



An  
Bord  
Pleanála

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

## **Inspector's Report ABP-306569-20**

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### **Strategic Housing Development**

Construction of 481 no. Build-to-Rent apartments, retail, office and commercial uses, together with associated site works.

### **Location**

42A Parkgate Street, Dublin 8

### **Planning Authority**

Dublin City Council

### **Applicant**

Ruirside Developments Ltd

### **Prescribed Bodies**

Irish Water  
Transport Infrastructure Ireland (2)  
Department of Culture, Heritage and  
the Gaeltacht  
National Transport Authority  
Inland Fisheries Ireland  
Irish Aviation Authority

**Observer(s)**

Peter and Erica Maguire  
Geoff Power  
Dr. Conrad O’Keeffe  
Andrew Fleming  
Claire and Daragh Coughlan  
Mary Glennon and John Smith  
Paul Slattery  
Susan Byrne

**Date of Site Inspection**

01<sup>st</sup> May, 2020

**Inspector**

Lorraine Dockery

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The subject site, which has a stated area of 0.82 hectares, is located at the western end of Dublin's Quay's, approximately 2km from O'Connell Street. It is a brownfield site which contains a warehouse, office building and a number of other disused structures. There are other notable buildings and structures on the site, a number of which are designated as Protected Structures, including a stone archway onto Parkgate Street, a square tower and round turret. The stone wall along the river frontage is also designated as a Protected Structure.
- 2.2. The site is bound to the north by Parkgate Street, to the east by the junction of Sean Heuston Bridge and Parkgate Street, to the south by the River Liffey and to the west by an office and residential development. Heuston Station is on the opposite side of the River Liffey to the south of the site. There are traditional two and three storey terraced buildings on the northern and southern sides of Parkgate Street; the Aisling Hotel (six storey) and a car showroom are located to the north east of the site; while a four-storey office development (Parkgate Business Centre) and five-storey apartment scheme (Parkgate Place) are located to the immediate west of the site. Along the Parkgate Street boundary, there is a high painted brick boundary wall with some limited detailing. The existing vehicular entrance to the site is off Parkgate Street immediately to the west of the archway.
- 2.3. The site is well served by public transport, with commuter and intercity services at Heuston Station and Luas and Bus services at an interchange to the front of Heuston Station. Sean Heuston Bridge to the east accommodates LUAS and pedestrian traffic only. There is a Bus stop and a Dublin Bikes station along the Parkgate Street frontage of the site.
- 2.4. The subject site was last occupied by Hickeys Fabrics.

### 3.0 Proposed Strategic Housing Development

3.1. The proposal, as per the submitted public notices, comprises a mixed-used residential and commercial redevelopment of a brownfield site, which includes for the construction of 481 no. build-to-rent apartments, office space, retail, café/restaurant, residential amenity and associated site works. Works also include for the demolition of some existing structures on site and the conservation, refurbishment, repair and adaption of other buildings, including Protected Structures. The following tables set out some of the key elements of the proposed scheme:

Table 1: Key Figures

|                                 |  |
|---------------------------------|--|
| <b>Site Area</b>                | 0.82 hectares  |
| <b>No. of residential units</b> | 481 apartments   |
| <b>Other Uses</b>               | Office-3698m <sup>2</sup><br>Restaurant/Café Space-444m <sup>2</sup><br>Retail- 214m <sup>2</sup><br>Communal Amenity Space- 1839 m <sup>2</sup> |
| <b>Demolition Works</b>         | 4270m <sup>2</sup>   |
| <b>Density</b>                  | 587 units/ha   |
| <b>Height</b>                   | 8-29 storeys (over partial basement)   |
| <b>Dual Aspect</b>              | 43% (stated)   |
| <b>Part V</b>                   | 48 units- 6x studio; 30 x one-bed; 12 x two-bed  |
| <b>Parking</b>                  | 26 car spaces (11 spaces at BL for residents; 15 at GL); 551 bicycle spaces  |
| <b>Access</b>                   | 1 no. new vehicular access via Parkgate Street<br>2 no. new pedestrian accesses at Parkgate Street   |

Table 2: Unit Mix

|                      | Studio     | 1 bed      | 2 bed      | 3 bed | Total       |
|----------------------|------------|------------|------------|-------|-------------|
| Apartments           | 66         | 298        | 117        | -     | 481         |
| <b>As % of total</b> | <b>14%</b> | <b>62%</b> | <b>24%</b> | -     | <b>100%</b> |

Table 3: Summary of Blocks

| Block    | Uses  |
|----------|---|
| Block A  | <p><b>29 storeys with setback at 25<sup>th</sup> floor</b></p> <p>1 café, residents amenity areas &amp; roof gardens (9<sup>th</sup> &amp; 25<sup>th</sup> floors)</p> <p>Ancillary plant/storage at BL</p> <p>160 apartments</p>   |
| Block B1 | <p><b>10-13 storeys with setback at 7<sup>th</sup> floor</b></p> <p>1 café/restaurant, residents amenity area &amp; roof garden (incl. room available to public for public hire [119m<sup>2</sup>])</p> <p>Ancillary plant/storage at BL &amp; GL</p> <p>141 apartments</p> |
| Block B2 | <p><b>8 storeys with setback at 6<sup>th</sup> floor</b></p> <p>6 storeys of commercial office floorspace over entrance foyer and site entrance</p> <p>Ancillary plant/storage at BL</p> <p>Residents garden on roof</p>  |
| Block C1 | <p><b>9 storeys</b></p> <p>Ancillary plant/storage at undercroft and GL</p> <p>Link with 'River Building' at undercroft level</p> <p>58 apartments</p>  |
| Block C2 | <p><b>9 storeys</b></p> <p>Residents amenity space &amp; roof garden</p> <p>40 apartments</p>   |
| Block C3 | <p><b>11 storeys over BL with setback at 7<sup>th</sup> floor</b></p> <p>1 retail unit, residents amenity area &amp; roof garden</p> <p>Ancillary plant/storage at GL</p> <p>82 apartments</p>  |

- 3.2. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that the proposed connections can be facilitated, subject to conditions. In addition, a Design Submission was included with the application, in which Irish Water state that they have no objections to the proposal.
- 3.3. A Flood Risk Assessment was submitted with the application which concludes that the development passes the Justification Test, both Plan Making and Development Management Justification elements, in accordance with relevant Guidelines.
- 3.4. It is anticipated that development will take place over three phases:

| Phase   | Stage                         | Approximate Duration                 |
|---------|-------------------------------|--------------------------------------|
| Phase 1 | Enabling Works and Demolition | 4 months                             |
| Phase 2 | Piling and Groundworks        | Concurrently with Phase 1 (4 months) |
| Phase 3 | Main Construction Works       | 30 months                            |

- 3.5. A Report for AA Screening and NIS were submitted with the application.
- 3.6. In total, three letters of consent from Dublin City Council have been submitted. Two letters of consent from Dublin City Council, Senior Executive Officer state that they have no objection to the inclusion of lands (indicated yellow on attached drawings) for the purpose of making a planning application. The letters note that the disposal of this land will be the subject of statutory approval of the elected Members of the City Council. A third letter from Dublin City Council, City Engineer states that they have no objection to the inclusion of lands (indicated green on attached drawings) for the purpose of making a planning application. This is without prejudice to the outcome of the planning application process.
- 3.7. A letter of consent, signed on behalf of The Davy Platform ICAV to lodge a planning application in respect of this site has been submitted.
- 3.8. A draft Deed of Covenant has been submitted with the application, as required.
- 3.9. An EIAR has been submitted with the application.

## 4.0 Planning History

### Subject Site

ABP Ref. PL29N.221587/ PA Ref. 3613/06

Permission REFUSED on appeal for a mixed use residential and commercial development comprising 139 no. residential units, offices, retail, restaurant, and crèche. The two reasons for refusal may be summarised as follows:

1. ...the proposed development would not reflect the pivotal and sensitive nature of the site and would interfere with views and prospects of special amenity ..., would detract from the character and appearance of the conservation area ... and would adversely affect the setting of protected structures in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area (my underlining).

2. ... there are no exceptional circumstances to warrant the removal of this protected archway ... its removal would detract from the character and appearance of the conservation area... seriously injure the amenities of this conservation area and would be contrary to the proper planning and sustainable development of the area (my underlining).

## 5.0 Section 5 Pre Application Consultation

A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 18<sup>th</sup> September 2019. 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 (ABP-305128-19).



## 1. Development Strategy

Further consideration and/or justification of the documents as they relate to block structure; height, scale and mass of the blocks; and the architectural expression and detailing of the blocks, as follows:

- Further justification of the documents as they relate to the height of the 29-storey tower block, having regard to visual and skyline impacts;
- Further justification/consideration of the documents as they relate to the overall block structure and the relationship between the blocks (height/scale/massing/proportions).
- Further justification / consideration of the documents as they relate to the relationship with existing contiguous development, including but not limited to development on Parkgate Street to the north, the River Liffey to the south and the Parkgate Place development to the west; and
- Further justification/consideration of the documents as they relate to the architectural expression and detailing of the blocks, including but not limited to the materiality and composition of the blocks and the interface with streets and open spaces at ground level.

Regard should be had to the site's strategic and prominent location within the city and the need for an architectural design of exceptional high character and quality at this location. Regard should be had to the need to form a coherent and legible block structure within the site; to respond to the character and traditional architectural quality of the area; to provide a high-quality urban edge to the River Liffey and to Parkgate Street; and for a level of consistency in terms of architectural expression and materiality to create a distinctive character for the development overall.

The further consideration/justification should have regard to, inter alia, the guidance contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the accompanying Urban Design Manual, the Urban Development and Building Height Guidelines for Planning Authorities

(2018); the Architectural Heritage Protection, Guidelines for Planning Authorities (2011); and the Dublin City Development Plan 2016-2022.

## 2. Housing Format

Further consideration and/or justification of the documents as they relate to the combination of 'Build to Rent' and 'Shared Accommodation' units within a single development. This consideration/justification should have regard to, inter alia, the distinct characteristics of both housing sectors and the guidance set out in the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018), Chapter 5 Build-To Rent and Shared Accommodation Sectors.

## 3. Communal Facilities / Residential Support Facilities

Further consideration and/or justification of the documents as they relate to the provision of communal open space, communal facilities and residential support facilities within the development including the quantum, quality, distribution and function of spaces and details in relation to the overall management of these areas. Particular regard should be had to the requirements of the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018), SPPR 7 Part (b) and the need to provide an evidenced based assessment in respect of residential services and amenities.

## 4. Residential Amenity

Further consideration and/or justification of the documents as they relate to future residential amenity, having particular regard to the provision of private amenity space to individual residential units; the portion of dual aspect and north facing units; daylight and sunlight access; micro-climate/wind impacts; and impact on the amenities of existing residential units. Particular regard should be had to the requirements of the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018), SPPR8 (ii) in relation to private amenity space and SPPR 4 and Section 3.18 in relation to the dual aspect ratio and north facing units.

## 5. Architectural Heritage

Further consideration and/or justification of the documents as they relate to impacts on architectural heritage and character, with particular regard to the level of intervention proposed to the riverside stone wall, the treatment of the entrance stone arch along the Parkgate Street frontage and proximity of the proposed blocks to the arch, and to the impact on the local historic context of Parkgate Street, Heuston Station and environs and along the Quays. This consideration/justification should have regard to, inter alia, the guidance set out in the Architectural Heritage Protection, Guidelines for Planning Authorities, 2011, and the guidance set out in the Dublin City Development Plan 2016-2022.

## 6. Principle of Development

Further justification of the documents as they relate to the overall mix of uses. This justification should have regard to, inter alia, the land use zoning objectives pertaining to the site and the guiding principles for development in the Heuston Strategic Development Regeneration Area set out in the Dublin City Development Plan 2016-2022 (Chapter 15).

