



An
Bord
Pleanála

Inspector's Report ABP-317729-23

Development	Demolition of existing dwelling and construction of a 6 storey apartment building comprising 13 no. apartments and associated site works.
Location	29 Bow Lane West, Dublin 8 D08V44T
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	5400/22
Applicant(s)	Ixeter Property DAC
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Ixeter Property DAC
Observers	None
Date of Site Inspection	30 th November 2023

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The appeal site comprises a broadly rectangular shaped plot with a stated area of 0.037 hectares located on the southern side of Bow Lane West, Dublin 8, within a 12 minute walk of Heuston Station and c 160 metres west of the junction of Bow Lane with Steven's Lane and James's Street.
- 1.2. The site contains a 2 storey pitched roof historic dwelling, not presently inhabited, finished in rubble stone, and which fronts directly onto the footpath. There is a vehicular side entrance on the western side of the dwelling leading to a large rear yard to the south and the rear parking area associated with the adjoining 2 storey dwelling to the west, No. 28 Bow Lane. The submitted site location map indicates there is a right of way at this side of the dwelling, to facilitate vehicular access for this adjoining dwelling.
- 1.3. Further west of the dwelling are warehouses and a number of 3-4 storey apartment blocks. Construction work on a 6 storey apartment block has also commenced at Nos. 25-27 Bow Lane West.
- 1.4. The dwelling is bounded by a two storey house its eastern side. Further east at Nos. 31 to 34 Bow Lane a 6 storey apartment block has been constructed relatively recently. Adjoining the site to the rear is a 3-4 storey apartment block, Phoenix View, which fronts on to James Street.
- 1.5. Directly opposite the site to the north are lands accommodating St. Patrick's Hospital, which are enclosed by a c 3 metre high boundary wall which is constructed along the length of the north side of Bow Lane West. The former main gate to St. Patrick's Hospital is located opposite part of the appeal site.
- 1.6. It is apparent that Bow Lane West is undergoing transition in terms of the increased density, scale and heights of newer residential buildings, compared with the modest two storey housing which historically characterised Bow Lane.

2.0 Proposed Development

The proposed development consists of:

- The demolition of existing 2 storey dwelling and site structures.

- The construction of a 6-storey apartment building (c 1,117 sqm) reducing down to 3 storeys at the rear/south of the site.
- The proposed building will accommodate 13 no. apartment units (all with balconies/terraces) comprising:
 - 9 no. 1 bedroom units
 - 3 no. 2 bedroom units
 - 1 no. 3 bedroom unit
- Provision of 3 communal open spaces areas at ground floor level, and on third and fourth floor terraces.
- Internal bicycle parking area at ground floor level.
- Internal refuse storage room at ground floor level.
- Amendments to boundaries at south and west sides of the site.
- Maintain vehicular access gate to provide wayleave access serving the rear of No. 28 Bow Lane West.
- Associated landscaping and site works.

3.0 Planning Authority Decision

- 3.1.1. Following the receipt of clarification of further information, the Planning Authority decided to refuse permission for the proposed development for one reason as follows:

1. The existing building, No.29 Bow Lane has been identified as an 18th century structure and therefore of heritage interest. It is the last historic surviving structure on the south side of Bow Lane, and is reflective of the historic grain and character of the lane. The proposal to demolish the existing structure is contrary to Policy BHA6 'Buildings on Historic Maps' of the Dublin City Development Plan 2022-2028, which places a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847 and is also contrary to Policies BHA11 and BHA24 which

seek the rehabilitation and Reuse and Refurbishment of Historic Buildings. The proposal would detract from the architectural heritage of the local area and would therefore be contrary to the proper planning and sustainable development of the area.

3.1.2. Planning Authority Reports

3.1.3. Planning Reports

- **The first Planning report** dated 10th February 2023 noted that the proposed development would not by itself adversely impact on the existing character of the area and that the apartment block would not appear visually incongruous in the streetscape. No concerns were raised in relation to the proposed 6 storey height of the building. The report noted that the proposal complied with the Apartment Guidelines.

It also raised a number of issues on which further information was required, as follows:

- (i) Overlooking impacts from west and south facing balconies to be addressed.
 - (ii) Clarity on bicycle parking and vehicular access proposals to the parking areas of Nos. 28 and 28A Bow Lane
 - (iii) Submission of an expanded Flood Risk Assessment (FRA) and an engineering report detailing foul and surface water proposals, and
 - (iv) Submission of an Archaeological Assessment.
- **The second Planning report** dated 2nd May 2023 noted revised drawings proposing screens along balconies to the west at 1st and 2nd floor levels which would restrict views towards the private amenity spaces of Nos. 28 and 28A Bow Lane, along with proposals raising the height of the wall associated with the rear terraced area at 4th floor level, inhibiting overlooking to the south towards the adjoining Phoenix View Apartments. These measures were acceptable to the planning authority.

