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22 February 2022

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Dear Sir/Madam,

RESPONSE TO THE SUBMISSION OF SIGNIFICANT FURTHER INFORMATION AS PART OF AN EXISTING THIRD PARTY PLANNING OBJECTION IN RESPECT OF A PLANNING APPLICATION IN THE AREA OF DUBLIN CITY COUNCIL, REG. REF. 2683/21. THE DEVELOPMENT CONSISTS OF THE CO PERMISSION FOR DEVELOPMENT AT A SITE (C.039HA) AT GLENAVON HOUSE, 46 BALLYMUN ROAD, GLASNEVIN, DUBLIN 9. THE SUBJECT SITE IS GENERALLY BOUNDED TO THE WEST BY BALLYMUN ROAD AND CLONMORE COURT APARTMENTS, TO THE NORTH BY GLENAVON COURT AND HILLCREST COURT APARTMENTS, TO THE EAST BY THE REAR GARDENS OF HOUSES ON ST. MOBHI ROAD, AND TO THE SOUTH BY MOBHI COURT APARTMENTS AND HOUSES AT THE HAVEN. THE DEVELOPMENT WILL CONSIST OF THE CONSTRUCTION OF A 5 TO 6 STOREY APARTMENT BUILDING (TOTAL GFA C.5,330 SQM EXCLUDING CAR PARK), PARTIALLY OVER BASEMENT, ACCOMMODATING 52 NO. RESIDENTIAL UNITS (13 NO. 1-BED APARTMENTS, 9 NO. 2-BED APARTMENTS, 17 NO. 2-BED DUPLEX APARTMENTS, 8 NO. 3-BED APARTMENTS AND 5 NO. 3-BED DUPLEX APARTMENTS), ALL WITH PRIVATE BALCONIES ON THE EAST OR WEST ELEVATION (ETC). 1 NO. CAR SHARE SPACE AT SURFACE LEVEL. 37 NO. CAR PARKING SPACES AT BASEMENT. 80 NO. BICYCLE PARKING SPACES. ESB SUBSTATION AND SWITCH ROOM. SOLAR PANELS AND GREEN ROOF. AT GLENAVON HOUSE, 46 BALLYMUN ROAD, GLASNEVIN, D9.

BPS, a firm of Irish Planning Institute accredited planning consultants, has been appointed by Nos. 21, 23, 25, 27, 29, 31, 33, 35 and 39 St. Mobhi Road and of Windermere House, No. 23 Ballymun Road (see below) to produce and to submit a response to Significant Further Information that was submitted to Dublin City Council (hereafter "DCC") in respect of planning application, reg. ref. 2683/21, on the 10th of February 2022.

Having fully re-advertised this planning application, the deadline for the submission of our client's response to this Significant Further Information submission is the **23rd of February 2022**. This submission is made prior to this date.

Section 4.0 of this letter sets out our client's response to the submitted Significant Further Information. These responses should be read alongside our clients' original planning objection made to DCC.

1.0 Who does this response to Significant Further Information represent?

This further objection in respect of the submitted Significant Further Information continues to represent the shared concerns and objections of the following households:

- 21 St. Mobhi Road - Caroline Cahill
- 23 St. Mobhi Road - Eugene McCool
- 25 St. Mobhi Road - Donal and Ciara O'Cearbhaill
- 27 St. Mobhi Road - Gerard and Amanda Murphy
- 29 St. Mobhi Road - Frank O'Flaherty
- 31 St. Mobhi Road - Mary O'Callaghan
- 33 St. Mobhi Road - John and Siobhan Keogan
- 35 St. Mobhi Road - Padraig and Sile O'Connor
- 39 St. Mobhi Road - John and Zeta O'Brien
- Windermere House, No. 23 Ballymun Road - Donal and Lynda O' Gorman

2.0 Original objection is 'taken as read'

Section 8.0 of our clients' original Planning Objection Report set out specific grounds for their objection. This original objection is 'taken as read' and this letter responds only to the submitted Significant Further Information.

3.0 For the purposes of validation of this further submission - no further fee is payable

No further fee is payable as our clients have already made a planning objection for which they paid the required €20 fee.

4.0 Response to the submitted Further Information

Our clients have asked BPS to respond to the Applicant submission on a point by point basis; however, they have also asked that we emphasise the significant increase in traffic levels that have risen in the area since the Covid period during which traffic levels were very low. They consider the submitted traffic survey to be wholly unrepresentative of the actual situation now on the ground. They trust that the Applicant's traffic survey will be reviewed in light of this increase in traffic. Their concern is that this development would exacerbate existing traffic and congest problems.

4.1 Response to Item 1 – Conservation of Glenavon House

The applicant is advised that Dublin City Council's Conservation Office has serious reservations with regard to the proposed development, particularly with regard to the proposal to demolish the existing house which is considered to be of architectural and cultural interest. The applicant is therefore requested to reconsider the justification for demolishing the house and to explore the possibility of retaining, conserving and adapting the historic house on site to provide high-end residential accommodation therein with a new development to the south of the historic building.

Concerns raised in the DCC Planner's Report:

Under the heading 'Site Description':

The site area is an older property, approximately 100 years old, which contains a house, outbuildings and gardens. The existing house on site on site, Glenavon House, appears to date from between 1918 and 1921. Upon site inspection it was noted to be vacant. It is not a Protected Structure and has not been surveyed by the National Inventory of Architectural Heritage (NIAH) as part of their NIAH survey of the city. The report received from the Conservation Officer submits that it is possible that the historic building, Glenavon House, may have been missed on an initial NIAH scoping study for the area due to the presence of large mature trees on site, which conceals the building from the Ballymun Road. The site is well vegetated with an extensive tree canopy. The entrance of the property contains original gates and piers. As noted by DCC's Conservation Office the boundary wall itself is modern and is understood to have been constructed in the mid- late 20th C. However, the inner gate piers, gates and cap stones of the secondary gate piers are historic. A name plaque on one of the modern piers reads 'Glenavon'. Mature trees screen the main house from the road and contribute in a positive manner to the local streetscape.

Under the heading 'Demolition of the existing house on site'

The applicant has stated that they have considered the architectural and historic values of Glenavon, and have assessed it under the headings set out in Section 52 of the Planning and Development Act 2000, which notes the eight categories of special interest to be considered when assessing a building to be included on the Record of Protected Structures.

The applicant has stated that the building does not satisfy any of the criteria for inclusion on the record of protected structures.

A report has been received from the Conservation office disagreeing with the applicant's submission as follows: "The CO would disagree with these assertions and would note that the building would be considered to be of architectural significance as it would be considered to be an example of good quality architectural design. The CO would note that the interiors are fully intact and are of good architectural quality. Moreover it is noted that a Lieutenant-Colonel Thomas Ryan was a resident of the house and wrote his autobiography in the house. Ryan was a sportsman on the Croke Park pitch on 21 November 1921 (Bloody Sunday) and was active in historic events between 1914 and 1921. The house would therefore be considered to be of cultural interest [emphasis added].

The Conservation Section of Dublin City Council would consider that this building is of Architectural and cultural interest and makes a positive contribution to the wider residential area [emphasis added].

The design team have stated that the main failings of the building is that it is not protected and that it has not been recorded by the NIAH. For these reasons, the existing building has been identified by the Design team for demolition and this has become the starting point for re-development.

The proposed development strategy is not supported by the CO and is contrary to best conservation practice as established by international charters, our statutory guidelines and legislation, which focuses on re-use and intervention without the removal of historic character or significance. Many examples of the sensitive adaptive re-use of non-protected buildings of merit have been demonstrated across the city – non-protected industrial heritage buildings of merit in the SDZ Docklands, St. Mary's Pembroke Park, Roe and Co. Distillery, The One Building, Grand Canal Street etc. where appropriate adaptive re-use proposals have been incorporated in a sensitive manner within the extant historic structures [emphasis added].

In principle, the demolition of the historic house is not supported from a sustainable nor built heritage standpoint and is contrary to current policy which is focussed on the retention and reuse of existing buildings of architectural merit and part of a community's heritage assets. The refurbishment and reuse of the existing building stock, with potential for a

new build residential development to the south is infinitely preferable to its demolition and construction of a new development that is considered to be out of scale and character of the prevailing streetscape and wider residential area [emphasis added].

Having regard to the content of the report received from the Conservation Office it is recommended that the applicant consider the content of the report and the issues raised therein and explore the possibility of retaining the extant historic house on site, conserved and adapted to provide high-end residential accommodation therein with a new apartment development to the south of the historic building.

Clients' response to the Applicant SFI submission

Our clients note how in a current SHD proposal to the south of this site also to the rear of St. Mobhi Road, reg. ref. TA29N.312492, the Applicant has been required by DCC and An Bord Pleanála to retain Balnagowan House and to respect its setting, etc. The retention of Glenavon House would also be the correct conservation decision in the current case.

Having reviewed the report of the DCC Conservation Office, they and our clients are fully in agreement that the demolition of the existing house would be unacceptable as, despite its present untended condition, it is of architectural and cultural interest. If demolished, Glenavon House would be permanently lost.

The Applicant's **Section 4.1.1** sets out a brief list of those areas of the DCC Planner's Report from which they consider Item 1 of the FI request to derive. Our client takes these points as read but notes how the Applicant fails to list the number of objections which were submitted to DCC by concerned third parties who wished to see Glenavon House retained.

The Applicant refers to how it is "asserted" by the Conservation office of DCC – that being the expert office responsible for these matters within this jurisdiction – that "Glenavon House may have been missed on an initial NIAH scoping study for the area". DCC'S Conservation Office's point is not that it was or was not missed; their point is that it should have been included in the NIAH scoping study as it is worthy of same on the basis of its architectural and cultural significance.

The original Applicant submission did not provide sufficient justification for the proposed demolition of the Glenavon House, and the current submission's **Section 4.1.2** merely repeats and emphasises (in case perhaps that we didn't read and/or understand them the first time around) the same arguments in favour of the demolition. These are addressed as follows:

1. Reference is made to the Lindsay Conservation Architects' 'Conservation Response to the Further Information Request'. Our client has read this and does not consider that it adds anything new. Its focus is on trying to undermine the DCC Conservation Officer rather than on whether Glenavon House should be retained or not. For example:
 - Unsurprisingly, the Applicant team's conservation consultant argues that the NIAH study was unlikely to have missed Glenavon House. The focus is on trying to prove that the NIAH did not miss Glenavon House rather than addressing DCC's point that the house is worthy of being on the NIAH. That DCC's Conservation Office considers that it should have given the Applicant sufficient basis to re-design the scheme to incorporate Glenavon House.
 - The conservation consultant tries to undermine the DCC Conservation Office's position that Glenavon House maintains a quality architectural design by referring to features such as new toilets having been installed. That the house does not maintain all its original internal features seems sufficient for the Applicant team to condemn it. But let's remember that Section 16.2.1.2 of the DCC CDP 2016-2022 states:

To minimise the waste of embodied energy in existing structures, the reuse of existing buildings should always be considered as a first option in preference to demolition and re-build [emphasis added].

And, more generally, it states:

"... the planning authority will actively seek the retention and re-use of buildings/structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city ..." [emphasis added].

Where does the CDP state that the internal fixtures and fittings and internal layouts must be original and in good condition? What is being assessed is whether the existing structure should be retained and re-used. It should because it is architectural, cultural, 'and' local interest. It makes a positive contribution to this area and its retention is the sustainable option.

- The conservation consultant quibbles with the "cultural associations" of the house. Apparently, it is not enough for the house to have been the home of Thomas Ryan and his daughter. Evidence, it seems, must be provided showing that Thomas Ryan roamed the house with ink-stained fingers. Avondale House in Wicklow was not the home of Charles Stuart Parnell while he was an MP living in the UK, but it is a protected structure primarily due to its association with Parnell. Is this house historically associated with Thomas Ryan? Yes, it is. Does this provide an additional basis for retaining the house over another older dwelling of quality architectural design? Again, yes, it does.

- While the Applicant team's conservation consultant is entitled to argue that Glenavon House does not – in their opinion – have significant literary or cultural associations, the consultant does not address the issue of whether the building's retention and re-use would or would not be in line with the DCC CDP. Clearly it would, but this does not suit the Applicant argument for demolition to facilitate full redevelopment of the site.
2. Reference is made to a submission from DTA Architects which reaches the – again hardly surprising – conclusion that the retention of the house would reduce the achievable residential density of new development on the site. This is in fact the point of the DCC FI request. The scheme is too dense and the failure to retain Glenavon House is a manifestation of proposed overdevelopment. DTA Architects argue that:
- Retaining Glenavon would: "represent an unsustainable use of finite development land resources". Our client wholly disagrees. Retaining Glenavon and reducing the density of the scheme such that it respects the context into which the scheme is proposed would represent a wholly sustainable approach to the development of this site. More units does not in itself mean a more sustainable development as is made clear by the Urban Design Guide.
 - Unit numbers on the site would be approx. 23 with the house retained. Our client's original objection set out how the scheme was, based on a full assessment of all aspects of the scheme carried out by BPS, 40% too dense. We felt the site could at most – with Glenavon demolished as proposed – achieve 31 units on this site. We consider that with the retention of the house, the appropriate density would result in a scheme of between 23 and 28 units (depending on unit sizes). Our client and BPS consider this to be appropriate and achievable.
 - The revised scheme is the best option for the site. Our client disagrees. The revised scheme would continue to cause negative impacts noted in our client's original objection, but also introduces new ones. For the reasons set out in this response to the submitted SFI, our client submits that the revised scheme is unacceptable. This is not in any case an argument for not retaining Glenavon.
 - Planning policy favours higher density and building height and repeatedly refers to how housing and a wider range of housing is needed in this area, etc. These arguments do not in themselves justify the demolition of an existing house. These are wider arguments and not ones specific to the issue of the conservation of built heritage within this area of Dublin City.
3. Reference is made to "the protection of the residential amenity of adjoining dwellings" being addressed in the remainder of the SFI submission. This is not an argument in favour of demolishing Glenavon.

BPS has discussed this matter with our client, re-read the DCC Conservation Officer's Report, reviewed the DCC CDP 2016-2022, the Draft DCC CDP 2022-2028, reviewed the history of Glenavon House, reviewed aerial photographs of the property taken since 1995 and we cannot find any justification for the demolition of the house. Glenavon House has long been a dwelling and property of significance in this area. Aerial photos show how up to at least 2012 it was a very well maintained house set within sylvan grounds. The house should be respected and retained. The Applicant's arguments are fundamentally self-serving and fail to address planning policies that seek to retain existing structures and those which make a positive contribution to the area. Development alone does not justify development. The Applicant planning application should be refused such that the scheme can be re-designed to retain Glenavon House which dates from between 1918 and 1921.



Fig. 1: Aerial photograph (OS, 1995)



Fig. 2: Aerial photograph (OS, 2000)



Fig. 3: Aerial photograph (OS, 2005-2012)

4.2 Response to Item 2 – Visual and overbearing impacts

The applicant is advised that having regard to the very close proximity of the proposed development to the eastern and southern boundaries of the application site, the planning authority considers that the height and length of the proposal, notwithstanding the drop in ground levels across the site, may result in the development having a negative impact upon the prevailing historic context established by the architectural quality of houses in the area and would also have overbearing effects on adjacent properties in particular Nos. 25, 27, 29 and 31 Saint Mobhi Road; the units within the two-storey apartment block (western end) in Hillcrest Court and Mobhi Court (16-30 block) adjacent. The applicant is, therefore, requested to submit any proposals they may have to reduce the potential visual and overbearing impacts. This may result in a reduction in height and/or length for part or all of the proposed development and/or other design measures.

Concerns raised in the DCC Planner's Report:

A report received from the Conservation Office states, inter alia, that: "The CGIS submitted in support of the scheme show a new proposal that is **significantly higher and bulkier than the surrounding area**, which consists of two-storey houses and a small number of three-storey apartments, **causing serious injury to the prevailing historic architectural context of the local area**,

particularly the high quality architectural character of the residential area around St. Mobhi Road and Ballymun Road. The impact of the proposal is clearly visible from the submitted visuals (VM1, VM2, VM4 and VM6). The proposed development is over-bearing, excessive, out of scale and out of character in comparison with the prevailing architectural context, particularly the special architectural character of the adjoining residential terraces to the east of the site along St. Mobhi Road, which are considered to be houses of high quality twentieth century architecture. We request that the proposal be reduced in height so that cannot be perceived from St. Mobhi Road" [emphasis added].

Under the heading 'Saint Mobhi Road' the DCC Planner's Report states: "Assessing this proposed development's height and length in conjunction with the close proximity of the apartment block to the site's eastern and southern boundaries the development as proposed would serve to impact seriously on the residential amenities of some of the two-storey dwellings along Saint Mobhi Road. It is considered that the block would serve to have an excessive and overbearing impact on the rear of these properties. In this regard, the planning authority considers that the properties along Mobhi Road most impacted upon by the development in terms of overbearing effects would be nos. 25, 27, 29 and 31 Mobhi Road. Rather than recommend that permission be refused planning permission on this basis the applicant should be offered the opportunity to reduce the impact of the development on these aforementioned properties. This may result in a reduction in height of part / all of the apartment block" [emphasis added].