## 7. Childcare

Further consideration and/or justification of the documents as they relate to childcare provision having regard to the demands of the residential and commercial uses proposed, the level of existing childcare provision in the area and the site's strategic location and proximity to a multi-modal transport interchange.

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

1. An updated Architectural Design Statement. The statement should include a justification for the proposed development, having regard to inter alia urban design considerations, visual impacts, site context, the locational attributes of the area and national and local planning policy. The statement should

specifically address the proposed block structure and the height, scale and mass of the blocks, the design relationship between the individual blocks within the site; the relationship with contiguous development and the interface along key frontages, having regard to the criteria set out in Chapter 3 of the Urban Development and Building Height Guidelines (2018) and in Chapter 16 of the Dublin City Development Plan. The statement should be supported by contextual plans and contiguous elevations and sections that details the relationship between the proposed blocks within the site and the relationship with existing contiguous development in the area.

2. A Materials Strategy that details all materials proposed for buildings, open spaces, paved areas and boundaries. This strategy shall include details of the colour, tone and texture of materials and the modelling and profiling of the materials (including any cladding or framework system) on each block. The statement should present a justification for the materials being used having regard to the need for high quality and sustainable finishes that create a distinctive character for the development overall, whilst also responding to the character of the area. The documents should also have regard to the durability of materials and the long-term management and maintenance of the proposed development.
3. An updated Visual Impact Assessment that includes photomontages, cross sections, axiometric views and CGIs. The assessment should address the contribution of the tower block to the skyline and the impact on key views, including local views along Parkgate Street and in the vicinity of Heuston Station and Sean Heuston Bridge, along the Quays, from Phoenix Park, Island Bridge and Kilmainham to the west and from the wider historic areas of the City.
4. A Housing Quality Assessment that provides details in respect of the proposed apartments set out as a schedule of accommodation, with the calculations and tables required to demonstrate compliance of the various requirements of the 2018 Guidelines on Design Standards for New Apartments.
5. A schedule of the open space and communal facilities within the development clearly delineating public, semi-private and private spaces.
6. An updated Daylight and Sunlight Analysis.

7. A Building Life Cycle Report that includes an assessment of the long term running and maintenance costs associated with the development in accordance with Section 6.13 of the 2018 Guidelines on Design Standards for New Apartments.
8. Details of the management provisions for the Build to Rent and Shared Accommodation (where proposed) to include details of a covenant or legal agreement as required under the SPPR 7 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018).
9. Details of Part V provision clearly indicating the proposed for compliance with Part V.
10. Details of vehicular access and servicing arrangements from Parkgate Street.
11. Details of surface and foul water drainage and water supply connections.
12. A Construction Management Plan and Construction Traffic Management Plan.
13. A site layout plan showing the extent of the Z5 and Z9 zoning objectives within the site.
14. A site layout plan, elevations and sections that detail existing residential development to the west and north and show the separation distances to opposing blocks, windows and balconies. The details should also detail the outlook from the proposed west facing residential units in Block C.
15. A detailed phasing plan for the proposed development.
16. A site layout plan clearly indicating what areas are to be taken in charge by the Local Authority.
17. Details of public lighting.
18. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

## **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 attempts to address the points raised above.

On foot of the above Opinion, the scheme has been amended- details of these amendments have been set out in section 1.4 of submitted Planning Report & Statement of Consistency. The main differences from proposed pre-application proposal (ABP-305128-19) include, inter alia, omission of all shared living units and an increase in quantum of commercial uses. It is also noted that it is proposed to allocate a space to be made available for public hire.

A Material Contravention Statement was submitted with the application in relation to floor areas and units mix.

## **Relevant Planning Policy**

### National Planning Policy

The following list of section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Childcare Facilities – Guidelines for Planning Authorities

Other policy documents of note:

- National Planning Framework
- Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly

### Local Planning Policy

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

### Zoning:

The site has two zoning objectives, namely 'Objective Z5' and 'Objective Z9'

'Objective Z5' seeks 'to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity'.

The stated purpose of this zoning is "to sustain life within the centre of the city through intensive mixed-use development, to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night..."

A narrow band along the southern boundary of the site is zoned 'Objective Z9' which seeks 'to preserve, provide and improve recreational amenity and open space and green networks'.

It is also noted that the application site (red line boundary) includes for an element of the public footpath in the north eastern corner of the site, where a small area of 'Objective Z6' zoning applies. 'Objective Z6' seeks 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. The footprint of the proposed new buildings do not encroach the Z6 zone. Some public realm enhancements works are proposed within this area.

'Policy SC7' seeks to 'protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence'.

Policy SC25 seeks to ‘promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city’s built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate’.

Chapter 5 Quality Housing

Chapter 11 Built Heritage and Culture

Section 4.5.4 of the operative City Development Plan deals with taller buildings and states that *‘Clustering of taller buildings of the type needed to promote significant densities of commercial and residential space are likely to be achieved in a limited number of areas only. Taller buildings (over 50m) are acceptable at locations such as at major public transport hubs, and some SDRAs... There are also a few areas where there are good transport links and sites of sufficient size to create their own character, such that a limited number of mid-rise (up to 50m) buildings will help provide a new urban identity. These areas of the city are the subject of a local area plan, strategic development zone or within a designated SDRA.’*

Figure 39 *Building Height in Dublin Context* identifies four sites within the city as having potential for High Rise 50m+ buildings, with Heuston being identified as one such area.

Section 16.7 Building Height in a Sustainable City

Section 16.7.2 Assessment Criteria for Higher Buildings

All proposals for mid-rise and taller buildings must have regard to the assessment criteria for high buildings as set out below:

- Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas
- Effect on the historic environment at a city-wide and local level
- Relationship to transport infrastructure, particularly public transport provision



- Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for
- Contribution to public spaces and facilities, including the mix of uses
- Effect on the local environment, including micro-climate and general amenity considerations
- Contribution to permeability and legibility of the site and wider area
- Sufficient accompanying material to enable a proper assessment, including urban design study/masterplan, a 360 degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies
- Adoption of best practice guidance related to the sustainable design and construction of tall buildings
- Evaluation of providing a similar level of density in an alternative urban form.

## Chapter 15 Strategic Development and Regeneration Areas

The site is located in Heuston and Environs Strategic Development Regeneration Area 7 (SDRA 7). A number of guiding principles have been set out for SDRA 7 in section 15.1.1.10. The Plan envisages a new urban gateway that is focused on the transport node of Heuston Station, vibrant economic activities, a destination to live, work and socialise in, public realm and architectural designs of exceptional high standard and a gateway to major historic, cultural and recreational attractions. Other significant landbanks within this SDRA include the Heuston South Quarter mixed use development site to the south west of the site and the Clancy Barracks residential led development, in the grounds of the former Clancy Army Barracks to the west of the site. Heuston Station and the Dublin Bus Conyngham Road Depot are identified as other potential redevelopment sites.

The site is located within a Conservation Area along the River Liffey and its banks and quays.

The Protected Structure on the site RPS Ref. No. 6320, (43) Parkgate Street includes the following entry: *'Former Parkgate Printing Works, now known as Parkgate House. Only the following structures are included in the Record of Protected Structures:*

- (a) *Riverside stone wall*
- (b) *Turret at the eastern end of the site*
- (c) Square tower on the riverfront
- (d) *Entrance stone arch on the Parkgate Street frontage*.

The riverside stone wall (a) is also included in the NIAH Reg. Ref. No. 50060349 - Regional Rating. The entrance stone arch on the Parkgate Street frontage (d) is also included in the NIAH Reg. Ref. No. 50060346 - Regional Rating. Both are considered to be of Architectural Interest.

The existing single-storey ESB substation located just outside and adjacent to the east end of the subject site is included in the NIAH Reg. Ref. No. 50060350 - Regional Rating and is of Architectural and Technical Interest.

The subject site is included in the Dublin City Industrial Heritage Record - DCIHR reference 18019921: Ironworks Parkgate Printing Works (Royal Phoenix Iron Works). *'....Of particular note is the site's solid riverside boundary wall with associated turret and tower which belie the buildings original function, though it was used in World War 1 as a bomb-making factory. With its brick northern boundary wall, ashlar entrance and largely intact early structures, the site forms an important component within the city's industrial heritage'....*

## 6.0 Third Party Submissions

6.1. In total, 15 submissions were received. A number of submissions have been received from the residents of Montpelier Hill and Parkgate Place. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues expanded upon within the main assessment:

- Policy: contrary to zoning objective in terms of, inter alia, protection of residential and visual amenity/conservation
- Design: Size of units do little to support sense of community; lack of family accommodation; sustainability of design
- Visual Amenity: Height; design, quality and scale; incongruent with surrounds and streetscape

- Architectural Heritage/Conservation/Views: Impact on character of historic surrounds; negative impacts on conservation/ heritage surrounds; concerns regarding demolition of historical buildings including Parkgate House; undermining visual connections of Chesterfield Avenue to Guinness land and views from quays to Phoenix Park
- Residential Amenity: impacts on privacy; overlooking; impacts on light; dust/air quality; asbestos; shadow analysis incomplete; security concerns, antisocial behaviour, noise; opening up of Parkway Place to public via a public walkway; concerns regarding construction practices
- Other Matters: boundary concerns; previous refusal on site; potential as a community space; impacts on adjoining underground car park (submission from TII); concerns regarding application website; lack of consultation with local residents

## 7.0 Planning Authority Submission

7.1. In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dublin City Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 24<sup>th</sup> April 2020. The report may be summarised as follows:

### **Information Submitted by the Planning Authority**

Details were submitted in relation to the site location description, proposed development, planning history, observations, pre-application consultations, South Central Area Committee meeting, interdepartmental reports, external consultees/interested parties, policy context, appropriate assessment, EIA and planning assessment. A summary of representations received was outlined.

### Summary of Inter-Departmental Reports

City Architect: Raises a number of concerns in relation to height and scale, in particular tower Bock A, presentation of the development onto Parkgate Street, the overall design and quality of the scheme and proposed public realm

Drainage Division: No objections, subject to conditions

Transportation Planning Division: Some concerns raised in relation to servicing of proposed development and potential long-term implications on the multitude of existing and future users of Parkgate St due to inadequate provisions within the subject site. Recommended conditions

Parks and Landscaping: No objections, subject to conditions

Conservation Officer: Outlines a number of concerns regarding proposal

Planning & Property Development: Stephen Little & Associates on behalf of Ruirside Developments Ltd has previously engaged with the Housing Department in relation to the above development and are aware of the Part V obligations pertaining to this site if permission is granted

City Archaeologist: No objections, subject to conditions

7.2. A thorough and comprehensive assessment of the proposal has been undertaken by the planning authority and reference has been made to same within the main body of my report. The assessment concludes as follows:

- Proposal on this underutilised brownfield site for mixed use is welcome in principle and in keeping with the zoning objective. It is also in keeping with the provisions of the NPF in relation to securing development of brownfield sites at sustainable densities
- Proposed residential units are generally in accordance with Development Plan and departmental standards in relation to apartment sizes and open space provision for build-to-rent developments
- Current City Development Plan allows for buildings in excess of 50m high at this location, subject to compliance with criteria including relationship to context, effect on the historic environment, contribution to public realm, visual impact, microclimate and general amenity considerations
- While the proposal is considered acceptable in principle to provide for a sustainable form of development on a brownfield site, planning authority have serious concerns in relation to the architectural treatment and design of the 29 storey landmark building. While there is no objection in principle to a building of this height at this location, overall it is considered that there is a lack of architectural refinement in the 29 storey tower. Any structure at the height

and scale proposed on this site needs to be a building of exceptional architectural merit given its pivotal location at the edge of the city centre, in addition to being located within a Conservation Area, adjacent to the River Liffey and Quays, Heuston Station and a number of Protected Structures.

