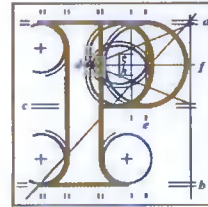


**Our Case Number:** ABP-313828-22

**Planning Authority Reference Number:** SD21A/0271



**An  
Bord  
Pleanála**

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24

**Land Use Planning & Transportation**

**24 JUN 2022**

**South Dublin County Council**

**Date:** 23 June 2022

**Re:** Demolition of existing building and construction of 5 storey over partial basement mixed use development comprising gastro pub/restaurant with off-licence, 2 retail units, 50 apartments, parking and associated site development works.  
Lands at the Silver Granite pub, Palmerstown, Dublin 20

Dear Sir / Madam,

Enclosed is a copy of 4 appeals and a request for an oral hearing under the Planning and Development Act, 2000, (as amended).

**Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.**

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, **within a period of 2 weeks beginning on the date of this letter, the following documents:-**

- (i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,
- (ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,
- (iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,
- (iv) a copy of the notification of decision given to the applicant,
- (v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,

**Teil** (01) 858 8100  
**Glaó Áitiúil** 1890 275 175  
**Facs** (01) 872 2684  
**Láithreán Gréasáin** [www.pleanala.ie](http://www.pleanala.ie)  
**Ríomhphost** [bord@pleanala.ie](mailto:bord@pleanala.ie)

**Tel**  
**LoCall**  
**Fax**  
**Website**  
**Email**

64 Sráid Maoilbhríde 64 Marlborough Street  
Baile Átha Cliath 1 Dublin 1  
D01 V902 D01 V902

permission in accordance with section 48 and/or 49 of the 2000 Planning Act (Development/ Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act. Any such contingency submission, in circumstances which your authority decided to refuse permission, would be without prejudice to your authority's main submission in support of its decision.

Please quote the above appeal reference number in any further correspondence.

I hereby certify that the planning authority has complied with section 128 and section 37(1)(b) of the 2000 Act, (as amended), and that all material relevant to (ABP-313828-22) the request at 1 on page 1 of this letter has been forwarded.

Signed: \_\_\_\_\_

Print: ( \_\_\_\_\_ )

Date: \_\_\_\_\_

Yours faithfully,

*Liam Halpin*

Liam Halpin

Direct Line: 01-8737280

BP07

Teil  
Glao Áitiúil  
Facs  
Láithreán Gréasáin  
Ríomhphost

Tel  
LoCall  
Fax  
Website  
Email

(01) 858 8100  
1890 275 175  
(01) 872 2684  
www.pleanala.ie  
bord@pleanala.ie

64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902



**Planning & Development  
Consultants**

M 087 261 5871 Ballinatone  
T 01 539 4960 Greenan  
E info@bpsplanning.ie Wicklow  
W www.bpsplanning.ie A67W662

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

20 June 2022

Dear Sir/Madam,



**Third Party planning appeal vs. the decision of South Dublin County Council made under planning application, reg. ref. SD21A/0271, to issue Notification of Intention to Grant Planning Permission for proposed development comprising of "Demolition of the existing building on site and the construction of a 5-storey over partial basement, mixed-use development comprising a gastro pub/restaurant with off-licence, 2 retail units, associated bin stores, bike stores, 1 ESB sub-station, all at ground floor level; a small plant room at basement level; a total of 50 apartments (25 one beds and 25 two beds) on the upper floors, all provided with private balconies/terraces; communal roof gardens; car parking; motorcycle parking; bicycle parking; landscaping and upgrades to public realm including upgrades to existing pedestrian crossing on Kennelsfort Road Upper; and all associated engineering and site works necessary to facilitate the development" on lands at The Silver Granite pub, junction of Kennelsfort Road Upper and Wheatfield Road, and at The Silver Granite car park adjoining Palmerstown Shopping Centre car park (accessed from Kennelsfort Road Upper via Palmerstown Park).**

BPS Planning Consultants Ltd, a firm of Irish Planning Institute<sup>1</sup> accredited town planning and development consultants, have been instructed by Kennelsfort Management Company Ltd., Palmerstown shopping centre, Unit 15 Palmerstown D20 to make a planning appeal on its behalf in respect of the decision of South Dublin County Council (hereafter "SDCC") to issue Notification of Intention to Grant Planning Permission with regard to planning application, reg. ref. SD21A/0271, which proposes the development described above in the submitted development description.

This proposed development is to be sited on lands at The Silver Granite pub, junction of Kennelsfort Road Upper and Wheatfield Road, and at The Silver Granite car park adjoining Palmerstown Shopping Centre car park (accessed from Kennelsfort Road Upper via Palmerstown Park).

The SDCC planning decision was made on the 23/5/2022; therefore, the final date for submission of this planning appeal is the **20<sup>th</sup> of June 2022**. This planning appeal is submitted prior to this deadline. The details of this planning application are available to view online.<sup>2</sup>

For the avoidance of doubt, this cover letter, the attached form, the attached Planning Appeal Report, the attached Planning Objection Report and the (and any accompanying details and/or documents) form part of our client's Grounds for Appeal in this case.

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

1. The e220 planning appeal
2. A Planning Appeal Report setting our client's 'Grounds for Appeal'
3. A Planning Appeal Checklist Form.
4. A copy of the original Planning Objection Report and its appendices submitted to SDCC.
5. A copy of the acknowledgement letter received for the original objection made to the local authority

We trust that this is in order.

<sup>1</sup> <https://ipi.ie/>

<sup>2</sup> [http://www.sdublincoco.ie/Planning/Details?p=1&r=SD21A\\_0271&eurl=SD21A\\_0271](http://www.sdublincoco.ie/Planning/Details?p=1&r=SD21A_0271&eurl=SD21A_0271)

If you require any further details, please contact bps at the address above.

With best wishes,



**Brendan Buck**  
Director  
BPS Planning Consultants LTD  
Member of the Irish Planning Institute

Encl. Copy of original ack. Letter for objection received from South Dublin County Council





You may wish to avail of the Planning Departments email notification system on our website. When in the *Planning Applications* part of the Council website, [www.southdublincoco.ie](http://www.southdublincoco.ie), and when viewing an application on which a decision has not been made, you can input your email address into the box named *"Notify me of changes"* and click on *"Subscribe"*. You should automatically receive an email notification when the decision is made. Please ensure that you submit a valid email address.

**Please note:** If you make a submission in respect of a planning application, the Council is obliged to make that document publicly available for inspection as soon as possible after receipt. Submissions are made available on the planning file at the Planning Department's public counter and with the exception of those of a personal nature, are also published on the Council's website along with the full contents of a planning application.

Yours faithfully,

M. Furney  
for Senior Planner



## Planning & Development Consultants

### Third Party Planning Appeal Check List:

1. The APPEAL must be in writing (e.g. not made by electronic means).
2. Name of the APPELLANT: KENNELSFORT MANAGEMENT COMPANY LTD.
3. Address of the APPELLANT: PALMERSTOWN SHOPPING CENTRE, UNIT 15, PALMERSTOWN, D20.
4. If an agent is involved, state the name of the agent: BRENDAN BUCK.
5. Address of the agent [DURING COVID]: BPS PLANNING CONSULTANTS, BALLINATONE LOWER, GREENAN, COUNTY WICKLOW, A67W662.
6. State the Subject Matter of the appeal: THIRD PARTY APPEAL VS. SOUTH DUBLIN COUNTY COUNCILL PLANNING DECISION, REG. REF. SD21A/0271, WHICH ISSUED NOTIFICATION OF INTENTION TO GRANT PLANNING PERMISSION FOR DEVELOPMENT DESCRIBED BELOW.
7. Brief description of the development: "DEMOLITION OF THE EXISTING BUILDING ON SITE AND THE CONSTRUCTION OF A 5-STOREY OVER PARTIAL BASEMENT, MIXED-USE DEVELOPMENT COMPRISING A GASTRO PUB/RESTAURANT WITH OFF-LICENCE, 2 RETAIL UNITS, ASSOCIATED BIN STORES, BIKE STORES, 1 ESB SUB-STATION, ALL AT GROUND FLOOR LEVEL; A SMALL PLANT ROOM AT BASEMENT LEVEL; A TOTAL OF 50 APARTMENTS (25 ONE BEDS AND 25 TWO BEDS) ON THE UPPER FLOORS, ALL PROVIDED WITH PRIVATE BALCONIES/TERRACES; COMMUNAL ROOF GARDENS; CAR PARKING; MOTORCYCLE PARKING; BICYCLE PARKING; LANDSCAPING AND UPGRADES TO PUBLIC REALM INCLUDING UPGRADES TO EXISTING PEDESTRIAN CROSSING ON KENNELSFORT ROAD UPPER; AND ALL ASSOCIATED ENGINEERING AND SITE WORKS NECESSARY TO FACILITATE THE DEVELOPMENT".
8. Location of development: THIS PROPOSED DEVELOPMENT IS TO BE SITED ON LANDS AT THE SILVER GRANITE PUB, JUNCTION OF KENNELSFORT ROAD UPPER AND WHEATFIELD ROAD, AND AT THE SILVER GRANITE CAR PARK ADJOINING PALMERSTOWN SHOPPING CENTRE CAR PARK (ACCESSED FROM KENNELSFORT ROAD UPPER VIA PALMERSTOWN PARK).
9. Name of planning authority: SOUTH DUBLIN COUNTY COUNCIL
10. Planning authority register reference number: SD21A/0271.
11. Attach, in full, the grounds for APPEAL and the reasons, considerations and arguments on which they are based. ATTACHED IN FULL IN PLANNING APPEAL REPORT.
12. Attach the original or a copy of the acknowledgement letter received for the original objection made to the local authority: ATTACHED.
13. Enclose/Pay the correct fee for the third party APPEAL: E220.
14. Ensure that the APPEAL is received by South Dublin County Council in the **correct manner** and in **time**. THE SDCC PLANNING DECISION WAS MADE ON THE 23/5/2022; THEREFORE, THE FINAL DATE FOR SUBMISSION OF THIS PLANNING APPEAL IS THE 20TH OF JUNE 2022. THIS PLANNING APPEAL IS SUBMITTED PRIOR TO THIS DEADLINE.



Planning & Development  
Consultants

## Third Party Planning Appeal

Third Party planning appeal vs. the decision of South Dublin County Council made under planning application, reg. ref. SD21A/0271, to issue Notification of Intention to Grant Planning Permission for proposed development comprising of "Demolition of the existing building on site and the construction of a 5-storey over partial basement, mixed-use development comprising a gastro pub/restaurant with off-licence, 2 retail units, associated bin stores, bike stores, 1 ESB sub-station, all at ground floor level; a small plant room at basement level; a total of 50 apartments (25 one beds and 25 two beds) on the upper floors, all provided with private balconies/terraces; communal roof gardens; car parking; motorcycle parking; bicycle parking; landscaping and upgrades to public realm including upgrades to existing pedestrian crossing on Kennelsfort Road Upper; and all associated engineering and site works necessary to facilitate the development" on lands at The Silver Granite pub, junction of Kennelsfort Road Upper and Wheatfield Road, and at The Silver Granite car park adjoining Palmerstown Shopping Centre car park (accessed from Kennelsfort Road Upper via Palmerstown Park).

This Planning Appeal Report has been produced by BPS Planning Consultants for and on behalf of Kennelsfort Management Company Ltd., Palmerstown shopping centre, Unit 15, Palmerstown, D20.



# Contents

- 1.0 Introduction**
  - 1.1 This application has not been discussed with Kennelsfort Management Company
  - 1.2 The Applicant refers to pre-planning meeting – no details are available online
  - 1.3 Appeal fee
- 2.0 Existing context**
  - 2.1 The site is located alongside the heavily trafficked Kennelsfort Road
  - 2.2 Existing retail and retail vehicular parking context
  - 2.3 Site Location and Description
  - 2.4 The actual 'developable' area of the Applicant site (in sq.m and hectares)
- 3.0 Proposed development the subject of this planning appeal**
- 4.0 Grounds for Appeal**
  - 4.1 Ground 1: This planning appeal adopts our client's original objection report**
  - 4.2 Ground 2: The SDCC decision retrospectively alters previous SC permissions**
  - 4.3 Ground 3: The Further Information submission did not address all objections**
    - 4.3.1 Item 1 of the FI request – client's appeal stage comments
    - 4.3.2 Item 2 of the FI request – client's appeal stage comments
    - 4.3.3 Item 4 of the FI request – client's appeal stage comments
    - 4.3.4 Item 5 of the FI request – client's appeal stage comments
    - 4.3.5 Item 6 of the FI request – client's appeal stage comments
    - 4.3.6 Item 7 of the FI request – client's appeal stage comments
  - 4.4 Ground 4: Objections to the SDCC planning assessment**
    - 4.4.1 Parking and vehicular access objections arising from the SDCC assessment
      - 4.4.1.1 Why was the basement car park proposed at pre-planning stage removed?
      - 4.4.1.2 Roads Dept. noted access arrangements to the SC car park were not addressed
      - 4.4.1.3 SDCC's parking provision assessment requires review
      - 4.4.1.4 How can the parking/access proposals be consistent with the 'DC' zoning objective?
    - 4.4.2 Proposed development would underline the district centre and its shopping centre
      - 4.4.2.1 How can the parking/access proposals be consistent with the 'DC' zoning objective?
      - 4.4.2.2 The proposed retail uses would underline the shopping centre
    - 4.4.3 Issue of ownership/agreed use of the SC car park is not fully addressed
      - 4.4.3.1 SDCC has addressed the ownership issue by reference only to s. 34 (13) of the Act
    - 4.4.4 SDCC's assessment of likely residential amenity impacts requires review
    - 4.4.5 The SDCC assessment of several the FI requests are inadequate
    - 4.4.6 H7 Objective 4 is not addressed as claimed by the SDCC Planner's Report
    - 4.4.7 The increase in density of development should not have been accepted by SDCC
    - 4.4.8 The SDCC acceptance of poor (no) actual public open space is not justified
      - 4.4.8.1 SDCC's assessment of FI stage public open space proposals is not acceptable
    - 4.4.9 SDCC's visual impact assessment is at odds with local opinion
    - 4.4.10 Bin storage accessed via the laneways is not assessed by the Planner's Report
  - 4.5 Ground 5: The proposed development would set poor precedents**
  - 4.6 Ground 6: Proposal would substantially depreciate the value of nearby properties**
  - 4.7 Ground 7: Proposal impacts on the development potential of the shopping centre**
- 5.0 Conclusion**
  - 5.1 Planning risk assessment conclusions
- 6.0 Recommendation**
  - 6.1 In the event of a refusal of planning permission
  - 6.2 In the event of a decision to grant on appeal

**Appendix 1:** Photographs showing high levels of occupancy of the Palmerstown shopping centre car park



- In 2020: SDCC noted planning concerns over roads and access arrangements, public realm matters, etc.

The Planning Statement provides a very limited and edited version of the pre-planning undertaken. While our client has no reason to assume the current scheme proposals were considered by SDCC to be acceptable, they note that all pre-planning consultations are held without prejudice to the outcome of an eventual planning application.

These pre-planning discussions fully excluded our client despite our client being the company responsible for managing the shopping centre, etc. There are adequate planning concerns set out in this Planning Appeal Report, and in the attached original Planning Objection Report submitted to SDCC, to justify the refusal of this planning appeal. Our client asks that in the event ABP refuses planning permission that it does so based on, inter alia, the technical roads and parking concerns set out herein.

### 1.3 Appeal fee

The sum of €220 payable to An Bord Pleanála to ensure this planning appeal is validly received will be paid at the planning counter.

## 2.0 Existing context

### 2.1 The site is located alongside the heavily trafficked Kennelsfort Road

The subject site is located on Kennelsfort Road. The Silver Granite Pub is a landmark whose location requires no introduction.

In the same way, Kennelsfort Road is a notoriously heavily trafficked road. To the north the road connects to the R148 to the north which serves the N4 M50 Junction and to the south the road connects to the R833 which offers an M50 crossing into the Liffey Valley Shopping Centre and serves Cherry Orchard Industrial Estate. There are often long tailbacks of traffic on this road which can reach the Palmerstown Shopping Centre.

The road also serves Palmerstown Cemetery which and there can be as many as four funerals a day that also cause the slowing down of traffic and long tailbacks on the road.

It is difficult to envisage why, given this context, the Applicant would propose a site whose primary car parking area is located on the opposite side of Kennelsfort Road via a pedestrian crossing (whose regular use further slows down traffic on the road).

### 2.2 Existing retail and retail vehicular parking context

The Palmerstown Shopping Centre is the primary retail centre for this area and maintains a surface car park whose design and layout ensures that there is no fly or overflow car parking into or onto adjoining and nearby roads.

The shopping centre offers a supermarket, a large gym, a creche, food and coffee shops, estate agent, a range of retail units, a barber shop, a pharmacy, a bookmaker, and a library. The shopping centre meets the needs of the surrounding community and is of a size which ensures it remains viable. There are no empty units at present.

The shopping centre car park's occupancy alters throughout the day, but it becomes very full at peak times, especially at weekends and public holidays (particularly Christmas) – see Appendix 2. The car park also serves as the de facto car park for a GP practice located just outside of the shopping centre.

Our client has always accepted that some patrons of The Silver Granite Pub parked within the shopping centre and was aware that the pub owners retained some legal right to do so. There has never been any reason for this parking to become an issue as most of the pub's parking demand has always arisen in the evenings when most of the shopping centre's businesses are closed. The pub's use of the spaces was a "dual" use of the car park's spaces.

### 2.3 Site location and description

The subject site, as originally presented to SDCC by way of the 'Site Location Map' shown in Fig. 1 is piecemeal and haphazard as it comprises of:

1. The site of The Silver Granite Pub itself.

2. A section of the existing car park which serves Palmerstown Shopping Centre which is located on the other side of the heavily trafficked Kennelsfort Road. This is a heavily used car park that already serves a busy shopping centre with which multiple businesses obtained planning permission based on the existing parking spaces therein.
3. An existing pedestrian crossing over Kennelsfort Road.
4. Common laneways located to the east of the site which are outside of the blue line boundary.
5. The entirety of the existing pedestrian pathways on the northern and western sides of The Silver Granite Pub

This then is an unusual existing development site. It is unusual because:

1. The Applicant is effectively claiming that The Silver Granite Pub's primary car parking area is located within the Palmerstown Shopping Centre. That the Applicant has provided legal title documents which purport to show how this is the existing parking situation in law, it does not make it any less unusual. It would obviously be the case that pubs such as The Silver Granite Pub benefit from the use of parking areas such as that serving Palmerstown Shopping Centre when they are under less pressure in the evenings and at night, but there is no defined area of car parking within the existing Palmerstown Shopping Centre for The Silver Granite Pub's - the spaces are not marked or delineated in any way. They are Palmerstown Shopping Centre spaces.
2. The extent of areas included in this planning application that are not in the Applicant's ownership including laneways to the east, pedestrian paths on the northern and western sides of The Silver Granite Pub, the pedestrian crossing over Kennelsfort Road, etc. all serve to make the available site area on the east side of Kennelsfort Road appear larger than it is.
3. The inclusion in this planning application of areas of the Palmerstown Shopping Centre's car park also serves to make the Applicant site appear larger than it is.

It is in fact the case that the Palmerstown Shopping Centre bears little physical or visual connection to The Silver Granite Pub. Kennelsfort Road, low height boundary walls and public footpaths all serve to disconnect these two commercial properties (see Figs. 1 to 6).

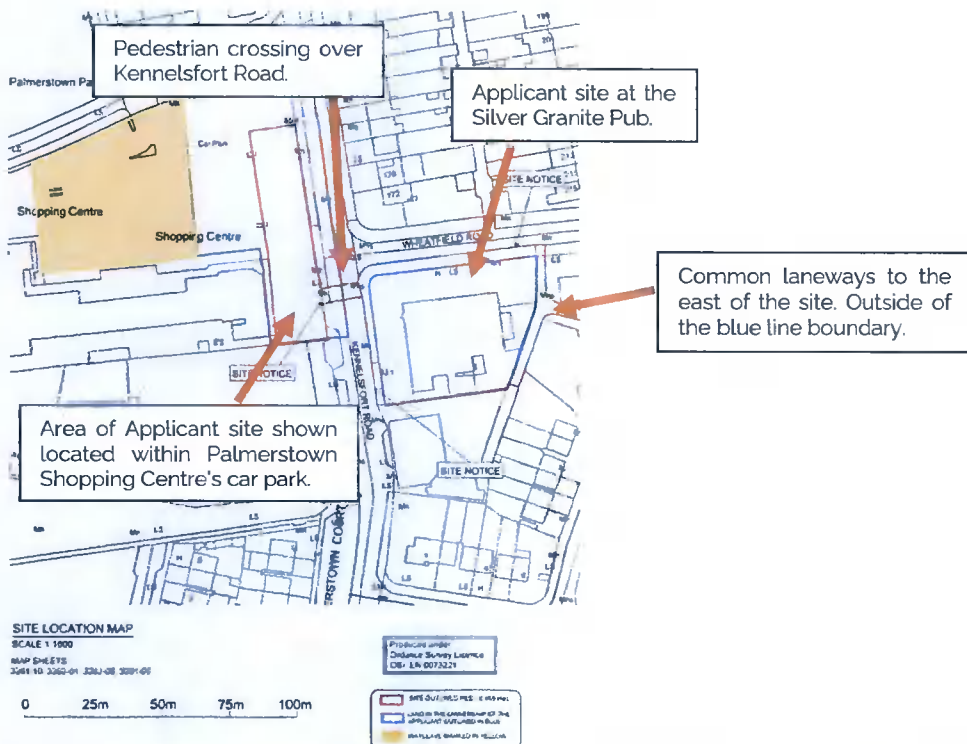


Fig. 1: The Applicant's 'Site Location Map' showing site areas on two sides of Kennelsfort Rd, etc.

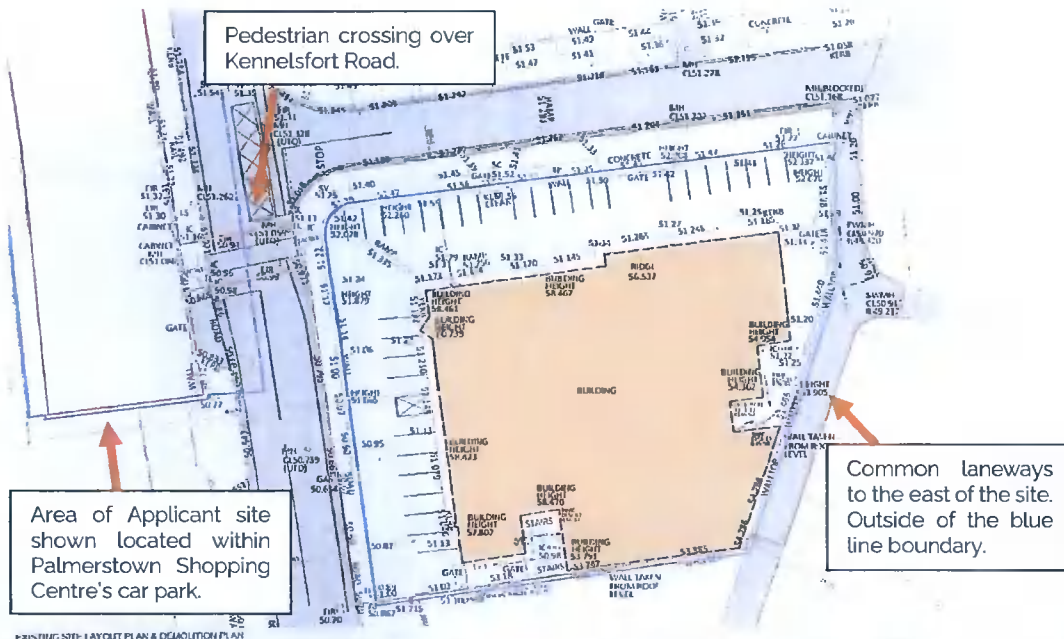


Fig. 2: The Applicant's 'Site Location Map' showing site areas on two sides of Kennelsfort Rd, etc.

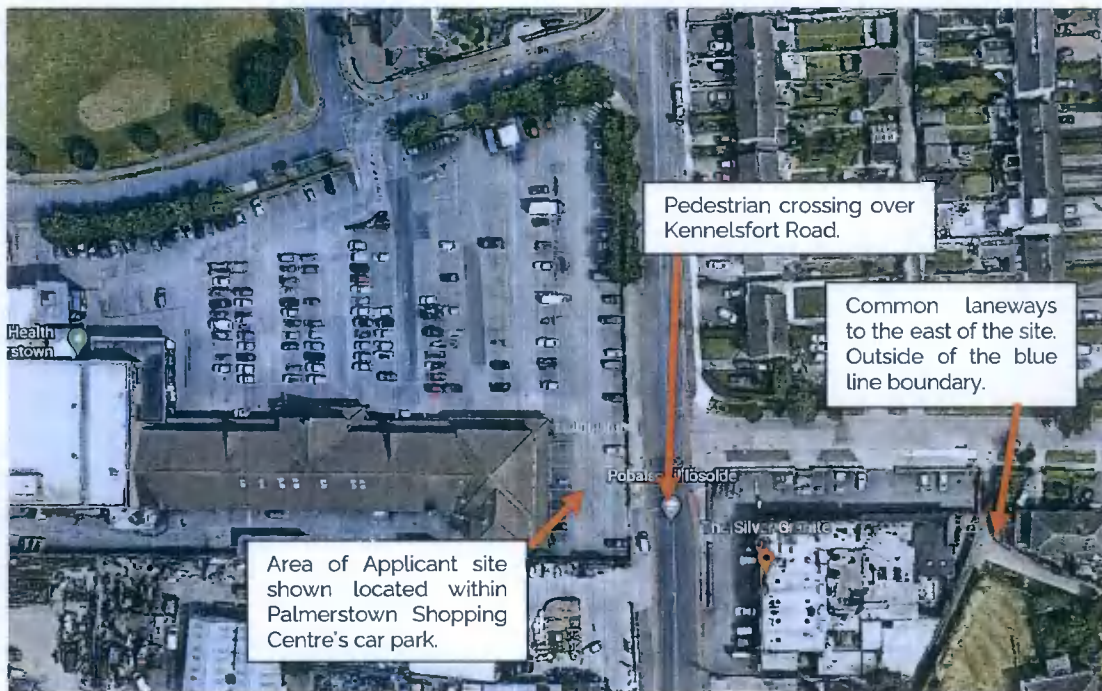


Fig. 3: The Applicant's 'Site Location Map' showing site areas on two sides of Kennelsfort Rd, etc.



Fig. 4: The shopping centre & The Silver Chair Pub maintain little physical or visual connection



**Fig. 5: Areas outlined as pub car parking not marked as such in within the shopping centre car park (1)**



**Fig. 6: Areas outlined as pub car parking not marked as such in within the shopping centre car park (2)**

**2.4 The actual 'developable' area of the Applicant site (in sq.m and hectares)**

Section 11. 'Site Area' of the Applicant's Planning Application Form refers to a claimed total site area of 0.469ha. As noted above, this includes a range of areas which are outside of the existing boundaries of The Silver Granite Pub (laneways to the east, pedestrian paths, pedestrian crossing over Kennelsfort Road and areas of the Palmerston Shopping Centre's car park). That is, the Applicant has included large areas within their claimed site area which are undevelopable.

BPS has measured the approx. site area of The Silver Granite Pub using Google Earth and the actual developable site area (that within the boundaries of the existing pub site) is 2618.27sq.m. This is 0.262ha. This is 55% of the Applicant's claimed total site area. This is an important distinction to make when assessing this planning application's density, etc.



**Fig. 7: The actual 'developable' area of The Silver Granite Pub site is 0.262ha.**

### 3.0 Proposed development the subject of this planning appeal

The proposed development comprises of:

1. Demolition of the existing building on site.
2. The construction of a 5-storey over partial basement, mixed-use development comprising
  - a gastro pub/restaurant with off-licence and 2 retail units.
  - Associated bin stores, bike stores, 1 ESB sub-station, all at ground floor level.
  - A small plant room at basement level.
  - A total of 50 apartments (25 one beds and 25 two beds) on the upper floors, all provided with private balconies/terraces; communal roof gardens; car parking; motorcycle parking; bicycle parking; landscaping.
3. Upgrades to public realm including upgrades to existing pedestrian crossing on Kennelsfort Road Upper.
4. All associated engineering and site works necessary to facilitate the development.

### 4.0 Grounds for Appeal

#### 4.1 Ground 1: This planning appeal adopts our client's original objection report

Our client lodged a substantive planning objection in respect of the Applicant proposals as originally submitted to SDCC. A copy of this Planning Objection Report is attached. This Planning Objection Report and the 'Grounds for Objection' which are set out therein are formally adopted here as the first ground for appeal of this planning appeal. Its content is 'taken as read' and not repeated here.

As this planning application was not revised by way of Significant Further Information as SDCC did not deem the Further Information submission to be "significant". The SDCC Planner's Report states: "Further Information was received on the 26th of April 2022 (not deemed significant)". Our client's original objections remain wholly relevant and all technical and planning concerns arising have not been addressed by way of re-advertising.

The summary 'Grounds for Objection' which are now also 'Grounds for Appeal' include:

1. There are technical concerns with the presentation of the scheme including:
  - The originally advertised 'development description' did not include proposed development within the shopping centre car park. While Further Information was requested this was not deemed 'significant' and this issue with the notices has not been addressed by way of re-advertising.
  - The application doesn't include permission from or agreement with Palmerstown Shopping Centre Ltd. for any part of the proposals as they pertain to the curtilage of the shopping centre.
  - No construction details are provided as to works in the shopping centre car park.
  - The original Applicant Planning Statement referred incorrectly to the existing pub vehicular entrance.
  - TAR refers incorrectly to the 5 parking spaces on Wheatfield Rd as "managed". These appear to be public parking spaces.
  - The Applicant fails to explain why bollards exist on Wheatfield Road to front of their site.
  - East and west site red line boundary lines do not represent site ownership
  - The traffic data in the TAR is from "planning applications" and not from a recent survey
  - Planning statement refers to 106 units per hectare and 188. Clarity is required.
  - Planning statement claims apartments are "for all family and age demographics" when this is clearly not the case.

2. The proposal represents a material contravention of the SDCC CDP2016-2022 which cannot be justified.
3. The Proposal is contrary to the SDCC CDP 2016-2022:
  - Proposed residential density is contrary to Housing (H) Policy 8.
  - Proposal is not sustainable in its urban design contrary to HOUSING H7 Objective 1.
  - Proposed removal of a public footpath is contrary to HOUSING H7 Objective 4.
  - Proposed building heights are contrary to HOUSING H7 Objective 4.
  - Proposed building heights are contrary to Housing (H) Policy 9, Objectives 2 & 3.
  - Car parking provision is contrary to Transport and Mobility (TM) Policy 7.
  - Quantum of car parking is non-compliant with Tables 11.23 and 11.24 of the CDP.
  - Siting of car parking is contrary to s. 11.4.4 'Car Parking Design and Layout'.
  - The proposal is contrary to the zoning of the site & to the adjoining 'RES' zoning
  - Objection to the principle of this haphazard & piecemeal development proposal.
4. Objection in principle of this haphazard & piecemeal proposal:
  - The proposal is contrary to the zoning of the site & to the adjoining 'RES' zoning
  - The principle of proposing shopping centre car parking to serve the proposed development is haphazard & piecemeal.
  - Legal agreement for the shopping centre car park doesn't support its subdivision.
  - The traffic & parking impacts of the scheme are placed on the shopping centre.
  - The lanes to the east of the Applicant site should not be effectively privatised.
  - No "precedent of apartments on site" – the existing site contains no apartments.
5. The proposal constitutes overdevelopment of the site:
  - The increase in density of development on the site is excessive.
  - The height of the proposal at 5 storeys & 18.1m is excessive in relative terms.
  - The use of the red line boundary and not the blue to the east of the site is misleading.
  - Scale, massing, and length of the elevations on the pub site is overdevelopment.
  - 40% of apartments are single aspect is a manifestation of proposed overdevelopment.
  - 11 no. primarily north facing apartments is a manifestation of proposed overdevelopment.
  - Too many single aspect social housing units is a manifestation of proposed overdevelopment.
  - Under provision of & poor quality of public open space is a manifestation of proposed overdevelopment.
  - Siting of 2nd & 5th storey terraced communal open spaces is a manifestation of proposed overdevelopment.
  - The proposed communal open spaces impact on adjoining future apartments' amenities.
6. The Silver Granite Pub should be retained and extended and not the subject of overdevelopment. The shopping centre car parking spaces were never intended to be anything more than a shared arrangement for the pub only.
7. Roads and traffic objections:



- The vehicular access proposals for this scheme are haphazard and ill considered.
  - Proposal includes a new entrance to a subdivided area of a shared shopping centre car park. This is at odds with the operational nature of the shopping centre's shared car park.
  - The Applicant would need to fence off an area of the shopping centre car park which is wholly contrary to the shared surface nature of the car park. As the shopping centre has always maintained the car park's surfacing, lighting, access, etc. it is not clear how this arrangement could be in any way acceptable.
  - The proposals would create a vehicular exit out of the existing emergency exit which is substandard.
  - The vehicular parking proposals for this scheme are haphazard and ill considered.
  - The 48 no. "proposed" car parking spaces are Palmerstown shopping Centre spaces for use on a shared basis with all businesses in the shopping centre. No one business can reasonably fence off an area only for them. This will cause excessive peak time congestion within the shopping centre where the spaces used by the Silver Granite Pub are normally used in the evenings when demand from day time shoppers has ended.
  - The scheme offers insufficient parking spaces which will cause overflow parking and fly parking into and within the shopping centre.
  - All proposed apartment parking is within the shopping centre car park – this is substandard.
  - The parking, bike parking & setdown area on Wheatfield Road d are outside site's red line boundary. This planning application has not been re-advertised.
  - Transportation Assessment Report argues for a loading bay within in an existing footpath. This is substandard.
  - SDCC is providing land for the Spar & pharmacy/bookmaker parking/loading area. The use of public land and shopping centre areas to facilitate this scheme is not acceptable.
  - The proposal seeks permission to remove all "on-site" vehicular parking which would shift all parking demand onto the shopping centre causing overspill parking, etc.
  - Why can't "on-site" parking be provided within the blue line pub boundary? The Applicant should provide on-site car parking and not depend on public parking and shopping centre car parking.
  - The Transportation Assessment Report under-estimates traffic/parking impacts.
  - Site's location close to the M50, R148 & the R833 mean it will be a car based scheme.
  - Traffic impacts will be localised at the entrance to/exit from the shopping centre parking area.
  - Proposed intensification of use of the pedestrian crossing would slow traffic along Kennelsfort Road Upper.
  - Is it safe & reasonable to require all scheme customers/residents to cross Kennelsfort Road Upper to the shopping centre car park for all trips, at all times of year and in all weathers?
  - The areas of proposed cycle parking are not acceptable.
  - The existing laneways to the east of the site should be excluded from this scheme.
  - The Applicant seeks to make use of the lanes to the east but not to maintain them as the Silver Granite Pub has done for many years with the shopping centre's car parking spaces.
8. Proposed negative amenity impacts on adjoining properties
- Elevation 2 would cause significant, negative, amenity impacts.
  - Elevation 2 would cause excessive & unrestricted overlooking impacts.
  - The proposed 18.1m tall 5 storey Elevation 2 causes negative visual overbearing impacts.

- The 18.1m tall 5 storey Elevation 2 causes negative overshadowing impacts.
  - Elevations 3 & 4 would cause significant, negative, amenity impacts.
  - No contiguous elevations or photomontages were originally provided of Elevations 3 & 4 such that they could be properly assessed.
  - Elevations 3 & 4 would cause excessive & unrestricted overlooking impacts.
  - The 18.1m tall 5 storey building causes negative visual overbearing impacts.
  - The 18.1m tall 5 storey building causes negative overshadowing impacts.
  - Applicant proposals for a bin store adjoining No. 1 Wheatfield Road required review.
9. Issues of concern over the Outline Construction Management Plan
- No construction details are provided as to works in the shopping centre car park.
  - No construction vehicles or worker vehicles should be parked in the shopping centre.
  - Working hours should be fixed and not subject to revision for any reason.
  - A complaint procedure & an independent complaints process is required.
  - The applicant has provided no baseline noise measurements. Noise from plant & machinery needs to be mitigated. Independent noise monitoring is required & conditions must be enforced.
  - Vibration concerns at construction phase. A baseline vibration survey should have been submitted.
  - Construction phase visual impacts on surrounding properties should be minimised.
  - Construction phase could cause light overspill impacts on residential dwellings.
  - Dust impacts on nearby areas.
10. The proposed development would set poor precedents.
11. Proposal would substantially depreciate the value of nearby properties
12. Proposal impacts on the development potential of the shopping centre

**In the event of Judicial Review proceedings, our client will rely on this planning appeal 'and' on the attached Planning Objection Report as comprising their full 'Grounds for Appeal'. A copy of our client's original acknowledgement letter received from SDCC following the lodgement by BPS of their objection is attached.**

#### **4.2 Ground 2: The SDCC decision retrospectively alters previous SC permissions**

Our client objects to the SDCC planning decision which runs contrary to every previous planning permission ever granted to the Palmerstown Shopping Centre. The permission seeks to retrospectively alter a recent planning permission issued by SDCC. This planning permissions were not the subject of objections from the Applicant and/or Bunker Estates, etc. That the Silver Granite public house and its owners could possibly have been unaware of this planning application is not credible.

Planning application reg. ref. SD21A/0109 refers to the totality of the shopping centre area in both its red and blue lines. No objections were lodged. A planning site notice was erected on the emergency entrance/exit to the shopping centre car park. The current SDCC planning decision seeks to retrospectively alter planning permission reg. ref. SD21A/0109 and leave our client in a situation whereby this 2021 planning permission and its conditions cannot be complied with. The Applicant has not sought permission to alter SD21A/0109.

The SDCC decision runs counter to *Horne v. Freeney* which makes it clear that a planning permission is indivisible. Our client now faces the planning authority forcing the shopping centre management into a situation where they may be acting illegally in respect of previous permissions.



The following concerns are noted regarding the Further Information submitted by the Applicant to SDCC.

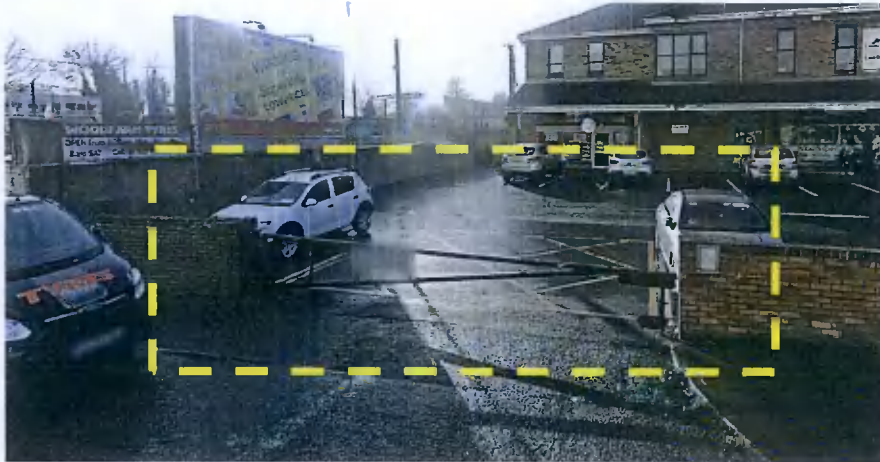
#### 4.3.1 Item 1 of the FI request – client appeal stage comments

Item 1 of the SDCC FI request states:

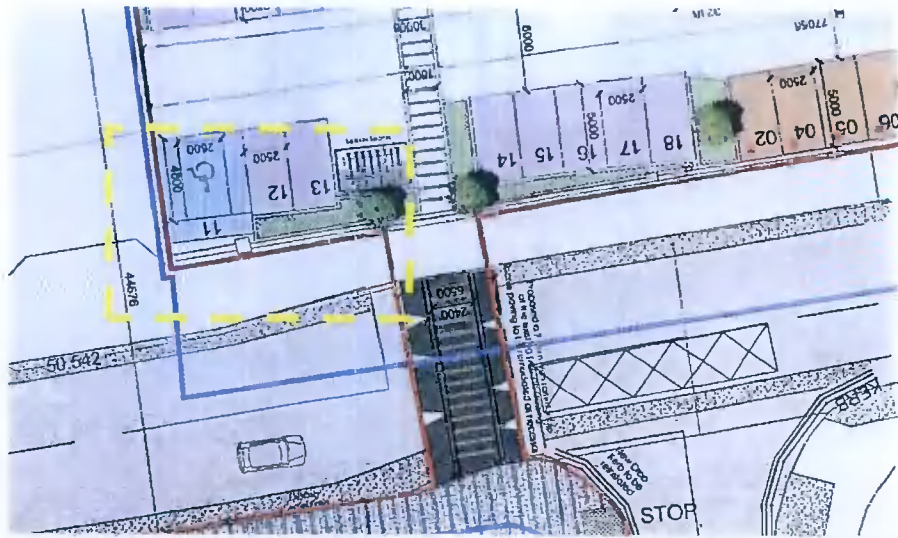
*The applicant is requested to submit revised drawings and documentation, including a revised Site Layout Plan of the car parking located to the west of Kennelsfort Road, clearly delineating the following: (a) The existing pedestrian access and east-west aligned walkway shall be closed and relocated as follows: (b) A new pedestrian access should be created at car parking spaces 12-13 from the Kennelsfort Road (to align with the upgraded crossing). (b) The relocated east-west walkway should connect the new pedestrian access (required under item a.) to the pathway to the west of car parking spaces 04-05. (c) Car parking spaces 04-05 and 12-13 should be omitted and relocated to the area created by the omission of the existing pedestrian entrance and walkway. (d) Proposals for the suitable landscaping of the new east-west walkway and pedestrian entrance should also be submitted.*

##### Client response:

1. The FI request and response is predicated on an acceptance by SDCC that the shopping centre's car park can in principle be re-developed in the manner proposed. Our client disputes this.
2. The FI stage proposals require access into and out of the Palmerstown Shopping Centre which is a privately owned and managed property. The Applicant has not demonstrated that these proposals which are to represent a gated car park within the existing shopping centre car park have been agreed with our client.
3. The FI stage proposals confirm the entire removal of the emergency vehicular exit from the Palmerstown Shopping Centre which was constructed on foot of its own planning permissions. How can it possibly be acceptable for this scheme to remove a critical element of the safety plan for the shopping centre? How will emergency vehicles enter/exit the site if the main entrance is blocked for any reason? This planning decision made by SDCC contravenes previous planning permissions pertaining to the shopping centre and to which the Applicant raised no objection(s). The Applicant was then and remains fully aware that the emergency entrance/exit onto Kennelsfort Road from the shopping centre was granted planning permissions and was built in compliance with its planning permissions.



**Fig. 10: Existing location of emergency exit proposed to be closed off by the Applicant scheme (1)**



**Fig. 11: Existing location of emergency exit proposed to be closed off by the Applicant scheme (2)**

4. No mention is made by the Applicant to how our client constructed and then maintained the area of the shopping centre car park which is now proposed to be delineated solely for use by the subject scheme. Our client has surfaced and re-surfaced this area over many years and maintained all lighting, etc. The Applicant has not contributed in any way to this. This area of the car park is part of the shopping centre car park. The current planning application proposes electric charging points for parking spaces, an electric barrier, etc. – how will these be achieved without our client's agreement?
5. The FI stage proposals continue to provide that parking spaces which have been shared by the shopping centre with the Solver Granite pub only can be fenced off and fully re-allocated to serve the entirety of the Applicant scheme's demand for pharmacy/bookmaker parking, Spar/retail shop parking and parking for a large number of residential units. There is no agreement between the shopping centre and the Applicant which provides for this in any way. Our client disputes that there is legal basis for such a change in the nature of the use and intensity of use of the area of the shopping centre car park delineated by the Applicant in the FI stage drawings.
6. The Applicant FI stage proposals represent no less than the integration of this entire scheme into the shopping centre with Kennelsfort Road bisecting this. These proposals are wholly at odds with the shopping centre whose peak time parking demand cannot sustain the Applicant proposals. The dual use of the public house using the shopping centre car park in the evenings and at night with these spaces used during the day by businesses in the actual shopping centre has worked well. SDCC's decision removes this sustainable dual use and allows shared surface parking to be removed from the shopping centre and reserved to serve the Applicant scheme.
7. The Applicant FI stage proposals would impact negatively on adjoining businesses to the west of the parking area which depend on 'drive up and park' business.
8. The Applicant FI stage proposals would intensify the use of the pedestrian crossing over Kennelsfort Road to unsustainable levels. At present this is relatively lightly used and those accessing the public house across this road mostly do so in the evenings and outside of peak traffic times. This proposal asks that customers of a Spar/retail unit and a pharmacy/bookmakers and all of the residents of this proposed scheme cross the road at this point for almost all trips including at peak times. Our client submits that this would have a negative impact on Kennelsfort Road and would be a traffic hazard.
9. The Applicant's FI stage pedestrian crossing appears like one that could be installed on an internal university access road or within a housing estate. This is Kennelsfort Road which is a high capacity and busy thoroughfare. Our client invites the Board to compare the existing situation to the proposed situation. The proposals are not credible insofar as the claimed integration of the shopping centre's shared parking areas with this re-development of the Silver Granite pub.



