



An
Bord
Pleanála

**S. 4(1) of Planning and Development
(Housing) and Residential Tenancies
Act 2016**

Inspector's Report

ABP-306167-19

Strategic Housing Development

435 no. apartments and associated
site works.

Location

Ratoath Road and Hamilton View,
Pelletstown, Dublin 11.

Planning Authority

Dublin City Council

Applicant

Ballymore RCP Development Services
Limited.

Prescribed Bodies

- (1) Transport Infrastructure Ireland
- (2) Inland Fisheries Ireland
- (3) Dept. of Culture, Heritage & the
Gaeltacht

Observer(s)

33 Submissions (please refer to Appendix 1).

Date of Site Inspection

15th April 2020

Inspector

Tom Rabbette

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1 Introduction

This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2 Site Location and Description

The subject site, which has a stated area of c.1.88 hectares, is located approximately 1 km north of the N3 Navan Road and 1.5 km northwest of Cabra village centre. The site is located on the eastern end of the Ashtown-Pelletstown neighbourhood. The Ratoath Road and road bridge is located immediately east of the site and Hamilton View road is located to the west of the site.

The site, until recently, contained the former 'Ormond Printworks' industrial building and ancillary structures. Those industrial structures have been demolished and the site cleared. It is currently being used as a construction compound for an adjacent development site located across Hamilton View from the subject site.

The Royal Canal, 8th Lock and Irish Rail line are located to the south of the site. The O'Reilly Bridge over the canal adjacent the site is a protected structure. A relatively new mixed-use development is located to the west of the application site, with development on-going in parts. Lands to the east of the site are characterised by light industrial/enterprise development while to the north lies the parklands of Tolka Valley Park.

3 Proposed Strategic Housing Development

The proposed development will form Phase IV of Royal Canal Park and comprise a mixed-use (residential and commercial scheme) including 435 no. dwellings (218 no. 1 bed, 217 no. 2 bed apartments) and employment uses (c. 4,162sq.m) accommodated in 5 no. buildings (Block A to E inclusive) ranging in height from 4 to 13 storeys and incorporating an undercroft level.

Breakdown:

Block A: 4 to 13 storeys, accommodating 1 no. primary health care centre with a café (c.2364 sq.m), 4 no. own door office units (c. 304.5 sq.m), 1 no. pharmacy unit

(c. 181 sq.m), 130 no. apartment units and residential amenity roof terrace at levels 4 and 8.

Block B: 8 storeys, accommodating 5 no. own door office units (c. 346 sq.m total), 83 no. apartment units and residential amenity roof terrace at level 8.

Block C: 7 storeys, accommodating 48 no. apartment units and residential amenity roof terrace at level 7.

Block D: 7 to 13 storeys, accommodating 1 no. fitness centre with a juice bar (c. 703 sq.m), 96 no. apartment units and residential amenity roof terrace at level 7.

Block E: 4 to 6 storeys, accommodating 2 no. own door office units (c.262 sq.m total), 78 no. apartment units and residential amenity roof terrace at level 4.

All apartments units provided with individual private balconies, terraces, patios or winter gardens, located on north, south, east and west elevation, communal amenity space immediately adjacent to the proposed buildings and ancillary residential reception/workspace amenity at western gateway (c. 427 sq.m).

And all associated site development and infrastructural works, hard and soft landscaping and boundary treatment works. The proposal includes 2 no. vehicular entrances off Hamilton View to access the car parking and bicycle parking under the podium level.

4 Planning History

The most recent, relevant history is as follows:

Subject Site:

3568/19: Permission granted to demolish former Ormond Printworks building, associated outbuildings and water tank on this application site.

Recent, relevant applications in vicinity include:

3069/14: Permission granted 152 houses, 91 apartments, supermarket and ancillary site works at Pelletstown.

3604/12: Permission granted for 208 residential units, crèche, playing pitches and ancillary works at Pelletstown.

3414/04: Permission granted for 602 dwellings, office, retail, crèche, café/restaurant, public house and restaurant in 7 blocks, 19 berth canal marina and ancillary site works at Pelletstown.

5 Section 5 Pre Application Consultation (ref. 305127)

A Section 5 pre application consultation took place at the offices of An Bord Pleanála. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. The applicant was advised that further consideration of the documents as they relate to the following issues were required:

1. Height, Scale, Massing and Density

Further consideration and/or justification of the documents as they relate to the development strategy for the site in respect of the proposed height, scale, massing and density of the proposal, having regard to its locational context. In addition to the consideration of other national policy and guidelines, particular regard should be had to demonstrating that the proposal satisfies the criteria set out in section 3.2 and SPPR3 of the Urban Development and Building Heights, Guidelines for Planning Authorities (December 2018).

In addition, further consideration and/or justification of the documents as they relate to the design and layout of the proposed development, particularly with regards to Block D, and the desire to ensure that the proposal is not visually obtrusive or overly dominant when viewed from surrounding areas. Particular regard should also be had to creating suitable visual relief in the treatment of elevations. An architectural report, urban design statement and additional CGIs/visualisations should be submitted with the application. Furthermore, the layout should address the creation of usable, amenable and high quality open spaces within the development.

The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage

2. Car Parking

Further consideration and/or justification of the documents as they relate to the car parking strategy for the proposed development, having particular regard to the level of parking proposed, how it is intended that it is assigned and managed and measures proposed to address shared car parking and visitor parking. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

Furthermore, the prospective application was advised that the following specific information should be submitted with any application for permission:

1. A report that specifically addresses the proposed materials and finishes of the proposed structures including specific detailing of finishes, openings, the treatment of balconies, landscaped areas and boundary treatments. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development. The documents should also have regard to the long term management and maintenance of the proposed development, and in this regard a life cycle report in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018) should be submitted.
2. A detailed landscaping plan for the site which clearly differentiates between areas of public, communal and private open space and which details exact figures for same. Details should also include proposals for hard and soft landscaping including street furniture, where proposed, which ensures that areas of open space are accessible, usable and available for all. Details relating to the materiality of the proposed interface between proposed development and adjoining lands should be also submitted. Additional cross sections, CGIs and visualisations should be included in this regard.

3. A detailed schedule of accommodation which indicates consistency with relevant standards in the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).
4. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants). Full and complete drawings including levels and cross sections showing the relationship between the development and adjacent residential units should be submitted
5. Additional CGIs/ 3D modelling showing the proposed development relative to existing development in vicinity
6. A report which addresses potential micro-climate issues, including potential issues of down draft, together with any mitigation measures proposed, if necessary
7. Additional water and wastewater details which addresses the matters raised in the report of Irish Water, dated 10/09/2019 to An Bord Pleanála
8. School Demand and Concentration Report
9. Phasing Plan
10. Taking in Charge details
11. Waste Management details
12. Site Specific Construction and Demolition Waste Management Plan.

Applicant's Statement

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the issues raised in the opinion: 1) Height, scale, massing and density and 2) car parking.

1) Height, Scale, Massing and Density:

Alterations to the design have been made in response to ABP opinion as follows:

- Block D facades have been subdivided into 2 distinct and different brick finishes subdivided by metal panels to reduce over-powering visual impact of the block and change the massing to vertical emphasis rather than horizontal.
- Block D has been split in half with northern end of block reduced in height from 13 to 7 storeys to the street level and 6 storeys to the courtyard level.
- Block D building proportions now match Block A to the north.
- Block A facades have been subdivided into 3 distinct and different brick finishes to reduce the visual impact and change the massing to vertical emphasis rather than horizontal.
- Block A to the western plaza has been reduced in height from 5 storeys at the plaza to 4 storeys. The façade has also been changed to red brick finish to act as a focal point to the Hamilton View road.
- Block B building façade has been subdivided into 2 different brick types again to introduce variety to the development from Ratoath Road and reduce visual massing impact.
- Block C building façade has been changed to a distinctive red brick to act as a focal point to the Ratoath Road.
- Block E has been reduced by a floor to the southern and western plazas.
- Block E building facades have been further subdivided by different brick types and metal panel finishes.
- Block E to the western plaza has been reduced in height from 5 storeys at the plaza to 4. The façade has also been changed to a red brick finish to act as a focal point to the Hamilton View road.

The applicant considers that the proposed building height and density is appropriate at this location having regard to the criteria set down in section 3.2 and SPPR of the Urban Development and Building Height Guidelines for Planning Authorities 2018.

The revised scheme includes 5 no. buildings ranging in height from 4 to 13 storeys. Block A and D contain the highest components, extending to 13 storeys at the norther and southern ends of the scheme respectively.

Both the Dublin City Development Plan and the Ashtown-Pelletstown LAP identify this location as suitable for taller buildings. Block D in particular was raised by ABP as an issue. This has been addressed.

The site forms the final phase of development of the Royal Canal Park at the eastern mixed-use node of the Ashtown-Pelletstown settlement. It is well served by public transport with high capacity, frequent services and good links to other modes of public transport.

The proposed scheme delivers new public amenity and private residential amenity open space at a site that has been underutilised and of not amenity benefit to this settlement for a significant period of time. The proposed height and massing (in particular Block A& D) respond appropriately to the challenging environment presented by the Ratoath Road and overpass. The higher 13 storey elements are justified as landmarks at northern (significant road junction) and southern (canal greenway amenity) gateways to Ashtown-Pelletstown. Block D will play a significant role in re-animating and providing passive surveillance to the canal edge where pedestrian and cycle movement only is to be accommodated.