Clarification of further information (CAI) was recommended in relation to the following matters:

- (i) The submitted swept path analysis of the vehicular access along the lane indicates vehicles will manoeuvre close to proposed ground floor Apartment No. 1, potentially causing adverse amenity impacts, which the applicant was requested to address.
- (ii) The Flood Risk Assessment (FRA) to be expanded to appraise the risk of pluvial flooding to the development.
- (iii) Provision of an engineering services report to include:
 - (a) detail of how foul and surface water is to be managed
 - (b) a surface water management plan incorporating Sustainable Urban Drainage Systems (SuDS) and
 - (c) a revised proposal in relation to the green blue roof to comply with the Council's Green and Blue Roof Guide (2021).
- (iv) Submission of a Historic Building Survey of the subject building on the site proposed for demolition, to be prepared to Historic England Level 4 standard to demonstrate the extent of the existing original building fabric and to determine if it can be rehabilitated/re-used as part of the proposed residential scheme.
- **The third Planning report** dated 11th July 2023 noted the provision of a proposed angled baffling fence between the access laneway to the rear of No. 29 and Apartment No. 1 to deflect glare and sound which was considered acceptable by the planning authority.

The revised FRA and the submitted engineering report were considered acceptable.

The applicant's response also included a Conservation Report, a photographic survey and architects' report/letter which asserted that the subject building is of no significant historical interest and that its rehabilitation as part of a wider residential scheme would require significant alteration and subsequent destruction to comply with modern standards and building regulations.

In summary, the planning authority considered that the date of construction and phasing of the historic building was not adequately demonstrated, that the building was not adequately discussed in terms of its social, regional or economic history, that the proposed demolition is inadequately supported and is contrary to Development Plan policies and that it is regrettable the building is not subject to statutory protection on the Record of Protected Structures (RPS) or included in the National Inventory of Architectural Heritage (NIAH). The planning authority refused permission for the proposal as per the reason listed under section 3.1.1 above.

3.1.4. Other Technical Reports

Archaeology Section: The initial report dated 31st January 2023 noted the site's location in the Zone of Archaeological Interest for Dublin (RMP DU018-020 – Historic City), with buildings present on the site from at least the eighteenth century, and as such considered there is potential for archaeological features/deposits to exist at subsurface level. Further information was recommended in relation to submission of an Archaeological Assessment.

Following a review of the applicant's response which included submission of an Archaeological Desktop Assessment which included a site inspection, the Archaeology Section in a report dated 18th April 2023 considered the submitted information to be insufficient relating to the phasing of the building and date of construction. As such clarification of additional information (CAI) was sought, in the form of provision of a comprehensive Historic Building Survey to Historic England Level 4 standard to demonstrate the extent of the remaining original building fabric within the building and to determine if it can be rehabilitated / re-used as part of the proposed residential scheme. Furthermore, the applicant was requested to amend the proposal so that the historic granite paving along the pavement edge fronting the site is not interfered with.

The final report of the Archaeology Section dated 5th July 2023 recommends a refusal of permission on the basis that having regard to the information submitted in the CAI response, the proposed demolition of the 18th / 19th century structure is inadequately supported, with no surveys on the structure of the building provided. The report considered that the proposed demolition of the building would contravene

Development Plan policy BHA6. The report noted that the only evidence to support demolition was the opinion of the architects that the building had no merit.

Transportation Planning: Further information was requested seeking clarity on access proposals and cycle parking. Following receipt of the response no objections to the proposed development were indicated subject to a number of conditions including, inter alia, submission of revised cycle parking layout, provision of a residential plan and a Construction Management Plan.

Drainage Division: Further information was requested in relation to submission of an expanded FRA to appraise the risk of pluvial flooding, provision of an engineering services report and revised proposals for green blue roof coverage. CAI was sought in relation to the latter two items. Following receipt of the CAI response the Drainage Division had no objection to the proposal subject to conditions.

3.1.5. **Prescribed Bodies Report**

The planning authority received a submission from Transport Infrastructure Ireland (TII) confirming it had no observations to make on the planning application.

3.1.6. **Objections/ Observations**

No third party objections or observations were received by the planning authority in relation to the planning application.

4.0 **Planning History**

Appeal site

Reg. Ref. 0383/22 – Part V Exemption Certificate granted to the applicant in 2022 in respect of the proposed development on the basis that the area of the site (c 0.0373 hectares) is below the threshold of 0.1 hectare pursuant to section 97(3) of the Planning and Development Act 2000 as amended.