Fig. 12: Existing pedestrian crossing over Kennelsfort Road

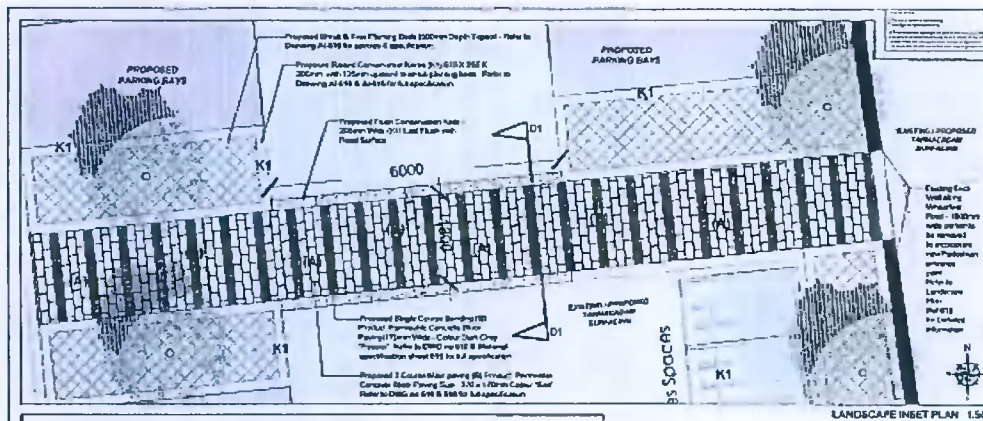


Fig. 13: Proposal for a revised pedestrian crossing over Kennelsfort Road

10. The Applicant FI stage proposals present a poor precedent for future developments adjoining shopping centres served by shared surface car parks to be carved up for use by individual developments in a manner which is contrary to the entirely rationale for a shared car park.
11. No details have been provided by the Applicant which show the demand for bicycle parking spaces at this location. This is not an attractive environment for cyclists. The Census provides details of the choice of commuting transport mode that households in given District Electoral Divisions use. The percentage in this area is likely to be very low and cycling cannot be forced on people especially those who do not own bikes.

**Conclusion Item 1:** Having regard to the nature and scale of the proposed development, the dependence of the proposals on removing car parking spaces presently used on a shared based with the Palmerstown Shopping Centre, the sites' location in a suburban location adjoining Kennelsfort Road and the poor pedestrian and cycling environment in the vicinity of the site, it is considered that the development as proposed would adversely affect the function, efficiency and carrying capacity of the existing shopping centre car park, Kennelsfort Road and endanger public safety by reason of traffic hazard. The proposed development would contravene materially the South Dublin Development Plan 2016-2022 and would be contrary to the 'Spatial Planning and National Roads Guidelines for Planning Authorities' (2012) which were issued to Planning Authorities under Section 28 of the Planning and Development Act 2000, as amended. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

#### 4.3.2 Item 2 of the FI request – client's appeal stage comments

Item 2 of the SDCC FI request states:

*The applicant is requested to submit: (1) A revised layout of not less than 1:200 scale showing the car parking, bicycle parking and pedestrian routes within the development. Please refer to Table 11.22: Minimum Bicycle Parking Rates- SDCC County Development Plan 2016-2022. Please refer to Table 11.23: Maximum Parking Rates (Non-Residential) - from the SDCC County Development Plan 2016-2022. The revised layout should also indicate: (a) The minimum width of footpaths shall be 1.8m wide to aid mobility impaired users (specific regard to footpath along the eastern boundary*

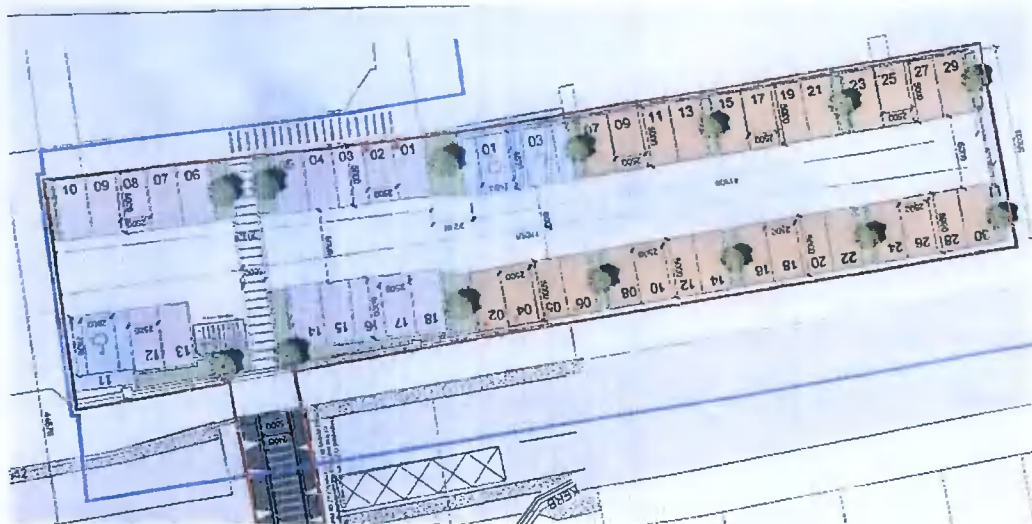
with the laneway. (b) All external bicycle parking spaces covered. (c) Footpath layout providing adequate connectivity around the development and footpaths on the main road. (2) Accurate plans demonstrating the provision of a visibility splay of 2.4m x 50m in both directions from the entrance to the east side (rear lane). Sightlines should be shown to the near side edge of the road to the right-hand side of entrance and to the centreline of the road to the left-hand side of the entrance (when exiting). (3) A revised layout of not less than 1:200 scale showing 5% of vehicular parking spaces for mobility impaired users, and 10% vehicular parking spaces to be equipped with electrical charging points. (4) A revised layout of not less than 1:200 scale detailing the removal of the existing vehicle access from the car park directly on to Kennelsfort road. (5) A revised layout of not less than 1:100 scale, showing a swept path analysis drawing (i.e. Autotrack or similar) demonstrating that fire tenders and large refuse vehicles can access/egress the site. An Autotrack demonstrating how vehicles access the parking facilities within the shopping centre. (6) A revised layout of not less than 1:100 scale, showing a suitable designated bin collection/delivery vehicle set-down spaces not on wheatfield Road or Kennelsfort Road, i.e., this should be located within the development.

**Client response.**

1. Our client cannot understand why the Applicant has been permitted by SDCC to carry on with proposals which impact on private property and public property in the vicinity. This scheme proposes to spill out into the shopping centre located across a busy road in a manner which is not sustainable and/or manageable as proposed. The scheme wants to subsume public footpath and verge areas to the north of the site, and it wants to make use of adjoining laneways. Our client considers this proposal to represent overdevelopment and to be ill considered as to how it treats the existing context. For example, all existing and quite considerable on site car parking around the public house is shown as removed to outside of any area over which our client considers the Applicant has any actual right to provide vehicular parking in.

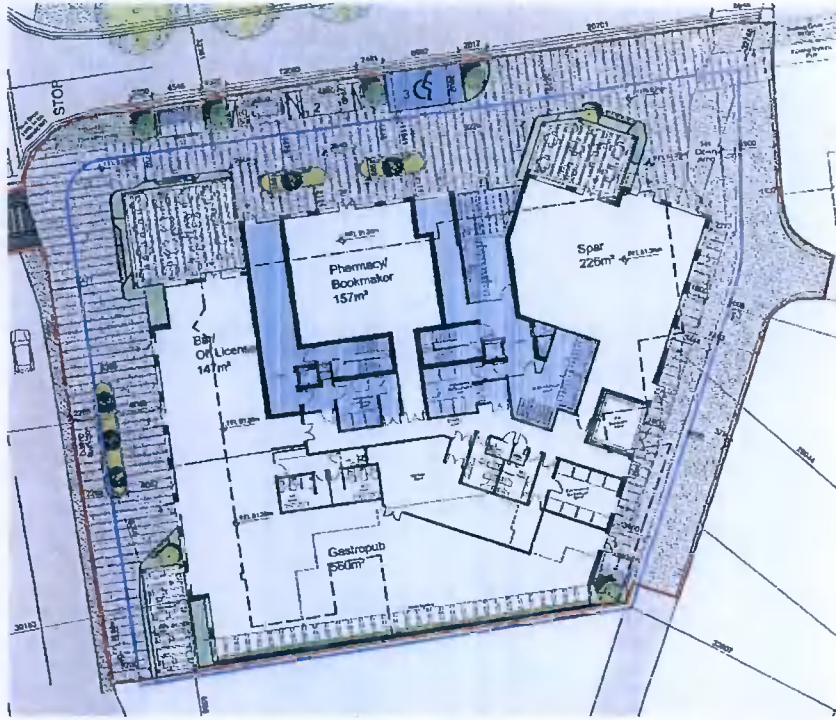


**Fig. 14: Areas of the Palmerstown Shopping Centre fully managed at present by our client (1)**

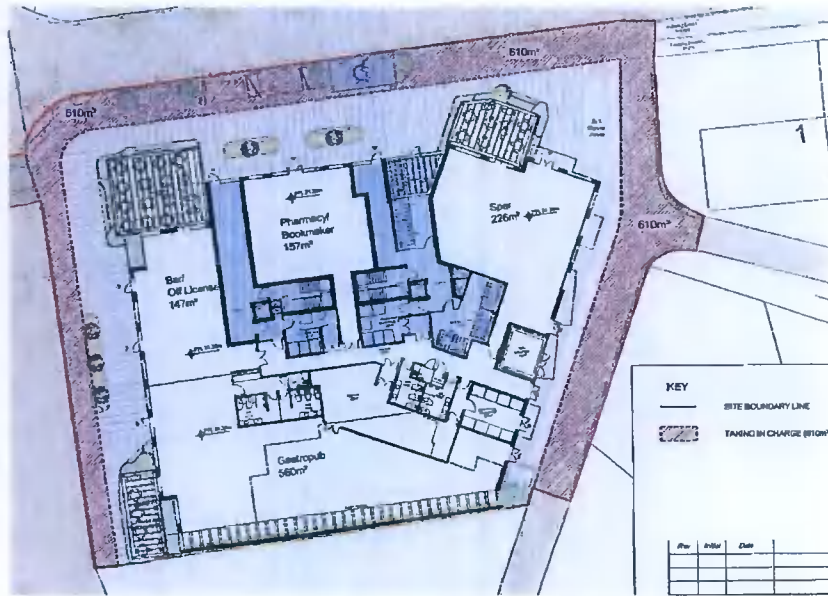


**Fig. 15: Areas of the Palmerstown Shopping Centre fully managed at present by our client (2)**

The Applicant provides a plan showing area "to be taken in charge" yet these areas are outside of the blue line boundary and are already, our client assumes, "taken in charge".



**Fig. 16: Areas to be "taken in charge" are already public areas owned by SDCC (1)**



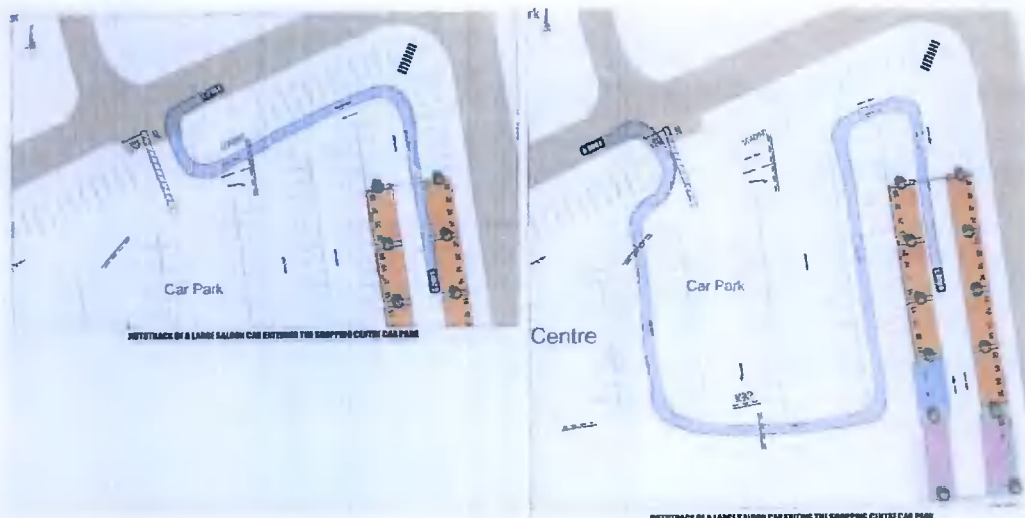
**Fig. 17: Areas to be "taken in charge" are already public areas owned by SDCC (2)**

2. Of the claimed 51 parking spaces almost all of these are sited within the existing shopping centre's surface car park. All this does is reduce the availability of car parking to existing users of the car park and it does not constitute "new" car parking. It is the equivalent of a road along which houses are served by on road parking and one day SDCC comes along and claims all the parking spaces as public parking. No new parking spaces have been created; the residents are merely left without parking which is effectively reallocated. The current scheme seeks to reallocate existing parking spaces to new users without any increase in actual parking provision. This is contrary to the Sustainable Residential Density Guidelines (2009) which requires residential developments at locations such as Palmerstown to provide at least 1 "new" parking space per unit. No "new" parking spaces are proposed.
3. It appears that SDCC has entertained the idea of a new entrance to a newly fenced off area of the shopping centre car park because this is technically feasible from a road engineering perspective. The Applicant's proposal is not interrogated as to its common sense and planning sense only that Autotrack confirms that an existing surface car park can technically facilitate another internal



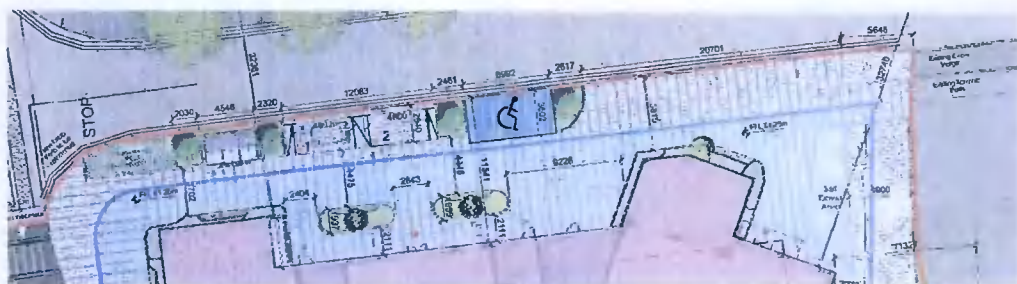
entrance, but how is this a good idea when it serves to remove shared spaces whose most efficient use is as part of the shopping centre, etc.

4. The Applicant's Autotracking for entering the proposed entrance into the fenced off area of shopping centre car parking uses a saloon car only. Our client does not believe that the largest vehicle would be a saloon car. What if this area is accessed by larger vehicles? Will this be safe for shopping centre pedestrians, etc? The Applicant shows a short and a long route through the shopping centre car park managed by our client but offers no agreement with the shopping centre's management that confirms this is acceptable. Our client disputes this proposal in full.



**Fig. 18: Autotracking within the existing shopping centre's shared surface car park**

5. The Applicant continues to provide a disabled parking space, 2 standard parking spaces and bike parking within what is a public footpath and verge to the north of the site. Our client fails to understand how this is in any way acceptable. This matter is addressed fully in our client's attached Planning Objection Report.



**Fig. 19: Public footpath and verge is subsumed into this scheme for parking, bike parking, etc.**



**Fig. 20: Public footpath and verge is subsumed into this scheme for bike parking, etc.**

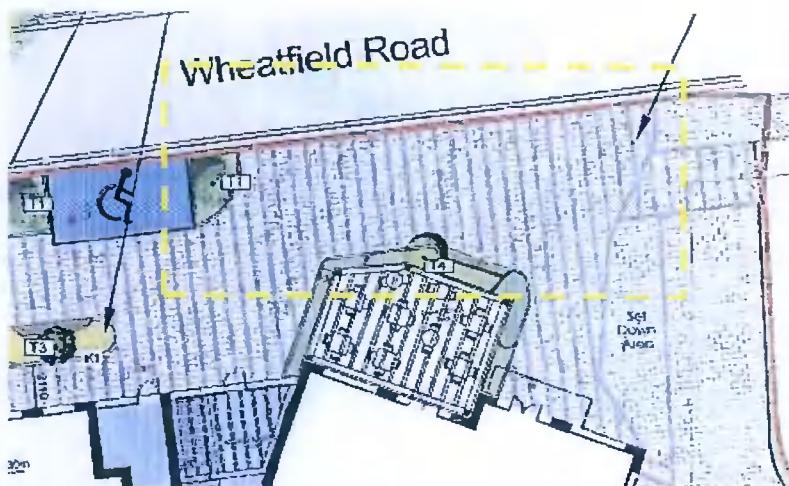
6. The Applicant continues to use laneways to the west of the subject site which are not in its ownership and whose use as proposed would cause negative impacts on the laneway and on adjoining properties. The Applicant proposals for the lanes represent the de facto privatisation of the lanes for use by this scheme as the laneways are outside the blue line boundary. SDCC asks only that the entrance to the laneways demonstrate the provision of a visibility splay of 2.4m x 50m

in both directions from the entrance to the east side (rear lane) when the principle of this proposal required more careful review.



**Fig. 21: The laneways to the east are outside the blue line boundary**

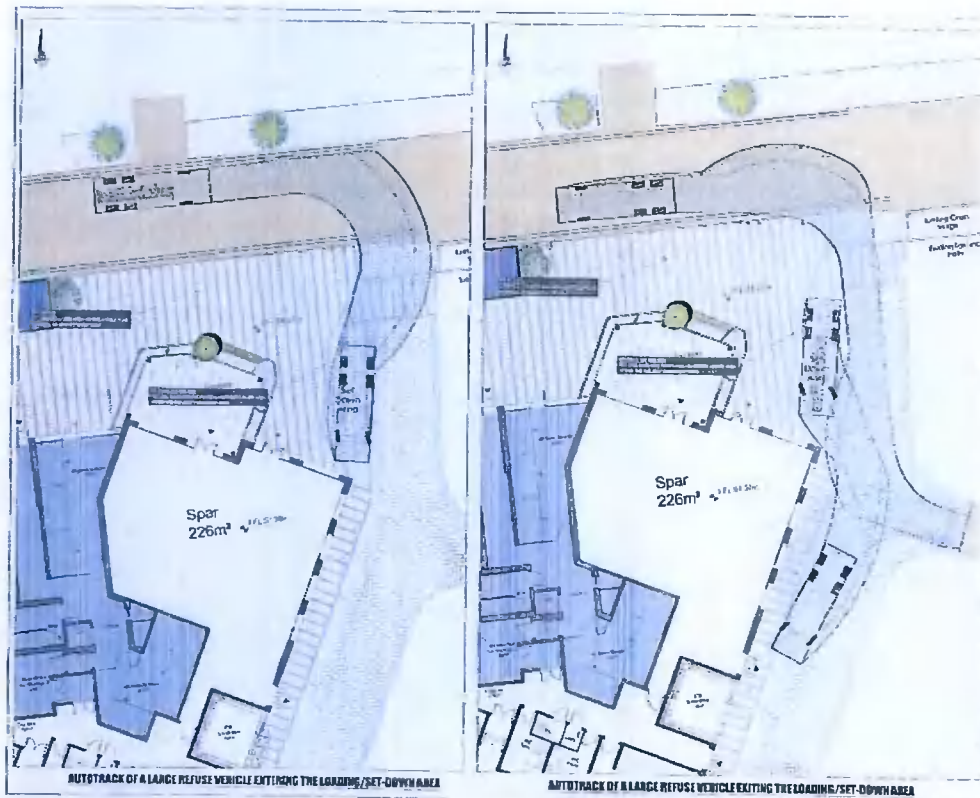
7. The Applicant proposals continue to ask our client to suspend disbelief and to accept that there will not be considerable overspill and fly parking outside of the subject site and onto Wheatfield Lane, into the laneways to the east and into the shopping centre's shared car parking areas. The SDCC decision appears to simply accept this. Our client does not and considers the overall parking proposals to be piecemeal and haphazard. They are unsustainable and will cause traffic hazards for pedestrians, cyclists, and vehicle drivers along Wheatfield Lane, Kennelsfort Road and within the environs of the shopping centre car park.
8. The proposed loading bay which was to be located in a public footpath has been removed but no satisfactory replacement is provided. The location of the loading bay is shown as an open area and would likely just be used as a loading bay anyway – it is finished in block paving (see Fig. 22). It is very unlikely that in practice delivery drivers, bin lorries and fire tenders would do anything more than park up on Wheatfield Road and/or on the kerb and carry out their deliveries, collect the bins, fight fires, etc. It is not credible to claim that such vehicles will enter the lanes to the east of the site – which requires the removal of bollards – drive in and then turn around. Such access and manoeuvring would take time which delivery drivers especially never seem to have. The proposals are inviting the creation of traffic hazards on Wheatfield Road.



**Fig. 22: The loading bay is shown as removed at FI stage but the area remains open to fly parking**

9. The Applicant's FI stage engineering submission argues that bins can be stored within the development area (red line boundary) on bin collection days without blocking pedestrian routes. In practice the bins would be placed on the footpath adjoining Wheatfield Road and would be collected from the road. Bin lorries do not make exceptions for some scheme.
10. SDCC required "A revised layout of not less than 1:100 scale, showing a suitable designated bin collection/delivery vehicle set-down spaces not on wheatfield Road or Kennelsfort Road, i.e., this should be located within the development". Our client cannot find these details in the Further Information submission. Bin collection proposals appear to continue to involve the use of public

areas which should be used as footpath and verge only or the use of the laneways to the east which are outside of the blue line boundary. This would mean the ongoing use permanently of the lane which is not an acceptable use of this lane as it is to serve a private scheme. Vehicles would need to turn in the laneways which could be being accessed by children, etc.



**Fig. 23: Autotracking for the proposed bin lorries collecting from the site**

11. Our client considers that excessive reliance is placed on bus services and on bicycles for justifying the proposed parking provision. The pub, pharmacy and Spar need their own parking areas within the subject site and on the eastern side of Kennelsfort Road – few if any will access these by bike or bus. The assumption that everyone will walk or bicycle (including across Kennelsfort Road) when these are "convenience" shops, etc. is not credible. That no visitors to this scheme's residential units will park on adjoining roads and/or in the wider shopping centre car park is not credible yet the proposals suggest visitors will cycle or take the bus.

**Conclusion Item 2:** Having regard to the nature and scale of the proposed development, the dependence of the proposals on removing car parking spaces presently used on a shared based with the Palmerstown Shopping Centre, the use of a public footpath and verge to the north and the use of public laneways to the east, it is considered that the proposal would adversely affect the function, efficiency and carrying capacity of the existing shopping centre car park, Kennelsfort Road and endanger public safety by reason of traffic hazard. The proposals would result in the overspill of vehicles into adjoining roads and lanes and the fly parking of vehicles on Kennelsfort Road, Wheatfield Road and in the adjoining laneways. The proposals would create an unsatisfactory situation whereby scheme vehicles treat the existing shopping centre car park as a de facto road into and entrance area for a fenced off area of what should remain as shared car parking for the shopping centre. The shopping centre car park should benefit a redevelopment of the scheme but not be wrested from the shopping centre to the detriment of the area.

#### 4.3.3 Item 4 of the FI request – client's appeal stage comments

Item 4 of the SDCC FI request states:

*The applicant states that 623sq.m public open space will be provided. The applicant has not indicated this area on drawings. The applicant is requested to clearly indicate the location of the 623sq.m public open space on a revised plan and provide clarity on the material finishes and taking in charge.*

**Client response:**

1. The Applicant claims that the FI stage scheme offers 671sq.m of public open space. BPS has carefully reviewed this planning application and we cannot find any space at ground level that could reasonably be referred to as public open space. The claimed spaces are privately managed drinking and dining spaces to be used by the Spar and the pub. Page 21 of the originally submitted Design Statement sets out how perimeter areas to the west and north of the proposed building – those currently used by The Silver Granite as its car park – are to be designated as public open space and communal open space. BPS has reviewed the proposed open spaces and we conclude that this provision confirms overdevelopment of this site.
2. The proposed development which is meant to be home for 50 households offers what could only be called a poverty of public open space and what the Design Statement calls "semi-private" open space. We note the following points:
  - The Applicant architect has included lands not under the ownership of the Applicant – these include the footpaths to the west and north and the laneways to the east. These cannot be included in any public open space calculation, etc. We have covered these areas in blue.
  - The entirety of the Applicant's proposals for public open space, etc. comprises of perimeter left over spaces around the proposed building. These areas are in fact required for car parking but are here re-designated as perimeter landscaped areas adjoining overbearing 5 storey elevations above.
  - The external areas to the north of the proposed building would be overshadowed for much of the day throughout the entire year – this is confirmed by the Applicant's own shadow study.
3. To the west of the site:
  - The Applicant has added what is called a "semi-public seating area". With due respect, this area would be used by the "Gastropub" (as is acknowledged in a different part of the Design Statement – see Fig. 27) and very unlikely to be used by residents of the scheme.
  - The Applicant shows a tiny "Public Seating Area" to the north of the "semi-public seating area". It is unrealistic to expect anyone would sit here.
  - The Applicant shows a public walk. In fact, this is merely perimeter access to the scheme.
  - The Applicant shows a small number of trees planted whose appearance is somewhat incongruous given the proximity of Kennelsfort Road (see Fig. 25).
4. To the north of the site:
  - The Applicant has proposed to use most of the existing public footpath for car and bike parking and has therefore had to offer a new private footpath. This is referred to as a "public space", but it is not public open space and the proposals to the north of the scheme represent a net loss of public footpath.
  - Tiny "Public Green" areas are shown adjoining covered seating areas. These are not public open spaces.

**Conclusion Item 4:** BPS is unable to locate any "open and inviting" public open space at ground level within this proposed development. Where is this "high quality open space area" referred to by the Applicant's report? The Applicant Design Statement is misleading regarding its claims for public open space at ground level. It is our client's opinion that this scheme fails to offer any quality public open space at ground level, while seeking to make use of an existing public footpath as a parking area. This is not acceptable. These poor quality proposals for public open space confirm this scheme as overdevelopment of the site.

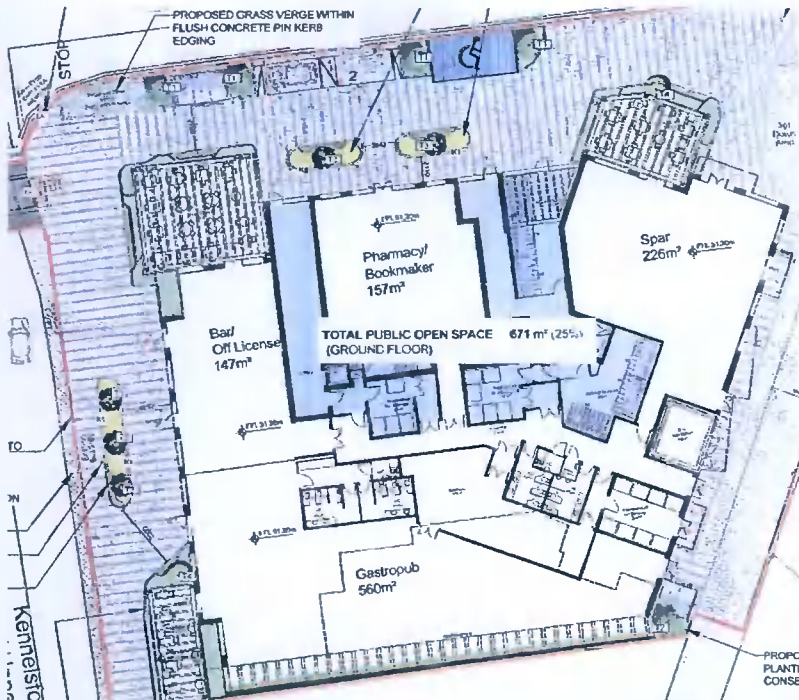


Fig. 24: Applicant public open space proposals appear to be private external drinking/dining areas?



Fig. 25: Scheme's areas of purported public open space – these proposals are substandard (1)



Fig. 26: Scheme's areas of purported public open space – these proposals are substandard (2)



24

Fig. 27: Design Statement refers to the Gastropub's pergola as "open space" & a residential utility?



**Fig. 28: Poor quality external environment precedent image on p. 22 of the Design Statement**

#### 4.3.4 Item 5 of the FI request – client's appeal stage comments

Item 5 of the SDCC FI request states:

*The applicant is requested to: (1) provide a clearly labelled plan, indicating land within their ownership, as well as land where consent has been obtained to secure planning permission. (2) detail whether there are any existing agreements which would restrict the parking area identified on the west side of Kennelsfort Road Upper from being used as parking as part of the current application*

##### Further Information Response No. 5

In response to Item 5 of the request, the applicant hereby wishes to submit the following for the consideration of South Dublin County Council. Please refer to the enclosed the Site Location Map drawing, 525-PL-001, submitted with the planning application. This is an accurate reflection of the land in the ownership of our client. Please also refer to the enclosed Folio maps DN14252F and DN3982F in our client's ownership showing how the extent of this ownership line was established.

##### Fig. 29: Excerpt from Applicant's FI submission

##### Client response:

BPS expects that ABP will be at a loss as to what precisely is the legal situation in this case regarding the proposed subdivision of the existing and operational Palmerston Shopping Centre car park to serve this proposed development. Our client acknowledges the two Property Registration Authority maps submitted by the Applicant at FI stage; however, they note the lack of associated commentary and/or an accompanying letter from a solicitor.

Our client has provided BPS with a copy – provided in Appendix 1 of the attached Planning Objection Report - of a 1988 legal agreement between Palmerstown Centre Development Limited (First Owner) and Sibra Building Company Ltd, Bunker Estates Limited, and Silver Birch Estates Ltd (Second Owner) that facilitated the development of the shopping centre car park in the manner by which it no exists and operates. The map provided in Fig. 30 sets out two coloured areas:

1. A **green** area was that owned by Palmerstown Centre Development Limited.
2. A **red** area was that owned by Sibra Building Company Ltd, Bunker Estates Limited, and Silver Birch Estates Ltd.

Point 3. Of the agreement states: "The First and Second Owner have agreed that the lands coloured red and green on the maps or plan to be developed for the purposes of a car park (hereinafter called "the carpark") for the benefit of their respective properties and to grant for the purpose of the development and user of the said carpark the rights and privileges hereinafter contained".

The Second Owner – which includes the current planning application's Applicant – agreed, inter alia, that Palmerstown Shopping Centre Limited would enjoy the following "Rights and privileges":

- (a) The right of way with or without vehicles over all parts of the lands coloured red and yellow on the plan annexed hereto.
- (b) To park vehicles in the car park at any time of the day or night on those parts of the land coloured in red.

The Second Owner was granted the following rights and privileges:

- (a) To enter the said lands coloured green by access points to be provided as indicated on the plan annexed hereto with or without vehicles at the points marked Y and Z.
- (b) The right of way with or without vehicles over all parts of the lands coloured green on the plan annexed hereto.
- (c) To park vehicles in the car park at any time of the day or night on those parts of the land coloured in red.

This agreement was signed by Frank Towey and by Frank Towey Junior as representing the Second Owner. Frank Towey is named as a Director of the company, Hollyville Investments Ltd, in whose name the current planning application has been lodged.

While SDCC can review this agreement in detail, it is our client's position that the Second Owner's rights and privileges to use the Palmerstown Shopping Centre car park as detailed above were understood to extend to The Silver Granite Pub.

The Applicant is now proposing a de facto subdivision of the existing shopping centre car park to serve a new large-scale mixed use development that did not exist at the time of the making of this agreement.

It is our client's position that while The Silver Granite Pub has every right to advise its customers that they can access and park within the red coloured areas of the Palmerstown SC car park, they do not have the right under this agreement to reserve this area of the car park for their sole use and/or to use it to serve others than the customers/patrons of the public house.

BPS has advised our client that ABP like SDCC is likely to leave legal matters to be addressed between parties and will assess this planning application on its planning grounds only. Our client responded to this by noting how:

1. In their view, the Applicant has not demonstrated sufficient legal interest – given the terms of the agreement provided in Appendix 1 of the attached Planning Objection Report – to be able to show ABP that they have the right to apportion numbered spaces within what is a shared car park to areas of this new development, including spaces to apartments owners and occupiers.
3. The Applicant has not demonstrated any consultation with or provided details of any updated agreement with the Palmerstown Shopping Centre that would provide for this scheme's proposals as they pertain to the car park. Letters of consent are attached to the planning application from the Second Owners but not from Palmerstown Centre Development Limited. The original agreement was between two parties and cannot reasonably be revised by only one of the parties.
2. The Applicant has not demonstrated how their proposals for the shopping centre car park would be managed in a manner that it compatible with the existing use and operation of this area of the car park.

**Conclusion Item 5;** Our client considers the Applicant proposal regarding the existing shopping centre car park to verge on the bizarre. The planning application has come out of the blue and is at odds with over 30 years of constant use of the shopping centre car park in a shared manner. The proposed development cannot reasonably be permitted as currently proposed. The development proposals for the Palmerstown Shopping Centre's car park require permission from Palmerstown Shopping Centre Ltd. No such permission has been requested or provided. In the absence of same, it is difficult to envisage how the Applicant can have demonstrated sufficient legal interest to carry out the proposed development. Our client notes how Palmerstown Shopping Centre Ltd has managed the entire car park, including paying for all maintenance and upgrade works, over the past 30 years. The Applicant has contributed nothing.

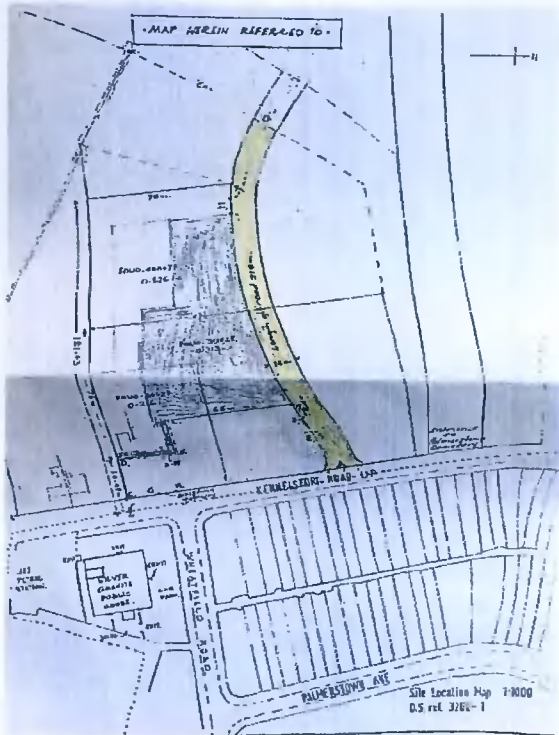


Fig. 30: Map attached to legal agreement pertaining to the Palmerstown SC car park

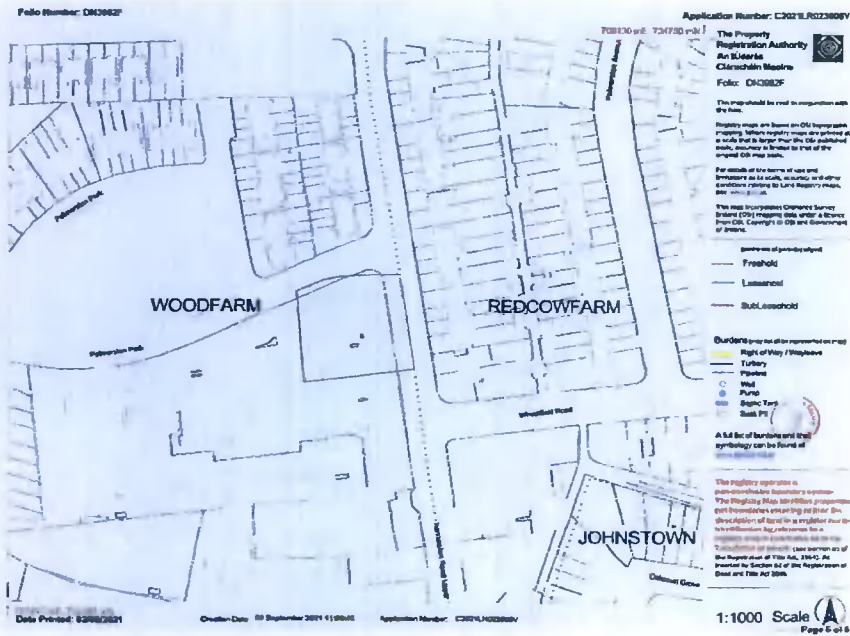


Fig. 31: Map attached to the FI stage submission (1)



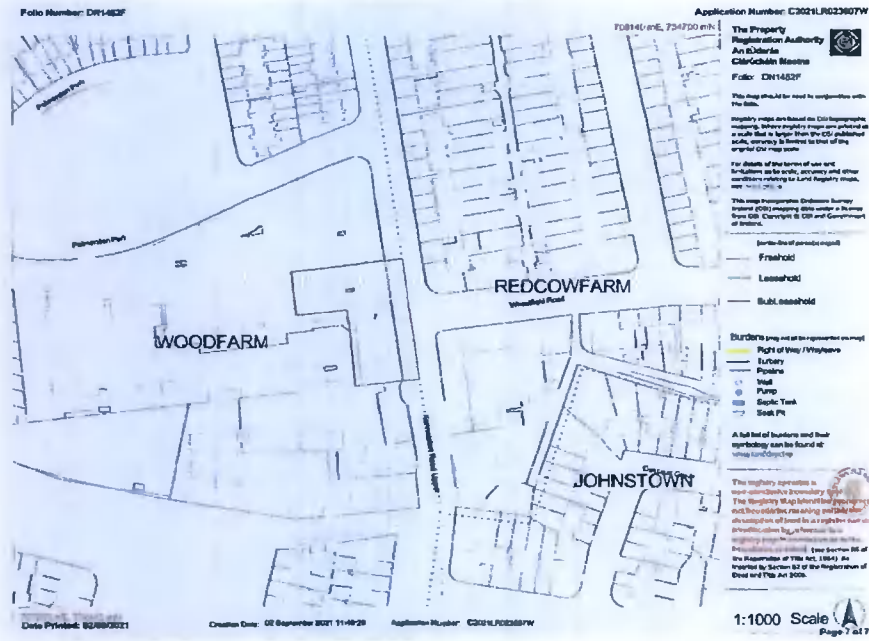


Fig. 32: Map attached to the FI stage submission (2)

4.3.5 Item 6 of the FI request – client's appeal stage comments

Item 6 of the SDCC FI request states:

*The applicant is requested to submit a full schedule detailing how each apartment satisfies the minimum standards in Appendix 1 of the Apartment Guidelines 2020.*

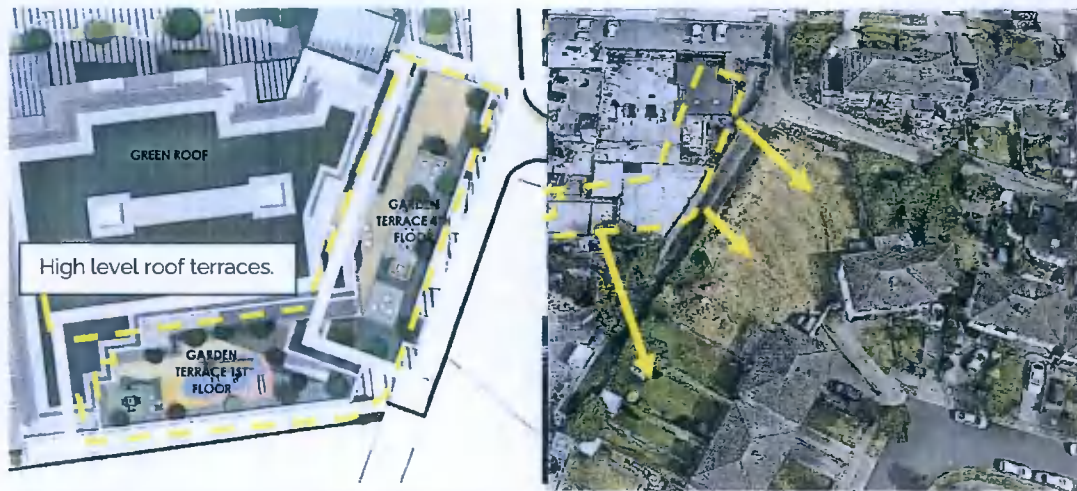
Client response:

1. It is firstly necessary to note how the proposed public open space is not for residents of this scheme and the proposed communal open space is poor and its siting at first floor level would impact negatively on properties to the southeast.

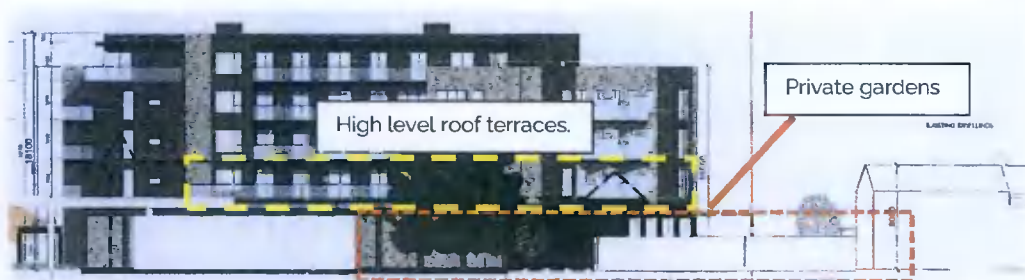
Section 6 of the Applicant Design Statement refers to how all communal open space will be provided within a 2nd storey and 5th storey roof terraces. Having reviewed the scheme and visited the site, BPS considers that the choice of these locations for roof terraces confirms this scheme represents overdevelopment of the site and is unsuitable to provide 50 apartments and all other development.

Not only is this communal open space of dubious usability and accessibility for future residents, but the proposal's 2nd and 5th storey terraces would impact negatively on residential properties and their rear gardens located to the east, southeast and south.

The Applicant has based their communal open strategy on hope that both SDCC and ABP will disregard these concerns in favour of this scheme. Our client submits that this is not acceptable. The proposed terraces would place the needs of the scheme developers above the right of residential property owners in the vicinity to be protected from overlooking, etc.



**Fig. 33: Scheme's areas communal open space impact negatively on surrounding amenities**



**Fig. 34: Scheme's areas communal open space impact negatively on surrounding amenities**

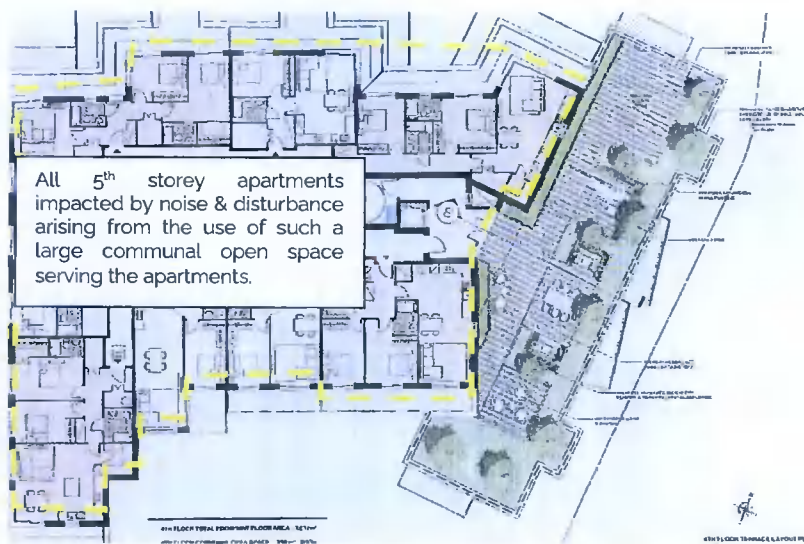
Our client considers the proposed communal open spaces to be poorly considered from the perspective of the amenities of future residents of the scheme:

1. The Applicant proposes a 258sq.m communal open space at 5th storey level which would be accessed from the 5th storey section of the building. This communal open space immediately adjoins 2 no. apartments and all those accessing this communal open space would do so via the common stairs/lifts/corridors, etc. This communal open space area immediately adjoins 2 no. apartments.
2. The Applicant also proposed a children's play area at second storey level which would be accessed via common lift/stairwell/corridor areas, and which immediately adjoins four apartments of which 3 are single aspect and only maintain views of the play area.