- In this regard, if ABP is minded to grant permission for the proposed development, it is recommended that the 29 storey tower element of the scheme is omitted and be the subject to a separate planning application with a revised design, in order to ensure optimal architectural solution for a strategic site. Recommends that the tower be subject to an open design competition.
- Conditions attached

7.3. The report includes a summary of the views of relevant Elected Members, as expressed online and by text at the South Central Area Committee meeting held on 18/03/2020 and are broadly summarised below:

- Justification of height proposed
- Parks and Amenities- access for all into the future; non-residential uses
- Other Matters including Part V, ownership and types of residential units

## 8.0 Prescribed Bodies

8.1. The applicant was required to notify the following prescribed bodies prior to making the application:

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. Dublin City Childcare Committee
5. Commission for Railway Regulation
6. Inland Fisheries Ireland

7. An Chomhairle Ealaíon
8. Coras Iompair Éireann
9. Heritage Council
10. An Taisce
11. Minister for Culture, Heritage and the Gaeltacht
12. Fáilte Ireland
13. Irish Aviation Authority

Six bodies have responded and the following is a brief summary of the points raised. Reference to more pertinent issues are made within the main assessment.

#### Irish Aviation Authority

Condition attached in relation to agreement for an aeronautical obstacle warning light scheme

#### Irish Water:

Issued a design statement of acceptance to the applicant in line with the CoF for 584 units. In order to facilitate the proposed connection at the premises, the water and wastewater connections are subject to the following:

#### Water

New connection to the water network should be 150mm ID taken from the existing 6" cast iron watermain on the opposite side of Parkgate Street. The connection should be cross-connected back into the existing 24" cast iron main running parallel with the 6" main in Parkgate Street. All work will be carried out in the public domain by Irish Water funded by the applicant.

#### Waste Water

Surface water flow from Parkgate Street should be removed from the combined network. Minimum reduction should be equivalent to the proposed 22.4l/s peak foul water discharge from the development. At connection application stage, the development should provide evidence of the successful delivery of the project in agreement with Dublin City Council Drainage.

Condition attached in relation to signing of a connection agreement with Irish Water prior to commencement of development in site.

### Inland Fisheries Ireland

Proposed development located within catchment of the Liffey system. The Liffey supports a regionally significant population of Atlantic salmon, a species listed under Annex II and V of the EU Habitats Directive in addition to Brown trout, lamprey, eel and many other sensitive species. The river is tidal at the proposed development location and forms part of the Liffey estuary. Estuaries serve as a natural linkage for species such as salmon and sea trout migrating between freshwater and ocean environments, providing the necessary habitat for their transition. Previous surveys in the Dublin city area of the Liffey have recorded eel and river lamprey. Thus, fisheries ecology is an important element for consideration in any development in this area.

Recommended conditions attached

### Transport Infrastructure Ireland

Not satisfied that the presented single morning and evening hours reflect peak pedestrian movement along Sean Heuston Bridge. Recommends that ABP consider the impact of increased pedestrian activity along the Sean Heuston Bridge on Luas in the vicinity of the development in accordance with NTA guidance. Conditions recommended

### National Transport Authority

Supports the proposed development as it represents the consolidation of residential development into a central location served directly by a mainline and commuter rail station; a range of existing and proposed bus services and which is within walking distance of much of Dublin city centre and within cycling distance of the city centre in its entirety.

Notes extent of car parking proposed and are satisfied with same.

Recommends condition in relation to public realm arrangements

## Minister for Culture, Heritage and the Gaeltacht

### Archaeology

Recommended that the applicants engage the services of a suitably qualified archaeologist to co-ordinate the mitigation measures for archaeological testing and monitoring at both preconstruction and construction phases of development.

Agreement to be reached in relation to archaeological method statement with Department in advance of commencement of construction works

### Nature Conservation

#### Birds

Considered very likely that Herring and/or Lesser Black Backed Gulls nest on the roof of the warehouse on site, which is proposed for demolition. Demolition works should be timed to avoid destroying eggs/killing chicks and take place outside of the bird nesting season (1<sup>st</sup> March to 31<sup>st</sup> August).

#### Biodiversity and Old Walls

Majority of standing buildings on site date to the late 1880s, including the river wall. Old stone walls, particularly those of limestone are an important substrate for some rare and legally protected moss species. Stone walls are a valuable habitat for saxicolous lichens and vascular plant species including ferns. Many species have as their preferred habitat such structures whilst a smaller, restricted number of rarer species are dependent solely on such structures (usually on the mortar between the masonry). Older and more neglected structures are generally of most importance for wildlife.

Works to old stone walls within this development site may impact negatively on biodiversity. Conditions advised in relation to conducting moss, lichen and vascular plant survey, mitigation measures and obtaining licence from Department, if necessary prior to any construction works commencing, together with the use of lime mortar for rebuilding, pointing and grouting.

#### Bats

Bat surveys took place in February 2019 and January 2020, outside the optimal time for roost and ground level bat activity surveys. Given the location of the site, close to



the Phoenix Park, the likelihood of bats being present cannot be ruled out. Recommended that prior to any construction works taking place, appropriately timed bat roost and activity surveys should be undertaken. Recommendations made in relation to lighting and obtaining a derogation licence, if necessary.

## Architecture

### Built Heritage

- Architectural Heritage Assessment demonstrated relationship of the surviving Georgian house as an integral part of the site's evolution and the proposal should accommodate this structure as part of the overall presentation of the site. Part of the Royal Phoenix Ironworks that remains may be regarded as a unique industrial site in Dublin. Development could review again if a reasonable scale of residential accommodation can be achieved with a more minimal loss of a built heritage asset
- Impact of proposal in terms of impact to surviving heritage is significantly demonstrated in the submitted EIAR. Impact on the surviving built and industrial archaeological heritage of the proposal, particularly the extent of demolitions to principle or core buildings, the undermining of the perimeter wall and its features to the river, along with structural fragmentation of the river wall and the full removal of the structural wall to Parkgate Street is a challenge. This, together with the suggested isolation of the classical stone arch from its perimeter wall and the dwarfing of its setting needs to be looked at again as does the removal and breaking through of the site enclosure.

### Conservation/Planning Outcome

- Retention of key structures as part of the overall development, including the important Kingsbridge House, the entrance building adjoining the stone arch and the brick perimeter wall as part of the narrative of the site and the sequencing of spaces that were part of the historic setting to the house is proposed as mitigation, as it allows the better integration of the development into the extant environment, provides diversity of use, distinctiveness of place and accessibility to shared heritage
- Proposed works to protected structure are welcome and greater detail and specification may be necessary to ensure a positive conservation/planning

outcome for the local community. Guidance of Grade 1 Conservation Architect recommended for all stages of the works, together with salvage and reuse of materials

- Department are available for discussion on request, where amendments to safeguard built heritage/industrial archaeology characteristics of the site are proposed

## 9.0 Assessment

9.0.1 I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Dublin City Development Plan 2016; relevant section 28 Ministerial guidelines; National Planning Framework; Dublin Metropolitan Area Strategic Plans; provisions of the Planning Acts, as amended and associated Regulations and the nearby designated sites. I have visited the site and its environs. In my mind, the main issues relating to this application are:

- Principle and Quantum of Proposed Development
- Architectural Heritage
- Layout and Height
- Visual Amenity and Architectural Design of Block A
- Quality of Residential Development
- Residential Amenity
- Traffic and Transportation
- Drainage and Flood Risk
- Other Matters
- Environmental Impact Assessment
- Appropriate Assessment

## 9.1. Principle and Quantum of Proposed Development

- 9.1.1. Having regard to the nature and scale of development proposed, namely an application for 481 residential units, together with other mixed uses including commercial/retail uses (stated 13.8% of overall development), all located on lands on which such development is permissible under the zoning objective, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 9.1.2. I note the third party submissions received, which contend that the proposal is not consistent with the zoning objectives for the area. I also note the previous refusal for permission on this site. I am assessing the proposal before me de novo. The proposal accords with national policy/guidance which seeks to secure compact growth in urban areas and deliver higher densities at appropriate locations. This is considered to be one such appropriate location, proximate to Dublin city centre beside a major transportation hub. The proposal will facilitate the redevelopment of an existing brownfield, underutilised site. I note the site is located within Strategic Development and Regeneration Area 7 (SDRA7) Heuston and Environs, as set out in the operative Dublin City Development Plan. Guiding principles for this SDRA have been outlined in section 15.1.1.10 of the Plan and the proposal generally accords with these guiding principles, further assessment will be undertaken below. It is also considered to be consistent with the 'Objective Z5' zoning objective, which seeks to facilitate mixed-use development. An appropriate mix of uses is proposed, given the location of the site. The merits of taller buildings in a limited number of locations has been recognised in the operative City Development Plan and SDRA 7 states that the Heuston gateway potentially merits a building above 50m in height. Therefore, I am of the opinion that the principle of a taller building, in excess of 50 metres in height may be acceptable on this site.

### Build-to-Rent

- 9.1.3. The attention of the Board is drawn to the fact that this is a Build to Rent Scheme. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2018 provides guidance on Build-to-Rent (BRT) and Shared Accommodation

sectors. The guidelines define BTR as “purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord”. These schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity. An Estate Management Strategy Report and a draft covenant have been submitted with the application. Having regard to the location of the site close to the city centre, beside excellent public transport facilities, I am satisfied that a Built to Rent scheme is suitable and justifiable at this location. The proposal will provide a viable housing solution to households where home-ownership may not be a priority. The residential type and tenure provides a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland.

9.1.4. I refer the Board to the provisions of Specific Planning Policy Requirement 7 which provides that:

BTR development must be:

- (a) Described in the public notices associated with a planning application specifically as a ‘Build-to-Rent’ housing development that unambiguously categorises the project (or part thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period:
- (b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:
  - (i) Residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Residential Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

- 9.1.5. The public notices refer to the scheme as ‘Build-to-Rent’ and a draft deed of covenant indicates that the applicant is willing to accept a condition requiring that the residential units remain in use as BTR accommodation, that no individual residential unit within the development be disposed of to any third party for a period of 15 years only from the date of grant of permission. I consider that the matter of the covenant be dealt with by means of condition.
- 9.1.6. In terms of resident support facilities and resident services and amenities, I note that a stated 1839m<sup>2</sup> of such services and facilities are proposed, both internal and external. I recommend that all internal communal rooms/spaces be provided with dedicated toilet facilities or have access to same. This matter could be adequately dealt with by means of condition.
- 9.1.7. SPPR 8 sets out proposals that qualify as specific BTR development in accordance with SPPR 7. In this regard, no restrictions on dwelling mix apply and therefore the units mix is considered acceptable, notwithstanding the lack of three-bed units. In this regard, the applicants have submitted a Material Contravention Statement as the proposal does not accord with the provisions of the operative City Development Plan in terms of unit mix and floor area. . It is noted that some of third party submissions raised concerns in relation to the proposed unit mix and lack of family friendly units. The matter will be dealt with further below. Flexibility also, under SPPR 8, applies in relation to the provision of a proportion of the storage and private amenity spaces associated with individual units and in relation to the provision of all of the communal amenity space (as set out in Appendix 1 of aforementioned Apartment Guidelines), on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. The proposal in this instance seeks relaxations in terms of private open space provision. While I note that the proposal complies with section 28 guidance in terms of storage provision, all units just meet the minimum standards. All units are generally consistent with the requirements of

the Apartment Guidelines, with the exception of private open space provision. This is dealt with below.

### Density

- 9.1.8. Density at approximately 587 units/ha is considered appropriate for this urban location and in compliance with relevant section 28 ministerial guidelines. The site is at a location suitable for higher densities in accordance with the 'Guidelines on Sustainable Residential Development in Urban Areas' and Section 4.5.3 of the Dublin City Development Plan which promotes intensive mixed-use development on well-located urban sites and higher densities within SDRA's and in the catchment of high capacity public transport. The provision of high-density residential development on the site is supported by the planning authority and is considered to be in accordance with the zoning objectives pertaining to the site.
- 9.1.9. I am of the opinion that given its zoning, the delivery of residential and commercial development on this prime, underutilised site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of current Government policy. The site is considered to be located in a central and accessible location, proximate to excellent public transport. The proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various needs of the community. I therefore consider the proposal to be acceptable in principle.