Under the heading 'Building Height' the DCC Planner's Report states:

- "The Townscape and Visual Impact Assessment is based on a selected 300m radius from the boundary of the proposed development, the area within which potential effects could be significant, rather than defining the extent of visibility" [emphasis added]. That is, the assessor excludes the visual impact of the scheme on properties within 299m of the scheme which includes all adjoining St. Mobhi Road rear gardens, etc.
- "The residential properties which would be potentially most affected by the new blocks are nos. 23 – 39 (odd only) Saint Mobhi Road; No. 27-30 The Haven, Hillcrest Court, Glenavon Court, Clonmore Court and Mobhi Court apartment schemes. The impacts would be mainly potential excessive overlooking, overbearance, overshadowing of private garden space or communal amenity space and excessive loss of daylight and sunlight into habitable rooms" [emphasis added].
- "Saint Mobhi Road":

While the rear gardens of the dwellings to the east of the site along Mobhi Road at this point are very long i.e. between 36m and 40 metres, the proposed development at approx. 19.8m in height is excessive. The planning authority notes that there is a drop in ground levels between the site and some of these dwellings to the east of up to 3.5 metres and so the full height impact of the development as viewed from the rear of the houses is not experienced. However the height of the proposed development above the existing garden level would be approx. 16 metres. The block is of significant length, i.e. 80 metres in length, is proposed to be located at a distance of approximately 8 metres from the eastern boundary of the application site [emphasis added].

Assessing this proposed development's height and length in conjunction with the close proximity of the apartment block to the site's eastern and southern boundaries the development as proposed would serve to impact seriously on the residential amenities of some of the two-storey dwellings along Saint Mobhi Road. It is considered that the block would serve to have an excessive and overbearing impact on the rear of these properties. In this regard, the planning authority considers that the properties along Mobhi Road most impacted upon by the development in terms of overbearing effects would be nos. 25, 27, 29 and 31 Mobhi Road. Rather than recommend that permission be refused planning permission on this basis the applicant should be offered the opportunity to reduce the impact of the development on these aforementioned properties. This may result in a reduction in height of part / all of the apartment block [emphasis added].

With regard to potential overlooking and the level of same the planning authority notes that the proposed block will lie to the rear/west of the rear gardens and dwellings of nos. 23 – 35 (odd only) Saint Mobhi Road with separation distances of between 5m and 17m between the block's main/eastern façade and the rear party/western boundaries of these aforementioned residential properties. These separation distances decrease to between approximately 3.5m and 10.3m when the rear external walkway incorporated onto the proposed block's eastern façade is taken into account. When the rear garden lengths of the dwellings are taken into account separation distances increase significantly by approximately 35 metres.

DCC therefore accepted out client's objections over the excessive height and scale of the proposed apartment block relative to their properties. Rather than refuse planning permission, as with the DCC CO's request to retain Glenavon House, the Applicant was asked to re-design to address the negative impacts arising regarding our clients' properties.

Clients' response to the Applicant SFI submission

Note: Block C is 6 storeys and Block B is part 4 and part 5 storeys. The Applicant floor plans give the misleading impression the building is 4 and 5 storeys. Care is required given the differing ground levels to our clients properties.

Our clients have reviewed the Applicant's SFI submission's drawings, cross sections, and floor plans (see Figs. 4 to 15). The primary change offered by the Applicant is the reduction in the height of the parts of the single block they refer to as Blocks A and B from

5 storeys to 4 storeys. However, the part of the block referred to as Block C retains almost the same building height and continues to be 5 storeys. There have been some slight revisions to setback distances to our clients' properties which bring parts of the overall block closer and parts not so close.

The position of our clients is that:

1. **Block C at 6 storeys remains wholly unacceptable.** The height of the proposed development above the existing garden level would be approx. 16 metres. The block is proposed to be located at a distance of approximately 8-9 metres from the eastern boundary of the application site which adjoins our clients' rear gardens on St. Mobhi Road. **This setback has not been increased (see Figs. 12 and 13).** The block would serve to have an excessive and overbearing impact on the rear of these adjoining properties.

The height of Block C is also amplified as it stands on its own like a tower at the end of the long block. It would appear visually dominant, visually intrusive and would be visually injurious to the area including to our clients' residential and visual amenities.

The Design Statement refers to how Block C is only "nominally" 6 storeys: it is 6 storeys. BPS notes how dwellings along St. Mobhi Road are all the same height but the ground level falls north to south. This has the effect of building heights appearing to stagger downwards as ground levels fall. The Applicant approach is to increase building heights to their highest at the south end of the site. Our clients object to this.

BPS considers that as proposed, Block C would be significantly visually dominant and overbearing onto our clients' properties. This block cannot, our clients consider, be justified above 3 storeys.

2. **Part of Block B remains at 5 storeys and its setback to St Mobhi Road gardens is reduced.** BPS notes how the height of B must be considered in the context of the Design Statement confirming how: "the parapet level [of Block C] is just 1 storey above that of Blocks A and B". That is, the 6 storey Block C only drops one storey to Block B because part of Block B is in fact 5 storeys. Block B is too tall – its height should stagger downwards in line with the contours of adjoining properties to the east. **This section of Block B is now located closer to, and not setback further from, our clients' rear gardens (see Figs. 12 and 13).**
3. **Blocks A and B continue to propose an entire storey above the eaves levels of St Mobhi Road houses and this is not acceptable.** Our clients continue to consider the 4 storey blocks to be too tall and too close to their properties with insufficient attempt at mitigating the negative impacts arising from this. They consider that notwithstanding the difference in relative ground levels between their properties and the Applicant site, the 4th storey should not be permitted at all. If a 4th storey is to be contemplated, then it should be setback to further mitigate overbearing and visual dominance impacts on their properties.
4. **Blocks A and B fail to stagger downwards to reflect the falling ground level of adjoining St. Mobhi Road rear gardens. The** Design Statement refers to how Blocks A and B are approx. 1.5m above the ridge level of St. Mobhi Road dwellings, but this statement fails to note how our clients' dwellings have tall roofs and their houses stagger downwards in line with the slope of St. Mobhi Road while Blocks A and B remain at the same height and so the impacts of the blocks increase as one moves southward. The proposed building heights of Blocks A, B and C remain far above the prevailing building height for adjoining residential developments which is 2 and 3 storeys.
5. **The Applicant refers to increased separation distances to our clients' adjoining properties.** Block C has not been re-sited at all regarding that part of this 5 storey building which would adjoin our clients' rear gardens. Block B has been marginally altered to be closer to our clients' rear gardens and Block A has been setback further (though this appears more aimed at ameliorating the demolition of Glenavon House issue that addressing impacts on our clients' properties). On balance, BPS considers that the setbacks offer little to address the overdevelopment concerns at play here. Block C remains the block of most visually dominant impact and it remains too close to our clients' properties and remains at 5 storeys. The overall block has also shifted slightly westward and this has caused other internal impacts within the scheme.
6. **The building does not "fold" at the point where Block 5 adjoins clients' rear gardens.** The Design Statement refers to how the building "folds away" from adjoining properties. There is little evidence of folding away at the closest point of proposed Block C to our clients' residential properties.
7. **The cumulative height, scale, length, bulk, and monolithic massing of the entire block is not addressed.** The block now maintains an oddly brutal appearance with the very horizontal Blocks A and B attached to the massive Block C. The block's cumulative appearance. The Applicant's SFI submission refers to the single block as 3 blocks, but this is not how it appears in the elevations, in the contiguous elevations and/or in the sections. References to 3 blocks are misleading as our clients' would experience one single block from their rear windows and rear gardens.
8. **The retention of Glenavon House at the north end of the site would provide for the breaking up of the block.** Our clients consider the cumulative height, bulk, scale, length, and massing of the block needs to be broken up. This can be achieved by retaining Glenavon House and breaking up the proposed block into two smaller blocks in the remainder of the site. This may reduce the number of achievable units, but it would result in a more balanced scheme.

The Applicant's claims to have mitigated the visual and overbearing impacts of Blocks A, B and C (especially C) are inadequate given the context into which the overall block is proposed to be sited. The same elevational treatments, windows, balconies, etc. all continue to face our clients' properties which further contribute to a sense of both being visually dominated and being under surveillance.

Just because the maximum building height set out in the DCC CDP 2016-2022 is 16m does not make this a target. It is a maximum. All other planning criteria must be met to allow the proposed revised building heights and these are not met. BPS considers that the overall building should be 3 storeys tall which means that just over two storeys of the building would rise above our clients' rear gardens. Block A should be reduced by one storeys; Block B by 1 and 2 storeys (to make it 3 storeys); and Block C by 3 storeys. BPS understands that DCC may consider this to be contrary to national planning policy and we have discussed this with our clients. They consider that the lower ground levels of the Applicant site mean that it can accommodate the 3 storeys but when they look at the elevation drawings of the fourth storeys and of Block B's part 5 storeys and Block C's 6 storeys, they cannot accept these. They consider the Applicant to have not have offered sufficient compromise here and that it is not reasonable to place them in a position where they seem expected to offer further compromise in the face of what they see as overdevelopment.

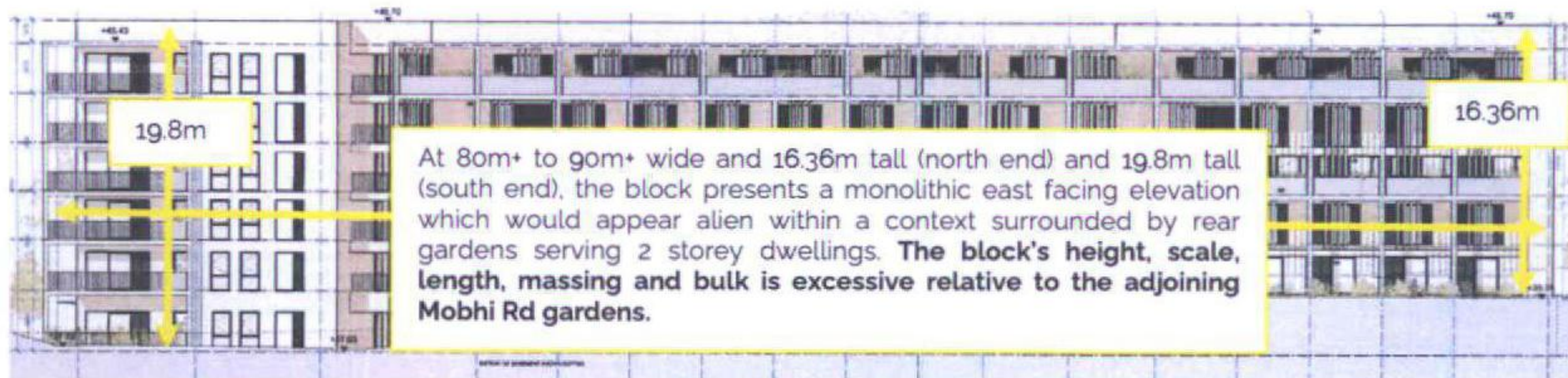


Fig. 4: Original east elevation of block which faced client properties on St. Mobhi Road & their rear gardens

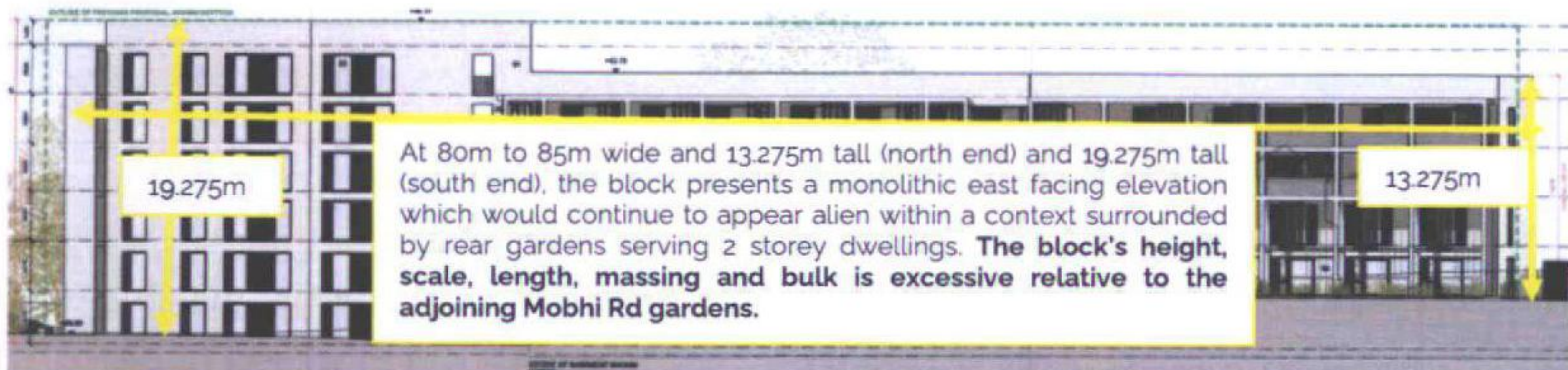


Fig. 5: SFI east elevation of block to face client properties on St. Mobhi Road & their rear gardens



Fig. 6: SFI contiguous elevation of block to face client properties on St. Mobhi Road & their rear gardens

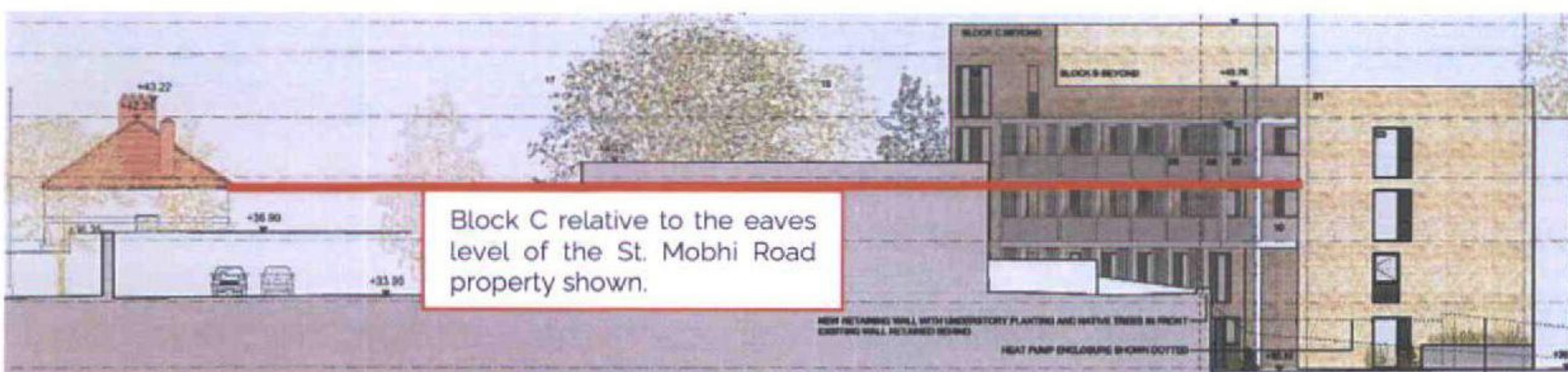


Fig. 7: SFI contiguous elevation of block to face client properties on St. Mobhi Road & their rear gardens

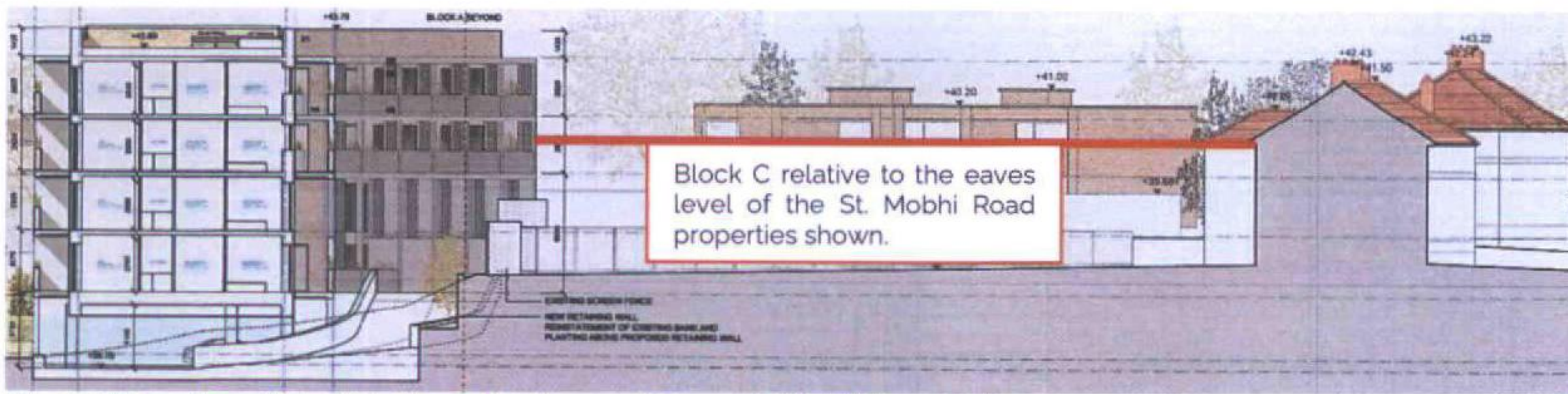


Fig. 8: SFI section of block to face client properties on St. Mobhi Road & their rear gardens

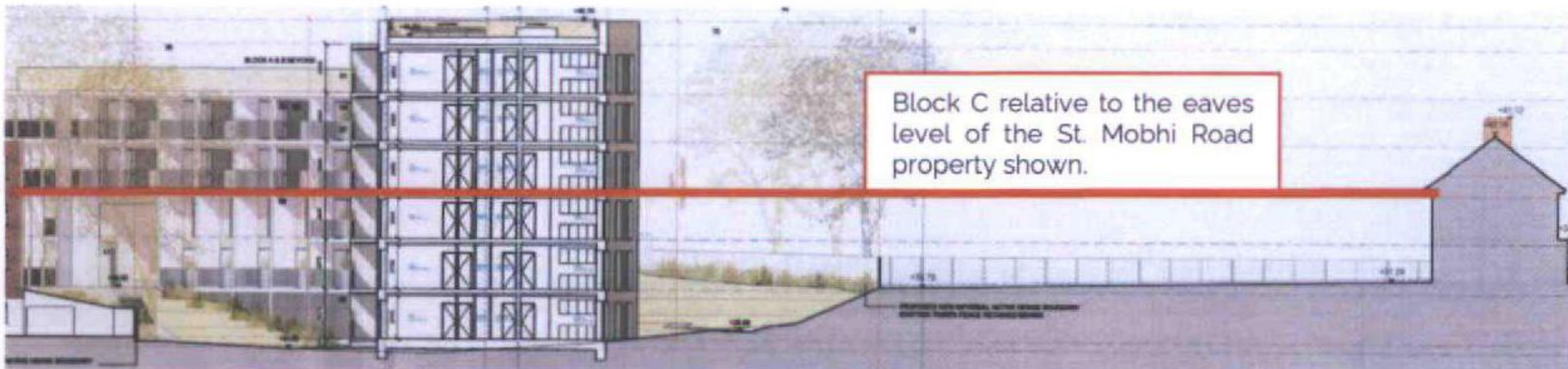


Fig. 9: SFI section of block to face client properties on St. Mobhi Road & their rear gardens