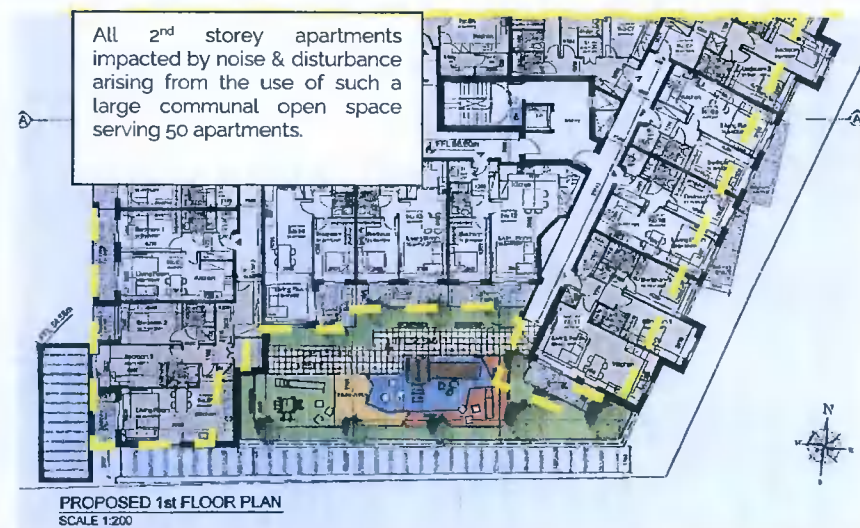
These communal open spaces would generate noise and disturbance that would impact on apartment residents on the 2<sup>nd</sup> storey and 5<sup>th</sup> storey of the building. Adjoining apartment owners would be significantly impacted while those on access corridors would be impacted also. One needs only consider the noise generated late at night in hotel corridors by residents returning from late nights out, etc. to understand these likely impacts.

The proposal for a child play area on the 2<sup>nd</sup> storey is clearly proposed to try to make the scheme appear more planning compliant and family orientated, but the reality is this area is not accessible from external areas and so all those attending with children (or children who travel there alone) will make noise and the area itself will be noisy. This noise and disturbance would be located immediately beside apartments which are single aspect and cannot get away from the noise. Also, it is not clear how appropriate it is for apartments to only maintain views of what is a small playground.

Our client submits that the proposed communal open spaces are not acceptable from a future amenity perspective for residents of the scheme. The scheme needs to offer improved public and communal open spaces for its residents. It may need to offer internal amenity areas.



**Fig. 35: Scheme's communal open spaces impact negatively on future residents' amenities**



**Fig. 36: Scheme's communal open spaces impact negatively on future residents' amenities**

2. The Applicant's FI submission's Residential Quality Assessment claims 30 units are dual aspect. This means at least one third are not dual aspect. There is no reason why this scheme could not offer 100% dual aspect units. The Applicant scheme maintains 4 no elevations which have been proposed as though they all adjoin a road, a park, the sea or similar. Minimal or no constrains have been provided on window, balcony, or terrace positions from 2nd storey and above. The provision of so many single aspects - with many more barely dual aspect - is a sign of overdevelopment. The proposal may meet minimum standards in this regard, but it is a poor sign when so many minimum standards are applied.
3. The Applicant has sought to provide only one and two bedroom apartments, and these are accessed by way of a central core lift and stair area. The east and southeast facing apartments cause negative overlooking impacts on the amenity of adjoining properties, but the proposed primarily north facing apartments would have a negative impact on the future amenities of these future residents.

The inclusion of primarily north facing apartments is a sign of overdevelopment of a site on which it should be possible for each unit to be dual aspect with at least one elevation facing east west or south.

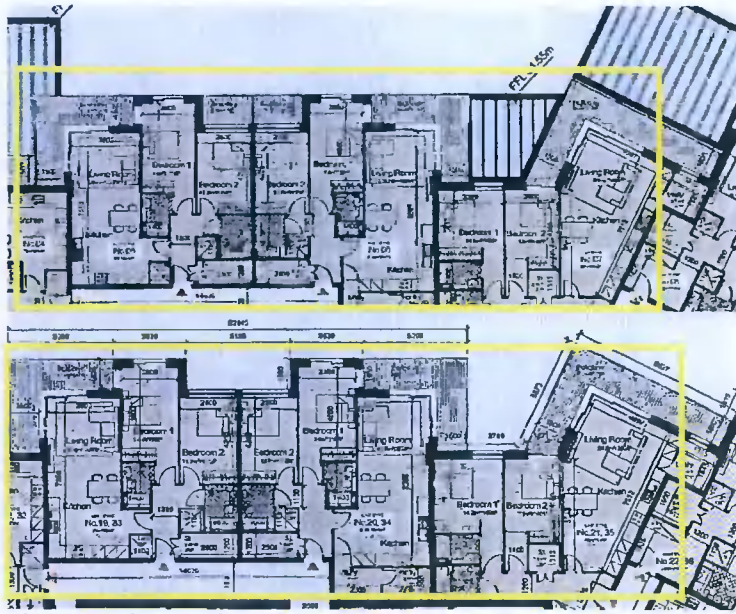
Storeys 2 to 5 of the Applicant building as originally submitted contained 11 apartments which are primarily north facing. While the Applicant has sought to address this by staggering the north elevation, providing corner windows, etc. this is not successful in ensuring that these apartment units (see Fig. 37) would achieve adequate sunlight into their respective living areas throughout the

year. The staggered elements would themselves cause overshadowing of adjoining apartments in the mornings or evenings.

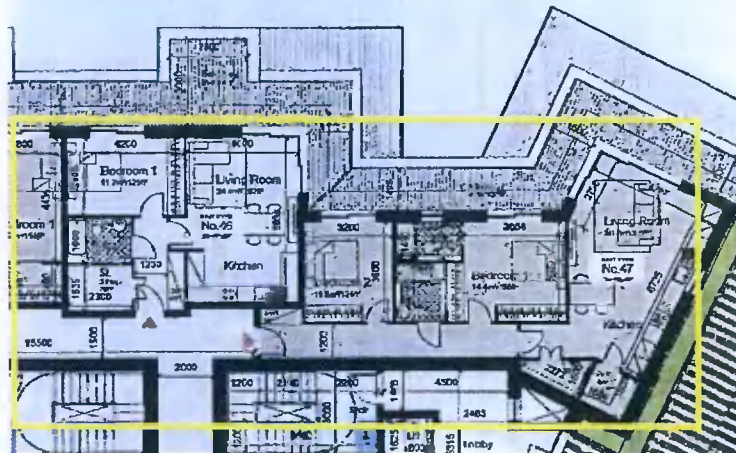
BPS has reviewed the sun path around this site for the entire year and it is the case that the apartments shown in Fig. 38 would not receive what could be called a high quality of sunlight on March 21<sup>st</sup>, September 21<sup>st</sup> and December 21<sup>st</sup> of each year. The only time of day and year when these units would receive any acceptable level of sunlight would be very early AM and very late PM on June 21<sup>st</sup>.

We consider that Unit Nos. 5, 6, 7, 19, 20, 21, 33, 34, 35, 46 and 47 should be re-designed and/or removed entirely from this scheme to allow the project architect to provide each future apartment with improved amenity.

We note that Apartment No. 46 is technically dual aspect as it has one east facing window. This east facing window opens onto the roof terrace and, as such, would need to be obscure glazed and/or removed. The window would offer poor amenity.

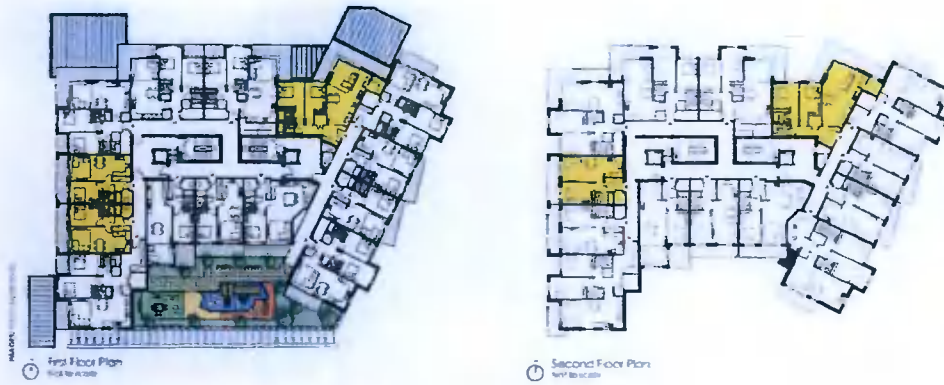


**Fig. 37: Applicant scheme includes 11 no. primarily north facing apartments = overdevelopment (1)**



**Fig. 38: Applicant scheme includes 11 no. primarily north facing apartments = overdevelopment (2)**

4. BPS has reviewed the Applicant's proposed social housing units (see Fig. 39), and these are primarily single aspect units. The Applicant can argue that the units offered toward the east end of the north elevation is dual aspect, but it is not really – it just has angled north facing windows. The provision of only single aspect windows when the scheme could be designed to provide all dual aspect units for social housing tenants is a sign of overdevelopment of this site.



**Fig. 39: Applicant scheme's social housing units are single aspect**

**Conclusion Item 5:** Our client considers that the compromises proposed within the Applicant scheme to allow such a large number of apartments on such a small site are such that the result is a sub-standard scheme whose public open spaces, communal open spaces, dual aspect ratio, north facing units, etc. all confirm overdevelopment of the site in a manner which would impact negatively on nearby properties especially the rear gardens to the east and southeast. The proposed development should be refused, and a revised scheme submitted which addresses the many concerns arising.

#### 4.3.6 Item 7 of the FI request – client's appeal stage comments

Item 7 of the SDCC FI request states:

*(a) The applicant is requested to provide a building lifecycle report in accordance with Section 6.13 of 'Sustainable Urban Housing: Design Standards for New Apartments' (2020). (b) It is noted that no contiguous elevations have been provided for elevations 3 and 4. It is noted that these are not front facing/principal elevations, however, they are still necessary for a full assessment. The applicant is requested to provide these contiguous elevations.*

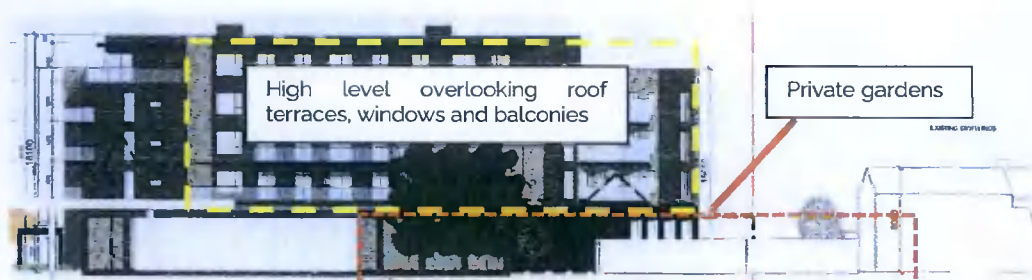
#### Client response:

The Applicant has finally submitted contiguous elevations 3 and 4 which confirm:

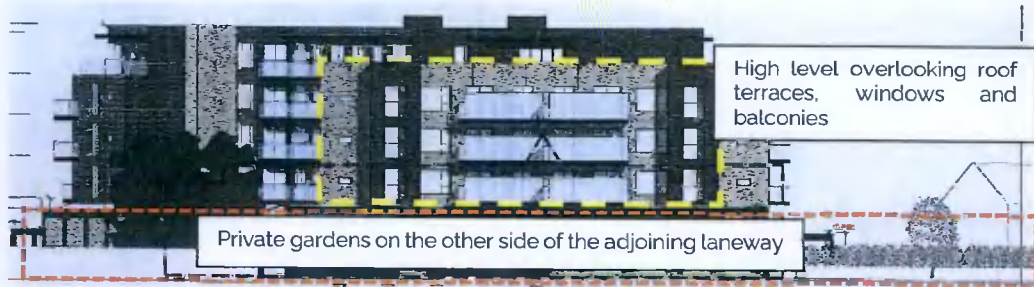
1. how the scheme's south and east elevations would negatively overlook and overbear existing residential properties to the east and southeast, while also overshadowing those to the east.

The balconies on elevation 3 (i.e. the closest to residential properties) are stated to be opaque and 1.8m high. They are also set at an angle. It is also noted that there is screening to outdoor dining areas and at the 4<sup>th</sup> floor terrace. BPS has reviewed these proposals and we consider that they fail to fully address the likely negative overlooking impacts arising and they would impact negatively on the internal amenities of the proposed apartments by way of loss of any view and loss of sunlight.

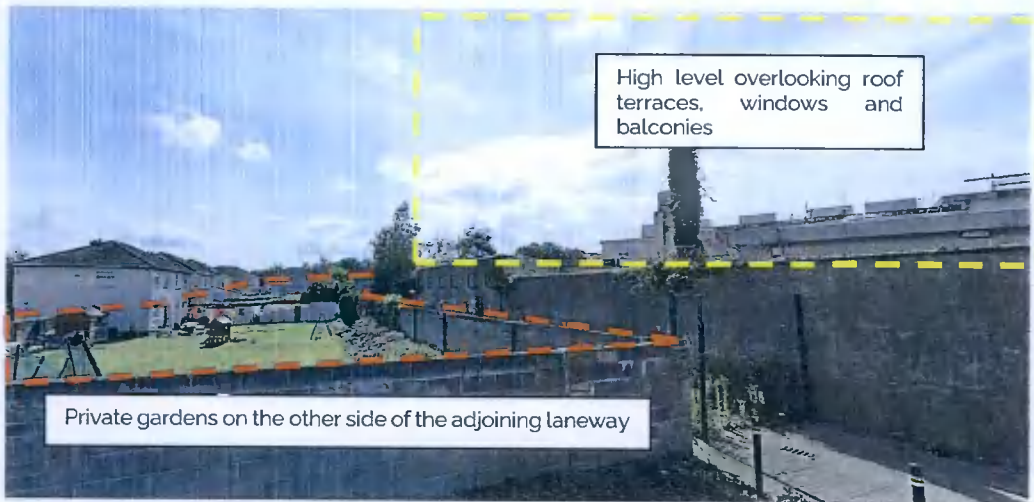
2. The scheme appears out of context and excessive in scale relative to nearby properties. See also our client's attached original Planning Objection Report submitted to SDCC.



**Fig. 40: Scheme's south elevation impacts negatively on properties to the east and southeast**



**Fig. 41: Scheme's east elevation impacts negatively on properties to the east and southeast**



**Fig. 42: Proposed building impacts negatively on properties to the east and southeast**

**Conclusion Item 5;** Our client considers that the compromises proposed within the Applicant scheme to allow such a large number of apartments on such a small site are such that the result is a building which negatively overlooks, overbears and overshadows residential properties to the east, southeast and north. The proposed building represents overdevelopment of this site.

#### 4.4 **Ground 4: Objections to the SDCC planning assessment**

Our client objects to the SDCC planning assessment as articulated through its Further Information stage and final decision stage Planner's Reports. Their concerns are as follows.

##### 4.4.1 **Parking and vehicular access objections arising from the SDCC assessment**

###### 4.4.1.1 **Why was the basement car park proposed at pre-planning stage removed?**

References to two pre-planning consultations are provided in the Planner's Reports. Our client has been unable to obtain these (see Pre-Planning Consultation PP130/20 and PP174/18). These refer to the provision of basement and surface car parking on the site:

*.. construction of a five storey **over basement** mixed-use development comprising a gastro pub with off-license and 2 no. retail/commercial units at ground floor level, with a total of 36 no. apartments (20 no. 1 beds, 16 no. 2 beds) at first, second, third and fourth floor level, **all with associated car parking, bicycle parking, and bin store at basement level. Car parking and bicycle parking will also be proposed at surface level, landscaping, boundary treatments, and all associated site works** (emphasis added).*

Our client objects to how it appears that the Applicant originally proposed basement car parking and some surface car parking on the site (to the east of Kennelsfort Road). It is not clear to our client how the proposals progressed to providing almost all car parking within the shopping centre's shared car park to the west/northwest of the site. Surely such a proposal would have met with significant scepticism had it been mooted at pre-planning, but yet this proposal was made to SDCC at planning stage and has progressed despite what the businesses in the shopping centre consider to be a bizarre arrangement regarding car parking from all perspectives:

1. Future residents are unlikely to want parking on the other side of Kennelsfort Road in the manner proposed.

2. The businesses in the shopping centre are shocked by the SDCC decision.
3. The decision is not in the best interests of what is a shared surface car park which has operated for 30 years in its current form.
4. The proposal reduced the safety of the car park by removing its emergency exit.

The decision of SDCC to grant planning permission appears to be at odds with the proposals viewed by SDCC at pre-planning stage.

#### 4.4.1.2 Roads Dept. noted access arrangements to the SC car park were not addressed

The report of the SDCC Roads Department notes how:

*There is no vehicle access to the proposed development. The access to the car park on the west is from an existing arrangement with the shopping centre, although this is not mentioned in the application, verification of the access arrangements to the car park should be confirmed. The entrance to the east of the carpark directly on to Kennelsfort Road should be removed and not used for access.*

Our client asks why it is that the inclusion of vehicular access to our client's car park (that which they manage) was not mentioned in the submitted planning application, yet SDCC did not consider this matter to need re-advertising. The Applicant has been allowed by way of Further Information to introduce new plans which show:

1. Access into our client's car park; and
2. The closure of the emergency entrance/exit into the shopping centre car park.

Concerns arise as to the administration of this matter and the continued non-inclusion of this aspect of the proposals in any public notices.

#### 4.4.1.3 SDCC's parking provision assessment requires review

The SDCC Planner's Report notes how

*There is a total of 53 carparking spaces for the development. 32 are dedicated to the apartments providing a ratio of 0.64 per unit. Including two motorbike spaces. The majority of carparking is to the west of the development on the opposite side of Kennelsfort Road. An upgraded pedestrian crossing has been proposed to allow for residents to access the intended car park. There are 4 on street car parking spaces proposed for Wheatfield Road to the north along with a loading bay. These spaces have been shown to be offered for taking in charge by the local authority. The parking provision for the Palmerstown area would be 36 spaces (16 for the one bed and 20 for the two bed). The retail and bar areas would require 31 car parking spaces for areas of 560m<sup>2</sup> pub and retail 530m<sup>2</sup> the provision for the retail is low.*

This statement raises many issues:

1. How does this scheme offer 36 spaces to the Palmerstown area? Most of the spaces are existing shopping centre spaces while those provided to the north of the site are far short of those already serving the pub (alongside the existing building). This proposal would represent a net loss of parking spaces to the shopping centre and to the area.
2. Why has SDCC allowed parking provision for the retail which is so low. This will result in overflow parking and fly parking onto Wheatfield Road, etc. Why is a de facto small neighbourhood centre on the east side of Kennelsfort Road which comprises of high demand for parking uses such as pharmacy, Spar and off licence supplied with such a tiny quantum, of on road parking spaces?

Our client believes that the Applicant has almost hypnotized SDCC with the parking proposals. That is, convincing SDCC that even by taking spaces from Peter (the shopping centre) to pay Paul (the new development), the planning authority has come away believing it has created new spaces for the areas. How is this?

### 4.4.2 Proposed development would underline the district centre and its shopping centre

#### 4.4.2.1 How can the parking/access proposals be consistent with the 'DC' zoning objective?

The SDCC Planner's Report finds the proposed changes to the Palmerstown Shopping Centre's shared surface car park to be in keeping with the zoning objective 'DC': 'To protect, improve and provide for the future development of District Centres'. Our client cannot understand this. The shopping centre is integral to the DC zoning but its current parking provision is threatened by the Applicant scheme which

proposes considerable commercial space 'and' retail/pub space but offers no new car parking spaces within this area. Those currently on the Silver Granite pub property are mostly to be removed.

SDCC's decision presides over the dramatic loss of parking spaces which are available to all users within the existing shopping centre car park. This fails to protect, improve, and provide for the future development of the District Centres.

This scheme should be provided with a basement car park which would introduce new parking to this District Centre. It should not rely on and remove existing parking spaces from their current uses serving local businesses, etc.

This proposal would replace the existing arrangement whereby pub patrons use spaces in the evenings and at weekends when the shopping centre businesses are mostly closed and replace it with a situation where peak day time parking within the shopping centre becomes problematic due to the reallocation to spaces to this scheme. Our client will oppose this change.

#### **4.4.2.2 The proposed retail uses would undermine the shopping centre**

The proposed retail units and off-licence would undermine the vitality of the existing shopping centre and business in the area and would conflict with R6 Objective 2: "To ensure that the scale and type of retail offer in District Centres is sufficient to serve a district catchment, without adversely impacting on or drawing trade from higher order retail centres".

The SDCC Planner's Report states: "it is not considered that the proposed retail units are of a scale that would undermine the vitality of the existing shops at the district centre and wider area". The proposals include a pharmacy/bookmaker and a Spar/retail unit. These are uses which should better be provided in the shopping centre to ensure its ongoing sustainability, vitality, and viability. The Applicant proposals amount to a neighbourhood centre immediately adjoining a district centre. The proposals would draw customers to fly park outside the Spar, off licence or pharmacy while they run in for convenience goods whereas the trip into and out of the shopping centre is more involved. The proposal is not well considered and/or in the best interests of the district centre.

#### **4.4.3 Issue of ownership/agreed use of the SC car park is not fully addressed**

The Development Management Guidelines (2007) state that planning permissions should not be issued, and conditions should not be applied unless they can be implemented and enforced. Our client does not consider that this SDCC decision could be implemented and/or its conditions enforced.

##### **4.4.3.1 SDCC has addressed the ownership issue by reference only to s. 34 (13) of the Act**

The issue of sufficient legal interest to make this planning application is perhaps different to that required to implement the planning permission. Both our client and Ladgrove Stores Ltd have made it clear that they will challenge any attempt to implement the SDCC and/or a potential ABP decision to grant. This is accepted by SDCC whose decision does not take sides but notes only how under the provisions of Section 34 (13) of the Planning and Development Act 2000 (as amended) a person shall not be entitled solely by reason of a permission to carry out any development. The assessment of existing legal agreements is outside the remit of the Planning Authority.

The SDCC Planner's Report notes how under planning application, reg ref: SD21A/0109, the applicant, Ladgrove Stores Ltd, stated they were the legal owner of the site and that there is correspondence on that file from Michael Nugent and Co. Solicitors stating that Kennelsfort Management Company are the owners of the site. In actuality, the shopping centre was developed by Ladgrove Stores Ltd and it is now managed by our client.

BPS notes that no objection was lodged by Bunker Estates (and/or any previous owner of the same land) setting out that the shopping centre's latest planning application should not proceed despite including the areas now included in the Applicant planning application. The shopping centre and the Applicant site are one and the same in planning terms. Condition 1 of each permission ever granted for the shopping centre refers to the whole curtilage and does not exclude the Applicant lands.

It is not clear to our client therefore as to how the SDCC Planner's Report can assess the FI submission as follows:

*The applicant is clear regarding ownership. However, part (2) has not been addressed. The applicant is advised that under the provisions of Section 34 (13) of the Planning and Development Act 2000 (as amended) a person shall not be entitled solely by reason of a permission to carry out any development. The assessment of existing legal agreements is outside the remit of the Planning Authority, and it is evident that the applicant has demonstrated sufficient legal interest in the site. In the event of a grant of permission a condition should be included that ensures that these car*



*parking spaces are designated and managed for the development in line with what has been proposed. It is therefore considered that this item has been satisfactorily addressed subject to conditions.*

The idea that the shopping centre's car parking spaces can be re-allocated to serve a significant new development when they are fully allocated to development served by existing planning permissions is something our client cannot understand. The SDCC decision seeks to retrospectively alter previous permissions which apply to other parties including our client.

To understand our client's position, ABP must reasonably understand that a shopping centre requires a range of agreements to proceed when multiple landowners are involved.

Bunker Estates provide details of the ownership of lands in the shopping centre; however, SDCC has not interrogated how all parties to the development of the shopping centre would have needed to agree to obtain planning permission for and then to construct the shopping centre. Such an agreement has been provided by our client as part of the attached Planning Objection Report.

Over 30 years the shopping centre has proceeded to obtain planning permission, to be zoned by SDCC, to be maintained and managed, etc. Bunker Estates has not objected to any of this. The shopping centre's shared car park has benefitted all parties.

The SDCC decision places the entire shopping centre at risk. Are all landowners now to claim their respective sections of the rest of the shopping centre such that they can also separately use and/or develop them?

Our client considers that the SDCC decision runs counter to common sense and it is not in the best interests of the shopping centre. A planning authority has now confirmed that any owner of any part of a shopping centre can in actuality cut off their own section and use it as they wish whatever the consequences are for the rest. This is contrary to good planning. The entire shopping centre obtained planning permission as a whole and not in parts.

The SDCC decision appears to be contrary to *Horne v. Freeney* which made clear that a planning permission is indivisible. One cannot implement a part of it instead of the whole of it. One cannot pick and choose. ABP is asked to decide if the Applicant can disregard all previous planning permissions pertaining to the shopping centre and effectively segregate their part of those planning permissions from the rest despite how parking provision forms a material part of a shopping centre planning permission.

These matters are also addressed elsewhere in this report and in the attached Planning Objection Report.

#### **4.4.4 SDCC's assessment of likely residential amenity impacts requires review**

Our client is fully sympathetic to the concerns of properties sited close to the proposed development. Despite how the building would cause negative overlooking, overshadowing, and overbearing, these issues are consistently found to be minor.

BPS has walked around the Applicant site and we note how it is limited in size. There are rear gardens in close proximity to the east and southeast. If one stands in the laneway adjoining the existing public house with the proposed site plan and elevations in hand, it is not possible to reach any other view than:

1. The communal open space is insensitively sited at first floor relative to the closest rear gardens.
2. The building will be negative overbearing to the closest residential properties.
3. There will be negative overlooking over the closest residential properties from the very active east and south elevations. The SDCC Planner's Report focuses – as the Applicant plans encourage – the setback distance between opposing elevations. H15 Objective 4 is quoted as though this is the only standard to apply. The distances to the closest rear gardens are not mentioned as though the amenity of these gardens is worthless. The SDCC Planner's Report also fails to note how the majority of the setback between elevations is made up of the rear gardens of nearby properties to the east and southeast. The nearest rear elevations are only 25.7m to 32m away. This is small for such a large building.

While it is acknowledged how the balconies are to have some design measures (opaque, angled and 1.8m high), these measures cannot prevent all overlooking impacts from the balconies and they compromise the amenity of the balconies themselves. Further, overlooking windows are not opaque and are massive in scale.

This proposal fails the standard which all planners should apply: "would I accept this beside my rear garden and house?" Our client is not convinced that this would be the case. There are vast numbers of windows, balconies and external terraces that face residential private rear gardens and properties to the east and southeast. Even the perception of overlooking would be severe.

They are also set at an angle. It is also noted that there is screening to outdoor dining areas and at the 4th floor terrace. Specific regard has been given within the assessment to the provision of a significantly deep 'ornamental shrub planting' at fourth floor level, which will support the protection of private amenity space of existing residential areas, particularly to the east. The Planning Authority has assessed this element of the design and considers that no undue overlooking of, or negative impact on, existing private amenity space would arise and therefore consider the development to be generally acceptable in this regard.

4. The building will cause afternoon and evening negative overshadowing of the closest residential properties. We note the 'Daylight and Sunlight Assessment' produced by Digital Dimensions, has undertaken an analysis of the gardens of adjacent properties. Five locations have been detailed:
  - S1 - 172 Kennelsfort Road Upper
  - S2 - 215 and 215A Palmerstown Ave
  - S3 - 1 Wheatfield Road
  - S4 - 13 Oakcourt Grove
  - S5 - 12 Oakcourt Grove For 21st March, there are no discernible changes and the report sets out that, for each property, the ratio of proposed to existing sunlight received is 100%. BPS has been involved in multiple Judicial Review cases against SHD schemes wherein this claim has been made by a firm such as Digital Dimensions.

Dr Littlefair who wrote the BRE guidelines has asked in multiple affidavits why it is that Irish assessors can find that the loss of sunlight from a very large new building which is much larger than the one it is replacing can be the same as that from the existing much smaller building. Such statements are repeated in the Applicant planning application. Dr Littlefair points out that it cannot, and this has caused ABP to lose such cases. The nearest residential properties cannot experience the same level of sunlight - existing and proposed - all they can do is pass the BRE guidelines. The BRE guidelines are not a standard in themselves but a tool to aid assessment and are not appropriate in all cases. They are not appropriate here. BPS has reviewed the proposed building's shadows via [www.suncalc.org](http://www.suncalc.org) and we can confirm that there would in fact be significant overshadowing of the closest rear gardens to the east. They would experience a loss of sunlight throughout the year.

5. There will be noise impacts from the proposed use of the eastern laneways for access to the site and from the balconies and first floor communal terrace areas.

In these matters one must reasonably consider whether a fair balance has been achieved between the Applicant's development proposal and the rights of the closest residential properties to expect their amenities to be protected. For the reasons given in our client's original Planning Objection Report (attached), this is not the case. This is contrary to the Sustainable Residential Density Guidelines (2009).

#### 4.4.5 The SDCC assessment of several the FI requests are inadequate

Our client has reviewed the SDCC assessment of a number of the FI responses made by the Applicant and can find little or no basis for the acceptance of these responses. For example:

1. Item 1 closes the emergency vehicular entrance/exit to the shopping centre and has enormous repercussions for the shopping centre's operations including cutting off a large area of the existing shopping centre's surface car park used by existing granted developments and re-allocating this to be development; however, the SDCC Planner's Report offers no planning assessment and merely accepts the Transportation Section's technical assessment. The SDCC Planner's Report states: "The applicant has addressed the AI request". No effort is made at all to assess the proposals from the perspective of our client who was excluded from commenting on the FI.
2. Item 2 refers to significant issues pertaining to public realm areas, the laneways to the east and to how the scheme would integrate into this site. SDCC Roads accept these from a technical perspective, but these proposals are not interrogated as to their likely planning impact including their amenity impacts on properties to the east and southeast. The SDCC Planner's Report merely states: "It is therefore considered that this item has been satisfactorily addressed".
3. Item 6 required a full schedule detailing how each apartment satisfies the minimum standards in Appendix 1 of the Apartment Guidelines 2020. The Applicant has submitted this schedule, but the SDCC assessment does not interrogate this at all or cross reference it with the new plans submitted including the east and south contiguous elevation. SDCC's Planner's Report only states: "Planning Authority welcome compliance with the standards. It is therefore considered that this item has been satisfactorily addressed".

4. Item 7 requests eastern and south elevations in order to assess likely residential amenity impacts on private properties to the east and southeast. The SDCC's Planner's Report's full assessment of this states: "Given the submitted report and drawings it is considered that this item has been satisfactorily addressed". This statement offers no basis for the SDCC planning assessment. It offers only an opinion.

Our client considers that these matters need to be more fully reviewed and assessed by ABP with an objective eye. The existing public house needs to be understood relative to what is proposed and a walk around the lanes to the east and southeast of the existing public house site shows just how close the site is to residential rear gardens.

#### 4.4.6 H7 Objective 4 is not addressed as claimed by the SDCC Planner's Report

The SDCC Planner's Report argues that this proposal while contravening H7 Objective 4 which states: "That any future development of both residential and/or commercial developments in Palmerstown Village and the greater Palmerstown Area shall not be higher than or in excess of three stories in height" can be granted having regard the Section 28 Urban Development and Building Height Guidelines for Planning Authorities, 2018.

Our client submits that this scheme is two storeys too tall and therefore represents a proposed material contravention of the SDCC CDP 2016-2022. The Applicant Planning Statement, as per the SDCC Planner's Report, seeks to rely on Section 28 Ministerial Guidelines, namely on SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) which states:

*It is a specific planning policy requirement that where: (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.*

Our client submits that, for the reasons set out in this planning appeal, ABP should not approve this development. We do not consider there to be conflicting objectives in the SDCC CDP 2016-2022 that would justify granting permission under SPPR 3; instead, we consider that when assessed in light of 'all' CDP planning policies the proposal can only be viewed as overdevelopment of the site. Section 4.2 of this Planning Objection Report confirms that this proposal is contrary to all relevant SDCC CDP planning policies, including: Housing (H) Policy 8 Residential Densities and Housing (H) Policy 9 Residential Building Heights.

Further, when assessed under the criteria applicable to an assessment of the proposal under the Urban Development and Building Heights Guidelines for Planning Authorities, the proposal fails:

##### At the scale of the relevant city/town:

1. This site is suitable for higher density development but not for the extreme plot ratio and units per hectare density proposed by this scheme. Over 50 uph is encouraged but the residential element of this scheme alone is 188 uph. This is overdevelopment.
2. The proposed building would be visually injurious to the streetscape at this location as it is too tall and over-scaled. Its bulk and massing and lengths of elevations cannot be accepted at this location.
3. Impact negatively on the existing amenities of surrounding residential properties located to the north, east and southeast.
4. The proposal's car parking arrangements whereby its car park is sited in an existing shopping centre's shared surface car park across busy regional road is substandard for a development of the proposed scale. The proposal would create significant additional pedestrian trips across this regional road which would impact negatively on levels of local traffic congestion.

##### At the scale of the district/neighbourhood/street:

1. The proposal would be visually obtrusive and excessively over-scaled at a location where the existing public house – 2 storeys only – already appears as a landmark building. The proposed increase in scale and height cannot be justified.
2. There is no building above 3 storeys in this district, neighbourhood, and street. This proposal would set a negative precedent in what is an area characterised by 2 storey dwellings.
3. The proposed site is located on the east side of Kennelsfort Road and not on the shopping centre side of the road where an increase in height may be justifiable where this does not impact on the environment.

4. The proposed arrangements to serve such a large commercial and residential scheme with car parking spaces in an existing shopping centre car park located across a busy regional road is substandard and unsuitable.
5. For the reasons set out in this Planning Objection Report, our client does not consider this proposal to be of high quality.
6. The proposal would impact negatively on the existing public domain by removing an existing public footpath to the north and by effectively incorporating existing lanes to the east.
7. The proposal offers insufficient car parking, and this will cause overflow and fly parking onto adjoining roads and streets – especially for the Spar and pharmacy/bookmaker.

At the scale of the site/building:

1. Each of the building's elevations is too tall and too wide and when viewed from adjoining areas it would be overbearing.
2. The proposed development would cause negative overshadowing of residential properties and rear gardens to the north, east and southeast.
3. The proposal is wholly out of context with adjoining 2 storey dwellings and would represent an abrupt increase in height and scale.
4. There are too many single aspect small apartment units including primarily north facing units.
5. When viewed in detail, the scheme offers significantly less than 10% useable public open space.
6. Car parking is located too far away from the proposed apartments and there is not enough of it.

Specific assessments

1. The Applicant has provided photomontages but none of these show views of the proposed building from the east and southeast where the proposal would visually impact on surrounding rear residential gardens.
2. No Visual Impact Assessment Report has been submitted. In the absence of such a report and given the number of sensitive residential visual receptors in the immediate vicinity, it is reasonable to state that the proposal is likely to have a significant, negative, and permanent visual impact on surrounding residential properties to the north, east and southeast.

The Applicant site is suitable for a higher density commercial and residential scheme, but there are reasonable and natural contextual limitations on how high density, building heights, scale, etc. can go and still comply. The Applicant proposal is too tall and constitutes overdevelopment given its context whether assessed under the National Planning Framework, The Development Plan Guidelines, the Sustainable Residential Density Guidelines, the Urban Development and Building Heights Guidelines for Planning Authorities or any other Section 28 guidelines. This has nothing to do with any "blanket" restriction on height but reflects that this site is that of a neighbourhood public house nestled amongst low rise 2 storey houses and rear gardens.

The Applicant planning application fails to provide sufficient justification and/or to offer a scheme for which material contravention of the CDP could be justified. The proposed development should therefore be refused on this basis and a revised proposal for a 3 storey building only submitted in a future planning application.

The Applicant submitted this planning application in full awareness that: "the proposed scheme exceeds the stipulated height" (p. 28, Planning Statement). Ireland does not have a 'any building height at any environmental cost' policy in place for building heights at the current time.

#### **4.4.7 The increase in density of development should not have been accepted by SDCC**

The SDCC Planner's Report argues that the proposed density is in keeping with Policy H8 'It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context'.

Our client disagrees and submits that the proposed increase in density proposed for The Silver Granite Pub site is excessive. The existing buildings on the site amount to a total gross floor area of 1349sq.m. The proposed development provides for a gross floor area of 6197sq.m.

As noted in Section 2.4 above, the actual developable area of this site is approx. 0.262 ha. (rounding up approx. 2618sq.m).

The existing plot ratio density of The Silver Granite Pub is approx. 0.51. **The proposed plot ratio is 2.367. The proposed development is 4.6 times denser than the existing development on the site.**

**In units per hectare terms, this scheme would comprise at least 188 net units per hectare. This density of residential development on a site that currently contains none and served by car parking located on another site across the road is excessive.**

**The proposed increase in density is incompatible with the absorption of this scheme into adjoining and surrounding area within causing areas without causing negative impacts.**

#### **4.4.8 The SDCC acceptance of poor (no) actual public open space is not justified**

The SDCC Planner's Report refers to the private external seating areas for the pub and Spar as public open space and public realm improvements in line with the Applicant claims. BPS can find nowhere in any planning guidance including the Sustainable Residential Density Guidelines (2009) and the accompanying Urban Design Guide which includes such areas as public open space.

Our client is told that:

*Section 11.3.2 sets out that subject to appropriate safeguards to protect residential amenity, reduced open space and car parking standards may be considered for infill development, dwelling sub-division, or where the development is intended for a specific group such as older people or students. Public open space provision will be examined in the context of the quality and quantum of private open space and the proximity of a public park. In this context, subject to clarity in relation to the public realm improvements, it is considered that the approach of the applicant to public open space is acceptable at this location, having regard to the proximity of pockets of open space in the area.*

SDCC does not refer to what these other "pockets of open space in the area" are, they do not note that the accommodation is for a particular group, etc. Concerns arise that overdevelopment has been permitted by SDCC and a sub-standard scheme would arise as regards public open space. This issue is addressed further below. Would ABP accept a scheme of 40 dwellings (not apartments) served by no actual public open space?

#### **4.4.8.1 SDCC's assessment of FI stage public open space proposals is not acceptable**

Our client's original planning objection set out significant concerns over the claimed public open space. It is not clear why SDCC has consistently overlooked these concerns. In assessing the submitted FI SDCC's Planner's Report states

*The Planning Authority is concerned that some of the public open space provided is not functional. For example, at the eastern elevation, approximately a 1.8m strip is provided for the length, with access doors onto this. It is noted that this space is down a rear access road. The Planning Authority are not of the opinion that this should be included in the calculations (emphasis added).*

Why then has it been allowed to proceed in the manner proposed at FI stage? It is in fact the case that none of the public open spaces meet the definition of public open space, and all are materially non-compliant with the CDP.

In justifying a decision to grant permission despite these public open space shortcomings, the SDCC Planner's Report repeats claims that the CDP allows for public open space to be treated flexibly in this case. However, the following concerns arise:

1. The locations of the proposed "public open space" on the east elevation does impact negatively on residential amenities when the CDP states that non-compliant public open space provision will only be allowed "Subject to appropriate safeguards to protect residential amenity".
2. Reduced public open space is only allowed: "where the development is intended for a specific group such as older people or students". This scheme is for permanent accommodation for 40 households and as such they should not live in a sub-standard scheme.
3. Reduced public open space is only allowed: "in the context of the quality and quantum of private open space". The private open spaces on the east and south elevations can only be achieved by impacting negatively on the residential amenities of private residential properties and rear gardens sited to the east and southeast.
4. Reduced public open space is only allowed if the scheme is within "proximity of a public park". Neither SDCC or the Applicant list any public park whose existence can justify the lack of actual public open space within this scheme.
5. The scheme may be "infill" but it has always been a non-residential site. If a developer wishes to make a site primarily residential then residential quality standards apply, and these include public open space provision. This is not achieved. The SDCC decision allows this infill development to disregard CDP standards

Our client does not accept that the Applicant planning application complies with SDCC public open space policies which require residential apartment schemes to be of a high quality and contribute sportively to the area.

#### 4.4.9 SDCC's visual impact assessment is at odds with local opinion

The SDCC Planner's Report argues that the "photomontages and elevations provided indicate that the design of the proposed development is generally sympathetic to the surrounding area and that the proposal would enhance the streetscene and strengthen this corner as focal point for the district centre".

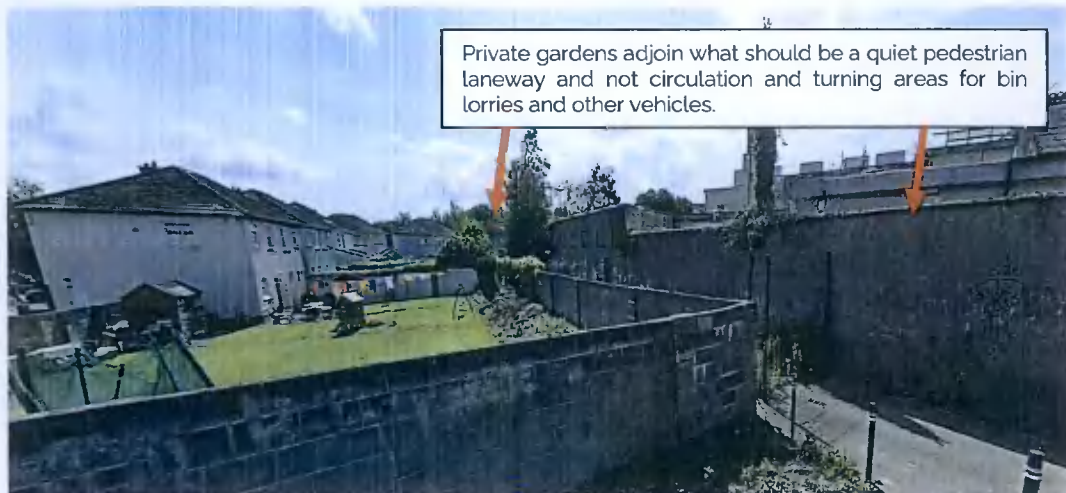
Our client has asked BPS to confirm that they believe SDCC's view to be at odds with any objective review of the context. This structure would be vastly denser than any other building in the vicinity and would overdevelop this corner site with consequent negative visual impacts on the area.

The building represents an abrupt increase in building density, scale, height, bulk and massing along Wheatfield Road, along Kennelsfort Road and as viewed from nearby residential 2 storey properties.

#### 4.4.10 Bin storage accessed via the laneways is not assessed by the Planner's Report

The SDCC Planner's Report states: "Bin Storage Bin storage for the apartments is proposed to the rear of the pharmacy and the spar, internally within the building. The bin stores for the commercial development is also within the building on the ground floor, adjacent to the access road to the east".

Our client notes the reference to the "access road to the east". In fact, this is a quiet laneway which currently receives no traffic. The Applicant proposals would serve to de facto privatise the lane. The SDCC Planner's Report does not address this as an amenity issue, etc. despite the adjoining laneways being sited alongside rear gardens.



**Fig. 43: Proposed bin lorry access and turning area immediately adjoining private rear gardens**

#### 4.5 Ground 5: The proposed development would set poor precedents

For the reasons set out in this planning appeal report and in our client's original Planning Objection Report submitted to SDCC, the proposed development, if granted, would set poor precedents for:

1. Permitting higher density schemes to provide their car parking in a substandard manner in existing shared surface shopping centre car parks located at a remove from the site of the actual development.
2. Permitting insufficient car parking to be provided to a higher density scheme with consequent impacts on adjoining roads from overflow and fly parking impacts.
3. Permitting higher density schemes at over 3 storeys in Palmerstown where 3 storeys is the maximum allowable height under the Development Plan.
4. A density of development being allowed which is 4.6 times denser than the existing development on the site.
5. Allowing a private development to incorporate public owned lands to create a parking area on a footpath on Wheatfield Road.

6. Allowing overdevelopment of a site which cannot absorb this without consequent negative impacts on the surrounding environment including on surrounding residential dwellings and rear gardens.
7. Allowing a private development to incorporate existing non-vehicular laneways to the east of the site.

For the reasons set out above, and throughout this report, the proposed development, if granted, would set a poor precedent for future development in this area and for schemes that adjoin residential developments of much lower densities, scales, and heights. But it is more than this. This is a case in which a single development could wholly remove the existing character and pattern of development in what is at present an appropriately scaled district centre.

**Our client asks ABP to protect this area by refusing planning permission thereby avoiding setting a negative precedent for future development in this area.**

#### **4.6 Ground 6: Proposal would substantially depreciate the value of nearby properties**

Our client is concerned that the proposed development would seriously injure the amenities and depreciate the value of businesses in the Palmerstown Shopping Centre and the shopping centre itself. The proposal would also negatively impact on the value of surrounding residential properties.

The potential impact that a proposed development can have in this regard 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:

*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 those of the Palmerstown Shopping centre and those of the established residential and visual amenities of adjoining and surrounding residential dwellings.