Relevant planning history in the immediate area

25-27 Bow Lane West

Reg. Ref. 3127/21 – Permission granted in 2021 for modifications to previously approved 6-storey apartment development (2155/20) which includes a ground floor commercial unit comprising: (i) increase the no. of apartments from 24 to 27 no. units, (ii) change of use of commercial unit on ground floor to a 2-bedroom dual aspect apartment, (iii) Provision of a communal space on the ground floor, an external escape stair and exit at rear and external bicycle storage enclosure.

Reg. Ref. 2155/20 – Permission granted in 2020 for demolition of existing two-storey warehouse/commercial building, construction of an eight-storey apartment building comprising 34 no. apartment units with associated balconies/terraces. Provision of a commercial unit at ground floor, 4 no. communal open space areas at ground floor, first floor and seventh floor, together with ancillary areas for bicycle parking, refuse storage, apartment storage rooms, associated plant room, associated landscaping and all ancillary site development works.

Condition 4(a) of the permission required the development to be reduced in height by one floor, by removal of one of the typical floor plans on the 2nd to 5th floor resulting in a 5 storey block with 6th floor setback.

30 (Rear), 31-34 Bow Lane West

Reg. Ref. 4291/18 – Permission granted in 2019 for modifications to previously approved Reg. Refs. 5278/08/x1, 2640/18 and 3602/18 comprising change of use of commercial unit 1 to a 2 bedroom dual aspect apartment, change of use of commercial unit 2 to a 1 bedroom dual aspect apartment, extension of the ground floor to the rear to accommodate the two apartments, amendments to ground floor undercroft car park.

Reg. Ref. 3602/18 – Permission granted in 2018 for modifications to Reg. Refs. 5278/08/x1 and 2640/18 comprising, inter alia, alterations to 4th floor apartment layouts, addition of 5th floor to provide 4 no. duplex apartments in lieu of the in lieu of the two approved 4th floor apartments bringing total no. of apartments to 13.

Reg. Ref. 2640/18 – Permission granted in 2018 for modifications to Reg. Ref. 5278/08/x1 comprising, inter alia, alterations to change Apartment 2 from 3 bedroom to 2 bedroom, omission of communal storage room, provision of 1 bedroom apartment (increasing the development to 11 apartments), alterations to external materials, provision of 1 no. additional car parking space.

Reg. Ref. 5278/08 – Permission granted in 2009 for demolition of an existing warehouse / commercial building, the construction of 10 no apartment units comprising in a 5 storey development, an enclosed carpark and 2 no. commercial units, bicycle parking. Under **Reg. Ref. 5278/08/x1** an extension of duration of permission was granted in 2013 until 27th April 2019.

ABP Ref. PL29S.223891 / Reg. Ref. 2240/07 – Permission refused in 2008 for demolition of warehouse and erection of 14 apartments and all ancillary works on the grounds that the proposal would have an adverse and overbearing impact on the streetscape and would seriously injure the visual amenities of the area.

5.0 Policy and Context

5.1 Development Plan

- 5.1.1 The proposed development was considered by the planning authority under the Dublin City Development Plan 2022-2028, which was adopted on 2nd November 2022 and came into effect on 14th December 2022. The appeal site is zoned Z1 – Sustainable Residential Neighbourhoods ‘To protect, provide and improve residential amenities.’

The 'Permitted in Principle' category of the Z1 zoning objective lists a wide range of uses including Residential, Assisted living/retirement home, Community facility.

5.1.1. The appeal site is located within the boundary of Strategic Development Regeneration Area (SDRA) 7 – Heuston and Environs as set out in section 13.9 of the Development Plan and indicated on Map K.

5.1.2. There are 5 key Opportunity Sites within this SDRA including St. James's St. / Bow Lane West, with the following applicable guiding principle:

Redevelopment of this site should provide activation to the linear walkway leading from St. James's Street to Bow Lane West through the provision of windows and doors opening towards the laneway, as well as balconies providing passive surveillance of the walkway below.

I note the appeal site is located outside of the St. James's St. / Bow Lane West Opportunity Site.

5.1.3. The site is also located near but outside a red hatched area on the zoning map denoting a conservation area that includes St. Patrick's Hospital , RPS Ref. No. 856 *St. Patrick's Hospital: original building, original wall and gates and gatehouse* and Dr. Steeven's Hospital (original building) which fronts onto St. John's Road West.

5.1.4. The provisions of the Dublin City Development Plan 2022-2028 relevant to this assessment are as follows:

Chapter 5 of the Development Plan relates to Quality Housing and Sustainable Neighbourhoods. Key policies include:

- QHSN6 – Urban Consolidation *To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.*
- 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.