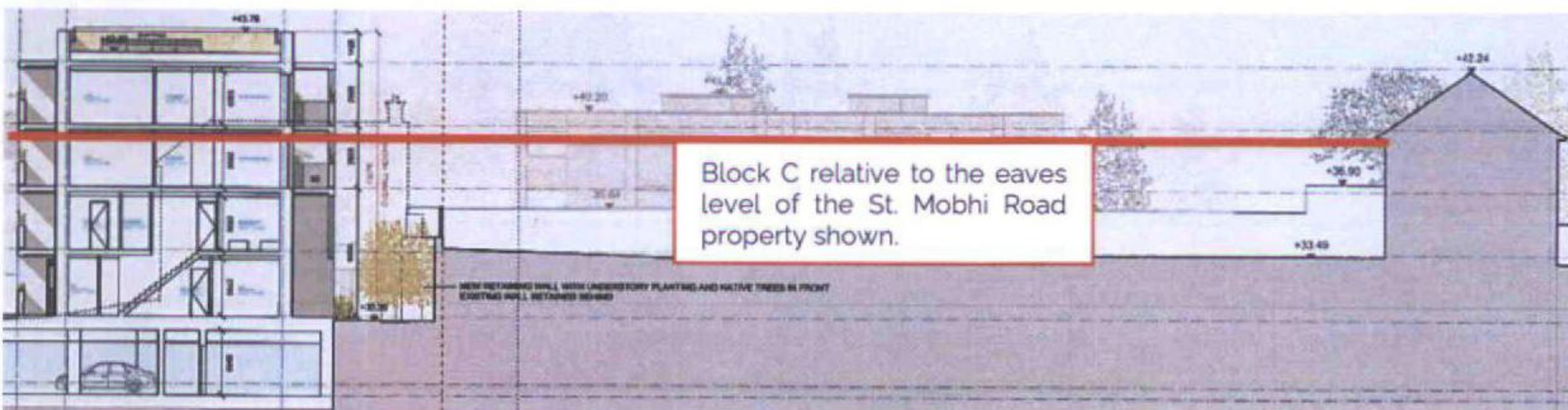


Fig. 10: SFI section of block to face client properties on St. Mobhi Road & their rear gardens

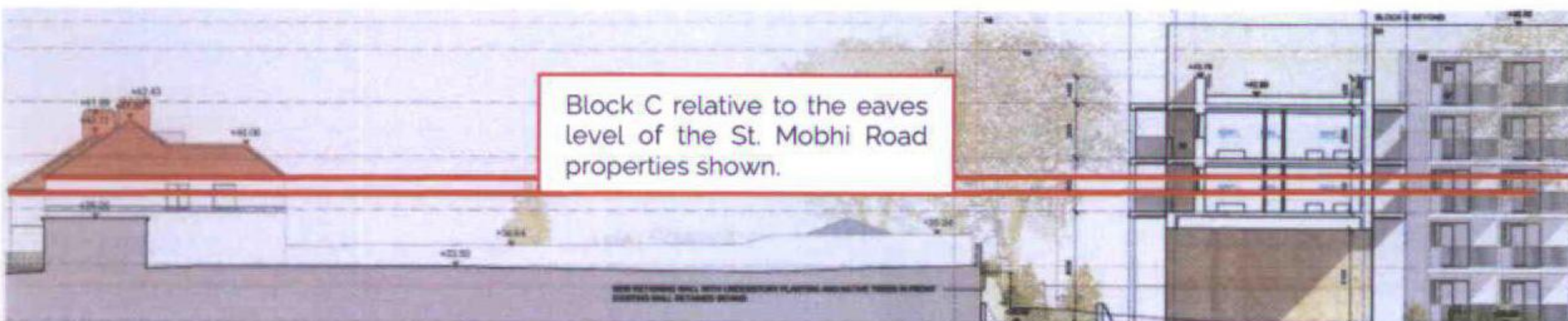


Fig. 11: SFI section of block to face client properties on St. Mobhi Road & their rear gardens

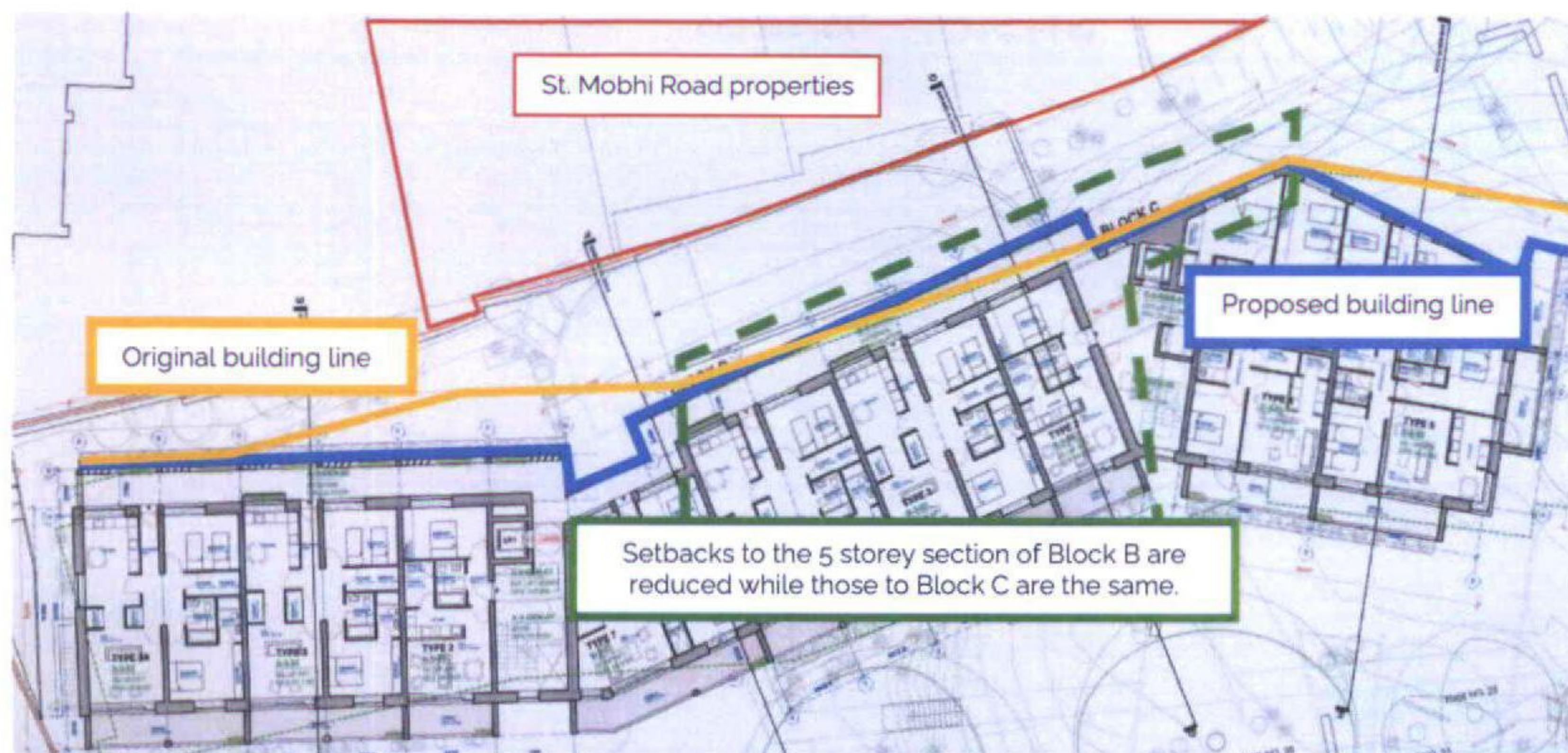


Fig. 12: Original and SFI setbacks to client properties on St. Mobhi Road & their rear gardens

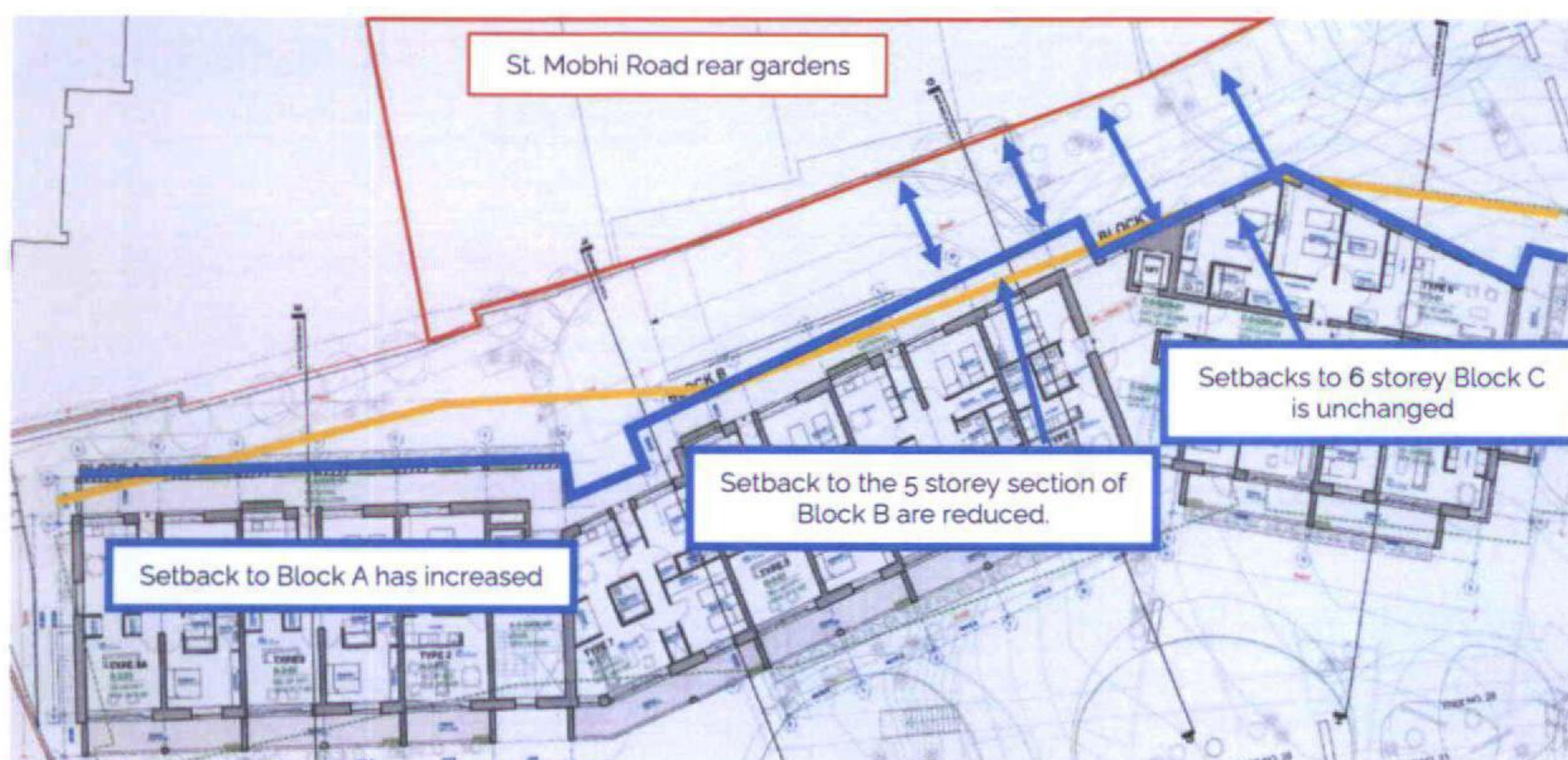


Fig. 13: Third storey floor plan relative to client properties on St. Mobhi Road & their rear gardens

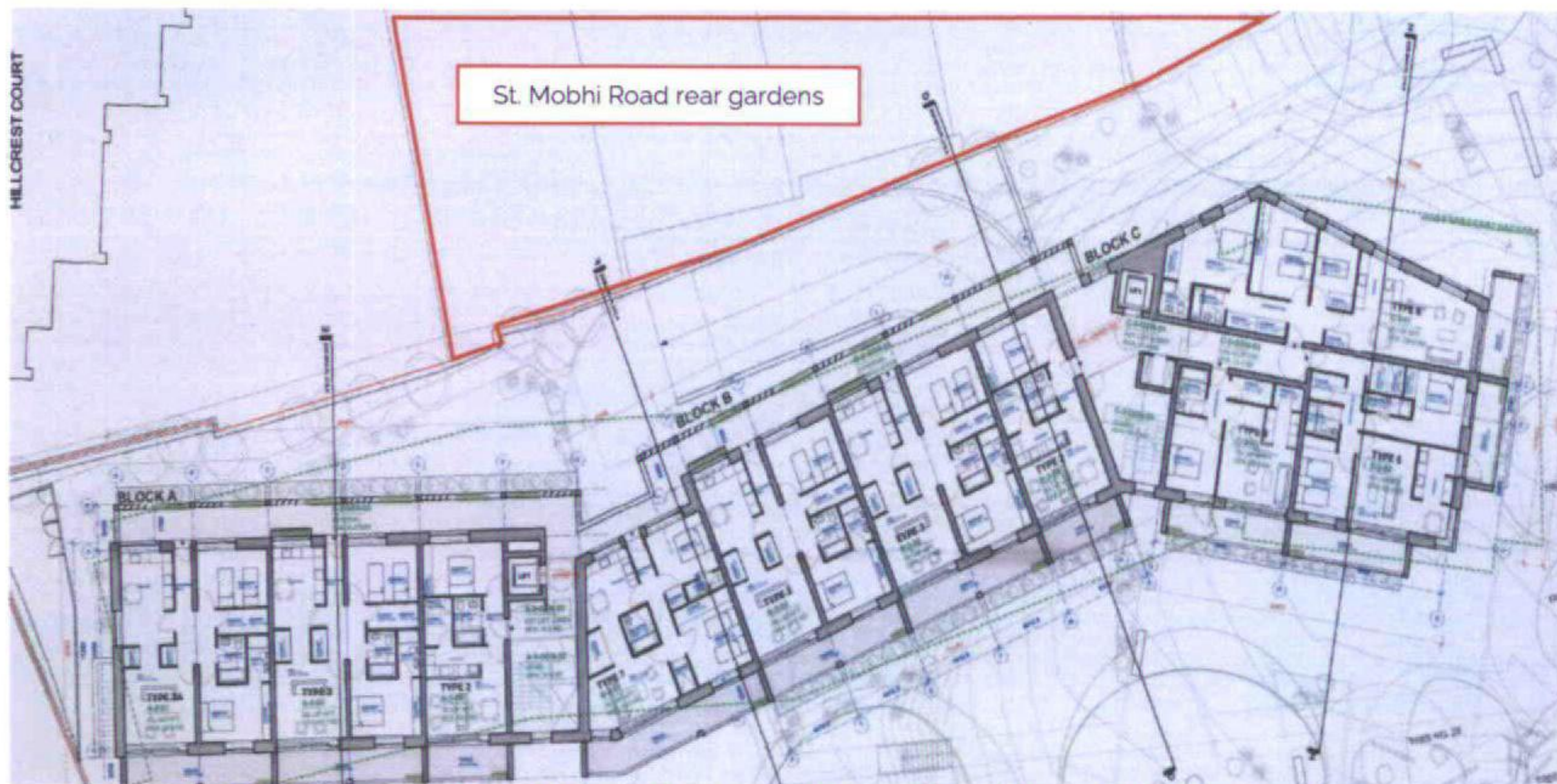


Fig. 14: Fourth/Fifth storey floor plan relative to client properties on St. Mobhi Road & their rear gardens