#### **4.7 Ground 7: Proposal impacts on the development potential of the shopping centre**

The proposal to subdivide the existing Palmerstown Shopping Centre's shared surface car park to facilitate this scheme would impact negatively on the development potential of the entire car park.

For example, it may be deemed appropriate in the future for the Palmerstown Shopping Centre to be increased in size and for a multi-storey car park to replace the existing surface car park. This would be in line with the same planning policies for higher density development in Palmerstown as here claimed by the Applicant.

The Applicant planning application would be fundamentally at odds with achieving the future development potential of the shopping centre and its car park.

### **5.0 Conclusion**

That a mixed use commercial and residential scheme is permitted in principle at this location is accepted, as is the fact that the Applicant site is suitable for a higher density development than exists at present. What is opposed by our client is how the Applicant seeks to achieve this scheme. It is our client's position that the scheme represents over-development of the site and that its proposed parking arrangements are substandard and unacceptable – being in the existing Palmerstown Shopping Centre car park.

The Applicant could achieve a higher density scheme on this site without recourse to overdevelopment and to applying – with no prior consultation with the Palmerstown Shopping Centre – to force all associated car parking requirements onto other parties.

Our clients object to the height, scale, massing, and bulk of the proposed scheme which far exceeds what SDCC has previously found appropriate for this site or for other sites in the Palmerston area. While the proposal is unacceptable for all the reasons set out in this Planning Objection proposal, the most concerning is that the scheme would materially contravene H7 Objective 4 of the SDCC CDP 2016-2022 which states that development in Palmerstown cannot exceed 3 storeys. This scheme is two storeys too tall. The Applicant Planning Statement seeks to rely on Section 28 Ministerial Guidelines, namely on SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018); however, BPS has shown how there is inadequate justification under SPPR 3 for the proposed increase in height.

The proposed scheme would be primarily car-based, but offers a reduction in car parking spaces in this area, i.e. by re-allocating shopping centre car parking spaces currently allocated to existing planning permissions to this new development. This reduces available car parking within the shopping centre for existing uses. Further, the scheme reduces the number of car parking spaces currently sited alongside the Silver Granite public house. The proposals add significant new development and even the Roads Department of SDCC noted how the provision of parking for a retail unit, pharmacy, off-licence and gastro pub is low.

In terms of the Applicant's arguments that the SDCC CDP 2016-2022 should be materially contravened to facilitate this scheme, it must be kept in mind 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 a large-scale mixed use scheme that overdevelops a site which cannot absorb the density proposed and which overflows into the Palmerstown Shopping Centre, the adjoining footpath to the north, the adjoining lanes to the east, etc. In our client's opinion, the compromises required of established planning policies to allow this scheme's density, height, scale, bulk and massing cannot be justified.

As much as the Applicant has sought to argue that the compromises necessary would be outweighed by the provision of the subject development, this objection illustrates why this is not the case. The proposal as it comes before the SDCC 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 SDCC 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 all proposals for the Palmerstown Shopping Centre car park and emergency entrance/exit which have been made without any prior consultation with the managers of, and businesses in, the shopping centre.

The suitability of the site in principle and the ability of the receiving environment to absorb the building are two very different considerations and this, in our clients' opinion, is where the needs of the Applicant and the concerns of adjoining residents diverge.

Where such divergence in vision for a given area exists, a Development Plan is needed to set out a shared vision for an area, which is based on consultation with all parties. In this case, there is no Development Plan objective or designation in place that supports the location of a tall high density scheme on this site and no development is allowed over three storeys.

There is therefore no shared vision for this site. The Applicant has sought to fill this vacuum by reference to national and regional policies that may or may not result in this site being designated as suitable in the coming years for a tall building, but analysis is required to determine this and consultation on such proposals is required under established national planning policies and procedures. The Applicant uses their own plans and details to try to justify a building whose location and scale would fundamentally alter the existing environment in a negative manner when the question of whether this site is suitable or not for such a large building should be a matter for a Development Plan or Local Area Plan objective.

If SDCC considers that this building can be assessed without its inclusion in a Development Plan or a Local Area Plan, then our clients ask that consideration be given to why it is that the Applicant's plan provides for a building of significant height, scale, massing, and bulk - regardless of context. Little consideration has been given to whether each part of the sensitive environment of the site can absorb the proposed single monolithic structure. Our client submit that the design and layout proposed fails to mitigate the impact of the envisaged height and scale of the proposed building and this contravenes the objectives set out within the County Development Plan and other planning policies designed to protect the residential and visual amenities of the area.

The existing character and pattern of development of our client's area is dominated by 2 storey buildings - the Palmerstown Shopping Centre is primarily 2 storeys. The site is located on a residential road - Wheatfield Road - which maintains a quality urban environment. The proposed development would significantly and adversely alter the environment of this road by the provision of a visually prominent and visually dominant structure. A very significant and in some instances profound change would occur within the environs of the site. Its existing character, pattern of development and urban quality would be lost.

Our client considers that the visual impact of proposed development could be mitigated by requiring the Applicant to re-design the scheme in full such that its height, scale, massing, and bulk are broken up and the building is setback from nearby residential dwellings and rear gardens. The matter of the proposed car parking arrangements is one that cannot be resolved within this planning application process. Discussion is needed between our client and the Applicant. Our client considers that this scheme should be refused such that this can be achieved.



Our clients have a range of very detailed concerns with respect to this project, its construction and operation, etc. These are set out in full within this overall appeal submission.

## 5.1 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 its locational and planning context. The conclusions of this exercise are:

- There is a **substantial planning risk** that the proposed car parking arrangements set out in this scheme are substandard, piecemeal, and haphazard and would be contrary to the proper planning, including transport planning, of this area.
- There is a **substantial planning risk** that this planning application proposes the excessive overdevelopment of a site that can accommodate only 3 storeys at a lower density.
- There is a **substantial planning risk** that materially contravening the SDCC CDP 2016-2022 to facilitate this scheme would result in a poor and substandard development that would create a precedent for similar compromised developments in this area.
- There is a **substantial planning risk** that this scheme's proposed 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 an equally abrupt increase in scale, height, bulk, and massing. To anyone viewing this building objectively, they will appear monolithic and visually dominant.
- There is a **significant planning risk** that the additional scale, massing, and bulk of the building will cause substantial and negative visual and visual overbearing impacts on surrounding residential properties and their rear gardens.
- There is a **significant planning risk** that the additional building height will cause substantial and negative visual and visual overbearing impacts on surrounding residential properties and their rear gardens.
- When the Applicant's overshadowing diagrams are viewed objectively, there is a **substantial planning risk** that surrounding properties will experience a substantial negative and permanent reduction in the sunlight they receive which would erode their existing residential amenities.
- There is a **significant planning risk** of overflow and fly parking into the Palmerstown Shopping Centre and adjoining and nearby roads arising from insufficient parking spaces and visitor parking spaces in the proposed development.
- When the CGI images are viewed objectively, there is a **substantial planning risk** that the adjoining and surrounding properties will experience a substantial negative and permanent reduction in their existing residential and visual amenities.
- There is a **significant planning risk** that this scheme would absorb a public footpath to the north which would only be used by the scheme thereby removing an existing public amenity.
- There is a **significant planning risk** that this scheme would negatively impact on the adjoining laneways to the east of the site.
- There is a **significant planning risk** that this scheme's public open space, communal open space and apartment designs and siting, will not provide adequate amenity to future residents.

**Our clients submit that following their assessment, the Applicant planning application represents too high a risk of causing significant and negative impacts on adjoining and surrounding properties and on the area and would also risk providing only insufficient amenity to its proposed future residents, for the Board to consider granting planning permission.**

## 6.0 Recommendation

This site is not suitable for an experiment in which a high density mixed use scheme locates all its car parking (that within the Applicant's ownership and not in a public footpath) within an existing shared surface car park serving a nearby shopping centre. Such a proposal would require an agreement with the shopping centre's owners, managers, and tenants. Such an agreement is not in place.

This proposal would result in a substantial net loss of car parking to the shopping centre yet would add significant new retail and residential floor areas to the District Centre. It is not clear to our client how this proposal can be considered fair. SDCC refer to "new" parking spaces being provided. There are no new parking spaces being provided. Instead, on the east side of Kennelsfort Road there is a reduction and on the west side there is a reallocation of parking spaces away from existing permitted uses to this new scheme. This is a case of the Emperor's New Clothes. SDCC's assessment is flawed as it seems to genuinely believe that removing shopping centre spaces will create new spaces. This is incorrect.

The site is also not suitable for an experiment in materially contravening H7 Objective 4 of the SDCC CDP 2016-2022 which has long protected this area from overdevelopment and excessively tall buildings. Having regard to the existing urban form of the area, opposite and alongside low rise residential developments of 2 storeys, the proposed primarily 5 storey building is unacceptable and represent a material contravention of the Development Plan that cannot be justified by way of reference to SPPR

It is considered that the proposed building would be visually obtrusive and would be an overbearing form of development at this location. Furthermore, by virtue of its scale, mass, bulk, and height, it is considered that the proposed development would constitute overdevelopment of this site and would therefore not be acceptable.

The proposal would fail to provide 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.

Cumulatively, the negative impacts of the proposed development on adjoining and surrounding area are such that this scheme cannot be granted in its current form. It would set a negative precedent and bring the planning system into disrepute.

The proposal as submitted 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 would not be in compliance with the relevant objectives of the South Dublin County Development Plan 2016-2022.

**In light of the above, BPS recommends that ABP either refuse planning permission for the reasons given in Section 6.1 or require the Applicant to address the recommendations listed in Section 6.2**

## 6.1 In the event of a refusal of planning permission

If the Board decides to refuse planning permission, the following refusal reasons should be applied:

1. *The proposed development by virtue of the scale, bulk, mass, height, design and physical dominance, would result in an intensive overdevelopment of the site. The development would be overbearing and seriously injurious to the visual amenity of the area, and to the amenities of property in the vicinity and would be seriously out of character with the pattern of development in the area. The proposal would be contrary to the 'Urban Developments and Building Heights, Guidelines for Planning Authorities' (2018) which were issued to Planning Authorities under Section 28 of the Planning and Development Act 2000, as amended. The proposed development would, therefore, be contrary to the proper planning and development of the area.*
2. *Having regard to the nature and scale of the proposed development, the sites' location in a suburban location in close proximity to the strategic junction of the N3/M50 and the poor pedestrian and cycling environment in the vicinity of the site, it is considered that the development as proposed would adversely affect the strategic function, efficiency and carrying capacity of surrounding national roads and endanger public safety by reason of traffic hazard. The ABP-308750-20 Inspector's Report Page 79 of 79 proposed development would contravene materially Objectives MT36 and MT42 of the Fingal Development Plan 2017-2023 and would be contrary to the 'Spatial Planning and National Roads Guidelines for Planning Authorities' (2012) which were issued to Planning Authorities under Section 28 of the Planning and Development Act 2000, as amended. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
3. *The proposed development would have a maximum building height of 5 storeys and 18.1m, which would be materially contravene H7 Objective 4 of the South Dublin County Development Plan 2016-2022 and would therefore be contrary to the proper planning and sustainable development of the area.*
4. *The applicant proposals provide all scheme car parking spaces within its ownership within the Palmerstown Shopping Centre's car park would represent a haphazard and ill-considered approach to parking provision and management for this site and would provide a poor level of amenity for future residential occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

5. *Having regard to advice in the Sustainable Urban Housing Design Standards for New Apartments Guidelines and the car parking standards in the South Dublin County Development Plan 2016 – 2022, the proposal would fail to provide 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.*
6. *Having regard to the siting, scale, mass and height of the proposal and the proximity of the development to adjoining properties, it is considered that the proposed development would constitute overdevelopment of the site and would have an excessively overbearing effect on adjoining properties. The proposed development fails to integrate or be compatible with the design and scale of the adjoining buildings and as a result, would seriously injure the visual amenities of the streetscapes Wheatfield Road and Kennelsfort Road. The proposed development would, therefore, by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.*
7. *Having regard to the overall design, siting, layout and scale of the proposed development, it is considered that the proposed development would provide a poor standard of residential accommodation by virtue of access to parking spaces, lack of visitor parking spaces, lack of useable public open space, poorly sited communal open spaces, single aspect units, primarily north facing units and lack of residential amenities for future residents. The proposed development would therefore be contrary to the Guidelines on Sustainable Urban Housing: Design Standards for New Apartments (2018), to the provisions of the South Dublin County Development Plan 2016-2022, to the residential amenity of future occupants and to the proper planning and sustainable development of the area.*
8. *The proposed development fails to incorporate design and layout elements which could help to absorb and mitigate the impact of the building, thereby militating against the successful integration of what are heavily scaled buildings relative to existing and surrounding development. 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.*
9. *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 site, would constitute overdevelopment of the site and would have a detrimental impact to the residential amenities of adjacent properties. The proposed development provides an inadequate design response to this sensitive 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.*

## 6.2 In the event of a decision to grant on appeal

In the event SDCC is seriously considering granting the proposed development, our client submits that the following additional revisions and details are required to inform any decision and any conditions attached to that decision that may be made:

1. Details of an agreement with Palmerstown Shopping Centre regarding the Applicant's car parking proposals is required.
2. Details and drawings of all aspects of the Applicant's proposals for the Palmerstown Shopping Centre's shared surface car park are required.
3. The Applicant needs to provide on-site (on the site of The Silver Granite pub) car parking within a basement or within the perimeter of the site. The existing car parking available to serve the pub should be retained.
4. The quantum of commercial land uses proposed is excessive and needs to be reduced as car parking cannot be provided at the levels needed to facilitate this.
5. An additional 30 parking spaces are required.
6. The scheme should not be permitted to develop the footpath to the north of the site into a parking area, loading area and bike parking area. This is public land.

7. The schemes height, scale, bulk and massing need to be reduced. Design revisions are needed to reduce significant negative overlooking, overshadowing and overbearing impacts that arise from the height, scale, and massing of the proposed scheme.
8. The 4<sup>th</sup> and 5<sup>th</sup> storeys need to be removed.
9. The external 2<sup>nd</sup> storey and 5<sup>th</sup> storey communal terraces need to be re-considered and re-located.
10. A independently produced 'Visual Impact Assessment' is required. This should include a 'Residential Visual Impact Assessment' is required that would include an assessment of the visual impact of the scheme as it would be experienced from adjoining rear gardens.
11. A full Constructional and Environmental Management Plan is needed that sets out proposals to:
  - Monitor and mitigate noise and vibration impacts on nearby businesses and residents.
  - Monitor and mitigate dust impacts on nearby businesses and residents.
  - Monitor and mitigate light overspill impacts on nearby residents.
  - Monitor and mitigate construction impacts on adjoining on nearby businesses and residents.
  - Monitor and prevent overflow parking into the Palmerstown Shopping Centre and adjoining and nearby roads.

**Ends/.**

**Appendix 1:** Photographs showing high levels of occupancy of the Palmerstown shopping centre car park



**Fig. 1:** Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021



**Fig. 2:** Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021



**Fig. 3: Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021**



**Fig. 4: Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021**



**Fig. 5: Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021**



Planning & Development  
Consultants

## Third Party Planning Objection

Third Party planning objection vs. South Dublin County Council planning application, reg. ref. SD21A/0271, which proposed development comprising of "Demolition of the existing building on site and the construction of a 5-storey over partial basement, mixed-use development comprising a gastro pub/restaurant with off-licence, 2 retail units, associated bin stores, bike stores, 1 ESB sub-station, all at ground floor level; a small plant room at basement level; a total of 50 apartments (25 one beds and 25 two beds) on the upper floors, all provided with private balconies/terraces; communal roof gardens; car parking; motorcycle parking; bicycle parking; landscaping and upgrades to public realm including upgrades to existing pedestrian crossing on Kennelsfort Road Upper; and all associated engineering and site works necessary to facilitate the development" on lands at The Silver Granite pub, junction of Kennelsfort Road Upper and Wheatfield Road, and at The Silver Granite car park adjoining Palmerstown Shopping Centre car park (accessed from Kennelsfort Road Upper via Palmerstown Park).

This Planning Objection Report has been produced by BPS Planning Consultants for and on behalf of Kennelsfort Management Company Ltd., Palmerstown shopping centre, Unit 15, Palmerstown, D20.

# Contents

## 1.0 Introduction

- 1.1 This application has not been discussed with Kennelsfort Management Company
- 1.2 The Applicant refers to pre-planning meeting – no details are available online
- 1.3 Objection fee

## 2.0 Existing context

- 2.1 The site is located alongside the heavily trafficked Kennelsfort Road
- 2.2 Existing retail and retail vehicular parking context
- 2.3 Site Location and Description
- 2.4 The actual 'developable' area of the Applicant site (in sq.m and hectares)

## 3.0 Proposed development

- 3.1 Technical concerns with the presentation of the scheme
  - 3.1.1 Development description doesn't incl. development in the shopping centre car park
  - 3.1.2 The application doesn't include permission from Palmerstown Shopping Centre Ltd
  - 3.1.3 No construction details are provided as to works in the shopping centre car park
  - 3.1.4 Planning Statement refers incorrectly to the existing pub vehicular entrance
  - 3.1.5 TAR refers incorrectly to the 5 parking spaces on Wheatfield Rd as "managed"
  - 3.1.5.1 Applicant fails to explain why bollards exist on Wheatfield Rd to front of site
  - 3.1.6 East and west site red line boundary lines do not represent site ownership
  - 3.1.7 The traffic data in the TAR is from "planning application" not a recent survey
  - 3.1.8 Planning statement refers to 106 units per hectare and 188
  - 3.1.9 Planning statement claims apartments are "for all family and age demographics"

## 4.0 Grounds for objection

### 4.1 The proposal represents a material contravention of the SDCC CDP2016-2022

#### 4.2 Proposal is contrary to the SDCC CDP 2016-2022

- 4.2.1 Proposed residential density is contrary to Housing (H) Policy 8
- 4.2.2 Proposal is not sustainable in its urban design contrary to HOUSING H7 Objective 1
- 4.2.3 Proposed removal of a public footpath is contrary to HOUSING H7 Objective 4
- 4.2.4 Proposed building heights are contrary to HOUSING H7 Objective 4
- 4.2.5 Proposed building heights are contrary to Housing (H) Policy 9, Objectives 2 & 3
- 4.2.6 Car parking provision is contrary to Transport and Mobility (TM) Policy 7
- 4.2.6.1 Quantum of car parking is non-compliant with Tables 11.23 and 11.24 of the CDP
- 4.2.7 Siting of car parking is contrary to s. 11.4.4 'Car Parking Design and Layout'
- 4.2.8 The proposal is contrary to the zoning of the site & to the adjoining 'RES' zoning
- 4.2.9 Objection to the principle of this haphazard & piecemeal development proposal

#### 4.3 Objection in principle of this haphazard & piecemeal proposal

- 4.3.1 The proposal is contrary to the zoning of the site & to the adjoining 'RES' zoning
- 4.3.2 The principle of proposing shopping centre car parking is haphazard & piecemeal
  - 4.3.2.1 Legal agreement for the shopping centre car park doesn't support its subdivision
  - 4.3.2.2 The traffic & parking impacts of the scheme are placed on the shopping centre
- 4.3.3 The lanes to the east of the Applicant site should not be effectively privatised
- 4.3.4 No "precedent of apartments on site" – the existing site contains no apartments

#### 4.4 The proposal constitutes overdevelopment of the site

- 4.4.1 the increase in density of development on the site is excessive
- 4.4.2 The height of the proposal at 5 storeys & 18.1m is excessive in relative terms
- 4.4.3 The use of the red line boundary and not the blue to the east of the site is misleading
- 4.4.4 Scale, massing, and length of the elevations on the pub site is overdevelopment
- 4.4.5 40% of apartments are single aspect = overdevelopment
- 4.4.6 11 no. primarily north facing apartments = overdevelopment
- 4.4.7 Single aspect social housing units = overdevelopment
- 4.4.8 Under provision of & poor quality of public open space confirms overdevelopment
- 4.4.9 Siting of 2nd & 5th storey terraced communal open spaces = overdevelopment
- 4.4.9.1 Communal open spaces impact on adjoining future apartments' amenities

#### 4.5 The Silver Granite Pub should be retained and extended

#### 4.6 Roads and traffic concerns

#### 4.6.1 the vehicular access proposals for this scheme are haphazard and ill considered



- 4.6.1.1 Proposal includes a new entrance to a subdivided area of a shared SC car park?
- 4.6.1.2 The Applicant would need to fence off an area of the shopping centre car park
- 4.6.1.3 Creating a vehicular exit out of the existing emergency exit is substandard
- 4.6.2 The vehicular parking proposals for this scheme are haphazard and ill considered**
- 4.6.2.1 48 no. "proposed" car parking spaces are Palmerstown shopping Centre spaces
- 4.6.2.2 scheme offers insufficient parking spaces = overflow into the shopping centre
- 4.6.2.3 All apartment parking is within the shopping centre car park – this is substandard
- 4.6.2.4 Parking, bike parking & setdown area on Wheatfield Rd are outside site's red line
- 4.6.2.5 Transportation Assessment Report argues for a loading bay in an existing footpath
- 4.6.2.6 SDCC is providing land for the Spar & pharmacy/bookmaker parking/loading area
- 4.6.2.7 The proposal seeks permission to remove all "on-site" vehicular parking
- 4.6.2.8 Why can't "on-site" parking be provided within the blue line pub boundary?
- 4.6.3 The Transportation Assessment Report under-estimates traffic/parking impacts**
- 4.6.3.1 Site's location close to the M50, R148 & the R833 mean it will be a car based scheme
- 4.6.3.2 Traffic impacts will be localised at the entrance to/exit from the SC parking area
- 4.6.4 Proposed intensification of use of the pedestrian crossing would slow traffic**
- 4.6.4.1 Is it safe & reasonable to require all scheme customers/residents to cross the road?
- 4.6.5 Areas of cycle parking are not acceptable**
- 4.7 The lanes to the east should be excluded from this scheme**
- 4.7.1 the Applicant seeks to make use of the lanes to the east but not to maintain them:
- 4.8 Proposed negative amenity impacts on adjoining properties**
- 4.8.1 Elevation 2 would cause significant, negative, amenity impacts
- 4.8.1.1 Elevation 2 would cause excessive & unrestricted overlooking impacts
- 4.8.1.2 18.1m tall 5 storey Elevation 2 causes negative visual overbearing impacts
- 4.8.1.3 The 18.1m tall 5 storey Elevation 2 causes negative overshadowing impacts
- 4.8.2 Elevations 3 & 4 would cause significant, negative, amenity impacts
- 4.8.2.1 No contiguous elevations or photomontages of Elevations 3 & 4
- 4.8.2.2 Elevations 3 & 4 would cause excessive & unrestricted overlooking impacts
- 4.8.2.3 The 18.1m tall 5 storey building causes negative visual overbearing impacts
- 4.8.2.4 The 18.1m tall 5 storey building causes negative overshadowing impacts
- 4.8.2.5 Applicant proposals for a bin store adjoining No. 1 Wheatfield Rd require review
- 4.9 Issues of concern over the Outline Construction Management Plan**
- 4.9.1 No construction details are provided as to works in the shopping centre car park
- 4.9.2 No construction vehicles or worker vehicles should be parked in the shopping centre
- 4.9.3 Working hours should be fixed and not subject to revision for any reason
- 4.9.4 A complaints procedure & an independent complaints process is required
- 4.9.5 The applicant has provided no baseline noise measurements:
- 4.9.5.1 Noise from plant & machinery needs to be mitigated
- 4.9.5.2 independent noise monitoring is required & conditions must be enforced
- 4.9.6 Vibration concerns at construction phase:
- 4.9.6.1 A baseline vibration survey should have been submitted#
- 4.9.7 Construction phase visual impacts on surrounding properties should be minimised
- 4.9.8 Construction phase could cause light overspill impacts on residential dwellings:
- 4.9.9 Dust impacts on nearby areas
- 4.10 The proposed development would set poor precedents**
- 4.11 Proposal would substantially depreciate the value of nearby properties:**
- 4.12 Proposal impacts on the development potential of the shopping centre**
- 5.0 Conclusion:**
- 5.1 Planning risk assessment conclusions:
- 6.0 Recommendation**
- 6.1 In the event of a refusal of planning permission
- 6.2 In the event of a request for further information

**Appendix 1:** Photographs showing high levels of occupancy of the Palmerstown shopping centre car park

**Appendix 2:** 1988 legal agreement between Palmerstown Centre Development Limited (First Owner) and Sibra Building Company Ltd, Bunker Estates Limited, and Silver Birch Estates Ltd (Second Owner)

## 1.0 Introduction

BPS Planning Consultants Ltd, a firm of Irish Planning Institute<sup>1</sup> accredited town planning and development consultants, have been retained by Kennelsfort Management Company Ltd., Palmerstown shopping centre, Unit 15 Palmerstown D20 to make a planning objection on its behalf in respect of South Dublin County Council (hereafter "SDCC") planning application, reg. ref. SD21A/0271, which proposes development described in the submitted development description as:

*Demolition of the existing building on site and the construction of a 5-storey over partial basement, mixed-use development comprising a gastro pub/restaurant with off-licence, 2 retail units, associated bin stores, bike stores, 1 ESB sub-station, all at ground floor level; a small plant room at basement level; a total of 50 apartments (25 one beds and 25 two beds) on the upper floors, all provided with private balconies/terraces; communal roof gardens; car parking; motorcycle parking; bicycle parking; landscaping and upgrades to public realm including upgrades to existing pedestrian crossing on Kennelsfort Road Upper; and all associated engineering and site works necessary to facilitate the development.*

This proposed development is to be sited on lands at The Silver Granite pub, junction of Kennelsfort Road Upper and Wheatfield Road, and at The Silver Granite car park adjoining Palmerstown Shopping Centre car park (accessed from Kennelsfort Road Upper via Palmerstown Park).

This planning application was lodged to SDCC on the 1st of October 2021; therefore, the final date for submission of this planning objection is the **4th of November 2021**. This objection is submitted prior to this deadline. The details of this planning application are available to view online.<sup>2</sup>

For the avoidance of doubt, this report, cover letter and objection form (and any accompanying details and/or documents) form part of our client's grounds for objection in this case.

For the convenience of the SDCC, BPS has: (i) Outlined the existing development context and the proposed development; (ii) Set out concerns over the presentation of this planning application; (iii) Carried out a relevant planning policy assessment of the proposed development; and (iv) Set out grounds for objection. These details are set out below.

### 1.1 This application has not been discussed with Kennelsfort Management Company

Our client, Kennelsfort Management Company Ltd, represents the businesses located within the Palmerstown Shopping Centre. Neither our client nor any individual business within the shopping centre was approached by the Applicant to enter any discussions or consultations prior to the submission of this planning application.

This is difficult to understand given how almost the entirety of the Applicant scheme's vehicular parking proposals require the reallocation of no less than 48 no. parking spaces from general shopping centre parking use to being used wholly by the Applicant scheme.

There is clearly a disconnect in this planning application between what the Applicant thinks is reasonable and what our client considers to be wholly unacceptable. The areas of parking not claimed by the public house have formed part of the Palmerstown Shopping Centre for decades and various planning applications (for change of use, etc.) have been granted within the shopping centre based on the existence of these parking spaces.

It will be clear to SDCC that this planning application would have a negative impact on the existing car park which served Palmerstown Shopping Centre: it is wholly at odds with the shared surface parking nature of the existing car park.

### 1.2 The Applicant refers to pre-planning meeting – no details are available online

BPS notes how the Applicant refers to pre-planning meetings held in 2018 and 2021 with SDCC (reg. refs. PP174/18 & PP130/20). The only record of these meetings available to our client is that set out in Section 4.0 of the Applicant Planning Statement which notes how:

- In 2018: SDCC noted planning concerns over communal open spaces, amenities, setbacks, the public realm, "etc".
- In 2020: SDCC noted planning concerns over roads and access arrangements, public realm matters, etc.

<sup>1</sup> <https://ipi.ie/>

<sup>2</sup> [http://www.sdblincoco.ie/Planning/Details?p=1&r=SD21A\\_s2F1\\_71&req=SD21A/0271](http://www.sdblincoco.ie/Planning/Details?p=1&r=SD21A_s2F1_71&req=SD21A/0271)

The Planning Statement provides a very limited and edited version of the pre-planning undertaken. While we have no reason to assume the current scheme proposals were considered by SDCC to be acceptable, we note that all pre-planning consultations are held without prejudice to the outcome of an eventual planning application.

We consider there to be adequate planning concerns set out in this Planning Objection Report to justify the refusal of this planning application and this suggests the Applicant may have lodged this planning application despite concerns raised by SDCC and with the intention of going to the Board.

Given that this may be the case, our client asks that in the event SDCC refuses planning permission that it does so based on, inter alia, the technical roads and parking concerns set out herein.

### **1.3 Objection fee**

The sum of €20 payable to SDCC to ensure this planning objection is validly received will be paid at the planning counter.

## 2.0 Existing context

### 2.1 The site is located alongside the heavily trafficked Kennelsfort Road

The subject site is located on Kennelsfort Road. The Silver Granite Pub is a landmark whose location requires no introduction.

In the same way, Kennelsfort Road is a notoriously heavily trafficked road. To the north the road connects to the R148 to the north which serves the N4 M50 Junction and to the south the road connects to the R833 which offers an M50 crossing into the Liffey Valley Shopping Centre and serves Cherry Orchard Industrial Estate. There are often long tailbacks of traffic on this road which can reach the Palmerstown Shopping Centre.

The road also serves Palmerstown Cemetery which and there can be as many as four funerals a day that also cause the slowing down of traffic and long tailbacks on the road.

It is difficult to envisage why, given this context, the Applicant would propose a site whose primary car parking area is located on the opposite side of Kennelsfort Road via a pedestrian crossing (whose regular use further slows down traffic on the road).

### 2.2 Existing retail and retail vehicular parking context

The Palmerstown Shopping Centre is the primary retail centre for this area and maintains a surface car park whose design and layout ensures that there is no fly or overflow car parking into or onto adjoining and nearby roads.

The shopping centre offers a supermarket, a large gym, a creche, food and coffee shops, estate agent, a range of retail units, a barber shop, a pharmacy, a bookmaker, and a library. The shopping centre meets the needs of the surrounding community and is of a size which ensures it remains viable. There are no empty units at present.

The shopping centre car park's occupancy alters throughout the day, but it becomes very full at peak times, especially at weekends and public holidays (particularly Christmas) – see Appendix 2. The car park also serves as the de facto car park for a GP practice located just outside of the shopping centre.

Our client has always accepted that some patrons of The Silver Granite Pub parked within the shopping centre and was aware that the pub owners retained some legal right to do so. There has never been any reason for this parking to become an issue as most of the pub's parking demand has always arisen in the evenings when most of the shopping centre's businesses are closed. The pub's use of the spaces was a "dual" use of the car park's spaces.

### 2.3 Site location and description

The subject site, as presented to SDCC by way of the 'Site Location Map' shown in Fig. 1 is piecemeal and haphazard as it comprises of:

1. The site of The Silver Granite Pub itself.
2. A section of the existing car park which serves Palmerstown Shopping Centre which is located on the other side of the heavily trafficked Kennelsfort Road. This is a heavily used car park that already serves a busy shopping centre within which multiple businesses obtained planning permission based on the existing parking spaces therein.
3. An existing pedestrian crossing over Kennelsfort Road.
4. Common laneways located to the east of the site which are outside of the blue line boundary.
5. The entirety of the existing pedestrian pathways on the northern and western sides of The Silver Granite Pub

This then is an unusual existing development site. It is unusual because:

1. The Applicant is effectively claiming that The Silver Granite Pub's primary car parking area is located within the Palmerstown Shopping Centre. That the Applicant has provided legal title documents which purport to show how this is the existing parking situation in law, it does not make it any less unusual. It would obviously be the case that pubs such as The Silver Granite Pub benefit from the use of parking areas such as that serving Palmerstown Shopping Centre when they are under less pressure in the evenings and at night, but there is no defined area of car parking within the existing Palmerstown Shopping Centre for The Silver Granite Pub's – the spaces are not marked or delineated in any way. They are Palmerstown Shopping Centre spaces.

2. The extent of areas included in this planning application that are not in the Applicant's ownership including laneways to the east, pedestrian paths on the northern and western sides of The Silver Granite Pub, the pedestrian crossing over Kennelsfort Road. etc. all serve to make the available site area on the east side of Kennelsfort Road appear larger than it is.
3. The inclusion in this planning application of areas of the Palmerstown Shopping Centre's car park also serves to make the Applicant site appear larger than it is.

It is in fact the case that the Palmerstown Shopping Centre bears little physical or visual connection to The Silver Granite Pub. Kennelsfort Road, low height boundary walls and public footpaths all serve to disconnect these two commercial properties (see Figs. 1 to 6).

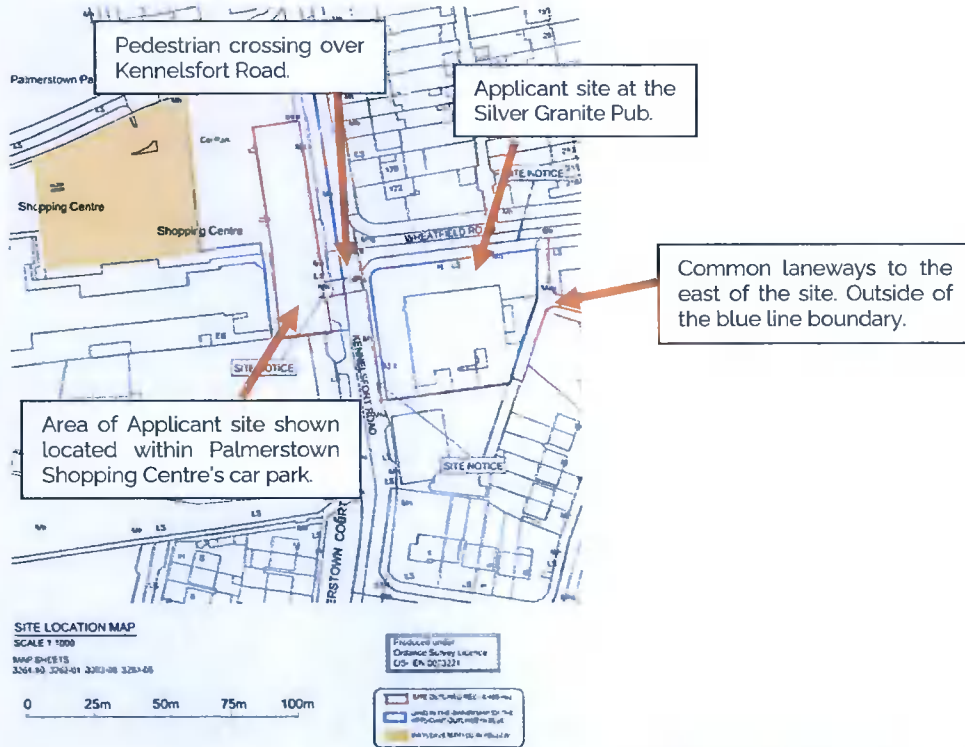


Fig. 1: The Applicant's 'Site Location Map' showing site areas on two sides of Kennelsfort Rd, etc.

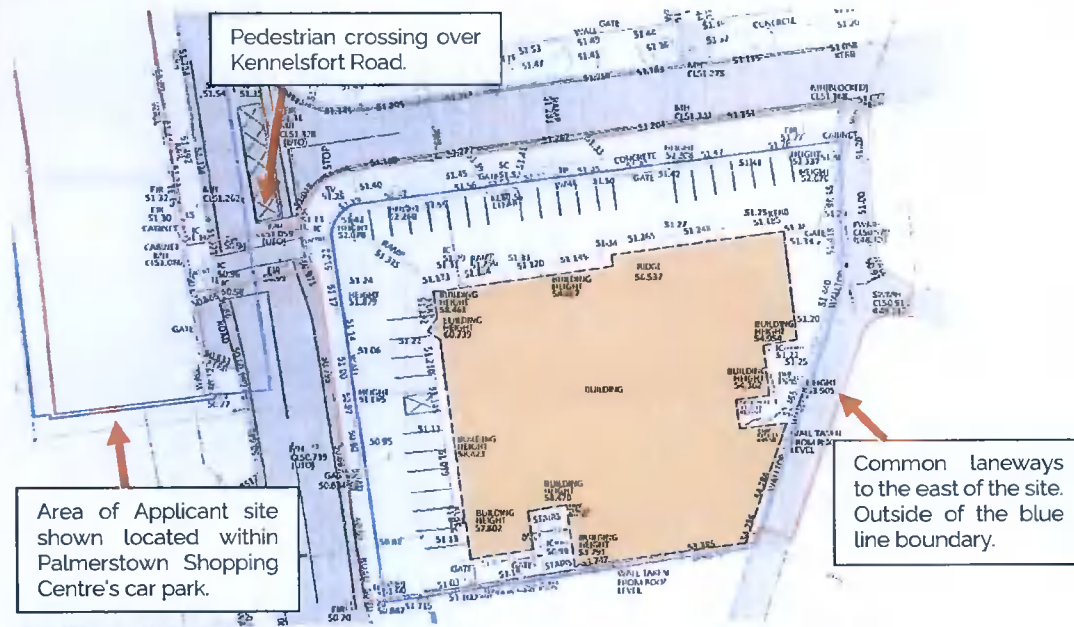


Fig. 2: The Applicant's 'Site Location Map' showing site areas on two sides of Kennelsfort Rd, etc.



**Fig. 3: The Applicant's 'Site Location Map' showing site areas on two sides of Kennelsfort Rd, etc.**



**Fig. 4: The shopping centre & The Silver Chair Pub maintain little physical or visual connection**



**Fig. 5: Areas outlined as pub car parking not marked as such in within the shopping centre car park (1)**



**Fig. 6: Areas outlined as pub car parking not marked as such in within the shopping centre car park (2)**

#### **2.4 The actual 'developable' area of the Applicant site (in sq.m and hectares)**

Section 11. 'Site Area' of the Applicant's Planning Application Form refers to a claimed total site area of 0.469ha. As noted above, this includes a range of areas which are outside of the existing boundaries of The Silver Granite Pub (laneways to the east, pedestrian paths, pedestrian crossing over Kennelsfort Road and areas of the Palmerston Shopping Centre's car park). That is, the Applicant has included large areas within their claimed site area which are undevelopable.

BPS has measured the approx. site area of The Silver Granite Pub using Google Earth and the actual developable site area (that within the boundaries of the existing pub site) is 2618.27sq.m. This is 0.262ha. This is 55% of the Applicant's claimed total site area.

This is an important distinction to make when assessing this planning application's density, etc.



**Fig. 7: The actual 'developable' area of The Silver Granite Pub site is 0.262ha.**

### 3.0 Proposed development

The proposed development comprises of:

1. Demolition of the existing building on site.
2. The construction of a 5-storey over partial basement, mixed-use development comprising:
  - a gastro pub/restaurant with off-licence and 2 retail units.
  - Associated bin stores, bike stores, 1 ESB sub-station, all at ground floor level.
  - A small plant room at basement level.
  - A total of 50 apartments (25 one beds and 25 two beds) on the upper floors, all provided with private balconies/terraces; communal roof gardens; car parking; motorcycle parking; bicycle parking; landscaping.
3. Upgrades to public realm including upgrades to existing pedestrian crossing on Kennelsfort Road Upper.
4. All associated engineering and site works necessary to facilitate the development.

#### 3.1 Technical concerns with the presentation of the scheme

##### 3.1.1 Development description doesn't incl. development in the shopping centre car park

Our client has reviewed the submitted development description, the submitted public notices and the Applicant proposals for the Palmerstown Shopping Centre car park. The development description refers to: "all associated engineering and site works necessary to facilitate the development". This cannot cover off the following changes of use and works that would be required to facilitate the Applicant's proposals as they pertain to Palmerston Shopping Centre's shared surface car park and emergency entrance/exit.

This planning application cannot be valid as its public notices fail to refer to:

1. The subdivision of the existing permitted shopping centre car park into two car parks. One for the shopping centre and one for the Applicant scheme.
2. The change of use of the Palmerstown Shopping Centre's emergency entrance/exit to wholetime use by the Applicant scheme which would leave the shopping centre without an emergency entrance/exit.
3. The works required to install a barrier entrance to a new subdivided area of the Palmerstown Shopping Centre car park.
4. The works required to install fencing or barriers around the new subdivided area of the Palmerstown Shopping Centre car park to prevent non-Applicant scheme vehicles from entering this proposed new car parking area.

BPS submits that this planning application should be invalidated, withdrawn and/or refused and re-submitted to address these substantial shortcomings in the development description as submitted (which read on its own would not suggest the above development is proposed to take place in the Palmerstown Shopping Centre's car park).

##### 3.1.2 The application doesn't include permission from Palmerstown Shopping Centre Ltd

The development proposals for the Palmerstown Shopping Centre's car park require permission from Palmerstown Shopping Centre Ltd. No such permission has been requested or provided. In the absence of same, it is difficult to envisage how the Applicant can have demonstrated sufficient legal interest to carry out the proposed development.

Our client notes how Palmerstown Shopping Centre Ltd has managed the entire car park, including paying for all maintenance and upgrade works, over the past 30 years. The Applicant has contributed nothing.

##### 3.1.3 No construction details are provided as to works in the shopping centre car park

The Applicant proposes to carry out works in the Palmerstown Shopping Centre's existing shared surface car park, yet significant drawings and detail are missing from the submitted planning application (or were never produced to articulate these works). We acknowledge that there are some plan drawings



provided and a landscape drawing included but these are insufficient. The missing details and drawings are:

1. Detailed drawings, including elevations, of the proposed new barrier entrance to be erected within the Palmerstown Shopping Centre's shared surface car park.
2. Detailed drawings, including elevations, of the proposed new fence or other boundary treatment to be erected around the proposed car parking area within the Palmerstown Shopping Centre.
3. Detailed drawings, including elevations, of the proposed revisions to the existing emergency exit serving the Palmerstown Shopping Centre car park. This should set out how vehicles entering Kennelsfort Road can do so safely.
4. A detailed plan drawing showing the proposed route into and out of the proposed car parking area within the Palmerstown Shopping Centre car park which sets out any area where a Right of Way may be required over lands owned by Palmerstown Shopping Centre Ltd.
5. Details of how the parking spaces that are proposed to be subdivided from the Palmerstown Shopping Centre car park are to be managed including access for all users and future residents and allocation to apartment owners, etc.
6. A detailed management agreement with the Palmerston Shopping Centre for the ongoing management and maintenance of the areas of the existing car park over which access is required to enter the proposed subdivided car parking area.
7. Details are required regarding how the construction phase would take place within the existing operational shopping centre car park. When would this take place? How would customers' health and safety be ensured, etc.

In the absence of these, and likely other details, this proposal cannot be fully and properly assessed as to its likely impact on the shopping centre car park, etc.

### 3.1.4 Planning Statement refers incorrectly to the existing pub vehicular entrance

Section 2.0 of the Planning Statement states: "Access to the subject lands is via an existing vehicular entrance to the Silver Granite car park (within Palmerstown Shopping Centre car park" and then notes the existing pub entrances on Kennelsfort Road and on Wheatfield Road.

Our client submits that this presentation of how the existing pub is accessed by vehicles is disingenuous. No pub patron, no delivery driver – no one – driving to The Silver Granite Pub would consider the Palmerstown Shopping Centre to be a vehicular entrance to the pub. It has no less than 36 existing parking spaces on site (some currently covered in Covid related paraphernalia) accessed by way of no less than three road entrances.

Our client does not dispute the Applicant's right to direct staff and customers to park in the Palmerstown Shopping Centre under the existing shared surface car parking arrangements, but they cannot accept that the shopping centre is an entrance to the pub.



**Fig. 8: The existing entrances to The Silver Granite pub's car park**

### 3.1.5 TAR refers incorrectly to the 5 parking spaces on Wheatfield Rd as "managed"

Section 2.19 of this scheme's Transportation Assessment Report claims to provide 53 "dedicated car parking spaces" which are to be "managed" by the scheme. This is not correct. The parking spaces on Wheatfield Road are proposed on what is a public footpath and outside of the blue line boundary. These would be public spaces open for use by anyone. They are not "dedicated" to this scheme or "managed" by this scheme. Indeed, one of the spaces is actually a loading bay. The Applicant is seeking to claim publicly owned land as their own.

### 3.1.5.1 Applicant fails to explain why bollards exist on Wheatfield Rd to front of site

The area of road to the north of the Applicant site on Wheatfield Road was dogged for many years by fly parking and overflow parking by vehicles accessing the pub or bookmakers. There have also been delivery vehicles parked up on the kerb and pedestrian path in the past. This situation served the pub and bookmakers well for years as it provided a temporary parking area and loading point.

This problem has been addressed by SDCC by way of the installation of yellow lines and bollards beside and on this section of road and footpath (see Fig. 9). The bollards prevent vehicles from parking or parking partly on the footpath.