## **9.2. Architectural Heritage**

- 9.2.1. I refer the Bord to section 12 Architectural Heritage of the submitted EIAR, together with the submitted Architectural Heritage Impact Assessment. The matter has been comprehensively assessed under the relevant section of the EIAR and I refer the Bord to same. I note that the matter of impacts on architectural heritage has been raised in some of the third party submissions received. A report has been received from the Department of Heritage, Culture and the Gaeltacht, which is summarised above, and I refer the Bord to same. The former uses of the site are noted- it occupies the eastern half of the former Phoenix ironworks site, founded in 1808. Most of the original ironworks buildings were demolished and replaced by other buildings and structures in the mid 1880's and the site has seen a number of

changes of use over time. It was last occupied by Hickey's Fabrics warehouse and head office for over 40 years dating back to the 1970s. The buildings on site have fallen into disrepair and dilapidation to various degrees. In the interests of clarity, I note that the documentation refers to 'Knightbridge House' and 'Parkgate House' interchangeably. As the RPS refers to it as 'Parkgate House', this is what I will refer to it as during my assessment.

9.2.2. The Record of Protected Structures is quite clear with regards what is protected on site and more specifically what is not and reads as follows:

RPS No. 6320- 42 Parkgate Street, Dublin 8

*Former Parkgate Printing Works, now known as Parkgate House. Only the following structures are included in the Record of Protected Structures: (a) riverside stone wall; (b) turret at eastern end of site; (c) square tower on the riverfront; and (d) entrance stone arch on the Parkgate Street frontage.*

9.2.3. The proposal includes for the conservation, refurbishment, repair and adaption of the four elements of the existing Protected Structure on site including:

- Entrance stone archway: proposed for adaptation for use as pedestrian access to proposed residents' communal open space and entrance to four no. blocks
- Riverside stone wall: includes for partial demolition, comprising the enlargement of existing opes and creation of new opes and lintels, for incorporation within riverside stone wall, as part of riverside amenity walkway
- Turret: proposed to be integrated as part of riverside stone wall and proposed amenity walkway
- Square tower on riverfront: proposed to be integrated as part of riverside wall and amenity walkway

9.2.4. In addition to the designated Protected Structures listed above, the site also includes a number of historical structures that are not included in the Record of Protected Structures:

- Gate lodge (adjoining and likely to be contemporaneous with the Protected cut-stone gateway) to the former Royal Phoenix Iron Works on Parkgate Street. Proposed for demolition.
- Early Georgian House ('Kingsbridge House') de-listed from the RPS, which is evident on the First Edition 6" Ordnance Survey Map of 1837. This building is included in the NIAH (Reg. Ref. No. 50060347) – Regional Rating and is of Architectural and Social Interest. Proposed for demolition.
- Two late 19th century gable-fronted warehouses adjoining the Protected square turret on the riverfront. Proposed for demolition with exception of southern façade retention of one building
- Large single-storey late 19th century former warehouse, dating from 1880s. The former warehouse incorporates the painted brick curved boundary wall onto Parkgate Street. Proposed for demolition.

9.2.5. In addition to the proposed retention of the Protected Structures listed above, the following historical structures are also proposed to be retained:

- Riverfront gabled building (River Building) to be used as residents' gym
- Southern façade of the riverfront gabled building as part of riverside wall and incorporated with the amenity walkway.

9.2.6. It is acknowledged in the documentation that demolition of some buildings of historic interest that are not listed for protection are proposed to facilitate the proposed regeneration of the site. However, works such as the re-use of the cast iron beams from the main warehouse as part of the pergola landscaped features are proposed to incorporate some of the history of the site into the new development.

9.2.7. I acknowledge that, under current legislation, the demolition of a Protected Structure, or of elements which contribute to its special interest, may only be permitted in exceptional circumstances (section 57(10)(b), 2000 Act). I also note Policy CHC5 of the operative City Development Plan in this regard. The current proposal includes for the breaking out of a small area of the quay wall to allow for a better relationship with the river. The riverside stone wall is designated as a Protected Structure. The matter of 'exceptional circumstances' has been addressed in the documentation with regards the partial demolition of elements of the riverside wall, primarily with



reference to the matter of place-making. It is argued that SDRA 7 recognises the Heuston Quarter as a potential western counterpoint to the Docklands and recognises the important role of place-making in the success of such SDRAs. It is put forward in the documentation that the proposed public plaza offers the potential of celebrating the enjoyment of a relationship with the River Liffey and with the public concourse in front to Heuston station. No other location for a public space in the Heuston area, offers the same potential for relationships with both the River and the public space in front of Heuston Station, given that the site directly abuts the river. Leaving the riverside stone wall unaltered would maintain the existing barrier and would prevent such a relationship being realised. It is further stated that the circumstance of the location and potential of the proposed public plaza is not just exceptional; it is unique. If the wall remains unaltered this potential will be lost. I accept this argument. The Conservation Department of the planning authority considers the extent of the proposed demolition of the riverside wall to be excessive in terms of the loss of historic fabric and the seriously adverse impact this will have on the cohesion, integrity and architectural character of the wall. I am satisfied with the extent of removal in this instance.

9.2.8. In my mind, the greatest loss from proposed demolition is Parkgate House. I note it is described as being of regional importance on the NIAH survey, being of Social and Architectural Interest (No. 50060347), constructed circa 1808. It was previously delisted from the RPS. Presently however, the house is entirely isolated from its original setting, including structures that once continued north from the house to Parkgate Street. It was progressively and incrementally undermined as the site changed hands and presently the historic stone entrance gate 'floats' within its new context. The house is in poor structural condition and is unsafe with areas of structural collapse internally and extensive water damage. While this structure does have some historical and streetscape value, I note that it is not designated as a Protected Structure and on balance, I consider its demolition acceptable to facilitate the proposed redevelopment of the site. I also note that in a previous refusal for permission on this site, under PL29N.221587, the demolition of this dwelling was not included within the Bord's reasons for refusal.

9.2.9. Within my assessment, I have also had regard to impacts on the setting of other historical and Protected Structures within the vicinity of the site, including those on

Montpelier Hill. The report of the Conservation Officer, as contained in the Chief Executive Opinion, is noted. I concur that the demolition of some buildings on the subject site is regrettable in architectural conservation terms. However, these buildings are not listed on the RPS. The same may be said of the curved wall along Parkgate Street. The proposed refurbishment and reuse of the Protected Structures is welcomed and I consider it to be planning gain. The Conservation Officer of the planning authority expressed some concerns with regards façade retention as it demeans the integrity of the historic buildings and suggests retaining some depth of space behind. While I would concur with the comments with regards to demeaning the integrity of this historic building, I am not adverse to this element of the proposal in this instance. A balance needs to be achieved between protecting the historical significance of the site and its appropriate redevelopment. I consider that this balance is largely being achieved in this instance. It would be impossible to retain the large warehouse structure on site and other smaller buildings, while at the same time providing the level of development proposed. The opening up of the quay walls provide a successful interconnection with the river, as detailed in the guiding principles of SDRA 7, and the linkages though into square tower are a real positive for the city at this location.

- 9.2.10. The site is brownfield in nature, underutilised and has been largely detracting from the streetscape for many years. Its appropriate redevelopment is to be welcomed and is in line with national policy with regards the appropriate redevelopment of such sites. While the loss of some historical buildings is regrettable, it is not unexpected. The proposed development will undoubtedly give rise to some loss of architectural heritage on this site. However, the buildings of most significance have the benefit of designation as Protected Structures within the operative City Development Plan and are being incorporated into the proposal. The planning authority have been quite clear in their designation, what they consider worthy of protection and what they do not. Other historical elements are also being retained, for example the re-use of salvaged items and this is welcomed. I have considered the submissions received from third parties in this regard, together with the submission from the Department of Culture, Heritage and the Gaeltacht and that of the planning authority. Having regard to all of the above, I am generally satisfied in this regard, subject to conditions.

### 9.3. Layout and Height

#### Context

- 9.3.1. The proposal involves the construction of a mixed-use development, which includes for 481 residential apartments, the provision of café/restaurant, office and retail uses, together with tenant amenity facilities for future residents in six no. blocks at Parkgate Street, Dublin 8. The proposal is generally 8-13 storeys in height, incorporating a partial basement, with a 29 storey feature element. The percentage of non-residential uses is stated to be 13.8% of the overall development. A room, of stated 119m<sup>2</sup>, is to be made available for public, community hire. The proposal includes for the retention of all four elements of Protected Structure RPS No. 6320, and their incorporation into the proposed scheme. A new public square is proposed, together with a public riverside walkway.

#### Layout

- 9.3.2. This is a prominent triangular site, most visible when travelling to/from the western side of the city, located in close proximity to both Heuston station and the Phoenix Park. It is located within SDRA 7 of the operative City Development Plan, the vision for which is to 'create a coherent and vibrant quarter of the city that captures the public imagination with high quality services, development, design and public spaces that consolidate and improve the existing strengths of the area'. The SDRA masterplan and key development principles indicate that the eastern portion of the Hickey's site has been identified for residential development, with an area of 'mixed use' indicated within the centre of the site. The SDRA acknowledges that the Heuston gateway potentially merits buildings of 50 metres plus in height, as a western counterpoint to the docklands.
- 9.3.3. I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. It is stated in the documentation that the urban design strategy for the site is one of renewal, redevelopment and rejuvenation, seeking to create a new western gateway to the city, beside a major transportation hub at Heuston station. The replacement of the blank wall along Parkgate Street with a glazed active frontage incorporating a range of uses will enliven this area of the city and bring vitality and vibrancy to the area. I welcome the mixed use nature of the development, which provides for associated

services and facilities to accommodate a population of the scale envisaged within this proposed development. The length of the site frontage along Parkgate Street is something that required careful consideration. I am satisfied that a positive relationship between Parkgate Street and the proposed development will result. It is my opinion that an element of the success of the overall scheme will depend on the take-up rate of these units, together with the uses proposed therein. Proposed uses should be agreed with the planning authority, prior to occupation and this matter could be adequately dealt with by means of condition, if the Bord is disposed towards a grant of permission. Some of the third party submissions received raise concerns regarding the lack of sense of community being provided by the proposal. I would not agree with this assertion. The proposal will bring a new population into the area, it will provide a number of different retail/commercial offerings; will provide public open space and a river walkway, together with a room for community hire, all of which will be a positive for the local community.

#### Building Height

- 9.3.4. In terms of building height, I would refer the Bord to further assessment under section 13 of the submitted EIAR, Landscape and Visual. The proposal seeks to introduce a cluster of tall and mid-rise buildings in a predominately low rise setting, ranging in heights from 8-29 stories. The maximum height proposed is 29 stories. I note the third party submissions received, many of which raise concerns with regards the height of the proposed development and its impacts at this location. The elected members also raised concerns with regards a justification for the height proposed, as contained in the Chief Executive Report. I also note the concerns raised by the City Architect, also contained within the Chief Executive Report and I refer the Bord to same.
- 9.3.5. Section 16.7 of the operative Dublin City Development Plan deals with the issue of building height and acknowledges the intrinsic quality of Dublin as a low-rise city. Section 16.7.2 identifies building heights for the city and it is noted that certain specific areas of the city, including the Heuston gateway in which this site is located, have been identified as being appropriate for heights in excess of 50 metres. There is also a recognised need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic, civic or historic

importance. The Building Height in Dublin Context Map (Chapter 16, Fig. 39) identifies four locations across the city suitable for buildings of 50m+, including the area in which the subject site is located. The operative City Development Plan states that in all cases, proposals for taller buildings must respect their context and address the assessment criteria set out in Section 16.7 of the Plan. I am also cognisant of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) which sets out the requirements for considering increased building height in various locations but principally, inter alia, in urban and city centre locations and suburban and wider town locations. It recognises the need for our cities and towns to grow upwards, not just outwards. I have had particular regard to the development management criteria, as set out in section 3.2 of these Guidelines, in assessing this proposal.

