site are a significant ecological feature in the local landscape and support a local wildlife and/or offer habitat to wildlife, birds and bats. The proposed development, by reason of its form and layout, would result in the loss or removal of these trees from the site which would be contrary to Section 10.5.7 'Trees', Section 15.6.9 and Objective GI41 'Protect Existing Trees as Part of New Development', Chapter 16 (Development Standards) of the City Development Plan and the City Tree Strategy of the Dublin City Development Plan 2022- 2028.
12. The proposed development would materially contravene the Dublin City Development Plan 2022-2028 as regards the CUO25 requirement. This is large floor area scheme where Objective CUO25: 'SDRAs and Large Scale Developments' applies. The policy states: "All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage. The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need. Such developments shall incorporate both cultural/arts and community uses individually or in combination unless there is an evidence base to justify the 5% going to one sector. In the absence of such full provision and detailed proposals as regards these future uses, the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

9.2 Revisions required to the scheme to address client concerns

In light of the above, BPS notes that the following revisions to the scheme would be needed to address our client's residents' concerns:

- **A revised masterplan is required which:**
 - Removes Block E and retains (in full and not in part) and expands the western tree belt into public open space accessible to the public.
 - Retains more trees and large shrubs.
 - Provides a better distribution of public open space and/or open space across the site including to the west of the site.
 - Removes Block E or re-designs it to have deeper rear gardens and no first floor terraces.
 - Reduces Block D to 2 and 4 storeys.
 - Reduces Block C to 5 storeys.
 - Addresses the excessive number of north facing units and small units in the scheme.
 - Provides a better mix of uses and offers fixed details as to the cultural/community floor areas.
- **Reduce the density of the scheme:** Reduce the density of the scheme by 15% or more (to a maximum of 120 uph). This would allow the applicant to bring the scheme into somewhat in line with the density and scale of adjoining properties and properly integrate it with adjoining 2 storey dwellings to the west. The scheme needs to be reduced in height, scale, length, and massing.
- **Block E should be removed or at minimum reduced to 2 storeys:** The rear garden depths of Block E dwellings are tiny and so additional private open space is needed. Our client objects to the large proposed first floor terraces which would allow direct views into private homes and rear gardens. The first floor terraces measure 22.5 sq.m, providing a total private amenity space of 65.2 sq m for

each 3 No. bedroom house. The applicant should provide each house in Block E with sufficient ground level private open space such that our client's residents live back to back with standard houses. Block E's dwellings need to be setback further into the scheme to achieve this. They need deeper rear gardens.

- **Block D:** Block D should be reduced to 2 storeys as it adjoins Cherryfield Avenue Upper and it should be setback to allow a landscaped tree-filled corridor to be provided along the western boundary. The taller section should be 4 storeys with no windows and balconies facing Cherryfield Avenue Upper.
- **Block C:** Block C should be 5 storeys. The 6 and 7 storey elements should be removed. The taller storeys contain west facing windows and balconies which would adversely overlook our client's residents' Z2 zoned homes and area.
- **The bike store building to the north of Block E:** This structure should be removed and relocated to the basement as per ACP's SHD decision.
- **The works may cause damage to adjoining properties.** The applicant needs to put in place a scheme of indemnity for possible damage to client properties.

9.2.1 Bottom line minimums the group would consider accepting:

BPS has been asked to include a list of bottom line minimums which the group would consider accepting on a compromise basis:

- The western tree belt retained more fully and as a public open space which cannot be altered in the future.
- Block E removed.
- Block C at 5 storeys maximum (no 6 and 7 storey elements which would cause overlooking and be visible through a proposed break in the western tree belt to be partly retained).
- Block D at 2 and 4 storeys.
- Rear shared boundary treatment with Cherryfield Avenue should be a 2m stone walls.
- The bike store north of Block E removed.