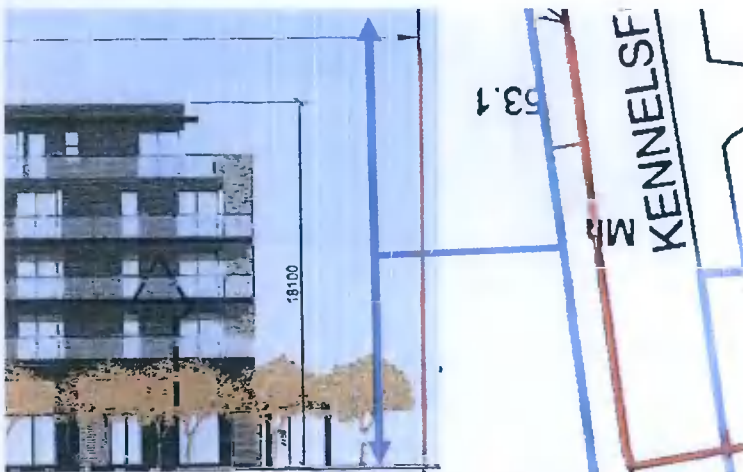
Our client cannot understand how, given this, the Applicant is now proposing to effectively incorporate this footpath into the scheme by way of replacing the footpath with 4 parking spaces, a loading bay and bike parking. This is a backward step and one which does not reflect the parking and traffic issues that arise for many years because of the mis-use of the pedestrian path. None of the Applicant's reports explain the existence of bollards on the existing footpath at this location.



**Fig. 9: Bollards and yellow lines exist to the front of the site to prevent fly parking, etc.**

### 3.1.6 East and west site red line boundary lines do not represent site ownership

Repeatedly through this planning application's elevation drawings, the Applicant shows the red line site boundary. This includes instances such as at the east and west sides of the proposed building where distances to the red line boundaries are shown. In these instances, the drawings are misleading as they show areas outside of the Applicant's control such as the public footpath to the west and the laneways to the east (see Fig. 10).



**Fig. 10: The siting of the red line boundary is not the ownership boundary & is misleading**

### 3.1.7 The traffic data in the TAR is from "planning application" not a recent survey

Our client understands how Covid impacted on traffic levels for a considerable period from March 2019. However, traffic levels are back up to being quite high and would provide an adequate basis for a traffic survey to be undertaken subject to caveats. However, Section 11.4.5 'Traffic and Transport Assessments' of the SDCC CDP 2016-2022 states:

*Traffic Impact Assessments will be required to take account of up-to-date traffic surveys (within six months of date of application) and of the cumulative quantum of traffic to be generated as a result of planned developments (which are subject to current planning applications or have been granted permission and not yet developed or which may be permitted in line with an approved plan) which would result in traffic using the same immediate road network and junctions as the development which is the subject to the Traffic Impact Assessment (emphasis added).*

Page 2 of the Applicant TAR states: "We have extracted local traffic data from recent publicly available planning applications, owing to the Covid-19 Pandemic". BPS has reviewed Appendix C of the TAR and we can find no list of the planning applications from which traffic data was "extracted". It is not therefore possible to check this data and if the Applicant engineer did not undertake the surveys, then how can they stand over the results?

Also, have any other planning permissions in the vicinity been considered? For example, the TAR does not review all planning permissions granted for developments within the Palmerstown Shopping Centre which rely on the shared surface car park which the Applicant proposes to subdivide. Would the proposal impact negatively on the car park's capacity to serve existing granted developments? We don't know as it has not been assessed by the TAR.

Our client submits that the traffic survey data appears to be out of date and unreliable a to offer no acceptable basis for the traffic impact assessment, etc.

The level of confidence set out in the TAR's conclusions that this scheme will have minimal traffic impact (except at the entrance and exit to the proposed car park area within the Palmerstown Shopping Centre) is not therefore justified by the data on which the study is based.

**3.1.8 Planning statement refers to 106 units per hectare and 188**

BPS notes how the Applicant's Design Statement and Planning Statement both refer to the scheme as being 188 units per hectare, but when arguing for material contravention of the SDCC CDP 2016-2022 in Section 7.4 of the Planning Statement the density suddenly drops to 106 uph.

Concerns arise that this planning application constitutes overdevelopment. It is important that the full density of the entire mixed use scheme be always noted when assessment the proposal.

188 uph is an extremely high density on a site where a density of over 50uph is encouraged under the SDCC CDP 2-16-20223 and under the Sustainable Residential Density Guidelines (2009).

<b>The Silver Granite</b>	
No of Units	50 (05 Part V)
Building Height	1-5 Storeys
Total Site Area	0.469 (ha)
Development Gross Area	0.265 (ha)
Total Commercial Facility	1,093m <sup>2</sup>
Total Commercial Amenity	64m <sup>2</sup>
Total Residential Amenity	112m <sup>2</sup>
Total Public Open Space	623m <sup>2</sup> (0.0623 ha) - 13%
Density (Units per ha)	188
Car Parking	52
Cycle Parking	128

**Fig. 11: The density of the scheme is 188 uph**

**3.1.9 Planning statement claims apartments are "for all family and age demographics"**

Section 5.0 of the submitted Planning Statement repeatedly makes claims that are not based on fact. For example, 1 and 2 bedroom units only are provided in this scheme, yet we are told that the apartments are for "all family and age demographics" – these are not family sized units. There are no 3 bedroom units in this scheme. It does not cater for all ages and demographics.

## 4.0 Grounds for objection

### 4.1 **The proposal represents a material contravention of the SDCC CDP2016-2022**

As noted in Section 4.2.4 of this Planning Objection Report, H7 Objective 4 of the SDCC CDP 2016-2022 states that development in Palmerstown cannot exceed 3 storeys. This scheme is two storeys too tall and therefore represents a proposed material contravention of the SDCC CDP 2016-2022.

The Applicant Planning Statement seeks to rely on Section 28 Ministerial Guidelines, namely on SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) which states:

*It is a specific planning policy requirement that where; (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.*

Our client submits that, for the reasons set out in this Planning Objection Report, the planning authority should not approve this development. We do not consider there to be conflicting objectives in the SDCC CDP 2016-2022 that would justify granting permission under SPPR 3; instead, we consider that when assessed in light of 'all' CDP planning policies the proposal can only be viewed as overdevelopment of the site. Section 4.2 of this Planning Objection Report confirms that this proposal is contrary to all relevant SDCC CDP planning policies, including: Housing (H) Policy 8 Residential Densities and Housing (H) Policy 9 Residential Building Heights.

Further, when assessed under the criteria applicable to an assessment of the proposal under the Urban Development and Building Heights Guidelines for Planning Authorities, the proposal fails:

#### At the scale of the relevant city/town:

1. This site is suitable for higher density development but not for the extreme plot ratio and units per hectare density proposed by this scheme. Over 50 uph is encouraged but the residential element of this scheme alone is 188 uph. This is overdevelopment.
2. The proposed building would be visually injurious to the streetscape at this location as it is too tall and over-scaled. Its bulk and massing and lengths of elevations cannot be accepted at this location.
3. Impact negatively on the existing amenities of surrounding residential properties located to the north, east and southeast (see Section 4.8 of this Planning Application Report).
4. The proposal's car parking arrangements whereby its car park is sited in an existing shopping centre's shared surface car park across busy regional road is substandard for a development of the proposed scale. The proposal would create significant additional pedestrian trips across this regional road which would impact negatively on levels of local traffic congestion.

#### At the scale of the district/neighbourhood/street:

1. The proposal would be visually obtrusive and excessively over-scaled at a location where the existing public house – 2 storeys only – already appears as a landmark building. The proposed increase in scale and height cannot be justified.
2. There is no building above 3 storeys in this district, neighbourhood, and street. This proposal would set a negative precedent in what is an area characterised by 2 storey dwellings.
3. The proposed site is located on the east side of Kennelsfort Road and not on the shopping centre side of the road where an increase in height may be justifiable where this does not impact on the environment.
4. The proposed arrangements to serve such a large commercial and residential scheme with car parking spaces in an existing shopping centre car park located across a busy regional road is substandard and unsuitable.
5. For the reasons set out in this Planning Objection Report, our client does not consider this proposal to be of high quality.
6. The proposal would impact negatively on the existing public domain by removing an existing public footpath to the north and by effectively incorporating existing lanes to the east.
7. The proposal offers insufficient car parking, and this will cause overflow and fly parking onto adjoining roads and streets – especially for the Spar and pharmacy/bookmaker.

#### At the scale of the site/building:

1. Each of the building's elevations is too tall and too wide and when viewed from adjoining areas it would be overbearing.

2. The proposed development would cause negative overshadowing of residential properties and rear gardens to the north, east and southeast.
3. The proposal is wholly out of context with adjoining 2 storey dwellings and would represent an abrupt increase in height and scale.
4. There are too many single aspect small apartment units including primarily north facing units.
5. When viewed in detail, the scheme offers significantly less than 10% useable public open space.
6. Car parking is located too far away from the proposed apartments and there is not enough of it.

#### Specific assessments

1. The Applicant has provided photomontages but none of these show views of the proposed building from the east and southeast where the proposal would visually impact on surrounding rear residential gardens.
2. No Visual Impact Assessment Report has been submitted. In the absence of such a report and given the number of sensitive residential visual receptors in the immediate vicinity, it is reasonable to state that the proposal is likely to have a significant, negative, and permanent visual impact on surrounding residential properties to the north, east and southeast.

The Applicant site is suitable for a higher density commercial and residential scheme, but there are reasonable and natural contextual limitations on how high density, building heights, scale, etc. can go and still comply. The Applicant proposal is too tall and constitutes overdevelopment given its context whether assessed under the National Planning Framework, The Development Plan Guidelines, the Sustainable Residential Density Guidelines, the Urban Development and Building Heights Guidelines for Planning Authorities or any other Section 28 guidelines. This has nothing to do with any "blanket" restriction on height but reflects that this site is that of a neighbourhood public house nestled amongst low rise 2 storey houses and rear gardens.

The Applicant planning application fails to provide sufficient justification and/or to offer a scheme for which material contravention of the CDP could be justified. The proposed development should therefore be refused on this basis and a revised proposal for a 3 storey building only submitted in a future planning application.

The Applicant submitted this planning application in full awareness that: "the proposed scheme exceeds the stipulated height" (p. 28, Planning Statement). Ireland does not have a 'any building height at any environmental cost' policy in place for building heights at the current time.

## **4.2 Proposal is contrary to the SDCC CDP 2016-2022**

### **4.2.1 Proposed residential density is contrary to Housing (H) Policy 8**

While our client acknowledges that national and regional planning policies now favour increased residential densities at appropriate locations, it is their view that the Applicant scheme represents an excessive density at this location which cannot be supported by the adjoining and surrounding environment without significant and negative impacts.

National, regional, and local planning policy does not support bad planning and planning policies exist to ensure there is a balance achieved between allowing increased density and minimising impact on adjoining areas. In this case our client relies on HOUSING (H) Policy 8 'Residential Densities' of the SDCC CDP 2016-2022 which states: "It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context".

Our client does not consider, for the reasons set out in this Planning Objection Report, that the proposed residential element of this scheme which adds 4 additional storeys to proposed ground floor commercial uses is appropriate to its location and surrounding context, as such they consider the proposed development contract to Policy 8.

### **4.2.2 Proposal is not sustainable in its urban design contrary to HOUSING H7 Objective 1**

Our client acknowledges that this site can, in principle, offer many of the locational characteristics required to create a sustainable higher density residential development under the Sustainable Residential Density Guidelines (2009) and their accompanying Urban Design Manual. However, the realisation of a sustainable residential development requires more than a good location.

H7 Objective 1 of the CDP aims:

*To ensure that residential development contributes to the creation of sustainable communities in accordance with the requirements of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) (or any superseding document) including*

*the urban design criteria as illustrated under the companion Urban Design Manual – A Best Practice Guide, DEHLG (2009).*

It is our client's position, for the reasons given in Sections 4.3 to 4.12 of this Planning Objection Report, that this is a substandard scheme. Critically:

- Future residents are offered no car parking within or immediately adjoining the building but would have to walk across a busy road to access their vehicle.
- Future residents are offered poor ground level public amenity, poor communal open space in roof terraces of dubious quality.
- Future residents are offered little by way of internal facilities.
- Future residents must live in quite small and in 40% of cases single aspect apartments with some primarily north facing apartments.

The scheme, as designed, provides for too many apartments on a site which cannot adequately serve their needs. A lower density scheme would be a higher quality scheme. A basement should be provided, and ground level open spaces improved for all residents.

#### 4.2.3 Proposed removal of a public footpath is contrary to HOUSING H7 Objective 4

Our client has viewed the Applicant's proposed "public realm improvements" and is not clear on what they improve. H7 Objective 3 of the CDP aims: "To support public realm improvements as part of infill developments". However, the Applicant proposals raise more concerns than they require encouragement.

Section 4.6 of this Planning Objection Report illustrates how the Applicant proposes to effectively incorporate a public footpath to the north of the site into their plans and laneways to the east of the site. Our client opposes both claimed "improvements".

The proposal to "upgrade" the pedestrian crossing over Kennelsfort Avenue is proposed wholly to facilitate this scheme's proposals for increased pedestrian traffic to and fro this road to access car parking that is currently part of the Palmerstown Shopping Centre. Again, our client cannot envisage how increasing pedestrian traffic across this road will contribute to reducing traffic congestion on the road and/or "improve" the public realm.

#### 4.2.4 Proposed building heights are contrary to HOUSING H7 Objective 4

While our client acknowledges that the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) encourages increased building heights at appropriate locations, it is their view that the Applicant scheme provides for excessive building heights at this location which cannot be supported by the adjoining and surrounding environment without significant and negative impacts.

National, regional, and local planning policy does not support bad planning and planning policies exist to ensure there is a balance achieved between allowing increased building height and minimising impact on adjoining areas. In this case our client relies on HOUSING (H) Policy 7 'Urban Design in Residential Developments' to prevent what they consider to be excessive building height at this location. H7 Objective 4 of this policy states:

***That any future development of both residential and/or commercial developments in Palmerstown Village and the greater Palmerstown Area shall not be higher than or in excess of three storeys in height*** [emphasis added].

The proposed development is both residential and commercial and such development is welcome in Palmerstown under this policy; however, such development cannot be higher than or in excess of three storeys in height.

**This scheme is two storeys too tall and therefore represents a proposed material contravention of the SDCC CDP 2016-2022. The proposed development should be refused planning permission on this basis in order to avoid setting a precedent which would cause a ripple effect throughout the Palmerstown area and other areas of SDCC.**

#### 4.2.5 Proposed building heights are contrary to Housing (H) Policy 9, Objectives 2 & 3

While our client acknowledges that the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) encourages increased building heights at appropriate locations, it is their view that the Applicant scheme provides for excessive building heights at this location which cannot be supported by the adjoining and surrounding environment without significant and negative impacts.

National, regional, and local planning policy does not support bad planning and planning policies exist to ensure there is a balance achieved between allowing increased building height and minimising impact on adjoining areas. In this case our client relies on Section 2.2.3 'HOUSING (H) Policy 9 'Residential Building Heights' of the CDP which includes:

- **Hg Objective 2:** To ensure that higher buildings in established areas respect the surrounding context.

**Planning concern:** The proposed building at mostly 5 storeys and 18.1m with one setback 4 storey, 15.55m tall, section on the east side (where there is inadequate setback to the eastern boundary) is 2 and 3 storeys taller than the existing building on the site which is a large landmark building in this area. There is no building in this area of the scale proposed in this planning application. Arising from this, the building causes all the negative impacts on the surrounding area that are set out in Section 4.4 and 4.8 of this Planning Objection Report. This is contrary to Hg Objective 2.

- **Hg Objective 3:** To ensure that new residential developments immediately adjoining existing one and two storey housing incorporate a gradual change in building heights with no significant marked increase in building height in close proximity to existing housing (see also Section 11.2.7 Building Height).

**Planning concern:** The proposed development adjoins existing two storey houses and their rear and side gardens to the east and southeast. It is also located opposite 2 storey residential dwellings and rear gardens to the north. The proposed development fails to incorporate a gradual change in building heights with no significant marked increase in building height in close proximity to this existing housing: (1) The east elevation is a full 4 storeys tall with a roof terrace adjoining a two storey house; (2) The south elevation is a full 5 storeys adjoining 2 storeys to the southeast; and (3) The north elevation is 4 and 5 storeys located opposite 2 storeys.

Our client does not consider, for the reasons set out in this Planning Objection Report, that the proposed development's height is appropriate to its location and surrounding context, as such they consider the proposed development contract to Policy 9.

#### 4.2.6 Car parking provision is contrary to Transport and Mobility (TM) Policy 7

Our client has reviewed the Applicant's car parking proposals and, for the reasons set out in Section 4.6 of this Planning Objection Report, submits that they are contrary to Transport and Mobility (TM) Policy 7 'Car Parking' of the SDCC CDP 2016-2022 which states:

*It is the policy of Council to take a balanced approach to the provision of car parking with the aim of meeting the needs of businesses and communities whilst promoting a transition towards more sustainable forms of transportation. TM7 Objective 1: To carefully consider the number of parking spaces provided to service the needs of new development*

The proposed development provides insufficient car parking spaces, removes all existing parking spaces alongside The Silver Granite pub, proposes parking spaces on adjoining land they cannot manage and seeks to subdivide the existing shared surface Palmerstown Shopping Centre car park to provide all its car parking (on non-public lands). This is not acceptable.

##### 4.2.6.1 Quantum of car parking is non-compliant with Tables 11.23 and 11.24 of the CDP

The Applicant Transport Assessment Report does not condescend to provide a breakdown of the number of parking spaces this scheme requires when the parking requirements for commercial and residential development set out in Tables 11.23 and 11.24 of the CDP are applied. Our client is merely told that this scheme is offering a given number of parking spaces (5 of which are on public land) and this is acceptable. This is not acceptable.

At present, The Silver Granite Pub can offer up to approx. 36 parking spaces adjoining the pub building (if all Covid related paraphernalia is removed). These are all to be removed and all parking requirements are proposed to be delivered in the existing Palmerstown Shopping Centre. Our client objects to this, but they also find the quantum of parking spaces proposed by the Applicant to be wholly at odds with the number that would be needed by a scheme of this size.

Even taking the lowest possible numbers of parking spaces required under Tables 11.23 and 11.24 of the CDP (and bearing in mind that these are 'maximum' and not 'minimum' figures), the following figures are achieved:

- **Spar:** Convenience retail requires 1 space per 25sq.m. This requires 9 parking spaces.
- **Pharmacy or bookmaker:** Comparison retail requires 1 space per 35sq.m. This requires 4.5 spaces.

- **The bar/off licence is a mix of bar and comparison retail:** it requires 1 space per 40sq.m. This requires 3.5 spaces.
- **The gastropub restaurant:** This requires 1 space per 20sq.m. This requires 27.9 spaces.
- **The residential units:** These require 0.75 spaces per unit. This requires 37.5 spaces.

**The total number of parking spaces required by this scheme is 82.4 spaces. This scheme proposes to provide 48 parking spaces on lands in their ownership. This scheme, even with its unorthodox proposed approach with car parking provision in the Palmerstown Shopping Centre, is 34.4 spaces short.**

While others may reach a higher number of required parking spaces by using Tables 11.23 and 11.24, BPS has tried to identify a minimum figure. The ratio of 0.75 spaces per apartment is in line with planning permissions for residential developments in similar locations, while the parking requirements for the other uses are about right.

In the absence of parking provision on the Applicant site, BPS submits that this scheme cannot offer an acceptable quantity of parking spaces. If additional parking spaces are not provided, this will cause overflow parking problems and fly parking issues on adjoining and nearby roads and within the Palmerstown Shopping Centre's car park.

#### 4.2.7 Siting of car parking is contrary to s. 11.4.4 'Car Parking Design and Layout'

Section 11.4.4 'Car Parking Design and Layout' of the SDCC CDP 2016-2022 states: "For large commercial developments or residential development of over 50 dwellings per hectare, large areas of off-street parking will be required". The options are parking courts, basements, and multi-storey car park.

The Applicant has opted not to provide a car parking basement or any car parking within or immediately alongside the building. No car parking is proposed on the east side of Kennelsfort Road which would be within the ownership of the Applicant.

The Applicant may argue that they are providing a 'Parking Court' by offering car parking within the existing Palmerstown Shopping Centre car park, but this is not a proposal that aligns with Section 11.4.4 because:

1. It is clear the CDP envisages car parking being provided "behind buildings, and/or in the centre of blocks". There is no mention of the possibility of car parking being provided at some location removed from the proposed development and, in this case, across a busy regional road via a pedestrian crossing and within an existing and operational shopping centre.
2. This surface car parking would take spaces from an existing shopping centre which has acted for 30 years as the over-flow car park only for The Silver Granite Pub. The proposal would therefore impact on an existing large commercial development's car parking provision.

Our client submits that for these reasons and those set out in Section 4.6.2 of this Planning Objection Report, the proposed car parking arrangements, including their siting, is contrary to Section 11.4.4 'Car Parking Design and Layout' of the SDCC CDP 2016-2022.

### 4.3 Objection in principle of this haphazard & piecemeal proposal

#### 4.3.1 The proposal is contrary to the zoning of the site & to the adjoining 'RES' zoning

Under the South Dublin County Development Plan 2016-2022, the Applicant site 'and' the Palmerstown Shopping Centre are zoned 'Objective DC' which seeks: "To protect, provide and improve for the future development of district centres".

**Response:** Our client considers that this proposal, for the reasons set out in this Planning Objection Report, fails to "protect" or "improve" the existing neighbourhood centre at this location. Instead, the proposal would impact negatively on the existing neighbourhood centre which also includes the Palmerstown Shopping Centre and its existing car park.

The Applicant site adjoins and/or neighbours properties to the north, east and south which are zoned 'Objective RES' - "To protect and/or improve residential amenity.

**Response:** Our client considers that this proposal, for the reasons set out in this Planning Objection Report, fails to "protect" or "improve" the residential amenities of adjoining and neighbouring residential properties. When viewed cumulatively, this proposal would have a significant, negative, and permanent impact on the existing and established residential amenities of these properties.



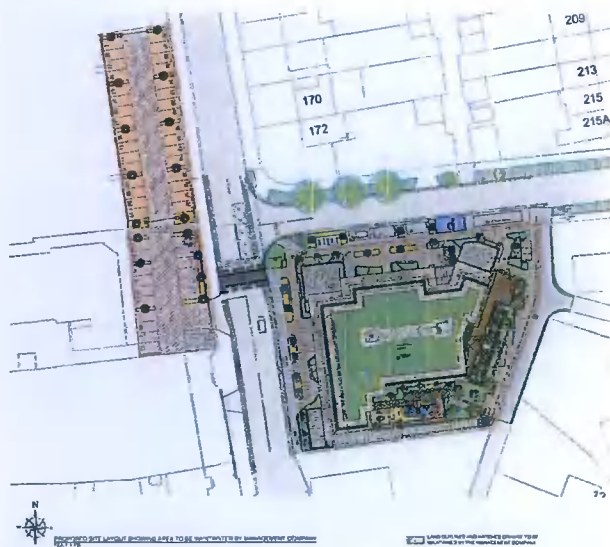
#### 4.3.2 The principle of proposing shopping centre car parking is haphazard & piecemeal

Our client, Kennelsfort Management Company Ltd, represents the businesses located within the Palmerstown Shopping Centre. Our client wishes to emphasise in the strongest possible terms, their objection in principle to this proposal.

They consider this planning application to represent a haphazard and piecemeal scheme whereby the Applicant is seeking planning permission to subdivide the Palmerstown Shopping Centre's existing shared surface car park to provide a separate car park for this scheme which is located on the opposite side of Kennelsfort Road.

The Palmerstown Shopping Centre has operated the shared surface car park on the west side of Kennelsfort Road for decades. This car park's fundamental layout which serves 'all' businesses and facilities in the centre cannot reasonably be altered merely to serve one business.

It is clear the Applicant has sought throughout this planning application's planning, design, and transport reports to avoid discussion of on what basis it is proposed to effectively subdivide an existing shared surface car park serving Palmerstown Shopping Centre and to allocate these parking spaces only to this new scheme.



**Fig. 12: Haphazard proposal over 2 sites & subdivision of the existing shopping centre car park**

##### 4.3.2.1 Legal agreement for the shopping centre car park doesn't support its subdivision

BPS expects that SDCC is, like our client, at a loss as to what precisely is the legal situation in this case regarding the proposed subdivision of the existing and operational Palmerston Shopping Centre car park to serve this proposed development.

Our client has provided BPS with a copy – provided in Appendix 1 of this Planning Objection Report - of a 1988 legal agreement between Palmerstown Centre Development Limited (First Owner) and Sibra Building Company Ltd, Bunker Estates Limited, and Silver Birch Estates Ltd (Second Owner) that facilitated the development of the shopping centre car park in the manner by which it no exists and operates.

The map provided in Fig. 13 sets out two coloured areas:

1. A **green** area was that owned by Palmerstown Centre Development Limited
2. A **red** area was that owned by Sibra Building Company Ltd, Bunker Estates Limited, and Silver Birch Estates Ltd.

Point 3. Of the agreement states: "The First and Second Owner have agreed that the lands coloured red and green on the maps or plan to be developed for the purposes of a car park (hereinafter called "the carpark") for the benefit of their respective properties and to grant for the purpose of the development and user of the said carpark the rights and privileges hereinafter contained".

The Second Owner – which includes the current planning application's Applicant – agreed, inter alia, that Palmerstown Shopping Centre Limited would enjoy the following "Rights and privileges":

- (a) The right of way with or without vehicles over all parts of the lands coloured red and yellow on the plan annexed hereto.
- (b) To park vehicles in the car park at any time of the day or night on those parts of the land coloured in red.

The Second Owner was granted the following rights and privileges:

- (a) To enter the said lands coloured green by access points to be provided as indicated on the plan annexed hereto with or without vehicles at the points marked Y and Z.
- (b) The right of way with or without vehicles over all parts of the lands coloured green on the plan annexed hereto.
- (c) To park vehicles in the car park at any time of the day or night on those parts of the land coloured in red.

This agreement was signed by Frank Towey and by Frank Towey Junior as representing the Second Owner. Frank Towey is named as a Director of the company, Hollyville Investments Ltd, in whose name the current planning application has been lodged.

While SDCC can review this agreement in detail, it is our client's position that the Second Owner's rights and privileges to use the Palmerstown Shopping Centre car park as detailed above were understood to extend to The Silver Granite Pub.

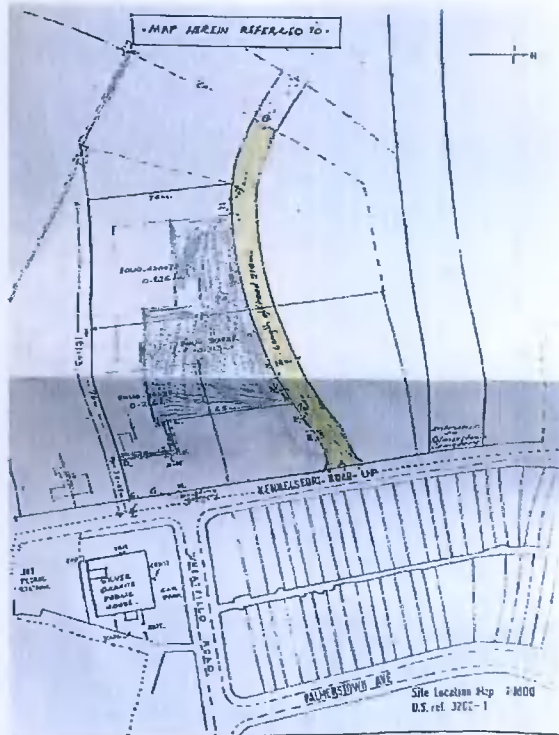
The Applicant is now proposing a de facto subdivision of the existing shopping centre car park to serve a new large-scale mixed use development that did not exist at the time of the making of this agreement.

It is our client's position that while The Silver Granite Pub has every right to advise its customers that they can access and park within the red coloured areas of the Palmerstown SC car park, they do not have the right under this agreement to reserve this area of the car park for their sole use and/or to use it to serve others than the customers/patrons of the public house.

BPS has advised our client that SDCC is likely to leave legal matters to be addressed between parties and will assess this planning application on its planning grounds only. Our client responded to this by noting how:

1. In their view, the Applicant has not demonstrated sufficient legal interest – given the terms of the agreement provided in Appendix 1 of this Planning Objection Report – to be able to show SDCC that they have the right to apportion numbered spaces within what is a shared car park to areas of this new development, including 32 no. spaces to apartments owners and occupiers.
3. The Applicant has not demonstrated any consultation with or provided details of any updated agreement with the Palmerstown Shopping Centre that would provide for this scheme's proposals as they pertain to the car park. Letters of consent are attached to the planning application from the Second Owners but not from Palmerstown Centre Development Limited. The original agreement was between two parties and cannot reasonably be revised by only one of the parties.
2. The Applicant has not demonstrated how their proposals for the shopping centre car park would be managed in a manner that it compatible with the existing use and operation of this area of the car park.

Our client considers the Applicant proposal regarding the existing shopping centre car park to verge on the bizarre. The planning application has come out of the blue and is at odds with over 30 years of constant use of the shopping centre car park in a shared manner. The proposed development cannot reasonably be permitted as currently proposed.



**Fig. 13: Map attached to legal agreement pertaining to the Palmerstown SC car park**

#### 4.3.2.2 The traffic & parking impacts of the scheme are placed on the shopping centre

In its evaluation of the principle of the Applicant's proposal, BPS recommends that SDCC reads page 19 of the Design Statement which points to how siting the scheme's car parking (that not proposed in the public footpath on Wheatfield Road) in the Palmerstown Shopping Centre: "... ensures that the development is relatively car free, enabling the building to provide a range of public/semi-public green areas, plazas and public footpaths ...".

What the Applicant mean is that all parking and almost all vehicular circulation associated with the development is proposed to be shifted onto the Palmerstown Shopping Centre's already pressured car park. The Applicant neglects to mention that the existing public house maintains parking areas capable of accommodating at least 36 cars and that even this existing provision is to be removed in favour of a "just send them to the shopping centre car park" development approach.

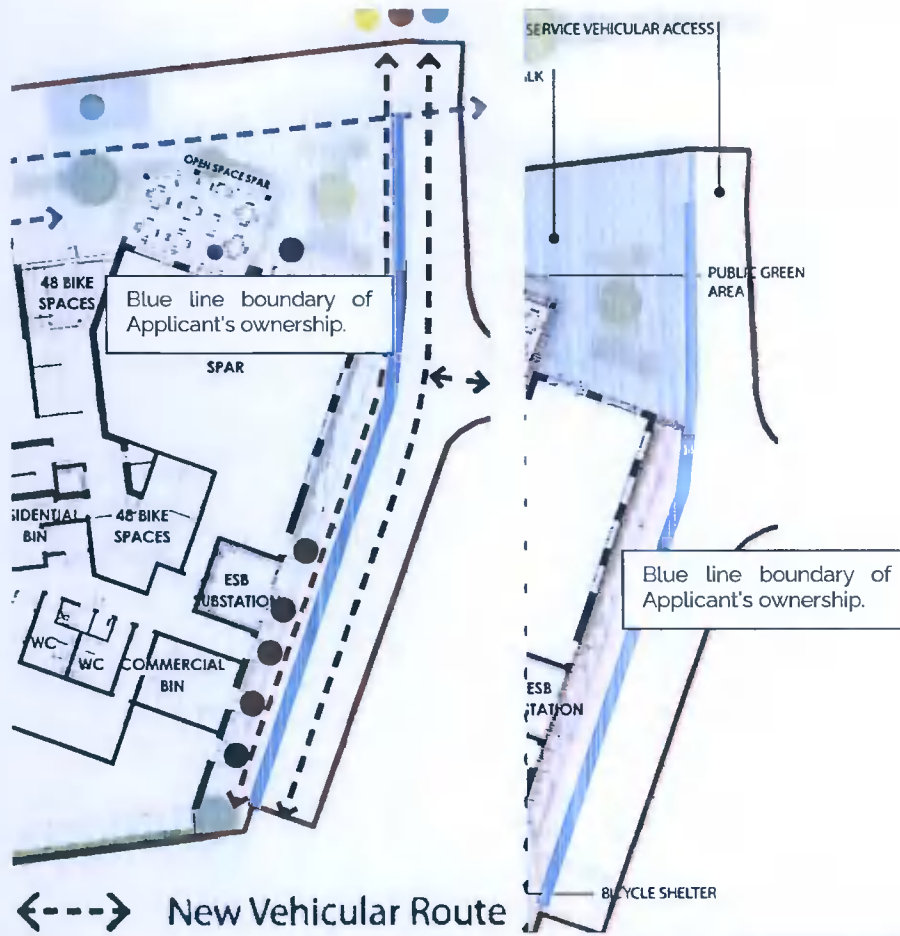
It is very clear how the excessive scale and density of this scheme and whatever it has been able to offer as a ground level external environment can only be achieved by shifting parking and vehicular impacts onto the shopping centre. This is not acceptable. The scheme should not be developed in such a piecemeal and inward looking manner.

Were the scheme to offer the appropriate quantum of car parking and vehicular access on The Silver Granit Pub site, then this proposal would not be possible; therefore, the principle of this scheme cannot be supported.

#### 4.3.3 The lanes to the east of the Applicant site should not be effectively privatised

Our client notes the Applicant's intention to remove the existing eastern boundary wall serving their site and to effectively address and make use of the existing laneways to the east of the site. The proposal amounts to the incorporation of the adjoining lane areas into the Applicant's site boundary despite their not owning them. The actual blue line boundary of the Applicant site is shown in Fig. 14.

Our client supports the residents of Oakcourt Grove and Wheatfield Road in opposing the inclusion of these laneways into the scheme for, inter alia, vehicular traffic. This proposal should not be accepted in principle and the Silver Granite Pub should continue to maintain a boundary wall to the lanes and should not be allowed to try to effectively incorporate these lanes into their scheme.



**Fig. 14: Applicant proposals for a new vehicular access/service route are outside the blue line boundary**

**4.3.4 No “precedent of apartments on site” – the existing site contains no apartments**

Page 11 of the submitted Design Statement reviews the planning history of the site and refers to: “a long established precedent of apartments on site”. BPS has reviewed the planning history of this site and it does not include any reference to apartments and there are no existing apartments on this site.

The Applicant site is the neighbourhood public house and offers an off licence and bookmakers obtained by various permissions. There has been no planning application for apartments on this site.

Our clients accept that 'Residential' is Permitted in Principle on this site, but they object to any claim that this site has ever previously been considered suitable in practice for a scheme of apartments.

**4.4 The proposal constitutes overdevelopment of the site**

Our client is concerned at the density, height, scale, bulk, and massing of the proposed development relative to the existing The Silver Granite Public House which is itself a large and visually substantial structure at this location.

They consider that the proposal needs to be substantially reduced such that it is more in keeping with and does not cause negative impacts on this area.

**4.4.1 the increase in density of development on the site is excessive**

Our client submits that the proposed increase in density proposed for The Silver Granite Pub site is excessive. The existing buildings on the site amount to a total gross floor area of 1349sq.m. The proposed development provides for a gross floor area of 6197sq.m.

As noted in Section 2.4 above, the actual developable area of this site is approx. 0.262 ha. (rounding up approx. 2618sq.m).

The existing plot ratio density of The Silver Granite Pub is approx. 0.51. **The proposed plot ratio is 2.367. The proposed development is 4.6 times denser than the existing development on the site.**

In units per hectare terms, this scheme would comprise at least 188 units per hectare. This density of residential development on a site that currently contains none and served by car parking located on another site across the road is excessive.

The proposed increase in density is incompatible with the absorption of this scheme into adjoining and surrounding area within causing areas without causing negative impacts.

**4.4.2 The height of the proposal at 5 storeys & 18.1m is excessive in relative terms**

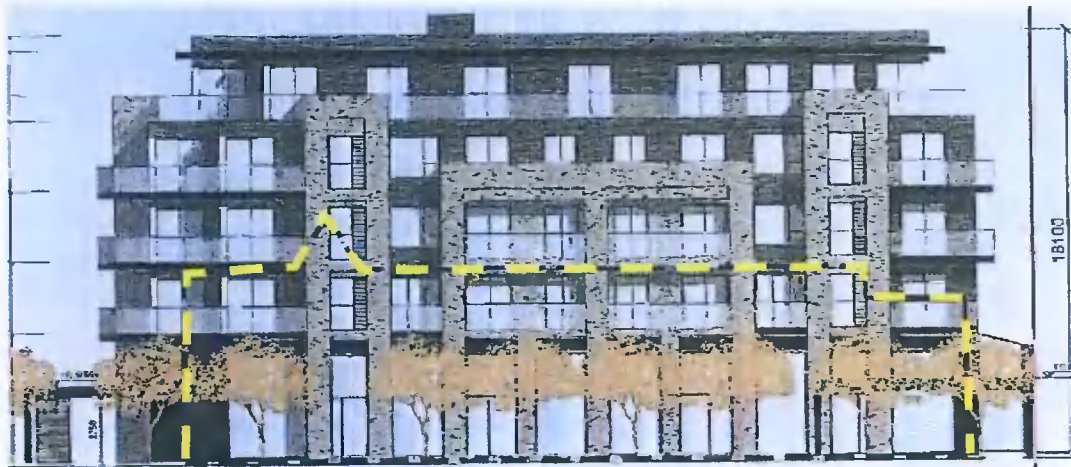
Our client objects to the significant increase in height proposed for this building relative to the existing primarily 2 storey scale of all adjoining and nearby development. It is acknowledged that if The Silver Granite Pub is to be redeveloped that this will involve some increase in height, but proposing an increase to 5 storeys and over 18m tall is excessive.

The height of buildings in this area, including those in the Palmerstown Shopping Centre, is regulated, by H7 Objective 4 of the SDCC CDP 2016-2022 which allows a maximum of 3 storeys. This has protected Palmerstown from excessive building heights such as those contained in this planning application.

As submitted, the proposed building heights would be injurious to the established pattern and character of development in this area and would represent an abrupt and unacceptable increase in heights above surrounding 2 storey dwellings to the north, east and southeast.



**Fig. 15: Proposed height of the building opposite the primarily 2 storey shopping centre**



**Fig. 16: Existing & proposed height of the building opposite the primarily 2 storey shopping centre**



**Fig. 17: Existing 2 storey height of the building opposite the primarily 2 storey shopping centre**



**Fig. 18: Proposed height of the building opposite the primarily 2 storey shopping centre**



**Fig. 19: Existing 2 storey height of shopping centre relative to the existing public house**



**Fig. 20: Proposed height of the building opposite the primarily 2 storey shopping centre**

#### **4.4.3 The use of the red line boundary and not the blue to the east of the site is misleading**

The Applicant has chosen to include the lanes to the east of the site within the red line boundary though they do not own these. They then provide drawings, such as the contiguous elevation shown in Fig. 21, which show the scale of the proposed development relative to the red line boundary. This has the effect of making the eastern boundary of the Applicant's property seem setback further than it is. The lanes to the east actually appear to be the setback provided by the Applicant when they are not.

The Applicant building should be setback from its blue line boundary and not from the red line boundary line which includes the laneways to the east.

The result of the laneways being incorporated into the Applicant site is that the proposed building has been sited too close to the residential properties located to the east. The proposed building needs to be setback from the laneways thereby increasing the setback to these properties.

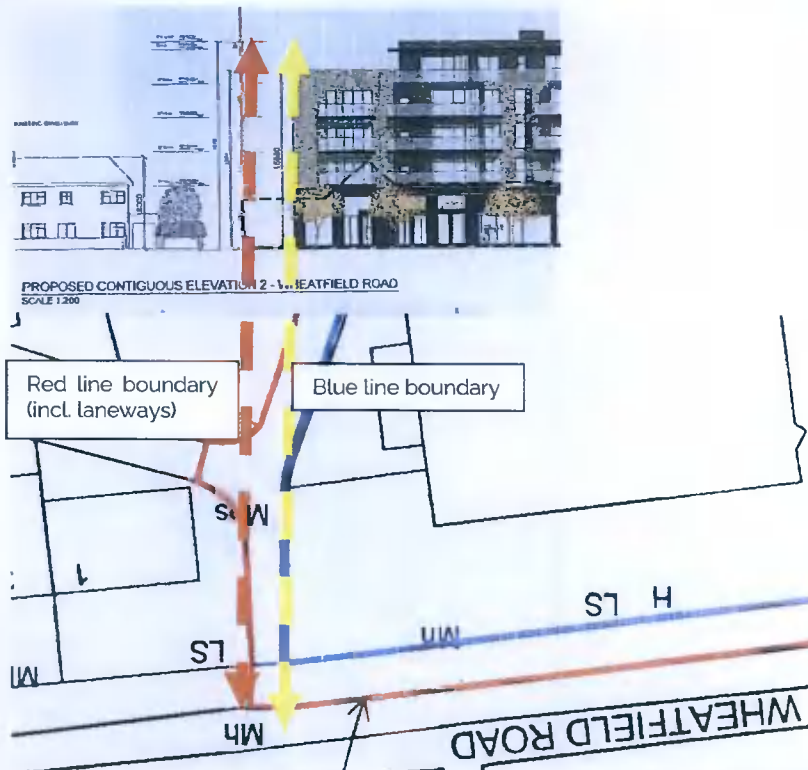


Fig. 21: Applicant scheme drawings are misleading as to the site's actual blue line boundary

#### 4.4.4 Scale, massing, and length of the elevations on the pub site is overdevelopment

Our client has reviewed the Applicant Design Statement, the Planning Report and reviewed the drawings and photomontages. Having done so, they consider the proposed building to represent overdevelopment of the existing public house site on the east side of Kennelsfort Road. The proposed building whether viewed its entirety or elevation by elevation would appear excessively long in angled or direct views and would appear over-scaled and excessively heavily massed. Critically:

- This building's north elevation as viewed from properties opposite would be 18.1m tall and 52.427m wide. This is excessive for a site which currently contains a 1 and 2 storey elevation. That is a total building frontage of 949sq.m.
- The buildings east elevation is 15.55m tall as it addresses the adjoining laneway, but this quickly rises to 18.1m. The elevation is 35m wide which is more than the length of 3 rear gardens in a standard housing estate. Atop the building is a roof terrace. The residential properties to the east would be dwarfed by this building. That is a total elevation of 544sq.m (minimum).
- The west elevation is 39m wide as it would be viewed from the Palmerston Shopping Centre located opposite to the west. The building is 18.1m tall at this point. That is a total building frontage of 705.9sq.m.
- The south elevation is 37m wide and 18.1m tall. But this elevation is setback and staggered. Some effort is made to mitigate its impact. The elevation is too tall and over-scaled, but at least some attempt has been made to break up its bulk and massing.

The proposed building needs to be reduced in scale and massing and its elevations reduced in length and/or broken up. While some effort has been made to provide some variation in the north elevation and south elevation, this is not sufficient. As proposed, the scheme would:

1. Be visually obtrusive at this primarily low rise area and be contrary to the established pattern and character of development. Place making is not achieved by demolishing a moderate sized community pub and overdeveloping the resulting site.
2. Cause the negative residential and visual amenity impacts set out in Section 4.8 of this Planning Objection Report.

#### 4.4.5 40% of apartments are single aspect = overdevelopment

There is no reason why this scheme could not offer 100% dual aspect units. The Applicant scheme maintains 4 no elevations which have been proposed as though they all adjoin a road, a park, the sea or similar. Minimal or no constraints have been provided on window, balcony, or terrace positions from 2nd storey and above.

The provision of 40% of all units as single aspects – with many more barely dual aspect – is a sign of overdevelopment. The proposal may meet minimum standards in this regard, but it is a poor sign when so many minimum standards are applied.

#### 4.4.6 11 no. primarily north facing apartments = overdevelopment

The Applicant has sought to provide only one and two bedroom apartments, and these are accessed by way of a central core lift and stair area. The east and southeast facing apartments cause negative overlooking impacts on the amenity of adjoining properties, but the proposed primarily north facing apartments would have a negative impact on the future amenities of these future residents.

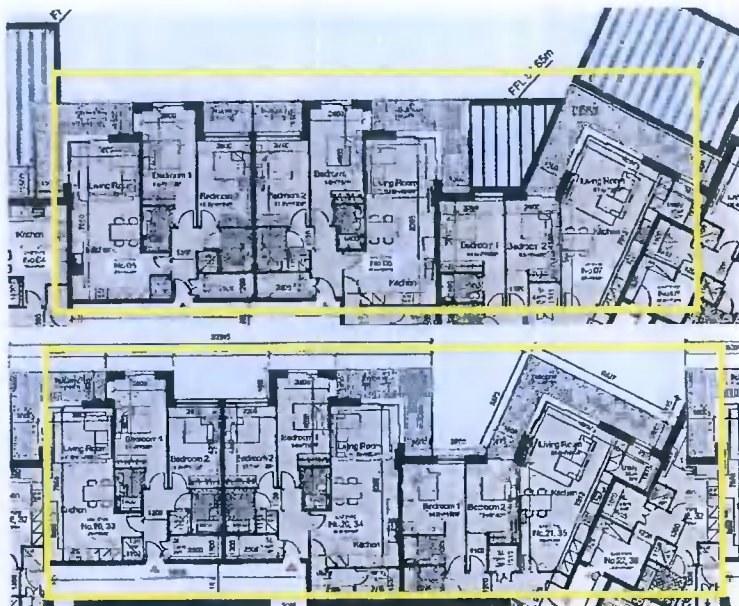
The inclusion of primarily north facing apartments is a sign of overdevelopment of a site on which it should be possible for each unit to be dual aspect with at least one elevation facing east west or south.