A LVIA has been prepared and found that there is no significant adverse visual impact arising as a consequence of the proposed built form and expression (including building height, massing and composition) at this site. It identified that the site carries an expectation of high density development and building height, based on its land use zoning and other relevant local and strategic planning policy context relating to sustainable development in urban areas.

The applicant has outlined how the height and scale of the proposed development complies with criteria set out in section 3.2 and SPPR3 of the Guidelines.

2) Car parking.

The application is accompanied by a Workplace-Residential Travel Plan which provides a long-term management strategy for the application site. It identifies a

package of measures to encourage an organisation's staff, clients and visitors to use sustainable forms of transport, such as walking, cycling and public transport and to reduce dependency on private and single-occupancy use.

A total of 257 no. car parking spaces is proposed, including 242 no. in the undercroft area to specifically serve the residential and other uses. 196 no. car parking spaces are allocated for residential use, 46 no. allocated for commercial/employment uses.

The scheme includes 15 no. surface level car parking spaces along Hamilton View (west of the site) which accommodates shared car club spaces. A letter of support from a commercial car club service provider is submitted.

The car parking management strategy is to reduce car parking provision, identify access to alternative sustainable transport modes and ensure that a proactive approach to car parking management by a management company will prevent overspill onto adjacent areas.

The applicant has also attempted to address points 1 to 12 of the additional specific information.

Applicant's Statement on Material Contravention

Section 13.3 of the applicant's 'Planning Application Report & Statements of Consistency' is titled 'Material Contravention of Development Plan and/or Local Area Plan Objectives'. The contents of that section can be summarised as follows:

- There have arisen some inconsistencies between the objectives of the City Development Plan and the Ashtown-Pelletstown LAP and the more recent national and regional planning policy published since the local statutory plans were adopted.
- Development Plan Core Strategy, LAP Density & Housing Allocation: The core strategy for SDRA 3 which covers the LAP lands is allocated 1,000 units during the plan period 2016-2022. Based on permitted development, currently under construction and sites which remain undeveloped, there is the potential for 1,022-1,075 units in SDRA 3. The proposed development of 435 units represents a higher density and unit allocation than that envisaged by the current LAP and as such represents an increase to 1,413-1,437 units.

However, this is not considered to be contrary to strategic planning policy at local, regional and national levels, relevant to regeneration and development at the application site.

- **Building height:** The proposed development is accommodated in buildings ranging from 4 to 13 storeys. While the development principles of SDRA 3 allow for mid-rise buildings up to 50 m, the LAP envisages building height up to 8 storeys and one location for a landmark building up to 10 storeys. However, the development is consistent with national policy to significantly increase the delivery of housing through increased density and building height, and has regard to NPO35 of the NPF and SPPR 3 of the Building Height Guidelines.
- **Mix of residential units:** The Development Plan requires apartment schemes to deliver a maximum of 25-30% 1-bedroom units and a minimum of 15% 3+bedroom units. The LAP seeks to ensure a minimum of 50% of larger units (i.e. 3+bedrooms). The applicant considers this to be contrary to strategic planning policy at regional and national levels relevant to regeneration and development at the application site.
- **The role of the Board as the competent authority** is acknowledged in determining the matter of whether or not the proposed development represents a material contravention of the objectives of the Development Plan or LAP in this case.

6 Relevant Planning Policy

6.1 National

National Planning Framework

The directly relevant National Policy Objectives as contained within the NPF include:

National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Section 28 Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- 'Urban Development and Building Heights, Guidelines for Planning Authorities' (2018)
- 'Sustainable Urban Housing: Design Standards for New Apartments' (2018)
- 'Design Manual for Urban Roads and Streets' (2013)

- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)
- ‘Architectural Heritage Protection- Guidelines for Planning Authorities’

6.2 Regional

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031

The RSES including the Dublin Metropolitan Area Strategic Plan (MASP) was adopted on the 3rd of May 2019. Pelletstown is located within the area covered by the MASP. Pelletstown is located within two ‘Strategic Development Areas and Corridors’ as identified within the MASP, they are: the ‘City Centre Within the M50’ and the ‘North-West Corridor’. The ‘Ashtown-Pelletstown’ area is specifically mentioned as a residential strategic development area in the MASP (within the ‘City Centre within the M50’ area).

6.3 Local

Dublin City Development Plan 2016-2022

The Dublin City Development Plan 2016-2022 is the operative Development Plan.

The land-use zoning objective is Objective Z14- Strategic Development and Regeneration Area which seeks ‘the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and ‘Z6’ would be the predominant uses’. Residential, live-work units, buildings for the health, safety and welfare of the public, offices, restaurant/café, cultural/recreational building, open space and shop (neighbourhood) are permissible under this zoning objective.

The subject site is located with ‘SDRA 3: Ashtown-Pelletstown’ (Strategic Development and Regeneration Area) of the operative City Development Plan- areas identified as being ‘capable of delivering significant mixed-use development’

Section 16.6 of the Dublin City Development Plan 2016-2022 requires that planning applications for 200 or more residential units should be accompanied by a report identifying the demand for school places likely to be generated and the capacity of existing schools in the vicinity to cater for such demand.

Appendix 13 relates to Childcare Facilities

Ashtown-Pelletstown Local Area Plan 2014

The site is also located within the area where the Ashtown-Pelletstown Local Area Plan 2014 applies (extended for five year period until December 2023)

Section 3.2 sets out guiding principles for development of the Ashtown-Pelletstown area.

Section 4.2.2 notes a Z6 objective relates to the 'Ormond Site' at the eastern end of the Plan area, which has attached objective 'to provide for the creation and protection of enterprises and facilitate opportunities for employment creation'.

Map 4.1 'Land Use Strategy Map' identifies a large proportion of the Ormond site for 'mixed use' purposes.

Section 4.3.2 notes in relation to the Ormond site, that it is 'vacant for some time, this site is considered appropriate for redevelopment and integration into the future mixed use environment around the eastern node'.

Section 4.3.4 continues by stating that 'science and technology based industry', 'enterprise centre', 'training centre' and 'cultural/recreational building' are examples of permissible uses on this large site.

Policy ED1 seeks 'to encourage employment-generating sustainable developments at the eastern and western nodes as part of mixed-use developments, benefitting from planned improvements in infrastructure and public transport. In particular, small-scale offices, business services and local level retailing will be encouraged'.

Objective ED04 aims 'to promote appropriate employment-generating uses for the vacant Ormond Printworks site, which occupies an important transitional area between established industrial lands and the emerging mixed-use environment at the eastern extremity of the LAP lands'.

Section 4.10.4 refers to 'Childcare Facilities'.

Section 5.2.4 sets out the following design principles for the Ormond site, which 'seeks development with a mixed-use character, reflecting the site's role on the

boundary between larger land use types, with housing and commercial uses provided'. Also notes that 'as an enterprise zoned site, the long term aim is for this land to be developed for a mix of business and residential uses at medium densities, capitalising on the high level of connectivity available by the completion of Luas to Broombridge, giving this site strong accessibility by both Luas and heavy rail. As an edge zoning it is considered that the site can and should accommodate an element of mixed use, with some residential and/or live-work units provided, and also limited retail (focussed on the northern part of the site, integrating with the existing "village centre" at Royal Canal Park), incorporated into buildings rising 4-6 storeys'.

7 Observer Submissions

The Board received 33 observer submissions, the observers are listed in Appendix 1 attached to this report. There is a significant degree of overlap and reiteration of issues raised throughout the submissions. I therefore propose to summarise them by issue rather than individually. The main issues can be summarised as follows:

Educational facilities:

- Existing primary school in Pelletstown is at capacity.
- Existing primary school is in temporary accommodation.
- Need for expansion of secondary school facilities to serve the area.
- School facilities should be delivered before any more housing is added to the area.
- Applicant's Educational Needs Assessment questioned.
- Data used for Educational Needs Assessment questioned.
- There has been a significant increase in child population in the area.

Childcare:

- The development does not propose a childcare facility.
- Existing childcare facilities in the area are at capacity/oversubscribed.

- There are waiting lists to access childcare in the area.
- Lack of childcare will lead to trip generation as parents seek childcare facilities elsewhere.
- Applicant's Childcare Needs Assessment questioned.
- Data used in Childcare Needs Assessment out of date.

Transportation/Traffic/Car parking provision:

- Serious traffic congestion already exists in the area, particularly at peak times.
- The proposed residential car parking provision is inadequate.
- Commercial car parking provision is inadequate.
- Inadequate car parking will impact on existing residents in the area.
- Proposed new rail station facing delays.
- Electrification of rail line delayed.
- Luas and rail services operating at capacity at peak times.
- Bus services inadequate in the area.
- Road network in the area inadequate to accommodate further development.
- Traffic assessment fails to identify bottlenecks in the area.
- Luas, rail and bus services need to be expanded before any more housing is added.
- Anti-social behaviour along canal towpath used to access train station.
- Poor lighting along canal walk.
- Work on the Royal Canal Greenway in the area has not commenced.
- Rat-running in the area is problematic.

Community Infrastructure:

- There are very few community facilities in the area.
- The area needs a library.
- Proposed Primary Care Centre and pharmacy welcome but contracts are required at phase 1 to insure delivery of same.
- A youth centre would be welcome
- Lack of community services in the area for teenagers is a concern.
- Applicant's Community Infrastructure Audit should be disregarded.
- Census data relied upon for Community Infrastructure Audit is outdated, many new residential developments have since been delivered.
- Commercial floorspace proposed not needed, area already has vacant commercial/retail floorspace.
- More greenspaces to serve the area are required.
- LAP not being adhered to.
- Sporting clubs/facilities are need in the area, not commercial floorspace as mush of the existing commercial floorspace remains empty.