- QHSN11: 15 Minute City *To promote the realisation of the 15-minute city which provides for liveable, sustainable urban neighbourhoods and villages throughout the city that deliver healthy placemaking, high quality housing and well designed, intergenerational and accessible, safe and inclusive public spaces served by local services, amenities, sports facilities and sustainable modes of public and accessible transport where feasible.*
- QHSN36: High Quality Apartment Development *To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood.*

Chapter 15 – Development Standards

- Section 15.5.2 relates to Infill Development and sets out general requirements for infill development. It is emphasised that proposed infill development respects and enhances its context and is well integrated with its surroundings.
- Section 15.9 relates to Apartment Standards and notes the importance that high quality, attractive and liveable units are provided. A range of qualitative and quantitative standards are provided.

Appendix 3 of the Development Plan sets out policy in relation to building height, plot ratio and site coverage.:

- 5.1.5. I note that the following policy as set out in Section 11.5 of the Development Plan is also relevant to this planning appeal:

BHA6 Buildings on Historic Maps

That there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847. A conservation report shall be submitted with the application and there will be a presumption against the demolition or

substantial loss of the building or structure, unless demonstrated in the submitted conservation report this it has little or no special interest or merit having regard to the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011).

BHA11 Rehabilitation and Reuse of Existing Older Buildings

(a) To retain, where appropriate, and encourage the rehabilitation and suitable adaptive reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape, in preference to their demolition and redevelopment.

(b) Encourage the retention and/or reinstatement of original fabric of our historic building stock such as windows, doors, roof coverings, shopfronts (including signage and associated features), pub fronts and other significant features.

(c) Ensure that appropriate materials are used to carry out any repairs to the historic fabric.

BHA18 Historic Ground Surfaces, Street Furniture and Public Realm

(a) To protect, conserve and retain in situ historic elements of significance in the public realm including milestones, jostle stones, city ward stones, bollards, coal hole covers, gratings, boot scrapers, cast iron basement lights, street skylights and prisms, water troughs, street furniture, post boxes, lampposts, railings and historic ground surfaces including stone kerbs, pavement flags and setts, and to promote conservation best practice and high standards for design, materials and workmanship in public realm improvements within areas of historic character, having regard to the national Advice Series on Paving: The Conservation of Historic Ground Surfaces (2015).

(b) To maintain schedules of stone setts, historic kerbing and historic pavers/flags, and associated features in the public realm, to be protected, conserved or reintroduced (Appendix 6), and to update and review these schedules during the period of this development plan.

BHA24 Reuse and Refurbishment of Historic Buildings

Dublin City Council will positively encourage and facilitate the careful refurbishment of the historic built environment for sustainable and economically viable uses and support the implementation of the National Policy on Architecture as it relates to historic buildings, streetscapes, towns and villages, by ensuring the delivery of high quality architecture and quality place-making, and by demonstrating best practice in the care and maintenance of historic properties in public ownership.

5.2 National Guidance

- The National Planning Framework (NPF) includes a specific Chapter, No. 6 - *‘People Homes and Communities’* which is relevant to this development. This chapter includes 12 objectives (National Policy Objectives 26 to 37) and the following are key to this development:
 - **National Policy Objective 27** seeks to ‘Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages’.
 - **National Policy Objective 33** seeks to ‘Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location’.
 - **National Policy Objective 35** seeks to ‘Increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.’

Chapter 4 of the NPF ‘Making Stronger Urban Spaces’ is also pertinent to the proposed development and it includes:

- **National Policy Objective 13:** ‘In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. 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.’
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHLGH, 2022).

These guidelines provide for a range of information for apartment developments including detailing minimum room and floor areas.
- Urban Development and Building Heights Guidelines for Planning Authorities (DoHPLG, 2018).
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (DoHPLG, 2021) applies to developments comprising 5 or more houses or duplex units. As the proposed development comprises apartment units (13) the requirements set out in these guidelines are not applicable in this instance.
- Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (DoEHLG, 2009) and its companion, the Urban Design Manual - A Best Practice Guide (DoEHLG, 2009).
- Quality Housing for Sustainable Communities (DoEHLG, 2007).

5.3 Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are South Dublin Bay and River Tolka Estuary SPA located c 4.6 km north-east and South Dublin Bay SAC located c 5.4 km south-east.

5.2 EIA Screening

See completed Form 2 below. Having regard to the nature of the proposed development comprising the demolition of an existing dwelling and the construction of an apartment development on a brownfield site, in an established urban area and where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1 Grounds of Appeal

The applicant has appealed against the decision made by Dublin City Council to refuse permission for the proposed development.