9.3.6. I would concur with the applicants when they state that existing tall structures visible on the skyline, which include for church spires, Guinness industrial buildings, the Poolbeg towers and the Spire- all reflect defined periods within the changing city in which we live. I am of the opinion that the city is ever-changing, an evolving entity and each period adds its own additions to this skyline reflecting this evolution. It has been acknowledged in both the operative City Development Plan and within section 28 guidelines, that although low rise in nature, certain areas of the city have the capacity to accommodate buildings of greater height. I consider that given its locational context, the subject site has the capacity to accommodate a taller building without undue detriment to the character or setting of the city skyline. A taller building will, without doubt, be visible from various vantage points within the city, both within the near distance and from further afield. This is not necessarily a negative. However, this is why a building of architectural excellence is so critical- the elevational expression, the scale and massing, together with the quality of the finish. I shall deal with the matter of architectural design below. A successful city is one which evolves and adapts over time to cater for the needs of its citizens, whilst respecting what has gone before. The Criminal Courts building, located a short distance away has proved that modern interventions can be successfully integrated into the streetscape of our city.

9.3.7. The principle of a higher tower element surrounded by blocks of a lower height is considered acceptable in principle at this location and I consider that the proposal

does not represent over-development of the site. This is considered to be a strategic site- its location proximate to the city centre; its location beside a major transport node at Heuston station, its location beside the River Liffey and the sense that one is truly entering the city at this point travelling from the west-are all strong indicators to me that the site is suitable for a taller building. It would also serve as a book-end to the taller buildings in the east of the city, within the docklands area.

- 9.3.8. With regards the issue of precedent for the taller element, I am aware that a grant of permission for this higher element may be cited as precedent for developments of similar height within the wider area. I am however cognisant of the policy with the operative City Development Plan with regards to appropriate locations for taller buildings, together with national guidance in this regard. While I consider that this subject site may have capacity for a higher element at the location proposed, given its locational and site context, I am of the opinion that every site within the city area does not have such capacity and that a grant of permission on this subject site does not set precedent for taller buildings on other sites in the vicinity. Every application is assessed on its own merits and the Urban Development and Building Height Guidelines (2018) give detailed guidance as to what sites may be considered as being appropriate for such higher elements.

## **9.4 Visual Amenity and Architectural Design of Block A**

### Visual Amenity

- 9.4.1 I refer the Board to section 13 of the submitted EIAR which deals with 'Landscape and Visual'. Further assessment of this matter is dealt with within the relevant EIAR section below. The submissions of third parties, the planning authority and the Department of Culture, Heritage and the Gaeltacht are noted in this regard.
- 9.4.2 It is stated within section 13.3 of the submitted EIAR that the site of the proposed development is located within an historic area of the city and there are important locations in the surroundings that are historic and play a role in shaping the present character of the area. I would concur. Important views and prospects are identified in yellow dashed lines in Figure 27 of the operative City Development Plan, which represent a series of long distance visual connections across the city. Visual connections for this site include, inter alia, those from Chesterfield Avenue to the

Guinness lands and from key parts of the city quays to the Phoenix Park (Wellington Monument). Views from Chesterfield Avenue occur at a high level due to level changes between the Phoenix Park and the viewpoint and extend down the quays. Having examined the documentation before me, including verified photomontages, I am of the opinion that the tower element, Block A, will be the most visible element of the proposal. The proposed development, in particular the tower element, will be visible when viewed from the quays looking west and within the immediate site environs, including Heuston Station/St. John's Road, Collins Barracks, Bow Lane and South Circular Road. The proposal, will in the main, obscure views of the Wellington Monument from the Liffey quays.

9.4.3 I have examined all the documentation before me and I acknowledge that the proposal will result in a change in outlook as the site changes from low rise, brownfield, underutilised lands to a site accommodating development of the nature and scale proposed. The location of the site at the junction of the River Liffey and Parkgate Street is such that it is a visually prominent site in both near and distant views. Without doubt, there will be significant long term impacts on the visual landscape context of the area. This is inevitable when dealing with taller buildings and is not necessarily a negative. The skyline is an ever evolving entity within a thriving, ever evolving city. In terms of views from Chesterfield Avenue, it is acknowledged that the view alters as its alignment and elevation subtly adjusts moving eastwards towards the Park entrance. It is also acknowledged that the presenting receiving environment is not how it was originally designed and it is accepted that the relationship between the Phoenix Park once surrounded by parklands, is now very much set within the context of the city. What is of primary importance to me is that these new interventions provide a quality addition to the skyline of the city. This will be dealt with below. Impacts on views of the Wellington Monument are noted, reputed to be one of the largest obelisks in Europe. Impacts on Heuston Station and other Protected Structures in the vicinity are also noted. There will inevitably be impacts on their setting and views to/from them, if the proposed development were constructed. However, I do not necessarily consider this to be a negative, provided that the proposed design is a quality intervention that sits comfortably with these structures and landmarks. Views are often fleeting and will change as they are seen in a different context.

9.4.4 I have inspected the site and viewed it from a variety of locations across the north and south city area. I have also reviewed all the documentation on the file. I have concerns regarding Block A and I have detailed those in the following section. With regards the remainder of the development, excluding Block A, in terms of long-range and medium range views, I am of the opinion that while undoubtedly visible, the proposal would not have such a detrimental impact on the character and setting of key landmarks and views within the city, as to warrant a refusal of permission. The proposed site is largely located outside the identified 'cone of vision' between Royal Hospital Kilmainham and the Phoenix Park, as detailed in the guiding principles of SDRA 7. There is greater potential for visual impacts at a more local level and this is acknowledged. I acknowledge that the character of the area will also be altered- again not necessarily a negative. I note some of the submissions received state that the transition in scale between that existing and that proposed will be significant and associated visual impacts will be high. Similar concerns in relation to transition have been expressed by the City Architect. However, I consider the transition in scale to be acceptable in this instance having regard to the mixed and evolving character of the area. I am satisfied that the proposed development, aside from Block A, will not impact on the character or setting of historic structures; will add visual interest; will make a positive contribution to the skyline and will improve legibility within this city area and that its height, scale and massing is acceptable in townscape and visual terms. It is my opinion that the proposed development, aside from Block A, will contribute to the physical and social regeneration of the area and any negative impacts will be far outweighed by the positives it has to offer.

#### Architectural Design of Block A

9.4.5 The concerns raised both by third party parties within their submissions and the planning authority, as contained within their Chief Executive Opinion are noted. In terms of architectural design, I note that the design process underwent a series of iterations and these have been laid out in the submitted documentation. I am generally satisfied with the scale, massing and heights proposed in the five mid-height blocks and I consider that they would integrate well into the streetscape at this location.

9.4.6 However, I have serious concerns in relation to the proposed 29 storey tower element, Block A. Section 16.7.2 of the operative City Development Plan sets out



assessment criteria for high buildings and this has been detailed above. One element of this assessment criteria provides that regard must be had for the “architectural excellence of a building which is of slender proportions”... In addition, one of the guiding principles for SDRA 7 Heuston & Environs of the operative City Development Plan relates to ‘...architectural designs of exceptional high quality’. In terms of City Development Plan policies, I draw the attention of the Bord to the following:

Policy SC17 seeks to ‘...ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city...’ while

Policy SC25 seeks to ‘promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city’s built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate’ and

Policy SC26 seeks to ‘promote and facilitate innovation in architectural design to produce contemporary buildings which contribute to the city’s acknowledged culture of enterprise and innovation, and which mitigates, and is resilient to, the impacts of climate change’.

9.4.7 I am cognisant of the balance that is required to be achieved between design aesthetic and functionality. I am generally satisfied with the slenderness of the structure proposed. I am also satisfied with the principle of a taller building on this site. As has been stated above, given the relatively low rise nature of the Dublin skyline, the proposed higher element will in all likelihood, become a landmark feature on the city skyline. The Collins Dictionary defines ‘landmark’ as ‘a building or feature which is easily noticed and can be used to judge your position or the position of other buildings or features’. The proposed higher element will become a landmark by virtue of its height and the prominence of the site. It will be used to judge one’s position within the city. I question whether its architectural expression is such that it

could be described as 'architectural excellence', as set out in section 16.7.2 Assessment Criteria for Higher Buildings of the operative City Development Plan and whether this element of the proposal is consistent with the aforementioned policies of the operative City Development Plan.

9.4.8 In my mind, this is a generic tower, a safe or 'dated' option, as it was referred to in one of the third party submissions received and I consider that it is somewhat of a lost opportunity that a more architecturally distinctive building was not explored for the site, a true landmark on an international scale. I would concur with the planning authority when they state that, given its pivotal location, a tower of exceptional architectural character and refinement is required at this location and that the tower, as proposed, requires further design development and should be subject to a separate planning application. I would also concur when they state that the appearance of the proposed tower is commercial in nature and the façade treatment does not reflect its residential use. In my mind, architecturally exceptional buildings display a certain level of quality, consideration and materiality, which in turn gives a certain confidence that the building will age well into the future and will remain a constant in the cityscape as opposed to becoming a dated structure, representing a period in time. I am of the opinion that this level of quality, consideration and materiality is lacking in this instance and I am not confident the proposed structure will date well into the future. I note that with many taller buildings, high end units are proposed therein, in particular at the higher levels. That is not the case in this current proposal. Most of the units within Block A do not have private open space provision, which I would expect in a high quality unit overlooking the city. The studio units (13-24<sup>th</sup> floors) just exceed the minimum standards by 0.1 square metres and in general storage just complies with minimum standards. While I acknowledge that this is a build-to-rent development and some flexibility is allowable in relation to such standards, it raises questions for me about the overall quality of the proposed taller element and whether it may be described as architecturally excellent, or otherwise.

9.4.9 This proposed tower is located in a pivotal, prominent location within the city, not tucked away on a side street. Its location, proximate to important landmarks of the city, including Heuston Station and the Phoenix Park are acknowledged. A multitude of people will pass it every day, it will be visible on the skyline in the near and far

distance and it will become part of what inhabitants of Dublin come to recognise as an important part of their city skyline. It is acknowledged that few taller buildings have been permitted in Dublin centre in recent times and for this reason, any such building that is permitted should, in my mind, be a building of exceptional design quality. In addition, notwithstanding the height differences, any taller building on this site should sit comfortably alongside Heuston Station and the nearby Phoenix Park and should not negatively impact on important views within the city. The site sits on a significant visual connection running from the City Quays to the Phoenix Park and the Wellington Monument that requires a sensitive approach to development. That is not being achieved in this instance and I consider that Block A will have significant adverse indirect impacts on the setting of Heuston Station, not in terms of its height but in terms of its architectural design.

9.4.10 I note 'Objective SC26' of the operative City Development Plan, which seeks 'To stimulate innovation and quality in design, design competitions will be promoted for significant developments'. Given the significance of the site, I consider that an open architectural design competition would have been appropriate in this instance. I consider that, in any instance, open competition or otherwise, there is a need to investigate a wider range of options and a different design approach for this higher element. I recommend however that the tower element (Block A) be omitted from the proposal and a new revised design proposed under a separate planning application. This would result in the loss of 160 apartments, together with one café and residents amenity facilities.

#### Materials Strategy

9.4.11 A Materials Strategy has been submitted with the application (Section 4.12 of the Architectural Design Statement). Stone cladding is proposed for the tower element of the scheme, with a mix of stone banding and bricks panels on some of the lower blocks. I would concur with the planning authority when they state that it is unclear from the submitted elevations, as to what the proposed materials are in many instances. Insufficient information has been submitted in relation to contrasting materials and colour tones on the opposite side of Parkgate Street and it is unclear how some of the materials proposed will sit together. Some concerns are raised with regards to quality of the materials proposed. This is a development of significant

scale and the appropriate selection of materials, in terms of colour, tone, texture and durability is therefore crucial. The proposed use of render banding between windows; on extensive elements of the southern elevations fronting the river and on the upper levels of Block B2 is not appropriate, in my opinion, as I have concerns regarding maintenance and durability into the future. This has also been raised as a serious concern of the City Architect, as contained in the Chief Executive Opinion.