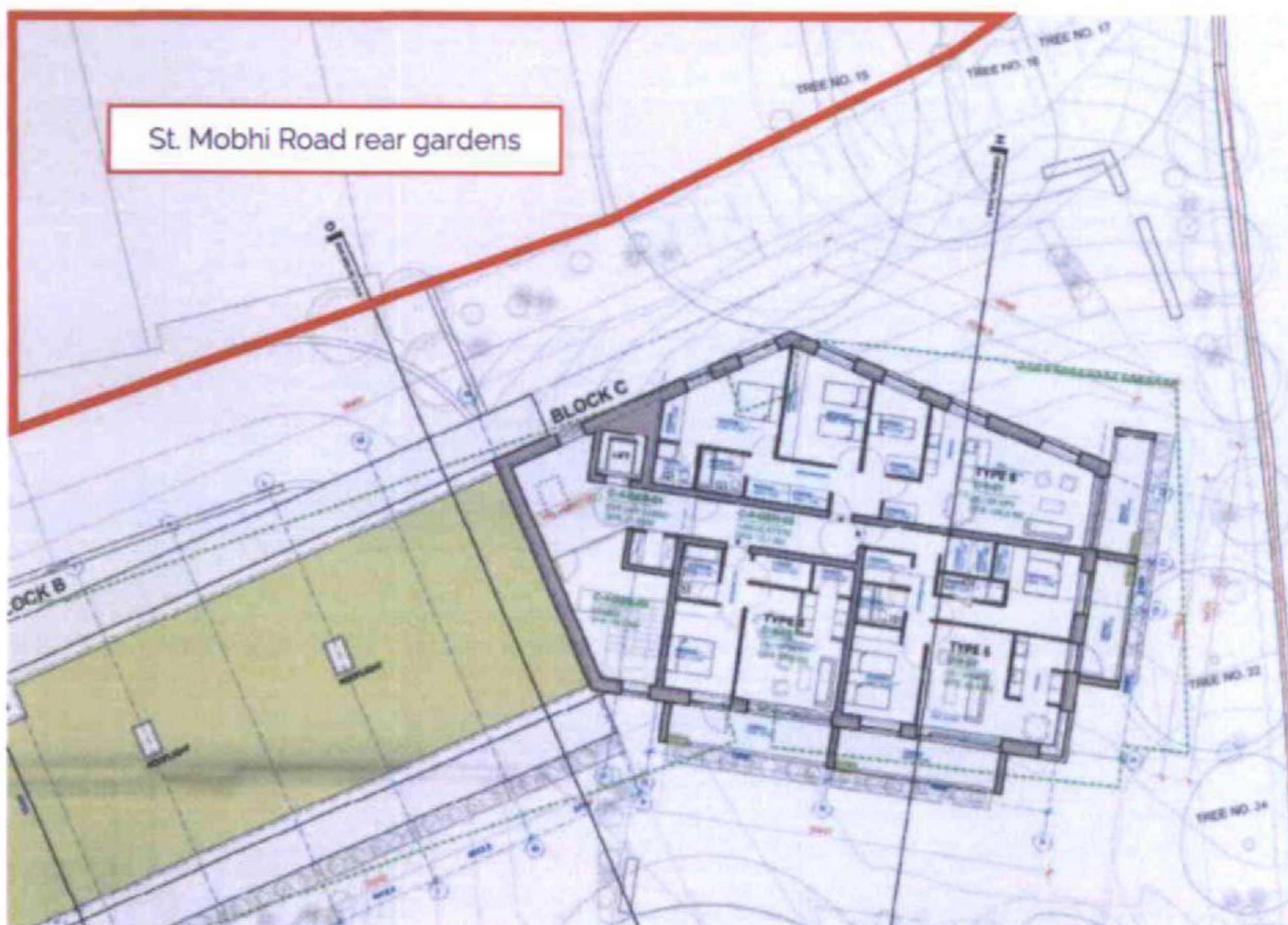


Fig. 15: 6th storey floor plan relative to client properties on St. Mobhi Road & their rear gardens

4.3 Response to Item 3 – Visual and overbearing impacts

Having regard to the limited separation distances proposed between the southern end of the proposed apartment block, the number and size of windows in the southern elevation of Units Types 7 and 8 and the presence of windows serving living kitchen areas of existing apartments in the northern elevation of Nos. 16 – 30 Mobhi Court, the applicant is advised that the planning authority is concerned about potential excessive overlooking towards Nos. 16 – 30 Mobhi Court. The applicant is, therefore, requested to address these concerns in terms of possible reduction in the scale of glazing proposed and/or omission of windows and or/ the increasing of separation distances between the southern end of the block and the site's boundary to the south. The latter may also allow for the creation of a higher quality, more useable and greater quantity of external amenity space suitable for families.

Concerns raised in the DCC Planner's Report:

Our clients acknowledge how the DCC Planner's Report states:

The planning authority notes that while the elevations are very close to the rear party boundaries with those two-storey houses along Saint Mobhi Road the applicant has introduced elements of incorporated design into the block to minimise the

extent of direct overlooking that may occur so that the living areas and balconies are primarily orientated towards the west (i.e. towards Clonmore Court apartment scheme) and galleries to the east towards the rear of the dwellings along Saint Mobhi Road. The eastern façade as a series of square concrete pillars and slabs forming the access galleries creating a frame-like façade that is then infilled with metal planters and privacy screen louvres. The entrance doors to the apartments are primarily on the eastern façade with kitchen windows positioned here also.

The planning authority considers these design measures as well-considered and also visually pleasing. The level of potential overlooking is significantly reduced as a result of these measures. It is noted that there are some balconies on the eastern elevation of the block that may result in some overlooking of rear gardens particularly nos. 35 and 37 Saint Mobhi Road. These balconies occur in Apartment Type 7 in Block C. However the distances between the application site / party boundary increases significantly at this point to approximately 17 metres and to the rear façades of nos. 35 and 37 the separation distances are over 50 metres. It is considered, therefore, that the residential amenities of these properties will not be unduly impacted upon in terms of excessive overlooking and is overall considered acceptable in such an urban location and in the context of national policy, which is to increase building heights / density in urban areas such as this one.

Our clients find this assessment to be difficult to understand. BPS has explained that cumulative planning issues are also assessed, e.g. overlooking and visual overbearing, so their concerns are caught in an overall sense, but here are some of our clients' residents' responses to the above paragraphs:

1. Our clients do not overlook the Applicant site and they would expect the same in return. A fair balance is required.
2. Why has the Applicant not been asked to provide photographs taken from the proposed floor levels looking into our clients' rear gardens and toward their rear elevations which demonstrate the achievable overlooking? This type of request is standard in many planning application and BPS was required to provide such photos when obtaining planning for the rooftop walk on top of Croke Park stadium. Without such photos, how can one determine what is and what is not "undue" overlooking.
3. The original elevation contained windows and balconies that will cause direct overlooking of privately owned rear gardens. This proposed overlooking is from high levels sited directly opposite and would remove all privacy from our clients' rear gardens.
4. "How can an up to 6 storey apartment block with a relentless east facing elevation with small setbacks to adjoining rear gardens not cause alarm bells as even someone standing on a ladder on my roof cannot get close to a height of 6 storeys".
5. Why should our clients' rear gardens act as the vast majority of the setback from the Applicant's building to their rear elevations? 22m is standard between 2 storey rear elevations in housing estates. This is 11m on each side and not 3m on one side and 19m on the other.
6. Our clients are not permitted to build a tall rear garden structure in their rear gardens which would overlook the Applicant site so why should the opposite be allowed?
7. While the Planner's Report refers to the visual mitigation measures (square pillars, slabs, frame like façade, etc.) as "well-considered and also visually pleasing", our clients note how as a result of these measures the elevation would appear closer to their properties as these measures themselves increase the bulk and massing of the structure.
8. The overall east elevation will cause the permanent perception of overlooking.
9. The overall east elevation would impact on the future development potential of the adjoining Mobhi Road gardens.

BPS notes again that these points represent only a summary of those raised by our clients. We trust that these can be taken into account in your assessment of the submitted SFI.

Clients' response to the Applicant SFI submission

The Applicant's Section 4.3.1 immediately includes the above paragraphs taken from the DCC Planner's Report which suggest that the proposed direct and indirect overlooking of our clients' properties is somewhat acceptable. Our clients' responses to the DCC Planner's Report are included above. In summary, the DCC assessment to date has stated that our clients will not be impacted in terms of "excessive" overlooking. The word excessive suggests "Exceeding a normal, usual, reasonable, or proper limit". DCC is the planning authority for this area and is required to make such judgements. However, our clients submit that the extent of overlooking arising would be significant. This is defined by the Collins Dictionary as: "Fairly large in amount or quantity". BPS agrees with our clients that the proposed extent of overlooking is significant in that there would be a fairly large quantity of overlooking of their properties.

It is the view of BPS that further mitigation was required to address overlooking and overbearing (and the cumulative impacts of the scheme) impacts of the scheme on our clients' properties' existing residential and visual amenities and we have reviewed the SFI submission in this light:

1. **Blocks A and B are reduced by one storey but Block C remains 6 storeys – all cause consequent negative overlooking from very high levels.** Our clients' original objection made to DCC is 'taken as read'. This reviews every window and balcony that overlooks our clients' properties. The removal of one storey from Block A does reduce overlooking, but Block A remains an

entire storey above the eaves level of our clients' properties. Block B is reduced by one storey but it maintains the same height as Block A and as such becomes a 4 and part 5 storey building with its new top level continuing to offering towering overlooking opportunities. Block C continues to cause unacceptably significant overlooking as it has not been reduced in height. The top 3 storeys of Block 3 offer (at 4th floor) balcony area adjoining Block B and windows serving a lift lobby and bedrooms and (at 5th and 6th storeys more lift lobbies and bedroom windows. These rooms could not exist without directly overlooking our clients' properties.

2. **Claims to provide greater separation distances to the eastern boundary require review.** The Applicant repeats the claim that the building is setback further in the SFI scheme than it was originally. Figs. 12 and 13 of this letter show that this is not the case for Blocks B and C. Blocks B and C are closer or setback to the same extent as they were originally. Block B remains partly a 5 story building while Block C remains a fully 6 storey building.
3. **No additional mitigation and/or screening measures are introduced to address significant overlooking arising.** Our clients' concerns as to direct overlooking from Blocks A, B and C are not addressed. Concerns over the perception of overlooking are not addressed and the measures that purportedly offer screening to mitigate overlooking serve to increase the bulk of the building as it faces our clients' properties.

Our clients ask that DCC re-evaluate the extent of overlooking arising and ask the Applicant to furnish photographs taken from levels 4, 5 and 6 of the achievable views of their properties including their private rear gardens. Their preference is for the scheme to be reduced to 3 storeys with the building dropping in height along the contours of the site from north to south. They accept that a 3 storey building will cause some overlooking but they do not find 4, 5 and 6 storeys to be acceptable from an overlooking perspective as they would cause significant negative overlooking from high levels.

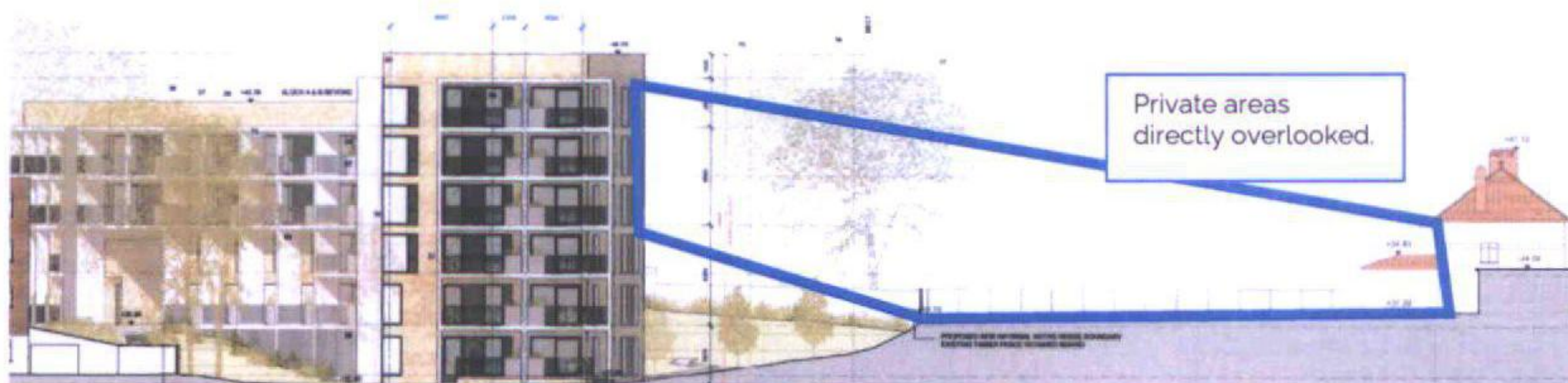


Fig. 16: SFI contiguous elevation shows areas of overlooking concern

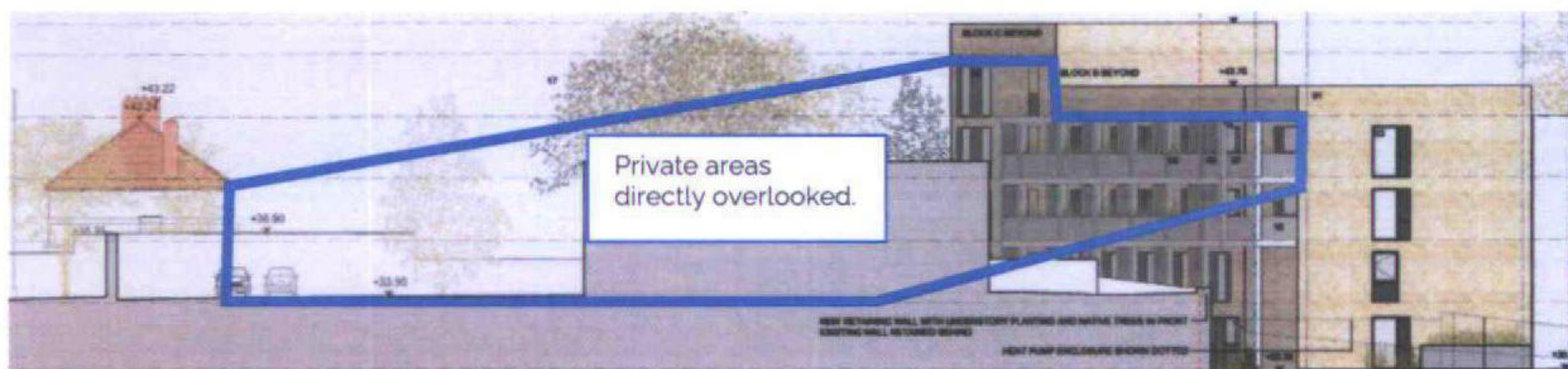


Fig. 17: SFI contiguous elevation of block to face client properties on St. Mobhi Road & their rear gardens



Fig. 18: Balconies on Block B provide for panoramic overlooking of clients' properties



Fig. 19: Areas of overlooking concern



Fig. 20: Areas of overlooking concern

4.4 Response to Item 4 – Visual and overbearing impacts

The applicant is advised that VSC results and corresponding window location for Nos. 16 – 30 Mobhi Court have not been correctly incorporated into the Daylight and Sunlight Assessment Report submitted (Figure 5.8 of this report indicated an adjacent block). The applicant is therefore requested to submit updated VSC results and corresponding window identification for 16 – 30 Mobhi Court. Should the results fall below recommended target BRE values the applicant is requested to address same in a comprehensive manner. This may involve a reduction in height and / or an increase in the separation distance between the existing block in Mobhi Court and the southern elevation of the block proposed.

Clients' response to the Applicant SFI submission

Our client finds proposed Block C to be wholly unacceptable and has asked BPS to comment on the concerns arising from overshadowing of Mobhi Court.

A brief review of the original Daylight and Sunlight Assessment confirms some windows would be moderately impacted and some significantly.

To justify this result, the SFI stage Daylight and Sunlight Assessment uses the same argument as before, i.e. that these are windows at a compromised location, etc. BPS notes that these windows have failed the BRE guidelines which set the bar very low. These result raise alarm bells as to likely overshadowing from Block C.

To try to justify overshadowing impacts on Mobhi Court, the Applicant reaches for Average Daylight Factor (ADF). **The use of ADF to assess a development's impact on existing developments is not permitted under the Draft DCC CDP 2022-2028 as it has caused the overturning of at least one SHD permission on Judicial Review.** Appendix 16 of the Draft CDP refers to how: "These issues have led to a variance in the methods used in daylight and sunlight assessments. They have also resulted in a series of judicial reviews on the topic".¹ Appendix 16 states:

This guide is intended to provide direction to applicants and consultants carrying out such assessments. Its purpose is to offer clarity on the required technical approach, such that a standardised methodology and set of metrics are used by consultants for completing daylight and sunlight assessments. The guide also contains information on what standards are appropriate and what information should be contained in daylight and sunlight reports to enable the planning authority to complete a robust assessment of potential impacts and mitigation measures. The intended outcome of this guide is to ensure a consistent approach to completing daylight and sunlight assessments [emphasis added].

Critically, Appendix 16 states: **"The use of average daylight factor in assessing the impact of a new development on surrounding existing developments is not permitted"** [emphasis added] (p. 405).

The following problems then emerge from the Applicant's SFI stage 'Daylight, Sunlight and Shadow Assessment'. In assessing the overshadowing impacts on Mobhi Court, the report states: "A compliance rate of 99% has been achieved against 2% ADF target value for LKD areas in the proposed scheme and 100% compliance against the 1.5% ADF target value for LKD areas". The Applicant is forced to offer "Compensatory measures for the 1 no. unit not meeting the 2% [ADF] value"

Our client's residents do not accept the results of this assessment which use ADF to justify overshadowing and loss of light impacts even where even a VSC below the BRE guidelines arose from the assessment. This is exactly what Appendix 16 of the Draft DCC CDP 2022-2028 is meant to prevent.

4.5 Response to Item 5 – Townscape and Visual Impact Assessment

Having regard to the submitted Townscape and Visual Impact Assessment, the Planning authority consider that some of the resulting views may be considered to be 'negative', in particular the view from Mobhi Court (VVM 8) and from Griffith Avenue (VVM 2). In this context, the planning authority considers that additional landscape and / or elevational design mitigation measures could be introduced such as a greater refinement of architectural detailing on the southern facade; green walls and/or additional planting of native tree species along the site boundaries to enhance and establish screening to adjacent residential developments (i.e. Mobhi Court and Glenavon Court) and to the public domain. The applicant is requested to submit any proposals they may have in this regard.