Storeys 2 to 5 of the Applicant building contain 11 apartments which are primarily north facing. While the Applicant has sought to address this by staggering the north elevation, providing corner windows, etc. this is not successful in ensuring that these apartment units (see Fig. 22) would achieve adequate sunlight into their respective living areas throughout the year. The staggered elements would themselves cause overshadowing of adjoining apartments in the mornings or evenings.

BPS has reviewed the sun path around this site for the entire year and it is the case that the apartments shown in Fig. 22 would not receive what could be called a high quality of sunlight on March 21<sup>st</sup>, September 21<sup>st</sup> and December 21<sup>st</sup> of each year. The only time of day and year when these units would receive any acceptable level of sunlight would be very early AM and very late PM on June 21<sup>st</sup>.

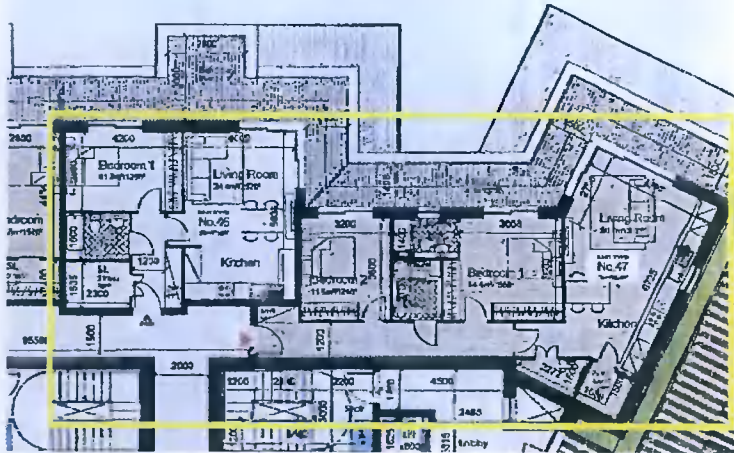
We consider that Unit Nos. 5, 6, 7, 19, 20, 21, 33, 34, 35, 46 and 47 should be re-designed and/or removed entirely from this scheme to allow the project architect to provide each future apartment with improved amenity.

We note that Apartment No. 46 is technically dual aspect as it has one east facing window. This east facing window opens onto the roof terrace and, as such, would need to be obscure glazed and/or removed. The window would offer poor amenity.



**Fig. 22A: Applicant scheme includes 11 no. primarily north facing apartments = overdevelopment (1)**



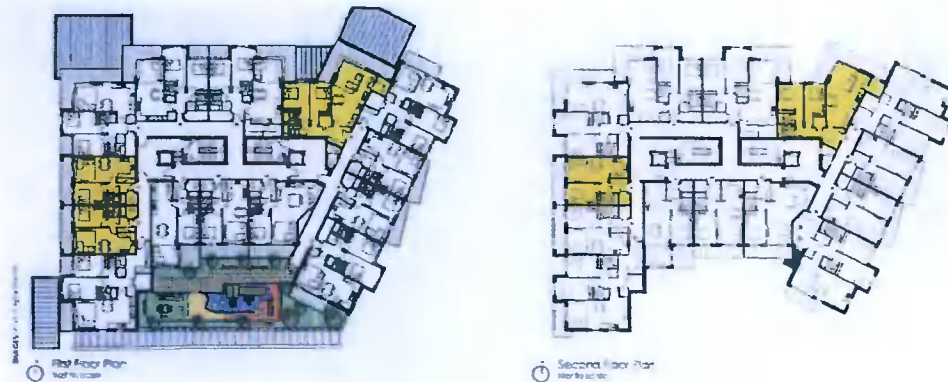


**Fig. 22B: Applicant scheme includes 11 no. primarily north facing apartments = overdevelopment (2)**

**4.4.7 Single aspect social housing units = overdevelopment**

BPS has reviewed the Applicant’s proposed social housing units (see Fig. 23), and these are primarily single aspect units. The Applicant can argue that the units offered toward the east end of the north elevation is dual aspect, but it is not really – it just has angled north facing windows.

The provision of only single aspect windows when the scheme could be designed to provide all dual aspect units for social housing tenants is a sign of overdevelopment of this site.



**Fig. 23: Applicant scheme’s social housing units are single aspect**

**4.4.8 Under provision of & poor quality of public open space confirms overdevelopment**

The Applicant claims that this scheme offers 623sq.m of public open space. BPS has carefully reviewed this planning application and we cannot find any space at ground level that could reasonably be referred to as public open space.

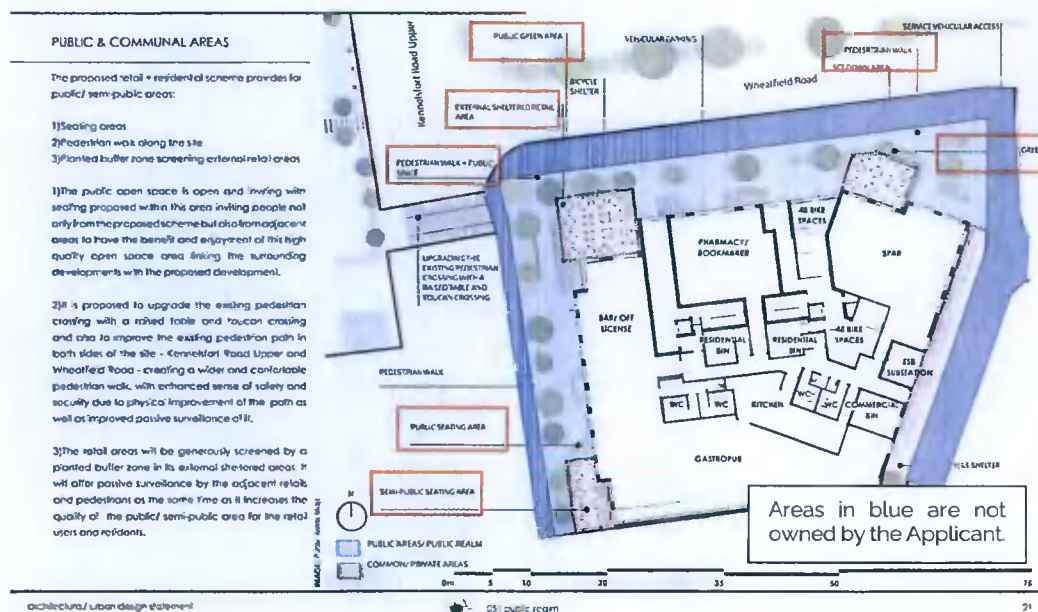
Page 21 of the submitted Design Statement sets out how perimeter areas to the west and north of the proposed building – those currently used by The Silver Granite as its car park – are to be designated as public open space and communal open space. BPS has reviewed the proposed open spaces and we conclude that this provision confirms overdevelopment of this site. The proposed development which is meant to be home for 50 households offers what could only be called a poverty of public open space and what the Design Statement calls “semi-private” open space. We note the following points:

1. In Fig. 24, the Applicant architect has included lands not under the ownership of the Applicant – these include the footpaths to the west and north and the laneways to the east. These cannot be included in any public open space calculation, etc. We have covered these areas in blue.
2. The entirety of the Applicant’s proposals for public open space, etc. comprises of perimeter left over spaces around the proposed building. These areas are in fact required for car parking but are here re-designated as perimeter landscaped areas adjoining overbearing 5 storey elevations above.
3. The external areas to the north of the proposed building would be overshadowed for much of the day throughout the entire year – this is confirmed by the Applicant’s own shadow study.

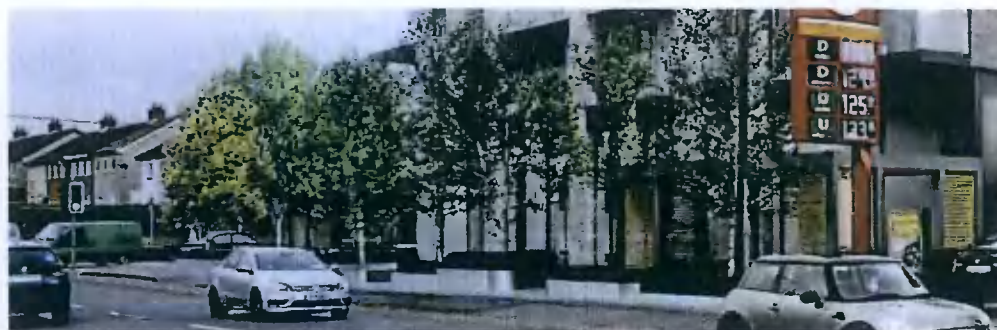
4. To the west of the site:
  - The Applicant has added what is called a "semi-public seating area". With due respect, this area would be used by the "Gastropub" (as is acknowledged in a different part of the Design Statement – see Fig. 26) and very unlikely to be used by residents of the scheme.
  - The Applicant shows a tiny "Public Seating Area" to the north of the "semi-public seating area". It is unrealistic to expect anyone would sit here.
  - The Applicant shows a public walk. In fact, this is merely perimeter access to the scheme.
  - The Applicant shows a small number of trees planted whose appearance is somewhat incongruous given the proximity of Kennelsfort Road (see Fig. 25).
5. To the north of the site:
  - The Applicant has proposed to use most of the existing public footpath for car and bike parking and has therefore had to offer a new private footpath. This is referred to as a "public space", but it is not public open space and the proposals to the north of the scheme represent a net loss of public footpath.
  - Tiny "Public Green" areas are shown adjoining covered seating areas. These are not public open spaces.

BPS is unable to locate any "open and inviting" public open space at ground level within this proposed development. Where is this "high quality open space area" referred to in Fig. 24? The Applicant Design Statement is misleading regarding its claims for public open space at ground level.

It is our client's opinion that this scheme fails to offer any quality public open space at ground level, while seeking to make use of an existing public footpath as a parking area. This is not acceptable. These poor quality proposals for public open space confirm this scheme as overdevelopment of the site.



**Fig. 24: Applicant scheme drawings are misleading as to the site's actual blue line boundary**



**Fig. 25A: Scheme's areas of purported public open space – these proposals are substandard (1)**



Fig. 25B: Scheme's areas of purported public open space – these proposals are substandard (2)



24

Fig. 26: Design Statement refers to the Gastropub's pergola as "open space" & a residential utility?



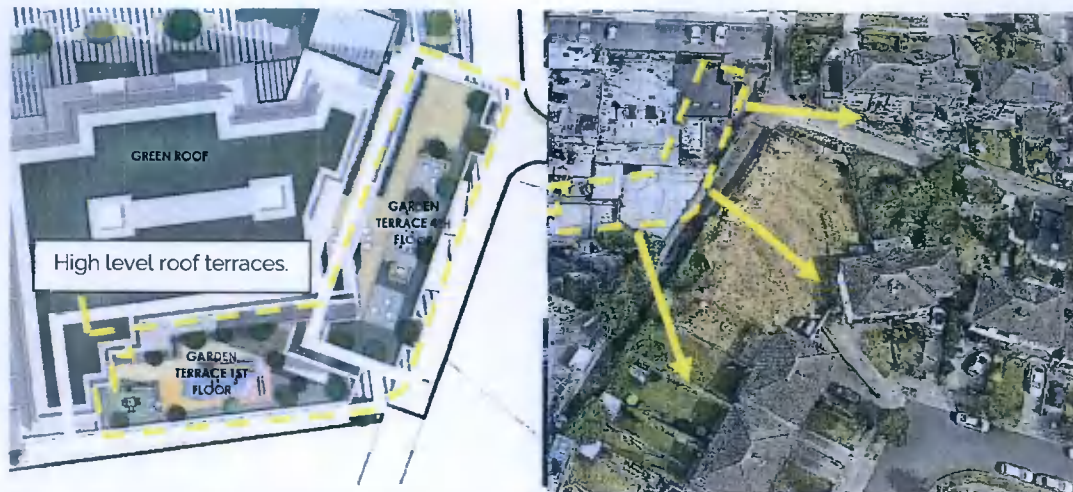
Fig. 27: Poor quality external environment precedent image on p. 22 of the Design Statement

**4.4.9 Siting of 2nd & 5th storey terraced communal open spaces = overdevelopment**

Section 6 of the Applicant Design Statement refers to how all communal open space will be provided within a 2nd storey and 5th storey roof terraces. Having reviewed the scheme and visited the site, BPS considers that the choice of these locations for roof terraces confirms this scheme represents overdevelopment of the site and is unsuitable to provide 50 apartments and all other development.

Not only is this communal open space of dubious usability and accessibility for future residents, but Section 4.8 of this Planning Objection Report sets out how, inter alia, the proposal's 2nd and 5th storey terraces would impact negatively on residential properties and their rear gardens located to the east, southeast and south.

The Applicant has based their communal open strategy on hope that SDCC will disregard these concerns in favour of this scheme. Our client submits that this is not acceptable. The proposed terraces would place the needs of the scheme developers above the right of residential property owners in the vicinity to be protected from overlooking, etc.



**Fig. 28: Scheme's areas communal open space proposed impact negatively on surrounding amenities**

#### 4.4.9.1 Communal open spaces impact on adjoining future apartments' amenities

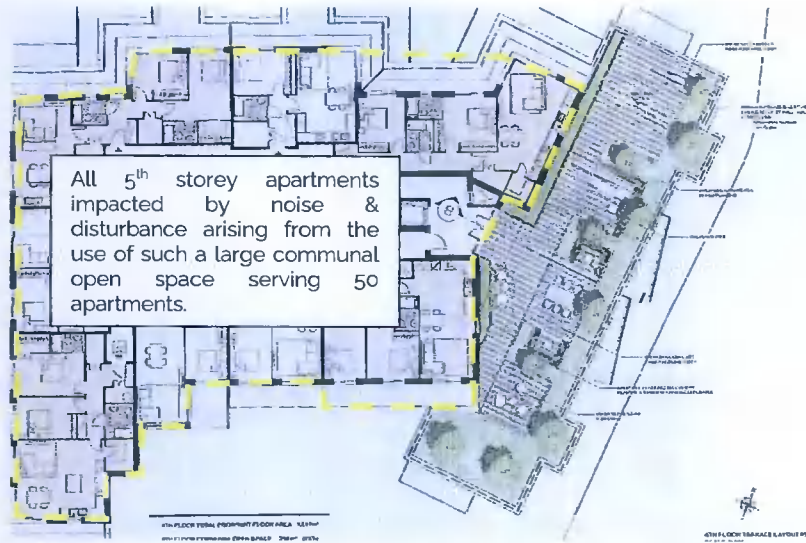
Our client considers the proposed communal open spaces to be poorly considered from the perspective of the amenities of future residents of the scheme:

1. The Applicant proposes a 258sq.m communal open space at 5th storey level which would be accessed from the 5th storey section of the building. This communal open space immediately adjoins 2 no. apartments and all those accessing this communal open space would do so via the common stairs/lifts/corridors, etc. This communal open space area immediately adjoins 2 no. apartments.
2. The Applicant also proposed a children's play area at second storey level which would be accessed via common lift/stairwell/corridor areas, and which immediately adjoins four apartments of which 3 are single aspect and only maintain views of the play area.

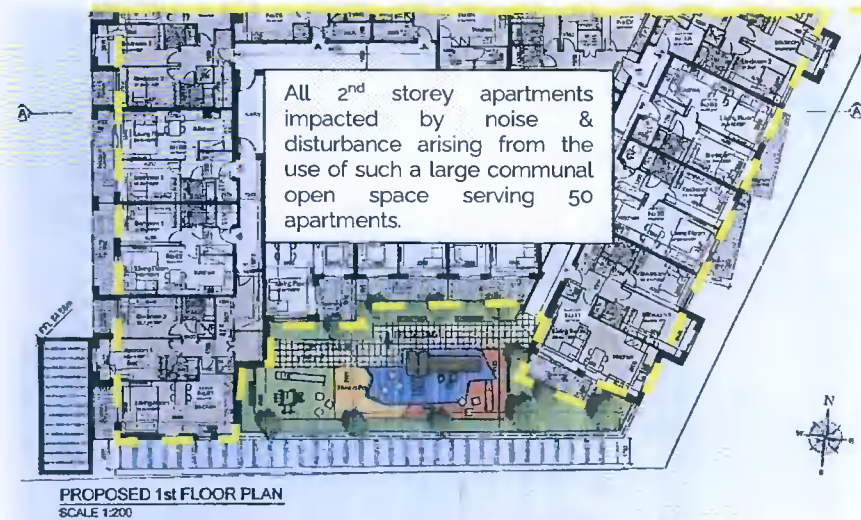
These communal open spaces would generate noise and disturbance that would impact on apartment residents on the 2<sup>nd</sup> storey and 5<sup>th</sup> storey of the building. Adjoining apartment owners would be significantly impacted while those on access corridors would be impacted also. One needs only consider the noise generated late at night in hotel corridors by residents returning from late nights out, etc. to understand these likely impacts.

The proposal for a child play area on the 2<sup>nd</sup> storey is clearly proposed to try to make the scheme appear more planning compliant and family orientated, but the reality is this area is not accessible from external areas and so all those attending with children (or children who travel there alone) will make noise and the area itself will be noisy. This noise and disturbance would be located immediately beside apartments which are single aspect and cannot get away from the noise. Also, it is not clear how appropriate it is for apartments to only maintain views of what is a small playground.

Our client submits that the proposed communal open spaces are not acceptable from a future amenity perspective for residents of the scheme. The scheme needs to offer improved public and communal open spaces for its residents. It may need to offer internal amenity areas.



**Fig. 29: Scheme's communal open spaces impact negatively on future residents' amenities**



**Fig. 30: Scheme's communal open spaces impact negatively on future residents' amenities**

#### 4.5 The Silver Granite Pub should be retained and extended

Our client notes how Section 2 'Context' of the submitted Design Statement refers to the existing building as 'eclectic'. It is. It is a landmark building within this area and contributes positively to its character. It would be preferable, given the small number of historic buildings in this area, for the pub building to be retained and extended rather than demolished and replaced by an over-scaled building which bears no relationship at all to the established character and pattern of development in this area.

The existing building also bears some reasonable relationship to adjoining and neighbouring development in respect of its density, height, scale, and massing, whereas the proposed building would appear as an abrupt change within the urban environment and streetscape at this location.

The Applicant site is the de facto neighbourhood pub within an area characterised by two storey houses with front and rear gardens (see Fig. 31). As Section 4.8 of this Planning Objection Report confirms, the proposal would significantly, negatively, and permanently impact on residential properties located to the north, east and south.



**Fig. 31: Applicant scheme drawings are misleading as to the site's actual blue line boundary**

## 4.6 Roads and traffic concerns

### 4.6.1 the vehicular access proposals for this scheme are haphazard and ill considered

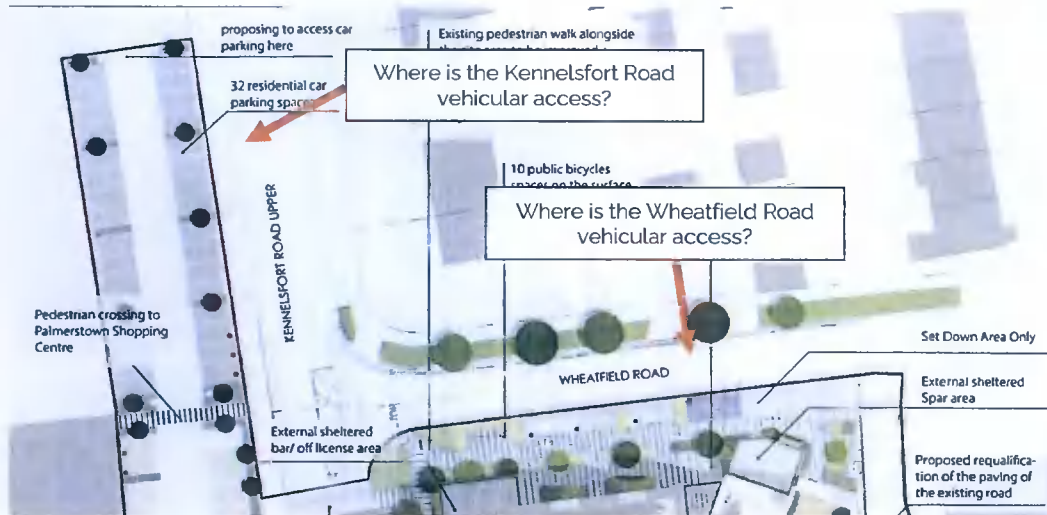
Our client submits the Applicant's vehicular access proposals, if they can be called this, are haphazard and ill considered.

Page 19 of the Design Statement notes: "In relation to access to the proposed development [this being the primary vehicular access], vehicular access is via an entrance to the north of the site from Wheatfield Road or at the west from Kennelsfort Road Upper which **provides access to a car parking** [sic] for **retail and residents across the street**" [emphasis added].

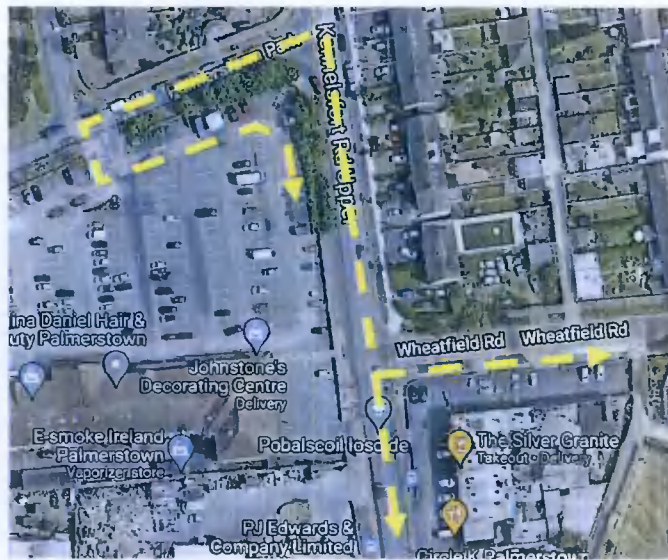
The Applicant refers to two vehicular entrances; however, the actual details of these vehicular entrances are repeatedly left vague throughout this planning application. Importantly:

1. **There is no Applicant owned vehicular entrance on Wheatfield Road:** The Applicant when referring to a Wheatfield Road vehicular entrance appears to mean the existing laneway to the east of the site which is outside of the blue line boundary. This is not a scheme vehicular entrance. Any vehicle using this laneway is not entering or exiting the Applicant site.
2. **There is no Applicant owned vehicular entrance off Kennelsfort Road:** In referring to a Kennelsfort Road vehicular entrance, the Applicant fails to note how this will involve driving into and out of the Palmerstown Shopping Centre's existing car park via Palmerstown Park and the existing entrance into the shopping centre. As noted in Section 1.1 of this Planning Appeal Report, no permission has been from Palmerstown Shopping Centre Ltd to allow this proposal.

In the absence of an adequate and proper vehicular entrance; primarily a vehicular entrance into and out of The Silver Granite Pub and which is in the ownership of the Applicant, our client submits that this is a sub-standard, haphazard, and piecemeal proposal.



**Fig. 32: Applicant scheme does not own a Wheatfield vehicular entrance and/or actually offer one**



**Fig. 33: Scheme does not maintain a Kennelsfort Rd entrance – the "entrance" is in the SC car park**

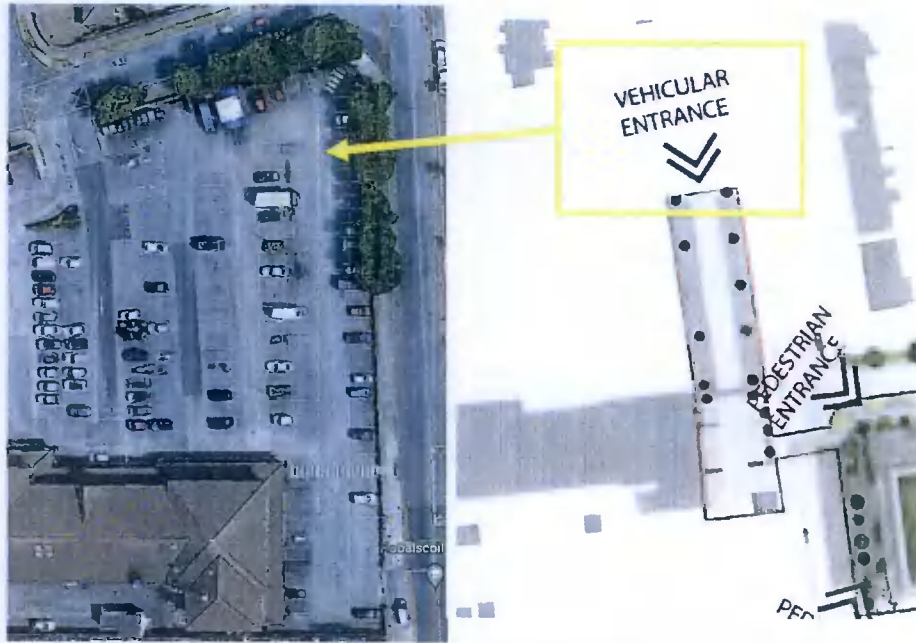
**4.6.1.1 Proposal includes a new entrance to a subdivided area of a shared SC car park?**

The Applicant's proposals for the Palmerstown Shopping Centre's car park include that a new vehicular entrance – with barrier – to a subdivided area of the overall car park would be provided. There is something somewhat bizarre and devoid of reality about these proposals. Fig. 34 shows how the existing surface car park appears at present. It is a standard shopping centre car park around which vehicles can circulate, park up, etc. The Applicant proposal runs wholly counter to the principles of shared surface car parking that benefits all businesses that make use of it.

The Applicant wants to make use of our client's road entrance and part of the overall existing car park to access this subdivided area, but they offer nothing in return.

The Applicant would have to require resident passes and/or charge for car parking for drivers to gain access to the car park to manage its use. The existing car park is open to all customers and staff.

Our client strenuously objects to this proposal to subdivide the existing shopping centre car park and for this scheme to create a new car park entrance within the existing shared surface car park.



**Fig. 34: Proposed new entrance to existing SC car park within the SC car park?**

**4.6.1.2 The Applicant would need to fence off an area of the shopping centre car park**

Our client has reviewed the Applicant's Transportation Assessment Report and the submitted plans. We have also visited the Palmerstown Shopping Centre's car park. A fence or other arrangement would be required around the proposed area of gated car parking that is proposed to be subdivided from the remainder of the Palmerstown Shopping Centre's car park.

Our client strenuously objects to such a proposal as this would prevent access to the emergency entrance/exit and out of the Palmerstown Shopping Centre's car park for all staff, customers, and emergency services.

They also object to this on the basis that it wholly contradicts and is contrary to the shared surface parking arrangements that has existed for over 30 years. This proposal would represent a substantial revision to the nature and operation of the car park and one which runs counter to every single planning permission granted by SDCC within the shopping centre for all these years.

**4.6.1.3 Creating a vehicular exit out of the existing emergency exit is substandard**

The Applicant proposes that the existing emergency vehicular entrance – which is currently closed by a metal gate which is padlocked (to be removed by emergency services when required – be opened as a vehicular exit on a permanent basis to serve this scheme's piecemeal and haphazard proposal to provide all scheme vehicular parking (that not within a public footpath) within the existing Palmerston Shopping Centre car park.

With respect to all parties, this is a ludicrous proposal and one which is difficult to fathom how it has been included in this planning application. Para. 3.3 of the submitted Transportation Assessment Report refers to the level of traffic that they predict with enter and exit this car park in the PM peak hour alone. These figures are:

- 26 trips into and out of the car park for the residential apartments (13 2-way trips).
- 34 trips into and out of the car park for the pub/restaurant (17 2-way trips).
- 86 trips into and out of the car park for the shop, pharmacy, and off licence - (43 2-way trips).

Table 3.4 of the TAR considers what would be publicly owned car parking spaces on Wheatfield Road, and, as such, these spaces can be excluded here.

The likely numbers of vehicles exiting the Applicant's proposed subdivided shopping centre parking area in the PM peak could be as high as 73 (half of a 2-way trip). This is more than one vehicle a minute passing through what should be an emergency exit only. BPS is open to correction here, but this would appear in fact to be a likely under-estimate given the particular proposed uses which include a Spar convenience store and bearing in mind that the existing pub has as many as 36 parking spaces that are actually located on site.



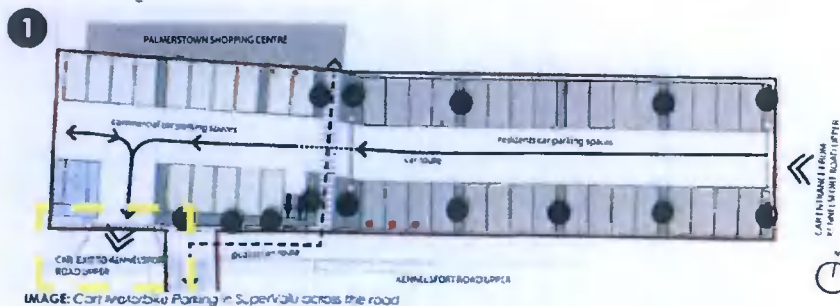
The problems arising are:

1. This is the emergency exit/entrance for the shopping centre – does the Applicant intend to provide a second emergency exit/entrance elsewhere that the shopping centre can use?
2. This proposal would create a new and heavily trafficked vehicular exit onto Kennelsfort Road which is a busy regional road. The proposal to allow traffic to always exit from this emergency exit would slow traffic speeds and create congestion.
3. The existing emergency exit is an emergency exit only for a reason. The original planning permission for the shopping centre's car park required this for emergencies only.
4. The existing emergency exit is sited alongside a busy pedestrian crossing over Kennelsfort Road and the opening of this vehicular exit would create a traffic hazard for pedestrians at this location.

For the above reasons, our client strenuously objects to the Applicant proposal to open the existing shopping centre's emergency entrance/exit such that the proposed development's staff, customers, and residents can always use it as an exit.



**Fig. 35: Existing emergency entrance/exit serving the Palmerstown SC**



**Fig. 36: Existing emergency entrance/exit shown as opened as an Applicant scheme exit**

#### 4.6.2 The vehicular parking proposals for this scheme are haphazard and ill considered

There are so many planning, transport and vehicular parking concerns arising from the Applicant proposals that it is difficult to summarise these. They are set out below in some detail.

Having reviewed these proposals, BPS submits that the entirety of the Applicant's vehicular parking proposals are haphazard and ill considered.

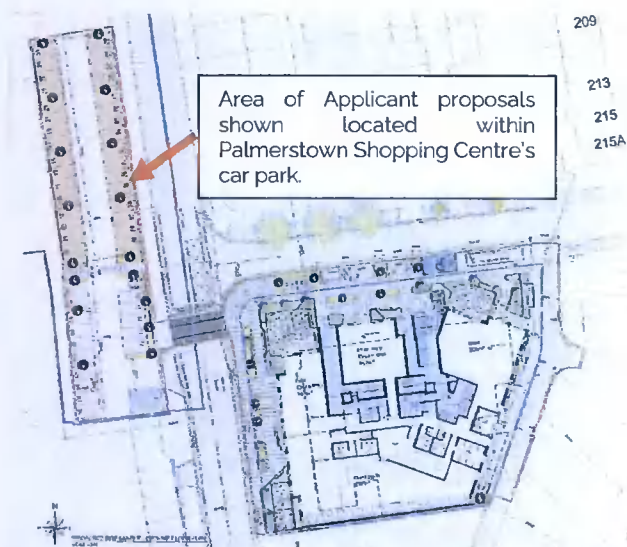
The Transportation Assessment Report does not interrogate the principle of this scheme proposing all its car parking (that not proposed within an existing public footpath) within the shared surface car park of an existing shopping centre, but merely states: "Car parking is provided within the long-established Silver Granite Car Park on the opposite side of Kennelsfort Road Upper".

##### 4.6.2.1 48 no. "proposed" car parking spaces are Palmerstown shopping Centre spaces

On viewing the Applicant car parking proposals, our client was then and remains entirely taken aback. 48 no. car parking spaces proposed to serve this 'new' development are located within the existing shared surface car park which currently serves – on a 7 day basis – businesses within the Palmerstown Shopping Centre.

Our client strenuously objects to this proposal which proposes to re-allocate what are shared surface parking spaces to use by the Applicant scheme only. While the Applicant may claim ownership over the land on which these spaces, these areas of the existing shared surface shopping centre car park cannot reasonably be re-allocated to a standalone development as proposed. The following concerns arise:

1. These car parking spaces are used each day by customers of and visitors to the shopping centre. They are available for all to use and are not subject to an existing restriction(s).
2. These car parking spaces adjoin or are located close to existing retail units in the shopping centre including to a bookmakers, hardware store and other businesses. These businesses would be negatively impacted by this proposal.
3. The proposal is effectively that customers of businesses directly in competition with Palmerstown Shopping Centre – off licence, pharmacy, and Spar – would park in the shopping centre's car park and then walk across Kennelsfort Road. This makes little sense.



**Fig. 37: Proposal provides for re-allocation of Palmerstown Shopping Centre parking to the scheme**

#### 4.6.2.2 Scheme offers insufficient parking spaces = overflow into the shopping centre

Our client's concern is not only over the proposed taking over of existing shopping centre car parking spaces to serve this scheme; their concern is also that the scheme offers insufficient car parking spaces and the under-provision would cause further overflow of scheme vehicles into the shopping centre's parking spaces. Reviewing the scheme's parking provision, we find:

1. The scheme proposes to offer 32 car parking spaces for its proposed 50 apartments. This is a ratio of 0.64. That is, 36% of apartments would not have a parking spaces. Where then might this 36% park their car if they own one? This would likely be in the shopping centre car park.
2. The scheme claims to offer 21 spaces for commercial areas of the scheme. These proposals are wholly substandard. The Applicant claims 5 spaces to the north of the proposed building which are in fact sited within the public footpath (and one is a set down area and not a parking space), while the 16 spaces are proposed to be sited within the shopping centre's car park. Again, any excess demand - beyond those parking spaces proposed to be subdivided from the shopping centre's existing car parking - would inevitably be met by the remainder of the car park.

It cannot be the case that the Palmerstown Shopping Centre's car park:

1. Is subdivided such that a large portion of it serves only this scheme.
2. Is otherwise used in all its other areas as the overflow car park for this scheme's residents, customers, patrons, visitors, etc.
3. The shopping centre car park would, in the absence of any "on-site" visitor parking for the 50 no., apartments, be used as the de facto visitor car park for the scheme's apartments.

As it stands, the Palmerstown Shopping Centre is being treated as though this proposal is an extension of the shopping centre when it is not.

**The Applicant should be required to provide "on site" car parking by way of a basement.**

#### 4.6.2.3 All apartment parking is within the shopping centre car park – this is substandard

BPS has tried to think of another residential apartment scheme of the scale of 50 units where the proposed car parking provision for all units is proposed to be located within an existing and operational shopping centre car park on the other side of a public road. We cannot think of one.

We submit that this proposal to serve all apartments by way of car parking spaces which are located in the Palmerstown Shopping Centre, and which are located on the other side of Kennelsfort Road is substandard because:

1. It removes the link between ownership of an apartment and ownership of an "on-site" parking space. Even the management of such an arrangement would be chaotic.
2. Apartment residents would have to – regardless of age, disability, age of children, etc. – walk to and from their cars via a busy road in all weathers. This is not sustainable.

**The Applicant should be required to provide "on site" car parking by way of a basement.**

#### 4.6.2.4 Parking, bike parking & setdown area on Wheatfield Rd are outside site's red line

When BPS visited this site, we were impressed by the very wide footpath that exists on Wheatfield Road to the north of the low boundary wall of The Silver Granite Pub. This wide footpath offers quality amenity for those, including school children, who walk along the road.

When we opened the Applicant drawings for a detailed review of these proposals, we were surprised to find that the Applicant proposes to remove the public footpath at this location and to replace it with a bike parking area, 4 no. car parking spaces (1 no. disabled) and a set down area (claimed to be a truck parking space) to serve the proposed Spar shop.

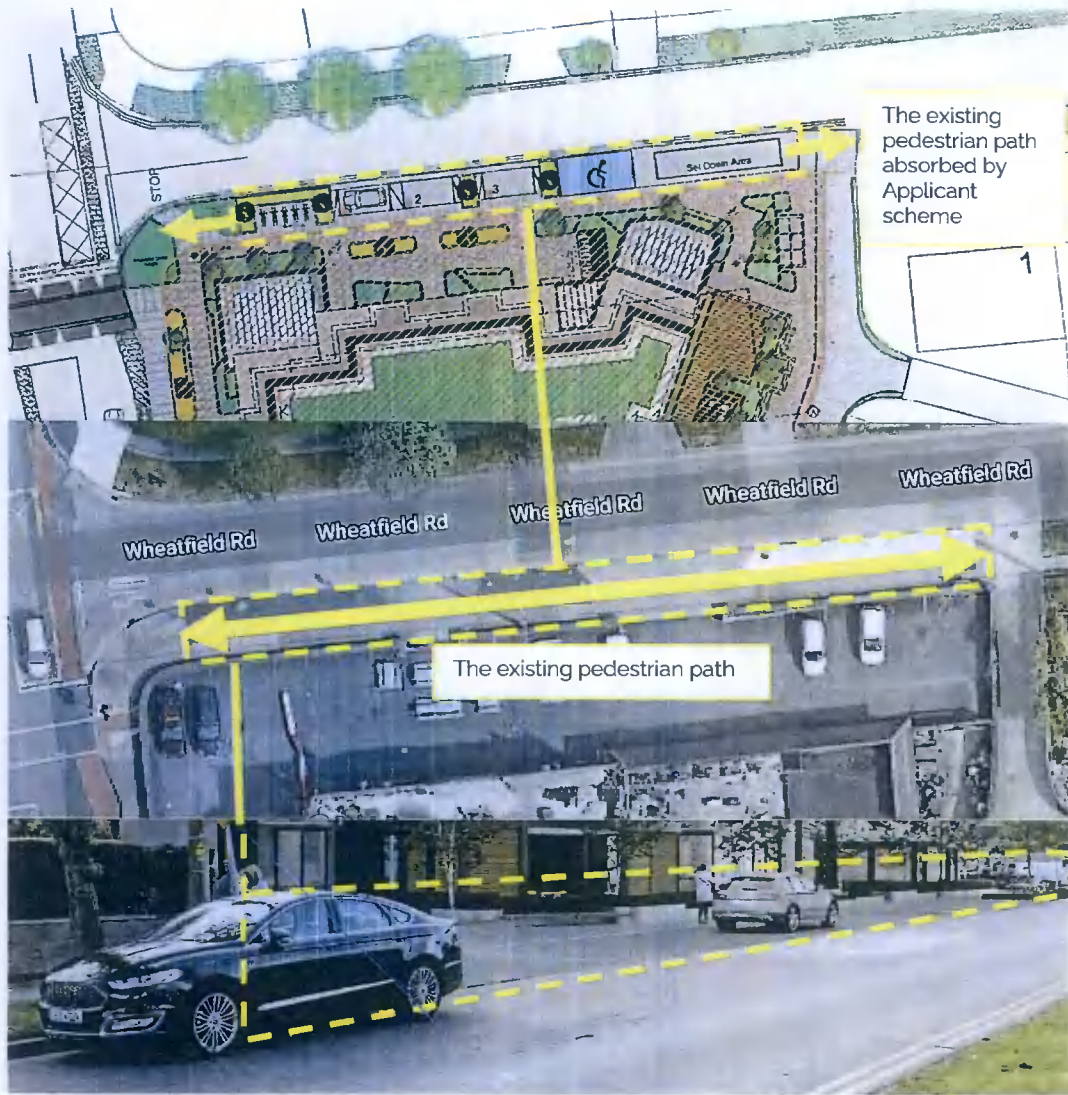
The Transportation Assessment Report states: "Indent on-street parking and a dedicated loading bay is provided along Wheatfield Road adjacent to the site". The report therefore accepts that this area is outside of the Applicant's ownership but proceeds to include it in all calculations of car parking, bike parking, loading bay access, etc.

These Applicant proposals are unacceptable because:

1. They seek to privatise a public amenity – the existing wide public footpath. This parking could **not** be used only by the Applicant scheme as it is on public land. This being the case, why is it even included in this scheme's claimed parking provision figures?
2. They propose private development within the public domain on lands outside of the red and blue line boundaries.
3. They replace a quality wide footpath with a congested car parking, bike parking and cycle parking areas in a way which effectively seek to legitimise overflow and fly car parking.

These proposals confirm the Applicant scheme as overdevelopment of this site wherein they cannot even manage to find space on the site to provide 4 no. parking spaces, bike parking spaces and a bike parking area. Instead, the development needs to spill out onto the public footpath.

This proposal cannot be permitted in the manner by which it has been submitted. It would set a poor precedent for the incorporation of public footpaths into private development schemes. While it is acknowledged that a footpath is proposed to be provided within the red line boundary it must reasonably be pointed out that this would place the footpath within privately owned lands which is not acceptable. There should be clear delineation within this cheem between private and public lands.



**Fig. 38: Existing & proposed arrangements for the large public footpath on the north side of the pub**



**Fig. 39: Existing large public footpath on the north side of the pub**



**Fig. 40: Existing large public footpath on the north side of the pub**

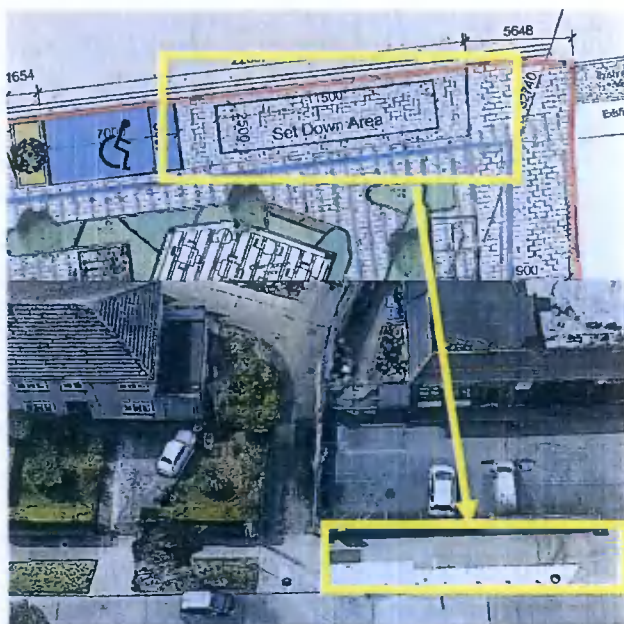
#### 4.6.2.5 Transportation Assessment Report argues for a loading bay in an existing footpath

Our client objects to the proposal to site a loading bay to serve this scheme into what is an existing public footpath. Para. 2.10 of the submitted Transportation Assessment Report refers to how all the commercial elements of this scheme will be facilitated by the provision of this new loading bay on Wheatfield Road. Reference is made to how this can be provided "with the agreement of SDCC".

The existing public house manages its loading and unloading within its existing footprint and the Applicant scheme should do likewise. The proposal to take away the existing wide public footpath and to replace it with a poorly sited loading bay is not acceptable. It would also impact on No. 1 Wheatfield Road.

BPS notes here how arising from the proposed ground level external design - which removes all vehicular access to what is the existing perimeter car park that serves The Silver Granite pub - this loading bay would be forced to accommodate 'all' loading to the commercial parts of this scheme and likely all moving trucks, etc. This proposal is wholly unacceptable regarding its likely impacts on the public domain.

Para. 2.12 refers to how this loading bay will be served by "small transit vans or small-wheelbase trucks". Our client does not find this credible. The loading bay will also have to accommodate HGVs and any delivery vehicle that arrives and these will need to turn within Wheatfield Road which is a residential road. These vehicles should be accommodated within the site.



**Fig. 41: Proposed loading bay on existing public footpath**

**4.6.2.6 SDCC is providing land for the Spar & pharmacy/bookmaker parking/loading area**

Section 4.6.2.4 of this Planning Objection Report show how the Applicant proposes 4 parking spaces and a loading bay in the existing footpath to the north of the site. This land is outside of the ownership of the Applicant and currently protected by bollards and yellow lines.

In making this proposal, the Applicant is in fact asking SDCC to provide land for a parking and loading area to serve the scheme because they do not want to provide this within the site. This is not acceptable, and it is especially unacceptable when all existing on-site car parking is to be removed and overflow and fly parking is inevitable along Wheatfield Road because of this. Problems experienced for many years with on street parking and on footpath parking at this location will return.