The grounds of appeal can be summarised as follows:

- The house was constructed around 1885. It is presently in a near derelict state and it has been heavily altered since its construction. The Engineer's Report submitted with the appeal notes it would be structurally unviable to restore the house to a level which would comply with current standards. The major works required would have a significant impact on the structure.
- Proposed development will provide much needed city accommodation and will contribute positively to the streetscape. The proposal is in keeping with the context of the redeveloping street as evidenced by the submitted contextual streetscape elevations.
- As requested by the planning authority drawings were included as part of the Clarification of Additional Information (CAI) response along with interior photographs.
- A detailed exercise has been undertaken (and submitted as part of the appeal documentation) indicating the location of the house and site on each of the historical maps available in reverse chronological order back to Roque 1756.
- In terms of social documentation, a synopsis of available evidence of the building in Historical Trade Directories and in Griffith's Valuation is provided.

- While the building is from the 1880s it is difficult to see how it could be considered for inclusion in the Record of Protected Structures or the National Inventory of Architectural Heritage. The house is not of historic value and does not constitute high quality architecture.

The following appendices were submitted with the appeal:

- Appendix 1 – Existing plans and elevations of the house
- Appendix 2 – Extracts from current and historic Ordnance Survey maps
- Appendix 3 – Extracts from Historical Trade Directories and Griffith's Valuation
- Appendix 4 – Extracts from Valuation Office records
- Appendix 5 – Extracts from Census returns

6.2 Planning Authority Response

A response to the appeal, comprising inputs from the Archaeology, Conservation and Heritage Department of the planning authority was submitted. The issues raised are summarised as follows:

Conservation and Heritage

- No. 29 Bow Lane is evidenced on historic maps including the Ordnance Survey of Dublin City, 1847.
- A number of policies contained in the Development Plan were considered in the assessment of the planning application including *BHA2 Development of Protected Structures*, in the context of the impacts on the wider setting of St. Patrick's Hospital, Protected Structure.
- No. 29 is the last historic survivor on this stretch of Bow Lane and is reflective of the historic grain, character and scale of the lane which has been largely eroded by recent development.
- It is considered this building makes an important positive contribution to the streetscape and that it is capable of being appropriately refurbished for continued residential use as part of a new development on the subject site. Its

retention and refurbishment with input from a conservation professional is recommended.

- The proposed apartment building would have an adverse impact on the wider aspect and view from St. Patrick's Hospital and on the general amenity of the modest two storey houses that adjoin No. 29.

Archaeology

- The appeal documentation fails to provide sufficient evidence that the construction date for No. 29 was c 1886. Should it have been constructed then it would nevertheless qualify as a 'historic building' and policies BHA11 and BHA24 would still apply.
- Figure 1 comprises an extract from Rocque's Survey of 1756; the approximate area of 29 Bow Lane West is circled within which there is a structure could form part of the house proposed for demolition.
- The first mention of No. 29 Bow Lane West is in Dublin Almanac and General Register (1846) which refers to numbers 28-32 as being tenements.
- The 1847 OS map shows No. 29 as a rectangular building with a rear return.
- Griffith's Valuation lists No. 29 as vacant and describes the building as 'ruins' while Thom's Directory for 1862 lists the building as comprising tenements. The building is shown on the 1864 OS map in the same form seen in 1847 suggesting it was rehabilitated rather than demolished and rebuilt. The house on the 1889 OS map appears to fit the form of No. 29 as it currently exists. The house clearly underwent some form of renovations between 1864 and 1889.
- It remains a strong possibility that the current structure constitutes a remodelling of the house seen on the 1847 map rather than a new building.
- The survey documentation submitted to the planning authority does not represent an adequate record of the historic building as requested by the planning authority. The building should be surveyed by a professional built heritage expert to determine its date and provide a professional opinion of its heritage interest and value in place-making.

- The Engineering Report submitted with the appeal notes the internal floor is 'below the external ground level.' This would usually be a feature of buildings of considerable age, and the foundation may be a survival from an early building.
- Submitted front elevation of the building is inaccurate.
- The change in character of the lane has the effect of enhancing the importance of surviving historic structures.
- The building must be viewed through its relationship with St. Patrick's Hospital. No. 29 stands almost opposite the original main entrance to the hospital. It is incorrect for the applicant to state that the area 'has little or no interest architecturally.'
- The loss of the building and its replacement with a larger scaled building would have a negative impact on the streetscape and the setting of the protected structure.
- The applicant asserts that the structure is 'near derelict and 'dilapidated' however property owners have a duty to maintain their structures; allowing a historic building to fall into disrepair is not usually acceptable grounds for demolition. The submitted photos show the interior is in reasonable condition.
- The Engineer's Report does not recommend demolition. A Demolition Justification Report was not submitted to the planning authority.
- As a firm date for the building cannot be established, *Policy BHA6 Buildings on Historic Maps*, should apply.
- Demolition of the house would have a detrimental impact on the streetscape and on the setting of the Protected Structure, its boundary wall and gate.
- No good reason has been given why the building cannot be reused as part of a new development on the site; the appeal has not justified demolition in terms of economics or carbon cost.
- If the Board decide to grant permission specific conditions are requested to be attached.