Clients' response to the DCC Planner's Report's assessment of the TVIA

Our clients' original Planning Objection Report sets out significant concerns arising from the Townscape and Visual Impact Assessment and its conclusions. As the DCC Planner's Report notes, the assessor only assesses the scheme from points that are up to 300m away from the boundary of the proposed development. The assessor's approach is to decide from where to view the scheme from and only these views are assessed. The approach works well when trying to deny the likely visual impact of a scheme. In this instance, the approach wholly excludes any assessment of the likely visual impact of the scheme on our clients' properties. The extent of visibility of this scheme from our clients' properties would in their view – as originally submitted or as not set out in this SFI submission – be excessive. Nothing has been submitted to demonstrate that our clients are wrong. No Further Information was requested to show the likely visibility from our clients' rear gardens or rear elevations. It is as though our clients' properties do not exist and the scheme can only be viewed from St. Mobhi Road, etc.

Views of a scheme from private viewpoints are recommended in visual impact assessment methodology when an entire area adjoining a scheme is privately owned. How else can it be assessed?

If DCC is assessing a planning application for a new house extension at, for example, No. 27 St Mobhi Road, and visual impact concerns arose, would it ask for likely views of that extension as viewed from St. Mobhi Road? No, because that would be ridiculous. DCC would ask for CGI/photomontage views of the extension as it would appear relative to adjoining properties. It is equally ridiculous that there is not one photomontage provided that shows the appearance of the scheme (which is vastly larger than even a truly monumental house extension), as it would appear from any of our clients' properties. Our clients are only offered views

¹ The High Court of Ireland, Judicial Review, Atlantic Diamond Limited and An Bord Pleanála and EWR Innovation Park Limited, Judgement of Humphreys J. delivered on Friday the 14th day of May 2021. (available www.courts.ie) (2021).

toward the scheme from St. Mobhi Road and other locations where their houses and rear gardens provide screening and setbacks. This visual impact assessment approach effectively uses our clients' properties as collateral damage. Would DCC accept any one of our clients' properties proposing a 6 storey house extension? No. But the Applicant TVIA approach would find such an extension to have only a slight to imperceptible impact when viewed from locations up to 300m away.

Our clients ask that DCC re-evaluate the likely visual impact of this scheme – and especially Blocks B and C – as they would be viewed from their properties. They ask that DCC please review their original concerns over the TVIA as submitted in their first objection.



Fig. 21: Why is the CGI taken from a long way away on St. Mobhi Road & not from the nearest rear elevation/garden?



Fig. 22: Why is the CGI taken from a long way away on St. Mobhi Road & not from the nearest rear elevation/garden?

Clients' response to the Applicant SFI submission

The Applicant's SFI submission provides updated versions of the same photomontages and the TVIA assesses these is the same way as before. The up to 300m away approach with selected views is applied again, and our clients' properties are used to screen the scheme and as setbacks to provide perspective. No views are provided showing the likely visual impacts of the SFI scheme from their rear gardens or rear windows. How can DCC compare the original scheme's likely visual impact on our clients' properties against that of this new scheme? The Applicant offers no basis for this.

Fig. 23 shows Block C to the rear of Nos. 31 and 33 St. Mobhi Road. This photo is taken from 69m away. That is 6 times the width of O'Connell Street (46m wide) and yet this 6 storey building still appears as massive in the CGI image. Our clients are to go from having Glenavon House and grounds to the rear to being overbored upon by Blocks C, B and A, but Block C takes this to another level. It would cause significant, permanent, and negative impacts on our clients' residential and visual amenities.

No person could stand in the rear gardens of Nos. 31 and 33 and consider Block C to be in any way acceptable. It is up to 3 storeys too tall.

BPS submits that the Applicant has failed to address the significant overbearing concerns arising from this scheme and this is demonstrated by VM6. When one reads the TVIA section at p. 30 of the revised report, it becomes clear just how little consideration has been given to assessing or even considering the likely visual impacts on our clients. The assessor begins by describing St. Mobhi Road and then states: "These dwellings [our clients' dwellings] can be considered one of the most sensitive landscape/visual receptors in the receiving environment, the sensitivity to change and the susceptibility to change is considered high". Having reads this, one is expecting an assessment of the likely impact on these properties. Instead, reference is made to how "the buildings do

not protrude above the streetscape" [above our clients' dwellings] and "can be comfortably accommodated in this view". Really? What about the very sensitive residential receptors who will see the building from their rear windows and gardens? Do they not count? Reference is made to screening trees between Block C and our clients' dwellings but the trees to be retained are deciduous and few other trees are proposed (see Fig. 24). To justify Block C, reference is made to the site's zoning, the urban location and to urban structure – none of these vague points justify Block C. The zoning would in fact be more orientated toward protecting our clients from overdevelopment. This urban location is defined by 2/3 storey buildings not 6 storeys. While even 2 storey houses built within the site would strengthen the urban structure (more buildings less open space, etc.).

BPS considers the Applicant TVIA to be subjective. When viewed objectively, one would have to find that the magnitude of change for our clients' properties from Block C would be significant (as Block C is attached to an entire building which would utterly alter the existing urban environment to the rear of these properties).

We also consider it the case that VM8 is wholly unacceptable as it shows that Block C would in fact be viewed as a 6 storey tower. We respectfully submit that while Block C has the potential to impact negatively on Mobhi Court, Mobhi Court is a scheme of 3 no. 3 storey buildings. Our clients' properties are 2 storey residential dwellings with sensitive rear gardens.

It is with no surprise that the TVIA finds the visual effect of VM6 to be 'beneficial'. That is, a 6 storey massive block adjoining 2 and 3 storey developments would be of benefit to the area when DCC's Planner's Report raised significant concerns over overbearing?

BPS submits that the proposed development is now significantly visually imbalanced. Block C appears out of place, too tall and over-scaled Block B is part 5 and part 4 storey and appears too tall, while Block A continues to be sited where Glenavon House should be retained. The south end of the scheme should step down to our clients' adjoining properties and to Mobhi Court – this means reducing Block C to 3 storeys. As things stand, the entire building remains over-scaled and Block C looks like a tower element sited within backlands where it would cause negative visual impacts in all directions.



Fig. 23: The massive scale of Block C relative to client rear gardens at Nos. 31 and 33 St. Mobhi Road

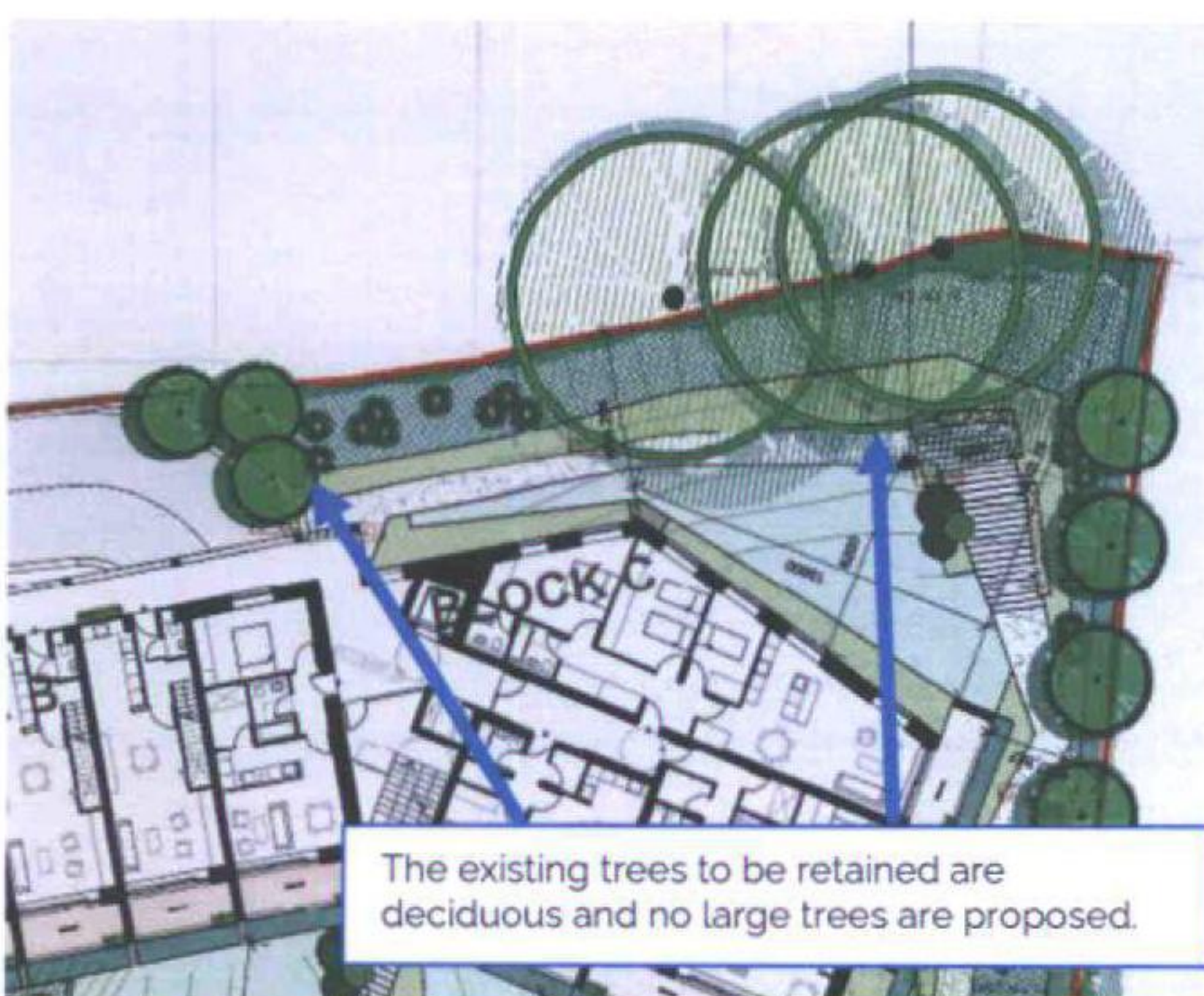


Fig. 24: Existing and proposed trees (from Landscape Masterplan)

4.6 Response to Item 6 – internal residential amenity issues

The applicant is requested to address the following internal residential amenity issues:

- (a) The Planning Authority notes that the applicant has applied an ADF of 1.5% for combined living / kitchen / dining (LKD) rooms and indicates that findings above this target value of 1.5% but below the higher 2% target value is 'Compliant'. However when the appropriate higher ADF value of 2% is applied, it is noted that 3 no. of the LKD areas fall below the 2% target. The applicant is, therefore, requested to update the ADF findings to reflect the higher ADF value and for those units not meeting all of the requirements of the daylight provisions to set out a rationale for any alternative compensatory design solutions.
- (b) The planning authority notes that 22 no. duplex units are proposed in the scheme. In this regard the applicant is advised that the Sustainable Urban Housing: Design Standards for New Apartments (December 2020) require additional floor area to be provided in duplex units for stairways and landings. The applicant is requested to submit details of the additional floor area required for the duplex units and to provide confirmation that the majority of units proposed continue to exceed the minimum floor area requirements by at least 10% in accordance with Section 3.8 (a) of the guidelines.
- (c) The planning authority notes the provision of three-bedroom, single aspect units in the scheme. In accordance with national guidance on apartments, ideally 3-bedroom units should not be single-aspect. The applicant is requested to submit any proposals they may have to address this issue.
- (d) The planning authority notes that in some units, an area dedicated for 'services' is in the same location as the storage area. The applicant is requested to submit details of these 'services'; to clarify that the location of services with storage does not render the storage area unusable and to confirm that hot presses/boilers are separate (if provided for) and are not included in the storage areas.

Clients' response to the SFI submission – Point 6 (a)

Our clients have reviewed the Lower Ground Floor and Ground Floor plans for this scheme. They consider that the ground levels of the site relative to adjoining properties are such that, while the absolute minimum standards may be met for all but one of the units (Unit No. A-G-05), the actual quality of lived daylight and sunlight environment in many of these units would be somewhat poor.

The "compensatory measures" proposed by the project architect try to address the symptoms of overdevelopment and do not try to cure the problems. These "compensatory measures" are:

1. The unit has a west facing orientation. It does. But it fails the standard. This is not a mitigation measure.
2. The Applicant has sited the living room and kitchen of this unit such that it can only ever received later afternoon sunshine. This is not acceptable. Electric light would be needed for the rest of the day.
3. The west facing terrace is given as a mitigation measure, but it is little different from those serving adjoining ground level units to the north whose living/kitchen/dining rooms extend to the full size of the ground level with terraces on the east and west sides.
4. The unit's bedroom's terrace. This faces east and is a nice bedroom, but it will not allow sunlight to reach the living/kitchen/dining area of the unit.
5. The unit's size. This has little to do with compliance regarding overshadowing.



Fig. 25: The ground floor level of Block A and the location of Unit No. A-G-05

The scheme would be improved significantly by:

- The retention of Glenavon House which would see the removal of Block A and its many minimum standard only units.
- The reduction in the numbers of units to ensure all units receive better sunlight.
- The relocation of the car park from mostly in the Lower Ground Floor of Block B (making it a part 5 storey building) to under Block C where the ground levels of the site would mean the car park could exist mostly below the level of our clients' rear gardens.

As submitted, the SFI scheme continues to be impacted by overdevelopment concerns which cause individual units at the lower levels to be compromised where there is no reason for any such compromises on this site which receives sunlight all day every day.

Clients' response to the SFI submission – Point 6 (b)

The Applicant no admits to having failed to meet the Sustainable Urban Housing: Design Standards for New Apartments (December 2020) in respect of no less than 22 units. This is after arguing that the scheme was fully compliant with the guidelines (in the Design Statement, the Planning Report, etc.). The proposal to provide duplex units was an aspect of this scheme which potentially provided for a high quality of future amenity for residents. The Applicant has not stripped out no less than 14 duplex units from the scheme.

The Applicant now argues that their non-compliance with Section 3.8(a) of the guidelines is a basis for removing the duplex units.

In assessing this SFI scheme, it is necessary to note how the original scheme was 52 units. 14 duplex units are now removed but 44 units are now proposed.

Our client considers that the scheme continues to contain too many units and that these units are now of a lower standard arising from the loss of so many duplex units.

In this revised scheme, our clients are concerned over what they consider to be the likely poor amenities that would be enjoyed by the following units (this list is not exhaustive):

1. Units C-G-03, C-1-03, C-3-03, C-3-03, C-4-03 which is wholly northwest facing.
2. Units B-G-05, B1-1-01, B-3-04 whose living and dining areas are wholly northwest facing and shadowed by Block C.
3. Units A-G-05, A-1-01, A-3-03, whose living and dining areas are wholly northwest facing.

The siting and design of these units shows how Block A needs to be separated from Block B and Block B from Block C. Ideally, Glenavon House would be retained, and Blocks B and C re-designed to provide 'all' units with high quality access to sunlight in their living/dining/kitchen areas,

Clients' response to the SFI submission – Point 6 (c)

Arising from this concern (and others), the Applicant has revised the scheme such that 6 no. 1 bedroom units are single aspect. As set out above, these are the problem units from a sunlight perspective. They face west or northwest and/or are overshadowed by the scheme itself.

The Applicant's response to one problem is to create another. The proposed single aspect units are not of a high quality regarding their aspect. That these units have balconies/terraces does not alter their poor aspect.

The existence of these 6 no. single aspect units as designed is a manifestation of overdevelopment. There is no justification for any unit in this scheme to receive poor sunlight and/or to be only west/northwest facing. This is an open backland site.

Clients' response to the SFI submission – Point 6 (d)

Our clients' position is that Glenavon House should be retained and the car park and services area in the site area containing Block A should be removed. This basement car park/service floor is excessively large for this site and causes a scorched earth approach to anything which exists on this area of the site at present.

The access route to and siting of the car park entrance remains hard to understand and/or to justify. This entrance is immediately alongside our clients' properties and both the internal access road, and the entrance detract from the open space provision and quality of the external areas within the scheme. They also reduce opportunities for planting of trees and shrubs.

While the Applicant has reduced the number of units in the scheme, the basement car park remains very large for such a small site. It contains no less than 30 car parking spaces, 4 no. motorbike spaces, bike storage area for 50 bikes (more than 1 per unit). Reference is made to how "sufficient space for a centralised heating plan solution" is included to the basement which may or may not happen – this has also inflated the size of the basement.

Concerns arise that the car park is now significantly over-scaled for this scheme and this unnecessary scale would impact negatively on our clients' properties as set out in their original Planning Objection Report. The basement should be significantly reduced in scale and re-sited.