It is in fact the case that a Spar and a pharmacy (or bookmaker) will normally be required to provide car parking on-site.

**4.6.2.7 The proposal seeks permission to remove all "on-site" vehicular parking**

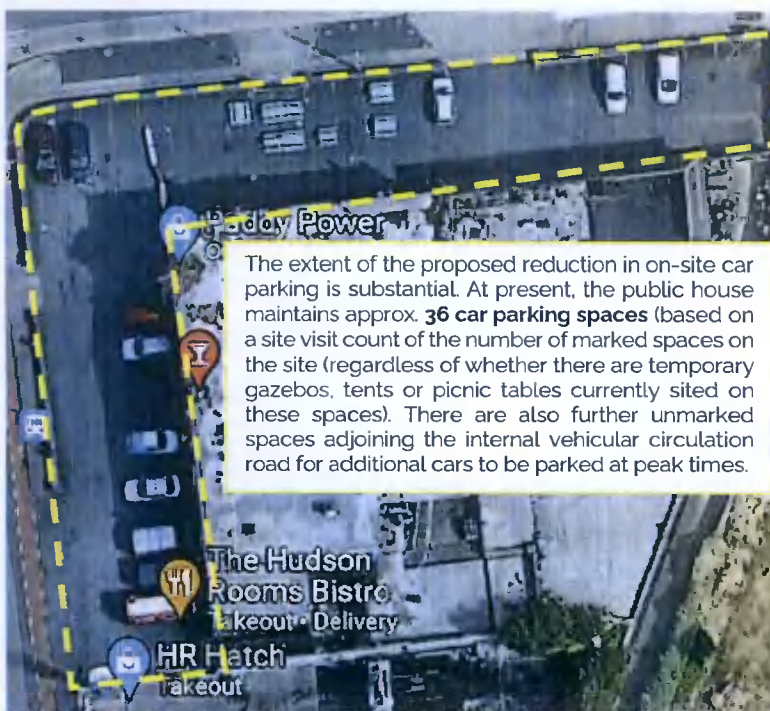
As Section 4.6.2.4 illustrates, the Applicant's "on-site" car parking spaces are actually located outside of the site's red line boundary and on the public footpath. It is the case, therefore, that the Applicant is in fact providing no "on-site" car parking at all. This planning application's development description and public notices should therefore have made it clear that planning permission is sought to remove all "on-site" parking provision required under previous planning permissions.

The extent of the proposed reduction in on-site car parking is substantial. At present, the public house maintains approx. 36 car parking spaces (based on a site visit count of the number of marked spaces on the site (regardless of whether there are temporary gazebos, tents or picnic tables currently sited on these spaces). There are also further unmarked spaces adjoining the internal vehicular circulation road for additional cars to be parked at peak times.

The pub and bookmakers on this site have therefore operated for many years with significant "on-site" car parking and patrons/customers would only ever have needed to resort to parking in the Palmerstown Shopping Centre car park as an overflow measure at peak times.

Our clients object to the removal of all "on-site" car parking currently serving the pub and bookmakers. They consider that this would, irrespective of the haphazard and sub-standard proposal to take over parking spaces in the shopping centre car park, result in overflow and fly parking on Wheatfield Road and on other roads, footpaths, and kerbs in the vicinity.

The proposal cannot be supported and should be refused on the grounds of it being a substandard and poorly considered proposal regarding car parking.



**Fig. 42: Existing car parking provision serving only the pub and bookmakers (1)**



**Fig. 43: Existing car parking provision serving only the pub and bookmakers (2)**

**4.6.2.8 Why can't "on-site" parking be provided within the blue line pub boundary?**

BPS has reviewed the ground level design of the Applicant scheme and, as noted in Section 4.6.2.4, our client has objected to the siting of car and bike parking and setdown within an existing footpath. What our client does not understand is why the Applicant has not offered car parking within the blue line boundary on the north side of the proposed building.

This scheme is proposed to contain ground level uses which maintain a high short term car parking demand such as a pharmacy/bookmaker, a pub, an off-licence and a Spar (convenience retail). Ground level car parking is required within the blue line boundary. The

The scheme needs to be re-designed and sited in order to offer substantial ground level car parking on the north side of the proposed building. Decked open bar and café areas are shown somewhat gratuitously on the submitted drawings and these need to be removed.

The Applicant should be required to provide surface car parking at this location.



**Fig. 44A: Area within blue line boundary where surface car parking provision can be provided**

**4.6.3 The Transportation Assessment Report under-estimates traffic/parking impacts**

Our client considers that the Transportation Assessment Report under-estimates the likely traffic and parking impacts of this scheme. Our client is concerned at how the assessment appears subjective and to apparently favour the scheme. The following concerns arise:

1. The report is based on traffic survey data that is out of date. There is nothing in the report which indicates that traffic queuing on Wheatfield Road is as bad as it is at present with long tailbacks in the mornings to Kennelsfort Road (see Fig. 44B). There are no traffic lights on this junction; there are only pedestrian lights over Kennelsfort Road.
2. The report takes as its starting point that the existing shopping centre car park can accommodate all this scheme's additional parking demand (proposed on street parking excluded here). This is a substantial assumption to make and one which our client disputes. The shopping centre is often full at peak times and during holidays and weekends vehicles circle the car park looking for spaces.
3. The report assumes without question that there is some agreement in place between the shopping centre and the Applicant for the existing shared surface shopping centre car park to be subdivided when there is not.
4. The predicted levels of traffic and parking demand are based on under-provision of car parking for the proposed apartments and commercial land uses.

5. Para. 2.16 confirms the assumption that the "majority of residents ... will either walk and/or use the bicycle as the preferred mode of transport". It is not clear how this assumption can be made given that this is an area of primarily detached and semi-detached houses which each maintain 2 cars per household.
6. The submitted Outline Mobility Management Plan aimed at reducing car use is not credible in an area which is defined by car use.

For these reasons, our client submits that the Applicant's assessment of parking demand and likely vehicular trips arising from this scheme represents an under-assessment of the actual parking demand and vehicular traffic that would arise in reality.

The outcome of under-provision of car parking in this case would be to cause future residents to park within the Palmerstown Shopping Centre and/or adjoining and surrounding residential roads. Overflow car parking and fly parking in the area would be inevitable.

The level of actual traffic arising from the actual level of car parking that would arise from this scheme is not assessed by the Applicant Transportation Assessment Report. Instead, the report as submitted is the realisation of the application of a set of assumptions which would have provided the same conclusions regardless of the date inputted.



**Fig. 44B: Heavy traffic and queuing on Wheatfield Road on 22/10/2021**

#### **4.6.3.1 Site's location close to the M50, R148 & the R833 mean it will be a car based scheme**

The Applicant Design, Planning and Transportation reports each seek to portray this scheme as being sustainably located with cycling and walking and local bus services heavily emphasised. Our client submits that this schemes location close to the M50, R148 & the R833, and too far away from the Luas or any rail line, mean it will be a car based scheme.

Most of those accessing the commercial areas of the scheme will do so by car and all residents of the apartments would likely have cars. Given this, the proposal substantially under-provides car parking.

#### **4.6.3.2 Traffic impacts will be localised at the entrance to/exit from the SC parking area**

Transportation Assessment Reports seldom find a proposed development's likely traffic impact would be unacceptable. In this case, the concern is not over the wider road network, it is over the entrance into the proposed subdivided shopping centre car park area and from its exit.

It is notable that para. 4.6 of the TAR states: "The threshold analysis clearly confirms that, beyond the car park vehicular access ...". In other words, if the entrance and exit to and from the shopping centre car park are removed from the assessment, then compliance with IHT and TII are achieved.



Para. 4.6 also refers to how the existing pub and bookmakers create traffic at present and new traffic will be only the additional traffic. Again, this ignores the fact that all on-site pub parking is to be removed and re-located to the Palmerstown Shopping Centre where all that parking demand added to all the 'new' parking demand will focus traffic on the barrier entrance into that car parking area and out of the exiting emergency entrance/exit serving the shopping centre.

Again, the use of wide reaching assumptions means the TAR finds almost no traffic impacts. Our client invites the TAR assessor to visit the Palmerstown Shopping Centre at a peak time during a public holiday and to compare their results with those on the ground at these times.

#### 4.6.4 Proposed intensification of use of the pedestrian crossing would slow traffic

Our client is concerned at the Applicant proposals to significantly intensify the use of the pedestrian crossing over Kennelsfort Road. The Applicant proposes to add "a raised table and toucan crossing". Such intensification would slow down traffic on what is already a very busy road which experienced substantial tailbacks.

As it stands, the pub and bookmaker alone are served by approx. 36 car parking spaces. This means that at least 36 customers/patrons arriving by car do not need to walk over the road via the pedestrian crossing.

These existing parking spaces are to be wholly removed. The only parking proposed on the east side of Kennelsfort Road purportedly to serve the scheme is that located on the existing public footpath (parking which could **not** be used only by the Applicant scheme in any case as it is on public land).

The proposed intensification would mean the increased use by pedestrians – on an almost constant basis – of the pedestrian crossing to pass to and from the Applicant scheme to access all the scheme's pub, off licence, bookmaker, Spar (convenience retail) and apartments.

The result would inevitably be significant traffic impacts on the flow of traffic on Kennelsfort Road

##### 4.6.4.1 Is it safe & reasonable to require all scheme customers/residents to cross the road?

Our client questions the likely safety of pedestrians if this scheme were permitted as proposed. The intensification of the pedestrian crossing over Kennelsfort Road and the increase in the numbers required to cross and re-cross this road to access the pub will increase the likelihood of pedestrian/vehicle hazards. Increased use of the pedestrian crossing and the resultant slowing down of all road traffic will increase levels of frustration experienced by drivers who would likely take more chances and try to make it over the pedestrian crossing before the next pedestrians try to cross.

It is, put bluntly, a recipe for disaster to access this entire high density mixed scheme via a busy road on a permanent basis. Siting the entirety of the parking provision for such a large scheme in the manner cannot reasonably be viewed as sustainable from a traffic planning perspective.

#### 4.6.5 Areas of cycle parking are not acceptable

At first glance, the Applicant's proposals for cycle parking appear to be quite good. However, concerns arise over the entirety of the proposals including the siting of the cycle parking. These concerns include:

1. **The northwest corner external cycle spaces:** These are located outside of the blue line boundary on a public footpath area not owned by the Applicant. These spaces would be public spaces and available for any person to use. They would not be scheme cycle parking only.
2. **The bike shelter alongside the Spar:** This bike shelter is located in an area that is required for surface car parking to serve the Spar. The bike shelter, like the adjoining covered seating area, are at odds with how this building would work. If adequate car parking is not provided then there will be fly and overflow parking onto Wheatfield Road etc. The bike shelter just seems to have been dropped into the site with little thought.
3. **Bike parking at the south end of the lane to the east:** Cycle parking is shown to the south of the bin store in an area that would not be used by residents of the scheme. It is not clear why cycle parking is proposed at this location immediately adjoining a laneway the Applicant does not own. Perhaps this is for staff but whatever is the case it is poorly sited.
4. **Internal cycle parking:** While one could take the view that providing internal ground floor cycle parking as set out in the Applicant drawings is laudable, One must consider the likelihood that these areas would face change of use in the future to avoid providing this internal bike parking and placing it elsewhere – this is very valuable ground floor area. It is also necessary to ask whether residents would prefer to have access to their car on site or their bike? The Applicant's

proposal arises because the Applicant has not provided a basement car park within which internal bike parking could also be provided. The ground floor bike storage area takes up valuable ground floor area which could be better allocated.

The proposed cycle parking areas, as set out above, are piecemeal. The Applicant should provide a basement with car and bike parking in which internal covered bike parking would be provided. External cycle parking spaces need to be better sited and on land within the blue line boundary.



**Fig. 45: Areas of proposed cycle parking**

**4.7 The lanes to the east should be excluded from this scheme**

Our client notes the Applicant's intention to remove the existing eastern boundary wall serving their site and to effectively address and make use of the existing laneways to the east of the site. The Applicant Design Statement accepts that they are proposing a "New Vehicular Route".

Concerns arise over these proposals as property owners whose rear gardens adjoin these lanes have either had these lanes fully closed off or have had bollards added to prevent vehicular access. The Applicant proposals appear to provide for the re-opening of these lanes to, inter alia, bin lorries, scheme traffic, etc.

Our client supports the residents of Oakcourt Grove and Wheatfield Road in opposing the opening of these laneways to vehicular traffic. This would have a negative impact on the residential and visual amenities of these residential properties and their rear gardens.

The Silver Granite Pub should continue to maintain a boundary wall to the lanes and should not be allowed to try to effectively incorporate these lanes into their scheme.

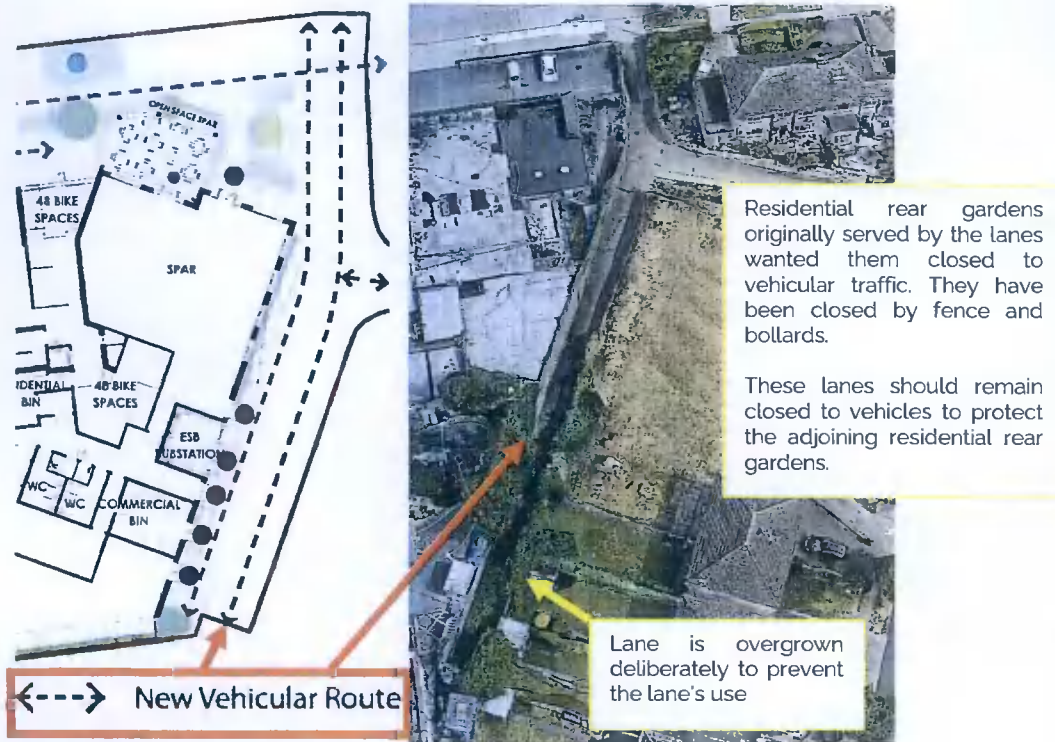


Fig. 46: Applicant proposal to open the lanes to the east to traffic is not acceptable

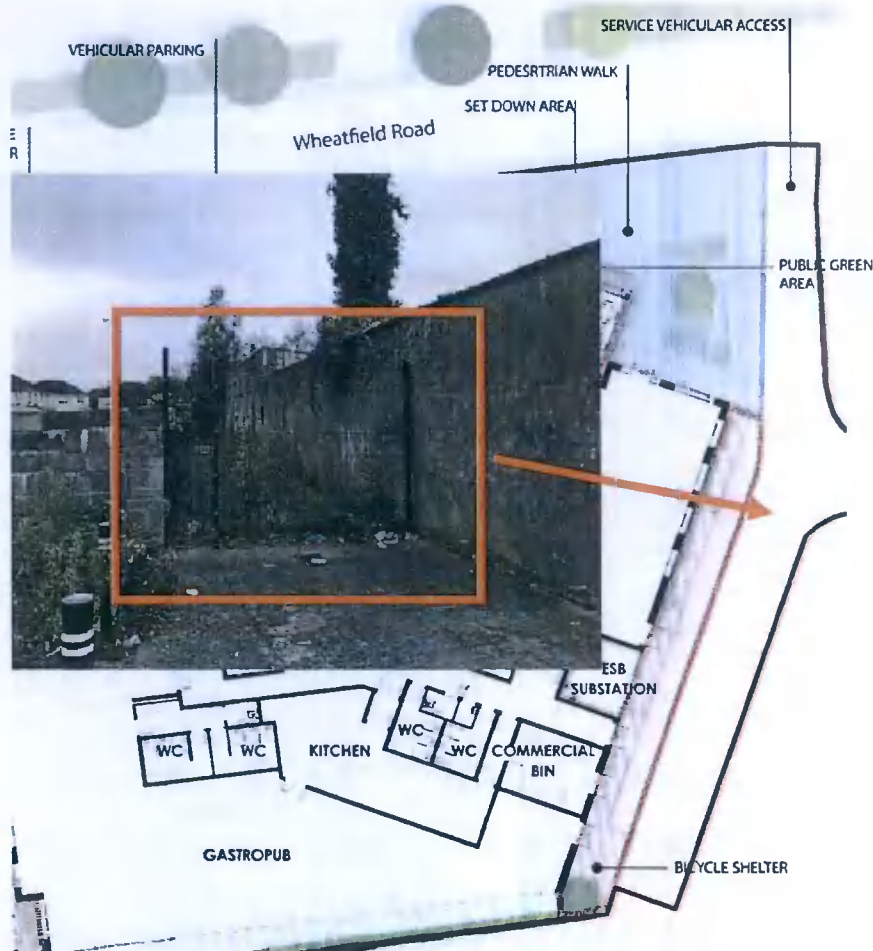


Fig. 47: Existing laneway closed off to the east of the Applicant site (Photo BPS, October, 2021)

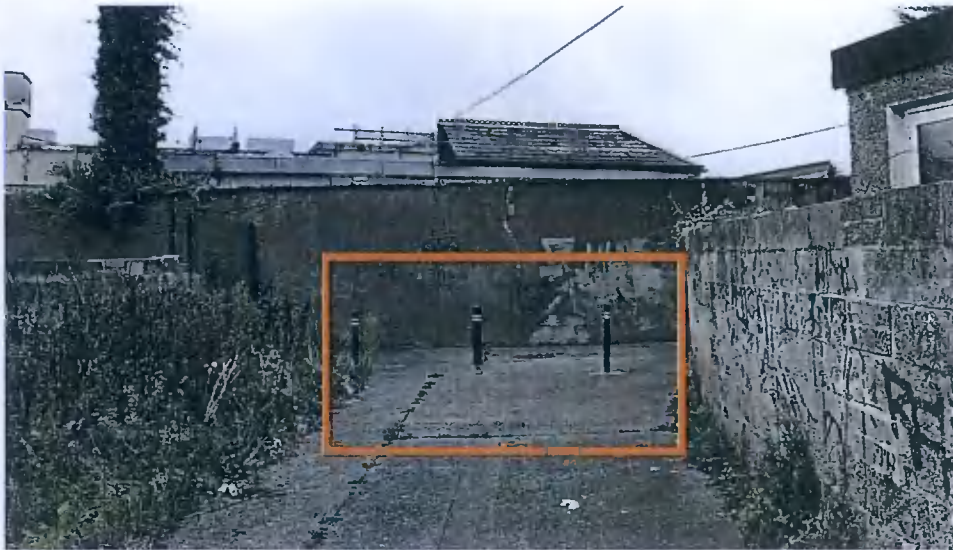


Fig. 48: Existing laneway closed to vehicular traffic to the east of the Applicant site (BPS, Oct. 2021)

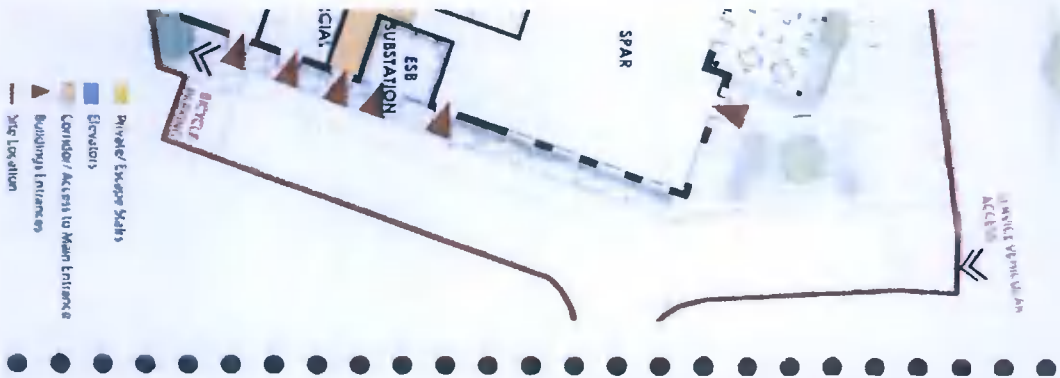


Fig. 49: Proposal provides for no less than 5 pedestrian entrances & 4 windows onto the laneways

**4.7.1 the Applicant seeks to make use of the lanes to the east but not to maintain them:**

As Fig. 50 shows, the Applicant scheme has been presented as effectively incorporating parts of the lanes located to the east of the site. By doing so, the Applicant scheme benefits by giving the impression that the proposed 5 storey building is further setback from the eastern boundary than it is and by providing a route in and out for bin lorries and service vehicles that is not in their ownership.

Our client is aware of issued which have arisen over many years with the anti-social use of these lanes, etc. If they are to be used by this scheme, then they need to be maintained by the scheme. This is not proposed. The Applicant proposes only to make use of the lanes but not to maintain them. This is not acceptable.



**Fig. 50: Applicant scheme seeks to make use of the lanes to the east but not to maintain them**



**Fig. 51: Applicant scheme seeks to make use of the lanes to the east but not to maintain them**

#### **4.8 Proposed negative amenity impacts on adjoining properties**

The Applicant scheme offers no assessment of likely impacts on surrounding residential properties to the north, east or southeast. References are made within the Design Statement to how overlooking between balconies is prevented by privacy screens and how the second storey and fifth storey terraces are designed to avoid impacting on the proposed adjoining apartments, but the Applicant offers no attempt to minimise or mitigate what would, in some areas, be significant, negative, and permanent impacts on residential properties and rear gardens in the immediate vicinity. This is a significant shortcoming of this planning application.

##### **4.8.1 Elevation 2 would cause significant, negative, amenity impacts**

Elevation 2 is 3 storeys taller than the existing public house north facing elevation. It contains windows and balconies on all levels with the north end of the 5th storey roof terrace offering high level overlooking opportunities.

The Applicant offers nothing to mitigate or minimise the likely residential and visual impacts of this elevation on private residential properties and rear gardens located across the road to the north. These likely impacts are set out below.

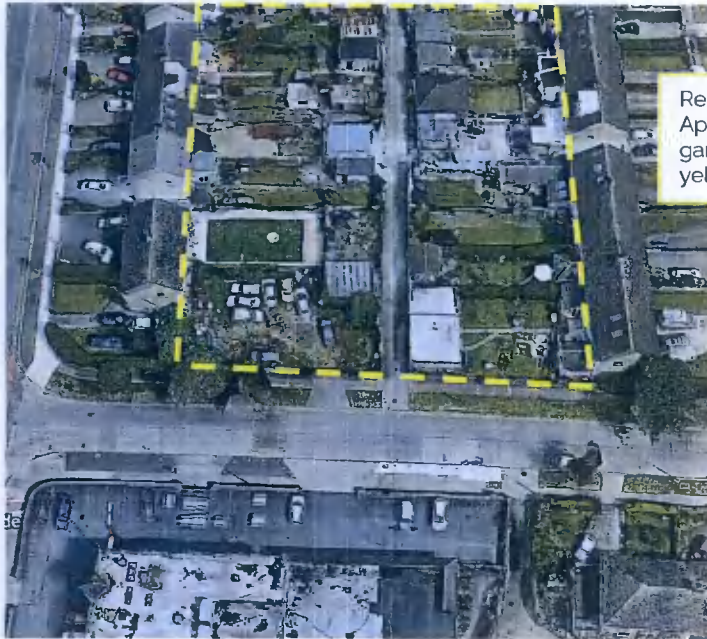
##### **4.8.1.1 Elevation 2 would cause excessive & unrestricted overlooking impacts**

Our client fully supports the residents of Kennelsfort Road and Palmerstown Avenue in opposing the Applicant's proposed Elevation 2 based on negative overlooking. BPS has reviewed Elevation 2 on the submitted drawings and visited these roads to the north of the site to determine our opinion on whether negative overlooking would occur.

We consider that this elevation has been designed as though it does not face directly towards rear private gardens that are located only on the other side of a residential road (Wheatfield Road). The extent of negative overlooking that would arise is significant.

We have reviewed the floor plans from 2<sup>nd</sup> to 5<sup>th</sup> storeys and we are very concerned over each of these levels though we consider that the extent of negative overlooking rises each additional storey as the building rises. The building also maintains a fifth storey level roof garden which would cause significant overlooking.

BPS submits that the proposed windows, balconies and roof garden areas above 1st floor would whether viewed individually or cumulatively cause significant, negative, and permanent overlooking of residential properties to the east and southeast which has not been mitigated in any meaningful way by the proposed design. This proposal cannot be found to be acceptable on the grounds of overlooking on any performance based criteria.



Residential area to the north of the Applicant site – rear private amenity garden areas have been outlined in yellow.

**Fig. 52: Context for the Applicant scheme's Elevation 2**



Residential area to the north of the Applicant site – rear private amenity garden areas.

**Fig. 53: Context for the Applicant scheme's Elevation 2 – rear gardens beyond a residential wall (1)**



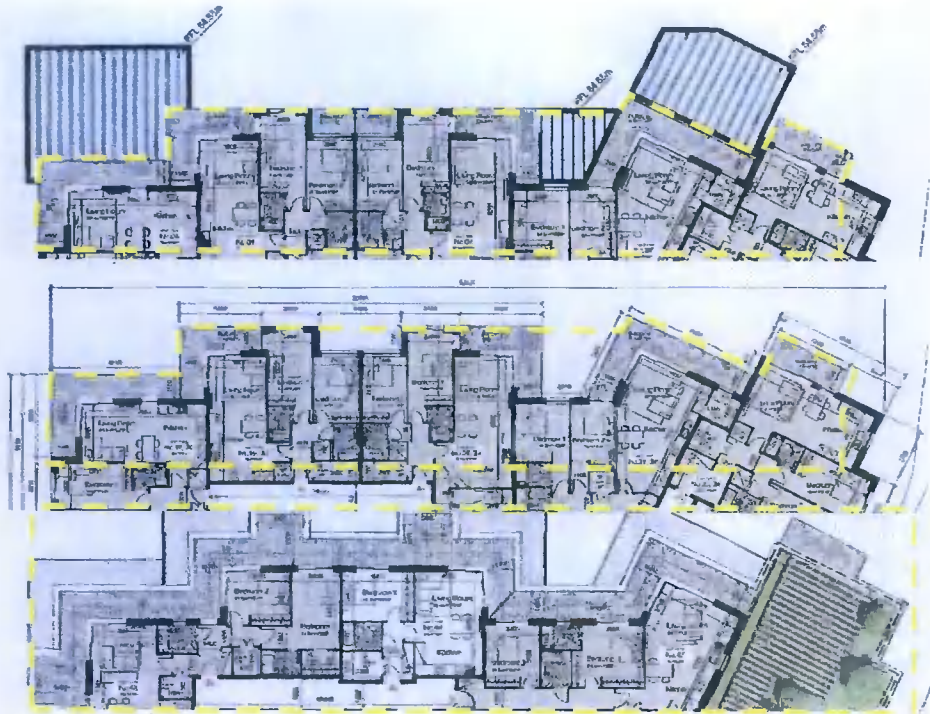
**Fig. 54: Context for the Applicant scheme's Elevation 2 - rear gardens beyond a residential wall (2)**



**Fig. 55: Scheme's Elevation 2 with overlooking windows, balconies & roof terrace from storeys 2 to 5**



**Fig. 56: Scheme's Elevation 2 with overlooking windows, balconies & roof terrace from storeys 2 to 5**



**Fig. 57: Scheme's Elevation 2 floor plans - overlooking windows, balconies & terraces - storeys 2 to 5**

**4.8.1.2 18.1m tall 5 storey Elevation 2 causes negative visual overbearing impacts**

The Applicant proposes the 18.1m tall Elevation 2 of this building approx. 25m from rear gardens on the other side of Wheatfield Road. The Applicant's photomontages (see Fig. 58) confirm that the proposed building would appear over-scaled and excessively tall relative to these back gardens.

This existing residential area contains the rear gardens of dwellings sited rear elevation to rear elevation on Kennelsfort Road and Palmerstown Avenue opposite the Elevation 2.

The visual impact and overbearing impact on these properties has not been assessed as negative by the Applicant planning and design reports. BPS submits that the proposed Elevation 2 would have a negative and permanent visual impact and overbearing impact on the residential properties located opposite.

BPS has stood at the boundary wall of Nos. 172 Kennelsfort Avenue and 215A Palmerstown Avenue and looked toward the Applicant site. We can understand how the existing two storey building integrated with these properties. We cannot see how the proposed 5 storey building would do so in any manner which respects their existing and established residential and visual amenities.

This scheme's Elevation 2 cannot be permitted at its submitted height, scale, and massing. The building needs to be reduced substantially in scale as it faces north.



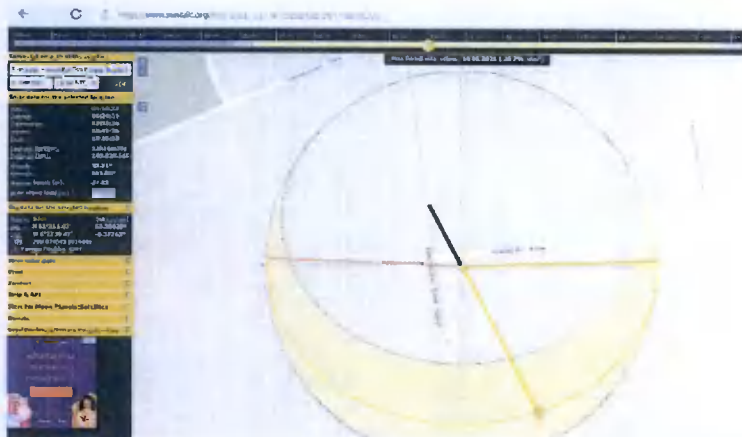
**Fig. 58: Scheme's Elevation 2 facing rear gardens opposite**



#### 4.8.1.3 The 18.1m tall 5 storey Elevation 2 causes negative overshadowing impacts

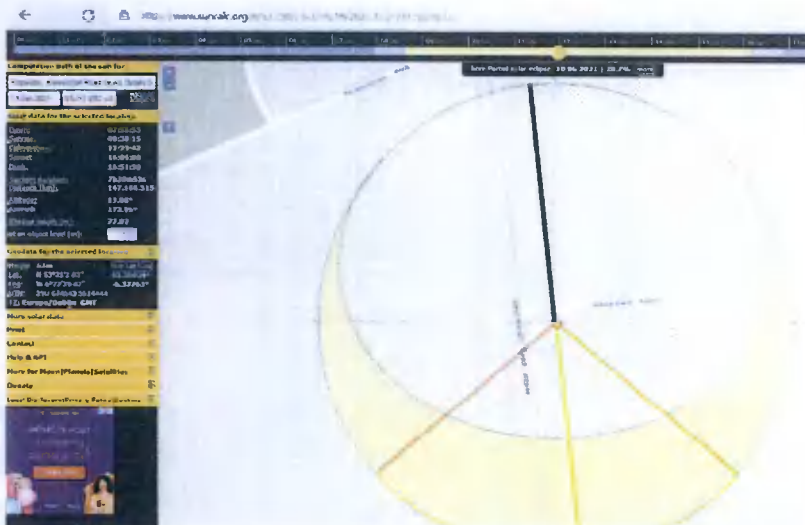
The Applicant has submitted a 'Daylight & Sunlight' Assessment produced by Digital Dimensions. BPS has reviewed this report and entered the site's coordinates and the proposed building's height into [www.suncalc.org](http://www.suncalc.org). We consider that the proposed building will cause the following negative overshadowing impacts on residential properties located to the north of the site:

1. **From 10:30am to 5pm on March/September 21<sup>st</sup>**, the proposed 18.1m tall building would cause moderate overshadowing of Nos. 172 Kennelsfort Avenue and 215A Palmerstown Avenue.



**Fig. 59: Scheme's Elevation 2 creates a 27.13m shadow at 11am on 21<sup>st</sup> March/September**

2. **From gam to sundown on December 21<sup>st</sup>**, the proposed 18.1m tall building would cause overshadowing and darkening of residential properties to the north including of Nos. 172 Kennelsfort Avenue and 215A Palmerstown Avenue. This overshadowing would be experienced worst at midday (see Fig. 60).



**Fig. 60: Scheme's Elevation 2 creates a 77.92m shadow at 12 noon on 21<sup>st</sup> December**

BPS considers that the proposed building is too tall and too close to residential properties to the north. The heights of the building and the close proximity result in moderate to significant and negative overshadowing impacts on Nos. 172 Kennelsfort Avenue and 215A Palmerstown Avenue and other residential properties further to the north at different times of the year.

While all parties can agree to disagree on the acceptability or not of a BRE Guidelines-based shadow assessment in this context, it is our view that when viewed cumulatively, negative overshadowing arises. To address this, the proposed building needs to be reduced to no more than 3 storeys as it faces north.

#### 4.8.2 Elevations 3 & 4 would cause significant, negative, amenity impacts

Elevations 3 and 4 are 3 and 4 storeys taller than the existing public house's east and south facing elevations. Elevation 3's massing is also sited closer to the eastern boundary of the site. These elevations

contain windows and balconies on all levels with 2<sup>nd</sup> storey and 5<sup>th</sup> storey roof terraces offering high level overlooking opportunities.

The Applicant offers nothing to mitigate or minimise the likely residential and visual impacts of these elevations on private residential properties and rear gardens located to the east and southeast. These likely impacts are set out below.

#### 4.8.2.1 No contiguous elevations or photomontages of Elevations 3 & 4

BPS notes that it is difficult to fully articulate our client's concerns over Elevations 3 and 4 without reference to contiguous elevations of and/or photomontages of Elevations 3 and 4.

If SDCC requests Further Information, these details need to be requested as they would show with clarity the heights scale, massing and length of these elevations relative to adjoining and neighbouring residential properties and rear gardens.

#### 4.8.2.2 Elevations 3 & 4 would cause excessive & unrestricted overlooking impacts

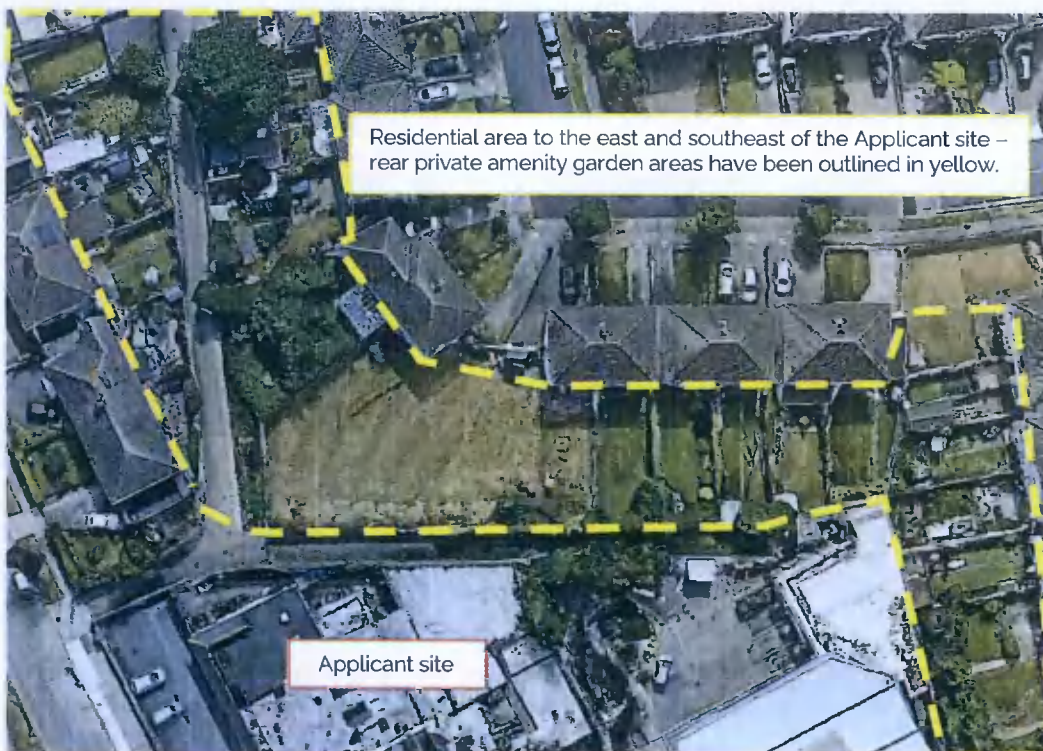
Our client fully supports the residents of Wheatfield Road, Oakcourt Grove and Oakcourt Avenue in opposing the Applicant's proposed Elevations 3 and 4 based on negative overlooking.

BPS has reviewed Elevations 3 and 4 on the submitted drawings and visited the roads and laneways to the east and southeast of the site to determine our opinion on whether negative overlooking would occur.

We consider that these elevations have been designed as though they do not face directly towards rear private gardens that are located only on the other side of a laneway separating the Applicant site from these rear gardens. The extent of negative overlooking that would arise is significant.

We have reviewed the floor plans from 2<sup>nd</sup> to 5<sup>th</sup> storeys and we are very concerned over each of these levels though we consider that the extent of negative overlooking rises each additional storey as the building rises. The building also maintains a fifth storey level roof garden which would cause significant overlooking.

BPS submits that the proposed windows, balconies and roof garden areas above 1<sup>st</sup> floor would whether viewed individually or cumulatively cause significant, negative, and permanent overlooking of residential properties to the east and southeast which has not been mitigated in any meaningful way by the proposed design. This proposal cannot be found to be acceptable on the grounds of overlooking on any performance based criteria.



**Fig. 61: Context for the Applicant scheme's Elevations 3 & 4**



Fig. 62: Context for the Applicant scheme's Elevations 3 & 4



Fig. 63: Context for the Applicant scheme's Elevations 3 & 4

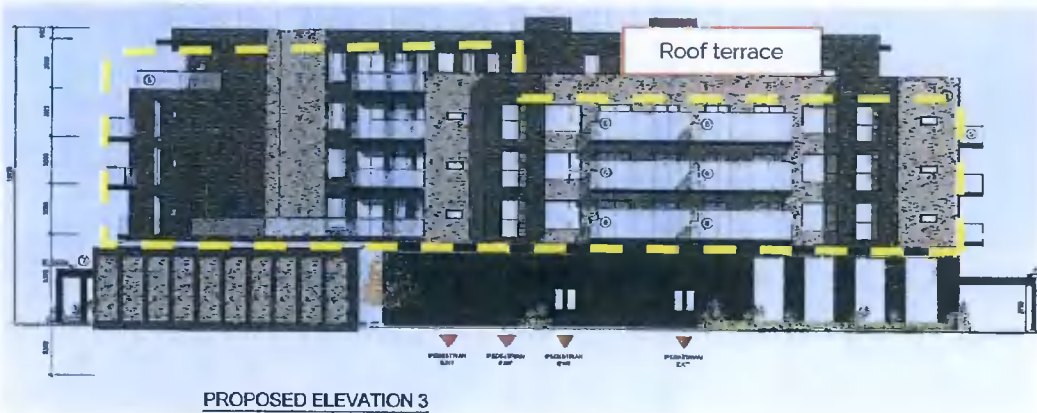


Fig. 64: Scheme's Elevation 3 with overlooking windows, balconies & roof terrace from storeys 2 to 5

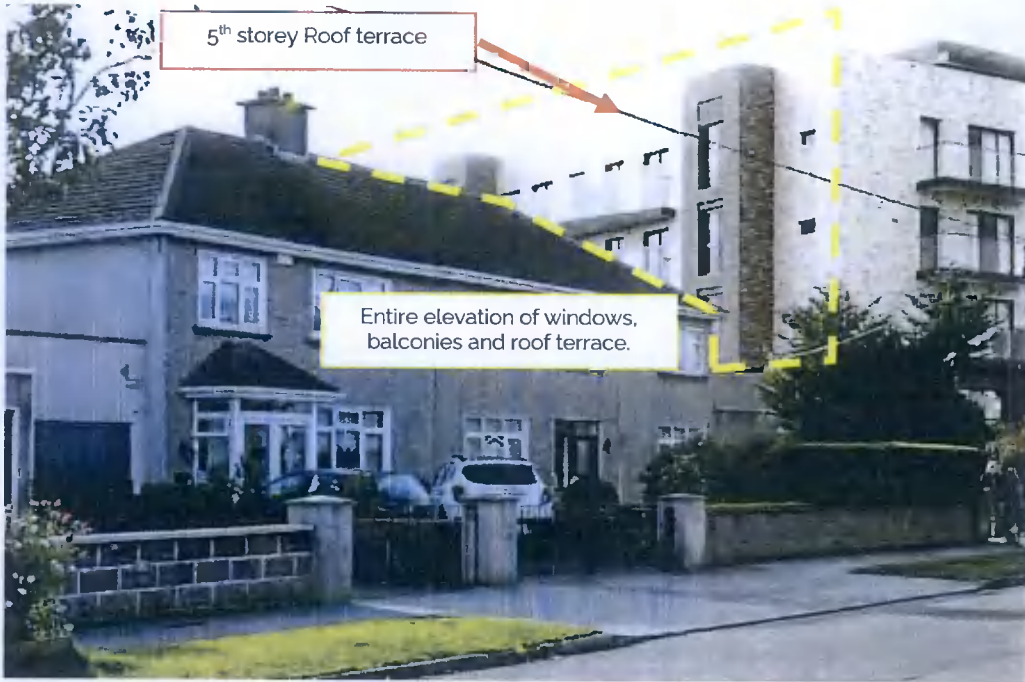


Fig. 65: Scheme's Elevation 3 with overlooking windows, balconies & roof terrace from storeys 2 to 5

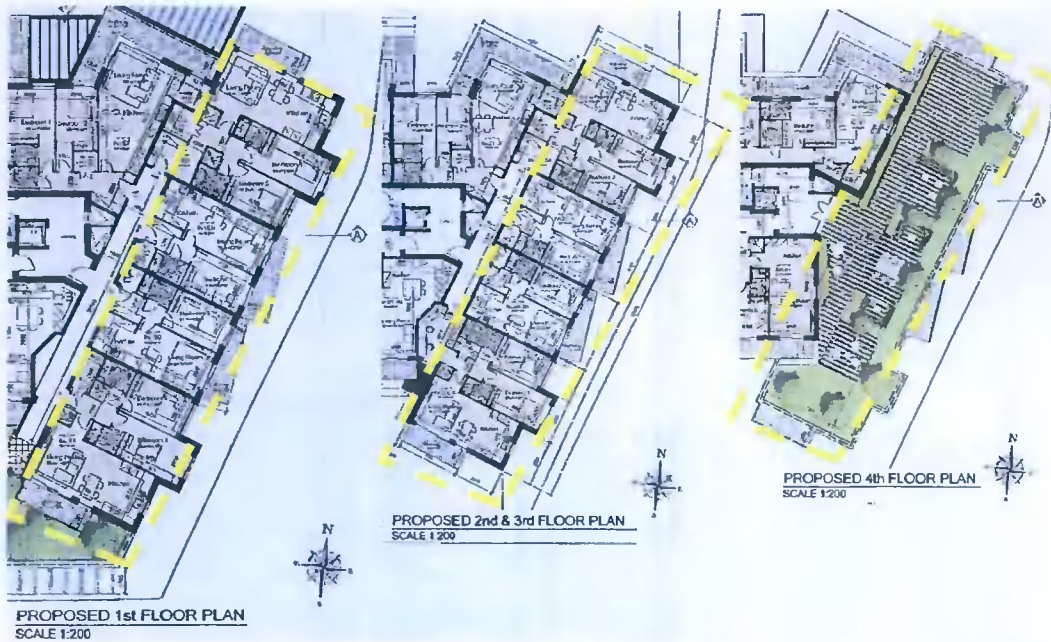
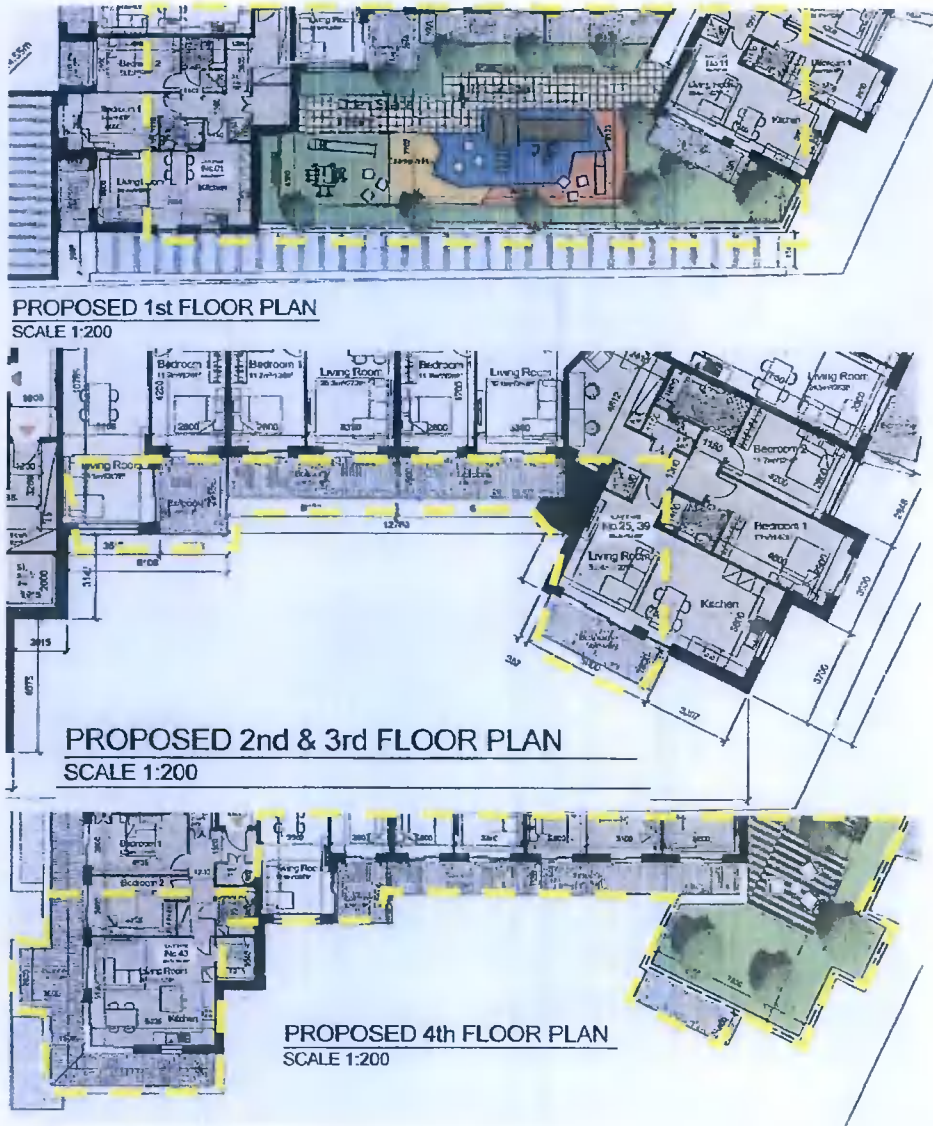


Fig. 66: Scheme's Elevation 3 floor plans - overlooking windows, balconies & roof terrace storeys 2 to 5



Fig. 67: Applicant scheme's Elevation 4 with overlooking windows and balconies from storeys 2 to 5



**Fig. 68: Scheme's Elevation 4 floor plans - overlooking windows, balconies & terraces - storeys 2 to 5**

**4.8.2.3 The 18.1m tall 5 storey building causes negative visual overbearing impacts**

The area of most concern regarding possible visual impacts and overbearing impacts and arising from this scheme is that of the existing residential properties located to the east and southeast of the site. It is of little surprise then that this is the area which the Applicant's carefully selected photomontages does not address.