6.3 Applicant's response to Section 131 notice

The response from the planning authority to the appeal was circulated to the applicant under section 131 of the Planning and Development Act 2000 as amended.

The applicant's response can be summarised as follows:

- Appeal grounds not fully considered/addressed.
- In refusing permission, the planning authority did not abide by the objectives for the area.
- No evidence affirming the construction date of the building put forward by the planning authority has been provided.
- Accepting of the planning conditions put forward by the planning authority if the Board decides to grant permission.
- Building not included on the Record of Protected Structures or the NIAH inventory and as such it is not precluded from being considered for replacement as proposed.
- No substantial evidence provided that the building should be retained based on NIAH criteria.
- Extensive works are required to bring the building up to modern standards. It has been subdivided into two units and is non-compliant with Building Regulations.
- Refurbishment would require complete removal of all existing fabric other than the walls and roof slates. These elements have extremely low embodied carbon energy; recycling and salvage is viable.
- The planning application was submitted when the previous Dublin City Development Plan was in place and it did not require a Justification Demolition Plan. Furthermore, such a report was not sought by way of additional information.

6.4 Observations

None.

7.0 Assessment

7.1 The main issues that arise for consideration in relation to the appeals can be addressed under the following headings:

- Nature of proposed development / Compliance with Apartment Guidelines
- Refusal Reason
- Impact on Residential Amenity
- Impact on Protected Structure
- Archaeology
- Other
- Appropriate Assessment Screening

7.1.1. Nature of the proposed development / Compliance with Apartment Guidelines

7.1.2. The subject site is zoned Z1 'Sustainable Residential Neighbourhood' with 'Residential' listed as 'Permitted in Principle' within the zoning objective for the site.

7.1.3. The proposed development complies with the *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHLGH, 2022)* in terms of dual aspect ratios (c 38% are dual aspect), floor to ceiling heights (at least 2.7m), storage provision, communal open space provision in the form of ground floor space (43 sqm), terraces on the third and fourth floors (totalling 86 sqm) and a separate fourth floor area (36 sqm). Private amenity space for the apartments in the form of balconies meet at least the minimum standards as set out in the submitted Housing Quality Assessment.

7.1.4. Bicycle parking provision is proposed at ground floor level within internal cycle stores. I note that the planning authority expressed concern that there may be insufficient space in the stores for the proposed number of cycle spaces but considered that this matter could be addressed by condition. If the Board is minded to grant permission for the proposed development, I recommend inclusion of a condition requiring the provision of bicycle parking to Development Plan standards and to be agreed with the planning authority prior to commencement.

- 7.1.5. Section 15.8.6 of the Dublin City Development Plan notes that the public open space requirement for residential developments shall be 10% of the overall site area. No on-site public open space is proposed to serve the development. In my view this is acceptable given the constrained nature of the site in this city centre location. If the Board is minded to grant permission, I recommend inclusion of an appropriate financial contribution condition in lieu of such provision.

7.2. Refusal Reason

- 7.2.1. Permission for the proposed development was refused on the basis that, inter alia, the existing structure on the site has been identified as an 18th century building of heritage interest, and that the proposal to demolish it would be contrary to Development Plan Policies BHA6, BHA11 and BHA24.
- 7.2.2. I note that Policy BHA6 indicates there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City 1847. Having regard to the documentation on file I note there are differences of opinion between the applicant and the planning authority as to the construction date of the existing dwelling on the appeal site. In my view neither party can be certain of the date of construction of the dwelling, other than that it was built in the 18th or 19th centuries.
- 7.2.3. The applicant has made a case that the building is in relatively poor condition. An engineer's report has been provided which substantiates this position, indicating the dwelling is not considered habitable compared to the modern construction standards that are required. The report noted that an upgrade of the entire building fabric would require considerable investment and it recommends that the cost of the works involved in refurbishment compared with rebuilding in a new construction, the quality and compliance of which would be of a much higher standing should be explored.
- 7.2.4. During the site inspection it was apparent that the exterior of the property is generally in poor condition. All the external lime render has been stripped, exposing the rubble stone beneath. The pointing is in poor condition and replaced in parts with concrete. The interior is divided into 2 units, the ceilings are low and the floor slab is below that of the street.