Height/Density/Visual amenity/Unit mix/Impacts on adjacent properties

- Density is too high for this area.
- Proposal is a gross over-development
- Scheme will dwarf existing dwellings in the area.
- Heights proposed more suitable in city centre location.
- Development taller than: existing tower block in Smithfield; O'Connell Bridge House, and Central Bank.
- Heights proposed will have significant negative impact on skyline.
- No 3-bed family units are proposed.

- Unit mix should be improved, only 1-bed and 2-bed units proposed.
- Not a family friendly development.
- Overshadowing of residences to the west.
- Excessive overlooking of residential property to the west.
- Overbearing visual impact when viewed from properties to the west.
- Visually incongruous development.
- Sunlight, daylight and shadow assessments not robust.
- Proposal contrary to the LAP.
- LAP allows for a maximum of 10 storeys at this location.
- Concerned that construction stage will impact on access to commercial property along Hamilton View.

Part V provision:

- Part V housing should not be segregated as proposed.
- Part V housing should be spread across the development.

8 Planning Authority Submission

Dublin City Council Chief Executive's Report dated 18/02/20

An Bord Pleanála received a report from the Chief Executive of the planning authority in relation to the proposal the contents of which can be summarised as follows:

- A description of the site and location is given.
- A summary of the planning history for the site and area is provided.
- A description of the proposed development is given.
- Notes that 3 no. s.247 meetings took place between the applicant and the planning authority.

- Refers to ABP Opinion that issued following the Stage II pre-application process.
- Refers to a presentation given to the elected members at the Central Area Committee on the 14/01/20, issues raised include:
 - Residential development welcomed by elected members
 - 1 and 2-bed units will not support families
 - Issues raised were grouped under: height; schools/social amenities, and transport and mobility
- Refers to internal departmental report received from the following: 'Housing & Community Services', 'Transportation Planning Division', 'Air Quality Monitoring & Noise Control Unit' and the 'Parks & Landscape Services'.
- Provides a summary of the issues raised in the observer submissions received from the public (via ABP).
- Provides relevant planning policy context with reference to the 'Dublin City Development Plan 2016-2022', the 'Ashtown-Pelletstown Local Area Plan' and s.28 Ministerial Guidelines.
- Provides a planning assessment that can be summarised as follows:
 - Proposal requires substantially higher proportion of non-residential uses.
 - Proposed uses considered appropriate uses generally.
 - Proposed Primary Healthcare Centre welcomed.
 - Site's location may be appropriate for height.
 - PA does not have significant objection to proposed heights.
 - Significant concerns with scale and massing, will be visually obtrusive, monolithic and overly dominant.
 - Particular concerns with eastern elevation.

- Amendments recommended by way of condition.
- Potential impact on existing residential amenity to the west.
- Recommends amendments to Block E in response.
- Notes that site is located close to high frequency public transportation.
- PA does not have any principle objection to high density development on the site.
- However, it is considered that a development of a lower density would be more suitable at this location.
- Applicant's 'Housing Quality Assessment' largely confirms compliance with CDP and s.28 apartment guidelines.
- PA does not consider bay window/pop out windows constitute dual aspect apartments.
- PA does not raise any issue with applicant's 'Daylight and Sunlight Assessment'.
- PA considers that the non-residential uses have been strategically positioned and designed to create an active street frontage.
- Amendments recommended so that the southern courtyard receives sufficient levels of sunlight.
- PA satisfied with design of roof terraces.
- 'Parks and Landscape Services' report is referred to which includes a number of recommendations.
- Applicant is aware of their Part V obligations.
- A childcare facility should be provided in the scheme at a location to be agreed.
- A social facility for residents and non-residents should be provided.

- Educational demand will be sufficiently catered for by existing and future educational facilities.
- High performance acoustic glazing on apartments units on the south-east and south-west facades of Block D & E should be provided.
- The CE Report concludes with a recommendation to grant permission but with a number of amending conditions.

9 Prescribed Bodies

Under the 'Opinion' that issued (ref.305127) the applicant was required to notify the following bodies of the making of the application: Irish Water; National Transport Authority; Transport Infrastructure Ireland; Waterways Ireland; Department of Culture, Heritage and the Gaeltacht; An Taisce-the National Trust for Ireland; Heritage Council, and Dublin City Childcare Committee.

In addition, the Board received a submission from Inland Fisheries Ireland.

The following is a summary of the reports from the above bodies that made a submission:

9.1 Transportation Infrastructure (report dated 23/12/19):

The contents of the report from the above can be summarised as follows:

- The proposed development falls within the area for an adopted s.49 Supplementary Development Contribution Scheme – Luas Cross City.
- If the application is successful and not exempt from the levy, then a s.49 levy should be applied by way of condition.

9.2 Inland Fisheries Ireland (report dated 21/01/2020)

The contents of the report from the above can be summarised as follows:

- The Tolka system supports a resident population of Brown trout and a migratory population of Sea Trout.
- The Royal Canal represents an important ecological resource.

- If permission is granted all works will be completed in line with the Construction Management Plan (CMP).
- No direct pumping of contaminated water to watercourses.
- Topsoil or demolition material which is to be stored on site must have mitigations in place to prevent any deleterious material entering the river.
- It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

9.3 Department of Culture, Heritage and the Gaeltacht (report dated 27/01/20)

The contents of the report from the above can be summarised as follows:

- It is recommended that the applicants engage the services of a suitably qualified archaeologist to co-ordinate and continue with archaeological monitoring.

10 Assessment

Having considered all documentation on file from the applicant, the planning authority's Chief Executive's Report, the submissions from the prescribed bodies and the observer submissions, I consider the main issues to be addressed are as follows:

- Principle of development
- Height/Visual Impact/Overbearing/Overlooking/Overshadowing
- Traffic and Transportation
- Density proposed/unit mix
- School place demand
- Childcare facility
- Open space provision/dual aspect units/residential amenity
- Wastewater infrastructure

- Part V provision
- Material Contravention
- Other issues
- Appropriate Assessment Screening
- Environmental Impact Assessment Screening

10.1 Principle of development

The application site is zoned Z14 'To seek the social, economic and physical development and/or rejuvenation of an area with mixed use of which residential and 'Z6' would be the predominant uses' in the Dublin City Development Plan 2016-2022. The Z6 zoning is defined as 'To provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. The site forms parts of Strategic Development and Regeneration Area (Ashtown-Pelletstown SDRA 3), the guiding principles of SDRA 3 under the Development Plan are: Land uses; general urban design/layout; movement/connectivity, and detailed design. SDRA 3 refers to the principles and land uses set out within the Ashtown-Pelletstown Local Area Plan.

The site is located within the area governed by the Ashtown-Pelletstown Local Area Plan. The LAP sets out specific policies and objectives for the development of the application site. Relevant sections/policies/objectives within the LAP are: s.3.2 Guiding Principles, s.4.2.2 Development Plan Zoning and Designations, s.4.2.3 Land Use Strategy and s.4.3.2, s.4.3.4 and s.5.2.4 in relation to the 'Ormond' site.

Policy ED1 of the LAP states the following: "To encourage employment-generating sustainable developments at the eastern and western nodes as part of mixed-use developments, benefiting from planned improvements in infrastructure and public transport. In particular, small-scale offices, business services and local level retailing will be encouraged."

Objective ED04 of the LAP states the following: "To promote appropriate employment-generating uses for the vacant Ormond Printworks site, which occupies

an important transitional area between established industrial lands and the emerging mixed-use environment at the eastern extremity of the LAP lands.”

The Dublin City Council CE Report has stated that the planning authority is not averse to a scheme of which the majority is residential in nature. The planning authority does consider the proposed uses to be appropriate uses generally, they are particularly supportive of the proposed primary care centre. However, the authority is seeking “a substantially higher proportion of non-residential/Z6 uses”.

The proposal is for 435 residential units and a healthcare centre with a café, a pharmacy, 11 own-door offices and a gym incorporating a juice bar. With reference to the Development Plan I note public health buildings, offices and shops (neighbourhood) are all ‘permissible uses’ on Z14 lands.

The planning authority concerns relate to the quantum of employment-generating uses. They consider that the quantum of such uses should be increased. I note that under 3568/19 permission was granted to demolish the previous employment-generating use on that site. In the planning authority documentation on that case it is stated that the floor area of that building was 3,520 sq.m. In this current application the applicant is proposing 4,162 sq.m. of employment-generating uses, an increase of some 640 sq.m. In addition, the intensity of the employment use will be increased. It is stated on file that the demolished industrial building accommodated 75 workers on the site, the applicant has stated that some 295 persons will be employed across the primary care centre, the pharmacy, the own-door offices and the gym and juice bar (ref. section 11.4 of the applicant’s ‘Planning Application Report & Statements of Consistency’). In addition, I note the arrangement of the employment-generating uses in the development which are to provide an active frontage primarily around the ground floor with the interface with the public realm, the primary care centre and the gym use will also stretch up through the development to the second floor. Given the: increase in employment-generating floor area proposed above that previously on the site; the range and diversity of those employment-generating uses, and the likely significant number of persons now to be employed on the site compared to the numbers previously employed here, I am of the opinion that the quantum of non-residential is acceptable in this instance and does not conflict with the statutory plans for the area to an extent

that would warrant refusal. I would also note that there is some vacancy in commercial units in the wider area and this has also been commented on by some observers. The zoning also requires the rejuvenation of this vacant brownfield site and the proposed development does deliver this much needed rejuvenation.