## **9.5 Quality of Residential Development**

### Mix and Floor Areas

- 9.5.1 Some of the third party submissions received have raised concerns with regard the proposed mix of uses and the lack of larger units within the proposed scheme. This has also been highlighted by the planning authority. The mix of units at 66 x studio (14%), 298 x 1 bed (62%), 117 x 2 bed (24%). I would concur with the planning authority when they state that the provision of some larger, three-bed units would have been welcomed in the proposed scheme. However, the proposal is considered acceptable and would cater to a certain cohort of the population in an urban location where the quantum of dwellings is noted in the wider area. In terms of floor areas, I also note that at 37.1 square metres, the proposed studio apartments, just barely meet minimum standards as set out in the section 28 guidelines.
- 9.5.2 The attention of the Bord id drawn to the fact that a Material Contravention Statement has been submitted with the application and the applicants have advertised same within their public notices, as required under the legislation. This Statement deals with the issue of unit mix and floor area. With regard to unit mix, it refers to section 16.10.1 of the Dublin City Council Development Plan 2016 – 2022, which sets out the requirements in relation the mix of dwellings provided as part of new apartment developments, which provides for a maximum of 25-30% one-bedroom units and a minimum of 15% three- or more bedroom units. The submitted Statement notes that ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (March 2018) contains “Specific Planning Policy Requirement” in relation to dwelling mix requirements (SPPR 1) and (SPPR 8), which takes precedence over any conflicting policies and objectives of Development Plans.

- 9.5.3 The Material Contravention Statement also deals with the issue of floor areas and notes that the operative City Development Plan sets out minimum floorspace standards for apartments. In the case of studio apartments, the City Development Plan specifies a minimum floor area of 40 square metres while the aforementioned Apartment Guidelines set the minimum floor area for studio apartments at 37 square metres. There is a corresponding difference then also to minimum room width standards. Again, the nature of the BTR scheme and the provisions of SPPR8 in this regard are noted.
- 9.5.4 I would concur with the applicants that the operative Dublin City Development Plan standards with regards to unit mix and floorspace is at variance with the aforementioned Guidelines and the planning authority acknowledge this within their Chief Executive Opinion.
- 9.5.5 Under the Planning and Development Act 2000, the Bord is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are in the (i) national, strategic interest; (ii) conflicting objectives in the development plan or objectives are not clearly stated (iii) conflict with national/regional policy and section 28 guidelines; and (iv) the pattern of permissions in the vicinity since the adoption of the development plan. The current application has been lodged under the strategic housing legislation and is considered to be strategic in nature. I note the policies and objectives of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (March 2018) and the Specific Planning Policy Requirement (SPPRs) contained therein. In particular, I note that SPPR 8 of these Guidelines (2018) states that no restrictions on dwelling mix shall apply to declared 'Build to Rent' residential development. SPPR 8 further states that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor areas standards by a minimum of 10% shall not apply to BTR schemes, due to the requirement to provide compensatory communal facilities and amenities for use by residents. In terms of floor areas, SPPR 3 allows for a minimum size of 37 square metres for studio units. The operative City Development Plan conflicts with these guidelines. I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and

reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I consider this to be one such site.

### Open Space and Public Realm

- 9.5.6 The site, as existing, is generally brownfield in nature. There are however four trees, stated to be of moderate value and quality, located at the eastern end of the site within the public realm area. These are being retained. Public open space provision is stated to amount to 22% of the total site area and includes for a landscaped plaza between Block A and B, which provides a public connection from Parkgate Street to the proposed public plaza and new river walk along the southern edge of the subject site. It is stated that these spaces may have the potential to facilitate programmed cultural activities/markets subject to separate consent/licensing. This will be an appealing south-facing plaza for people to gather with views of the river and Heuston station beyond, providing a much welcomed active frontage onto the river. The planning authority is satisfied with the quantum and quality of public open space proposed. They state that this area will not be taken in charge in the future. Detailed specification of all proposed materials is required. Public open space amenities will be accessible to the general public during normal public park opening hours, with access outside of these times controlled by a management company.
- 9.5.7 Communal external open space is proposed, primarily at seventh, eighth, ninth and 25<sup>th</sup> floor levels. I note that every residential block is provided with immediate access to a rooftop area. At ground level, communal open space is located between Blocks B and C centred on the protected gateway arch off Parkgate Street. These spaces are in addition to internal residential amenity facilities. I am satisfied in this regard.
- 9.5.8 Private open space is provided to only a small number of units within the overall scheme, however all apartments have direct access to a range of communal facilities and amenities. I refer the Board to SPPR 8 of the aforementioned Guidelines in this regard. The planning authority is satisfied in this regard. I refer the Board to my comments regarding lack of private open space to proposed units within Block A, outlined below in the 'Architectural Design of Block A' section.
- 9.5.9 Pedestrian permeability is good and it is noted that access points to the open space from Parkgate Street are provided under the proposed office element and through an

existing area of open space controlled by the local authority at the eastern corner of the site. I am of the opinion that the proposed development positively contributes to the public realm of the area and has the potential to open up the experience of the river, where currently there is limited experience. I consider that the current proposal, which includes for openings within the protected quay walls are an acceptable compromise between the need to protect the wall whilst also providing a quality south-facing public realm in the scheme. I note concerns expressed by the residents of Parkgate Place, regarding the opening of the riverside walk and subsequent security concerns. There is currently a riverside walk within the curtilage of the Parkgate Place development and the proposed riverside walk would facilitate a potential future link into this. While I acknowledge the concerns raised, I consider that this link is to be welcomed, as it would provide a riverside walk through from Parkgate Place all the way to the entrance to the development at Sean Heuston bridge. However, it is acknowledged by the applicants in their documentation that it is currently beyond their control to remove the boundary wall to deliver such a link. This would require the agreement of the relevant landowner. I note that as part of the river walk experience it will be possible to enter inside the square tower and view the river through the existing ope, that is proposed to be reopened. This element of the proposal is welcomed and will be a significant public gain.

## **9.6 Residential Amenity**

- 9.6.1 Concerns have been raised in some of the submissions received with regards to, *inter alia*, overlooking, overshadowing and loss of light, together with privacy concerns. Concerns were raised that the development as proposed, would negatively impact on their properties in this regard.
- 9.6.2 Having regard to the orientation and location of the site, the separation distances involved, level differences and the design of the proposed units, I do not have undue concerns with regards the impacts on amenity of properties in the vicinity. I am generally satisfied that the proposal will not impact on the amenities of the area, including issues of overlooking, overshadowing or loss of light to such an extent as to warrant a refusal of permission. I have no information before me to believe that the proposal, if permitted would lead to devaluation of property in the vicinity. Impacts on privacy would not be so great as to warrant a refusal of permission. This is an urban location and a certain degree of overlooking, overshadowing, impacts on

privacy and loss of light is to be anticipated at such a location. I note that the submitted Daylight and Sunlight Analysis Report examines shadow analysis for the Spring Equinox only (March 21<sup>st</sup>). This is a shortcoming of the report and I draw the attention of the Bord to same. However, I would anticipate the results of the Spring Equinox to be the similar as the results for the Autumn Equinox. It is my opinion, while I acknowledge the shortcomings of the report, that this is an urban location and some degree of overlooking/overshadowing/loss of light is to be anticipated at such inner urban locations. The analysis undertaken states that there would be no significant shadowing of surrounding buildings- buildings to the west would be affected in the morning only. This is considered acceptable. While the shadow of the tower would cross nearby buildings, the duration of the shadowing would be for part of one hour only given its slenderness.

9.6.3 Concerns have been raised by third parties in relation to noise. I acknowledge that there will be some disruption during the course of construction works, including that from construction noise. Such disturbance is anticipated to be relatively short-lived in nature. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed. This matter has been addressed within the submitted EIAR. If the Bord is disposed towards a grant of permission, I recommend that such issues like wheel wash facilities, hours of works, site compound lighting and the like be dealt with by means of condition. A final Construction and Demolition Management Plan should be submitted and agreed with the Planning Authority prior to the commencement of any works on site.

9.6.4 Issues raised in the third party submissions regarding anti-social behaviour are a matter for An Garda Siochana, outside the remit of this planning application. It is noted however that an Estate Management Strategy Report has been submitted and I am generally satisfied with contents of same.

9.6.5 The level of amenity being afforded to future occupants is considered acceptable. I am generally satisfied in terms of possible issues of overshadowing or overlooking. An Inward Noise Impact Assessment was submitted with the application (Appendix 9.2), which found that the majority of inhabitants will have access to a quiet external area and that the majority of habitable rooms will achieve good internal noise environment. For rooms overlooking the road network and the tram tracks, it will be necessary to provide enhanced acoustic glazing. This is considered reasonable and



the matter could be adequately dealt with by means of condition, if the Bord is disposed towards a grant of permission. A Daylight and Sunlight Analysis Report was submitted with the application and it contains a scientific and robust analysis, with which I am generally satisfied. A small number of proposed units fall below the target ADF (approximately 4%) but given the urban location of the site, I am satisfied with this figure. Standards have generally been met in relation to issues such as number of dual aspect units, ceiling heights and floor areas. A Site Wind Analysis has also been submitted, the contents of which appear reasonable and robust, and includes for mitigation measures. Analysis was carried out for three amenity types, namely: ground level, roof top amenity and tower balconies. Assessment of ground level and amenity spaces show no areas of excessive predicted wind speeds identified as 'not suitable for Pedestrian Comfort'. This analysis was used to inform landscaping and positioning of seating to amenity areas. In terms of optimum locations for balconies, the analysis determined that by siting balconies only on the eastern aspect of the tower, balconies remained in a sheltered environment for the entire height of the tower. Conversely, balconies sited on the south-west façade, were found to experience greater than average wind speeds. These areas were not counted as amenity space.

- 9.6.6 Having regard to all of the above, I am satisfied that the level of amenity being afforded to future occupiers of the proposed scheme is acceptable and the proposal if permitted would be an attractive place in which to reside. I am also satisfied that impacts on existing residential amenity would not be so great as to warrant a refusal of permission.

## **9.7 Traffic and Transportation**

- 9.7.1 I refer the Board to section 6 of the submitted EIAR and further assessment within the EIAR section below. The existing access point on Parkgate Street is being replaced with two vehicular access points, one in the NW corner serving proposed car parking and a second vehicular access to the publicly accessible courtyard. Access to car parking at undercroft level is via two car lifts, one for access and one for egress. Details relating to construction strategy are included with section 4 of the submitted EIAR. I note that a Transportation Statement and Basement Impact Assessment Letter, were both submitted with the application.

9.7.2 I note the concerns expressed by the TII in relation to peak pedestrian movement along Sean Heuston Bridge and the impact of increased pedestrian activity along the Sean Heuston Bridge on Luas in the vicinity of the development and have recommended conditions in this regard. It is acknowledged by many parties, including the applicants, that despite good quality pedestrian network in the wider vicinity of the site, there is limited capacity for pedestrian movements along Sean Heuston Bridge. The planning authority state that the pedestrian capacity of Parkgate Street adjacent to the subject site, at the junction with Sean Heuston Bridge and its crossing is at capacity during peak hours. It was the preference of the Transportation Division of the planning authority for a setback along sections of Parkgate Street in particular, adjacent to the existing bus shelter, to reduce the conflict between access to public transport, the proposed development and general pedestrian movement. The proposal does not include for this setback, for reasons of maintaining the curved wall along Parkgate Street. I note that pedestrian surveys were undertaken on the bridge, between 9.00-10.00 AM and 18.00-19.00 PM. I would question whether these times were most appropriate as I would have expected pedestrian movements to be greater in the hour preceding that surveyed, both AM and PM. This matter has been raised by both the PA and TII. I also note that the full date of the survey was not submitted (year omitted). The planning authority have raised a number of issues in relation to the travel plan, the assessment approach and concerns that the capacity of the pedestrian network has not been adequately assessed. They do acknowledge however that the increase in overall pedestrian numbers generated from the development is unlikely to be significant having regard to baseline flow data and I would concur.