- 7.2.5. Policies BHA11 and BHA24 both relate to the reuse and rehabilitation of existing older/historic buildings. I note the planning authority's view is that the building could be used as part of a new development on the site. In my opinion, given the constrained nature of this city centre site, this would be very difficult to achieve. Secondly the potential density of the site would likely be compromised, in an area where higher densities are required. Furthermore, I consider that a proposal to incorporate the existing dwelling into a new scheme would not be an attractive option for a developer and I am of the opinion that this would constitute an inefficient use of city centre zoned and serviced lands.
- 7.2.6. Fundamentally, as confirmed by the planning authority, the subject dwelling is not included on the Record of Protected Structures (RPS) and I am not aware of any efforts underway to include it on the RPS. I note the dwelling is not listed on the National Inventory of Architectural Heritage (NIAH), nor does it form part of the conservation area associated with St. Patrick's Hospital , RPS Ref. No. 856 *St. Patrick's Hospital: original building, original wall and gates and gatehouse* and Dr. Steeven's Hospital.
- 7.2.7. Having regard to the above I consider it acceptable in principle to allow the demolition of the structure to facilitate the proposed development, subject to provision of a comprehensive written and photographic inventory of the building being completed and furnished to the planning authority prior to commencement of works and in accordance with section 15.15.2.4 of the Dublin City Development Plan 2022-2028.

7.3 Impact on Residential Amenity

- 7.3.1 The planning authority's response to the appeal considers that the proposed development would have an adverse impact on the general amenity of the two storey houses adjoining and adjacent to the site. However, I note that the planning authority's refusal reason does not refer to any such residential amenity concerns. This view does not accord with the Planning Officer's reports on file, which acknowledge that the scale and density of Bow Lane West is changing and that residential amenity standards would not be greatly reduced as a result of the proposed development. In this respect I agree with the Planning Officer's

conclusions. I note also that no objections or observations were received from adjoining residents in respect of the proposal.

- 7.3.3 While the planning authority initially raised concerns in relation to potential overlooking impacts arising from proposed west and south facing balconies, this matter was satisfactorily addressed by way of the additional information provided, as referred to in section 3.1.3 of this report.
- 7.3.4 I accept the findings of the provided Sunlight, Daylight and Shadow Assessment of the proposed development which concluded that the proposed development would not result in a significant reduction in residential amenity standards in terms of overshadowing impacts. Furthermore, the assessment indicated that Average Daylight Factor (ADF) for all habitable rooms within the proposed development would be in compliance with BRE requirements.
- 7.3.5 In my opinion the proposed development would not cause overbearing impacts on the adjoining 2 storey residential properties. I note also that the Planning Officer's reports raised no concerns in this context.
- 7.3.6 If the Board is minded to grant permission, I recommend inclusion of a condition requiring the applicant to provide details of the proposed baffling fence, designed to mitigate noise and glare between the access laneway and the ground floor apartment (No. 1), to the planning authority prior to commencement of development.

7.4 Impact on Protected Structure

- 7.4.1 The appeal site is located near but outside of a red hatched area on the zoning map denoting the conservation area that includes St. Patrick's Hospital , RPS Ref. No. 856 *St. Patrick's Hospital: original building, original wall and gates and gatehouse* and Dr. Steeven's Hospital (original building) which fronts onto St. John's Road West.
- 7.4.2 The response to the appeal from the planning authority notes that the dwelling proposed for demolition is positioned almost opposite one of the historic gateways in the boundary wall of St. Patrick's Hospital and concludes that the proposed apartment building would have an adverse impact on the wider aspect and view from the protected structure.

- 7.4.3 I note the Planning Officer's reports did not indicate any concerns in terms of the relationship between the proposed development and St. Patrick's Hospital. Furthermore, the refusal reason did not relate to the potential impact the proposed development may have on St. Patrick's Hospital.
- 7.4.4 Given that the proposed development is located outside of the conservation area associated with St. Patrick's Hospital and Dr. Steeven's Hospital, that it is situated on the southern side of the high perimeter wall enclosing St. Patrick's Hospital and some 40m from the protected structure itself, I am satisfied that the proposed development would not impact adversely on it and would not detract from its setting. It is the case that the new apartment block will be visible from the protected structure, along with other development permitted along Bow Lane West, and I consider this to be acceptable having regard to the city centre context of the area.

7.5 Archaeology

- 7.5.1 The appeal site is located within the Zone of Archaeological Interest for the Recorded Monument DU018-020 (Historic City), which is listed on the Record of Monuments and Places. As such there is potential for archaeological features to exist at sub-surface level on the appeal site. The applicant provided an Archaeology Desktop Assessment by way of additional information which recommends, inter alia, that archaeological test trenching takes place on the site owing to its location as an important artery into the medieval city.

If the Board is minded to grant permission for the proposed development, I would recommend inclusion of conditions requiring submission to the planning authority of a comprehensive written and photographic inventory of the dwelling on the site for record purposes and also that the site be subject to archaeological assessment and testing prior to commencement of construction.

7.6 Other

On foot of the planning authority's request, the applicant prepared a Site Specific Flood Risk Assessment (SSFRA) in respect of pluvial flooding. Having regard to the built-up nature of the area I consider the proposed development is acceptable at the subject site.