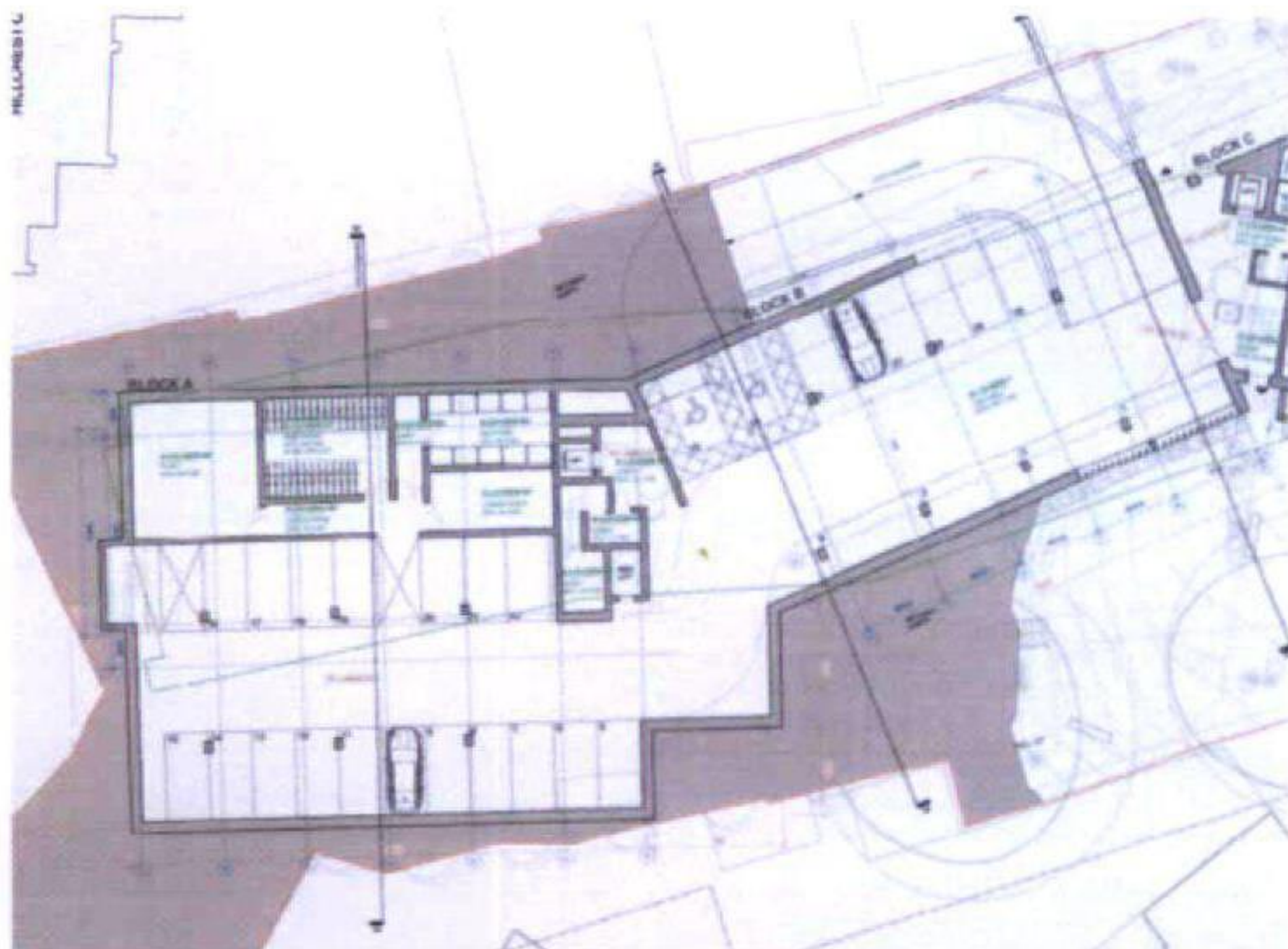


Fig. 26: The scale of the SFI basement car park and services area – very large for a 42 unit scheme

4.7 Response to Item 7 – Landscaping and amenity space issues

The applicant is requested to address the following landscaping and amenity space issues:

(a) The planning authority notes conflicting remarks in the documentation submitted with regard to the issue of Public Open Space proposals whereupon it is noted that on page 49 of the Planning Report the applicant submits that no financial (b) DCC's Parks, Biodiversity and Landscape Services Division have expressed reservations regarding the non-provision of public open space on the application site considering it contrary to Section 16.3.4 of the Dublin City Development Plan 2016 – 2022 having regard to the location of site close to the limits of well-serviced access (500m) to existing parks and the higher residential density of the development. The applicant is requested to explore the possibility of providing public open space on site

contribution in lieu of public open space on site will be provided while on page 63 of same report it is stated that it is proposed to provide contributions in lieu. The applicant is requested to clarify this matter.

Note: The applicant should note that the non-provision of public open space on site coupled with the non-payment of a financial contribution (Section 48 Development Contribution Scheme) will not be acceptable to the planning authority as it would materially contravene development plan policy

(c) The submitted information indicates that there is an intended very high percentage (80% to 90%) of tree removal. Given the maturity of the trees, their contribution to local greening and habitat this is considered an unacceptable level of loss. The Parks Division expects that further tree removal is likely due to the absence of coordinated information on submitted proposals. The drainage plans submitted indicate that the drainage services will impact on proposed retained Tree 25 with its expected loss. Further impacts on other retained tree root zones are not accounted for. The applicant should endeavour to retain as many trees as possible and all submitted information should be checked and coordinated for accuracy and submitted by way of a response to this request for further information.

(d) Full details of the play provision within the scheme should be provided and areas for passive recreation i.e. seating areas should be provided for.

The spatial requirement of the apartment guidelines should be confirmed within the landscape architects report and on the Landscape Masterplan drawing with dimensions clearly indicated.

The Landscape Masterplan should also be updated to allow for a comprehensive cross-referencing between the plans and section and the accompanying legend. In this regard some key details are currently unreferenced.

The applicant is requested to explore the possibility of reusing the original gate and piers within a revised entrance and/or landscape proposals

DCC's Parks Division promote the provision of green roofs to at least 70% of the area of all proposed flat/gently sloping roofs. The applicant is requested to submit a green roof plan within the landscape architecture report. The potential to use roof space for residents should also be explored.

Clients' response to the SFI submission – Point 7 (a)

The Applicant has confirmed that "it is not proposed to provide a 'public open space' on site". Our client finds this unacceptable for a scheme of this size. The scheme proposes to make use of existing amenities and facilities in this area without offering any new open space to the area.

DCC's Planners; Report and FI request clearly states: **Note: The applicant should note that the non-provision of public open space on site coupled with the non-payment of a financial contribution (Section 48 Development Contribution Scheme) will not be acceptable to the planning authority as it would materially contravene development plan policy** [emphasis added].

The Applicant refers to "generous, high quality communal residential open space ... in the revised scheme". BPS has reviewed the proposed open spaces and we consider that these remain deficient as set out in our clients' original Planning Objection Report. They are left over areas around the perimeter of the building which comprises of 3 no. attached blocks. The basement car park and lower ground floor of Block C service to leave much of the site devoid of any possible tree planting, etc. The internal access road and car park entrance location make little sense and compromise much of the scheme's internal open areas.

The Applicant asks to be allowed to pay a development contribution in lieu of 'public open space'. Again, our clients object to this. The proposal effectively asks to be allowed to treat their rear gardens as open space for the scheme over which windows and balconies can overlook, etc. The cramped and overdeveloped nature of this scheme should not be compensated for by our clients' properties.

This planning application should be refused for failing to provide public open space.

Clients' response to the SFI submission – Point 7 (b)

Our clients fully agree with DCC's Parks, Biodiversity and Landscape Services Division that the non-provision of public open space on the application site is "contrary to Section 16.3.4 of the Dublin City Development Plan 2016 – 2022 having regard to the location of site close to the limits of well-served access (500m) to existing parks and the higher residential density of the development".

The Applicant was requested to explore the possibility of providing public open space on site and has failed to do so. The only way to improve this scheme is to retain Glenavon House and to reduce the scale of Blocks B and C.

The Applicant argues throughout their various reports that this scheme's density is justified because there are services and facilities in this area from which future residents can benefit, but, again, they want to offer none. The argument turns full circle when they are asked to provide public open space. Suddenly the response is: "the site is not ideally located", but this time only in respect of its suitability to "deliver public open space". Suitable to deliver 42 apartment units? Yes. Suitable to deliver public open space for the area? No.

Again, the Applicant responds by arguing – in the face of concerns from DCC's Parks, Biodiversity and Landscape Services Division – that the scheme's communal open space should be considered enough. That 882sq.s of useable open space is provided (but only for scheme residents) though some of this area will contain retained trees, new screening trees, etc.

To put the 882sq.m into context, a basketball court is 420sq.m in size. The Applicant's entire site is to be developed such that just the space of two basketball courts is left as open space distributed around the proposed building. Much of this area is perimeter open space of the kind normally not accepted as open space. Our clients consider that Glenavon House should be retained, and a large public open space should be provided to the north of the site.

This planning application should be refused for failing to provide public open space.

Clients' response to the SFI submission – Point 7 (c)

The Applicant SFI submission continues to propose vast removal of existing trees, hedgerow and shrubs. A scorched earth policy is applied to the entire northern half of the site while a significant number of trees are proposed to be removed at the south side and all but 3 no. trees from the entire eastern boundary of the site shared with our clients' properties.

Our clients welcome the retention of the 3 no. trees to the southeast corner of the site alongside the shared boundary with their properties; however, they note how these deciduous trees cannot and do not offer any realistic screening of Block C which is a 6 storey building.

Our clients fully share the concerns of the DCC Parks Division that the original scheme proposed an excessively high percentage of tree removals from the site (80% to 90%). Their report noted how: "Given the maturity of the trees, their contribution to local greening and habitat this is considered an unacceptable level of loss. The Parks Division expects that further tree removal is likely due to the absence of coordinated information on submitted proposals".

The submitted SFI scheme attempts to argue that tree losses will not be that bad and that the better trees will be retained, but Figs. 27 and 28 highlight the continued proposed decimation of existing trees that would arise from the SFI scheme. The Applicant argues that "existing trees are unsuitable for retention" but would they be being removed if it was not for this scheme?

The massive Tree No. 50 at the scheme entrance is proposed to be removed as this could not survive the construction phase. BPS reviewed the Applicant's landscape tree planting proposals, and these do not mitigate the extreme levels of tree losses proposed.

The only way to mitigate tree losses is to reduce tree losses. This means retaining Glenavon House and reducing the scale of blocks B and C. The east side and north end of the site need to be treated far more sensitively than is currently proposed. The submitted landscape plans does not offer anything which could preplace what is currently a mature sylvan environment.



Fig. 27: The scale of proposed trees losses within the site



Fig. 28: The scale of proposed trees losses within the site



Fig. 29: The scale of proposed trees losses to the front of the site



Fig. 30: The scale of proposed trees losses to the front of the site

Clients' response to the SFI submission – Point 7 (d)

Our client supports the provision of play facilities and playgrounds within their area. The proposed playground is not to be available as a public amenity for surrounding residents and children to use. The playground will also be sited alongside Mobhi Court in a manner whereby it is overlooked and overshadowed (in the afternoons and evenings) by this adjoining scheme. The playground is also sited almost under existing trees. The playground should be located to the north end of the site adjoining a retained Glenavon House where it can be accessed by children living in the surrounding area.

Clients' response to the SFI submission – Points 7 (e) and (f)

As noted in our client's original objection and as is clear in the SFI scheme, the Applicant proposals are, at best, minimum standard for communal open space. The scheme does not retain the sylvan character of the site and/or its open nature.

Clients' response to the SFI submission – Point 7 (g)

The existing gate is one of the most important architectural heritage features attaching to the Glenavon House property. The Applicant's conservation consultant accepts this and so does the DCC Conservation Office. Why then is it proposed to be removed? The gate should be retained and re-used. The Applicant refuses do so as this would impact the achievable development "density" on this site.

A quick list of the existing features to be removed from the northern half of the site reveals a scorched earth strategy:

1. The removal of the gate and its permanent removal from site.
2. The removal of every single tree and hedgerow.
3. The removal of Glenavon House.
4. The removal even of most of the existing soil and subsoil.

The Applicant's development approach needs to be altered to one of sensitive heritage infill scheme rather than taking almost a greenfield approach to the development of the site.



Fig. 31: Proposed entrance relative to existing entrance, its existing gate and all of its existing trees, etc.

Clients' response to the SFI submission – Point 7 (h)

Our clients support the principle of green roof; however, they object to any proposal that would require ongoing maintenance at roof level overlooking their properties. They consider that the Applicant blocks should be 3 storeys tall maximum with flat roofs. The additional of no maintenance green roofs on such a scheme would be welcomed.

4.8 Response to Item 8 – Boundary treatments

The planning authority notes that the proposed boundary treatments comprise primarily of new '1.8m-high street fence' to the west, south and north of the site and that this boundary treatment is proposed outside of the red line i.e. the site boundary on third party lands (as indicated on Drawing No. 104- Boundary Treatment Plan). There are concerns regarding the proposed boundary treatment. Firstly, the use of a '1.8 metre-high' rigid steel fence' and the resulting aesthetics of same and secondly the proposal to erect boundary treatments on land outside of the applicant's ownership. In this context, the applicant is requested to:

- (a) Submit details on the aesthetics of the steel fence and any screening of the fencing with natural vegetation to ensure a high quality, visual treatment that is robust and durable;*
- (b) Submit a full drawing and photographic survey of the boundary walls around the site. Where historic boundary walls remain, these shall be retained in full as much as is practicable;*
- (c) To clarify locations of the boundary treatments. All new boundary treatment should be erected on the applicant site unless consent from third parties has been obtained and submitted by way of further information response; and*
- (d) Address conflicting proposals for boundary treatments as indicated on Drawing No. 104 and Drawing No. 2006-BRD-PL-002.*

Clients' response to the SFI submission – Point 8 and B (b)

Our clients note how the Applicant claims not to need to alter the existing boundary treatment to their properties yet all the submitted CGI images show what appear to be shiny new boundary treatments to their properties. The answer to this conundrum is that the Applicant refers to how "new boundary treatments are installed inside of the red line boundary to the applicants side".

The Applicant has provided a boundary survey of their side of our clients' boundary timber and concrete fences. The proposal as outlined by the Applicant is that the same fence be erected inside the redline boundary and inside their side of the existing fence. With respect, this seems odd. This has the potential to be problematic. The Applicant is proposing to have two boundary fences in place of the one existing boundary fence. Our clients ask why the Applicant would try to do this when the existing bank is so steep and the fence so hard to install, and another fence will reduce the setback from the boundary to the proposed building?

Concerns also arise as to the ground level differences between the Applicant site and our client's properties which could result in subsidence of the end of their rear gardens. This is made worse with the car park entrance and access road sited hard up to the shared boundary and the blocks sited so close and with a large underground car park sited beneath Blocks A and part of Block B. Section 4.8.2 of the Applicant SFI covering report refers to: "Proposed new retaining wall to side of ramp, as base of existing bank on east boundary", but offers little by way of detail other than what appears to be a new wood and concrete fence inside the existing fence.

Our clients are not reassured in this regard. They are confused by the proposals which seem aimed at speed of installation and to avoid reaching any agreement with our clients over the existing shared boundary. The Applicant has not addressed concerns set out in their original Planning Objection Report which are 'taken as read'. No reference is made to indemnifying our clients over possible damage to their rear gardens from subsidence.

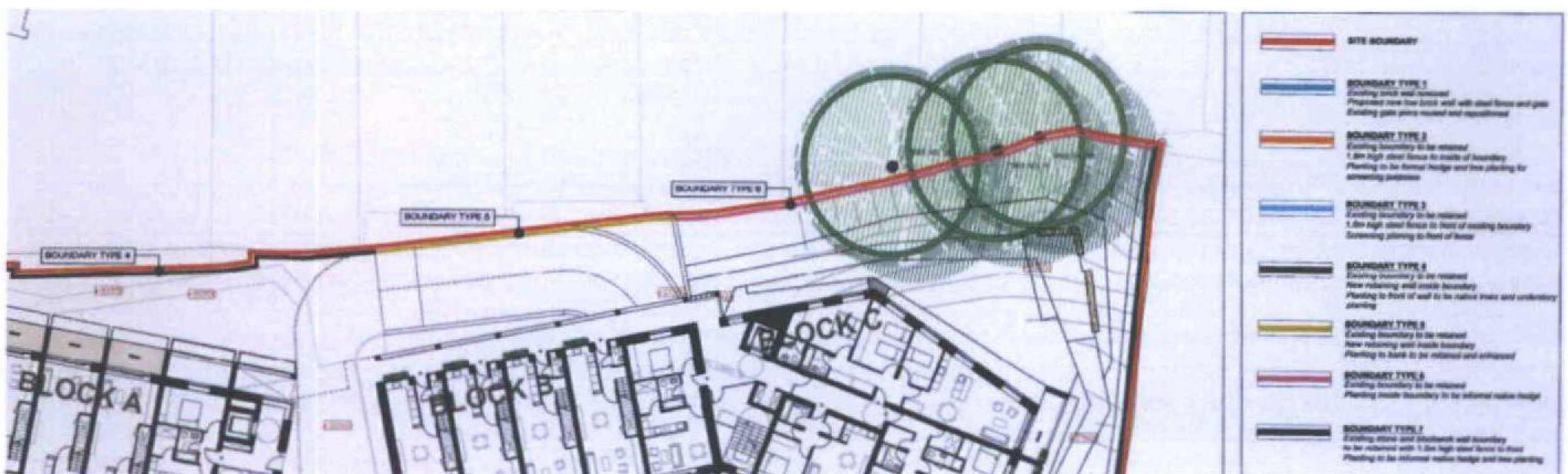


Fig. 32: The existing boundary treatments are not brand new – those in the CGIs look new



Fig. 33: The Applicant's photo survey of their side of clients' boundary treatments (1)



Fig. 34: The Applicant's photo survey of their side of clients' boundary treatments (2)



Fig. 35: The proposed boundary treatment is to have another concrete/timber fence inside the existing concrete/timber fence?



Fig. 36: The proposed boundary treatment is to have another concrete/timber fence inside the existing concrete/timber fence?