9.7.3 The subject site is located within Area 1 of Map J of the operative City Development Plan, with Table 16.1 detailing the maximum car parking standards permissible for a variety of uses. A maximum car parking provision of 1 no. space per residential unit and 1 per 400m<sup>2</sup> office development is permissible. A total of 26 car parking spaces are proposed (11 at basement; 15 at surface level)), together with 551 bicycle parking spaces. A letter from GoGar confirming that they intend to provide shared car club facilities in the proposed development has been submitted with the application. It continues by stating that the vehicles situated at this development will be exclusively used by the residents of the development. The planning authority

have raised some concerns with regards the number of car share spaces proposed. I note discrepancies in the documentation with regards the allocation of the 26 spaces between commercial and residential use. This matter could be adequately dealt with by means of condition. Having regard to the location of the site and its proximity to quality public transport, together with section 28 ministerial guidelines which allow for reduced standards of parking at certain appropriate locations, I consider that the quantum of spaces being provided is acceptable at this location. I concur with the planning authority that given the extremely accessible location of the site, no provision should be made for commuter parking for the office use and the full extent of car parking proposed be used for car share for residents.

9.7.4 The number of cycle spaces proposed falls one short of Development Plan requirements. I consider this to be acceptable. I note a number of concerns have been expressed by the planning authority, in their Chief Executive Report, in relation to the ability of the development to facilitate a minimum bicycle provision based on submitted layout and the proposed cycle parking access arrangements. I note section 28 guidelines allow for some flexibility in relation to matters of cycle provision. The concerns raised in relation to cycle parking could be adequately dealt with by means of condition. I also note the location of a Dublin Bike station in close proximity- this station is being relocated to an alternative location, as agreed with the planning authority.

9.7.5 Notwithstanding their concerns, the Transportation Division of the Planning Authority recommends a grant of permission, subject to conditions. I note the report of the NTA which supports development such as that proposed, on this site. There are shortcomings in the information provided, in relation to the matters raised above. However, notwithstanding these shortcomings, I am of the opinion that the subject site is strategically located within the city centre, where there a number of high quality intercity and commuter links, as well as employment opportunities within walking distance. Given the location of the site within an urban area on zoned lands, I do not have undue concerns in relation to traffic or transportation issues. I am of the opinion that the matters raised could be adequately dealt with by means of condition. I acknowledge that there will be some increased vehicular traffic, primarily during construction phase of development, however there is a good road infrastructure in the vicinity of the site and good management procedures are

proposed. While the greatest increase will be in terms of pedestrian traffic at operational stage, this is an edge of city centre location and such traffic is to be anticipated. In general, there are excellent pedestrian and cycle facilities in the wider area. The capacity issue of the Sean Heuston bridge is acknowledged, however given the pedestrian numbers involved, I consider that an increase in numbers would not be so great as to warrant a refusal of permission. Having regard to all of the above, I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

## **9.8 Drainage and Flood Risk**

### Drainage

9.8.1 I refer the Bord to section 14 of the submitted EIAR, 'Water and Hydrology' and my assessment within that section below. In term of site services, new water supply and wastewater connections are proposed. Surface water disposal is to watercourse. An Irish Water CoF was submitted with the application, as required. It states that the proposed connections can be facilitated, subject to conditions. In addition, a Design Submission was included with the application, in which Irish Water state that they have no objections to the proposal. A submission received from Irish Water by ABP in response to this current application states that based upon the details provided by the developer and the contents of same have been summarised above. Irish water have not expressed objections to the proposal, subject to conditions. This is considered acceptable.

9.8.2 A Planning Drainage and Watermain Report and a Site Specific Flood Risk Assessment were submitted with the application. The information contained within these documents appears reasonable and robust. The report of the Drainage Division of the planning authority, as contained in the Chief Executive Report, states that there is no objection to the proposal, subject to proposed conditions. I am satisfied in this regard.

### Flooding

9.8.3 The contents of the submitted Site Specific Flood Risk Assessment appear reasonable and robust. It is noted that there are two recorded flooding events within the vicinity of the site, but none recorded within the site itself. The Assessment

notes that the subject site is not at risk of flooding from either the 0.5% AEP tidal event or the 1% AEP event. A very small area of the site is marginally within the 0.1% AEP tidal and fluvial extents. While this level of flood risk could be interpreted as a Flood Zone C classification, a conservative approach has been adopted and the entire site has been classified as being within Flood Zone B. Residential units are categorised as highly vulnerable development. A Justification Test is therefore required. A Strategic Flood Risk Assessment was undertaken for the Dublin City Development Plan 2016 and it is noted that the proposed development lies within Site 5 of the Justification Test tables in the SFRA. Both the Plan Making and Development Management Justification elements of the Justification test have been assessed and both are deemed to be passed as part of this FRA. Mitigation measures have been detailed, which include a minimum site flood defence level of the proposed development including an allowance for climate change and freeboard is 4.12mOD. In addition, flood risk to the buildings on site will be managed by raising ground levels.

9.8.4 I note that this is a serviced, appropriately zoned site at an urban location. The planning authority has raised no concerns in relation to this matter. Based on all of the information before me, including the guidance contained within the relevant Section 28 guidelines, I am satisfied in this regard, subject to standard drainage conditions.

## **9.9 Other Matters**

### Childcare

9.9.1 A Childcare Needs Assessment has been submitted with the application, which concludes that a childcare facility is not required on the grounds that there are estimated 63 no. existing childcare facilities with more than 74 no. spaces currently available within 1.5km of the subject site. It is estimated that at least 102 no. spaces within these existing facilities will become available in September 2020. In addition, it is stated that there is an additional 80 no. childcare spaces permitted within c. 1.5km of the subject site, under extant planning permissions, and a further 100 no. spaces currently under consideration by the planning authority. Additional childcare facilities are also available within the wider Dublin 7/8 area, noting that many parents opt to

avail of childcare on route or close to their place of work. The applicant also refers to recent population and demographic trends in support of their argument. Omitting the studio and one-bed units from the calculations, the proposal would lead to a childcare requirement of just over 31 childcare spaces. Given the above, I am satisfied that the non-provision of childcare facilities is acceptable in this instance. The planning authority have raised no objection in this regard.

#### Boundary/Legal Matters

9.9.2 I note that some of the submissions received relate to boundary concerns. I can only undertake my assessment based on the information before me and I am satisfied that the applicant has demonstrated sufficient legal interest to make this application. Such issues are considered to be legal matters outside the remit of this planning application. As in all such cases, the caveat provided for in Section 34(13) of the Planning and Development Act 2000, as amended, applies which stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development. I also note the provisions of Section 5.13 of the Guidelines for Planning Authorities, Development Management, 2007 in this regard.

#### Consultation

9.9.3 I note the submissions received in relation of a lack of pre-application consultation with local residents. While I acknowledge that this may have been beneficial to both sides, there is no requirement in the legislation for such consultation to take place.

#### Community and Social Infrastructure Audit

9.9.4 It is noted that a Community and Social Infrastructure Audit was submitted, as per Development Plan requirements. The information contained therein is considered acceptable.

#### Impacts of proposed basement on adjoining building

9.9.5 I note concerns expressed regarding impacts on underground basement of the adjoining building, occupied by TII. A Basement Impact Assessment, prepared by ARUP, was submitted with the application. It states that the undercroft footprint is set back from the site boundary and away from existing neighbouring buildings and at its closest point, the basement structure distance would be approximately 12.5m from the west of the site boundary where the existing TII building is located. The

basement of the TII building was reviewed as part of the impact assessment. The building is supported on piled foundation with a series of pile caps and ground beams over a basement slab of circa 5.400mOD. It was concluded that given the ground conditions the proposal would not affect the structural stability of any neighbouring properties. I am satisfied with same and consider that the matter could be adequately dealt with by means of condition.

#### Part V

- 9.9.6 I note the Part V details submitted, together with the report of the Housing Section of the planning authority submitted with the application in this regard. In total, 48 Part V units are proposed, all located within Block B1. The planning authority have not expressed concerns in this regard and I have no issue with same.

#### Plant/Machinery at Roof Level

- 9.9.7 If the Bord is disposed towards a grant of permission, I recommend that a condition should be attached to any such grant stipulating that plant/machinery at roof level be the subject of a separate application. It is noted that telecommunications antenna are proposed on the roof of Block B. No screening is proposed of these proposed antenna and I consider they should be omitted from the proposal. This matter could be adequately dealt with by means of condition.

#### Procedural/Typographical

- 9.9.8 It is noted that Volume 3: Appendices (Book 1), incorrectly lists Appendices 10.1 and 10.2 as relating to AA Screening and NIS. These documents are not included within this volume. However, they are included as stand-alone documents, as part of the application submission and this is considered acceptable.
- 9.9.9 I note some typographical errors throughout the documentation and this has been raised in some of the third party submissions received. For example incorrect images are referenced on the key plan of the submitted Architectural Design Statement (page 81). I can comprehensively assess the proposal before me, irrespective of these relatively minor errors.

#### Sustainability/Adaptability

- 9.9.10 I note a Building Lifecycle Report, a Non-Domestic NZEB Compliance Report and the issue of adaptability has been dealt with in both the Planning Report & Statement

of Consistency and the Architectural Design Statement. I am generally satisfied in this regard.

## **10 Environmental Impact Assessment**

### **10.1 Statutory Provisions**

10.1.1 This application was submitted to the Board after 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

10.1.2 The application was accompanied by an Environmental Impact Assessment Report (EIAR), which is non-mandatory for the development in accordance with the provisions of Part X of the Planning and Development Act 2000 (as amended) and Schedule 5 of the Planning and Development Regulations 2001-2015.

10.1.3 Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 and section 172(1)(a) of the Planning and Development Act 2000 (as amended) provides that an EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings
- an area of 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.

The development proposes 481 residential units and has a stated area of 0.82 hectares. It therefore is below the above thresholds and does not require mandatory EIA. However, it is stated in the submitted documentation that while the revised development proposal falls below the mandatory thresholds for 'infrastructure projects', the number of units is very close to the threshold of 500 dwelling units, the proposed scheme includes buildings of significant scale, and the site is located within an historically sensitive area within the city and immediately beside the River Liffey. This is considered reasonable.



10.1.4 The EIAR contains three volumes, which includes for a Non-Technical Summary. Chapters 1-5 inclusive set out an introduction to the development, background to proposed development, methodology used, description of the proposed development and construction strategy. The strategic need for the development is outlined in the context of the zoning of the site and national and local planning policy.

10.1.5 The likely significant direct and indirect effects of the proposed development are considered in the remaining chapters which collectively address the following headings, as set out in Article 3 of the EIA Directive 2014/52/EU:

- Traffic and Transportation
- Air Quality
- Climate
- Noise and Vibration
- Biodiversity
- Archaeology and Cultural Heritage
- Architectural Heritage
- Landscape and Visual
- Water and Hydrology
- Land and Soils
- Hydrogeology
- Resource and Waste Management
- Population and Human Health
- Material Assets
- Major Accidents and Disasters
- Cumulative and Interactive Effects

10.1.6 I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct and indirect effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations 2000, as amended.

10.1.7 I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application.

A summary of the submissions made by the planning authority, prescribed bodies and observers has been set out above.

10.1.8 This EIA has had regard to the application documentation, including the EIAR, the observations received and the planning assessment completed above.