Signed:

Brendan Buck

BPS Planning Consultants LTD
Members of the Irish Planning Institute
16 March 2026

Appendix 1 – Photographs taken toward the site from Cherryfield Avenue Lower and Upper properties facing the applicant site to show the importance of the western tree belt



Fig.1: Photograph taken from outside No. 1 Upper's first floor window toward applicant site



Fig. 2: Photograph taken from No. 1's rear garden toward applicant site



Fig. 3: Photograph taken from No. 31 Lower's ground floor toward applicant site

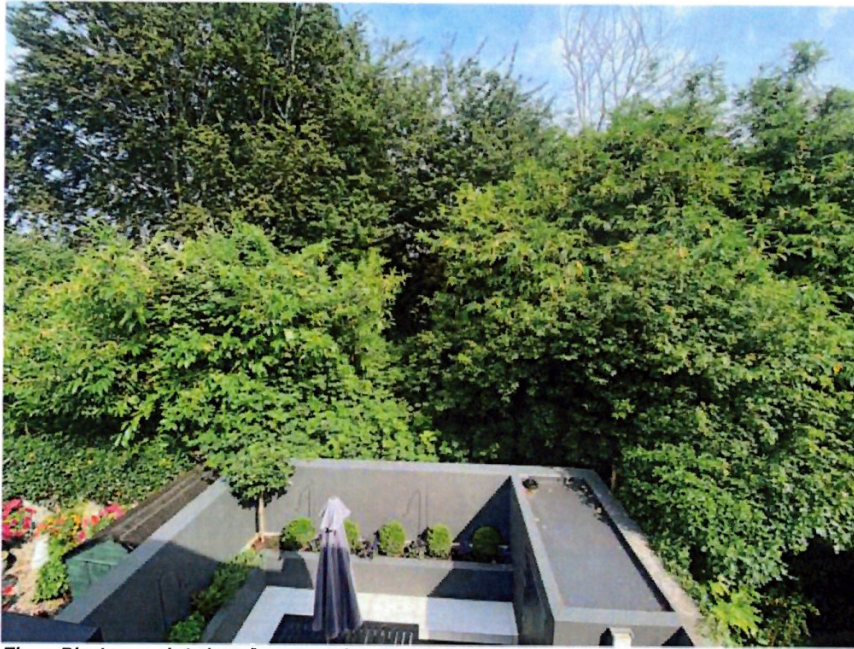


Fig. 4 Photograph taken from outside No. 31 Lower's first floor window toward applicant site



Fig.5: Photograph taken from inside No. 31 Lower's first floor window toward applicant site



Fig. 6: Photograph taken from No 31 Lower's rear garden toward applicant site



Fig. 7: Photograph taken from No. 28 Lower's rear garden toward applicant site



Fig. 8: Photograph taken from No. 2 Upper's rear garden toward applicant site



Fig.9: Photograph taken from No. 3 Upper's rear garden toward applicant site (winter view)



Fig.10: Photograph taken from No.3 Upper's first floor window toward applicantsite (winter view)