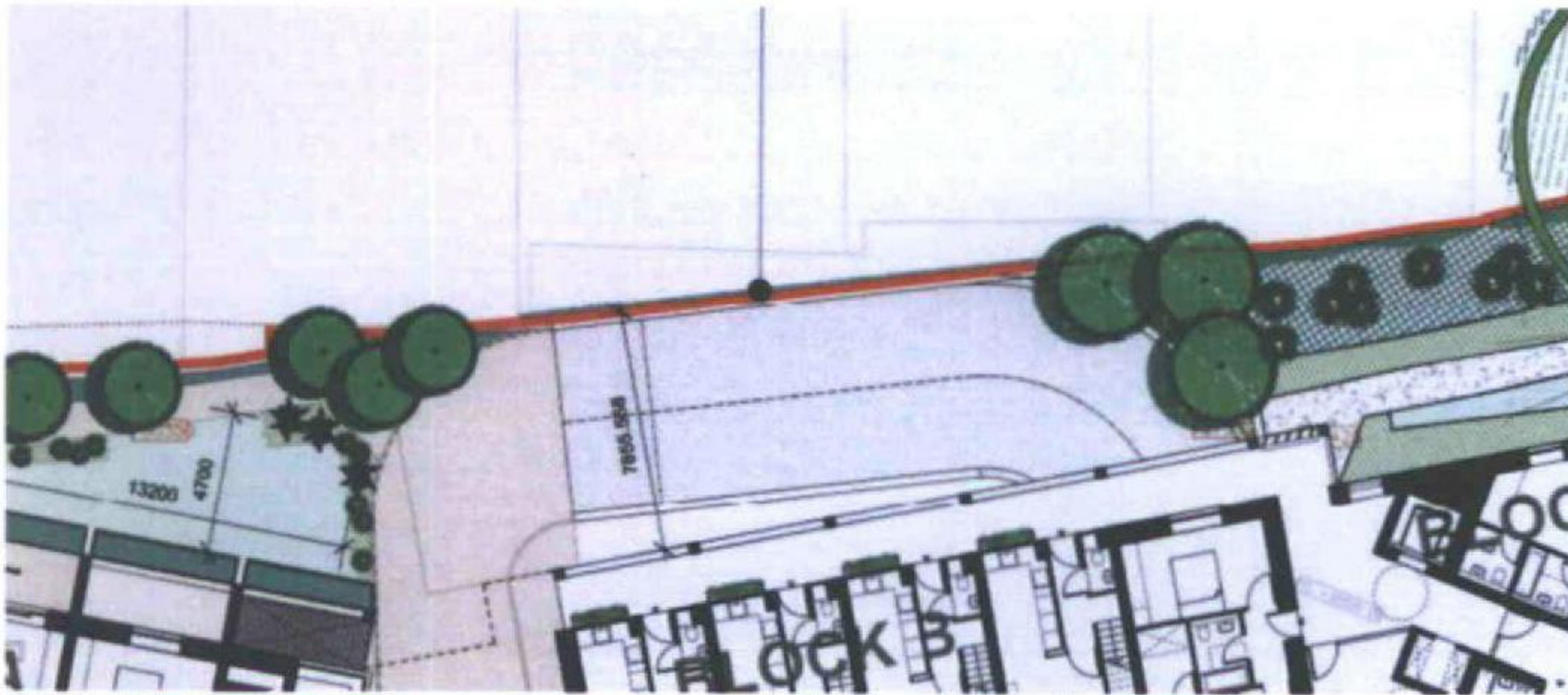


Fig. 37: The car park entrance and access road sited hard up to the shared boundary

Clients' response to the SFI submission – Point 8 (c)

Our clients submit that the Applicant appears to be trying to avoid reaching an agreement with them regarding the shared boundary and its future maintenance. No contact has been received by any of our clients from the Applicant in this regard.

4.8 Response to Item 10 (b) – Car parking

The applicant is requested to submit a detailed car parking strategy outlining how the proposed car parking spaces will be managed and assigned to ensure no overspill onto the surrounding network. The applicant is advised that car parking should not be sold with any units and should be managed separately

Clients' response to the SFI submission – Point 10 (b)

Our clients note firstly that the Applicant has reduced the number of units. This has increased car parking provision per unit but not to any level that will avoid overflow parking into the surrounding area.

The Applicant argues that the reduced car parking provision at this location is justified notwithstanding that the area is served only by standard buses and most households have 1 to 3 cars.

Our client disagrees with the Applicant's arguments for reduced car parking provision as set out in the Travel Plan and Mobility Management Plan:

1. The Applicant offers bike spaces but no bikes. How many people would use the Dublin Bike Scheme if it offered no bikes?
2. Parking management within the scheme to prevent fly car parking will merely push such car parking into adjoining streets where parking on kerbs, etc. is inevitable.
3. The Travel Plan and Mobility Management Plan is much like that offered by IKEA a short distance drive away. It promised many things but now offers only a section of wall with bus timetables on it. Claims that 14 households can live without a car at this location and that no one will visit by car, or any other vehicle type are not credible.
4. Those buying or renting units will be told they have no car parking. In the current housing market, there is no choice but to take whatever accommodation can be obtained. People will merely try to park in nearby road and streets, and this will cause social conflict.
5. Metro North is delayed until the 2030s at least.

Despite providing insufficient car parking the size of the proposed basement remains excessive. This confirms the proposal as overdevelopment. The scheme will cause overflow and fly parking in the area and this is not acceptable.

5.0 Conclusion

Our clients understand that this site will be developed, and they do not object to the principle of a residential scheme within the site. Their position is that, if this 0.039ha. backland site is to be developed, then it should be developed properly and in line with DCC CDP 2016-2022 and Draft DCC CDP 2022-2028 planning policies. As submitted, our clients do not consider the Applicant proposals to comply with the CDP. The CDP is meant to protect their properties from visual overbearing, from overlooking, from overshadowing and to protect their area from inappropriately scaled development that is at odds with the local environment.

This scheme comes close to materially contravening the CDP regarding building height. Even after the submission of a revised scheme by way of SFI, Blocks A, B and C rise to heights of between 13.275m and 19.275m in a 16m maximum area; where even a 16m tall building must not impact negatively on adjoining properties, the character of the area, etc.

The SFI scheme proposes an 80m+ long building with a fixed roof height on a sloping site for Blocks A and B (which are 4 and part 5 storeys in height) and then an abrupt increase in building heights to the now 'tower-like' Block C. The scheme continues to propose a single 4, 5 and 6 storey building that is setback just metres from the rear gardens of Nos. 23, 24, 25, 26, 27, 29 and 31 St. Mobhi Road and is located very close to Nos. 21, 33, 35, 37 and 39 St. Mobhi Road. Block C would be 3 storeys taller than Mobhi Court which is 3 storeys in height.

The Applicant's SFI scheme continues to seek to substantially disregard the agreed planning policy understanding of how this site and similar sites will be developed as articulated in the CDP. How is it reasonable that our clients are faced with a scheme that disregards all the specific planning policies that apply what are agreed development parameters for this site? And, that the scheme can wholly ignore the context, pattern of development and character of adjoining developments that rise to 2 and 3 storeys maximum?

Our clients are only asking DCC to respect and to follow the applicable planning height policies and other development control policies that pertain to this site and to this area. These planning policies are clear and unequivocal. There is no room for questioning them. The scheme substantially and unacceptably contravenes these policies and proposes a building which would be the tallest building in the area (the surrounding 400m) despite being on a relatively small backland site (in relative terms to Strategic Housing Development sites assessed in the city in recent years). The Applicant has offered no planning permission precedents for this scheme accepting house extensions and adjoining 3 storey apartment buildings. The Glasnevin Motors site is the only planning permission anyone can find for a tall and dense scheme in the wider area, and it is 450m away (as stated in the Applicant Planning Application Report) and maintains a wholly different context with long areas of road frontage to front and a parkland context to the rear (adjoining the Botanic Gardens).

Sections 8.3 and 8.4 of our clients' original Planning Objection Report raised serious concerns as to whether the Applicant's heavily congested, extremely dense, extremely tall, and over-scaled monolithically long building can be considered – even in principle – to qualify as a grantable scheme for this site. These concerns were accepted by DCC which requested Further Information. The Applicant's response to this request is unacceptable.

At pre-planning, DCC notified the Applicant that it could also only find this scheme to have a reasonable basis to be granted if further consideration and amendment were made to the design proposals submitted with regard to the anticipated negative overbearing, overlooking and overshadowing impacts in our clients' properties to the east. The Further Information request offered a second opportunity. The Applicant has been repeatedly offered the chance during and after pre-planning to revise the scheme to reduce its height, scale, massing, bulk, length of elevations, proximity to boundaries, etc. but has refused to do so adequately. Block C is just one example of this. The lack of public open space is another. The loss of trees is another. The loss of Glenavon House is another. Our clients submit that this is wrong. The Applicant scheme should be refused and then re-submitted at a reduced scale and height, or it should be substantially cut back.

This scheme is more than double the density of any adjoining residential development including Clonmore Court which is the densest adjoining scheme, and it does not show the respect to adjoining properties that Clonmore Court does. **The scheme is**

fundamentally at odds with the established planning permission parameters in this area. The Applicant site is an infill suburban site outside of any city, district, or town centre and which is served only by bus services. **This scheme does not respect its context.**

While the Applicant is entitled to apply for planning permission for anything there is an onus on all Applicants to try to identify a scheme that is compatible with a site, its site context and with planning policy. The Applicant has not shown themselves willing to try to do so at any stage of the planning process to date.

There is a need for any proposed scheme's density, scale, height, and massing to represent a fair balance between the right of the Applicant to develop their site and the rights of adjoining and surrounding residents to expect their area to be protected and or improved by any new development. Our clients do not think a fair balance is achieved here (or any balance at all). They consider that a scheme for this site at a lower density (of approx. 30% less than the SFI scheme), lower height, less scale, less massing, less length, less overlooking, less visual overbearing, less overshadowing, less noise, etc. would better respect the site, the area and the rights of adjoining and surrounding residents. **That residential development is permissible on a site does not mean residential development of any scale: without any constraints.**

The zoning of this site provides for residential development that protects and/or improves the residential amenity of the area. It is our clients' position that any residential development on this scheme must respect the site's zoning and not treat the property as a de facto "greenfield site" without any development constraints. The submitted scheme's density, scale, height, length, and massing – for this entire scheme – are clearly not compliant with the zoning of the site.

What must be kept in mind is that what is proposed is not a critical piece of nationally required infrastructure or a single building of world class architectural design. What is proposed is simply an over-scaled and over-ambitious apartment scheme. This scheme seeks to maximise density, scale, height, length, and massing across the scheme. **In our clients' opinion, the proposed compromises regarding negative impacts of the scheme on adjoining and surrounding residential and visual amenities required in respect of developing this scheme at the massively bulky heights and scales proposed cannot be tolerated. The scheme also cannot be justified when compared to the density, scale, height, and massing of any adjoining residential development in the immediate area. There are no 4, 5 and 6 storey buildings in the vicinity.**

As much as the applicant has sought to argue that the compromises necessary would be outweighed by the provision of the subject development, this Planning Objection Report illustrates why this is not the case. **This proposal as it comes before DCC again at SFI stage on the subject site would, in our clients' opinion, give rise to a number of residual environmental effects of such significance in respect of their adverse impact that they cannot be reconciled with the need for the proposed development.**

What appears key, in the consideration of this proposal, is that the application before DCC is the culmination of a process where the consideration of the impacts on the receiving environment have been second to the Applicant's own requirements and plans, particularly in respect of negative impacts on our clients' residents' properties. **The suitability of the site in principle and the ability of the receiving environment to absorb the proposed building are two very different considerations and this, in our clients' opinion, is where the needs of the Applicant and the concerns of adjoining and surrounding residents diverge.**

Where such divergence in vision exists and a large development proposal is made irrespective of its clear and apparent divergence from the established pattern and character of an area and its abrupt differences in height relative to adjoining properties, there is a need to identify appropriate assessment criteria by which to judge the proposal.

The critical development frameworks for this area, as noted above, are the DCC CDP 2016-2022. It is our clients' position that the Applicant scheme requires material contravention of the CDP regarding height and is far from compliant in multiple other areas as set out in this letter and in Sections 8.3 and 8.4 of our clients original Planning Objection Report. It is also our clients' view that this should not be permitted because, to any independent observer, the Applicant scheme is too tall, too dense, too congested, too over-scaled and would constitute overdevelopment of this site.

The bottom line is that this scheme shows little respect for our clients' properties to the east. Little respect for planning policies. No respect for established development parameters in this area or those in the CDP. No respect for adjoining and surrounding residential properties. And, based on the BPS review of the pre-planning process, it is not clear that the submitted SFI stage scheme shows much respect for DCC's FI stage feedback regarding the need to revise the scheme in a manner that does not impact negatively on our clients' properties.

In seeking planning permission to materially contravene the CDP on building height, the Applicant seeks to rely on the SPPR 3 of the 'Urban Development and Building Heights Guidelines' (2018); however, SPPR 3 clearly states that DCC must "concur" if a development is to proceed that is not in line with the CDP. DCC clearly did not concur with the pre-planning schemes' height and scale relative to our clients' properties. Block A has been reduced in height by one storey, but Block B remains partly 5 storey while Block C is still 6 storeys and massive. The proposed building heights are therefore not in compliance with the 'Building Height Guidelines'. Our client submits that the Applicant's proposal that both DCC planning policy and the opinion of DCC Planning Department be dismissed is not acceptable.

There is a responsibility on DCC to do the right thing by adjoining residents. This planning application's proposals do not constitute the right thing. The proposed development would significantly and adversely alter the visual environment by the provision of a visually prominent and visually dominant structure. A significant and in some instances profound visual change would occur within and outside the environs of the site.

Our clients consider that the visual and other impacts of this scheme could be mitigated by reducing the scale, massing, length and heights of the proposed building, but re-design is also required in order to reduce the significant and negative impacts that the proposed development as currently designed would have on the residential and visual amenities of our clients' adjoining properties.

Cumulatively, the negative impacts of the proposed development on adjoining and surrounding residential dwellings and the environment of the site and the surrounding area are such that this scheme cannot be granted in its current form. It would set a negative precedent and bring the planning system into disrepute. The SFI scheme is 30% too dense, 1 to 3 storeys too tall and excessively long. Its east elevation, as designed, would cause excessively negative overlooking impacts.

5.1 Performance-based planning risk assessment conclusions

In this era of 'performance-based' standards in respect of the assessment of a proposed scheme's density, scale, height, massing, bulk, and parking, it is necessary to carry out a planning risk assessment in light of the likely performance of this scheme. BPS has carried out this assessment by assessing the scheme in light of its locational and planning context. The conclusions of this exercise are:

- There is a **substantial planning risk** that the loss of Glenavon House for this site would negatively impact on the architectural heritage of this area and be contrary to DCC planning policies aimed at re-use of existing building of good architectural quality, etc.
- There is a **substantial planning risk** that this scheme's proposed siting and density would be incompatible with the established character and pattern of development of adjoining residential developments which are of a substantially lower density. The abrupt increase in density has resulted in equally abrupt increases in scale, height, length and massing of the proposed building.
- There is a **substantial planning risk** that this planning application proposes the excessive overdevelopment and over-scaling of a site suitable under the DCC CDP 2016-2022 and its building height policies to accommodate only a maximum of 3 and 4 storeys at a substantially lower scale and with no undue negative impacts on adjoining properties.
- There is a **substantial planning risk** that this planning application proposes the excessive overdevelopment and over-scaling of the site that would significantly, negatively and permanently impact on the visual amenities and visual environment of areas adjoining this site.
- There is a **substantial planning risk** that this planning application will create a congested residential scheme that fails to provide a quality environment for future residents. The congested nature of the scheme will make it inward and not outward looking creating a private and not a public environment.
- There is a **significant planning risk** that the height, scale, length, massing, and bulk of the proposed apartment block will cause substantial and negative visual and visual overbearing impacts and overlooking impacts on adjoining and surrounding properties.
- When the CGI images are viewed objectively and other viewpoints into the scheme (e.g. from adjoining rear gardens whose views are excluded from the assessment entirely) are included, it is clear that there is a **substantial planning risk** that the adjoining and surrounding residential properties will experience a substantial negative and permanent reduction in their existing residential and visual amenities arising from this scheme and especially from its eastern elevation. This impact could be **significant and adverse**.
- There is a **significant planning risk** that the scheme will cause the unjustifiable loss of an excessive quantum, of mature trees and hedging which contribute to a sylvan environment at this location.
- **Significant adverse impact and substantial risk** arises in regard to the proposed insufficient car parking spaces. This could have a significant adverse impact on adjoining roads arising from overflow parking from scheme residents' and scheme visitors' cars. The proposed development would cause substantial and negative impacts on the internal quality of the scheme and on adjoining roads and apartment schemes by way of nuisance parking, traffic hazard, etc.

Our 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, on other adjoining properties and on the area and would also risk providing only insufficient amenity to its proposed future residents, for DCC to consider granting planning permission.

6.0 Recommendation

Arising from the above, BPS recommends that DCC either:

1. Refuse planning permission for the reasons given in Section 7.1 of this Planning Objection Report; or
2. Require significant revisions to the scheme by way of condition (see Section 7.2)

Both options would provide for the scheme to be reduced in density, height, scale, length and massing and that fewer units would mean increased per unit parking provision.