10.2 Height/Visual Impact/Overbearing/Overlooking/Overshadowing

The proposed development ranges in height from 4 to 13 storeys across 5 buildings. The tallest structures, both at 13 storeys, are located at either end of the site i.e. northern and southern ends. The 5 buildings sit along the edge of a single storey podium.

Section 16.72 of the Dublin City DP 2016-2022 identifies Ashtown-Pelletstown area as having potential for mid-rise building heights with a maximum height of up to 50 m. Neither of the 13 storey elements proposed exceed this 50 m limit. The Ashtown-Pelletstown LAP identifies the subject site as part of the eastern village centre with a height strategy of a maximum of 8 storeys and 1 ten storey building will be considered.

A number (although not all) of the observer submissions to the Board raise concerns about the height and related matters of visual impacts, overbearing impact and potential for overlooking and overshadowing. Some refer to non-compliance with the LAP in relation to height, some hold that the height would be completely out of character with the receiving environment, they say it will completely dominate the surrounding area. While some welcome an increase in height they fear that the 13 storeys elements are too much and that they will have a negative impact on the skyline. Some seek a reduction in height by way of condition rather than a refusal on this issue. It is stated that this is not a city centre site and the heights proposed are inappropriate. It is not just the 13 storey elements that are of concern, some of the lower blocks have also created concerns for those living in proximity to the development. Concerns are raised that the heights proposed will impact on access to light for existing residences to the west of the site, specifically along Hamilton View and will have an overbearing impact when viewed from those properties.

In terms of the immediate receiving environment, I note there is a detached single storey bungalow to the south-west of the site along Hamilton View opposite

proposed Block E. (The occupier of this bungalow has made an observer submission raising concerns about overbearing and overlooking impacts.) To the north of that bungalow and opposite the proposed plaza fronting Hamilton View there is a relatively new terrace of 2 and 3 storey dwellings. Further north along Hamilton View and opposite proposed Block A there is an apartment development under construction that extends up to 7 storeys. To the north-west of the site there is a mixed-use commercial/residential block that extends up to 8 storeys. Development to the east across the regional route, the Ratoath Road, is characterised by low rise commercial/industrial. Levels along both the Ratoath Road to the east and Hamilton View to the west rise significantly so as to clear the Royal Canal and rail line to the south.

In relation to the issues raised around height, I note that this is the eastern most site of the Ashtown-Pelletstown LAP area. The development as proposed acts as the eastern bookend to this relatively new urban neighbourhood. The 13 storey elements proposed at either polar end of the site provide gateway/landmark buildings and improve the legibility of the area, in my opinion. The 13 storey element at the northern end is located adjacent the Rathoath Road/Ballyboggan Road/Hamilton View junction. The 13 storey element at the southern end is located at the Rathoath Road/Royal Canal intersection and the development will open out onto the emerging Royal Canal Greenway at this location. Heights within the site then get pulled downwards to increase daylight access/penetration to the scheme and create a more human scale at the main entry point to the development. In terms of the wider visual impact, I am of the opinion that the proposal will increase the size, height and built form in this area and it will be a notable landmark. It will be a positive intervention, in my view. It creates strong urban edges to the site that currently don't exist. It changes the character of the site, and the area, from utilitarian/industrial to a vibrant urban block. The height challenges the dominance of the wide expanse of the regional road to the east. I am of the opinion that the criteria outlined in s.3.2 of the 'Urban Development & Building Height Guidelines' have been met. I refer the Board to the s.10.2.2.3 of the applicant's 'Planning Application Report & Statements of Consistency', the applicant's 'Town and Visual Impact Assessment' with which I generally agree, the applicant's 'Visual Assessment and Photomontages' and the 'Key Design Principles' contained within the applicant's

'Design Statement'. I consider the height strategy to be acceptable and would not recommend a refusal in relation to height or a reduction in height by way of condition.

It is stated in the DCC Chief Executive's Report that the planning authority does not have a significant objection to the proposed heights. However, it does go on to recommend a number of changes by way of condition. These changes are more focussed on reducing the massing of the development, I refer the Board to the PA's recommended condition no. 1 of the Chief Executive's Report. I have considered the recommendation and am of the opinion that this issue may be considered somewhat of a subjective design issue. I would also have some reservations about applying these conditions without having seen the result of the changes before imposing them i.e. at the very least, one would have to draw up the amended elevations and assess them before knowing for sure that the amendments are obtaining the desired outcome. I do not consider that the applicant's proposals will have an adverse visual impact on the immediate or wider area.

In terms of overlooking, the Board will be aware that the primary aim with regards to overlooking is the avoidance of overlooking of the private amenity space serving dwellings, specifically the back garden areas of private dwellings. In that regard, given the fact that this site is somewhat of an 'island' site in that it is surrounded by public roads/streets on three sides and the canal to the south, there are no private dwellings backing onto the site. The proposed development will face existing and proposed residential developments across public roads and streets, therefore the immediate overlooking of private rear gardens will not occur in this instance. The separation distances achieved between the proposed development and existing neighbouring residential will further mitigate overlooking potential. I am satisfied that the proposed development will not adversely impact on the surrounding area by reason of overlooking.

In relation to the scale of the proposal relative to existing development on Hamilton View, including the bungalow to the south-west of the site, I am of the opinion that the design has shown due deference to this lower scale development as it does step down in height along part of its frontage with Hamilton View and it also provides an open public plaza towards the centre of this frontage. While not a city-centre site,

the site is nonetheless well located within the city boundary. It can accommodate buildings of height. I am of the opinion that it would be contrary to the proper planning and sustainable development of the area to effectively allow a single storey dwelling further suppress the height on this site. In terms of potential for an overbearing impact on properties to the west, again I note the reduction in height and break in the façade to respond to those structures. The proposed development will be four storeys stepping up to seven storeys high across the street from the existing bungalow. The dwellings on Hamilton View, until recently, overlooked a site that accommodated a surface car park surrounding a utilitarian industrial building. The existing visual amenities the site offers are, at best, poor. There is a significant planning gain in visual (and other) terms in the redevelopment of this site as proposed, it will improve, not disimprove, the aspect from these dwellings to the west, in my opinion. It is replacing a utilitarian brownfield wasteland with a new mixed-use urban block.

In relation to potential of overshadowing, the proposed development is located to the east of the existing residential developments in proximity and there is the wide expanse of the regional Ratoath Road to the east of the site and industrial buildings beyond that again. The proposed development will not cast shadow on the existing residences to the west at critical times of the day. I refer the Board to the applicant's 'Sunlight, Daylight and Shadow Assessment Report' which I have considered, I am satisfied that the proposed development will not adversely impact on adjacent residences by reason of overshadowing or impact on access to daylight.

10.3 Traffic and Transportation

Many of the observers have raised concerns in relation to traffic and transportation matters. They hold that the existing public transportation infrastructure in the area is not adequate for existing needs and that the development will exasperate matters. Some refer to the rail, LUAS and bus services being overcrowded at peak times. While some note that permission was recently granted for a new station on the commuter rail line to the south, they further note that work on this new station has yet to commence. They also observe that it is proposed to electrify the Maynooth line and provide DART services but question the timelines for the delivery of this service relative to the occupation of the proposed development if granted

permission. Many observers also highlight issues around the current condition of the canal towpath that provides access to Broombridge train and LUAS Station located to the east of the site. They hold it is of inadequate width with poor lighting and some refer to anti-social behaviour taking place along parts of the route. Some observers have also noted that work on the Royal Canal Greenway that would accommodate a cycle route has not commenced. Observers note the provisions of the LAP in relation to transportation infrastructure that are still outstanding. The applicant's proposed car parking provision to serve both the commercial and residential components is considered inadequate by many of the observers.

The application is accompanied by a 'Traffic and Transport Assessment', a 'Workplace/Residential Travel Plan' and a 'DMURS Statement of Consistency', I have considered all of these documents.

As stated previously, the proposal is for 435 residential units of which 218 are 1-bed units and 217 2-bed units, employment uses are also proposed and account for some 4,162 sq.m. These employment uses include a primary healthcare centre, a pharmacy, own door offices and a fitness centre. Car parking is to be accommodated in an undercroft ground level that is access via two vehicular entrances off Hamilton View. Some on-street car parking is also proposed. Pedestrian accesses are also provided to the north, south and west. In total, 242 car parking spaces are to be provided in the under-croft level, 46 of which are to serve the commercial units and 196 to serve the 435 residential units. This results in a residential car parking ratio of .45 space per residential unit. In addition, there are 15 on-street spaces proposed along Hamilton View, these include spaces for car club services, space with electrical charging points, set down spaces and disabled parking bays. The development also accommodates 942 bicycle parking spaces. It is stated by the applicant that the design philosophy with regards to transportation was to maximise access by foot, bicycle and public transport and minimise reliance on the private car.