The proposed development is located within Flood Zone C which has a low probability of flooding.

7.7 Appropriate Assessment Screening

Having regard to the nature and scale of the proposed apartment development, the location of the site in a serviced urban area, the absence of a hydrological or other pathway between the site and European sites and the separation distance to the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that permission be granted subject to the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022 – 2028, relevant National Guidelines and the Z1 zoning of the site, the location of the site in the city centre within walking distance of public transport and to the nature, form, scale, density and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the architectural heritage of the area, would not seriously injure the residential and visual amenities of the area and would not impact on St. Patrick's Hospital which is a protected structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 8 th of December 2022 and as amended by the further plans and particulars submitted on the 5 th April 2023 and the 15 th June 2023,
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	except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission. Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.
3.	Prior to commencement of development, the developer shall submit the following for the written agreement of the planning authority: (i) Details and layout of bicycle parking at ground floor level to accord with Development Plan standards. (ii) Details and elevations of the angled baffling fence to be located between the access laneway to the rear of No. 29 Bow Street and the proposed ground floor apartment (Apartment 1). Reason: In the interests of clarity and residential amenity.
4.	The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall: (a) notify the planning authority in writing at least four weeks prior to

	the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination. Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.
5.	Prior to commencement of development the applicant shall submit to the planning authority for its written agreement a comprehensive written and photographic inventory of the dwelling on the site in accordance with Section 15.15.2.4 of the Dublin City Development Plan 2022-2028.

	Reason: In order to secure the preservation by record of the dwelling on the site.
6.	The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following: (a) A plan to scale of not less than [1:500] showing – (i) The species, variety, number, size and locations of all proposed trees and shrubs which shall not include prunus species (ii) Details of screen planting (iii) Hard landscaping works, specifying surfacing materials (b) A timescale for implementation. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. Reason: In the interest of residential and visual amenity.
7.	Proposals for a development name and unit numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until

	the developer has obtained the planning authority's written agreement to the proposed name. Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.
8.	Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Reason: In the interest of public health.
9.	The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development. Reason: In the interest of public health.
10.	Details (including samples) of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interest of the visual amenities of the area.
11.	Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 0700 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Reason: In order to safeguard the amenities of property in the vicinity.
12.	The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to,

	and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including: a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; b) Location of areas for construction site offices and staff facilities; c) Details of site security fencing and hoardings; d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; e) Measures to obviate queuing of construction traffic on the adjoining road network; f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; g) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works; h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority. The developer shall provide contact details for the public to make complaints during construction
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	and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority. Reason: In the interest of amenities, public health and safety.
13.	Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated. Reason: In the interest of sustainable waste management.
14.	All service cables associated with the proposed development (such as electrical, television, telephone and public lighting cables) shall be run underground within the site. Provision shall be made for broadband connectivity in the development. Reason: In the interest of orderly development and the visual amenities of the area.
15.	Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or

	part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination. Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.
16.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
17.	Prior to commencement of development the developer shall pay a sum of money to the planning authority as a contribution in lieu of the provision of on-site public open space to serve the proposed development (37 sqm). The amount of the contribution shall be

	agreed between the developer and the planning authority or, in default of agreement, shall be determined by An Bord Pleanála. Reason: It is considered reasonable that the developer should contribute in lieu of provision of on-site public open space.
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John Duffy

Planning Inspector

21st December 2023

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317729-23		
Proposed Development Summary	Demolition of existing building, construction of an apartment building comprising 13 no. apartment units and associated site works.		
Development Address	29 Bow Lane West, Dublin 8 D08V44T		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			

		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	X	Class 10 (500 DHS)		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317729-23	
Proposed Development Summary	Demolition of existing dwelling, construction of a 6 storey apartment block comprising 13 no. apartments, associated site works.	
Development Address	29 Bow Lane West, Dublin 8 D08V44T	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the	The site is located in the city centre. The site is zoned Z1 'Sustainable Residential Neighbourhoods.' The proposed development is not exceptional in the context of the existing environment. Construction waste can be managed through standard Waste Management Planning.	No

production of any significant waste, emissions or pollutants?	Localised construction impacts will be temporary.	
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing and/or permitted projects?	No. The total site area is c 0.0373 ha. No. There is an apartment development under construction at 25-27 Bow Lane West, Dublin 8.	No
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	No. The nearest European sites are South Dublin Bay and River Tolka Estuary SPA, located c 4.6 km north-east and South Dublin Bay SAC located c 5.4 km south-east of the site. The proposal includes standard best practices methodologies for the control and management of surface water on site. There are no other locally sensitive environmental sensitivities in the vicinity of relevance.	No
Conclusion		

There is no real likelihood of significant effects on the environment.

EIA not required.

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)