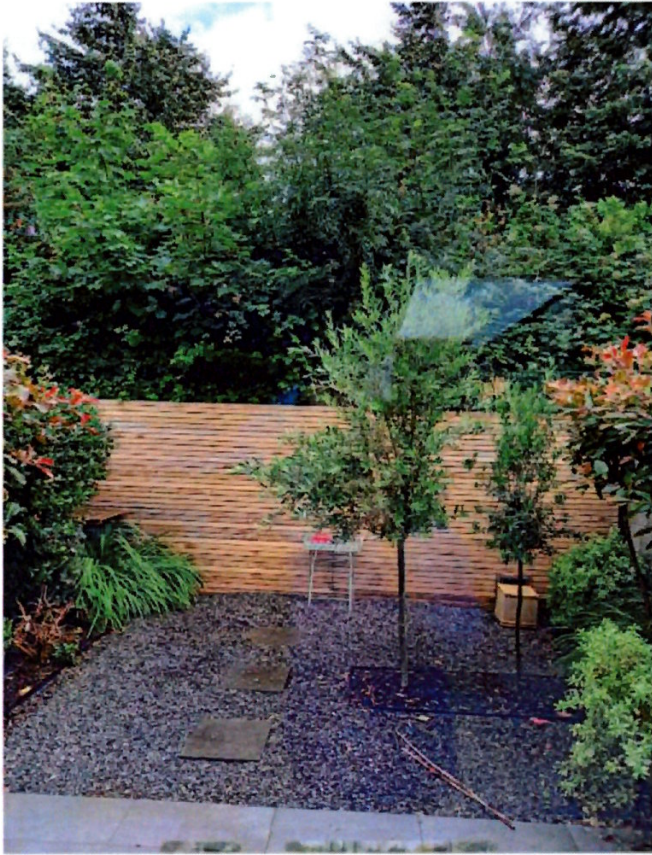


Fig. 11: Photograph taken from No. 7 Upper's rear garden toward applicant site

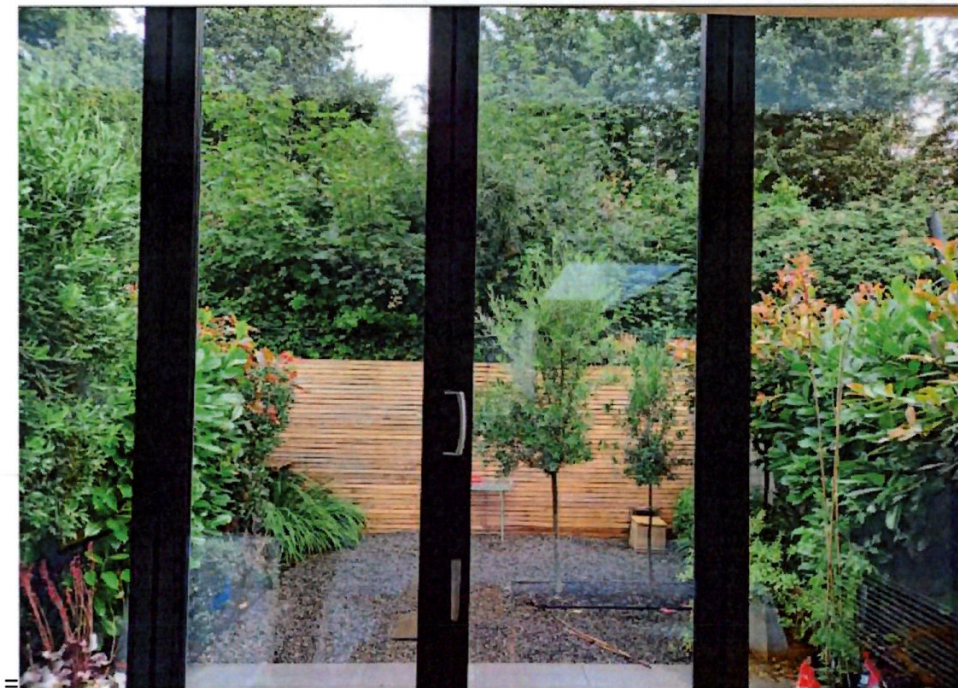


Fig. 12: Photograph taken from No. 4 Upper's rear ground floor windows toward applicant site



Fig. 13: Photograph taken from No. 5 Upper's firstground floor windows toward applicant site