I note observers' concerns about capacity on public transportation services in the area, nevertheless it must be acknowledged that the site is well located in the context of its proximity to existing and proposed public transportation infrastructure. The Maynooth commuter line runs along the southern boundary of the site and the

site has pedestrian connectivity to Broombridge Station on that line some 800 m to the east, the LUAS Green line connects to the Maynooth line at Broombridge. There is also permission granted for another station on the Maynooth line some 300m to the west of the site. There are proposals to upgrade the Maynooth commuter service to an electrified DART service. The site is within walking distances of bus stops in Pelletstown and there are a number of bus services running along the regional route, the Rathoath Road, to the east. Both Hamilton View to the west and Ratoath Road to the east have footpaths on both sides and the footpath network in the wider area is generally good. In addition, there are cycle lanes along the Ratoath Road. There are pedestrian facilities along the canal towpath and this forms part of the Royal Canal Greenway, there are proposals to upgrade the Greenway, the proposed development will open directly onto this Greenway at its southern end. In the circumstances it is reasonable to class the site as 'Central and/or Accessible Urban Location' in accordance with the 'Sustainable Urban Housing: Design Standards for New Apartments'. The site is within walking distance of established commercial and employment land uses. The DCC Chief Executive's Report does not raise any objections on traffic/transportation grounds, the report by the 'Transportation Planning Division' that was attached to the Chief Executive's Report does recommend a number of conditions in the event that the Board grant permission.

Having regard to the foregoing I would not recommend refusal in relation to traffic and transportation matters and I consider the .45 car space per residential unit acceptable in this instance. The area is well served by pedestrian, cycle, bus, light rail and heavy rail infrastructure. There are plans to further enhance this infrastructure with a new rail station, electrification of the Maynooth line and the delivery of the Royal Canal Greenway. The occupants of this proposed development will have viable sustainable alternatives to the private car as a primary means of transport.

Concerns raised about anti-social behaviour along the pedestrian connection to Broombridge Station are a matter for the Gardai and other stakeholders, it would be inappropriate for the Board to refuse permission in relation to such matters.

One observer has sought a condition requiring the applicant to maintain access to his property at the southern end of Hamilton View (which is now a cul-de-sac) during the construction period. I would recommend that a condition be applied on any grant of permission which requires the submission of a Construction Management Plan and that condition should also specifically require that vehicular access be maintained to the properties, both residential and commercial, on Hamilton View during the construction period.

10.4 Density proposed/unit mix

A number of the observers have raised concerns about the proposed density. They consider it inappropriate for this location. They suggest such densities are more appropriate in city centre locations or in the Docklands area. Some have also objected to the fact that only 1-bed and 2-bed units are proposed, they consider that the scheme should contain 3-bed units for families.

The DCC Chief Executive's Report states that in principle the planning authority does not have an objection to a high-density development on the site, however, it does go on to state that a development of a lower density would be more suitable for this location.

The applicant is proposing 435 residential units (in addition to commercial uses) on a site of stated area c. 1.88 ha. This results in a density of 231 du/ha. While this can be considered high, as stated previously in this report, it is reasonable to class the site as 'Central and/or Accessible Urban Location' in accordance with the 'Sustainable Urban Housing: Design Standards for New Apartments' as it is well served by pedestrian, cycle, bus, light rail and heavy rail infrastructure. The site also meets many of the requirements for higher densities as outlined in Chapter 5 'Cities and larger towns' of the 'Sustainable Residential Developments in Urban Areas'. The site is well served by existing and proposed sustainable modes of transport, it is within walking distance of employment land uses and commercial uses, it is sandwiched between the large Tolka Valley Park to the north and the emerging Royal Canal Greenway to the south. The density proposed is also delivering a critical mass required to change this site from a low-grade utilitarian one to a dense urban block providing strong urban edges to the surrounding public realm. I would also draw the Board's attention to the fact that the site, being part of the Ashtown-

Pelletstown area, is identified as being part of the 'City Centre within the M50' corridor of the recently adopted 'Dublin Metropolitan Area Strategic Plan' (MASP) which forms part of the RSES. The MASP seeks, inter alia, to consolidate Dublin city and suburbs. Having regard to the foregoing, I consider the density proposed acceptable.

In relation to the unit mix, based on a visual inspection, the Ashtown-Pelletstown area does contain a reasonable number of 3-bed (and larger) units in addition to 1-bed and 2-bed units. Further away to the north and south of the site the area is dominated by larger 3-bed, 4-bed and 5-bed suburban-type housing. So it would appear to the undersigned that the wider area is well-served, if not indeed over-served, by larger units at unsustainable densities. In any event, the apartments proposed comply with national standards (specifically s.2.16-2.22 and SPPR 1 of the 2018 Apartment Guidelines) and the 2-bed units can accommodate family households. I consider the unit mix acceptable.

10.5 School place demand

Many of the observer submissions raise concerns in relation to schools serving the area. They note that there is only one primary school in the immediate area and that it is operating out of a temporary site. They have raised concerns that its future is uncertain at this moment. They question the accuracy of the educational needs assessment as carried out by the applicant. They hold that there is little capacity remaining in existing educational facilities to serve this and other developments recently granted. Some question the accuracy of the demographic trends as presented by the applicant holding that it was based on outdated census information. The Board is requested by some not to grant permission until new educational facilities are provided or existing ones expanded.

Section 16.6 of the Dublin City Development Plan 2016-2022 requires that planning applications for 200 or more residential units should be accompanied by a report identifying the demand for school places likely to be generated and the capacity of existing schools in the vicinity to cater for such demand. In that regard, the applicant's documentation included an 'Educational Needs Assessment' (hereafter the ENA).

The ENA looked at both primary and post-primary existing educational facilities that could be considered in the context of the proposed development. It also took into account the granting of permission for a primary school in the area (planning ref. 2056/19). It sought to review existing schools and available capacity and proposed primary and post-primary schools in a defined catchment (ref. s.3.1 of the ENA). It is stated that the applicant liaised with the Department of Education and Science in the drafting of the ENA. Demographics and education demand are addressed in section 5 of the assessment. The ENA finds that the proposed development will generate a demand for 72 primary school spaces and 51 post-primary school spaces. The assessment finds that there is additional capacity to comfortably accommodate the estimated demand for primary school spaces. It also finds that post-primary demand will be catered for by the existing post-primary educational facilities in the defined catchment. The ENA further concludes that given the likely timeframe for permission, construction and occupation of the proposed development, the Department of Education & Science would have an opportunity to consider further local demand for school places and any requirement to expand existing schools or provide new facilities could be addressed in the next tranche of its Capital Investment for Schools Infrastructure.

I have considered both the contents of the ENA and the concerns raised by the observers in relation to capacity of schools to accommodate the likely numbers generated by the development.

There is nothing on file to suggest that the proposed development in and of itself would put an unacceptable and immediate strain on the existing school infrastructure in the area. In that regard I would be of the opinion that a refusal for that reason would be unjustifiable and somewhat excessive. Furthermore, the development site itself is not identified in the statutory plans for the area as a site to accommodate a new school. The proposed development does not prejudice or compromise the delivery of new school infrastructure in the future, on the contrary, the additional population delivered by the proposed scheme would further justify such social infrastructure. The delivery of new schools for the area is a matter for other stakeholders (e.g. the Department of Education & Science) and penalising the applicant by refusing permission pending the delivery of the schools by other stakeholders is unwarranted.

10.6 Childcare facility

The applicant is not proposing a childcare facility as part of the development. This is a concern for many of the observers. These observers have stated that existing childcare facilities in the area are operating at capacity with creches being oversubscribed. They hold that the applicant should be required to provide a creche as part of the development proposal. Some challenge the applicant's submission in relation to childcare facilities. They state that the census figures relied on by the applicant were out of date as many new developments have been constructed and occupied since the census relied on was carried out (2016). They refer to other residential developments also granted recently that will increase demand on an already oversubscribed childcare infrastructure. They observe that the applicant takes account of creches granted but not built. Some hold that if a childcare facility is not provided it will result in unsustainable trip generation by future occupants as they seek such childcare elsewhere outside of the immediate area.

The applicant submitted a 'Childcare Needs Assessment' (hereafter a CAN). That CAN identified 14 childcare facilities within a 1 km radius of the application site. A phone survey was carried out of those facilities and 13 of the 14 responded. That survey finds that there is a total capacity of 432 places with an available capacity of 49 places. The CAN also assessed permitted but not yet delivered childcare facilities in the vicinity of the site. It makes specific reference to 3 permissions granted providing an additional 107 places. One of those permissions has been the recent subject of a commencement notice and relates to 40 places and another permission relates to the expansion of an existing facility in neighbouring Ashtown providing an additional 45 places. The CAN also provides an assessment of childcare needs projection based on demographic trends.

I note that the 'Childcare Facilities – Guidelines for Planning Authorities' recommends, inter alia, the provision of 20 childcare places for every 75 no. residential units. I further note the provisions of s.4.7 of the 'Sustainable Urban Housing: Design Standards for New Apartments' that states that the threshold for the provision of a childcare facility in apartment schemes should be established having regard to, inter alia, the scale and unit mix and it goes on to state that one-bedroom units should not generally be considered to contribute to a requirement for any

childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms. The applicant, applying the provisions of the said s.4.7, holds that the proposed development would generate a demand of 58 childcare spaces (based on 217 two-bed units i.e. $217/75 \times 20=58$). The applicant's CAN assesses childcare needs and concludes that the existing and permitted childcare facilities which provide a potential capacity of 156 places is sufficient to absorb the estimated 58 place demand generated by the proposed development.