7.1 Recommended reasons for refusal

Our clients submit that the proposed development should be refused for the following reasons:

1. It is considered that the development as proposed would impact adversely on Glenavon House by way of its demolition. This is contrary to Section 16.2.1.2 of the Dublin City Development Plan CDP 2016-2022 which seeks to "To minimise the waste of embodied energy in existing structures, the reuse of existing buildings should always be considered as a first option in preference to demolition and re-build". The Development further states "the planning authority will actively seek the retention and re-use of buildings/structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city". The policy seeks to protect and conserve the county's cultural and built heritage by sustaining its unique significance, fabric and character and preserving its built heritage that makes a positive contribution to the character, appearance and quality of local areas and streetscapes. The development as proposed would fail to have regard to these policies. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The mature trees on this site are a significant ecological feature in the local landscape, and support a significant local wildlife. The proposed development, by reason of its form and layout, would result in the loss or removal of a significant number of mature trees from the site, which would be contrary to Objectives I28, G129, G1023, G1027 and G1028 of the Dublin City Development Plan 2016- 2022.
3. The non-provision of public open space on the application site considering it contrary to Section 16.3.4 of the Dublin City Development Plan 2016 – 2022 having regard to the location of site close to the limits of well -served access (500m) to existing parks and the higher residential density of the development. It is considered that, by reason of the layout proposed, particularly the location and design of the public/communal/useable open spaces, the proposed development would result in a substandard form of development and would provide a poor level of amenity for future residential occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. The proposed development is located on a site for which the Dublin City Development Plan 2016-2022 contains building height objectives, including under Section 4.5.4.1 'Approach to Taller Buildings' and Section 16.7.2. It is considered that the design, scale, height, length and massing of the proposed development is contrary to these objectives of the County Development Plan. Having regard in particular to the scale, design, height, length and massing of the building which extends up to 6 storeys and which would be the tallest landmark building in the immediate area, the development as proposed fails to incorporate design and layout elements which could help to absorb and mitigate the high landmark elements envisaged for this site, thereby militating against the successful integration of what is a landmark high building. The development as proposed would, therefore, adversely impact on the amenity of the local area, the skylines enjoyed by adjoining properties and residential areas and adjoining residential properties. As such, the proposal would militate against the successful achievement of the objectives for the site as outlined in the County Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.
5. The proposed development by reason of its height, design, scale, length, bulk and massing and being located adjoining to a lower density and height residential dwellings and apartment blocks, would comprise a dominant and visually incongruous scheme which would have a profound negative effect on the appearance and visual amenity of the local and wider area. The development as proposed would be inconsistent with and would adversely impact on the existing scale and established character of the local area and the existing scale and established character of this area. The proposal would contravene Section 16.4 'Density Standards', Section 4.5.4.1 'Approach to Taller Buildings', Section 16.7.2 and Objectives QH7, QH8 and QH22 contained in the Dublin City Development Plan 2016-2022 which seeks to ensure that all proposals for taller buildings make a positive contribution to the urban character of the city. The 'Building Heights Strategy' also requires that proposals demonstrate sensitivity to areas including to local residents. Furthermore, the proposal of itself would have an adversely overbearing visual impact on neighbouring residential properties in the vicinity of the site. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
6. The proposed development in its current form, by virtue of its density, proximity, scale, height, length, and massing relative to adjoining dwellings and gardens associated with the residential properties to the south and east would be injurious to the residential amenities of these established properties. The impacts on adjoining houses and rear gardens serving adjoining residential properties on St. Mobhi Road would include visual impacts, visual overbearing impacts, overlooking impacts, overshadowing impacts and loss of privacy impacts. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
7. The proposal in its current form, by virtue of the density, proximity, scale, height and massing of this building and its design and layout, especially at ground level, would be injurious to the future residential amenities of residents of the scheme. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
8. Having regard to the location of the site and to the established built form, pattern and character of the area, it is considered that the proposed development would be incongruous in terms of its design, height, bulk and form, would be out of character with this infill site, would constitute overdevelopment of the site and would have a detrimental impact to the residential amenities of adjacent properties, particularly those located to the east on St. Mobhi Road. The proposed development provides an inadequate design response to this sensitive infill site, would be of insufficient quality and would seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.

9. It is considered that the proposed development, by reason of the monolithic nature of its design, and by reason of its height orientation, scale, and massing on a constrained site, would constitute significant overdevelopment of a backland site of particular sensitivity adjoining residential properties to the east on St. Mobhi Road. The proposed development would, therefore, conflict with the provisions of the development plan, would adversely impact on residential amenity, would provide a poor quality of residential amenity for future residents, would seriously injure the residential and other amenity of the area and would be contrary to the proper planning and sustainable development of the area.
10. It is a policy of the planning authority as set out in Section 16.4 'Density Standards' of the Dublin City Development Plan 2016-2022 to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas. In promoting more compact, good quality, higher density forms of residential development, it is the policy to have regard to the policies and objectives contained in 'Sustainable Residential Development in Urban Areas' and the 'Urban Design Manual - A Best Practice Guide'. It is considered that the proposed development, by reason of the design, height orientation, scale, and massing on an infill site, would cause unacceptable overbearing impacts and would constitute significant overdevelopment of the site. The proposed development would, therefore, conflict with the provisions of the development plan, would adversely impact on adjoining residential amenity and would, thereby, be contrary to the proper planning and sustainable development of the area.
11. Having regard to the design, density, height, scale, length and massing of the scheme in particular its scale within a site zoned 'A: to protect and/or improve residential amenity', it is considered that the proposed development represents overdevelopment and would result in a development that would detract from the residential amenity of the area and would be contrary to the residential zoning objective of the site. The proposed development would seriously injure the amenities, or depreciate the value, of property in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.
12. Having regard to advice in the Sustainable Urban Housing Design Standards for New Apartments Guidelines and the car parking standards in the Dublin City Development Plan 2016 – 2022, the proposal would fail to provide at least one car parking space per unit or any adequate parking provision, would be sub-standard in terms of car-parking provision and be likely to lead to overspill car parking in the surrounding area. The proposed development would endanger public safety by reason of a traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area.

7.2 Revisions required by way of condition

In light of the above, BPS notes that the following revisions to the scheme would be needed to address – by way of Further Information or by way of condition(s) – our clients' concerns:

- **Reduce the density of the scheme:** Reduce the density of the SFI scheme by 30% in density plot ratio and units per hectare terms. This would allow the Applicant to bring the scheme into somewhat in line with the density and scale of adjoining properties and properly integrate it with adjoining 2 storey dwellings and 3 storey apartment blocks.

Our client notes that in accepting a possible density above that of other apartment schemes in the vicinity, they expect, in return, that their properties are better respected by any future or significantly revised scheme. Negative overlooking, overshadowing, overbearing, etc. of our clients' properties to the east needs to be fully addressed.

- **In respect of the height, scale, length, and massing of the scheme:** The quantum of development shoe-horned into the Applicant site is excessive. As submitted, the scheme would appear substantially over-developed in this site. The scheme needs to be reduced in height, scale, length, and massing. The maximum heights on this site should be 3 and 4 storeys. The 4th storey should only be allowed at the south end where the Lower Ground Level is not visible from adjoining St. Mobhi Road rear gardens and, as such, the building is 3 and 5 storeys as seen from our clients' properties. The east elevation should be revised as shown in Fig. 38. **The scheme also needs to be broken up to address its monolithic single height roofline and bulky east elevation.**

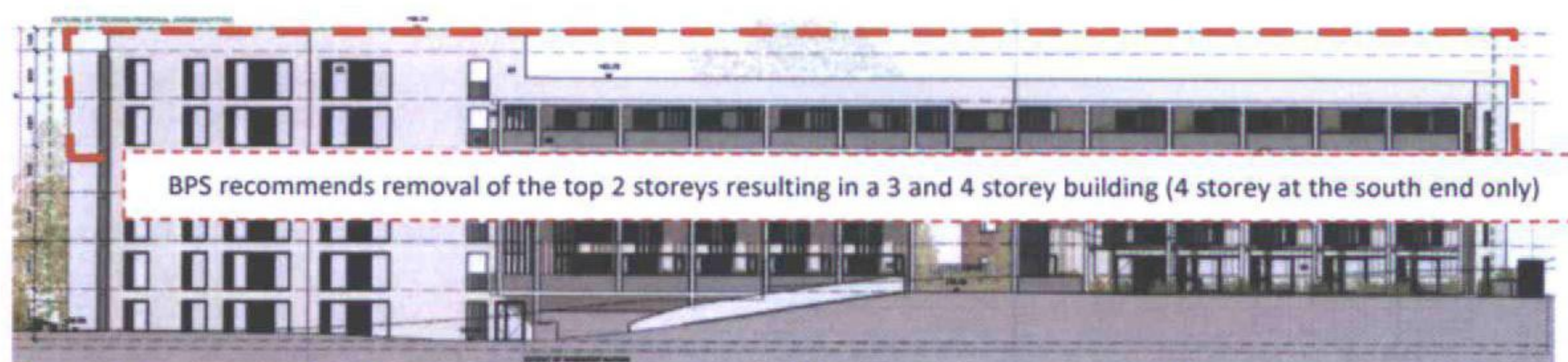


Fig. 38: Recommended storeys to be removed & remaining top storey re-designed to remove overlooking

- **Setbacks from boundaries:** The Applicant scheme's Blocks B and C need to be setback further from its eastern boundary shared with our clients' properties on St. Mobhi Road. As it stands, the scheme is setback from the western boundary in a manner that results in an imbalance of residential and visual impacts that is excessively negative regarding our clients' properties on St. Mobhi Road.

- **Car parking:** The Applicant proposals for set down parking are a recipe for fly/nuisance and overflow parking within the scheme and into adjoining roads and nearby apartment schemes. The scheme should reduce the number of apartments proposed to equal the number of parking spaces proposed. Visitor parking is required, and disabled parking is also required.

8.0 Finally

We trust that this letter and our clients' original Planning Objection Report submitted to the Planning Department confirm that this proposal should be refused and/or substantially revised by way of condition. We look forward to such a decision arising in due course.

If you require any further details, please contact BPS on 087-2615871 or email info@bpsplanning.ie.

Best wishes,

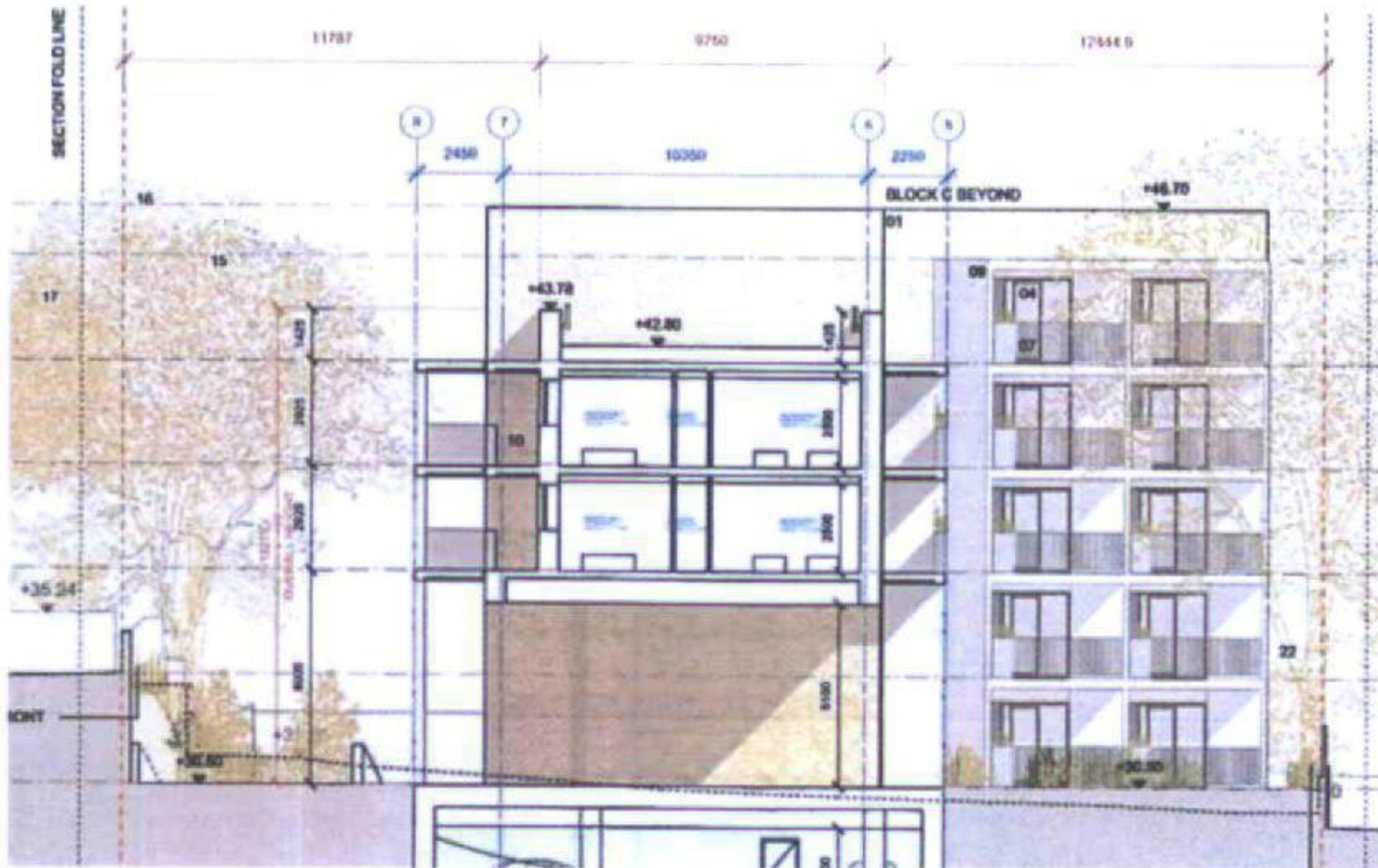
Brendan Buck
Director
BPS Planning Consultants LTD

Encl. Letter from Dublin City Council dated 10.2.2022 & sample of comments forwarded to BPS in response to the Further Information submission.

Glenavon

- 1) 00996923.pdf 7.2 Reduction in height "At 13.3m in height the building is within the Development Plan guide of 16m for a residential building"

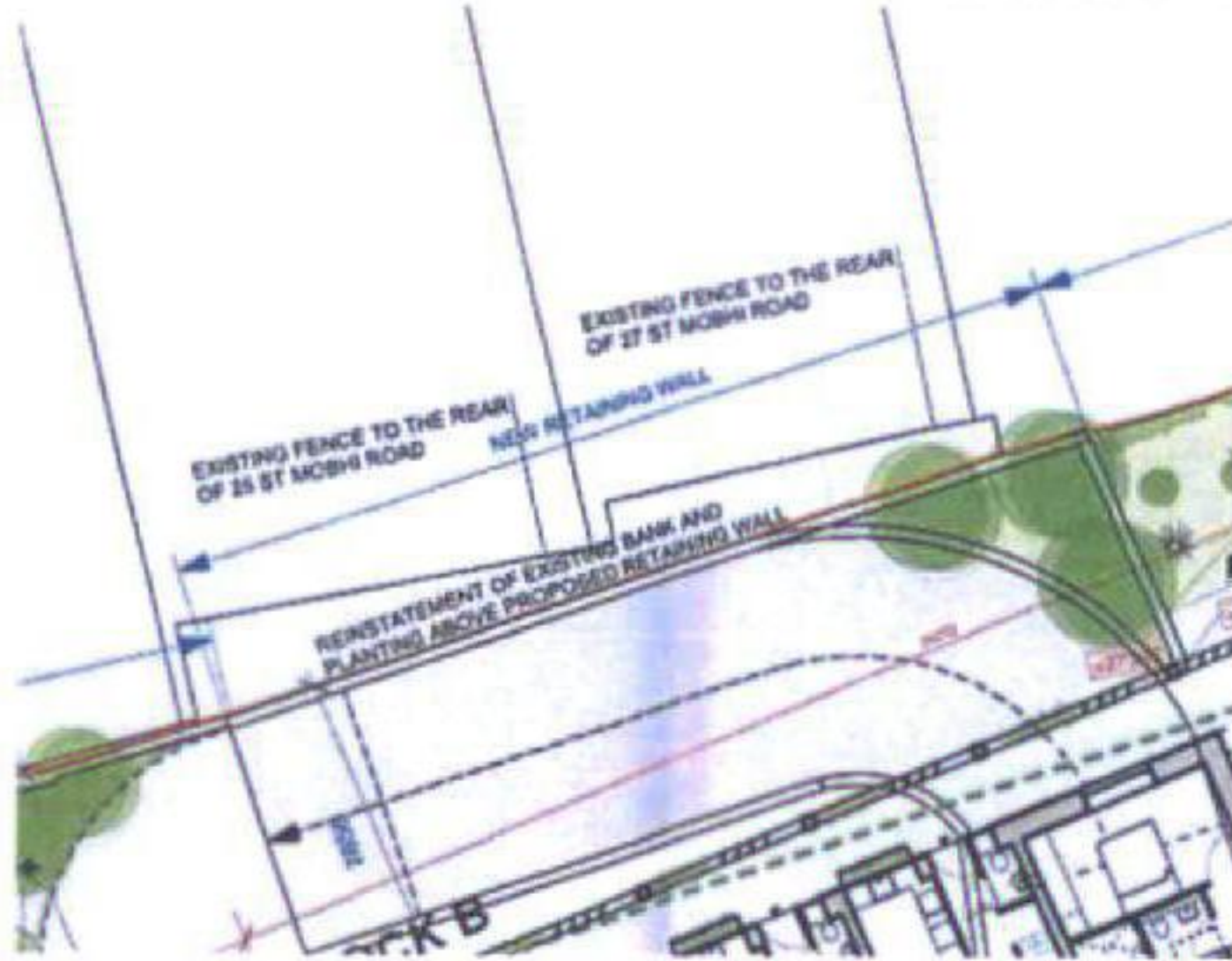
Block C is still above 16m. Cross section F-F 00996906.pdf – height over 16m – 16.2m
From 46.7 to 30.5 – 16.2m



- 2) 00996923.pdf 7.2 Reduction in height – claims "Significant separation distances in the region of 40-50m to the rear of Mobhi Rd houses".
From the rear of #25 I think it's approx. 30m (maybe 35?) + 1-2m behind fence and then approx.. 7m (ramp) to balconies.
- 3) Block B has moved closer to #27
00996922.pdf – 1.2 claims to have increased the distance to the east boundary – acknowledges there is an impact to houses on Mobhi Rd

4) 00996886.pdf

Reinstatement of existing bank & planting above proposed retaining wall refers to #25 land
This needs to be moved onto their property. How can planting above their wall be reinstated when it refers to #25 and #27's property?



5) Plan does not take existing house into account

00996886.pdf plan of building does not include the extensions built onto Mobhi Rd houses. – misleading about distances