This existing residential area contains Oakcourt Grove, Oakcourt Avenue & the rear gardens of nearby houses on Wheatfield Road. The visual impact and overbearing impact on these properties has not been assessed.

The Applicant has however provided photomontages which illustrate the significant, negative, and permanent visual impacts and overbearing impacts Elevation 3 would have on Nos. 1 and 2 Wheatfield Road.

BPS has stood in front of Nos. 1 and 2 Wheatfield Road, on the laneway to the east of the site and in Oakcourt Grove and Oakcourt Avenue and looked toward the Applicant site with the Applicant proposals open. This scheme's Elevations 3 and 4 cannot be permitted at their submitted height, scale, massing, and lengths. The building needs to be reduced substantially in scale as it faces the east and southeast.



**Fig. 6g:** Area most visually impacted is entirely ignored by the submitted photomontages



**Fig. 70:** Existing relationship with No. 1 Wheatfield Rd



**Fig. 71: Proposed relationship with No. 1 Wheatfield Rd**



**Fig. 72: Proposed relationship with Nos. 1 & 3 Wheatfield Rd**

#### 4.8.2.4 The 18.1m tall 5 storey building causes negative overshadowing impacts

The Applicant has submitted a 'Daylight & Sunlight' Assessment produced by Digital Dimensions. BPS has reviewed this report and entered the site's coordinates and the proposed building's height into [www.suncalc.org](http://www.suncalc.org). We consider that the proposed building will cause the following negative overshadowing impacts on residential properties located to the south and southeast of the site:

3. **From 3pm to 6pm on March/September 21<sup>st</sup>**, the proposed 18.1m tall building would, irrespective of reducing to 4 storeys at its east end, cause moderate to significant overshadowing of rear gardens serving Nos. 1, 2, 3, 5 and 7 Wheatfield Road and Nos. 13, 14, 15, 16 and 17 Oakcourt Grove. The closest residential properties would be most impacted.

**We note that the Applicant shadow diagrams stop at 5pm while overshadowing is worsening.**

4. **From 4pm to 9.30pm on June 21<sup>st</sup>**, the proposed 18.1m tall building would, irrespective of reducing to 4 storeys at its east end, cause moderate to significant overshadowing of rear gardens serving

Nos. 1, 2, 3, 5 and 7 Wheatfield Road and Nos. 13, 14, 15, 16 and 17 Oakcourt Grove. The closest residential properties would be most impacted.

**We note that the Applicant shadow diagrams stop at 6pm while overshadowing is worsening.**

5. **From 3pm to sundown on December 21<sup>st</sup>**, the proposed 18.1m tall building would, irrespective of reducing to 4 storeys at its east end, cause moderate overshadowing of No. 1 Wheatfield Road.

BPS considers that the proposed building is too tall and too close to existing residential properties to the east and southeast. The heights of the building and the close proximity result in moderate to significant and negative overshadowing impacts on Nos. 1, 2, 3, 5 and 7 Wheatfield Road and Nos. 13, 14, 15, 16 and 17 Oakcourt Grove at different times of the year.

While all parties can agree to disagree on the acceptability or not of a BRE Guidelines-based shadow assessment in this context, it is our view that when viewed cumulatively, negative overshadowing arises. To address this, the proposed building needs to step down to a maximum of 3 storeys at its east end. Ideally, the building would step down to 2 and 3 stories at its east end.

#### 4.8.2.5 Applicant proposals for a bin store adjoining No. 1 Wheatfield Rd require review

The Applicant proposes a bin store to adjoin the laneway to the east of the site boundary (which is outside of their site boundary). This bin store would be very close to No. 1 Wheatfield Road and would cause noise and odour impacts that should be avoided in a scheme this size.



**Fig. 73: Proposed bin store relationship with No. 1 Wheatfield Rd**

#### 4.9 Issues of concern over the Outline Construction Management Plan

Our client has reviewed the submitted 'Outline Construction and Environmental Management Plan'. They ask that the following issues be considered by SDCC and that, in the event planning permission is granted, planning conditions be applied to the decision addressing their concerns pertaining to the construction phase.

##### 4.9.1 No construction details are provided as to works in the shopping centre car park

The Applicant proposes to carry out works in the Palmerstown Shopping Centre's existing shared surface car park, yet no details are provided within the OCEMP or in any construction phase drawing or schedule.

Does the Applicant intend to obtain permission from Palmerstown Shopping Centre Ltd to carry out works in the shopping centre car park? When would these works take place? What would these works involve? What will the shopping centre do for an emergency vehicular exit once the Applicant closes off access to the existing one during construction?

The Applicant's proposals give the appearance that the existing shopping centre car park is a de facto vacant site when it is always used throughout the day and night.

##### 4.9.2 No construction vehicles or worker vehicles should be parked in the shopping centre

Our client submits that no construction vehicles or workers vehicles should be parked in the exiting shopping centre car park during the construction phase. The Applicant should be required to set out



details and drawings showing where construction vehicles will park during the project. There should be no overflow into the shopping centre.

Construction workers' parking could also negatively impact on adjoining roads and streets and could impact on residential and visual amenities and on the safety of roads adjoining the site and serving existing residents. Our client asks that SDCC address the following points:

1. That the Applicant set out actual predicted details – based on similar sized construction schemes in similar locations - of how many construction-related vehicles (vans and cars) are predicted to be parked in the area to serve the scheme.
2. Standard claims that construction workers would take public transport car share or walk or cycle to this site are a fudge. In fact, large numbers of workers need to bring their tools and so will always park as near to a site as possible. Scaffolders, brick layers, carpenters, electricians, plumbers, etc. all need their tools.
3. That the Applicant agree arrangements for the parking of construction workers vehicles during the construction phase. Our clients are concerned that there will be many cars and vans parked in thw shopping centre unless the contractor is required to manage construction related parking properly.

**A condition is required on any grant of planning permission that requires that parking arrangements for the scheme's construction workers be agreed with SDCC Transportation Planning Section prior to the commencement of development. This should state that there can be no workers parking in the shopping centre and that this must be policed by the contractor.**

#### 4.9.3 Working hours should be fixed and not subject to revision for any reason

Our client objects to the fact that no working hours are proposed by the Applicant's submitted 'Outline Construction and Environmental Management Plan'. The concern here is that noise, vibration, and disturbance outside working hours would happen unless SDCC prevents it by way of strict conditions on working hours permitted. Our client asks that the Applicant not be allowed to vary any planning condition applied by SDCC with respect to working hours and working days. Matters such as utility connections are undertaken during normal working hours by Irish Water, ESB, etc; there is no need to allow variation for this.

The SDCC can and must reasonably prevent any vehicle entering the site prior to 8am and none leaving after 6pm. There should be no flexibility on this. Large deliveries can be brought to site during non-peak hours in the daytime and/or on a Saturday. This site is surrounded by residential dwellings and those residents deserve a break from this scheme's construction phase operations.

**Given the number of nearby businesses and residential rear gardens and residential properties, 'all' work on this site should not be allowed to commence until 8am and should finish at 5pm Monday Friday and 9am to 1pm on Saturdays and there should be no work on Sundays or Bank Holidays.**

**Allowing deliveries form and/or starting work at 7am as often proposed would mean workers arriving and trucks arriving before 7am – this is not acceptable in a quiet residential area. There should be no arrivals on site before 8am and no works should start before 8am.**

**Finishing work at 7pm would mean the site remaining open after all members of surrounding families have arrived home from schools, work, etc. The noise and disturbance of the site operating after 6pm would not be acceptable given the site's location. The site should be empty of workers by 5pm and no works of any kind should take place after 6pm.**

Given the quiet residential nature of the surrounding area, there is also a need to set times during which construction related vehicles can enter the area and must exit the area. **No construction site related vehicles – workers or delivery / pick-up vehicles - should enter the site prior to 8am and all should have left by 6pm.**

Our client notes the problems that communities alongside large schemes have had with excessively flexible working hours outside of permitted hours – often with the local authority's permission (after a grant) – in areas such as Dublin docklands and Sandyford Business Park. There is a need to put a cap on working hours that lasts for the entire construction period. **The construction phase could extend to years and needs to consider the management of impacts on adjoining and nearby properties.**

#### 4.9.4 A complaints procedure & an independent complaints process is required

The Applicant's submitted 'Outline Construction and Environmental Management Plan' contains no complaints procedure in the event of construction-related problems occurring. Our client considers

these proposals to be very general in nature and more detail is required prior to any grant of planning permission.

The Applicant needs to put in place an independent complaints procedure that works and from which, if it does not work, referrals can be made to an independent complaints process. For example:

- If construction related activities are taking place outside of conditioned site working hours and hours during which deliveries and pick-ups from the site are permitted.
- If noise levels seem excessive and above those allowed.

**The contractor should appoint an independent community liaison person with a phone number that is available to surrounding businesses and residents and there should be an identified complaints officer within SDCC to whom the residents can refer complaints that are not addressed by the complaints officer and/or the contractor.**

#### 4.9.5 The applicant has provided no baseline noise measurements

The Applicant has not provided any Acoustic Design Report setting out locations from which baseline noise was measured. It must therefore be assumed that ABP is being asked to grant planning permission for this scheme in circumstances where no monitoring of baseline noise levels has been undertaken. How then can SDCC possibly apply conditions to any grant of planning permission which permit only a given increase in noise above baseline levels?

The baseline noise environment to the north, east and southeast of the site is a relatively low noise environment. There is noise from traffic on Kennelsfort Road, but this noise is as expected. There is not an undue difference between daytime and night-time noise regarding this being a low noise environment.

The construction phase for this project would significantly increase the noise levels experienced by businesses in Palmerstown Shopping Centre and by surrounding residents. The Applicant's submitted 'Outline Construction and Environmental Management Plan' sets out general comments about the likely sources of construction noise but offers no comment on the extremely close proximity that this machinery will operate in relative to adjoining and nearby residential properties and rear gardens.

The Applicant offers no existing noise levels and no predicted noise levels. There is no assessment of noise as an environmental issue arising during the construction phase. As a result of this, the Applicant cannot confirm whether any measures are needed as part of the construction phase to reduce noise levels below any given noise standard. How could any noise related condition applied by SDCC be enforced?

##### 4.9.5.1 Noise from plant & machinery needs to be mitigated

Palmerstown Shopping Centre businesses and surrounding residential properties (and rear gardens) are the nearest sensitive noise receptors. The Applicant accepts that the site is very close to private rear gardens. The noise generated by the nearest significant site works during the construction phase use of machinery will range according from 61 to 84 dB LAeq (1hour). Cumulative Site Preparation, Cumulative General Construction and Cumulative General Landscaping and Road Work noise levels are, based on BPS experience always between 78 and 84 dB LAeq (1hour). **These noise levels would represent a significant and negative increase in the baseline noise environment.**

The likely daytime noise levels from an indicative construction period at adjoining noise sensitive locations (rear gardens) would experience the highest construction noise levels – between 74 and 80 LAeq at distance – that would arise from the Site Preparation Phase, the General Construction Phase' and the 'Road Works/Landscaping Phase' of this scheme.

BPS submits that the predicted construction noise level at the nearest sensitive properties will be above the relevant construction noise criteria, i.e. the level at which a potential significant impact could be expected to occur, at noise sensitive locations within 10m of site work. This has a potential significant impact at all construction phases in the absence of mitigation. The predicted noise levels at these locations are, based on BPS experience, 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.

The Applicant has not offered any noise mitigation measures of any kind during the construction phase. This is not acceptable given the proximity of rear gardens, rear elevations, etc. The Applicant has not offered acoustic barriers on the shared boundaries or any credible measures to reduce construction noise.

The Applicant fails to consider the 'worst case' scenario which is where no mitigation measures are carried out 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's references to noise during the construction phase and we consider that without mitigation the construction phase will cause significant and negative noise impacts on surrounding businesses and residential properties.

**Construction noise impact have not been adequately predicted by the Applicant but will be significant and negative. The Applicant has not provided any mitigation measures that would credibly help to address the significant and negative noise impact of the construction phase on nearby businesses and surrounding residential properties and rear gardens.**

To realistically address likely noise impacts on adjoining residential properties and rear gardens and/or on residential properties located opposite the scheme, the Applicant needs to:

- Provide 3m tall acoustic barriers on all shared boundaries.
- Provide acoustic barriers on the external face of all scaffolding where works are to take place above first floor level.
- Construction work should not begin on the site and/or the site areas adjoining residential properties until 8am and it should stop at 5pm.

**BPS considers that without improved mitigation measures to address construction noise impacts, adjoining residential properties will fall into the worst case noise scenario and this is wholly unacceptable.**

#### 4.9.5.2 independent noise monitoring is required & conditions must be enforced

BPS recommends that weekly noise and vibration monitoring surveys be carried along the boundaries of the proposed site to monitor the effectiveness of noise and vibration management for the duration of the construction phase.

To effectively manage noise and vibration at residential dwellings adjoining the proposed site, installation of 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 the site, rise above 65dB LAeq then construction works should stop until the noise level is reduced.

It must be possible for our client to be able to report a noise infraction and to expect this to be addressed within minutes and not days.

#### 4.9.6 Vibration concerns at construction phase

The Applicant's submitted 'Outline Construction and Environmental Management Plan' fails to assess the like impact that vibration caused by the scheme at construction phase would have on nearby properties. The Applicant planning application refers only in general terms to possible vibration impacts

While several residential properties are located within 8m to 15m of the Applicant's proposed construction works that will cause vibration, the Applicant offers no baseline assessment of the site and/or nearby properties and no prediction as to the likely vibration impacts. The Applicant offers only a statement of vibration levels that they hope to try not to exceed.

Some properties are so close to the proposed works that distance will not attenuate the vibration impacts. Will resultant vibration levels cause disturbance to building occupants or even be perceptible? This is not detailed.

**The likely vibration impact on adjoining properties remains unknown as the Applicant has not assessed it. Our client finds the Applicant's OCEMP to lack credibility on this issue. No explanation is offered as to what will happen if vibration starts to cause cracks in adjoining properties, etc.**

##### 4.9.6.1 A baseline vibration survey should have been submitted

Our client asks why the Applicant has not already carried out an assessment of baseline vibration in order that the SDCC can apply appropriate conditions regarding possible vibration increases and/or required mitigation measures to address those anticipated vibration increases, during the construction phase. **Our client asks that SDCC not grant a planning permission in a situation where the existing baseline vibration levels in this relatively quiet residential area are unknown.**

All adjoining and surrounding houses 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.

Details are required regarding how the Applicant proposes to indemnify nearby residential properties against possible structural impacts on their properties arising from construction vibration.

#### **4.9.7 Construction phase visual impacts on surrounding properties should be minimised**

The Applicant's submitted 'Outline Construction and Environmental Management Plan' fails to note how the scheme's construction phase will cause negative visual impacts on adjoining residential properties but sets out no measures to mitigate these visual impacts. Our client notes the following possible mitigation measures regarding visual impacts:

1. 3m tall acoustic barriers should be erected around the eastern boundary of the site shared with adjoining residential properties. These would also act as visual barriers.
2. The Applicant should place acoustic barriers/coverings on the outside of scaffolding to prevent direct views into adjoining and nearby residential properties and private gardens.
3. The access road to and from the site needs to be carefully managed to keep it clear of construction vehicles.

The Applicant should be required to set out a detailed and phased drawing showing how the site will be managed during the construction phase to limit the visual impacts on adjoining and nearby residential properties.

#### **4.9.8 Construction phase could cause light overspill impacts on residential dwellings:**

The Applicant's submitted 'Outline Construction and Environmental Management Plan' clearly considers that construction phase lighting can be agreed after planning permission is granted (if it is). Our client objects to this. Construction phase lighting proposals may impact on the residential and visual amenities of adjoining properties and, as such, should be taken into account and properly assessed by SDCC at planning stage.

#### **4.9.9 Dust impacts on nearby areas**

Nearby businesses and surrounding residential properties 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 clients and their properties.

While some dirt and dust would be expected on any site, the extent of dust from a site this close to residential dwellings could be excessive. Our clients 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 provided.

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 clients also ask that the external face of all scaffolding surrounding the scheme be covered to reduce dust (our clients have asked that acoustic barrier material be used as the covering to also minimise noise).

Our client submits that in this case, an up to 5 storey scheme 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.

#### **5.10.10 Other construction-related issues to be addressed in the event of a grant:**

Our client submits that the Applicant Construction Management Plan also needs to address the following issues:

1. *Overlooking during construction:* Possible overlooking into adjoining properties by construction workers working at high levels needs to be addressed. The construction phase is over years long and care is needed to avoid impacts on nearby and adjoining properties.
2. *No overflow parking of construction workers cars, vans and other vehicles:* No parking of at site workers' vehicles should take place on roads in the surrounding area. This should be monitored by the contractor and a complaints system (possibly a clamping system) put into place. The shopping centre and adjoining roads should be protected from construction phase traffic and parking.

These and the other above issues need to be carefully addressed.

#### 4.10 The proposed development would set poor precedents

For the reasons set out above and below, the proposed development, if granted, would set poor precedents for:

1. Permitting higher density schemes to provide their car parking in a substandard manner in existing shared surface shopping centre car parks located at a remove from the site of the actual development.
2. Permitting insufficient car parking to be provided to a higher density scheme with consequent impacts on adjoining roads from overflow and fly parking impacts.
3. Permitting higher density schemes at over 3 storeys in Palmerstown where 3 storeys is the maximum allowable height under the Development Plan.
4. A density of development being allowed which is 4.6 times denser than the existing development on the site.
5. Allowing a private development to incorporate public owned lands to create a parking area on a footpath on Wheatfield Road.
6. Allowing overdevelopment of a site which cannot absorb this without consequent negative impacts on the surrounding environment including on surrounding residential dwellings and rear gardens.
7. Allowing a private development to incorporate existing non-vehicular laneways to the east of the site.

For the reasons set out above, and throughout this report, the proposed development, if granted, would set a poor precedent for future development in this area and for schemes that adjoin residential developments of much lower densities, scales, and heights. But it is more than this. This is a case in which a single development could wholly remove the existing character and pattern of development in what is at present an appropriately scaled district centre.

**Our client asks SDCC to protect this area by refusing planning permission thereby avoiding setting a negative precedent for future development in this area.**

#### 4.11 Proposal would substantially depreciate the value of nearby properties:

Our client is concerned that the proposed development would seriously injure the amenities and depreciate the value of businesses in the Palmerstown Shopping Centre and the shopping centre itself. The proposal would also negatively impact on the value of surrounding residential properties.

The potential impact that a proposed development can have in this regard 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:

*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 those of the Palmerstown Shopping centre and those of the established residential and visual amenities of adjoining and surrounding residential dwellings.

#### 4.12 Proposal impacts on the development potential of the shopping centre

The proposal to subdivide the existing Palmerstown Shopping Centre's shared surface car park to facilitate this scheme would impact negatively on the development potential of the entire car park.

For example, it may be deemed appropriate in the future for the Palmerstown Shopping Centre to be increased in size and for a multi-storey car park to replace the existing surface car park. This would be in line with the same planning policies for higher density development in Palmerstown as here claimed by the Applicant.

The Applicant planning application would be fundamentally at odds with achieving the future development potential of the shopping centre and its car park.

#### 5.0 Conclusion

That a mixed use commercial and residential scheme is permitted in principle at this location is accepted, as is the fact that the Applicant site is suitable for a higher density development than exists at present. What is opposed by our client is how the Applicant seeks to achieve this scheme. It is our client's position that the scheme represents over-development of the site and that its proposed parking arrangements are substandard and unacceptable – being in the existing Palmerstown Shopping Centre car park.

The Applicant could achieve a higher density scheme on this site without recourse to overdevelopment and to applying – with no prior consultation with the Palmerstown Shopping Centre – to force all associated car parking requirements onto other parties.

Our clients object to the height, scale, massing, and bulk of the proposed scheme which far exceeds what SDCC has previously found appropriate for this site or for other sites in the Palmerston area. While the proposal is unacceptable for all the reasons set out in this Planning Objection proposal, the most concerning for SDCC is that the scheme would materially contravene H7 Objective 4 of the SDCC CDP 2016-2022 which states that development in Palmerstown cannot exceed 3 storeys. This scheme is two storeys too tall. The Applicant Planning Statement seeks to rely on Section 28 Ministerial Guidelines, namely on SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018); however, BPS has shown how there is no justification under SPPR 3 for the proposed increase in height.

In terms of the Applicant's arguments that the SDCC CDP 2016-2022 should be materially contravened to facilitate this scheme, it must be kept in mind 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 a large-scale mixed use scheme that overdevelops a site which cannot absorb the density proposed and which overflows into the Palmerstown Shopping Centre, the adjoining footpath to the north, the adjoining lanes to the east, etc. In our client's opinion, the compromises required of established planning policies to allow this scheme's density, height, scale, bulk and massing cannot be justified.

As much as the Applicant has sought to argue that the compromises necessary would be outweighed by the provision of the subject development, this objection illustrates why this is not the case. The proposal as it comes before the SDCC 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 SDCC 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 all proposals for the Palmerstown Shopping Centre car park and emergency entrance/exit which have been made without any prior consultation with the managers of, and businesses in, the shopping centre.

The suitability of the site in principle and the ability of the receiving environment to absorb the building are two very different considerations and this, in our clients' opinion, is where the needs of the Applicant and the concerns of adjoining residents diverge.

Where such divergence in vision for a given area exists, a Development Plan is needed to set out a shared vision for an area, which is based on consultation with all parties. In this case, there is no Development Plan objective or designation in place that supports the location of a tall high density scheme on this site and no development is allowed over three storeys.

There is therefore no shared vision for this site. The Applicant has sought to fill this vacuum by reference to national and regional policies that may or may not result in this site being designated as suitable in the coming years for a tall building, but analysis is required to determine this and consultation on such proposals is required under established national planning policies and procedures. The Applicant uses

their own plans and details to try to justify a building whose location and scale would fundamentally alter the existing environment in a negative manner when the question of whether this site is suitable or not for such a large building should be a matter for a Development Plan or Local Area Plan objective.

If SDCC considers that this building can be assessed without its inclusion in a Development Plan or a Local Area Plan, then our clients ask that consideration be given to why it is that the Applicant's plan provides for a building of significant height, scale, massing, and bulk - regardless of context. Little consideration has been given to whether each part of the sensitive environment of the site can absorb the proposed single monolithic structure. Our client submit that the design and layout proposed fails to mitigate the impact of the envisaged height and scale of the proposed building and this contravenes the objectives set out within the County Development Plan and other planning policies designed to protect the residential and visual amenities of the area.

The existing character and pattern of development of our client's area is dominated by 2 storey buildings - the Palmerstown Shopping Centre is primarily 2 storeys. The site is located on a residential road - Wheatfield Road - which maintains a quality urban environment. The proposed development would significantly and adversely alter the environment of this road by the provision of a visually prominent and visually dominant structure. A very significant and in some instances profound change would occur within the environs of the site. Its existing character, pattern of development and urban quality would be lost.

Our client considers that the visual impact of proposed development could be mitigated by requiring the Applicant to re-design the scheme in full such that its height, scale, massing, and bulk are broken up and the building is setback from nearby residential dwellings and rear gardens. The matter of the proposed car parking arrangements is one that cannot be resolved within this planning application process. Discussion is needed between our client and the Applicant. Our client considers that this scheme should be refused such that this can be achieved.

Our clients have a range of very detailed concerns with respect to this project, its construction and operation, etc. These are set out above.

## 5.1 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 its locational and planning context. The conclusions of this exercise are:

- There is a **substantial planning risk** that the proposed car parking arrangements set out in this scheme are substandard, piecemeal, and haphazard and would be contrary to the proper planning, including transport planning, of this area.
- There is a **substantial planning risk** that this planning application proposes the excessive overdevelopment of a site that can accommodate only 3 storeys at a lower density.
- There is a **substantial planning risk** that materially contravening the SDCC CDP 2016-2022 to facilitate this scheme would result in a poor and substandard development that would create a precedent for similar compromised developments in this area.
- There is a **substantial planning risk** that this scheme's proposed 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 an equally abrupt increase in scale, height, bulk, and massing. To anyone viewing this building objectively, they will appear monolithic and visually dominant.
- There is a **significant planning risk** that the additional scale, massing, and bulk of the building will cause substantial and negative visual and visual overbearing impacts on surrounding residential properties and their rear gardens.
- There is a **significant planning risk** that the additional building height will cause substantial and negative visual and visual overbearing impacts on surrounding residential properties and their rear gardens.
- When the Applicant's overshadowing diagrams are viewed objectively, there is a **substantial planning risk** that surrounding properties will experience a substantial negative and permanent reduction in the sunlight they receive which would erode their existing residential amenities.

- There is a **significant planning risk** of overflow and fly parking into the Palmerstown Shopping Centre and adjoining and nearby roads arising from insufficient parking spaces and visitor parking spaces in the proposed development.
- When the CGI images are viewed objectively, there is a **substantial planning risk** that the adjoining and surrounding properties will experience a substantial negative and permanent reduction in their existing residential and visual amenities.
- There is a **significant planning risk** that this scheme would absorb a public footpath to the north which would only be used by the scheme thereby removing an existing public amenity.
- There is a **significant planning risk** that this scheme would negatively impact on the adjoining laneways to the east of the site.
- There is a **significant planning risk** that this scheme's public open space, communal open space and apartment designs and siting, will not provide adequate amenity to future residents.

**Our clients submit that following their assessment, the Applicant planning application represents too high a risk of causing significant and negative impacts on adjoining and surrounding properties and on the area and would also risk providing only insufficient amenity to its proposed future residents, for SDCC to consider granting planning permission.**

## 6.0 Recommendation

This site is not suitable for an experiment in which a high density mixed use scheme locates all its car parking (that within the Applicant's ownership and not in a public footpath) within an existing shared surface car park serving a nearby shopping centre. Such a proposal would require an agreement with the shopping centre's owners, managers, and tenants. Such an agreement is not in place.

The site is also not suitable for an experiment in materially contravening H7 Objective 4 of the SDCC CDP 2016-2022 which has long protected this area from overdevelopment and excessively tall buildings. Having regard to the existing urban form of the area, opposite and alongside low rise residential developments of 2 storeys, the proposed primarily 5 storey building is unacceptable and represent a material contravention of the Development Plan that cannot be justified by way of reference to SPPR

It is considered that the proposed building would be visually obtrusive and would be an overbearing form of development at this location. Furthermore, by virtue of its scale, mass, bulk, and height, it is considered that the proposed development would constitute overdevelopment of this site and would therefore not be acceptable.

The proposal would fail to provide 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.

Cumulatively, the negative impacts of the proposed development on adjoining and surrounding area are such that this scheme cannot be granted in its current form. It would set a negative precedent and bring the planning system into disrepute.

The proposal as submitted 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 would not be in compliance with the relevant objectives of the South Dublin County Development Plan 2016-2022.

**In light of the above, BPS recommends that SDCC either refuse planning permission for the reasons given in Section 6.1 or require the Applicant to address the recommendations listed by our client throughout this objection and in Section 6.2.**

### 6.1 In the event of a refusal of planning permission

If the Board decides to refuse planning permission, the following refusal reasons should be applied:

1. *The proposed development would have a maximum building height of 5 storeys and 18.1m, which would be materially contravene H7 Objective 4 of the South Dublin County Development Plan 2016-2022 and would therefore be contrary to the proper planning and sustainable development of the area.*
2. *The applicant proposals provide all scheme car parking spaces within its ownership within the Palmerstown Shopping Centre's car park would represent a haphazard and ill-considered approach to parking provision and management for this site and would provide a poor level of amenity for future*



*residential occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

3. *Having regard to advice in the Sustainable Urban Housing Design Standards for New Apartments Guidelines and the car parking standards in the South Dublin County Development Plan 2016 – 2022, the proposal would fail to provide 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.*
4. *Having regard to the siting, scale, mass and height of the proposal and the proximity of the development to adjoining properties, it is considered that the proposed development would constitute overdevelopment of the site and would have an excessively overbearing effect on adjoining properties. The proposed development fails to integrate or be compatible with the design and scale of the adjoining buildings and as a result, would seriously injure the visual amenities of the streetscapes Wheatfield Road and Kennelsfort Road. The proposed development would, therefore, by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.*
5. *Having regard to the overall design, siting, layout and scale of the proposed development, it is considered that the proposed development would provide a poor standard of residential accommodation by virtue of access to parking spaces, lack of visitor parking spaces, lack of useable public open space, poorly sited communal open spaces, single aspect units, primarily north facing units and lack of residential amenities for future residents. The proposed development would therefore be contrary to the Guidelines on Sustainable Urban Housing: Design Standards for New Apartments (2018), to the provisions of the South Dublin County Development Plan 2016-2022, to the residential amenity of future occupants and to the proper planning and sustainable development of the area.*
6. *The proposed development fails to incorporate design and layout elements which could help to absorb and mitigate the impact of the building, thereby militating against the successful integration of what are heavily scaled buildings relative to existing and surrounding development. 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.*
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 site, would constitute overdevelopment of the site and would have a detrimental impact to the residential amenities of adjacent properties. The proposed development provides an inadequate design response to this sensitive 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.*

## **6.2 In the event of a request for further information**

In the event SDCC is seriously considering granting the proposed development, our client submits that the following additional revisions and details are required to inform any decision and any conditions attached to that decision that may be made:

1. Details of an agreement with Palmerstown Shopping Centre regarding the Applicant's car parking proposals is required.
2. Details and drawings of all aspects of the Applicant's proposals for the Palmerstown Shopping Centre's shared surface car park are required.
3. The Applicant needs to provide on-site (on the site of The Silver Granite pub) car parking within a basement or within the perimeter of the site. The existing car parking available to serve the pub should be retained.
4. The quantum of commercial land uses proposed is excessive and needs to be reduced as car parking cannot be provided at the levels needed to facilitate this.
5. An additional 30 parking spaces are required.
6. The scheme should not be permitted to develop the footpath to the north of the site into a parking area, loading area and bike parking area. This is public land.

7. The schemes height, scale, bulk and massing need to be reduced. Design revisions are needed to reduce significant negative overlooking, overshadowing and overbearing impacts that arise from the height, scale, and massing of the proposed scheme.
8. The 4<sup>th</sup> and 5<sup>th</sup> storeys need to be removed.
9. The external 2<sup>nd</sup> storey and 5<sup>th</sup> storey communal terraces need to be re-considered and re-located.
10. A independently produced 'Visual Impact Assessment' is required. This should include a 'Residential Visual Impact Assessment' is required that would include an assessment of the visual impact of the scheme as it would be experienced from adjoining rear gardens.
11. A full Constructional and Environmental Management Plan is needed that sets out proposals to:
  - Monitor and mitigate noise and vibration impacts on nearby businesses and residents.
  - Monitor and mitigate dust impacts on nearby businesses and residents.
  - Monitor and mitigate light overspill impacts on nearby residents.
  - Monitor and mitigate construction impacts on adjoining on nearby businesses and residents.
  - Monitor and prevent overflow parking into the Palmerstown Shopping Centre and adjoining and nearby roads.

**Ends/.**

**Appendix 1:** Photographs showing high levels of occupancy of the Palmerstown shopping centre car park



**Fig. 1:** Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021



**Fig. 2:** Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021



**Fig. 3:** Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021



**Fig. 4: Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021**



**Fig. 5: Palmerstown Shopping Centre car park at high capacity on 22<sup>nd</sup> October 2021**

**Appendix 2:** 1988 legal agreement between Palmerstown Centre Development Limited (First Owner) and Sibra Building Company Ltd, Bunker Estates Limited, and Silver Birch Estates Ltd (Second Owner)

DATED THIS      DAY OF      . 1988

BETWEEN/

PALMERSTOWN CENTRE  
DEVELOPMENT LIMITED

ONE PART

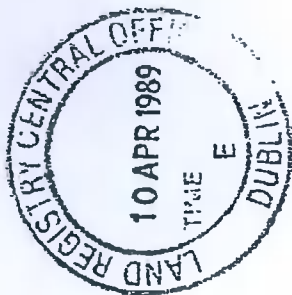
SIBRA BUILDING COMPANY LTD

BUNKER ESTATES LIMITED

SILVER BIRCH ESTATES LTD

OTHER PART

AGREEMENT



2-9/5

48378



THIS INDENTURE made the 13<sup>th</sup> day of January 1988  
 BETWEEN PALMERSTOWN CENTRE DEVELOPMENT LIMITED having its  
 Registered Office at 10 Clare Street in the City of Dublin  
 Limited Liability Company (hereinafter called the "First  
 Owner") of the One Part and SIERA BUILDING COMPANY LIMITED  
 having its Registered Office at ~~48 Clontarf Road, Dublin 2~~  
130-132 BRUMBYNARA ROAD DUBLIN 7  
 Limited Liability Company, BUNKER ESTATES LIMITED having its  
 Registered Office at Hollyville House, 1 Lucan Road,  
 Palmerstown, in the County of Dublin Limited Liability  
 Company and SILVER BIRCH ESTATES LIMITED having its  
 Registered Office at Hollyville House, 1 Lucan Road,  
 Palmerstown in the County of Dublin Limited Liability  
 Company (hereinafter collectively called the "Second Owner"  
 which expression shall include their and each of their  
 successors and assigns) of the Other Part.

WHEREAS:-

1. The First Owner is ~~registered as~~ registered as absolute Owner in fee simple of ALL THAT AND THOSE that part of the lands coloured green on the map or plan annexed hereto being part of the lands comprised in Folio 63697F of the Register, County Dublin.
2. The Second Owner is registered as absolute owner in fee simple of ALL THAT AND THOSE the lands more particularly delineated on the Maps annexed hereto and thereon coloured red and yellow being part of the lands comprised in folios 1452F, 3932F, 42047F of the Register County Dublin.
3. The First and Second Owner have agreed that the lands coloured red and green on the maps or plan to be developed for the purpose of a carpark (hereinafter called "the carpark") for the benefit of their respective properties and to grant for the purpose of the development and user of the

said carpark the rights and privileges hereinafter contained.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said Agreement and in consideration of the terms and conditions herein contained the First Owner as beneficial owner doth HEREBY GRANT unto the Second Owner its Grantees Assignees Lessees Invitees Licencees Servants and Agents the rights and privileges more particularly described and contained in the Schedule hereto.

NOW THIS INDENTURE FURTHER WITNESSETH that in pursuance of the said Agreement and for the consideration aforesaid the Second Owner as beneficial owner doth HEREBY GRANT to the First Owner its Grantees Assignees Lessees Invitees Licencees Servants and Agents the rights and privileges particularly described in the Schedule hereto.

AND the First Owner does hereby for itself its successors and assigns hereby covenants and agrees with the Second Owner that it will indemnify and keep indemnified the second owners its successors and assigns from all actions claims and demands arising by reason of the construction maintenance repair of the roadway footpaths public lighting and service coloured yellow on the map annexed hereto aforesaid until the same shall have been taken in charge by the local authority.

The First Owner hereby assents to the registration of this Agreement as a burden on that part of the lands of Folio 63697F of the Register County Dublin coloured green on the Map annexed hereto and the Second Owner hereby assent to the registration of this Agreement as a burden on that part of the lands of folios 1452F 3982F and 42047F of the Register County Dublin coloured red and yellow on the map annexed hereto.



## SCHEDULE

Rights and privileges herein granted to the First Owner:-

(a) The right of way with or without vehicles over all parts of the lands coloured red and yellow on the plan annexed hereto.

(b) To park vehicles in the carpark at any time of the day or night on those parts of the lands coloured red.

(c) The right to enter with workmen or other nominees upon the lands coloured red and yellow for the purposes of repairing and maintaining the said carpark and roadway.

(d) The right to enter workmen or other nominees upon the lands coloured red for the purposes of repairing and maintaining the shop premises abutting those lands coloured red.

(e) The right to enter the said lands coloured red and yellow for the purposes of laying all necessary pipes, electricity cables, cables, sewers and services and completing the necessary works to the carpark and roadway.

(f) The right to enter the workmen or other nominees upon the said lands coloured red and yellow for the purposes of repairing and maintaining the said pipes electricity cables, cables, sewers and services.

Rights and privileges granted to the Second Owner:-

(a) To enter the said Lands coloured green by access points to be provided as indicated on the plan annexed

hereto with or without vehicles at the points marked Y and Z

(b) The right of way with or without vehicles over all parts of the lands coloured green on the plan annexed hereto.

(c) To park vehicles in the carpark at any time of the day or night on those parts of the lands coloured green.

IN WITNESS whereof the parties hereto have caused their common seal to be affixed the day and year first herein WRITTEN

PRESENT when the Common Seal  
of PALMERSTOWN CENTRE DEVELOPMENT  
LIMITED was affixed hereto:-

*W. J. Kelly*  
*Solicitor*  
*Dublin 2*

*[Signature]*  
DIRECTOR

*[Signature]*  
DIRECTOR

PRESENT when the Common Seal  
of SIERRA BUILDING COMPANY LIMITED  
was affixed hereto:-

*Denis McLaughlin*  
*Solicitor*  
*Dublin 4*

*Frank Dowey*  
DIRECTOR

*Frank Dowey Junr.*  
DIRECTOR

PRESENT when the Common Seal  
of BUNKER ESTATES LIMITED  
was affixed hereto:-

*Devin McLaughlin*  
Solicitor  
Dublin 2

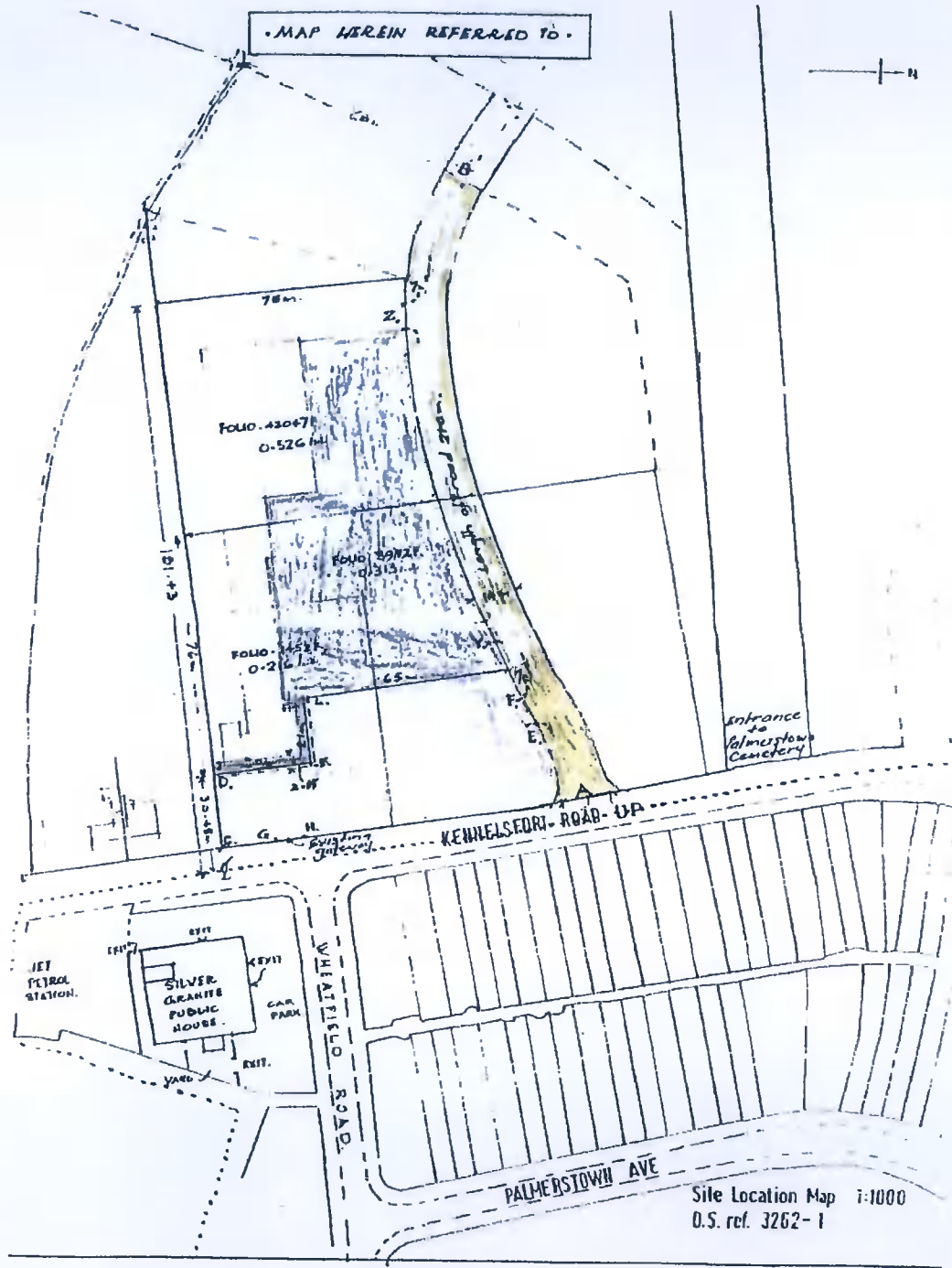
*Frank Lowey*  
DIRECTOR  
*Frank Lowey Jr.*  
DIRECTOR

PRESENT when the Common Seal  
of SILVER BIRCH ESTATES LIMITED  
was affixed hereto:-

*Devin McLaughlin*  
Solicitor  
Dublin 2

*Frank Lowey*  
DIRECTOR  
*Frank Lowey Jr.*  
DIRECTOR

MAP HEREIN REFERRED TO



Site Location Map 1:1000  
D.S. ref. 3262-1