The DCC Chief Executive's Report holds that it is appropriate that a childcare facility be provided at a suitable location to be agreed, possibly in the area designated for resident facilities and those facilities could be relocated to the upper floor levels resulting in a reduction of residential units. That report goes on to recommend a condition requiring the provision of a 300 sq.m. childcare facility at a location within the scheme to be agreed with DCC.

I have fully considered the observers' submissions and the Chief Executive's Report in relation to childcare facilities in the area and the contents of the applicant's CAN. I have considered national and local policy (ref. s.4.10.4 of the LAP and Appendix 13 of DCC Dev. Plan) relating to childcare facilities. As indicated above some observers have questioned the accuracy of the census data relied on in the CAN, however, I would note that the applicant is using the most recent available census data. The applicant states that a phone survey of existing childcare facilities in 1 km radius of the application site was carried out and 13 of the 14 identified centres responded. While some observers appear to question the data I have no grounds to contest the veracity of the information submitted. The applicant's survey and assessment in the CAN appears reasonable and robust to the undersigned. The approach adopted does not conflict with national guidance on the matter. The reasoning for not providing a childcare facility in this instance is considered acceptable to the undersigned.

10.7 Open space provision/dual aspect units/residential amenity

Private open space to serve each apartment is delivered via either a terrace space (at podium level), a balcony space or a winter garden for certain units. The proposal for the winter garden solution comes from a document on file titled 'Pedestrian Comfort CFD Analysis'. It recommended a number of mitigation measures arising

from potential wind impacts on pedestrian comforts in the scheme, these included winter gardens on a number of units. Other mitigations include 1.4 m high panels on the windward side of the balconies. The mitigations were incorporated into the scheme during the iterative process. I consider them to be acceptable. I note the planning authority via the Chief Executive's Report has indicated general satisfaction with both the quantum and quality of the private open space to be provided for each apartment. I too am satisfied with regards to the private open space provision. The private open space provision does appear to meet national standards.

Communal open space to serve the development is delivered via the courtyard area at podium level which effectively connects the five blocks together and communal open space is also provided via a number of rooftop terraces serving each block. The planning authority have observed that the 'Design Standards for New Apartments' requires c. 2,609 sq.m. of communal open space, the applicant is delivering 6,882 sq.m. which is significantly in excess of the required quantum.

The public open space provision is delivered via three public plazas, one to the south, one along the frontage with Hamilton View and one at the northern end of the site. The stated public open space provision is 3,459 sq.m. The planning authority observe that based on a 10% requirement, 1,880 sq.m. is required, so again, the basic requirement is well exceeded.

The planning authority has raised some concerns, in particular, they recommend a condition splitting Block E to address concerns regarding the quality of the southern end of the podium level courtyard. This relates to issues around overshadowing. While I note the concerns, given the quantum of both public and communal open space proposed and the quality of these spaces as indicated in the applicant's 'Landscape Design Strategy Report', I am of the opinion that the condition is unwarranted. I note that it is stated on file that no part of the scheme will be taken in charge.

In considering the open space provision, I would also remind the Board that this scheme will open up directly onto the emerging Royal Canal Greenway to the south and is just across the public road from the Tolka Valley Public Park to the north.

Having regard to the foregoing I consider the quality and quantum of the private, communal and public open space as proposed to be acceptable.

The planning authority have raised as query as to whether some apartments can be considered dual aspect. The applicant states that the dual aspect ratio is in excess of 56% (ref. 'SHD Housing Quality Assessment – December 2019' by Reddy Arch.). I have reviewed the plans submitted and also pages 126-131 of the applicant's 'Design Statement'. In my opinion the classification of those apartments as dual aspect is reasonable and acceptable. In any event, as stated previously, it is reasonable to class the site as 'Central and/or Accessible Urban Location' in accordance with the 'Sustainable Urban Housing: Design Standards for New Apartments' in which case a ratio of 33% dual aspect is acceptable as per s.3.17 and SPPR 4 of those guidelines.

In general, the planning authority notes the contents of the applicant's 'Housing Quality Assessment' which largely confirms compliance with the minimum of both the City Development Plan and the 'Sustainable Urban Housing Design Standards for New Apartments', I would concur with that assessment. The occupants of this scheme will enjoy an acceptable level of residential amenity, in my opinion.

10.8 Wastewater infrastructure

At pre-application stage (ref.305127), Irish Water issued a report to An Bord Pleanála as part of that pre-app process stating, inter alia, that "...up to 300 no. housing units can immediately be connected to the North Dublin Drainage System (NDSS). For the remaining housing units, the applicant must enter into a Project Works Services Agreement with Irish Water to deliver studies to confirm the available capacity and to determine the full extent of any upgrades which may be required to Irish Water wastewater infrastructure. Any required third party consents will be determined by the outcome of the studies. The applicant has not yet signed a Project Works Services Agreement or entered into discussions with Irish Water to progress the works." That Irish Water report was dated 10/09/19. The An Bord Pleanála 'Opinion' was issued in October 2019. Item 7 of the 'specified information' in the 'Opinion' requested the applicant to respond to that Irish Water report as part of the application. There is a subsequent Irish Water report on file addressed to An Bord Pleanála dated 21/11/19 and headed with the pre-application consultation

reference number. The applicant in its submitted 'Water Services Report' states that this report from Irish Water dated 21/11/19 is a revision of their (Irish Water's) letter of the 10/09/19. The pre-application consultation was concluded by the 21/11/19. That letter is on the current application file as the applicant submitted a copy of the letter as part of the application documentation. The applicant did notify Irish Water of the making of the current application as a prescribed body, however, there is no Irish Water report on file in relation to the current application. The Irish Water letter of the 21/11/19 differs from the report of the 10/09/19 in that it no longer states that "the applicant *must* enter into a Project Works Services Agreement", it now states "the applicant *may* have to enter..." and the reference to "third party consents" in the letter of the 10/09/19 does not appear in the letter of the 21/11/19 (emphasis added).

The Irish Water report of the 21/11/19, repeats the contents of their letter of 10/09/19 where it states that 300 units can immediately connect to the drainage system. It goes on to state that the remainder may have to wait to determine the full extent of any network upgrades.

As stated above Irish Water have not submitted a report to the Board in relation to the current application. The last report on file from Irish Water (dated 21/11/19 and submitted by the applicant) states that a Project Works Services Agreement *may* be required and that network upgrades *may* be required. However, there is nothing in that letter to indicate that any such network upgrades, if required, would need to be the subject of a separate consent process nor is there any indication that upgrades would require works on third party lands.

In the circumstances, I would recommend to the Board that, if it is minded to grant permission, it should consider granting permission for the entire 435 units but limit the occupation to 300 units initially. The sale or lease of the remainder 135 units should only take place once Irish Water indicates that the wastewater network can service the proposed development (either with or without the Project Works Services Agreement or upgrade works). Given the nature of this residential development, being an integrated unitary apartment development of 435 units, it is not feasible to grant permission for 300 units and refuse permission for the remainder 135 units (pending clarification of the works required, if any, to the wastewater network). Alternatively, the Board may wish to refuse the entire proposal.

10.9 Part V provision

Some observers have objected to the Part V provision been allocated within one particular block.

It appears that the applicant is proposing to meet the obligations arising from Part V by delivering units within a previously granted scheme immediately to the west of the application site and within an area defined by the blue line boundary in the drawings submitted. The applicant has also submitted plans, sections and elevations of this scheme that is now under construction. It is not the subject of this planning application. The applicant has stated that this approach (as allowed for under the Planning & Development Act 2000 as amended) is to the satisfaction of the planning authority. The Chief Executive's Report on file from the Housing Authority has not indicated any objection or concerns at this stage in relation to Part V obligations. If the Housing Authority have no objection I would not therefor recommend a refusal in relation to this matter.

10.10 Material Contravention

Section 13.3 of the applicant's 'Planning Application Report & Statements of Consistency' is titled 'Material Contravention of Development Plan and/or Local Area Plan Objectives'. The public notices make reference to a statement being submitted indicating why permission should be granted having regard to the provisions of s.37(2)(b). There are three issues raised in the applicant's Material Contravention statement, they relate to: core strategy figures; building height, and mix of residential units.

I have considered the issues raised in s.13.3 of the applicant's above-mentioned report and would advise the Board, having regard to, inter alia, recent Court judgements in relation to decisions on SHD applications, to adopt the precautionary approach and invoke the provisions of s.37(2)(b) of the 2000 Act (as amended).