Fig. 14: Photograph taken from No. 6 Upper's rear garden toward applicant site

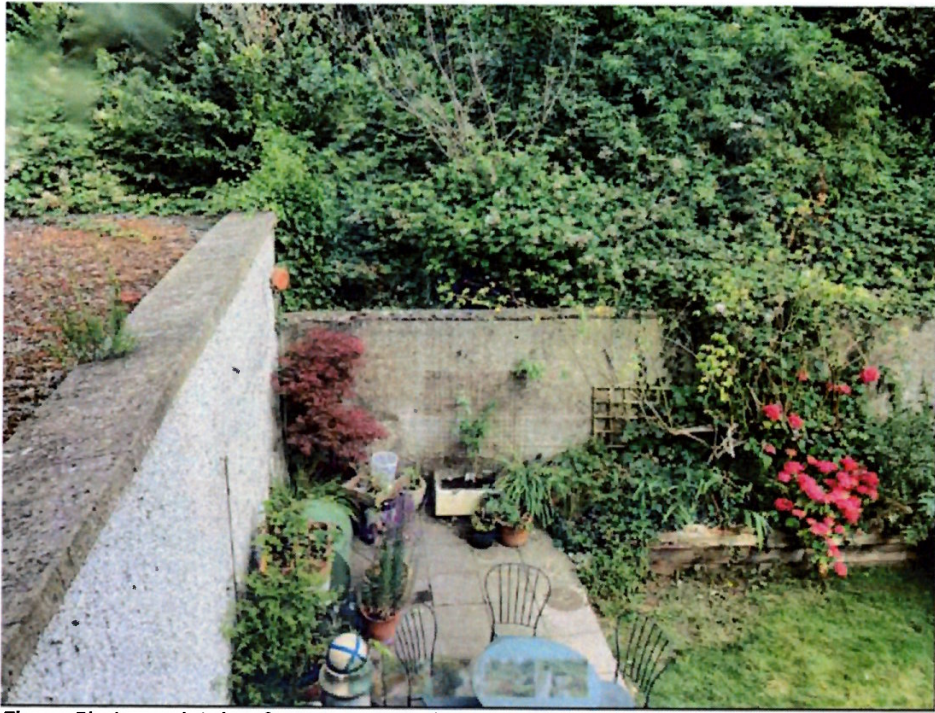


Fig. 15: Photograph taken from No. 6 Upper's first floor window toward applicant site



Fig. 16: Photograph taken from No. 10 Upper's rear garden toward applicant site (winter evening photo)



Fig. 17: Photograph taken from No. 12 Upper's rear garden toward applicant site (winter evening photo)

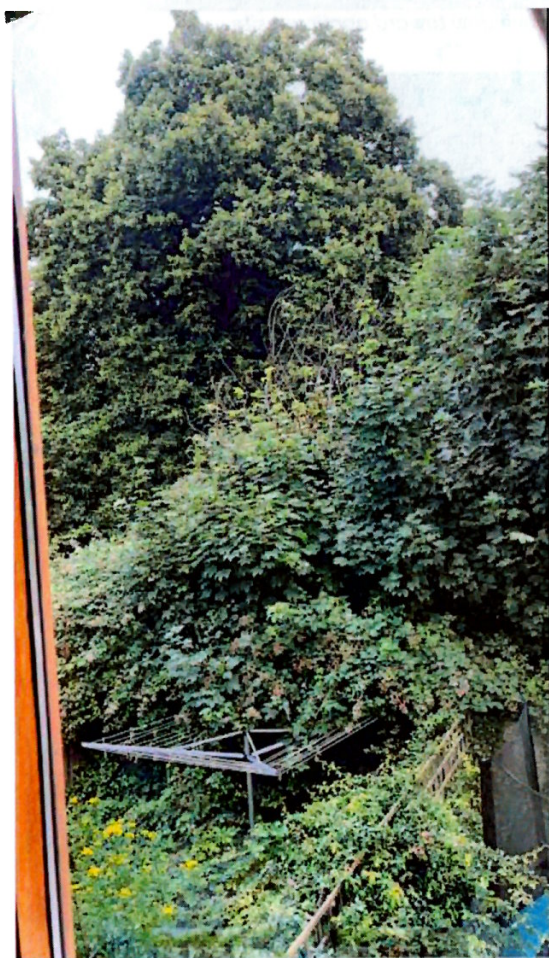


Fig. 18: Photograph taken from No. 12 Upper's first floor window toward applicant site (summer photo)



Fig. 19: Photograph taken from No. 13 Upper's rear garden toward applicant site (spring photo)



Fig. 20: Photograph taken from No. 1 Upper's 1st floor window toward applicant site



Fig21: Photograph taken from No15 Upper's rear garden toward applicant site



Fig22: Photograph taken from No. 13 Upper's first floor window toward applicant site (summer photo)



Fig. 23: Photograph taken from No. 16 Upper's rear garden toward applicant site (summer photo)



Fig. 24: Photograph taken from No. 17 Upper's rear garden toward applicant site (summer photo)



Fig.25: Photograph taken from No. 18 Upper's rear garden toward applicant site (summer photo)



Fig. 26: Photograph taken from No19 Upper's rear garden toward applicant site (summer photo)



Fig. 27: Photograph taken from No. 32 Cherryfield Avenue Lower's 1st floor window toward applicant site

Appendix 2 – Photographs provided as context for comments made on the submitted Landscape and Visual Impact Assessment report



Fig.1: View to ward the site from between Nos.11 &13 Cherryfield Avenue lower /Upper



Fig. 2: View toward the site from between Nos. 16 & 17 Cherryfield Avenue Lower/Upper