In relation to height, as stated previously, the proposed height does not conflict with the provisions of the City Development Plan but does contravene the provisions of the LAP in relation to height at this site. As indicated previously in this report I consider the proposed height acceptable and in compliance with the Development Plan and Ministerial guidelines on building height. I am of the opinion that the

applicant is complying with section 3.2 and SPPR3 and SPPR 4 of those guidelines. In relation to core strategy of the Development Plan, the applicant holds that the 435 units on the site could result in a unit allocation for the entire SDRA 3 area of 1,413-1,437 whereas the core strategy allocates 1,000 units for SDRA 3. As indicated previously, I consider the density proposed acceptable and delivers upon national and regional policies seeking urban consolidation, the efficient use of urban zoned serviced land and contributes to the delivery of urban housing in compliance with the Government initiative contained in 'Rebuilding Ireland'. The site's location in proximity to a public transport corridor justifies the density proposed having regard to, inter alia, section 5.8 of the 2009 'Sustainable Residential Development In Urban Areas'. The site forms part of 'Ashtown-Pelletstown' area that is identified in the Dublin MASP as being a strategic development area. (In any event, the reference to 1000 units is to be found in Table E of the Development Plan and it is referred to an "estimated capacity", in that regard it is debatable whether the exceedance of it constitutes a 'material contravention' but given recent Court judgements it might be prudent of the Board to invoke s.37(2)(b).) In relation to unit mix the applicant notes that the Development Plan seeks a maximum of 25-30% 1-bedroom units and a minimum of 15% 3+bedroom units (ref. 'Mix of Residential Units', Ch. 16 of written statement). The LAP seeks to ensure a minimum of 50% of larger units (3+ bedrooms) form part of an application. As indicated previously in this report I consider the unit mix acceptable, particularly in the context of existing supply of larger units in the immediate and wider area. I am of the opinion that the unit mix is further justified in the context of national policy (I would draw the Board's attention to the legal imposition on it arising from SPPR 1 of the 2018 Apartment Guidelines, the applicant is complying with that SPPR 1).

I am satisfied that a grant of permission, that may be considered to material contravene the City Development Plan and LAP, is justified in this instance. I have incorporated specific reasoning and justification having regard to s.37(2)(b) of the 2000 Act (as amended) into the 'Conclusions on Proper Planning and Sustainable Development' in the 'Recommended Order' for the Board's consideration at the end of this report.

10.11 Other issues

The application included an Archaeological Impact Assessment. There is a report on file from the Department of Culture, Heritage and the Gaeltacht in relation to archaeological heritage protection. It notes the applicant's AIA and recommends an archaeological monitoring condition should permission be granted. I would concur with that recommendation should the Board be disposed to a grant of permission.

The applicant submitted a 'Flood Risk Assessment' and a 'Flood Risk Assessment – Statement of Consistency with Ministerial Guidance'. The FRA concludes that the site lies within Flood Zone C. The national flooding website does not have any record of historic flooding at the site. It is also concluded that the implementation of the proposed SuDS measures will not increase the risk of flooding elsewhere and that the proposed development itself will not be vulnerable to flooding. There is a DCC Drainage Report on file indicating no objection to the development subject to conditions. There is nothing on file to indicate that the proposed development would be at an unacceptable risk of flooding nor is there anything on file to indicate that the proposed development would increase the risk of flooding elsewhere.

A number of the observer submissions call for the provision of community infrastructure in the scheme. These include requests for the applicant to provide a youth centre and/or library and/or sporting facilities to serve the community. The CE Report from the planning authority recommends a condition requiring the provision of a community facility (ref. recommended Condition No. 2 of the CE Report). The planning authority and a number of the observers do welcome the applicant's proposed primary care centre and pharmacy. I also note the development includes a gym. The applicant did submit a 'Community Infrastructure Audit'. That audit looks at the provision of education/training, health, sports, social/community services, arts/culture and faith infrastructure in the area. Having considered the observer submissions, the CE Report and the Audit in relation to the community infrastructure issue, and noting the proposal to deliver a primary care centre, pharmacy and gym as part of the development, I do not consider that a further community facility is warranted in the circumstances.

There is a report on file from TII. That report states that the development falls within an area set out in a Section 49 Levy scheme for light rail (Luas Cross City – St.

Stephen's Green to Broombridge Line). The report goes on to state that if permission is to be granted and the scheme is not exempt from the levy, then a s.49 levy condition should apply. The DCC website indicates that the s.49 scheme for the Green Luas extension was adopted on the 03/04/2017 and will be in place for 30 years. The CE Report from DCC does not seek the application of a condition relating to a s.49 levy. I would recommend a condition seeking the payment of a levy relating to that s.49 scheme.

The planning authority is recommending a condition to mitigate potential noise impacts from an Irish Rail compound to the south of the site on future occupants of the development in certain units located at the southern end of the development. I would recommend a similar condition should the Board be disposed to a grant of permission.

10.12 Appropriate Assessment Screening

The applicant has submitted an 'Appropriate Assessment Screening Report' and a 'Natura Impact Statement'.

I refer the Board to the development description previously provided under section 3 in this report.

There are no Natura 2000 sites within the application site boundary. The nearest Natura 2000 site is c. 5.6 km to the east of the application site. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site. There are no non-native invasive plant species on the site. There are no surface water features located within the site.

In terms of zone of interest the following Natura 2000 sites are within 15 km of the application site: Glenasmole Valley SAC/Rye Water Valley/Carton SAC/Malahide Estuary SAC/Malahide Estuary SPA/Baldoyle Bay SAC/Baldoyle Bay SPA/Howth Head SAC/Howth Head Coast SPA/North Dublin Bay SAC/North Bull Island SPA/South Dublin Bay SAC/South Dublin Bay and River Tolka Estuary SPA

In applying the 'source-pathway-receptor' model to all Natura 2000 sites within 15 km of the application site I consider that the following sites could potentially be affected due to connections via surface water drainage: North Dublin Bay SAC/South

Dublin Bay SAC/North Bull Island SPA/South Dublin Bay and River Tolka Estuary SPA. I am satisfied that the potential for impacts on the other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

The Conservation Objectives (hereafter CO) of the potentially affected sites are:

North Dublin Bay SAC (000206)

CO- To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Atlantic salt meadows (*Glauco-Puccinellietalia maritimi*) [1330] / Mediterranean salt meadows (*Juncetalia maritimi*) [1410] / Embryonic shifting dunes [2110] / Shifting dunes along the shoreline with *Ammophila arenaria* [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] / Humid dune slacks [2190] / *Petalophyllum ralfsii* (Petalwort) [1395].

South Dublin Bay SAC (000210)

CO- To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Embryonic shifting dunes [2110]

South Dublin Bay and River Tolka Estuary SPA (004024)

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Oystercatcher (*Haematopus ostralegus*) [A130] /

Ringed Plover (*Charadrius hiaticula*) [A137] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Redshank (*Tringa totanus*) [A162] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Roseate Tern (*Sterna dougallii*) [A192] / Common Tern (*Sterna hirundo*) [A193] / Arctic Tern (*Sterna paradisaea*) [A194] / Wetland and Waterbirds [A999] /

North Bull Island SPA (004006)

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Shelduck (*Tadorna tadorna*) [A048] / Teal (*Anas crecca*) [A052] / Pintail (*Anas acuta*) [A054] / Shoveler (*Anas clypeata*) [A056] / Oystercatcher (*Haematopus ostralegus*) [A130] / Golden Plover (*Pluvialis apricaria*) [A140] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Black-tailed Godwit (*Limosa limosa*) [A156] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Curlew (*Numenius arquata*) [A160] / Redshank (*Tringa totanus*) [A162] / Turnstone (*Arenaria interpres*) [A169] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Wetland and Waterbirds [A999]

The potential effects on the above sites arise from the hydrological connection between the development site and those Natura 2000 sites in the form of surface water drainage connection. There is a possibility of contaminated surface water runoff, or an accidental pollution event during construction or operation, that could lead to habitat degradation. Surface waters from the proposed development will drain (as they currently do) to the River Tolka that is located c. 145 m to the north of the site. This River Tolka flows easterly and enters Dublin Bay via the Tolka Estuary c. 5.4 km from of the application site.

Surface water from the proposed development will pass through a range of SuDS including green roofs, permeable paving and bio-retention systems. Waters from green roofs and permeable paving will be attenuated in a stormtech detention/infiltration system. All surface waters will pass through a hydrocarbon

interceptor before discharge to the surface water network. (See 'Water Services Report' and drawings by Barry & Partners Consulting Engineers and for construction stage see 'Outline Construction Management Plan' by Ballymore.) These waters will ultimately drain to Dublin Bay via the Tolka River. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. Indeed, I draw the Board's attention to a report on file from Inland Fisheries Ireland (dated 21/02/2000). The IFI report refers to the need to protect the habitats and ecology of the local area with specific reference to the Tolka River to the north of the site and the Royal Canal immediately to the south of the site. That report focuses on the protection of the local environment and not the Natura 2000 sites some 5.6 km away. The IFI notes the contents of the applicant's Construction Management Plan and the proposed "good construction practices" therein in relation to ensuring the protection of the local receiving environment. The habitats and fauna referred to in that IFI report are not linked to the above mentioned 4 no. Natura 2000 sites. The good construction practices are required irrespective of the site's hydrological connection via the urban surface water drainage system to those Natura 2000 sites. There is nothing unique, particularly challenging or innovative about this urban development on a brownfield urban site, either at construction phase or operational phase. It is therefore evident from the information before the Board that the proposed construction on the applicant's landholding would be not be likely to have a significant effect on the North Dublin Bay SAC/South Dublin Bay SAC/North Bull Island SPA/South Dublin Bay and River Tolka Estuary SPA. Stage II AA is not required.

I note the applicant submitted a Natura Impact Statement. In deciding to prepare and submit a NIS the applicant states that the precautionary principle was being

applied. I am of the opinion that the application of the precautionary principle in this instance represents an over-abundance of precaution and is unwarranted.

AA Screening Conclusion:

It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on North Dublin Bay SAC [000209], South Dublin Bay SAC [000210], North Bull Island SPA [004006] and South Dublin Bay and River Tolka Estuary SPA [004024] or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

10.13 Environmental Impact Assessment Screening

Section 14 of the applicant's 'Planning Application Report & Statements of Consistency' addresses EIA screening.

Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

EIA is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

The proposed development is an urban development project comprising 435 apartments, a primary health care centre, a pharmacy, a gym, own door offices and ancillary facilities. The proposed development is located on a brownfield site within an established residential and industrial area on zoned, serviced land.

The development would be located in a built-up area but not in a business district. It is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and an environmental impact assessment would be mandatory if it exceeded the threshold of 500 dwelling units or 10 hectares. The proposal for 435 units on 1.88 ha is below the thresholds. The criteria set out in schedule 7 of the regulations, and those at Annex III of the EIA directive 2011/92/EU as amended by 2014/52/EU therefore have to be applied with regard to the characteristics and location of the proposed development, and the type and characteristics of its potential impact.

The proposed development would be located on brownfield lands in an established urban area. The area is residential to the west and industrial to the east. The larger part of the development would be in residential use, which is the same use as that established on most of the land to the west. The proposed development would use the water and drainage services of the city, upon which its effects would be marginal. It is not a large-scale project or overly dense in an urban context and there are no apparent characteristics or elements of the design that are likely to cause significant effects on the environment. The proposed development is not likely to have a significant effect on any Natura 2000 site.

Having regard to:

- (a) the nature and scale of the proposed development, on zoned lands served by public infrastructure,
- (b) the absence of any significant environmental sensitivities in the area,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the

environment. Therefore, an environmental impact assessment report for the proposed development is not necessary in this case.

11 Recommendation

I recommend that permission be granted subject to the conditions recommended below in the 'Recommended Order'.

Recommended Order

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 16th day of December 2019 by Ballymore RCP Development Services Limited by Stephen Little and Associates, 26/27 Upper Pembroke Street, Dublin 2.

Proposed Development

The proposed development will form Phase IV of Royal Canal Park and comprises a mixed-use (residential and commercial) scheme, including 435 no. dwellings (218 no. 1-bed and 217 no. 2-bed apartments) and employment uses (c. 4,162 sq.m), accommodated in 5 no. buildings (Blocks A to E inclusive) ranging in height from 4 to 13 storeys and incorporating an undercroft level. Block summary description as follows:

- **Block A:** 4 to 13 storeys, accommodating 1 no. primary health care centre with a café (c. 2,364 sq.m), 4 no. own-door office units (c. 304.5 sq.m total), 1 no. pharmacy unit (c. 181 sq.m), 130 no. apartment units, and residential amenity roof terraces at levels 4 and 8.
- **Block B:** 8 storeys, accommodating 5 no. own-door office units (c. 346 sq.m total), 83 no. apartment units and residential amenity roof terrace at level 8.
- **Block C:** 7 storeys, accommodating 48 no. apartment units and residential amenity roof terrace at level 7.
- **Block D:** 7 to 13 storeys, accommodating 1 no. fitness centre with a juice bar (c. 703 sq.m), 96 no. apartment units and residential amenity roof terrace at level 7.

- **Block E:** 4 to 6 storeys, accommodating 2 no. own-door office units (c. 262 sq.m total), 78 no. apartment units and residential amenity roof terrace at level 4.

All apartment units provided with individual private balconies, terraces, patios or winter gardens, located on north, south, east and west elevations, communal amenity space immediately adjacent to the proposed buildings, and ancillary residential reception/workspace amenity at western gateway (c. 427 sq.m).

And, all associated and ancillary site development and infrastructural works, hard and soft landscaping and boundary treatment works, including:- 2 no. new vehicular site entrances at Hamilton View. 242 no. ancillary car parking spaces at undercroft level to serve the proposed residential and employment uses. In addition, 16 no. on-street car parking spaces facilitating; car club, set down/loading, electric vehicle charging points, disabled parking and refuse collection area. 942 no. bicycle parking spaces (total) at surface and undercroft levels. (Ancillary plant, bin storage, ESB substations). Public open space / 3 no. plazas (c. 3,459 sq.m total) at entrances to the scheme located at the north adjacent to the Ballyboggan Road & Ratoath Road junction, at the south adjacent to the Royal Canal, and at the west adjacent to Hamilton View.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the site's location close to Dublin City centre, within an established built up area on lands with a zoning objective Z14, which is to 'seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and Z6 would be the predominant uses, in the Dublin City Council Development Plan 2016-2022;
- (b) the policies and objectives in the Dublin City Council Development Plan 2016-2022;
- (c) the site's location within a Strategic Development and Regeneration Area (SDRA 3 Ashtown-Pelletstown);
- (d) the policies and objectives in the Ashtown-Pelletstown Local Area Plan;
- (e) objectives 3a, 3b, 11, 13 and 35 of the National Planning Framework;
- (f) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (g) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- (j) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (k) the Childcare Facilities – Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in June 2001;
- (l) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;

(m) the Planning System and Flood Risk Management guidelines (including the associated Technical Appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;

(n) the nature, scale and design of the proposed development;

(o) the availability in the area of a range of social, community and transport infrastructure;

(p) the report of the Chief Executive of Dublin City Council;

(q) the submissions and observations received, and

(r) the report of the Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated Natura 2000 Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that Chapter 14 of the report titled 'Planning Application Report & Statements of Consistency' submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
- (b) the absence of any significant environmental sensitivities in the area,
- (c) the location of the development outside of any other sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Ashtown-Pelletstown Local Area Plan in relation to building height and residential unit mix and the Dublin City Development Plan 2016-2022 in relation to core strategy unit allocation for SDRA 3 and residential unit mix. The Board considers that, having regard to the provisions of section 37(2)(b)(i),(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Local Area Plan and City Development Plan would be justified for the following reasons and consideration:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to: the definition of 'strategic housing development' pursuant to section 3 of the *Planning and Development (Housing) and Residential Tenancies Act 2016* (as amended); its location within the 'Ashtown-Pelletstown' area identified as a strategic development area in the Dublin Metropolitan Area Strategic Plan (part of the Eastern & Midland Regional Assembly RSES 2019-2031); its location within an area designated as a Strategic Development and Regeneration Area (SDRA 3 – Ashtown-Pelletstown) in the Dublin City Development Plan 2016-2022, and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended):

The conflicting objectives between the Dublin City Development Plan 2016-2022 and the Ashtown-Pelletstown Local Area Plan in relation to building height objectives for the application site.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 3a, 3b, 11, 13 and 35), the 'Dublin Metropolitan Area Strategic Plan' (in particular the provisions relating to 'Ashtown-Pelletstown'), the 'Urban Development and Building Height Guidelines' (in particular section 3.2, SPPR 3 and SPPR 4), 'Sustainable Urban Housing: Design Standards for New Apartments' (in particular section 2.16-2.22 and SPPR 1) and the 'Guidelines for Sustainable Residential Developments in Urban Areas' issued 2009 (in particular section 5.8).

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be

required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development. Only 300 of the residential units shall be made available for occupation on completion of the development. The remaining 135 residential units shall only be let or sold for occupation when it is confirmed in writing by the planning authority that there is capacity in the Irish Water wastewater infrastructure to serve those 135 residential units.

Reason: In the interests of clarity and public health.

3. Prior to the commencement of development, the applicant shall submit to, and agree in writing with, the planning authority, detailed specifications for high performance/enhance acoustic glazing to the apartments proposed in the south-west and south-east facing elevations of Block E and the south-west, south-east and north-east facing elevations in Block D.

Reason: To provide for an adequate standard of residential amenity for future occupants of the development having particular regard to the proximity of some residential units to an Irish Rail compound to the south of the site.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be

referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

5. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

6. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. Proposals for a development name, office/commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

8. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 196 No. clearly identified car parking space shall be assigned permanently for the residential development and shall be

reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

9. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

10. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a

later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and future proof the development such as would facilitate the use of Electric Vehicles

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with the planning authority prior to installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

13. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that

there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management

14. The development shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

16. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in

accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

17. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste. The Construction Management Plan shall clearly indicate how vehicular access is to be maintained to the existing residential and commercial property along Hamilton View during the construction phase.

Reason: In the interests of public safety and residential amenity.

18. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and

been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

20. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to

secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

22. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City – St. Stephen’s Green to Broombridge Line in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Tom Rabbette

Assistant Director of Planning

17th April 2020

Appendix 1

List of Observer submissions received.

1. Aimee Ahearne.
2. Alan Currie.
3. Andrei Balcanasu.
4. Andrew Keogh & Sharon Randhawa.
5. Andrii Kryzhyk and Iryna Lytvyn.
6. Brian Donnellan.
7. Colin Kenny.
8. Donal Griffin.
9. Elaine Coffey.
10. Fintan Guihen.
11. Frances Hayden.
12. Inna Marushenko.
13. Joan Burton & Marie Sherlock.
14. John Hutch.
15. John Paul O'Grady.
16. Keith Kennedy.
17. Kevin McNerney.
18. Rathborne Community Association (c/o Leisha McDonald).
19. Mark O'Reilly.
20. Michael Hayden.
21. Niamh Holly & Joseph Brown.

22. Niamh Ruan & Philippe Magry.
23. Nick Grantham.
24. Navan Road Community Council (c/o Patricia Dunleavey)
25. Patricia Gavin & Richard O'Dwyer
26. Paul McGoldrick
27. Philp Power & Donna Murray
28. Royal Canal Park Community Association (c/o Gianluca Pengu)
29. Ruth Coppinger
30. Sinead Clarke
31. Thomas Mulcahy
32. Tonia C. Guihen
33. Zuzaba Sandorva