## **10.2 Alternatives**

10.2.1 Article 5(1)(d) of the 2014 EIA Directive requires the following:

*“a description of the reasonable alternatives studied by the developer, which are relevant to the development and its specific characteristics, and an indication of the main reasons for selecting the chosen option, taking into account the effects of the development on the environment.”*

10.2.2 Section 2 of the submitted EIAR deals with alternatives and sets out alternative layouts and designs considered, on the basis of its brownfield, inner city location adjacent to a public transportation hub. It is considered that the issue of alternatives has been adequately addressed in the application documentation.

## **10.3 Assessment of Likely Significant Direct and Indirect Effects**

### Traffic and Transportation

Section 6 of the submitted EIAR deals with traffic and transportation. The issue of traffic and transport has also been dealt with in my assessment above and I refer the Bord to same.

All construction vehicles will access/egress the site from a construction access point on Parkgate Street. During the construction stage of the proposed development, no car parking will be provided on site. During the operational phase of the proposed development, vehicles will access the site from a single access point on Parkgate Street, which will lead to car parking spaces at ground level and a double car lift which provides accesses to car parking in the basement. The proposed development will have 26 parking spaces, 3 of which will be disabled spaces. Car sharing spaces are proposed. Services and deliveries will use the loading bay provided for the development on Parkgate Street. Emergency access will be provided through the entrances into each of the courtyards.

Traffic generated by operation of the proposed development will result in approximately 13 movements through the site entrance during the peak hours having no significant impact when compared to the volume of traffic on the surrounding road network. Overall, during both the construction and operational stages, the increase in traffic as a result of the proposed development is likely to have no significant impact on the surrounding road network. I note the concerns raised by the Transportation Division of the planning authority regarding the servicing of the proposed development and the potential long-term implications. I also acknowledge the shortcomings in the information received, which has been detailed above. On balance, this matter could be adequately be dealt with by means of condition. I note the report of the NTA which supports the proposal and that of TII which outlines some concerns in relation to pedestrian traffic on Sean Heuston Bridge, which could also be dealt with by means of condition.

I have considered all of the written submissions made in relation to traffic and transportation. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transportation.

### Air Quality

Section 7 of the submitted EIAR deals with air quality. I note the concerns raised in relation to air quality, dust and asbestos within some of the third party submissions received. The site is located within Zone A (Dublin Conurbation), as defined by the EPA. Baseline data for the existing air quality environment, together with data available from similar environments indicates that levels of nitrogen dioxide, particulate matter less than 10 microns and less than 2.5 microns are generally well below the national and European Union ambient air quality standards. The greatest potential impact on air quality during the construction phase is from construction dust emissions. In order to minimise dust emissions during construction, a series of mitigation measures have been prepared. When the dust minimisation measures are implemented, fugitive emissions of dust from the site are considered to be very small and local to the construction site.

During the construction phase of the proposed development, it is possible that asbestos fibres could be released into the ambient environment. An asbestos audit will be carried out on the buildings scheduled for demolition prior to demolition works. Any asbestos discovered will be removed and disposed of, in accordance with current legislation.

Cumulative and indirect effects have been examined. No likely significant effects are predicted during the operational phase of the proposed development and therefore no mitigation or monitoring measures are required.

I have considered all of the written submissions made in relation to air quality. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality.

### Climate

Section 8 of the submitted EIAR deals with climate. Baseline conditions for carbon emissions, wind, daylight and sunlight were examined. Current projections by the EPA indicate that Ireland will exceed its greenhouse gas emissions reduction targets in 2020 and 2030. In terms of microclimate assessment, wind data from the nearest available meteorological station at Dublin Airport was used. Wind data and subsequent analysis is based on hourly average and does not include intermittent gusting effects.

During construction and operational stages, effects from carbon emissions are not considered significant. During construction and operational stages, no effects from wind or sunlight/daylight are predicted. In terms of daylight/sunlight, the proposed development will not have a negative effect on existing amenity spaces adjacent and no significant effects are predicted on neighbours' daylight availability. No significant shadowing effects are predicted. Mitigation measures during operational phase are outlined in relation to wind, namely localised planting and canopy at 9<sup>th</sup> floor roof terrace. No other mitigation measures are proposed.

I have considered all of the written submissions made in relation to climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of climate.

### Noise and Vibration

Section 9 of the submitted EIAR deals with noise and vibration. Prevailing noise levels in the locality are primarily due to local road traffic and passing pedestrian traffic. There is potential for elevated levels of noise at some adjacent properties during construction works, however these occurrences will be short-term. Mitigation measures have been outlined. Vibration effects during construction will be controlled and will be subject to monitoring. It is concluded that during operational phase, additional traffic from the proposed development will have an imperceptible impact on the surrounding noise environment and that operational plant items will be designed in accordance with standard guidance to ensure any noise and vibration impacts will not be significant.

I have considered all of the written submissions made in relation to noise and vibration. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise or vibration.

### Biodiversity

Section 10 of the EIAR refers to biodiversity. Surveys were undertaken in February and March 2019 and January 2020. The site is urban in nature with two small green areas, namely recolonized bare ground within the site and a small area outside the site beside Sean Heuston Bridge.

The buildings on site present roosting potential for bats, however none were recorded in two separate surveys during February 2019 and January 2020. No mitigation measures are proposed for bats for demolition of buildings. It is stated

that the immediate vicinity of the proposed development is of low value for bats. However, the report of the Department of Culture, Heritage and the Gaeltacht notes that bat surveys were taken outside of the optimal time for roost and ground level bat activity (surveys undertaken in February 2019 and January 2020). Damage to roosts can only be undertaken under a derogation licence. Impacts of lighting on bat species and mitigation measures should also be assessed. The EIAR states that during the operational phase, there will be no significant change in night time light levels over the river that would deter potentially commuting bats or otters. No roosts were found during the two surveys undertaken. A bat detector survey was undertaken and no recorded calls or passing bats were recorded on the night of 26<sup>th</sup> February 2019. Given the lack of evidence for roosting bats it was decided that there was no merit in repeating the detector survey later in the season. I am satisfied with this explanation. A buildings survey was undertaken in January 2020, with each of four buildings examined for presence of bats or their roosts. No evidence of bats was found in any of the buildings surveyed. The boundary stone walls were also examined for evidence of roosts; no signs of bats was found. I am satisfied in this regard.

In terms of otters, while it is acknowledged that there is some movement along the River Liffey, there are no records in the immediate vicinity of the proposed development site. A visual survey for commuting otters was undertaken at low tide. The River Liffey adjoins the site. Otters are relatively tolerant of urban activity and it is not predicted that construction activity will affect their passage along the river.

The only record of birds from within the site were feral pigeons. Cormorants were observed drying their wings on the parapet wall adjacent to the river during fieldwork. Birds recorded within and adjacent to the site is presented in Table 10.2 of the EIAR. Minor loss of perching area for cormorants and gulls as a result of the proposed development is anticipated. The disturbance is not considered significant given the availability of resting places along the river downstream and particularly around the structures of Dublin Port. I note the report of the Department of Culture, Heritage and the Gaeltacht, which states that it is very likely that Herring and/or Lesser Black Backed Gulls nest on the roof of the warehouse, which it is proposed to demolish. Therefore demolition works should be timed to take place outside of the bird nesting

season (1<sup>st</sup> March to 31<sup>st</sup> August). This matter could be adequately dealt with by means of condition.

The report of the Department of Culture, Heritage and the Gaeltacht also raises some concerns in relation to works to old stone walls, namely works may have a negative impact on biodiversity. They recommend that a condition be attached to any grant of permission stipulating that prior to any construction commencing on the stone wall boundary, a moss, lichen and vascular plant survey be undertaken and mitigation measures agreed, if necessary, with the planning authority. In the case of any legally protected species, a licence will be required from the Department of Culture, Heritage and the Gaeltacht. I note that while the existing quay wall may be a habitat for these species and in a worse-case scenario, the removal of sections of the wall would result in the loss of such habitat. However, given the extent of the overall quay wall, relative to the area being removed, I am satisfied that, although regrettable, the benefits of the removal of the section of wall proposed would outweigh any potential loss of some of this species. The onus will be on the applicant to ensure compliance with all relevant legislation. If the Bord were so minded, they could attach a condition to any grant of permission, stipulating that all moss, lichen and vascular plants on the existing quay wall be retained, save for that element of the quay wall being removed.

The River Liffey holds populations of Brown Trout and Atlantic Salmon. It is acknowledged that salmonids are highly sensitive to pollutants of freshwater. While not designated as a 'Salmonid River', Atlantic Salmon is listed under Annex II of the Habitats Directive and protected in freshwater. An assessment of hydrological and hydrogeological risks has identified a number of hazards during the construction stage which could negatively impact salmonid populations. However, best practice construction processes and pollution control procedures will be implemented throughout the construction phase of the proposed development to ensure maintenance of water quality. No likely significant effect on aquatic ecology is therefore predicted. The report of Inland Fisheries Ireland is noted in this regard.

New planting will be incorporated into the landscape design, including pollinator species and it is anticipated that this will have a positive effect on biodiversity. It is

not predicted that there would be an effect on birds in terms of proposed development height. The proposed drainage includes for SuDS features which will provide treatment to and improve the quality of surface water leaving the site. I note the report of the Parks and Landscaping Division of the planning authority, which is generally satisfied with the proposal, subject to conditions.

I have considered all of the written submissions made in relation to biodiversity. There are no habitats of conservation significance within the site. The main natural habitat of conservation concern is the River Liffey and I am satisfied with the proposal in this regard. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on biodiversity are likely to arise.

#### Archaeology and Cultural Heritage

Section 11 of the submitted EIAR deals with archaeology and cultural heritage. An Archaeological Assessment-Monitoring of Ground Investigation Works has been submitted with the EIAR (Appendix 11.2). The site is located within the designated zone of archaeological potential for the historic city of Dublin (DU018-020). There are no recorded archaeological sites within the proposed development site or in the immediate area. An examination of documentary evidence shows that there were several phases of development on the subject site from the late 18<sup>th</sup> century onwards.

It is recognised that the site history is significant in terms of cultural heritage with the historic industrial fabric being a tangible and integral part of its history. Heretofore, the site has not been publicly accessible. However the proposed development offers an opportunity for this to be remedied by way of publicly accessible spaces.

Archaeological monitoring of ground investigation works indicated that remains associated with the iron-working activities on the site survive below ground, in addition to the presence of some riverine and pre-reclamation river meadow deposits. There would be moderate/significant negative direct effects on these features. It is planned to undertake archaeological test excavations, as per the



requirements of the Dublin City Archaeologist after the site has been vacated and these tests will require a licence to the National Monuments Service.

All archaeological and cultural heritage issues will be resolved during pre-construction and construction phases. Should any archaeological remains be uncovered, they will be fully resolved prior to construction stage, either through preservation in situ or preservation by record.

It is noted that the planning authority are generally satisfied in relation to this matter, subject to conditions. The Department of Culture, Heritage and the Gaeltacht are also satisfied in this regard. I have considered all of the written submissions made in relation to archaeology and cultural heritage. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on archaeology and cultural heritage.

#### Architectural Heritage

Section 12 of the submitted EIAR deals with architectural heritage. It is noted that where structures are proposed to be retained there is the potential for positive effects on architectural heritage. Where structures are proposed to be removed, this will result in negative effects on architectural heritage, though beneficial effects in areas other than architectural heritage may occur.

The alterations include partial demolition of the quay wall so as to create new openings, including one larger opening, the purpose of which is to provide open views south onto the River and towards Heuston Station from a new public plaza within the proposed scheme. It is also proposed to enlarge some existing openings in the wall and to repair others. It is acknowledged that the loss of substantial areas of original fabric from the wall will result in significant negative effects on its architectural heritage. However, the repair works to the riverside wall are likely to give rise to positive effects on its heritage. In relation to the turret and Square tower, both of which appear visually to be in good condition, any appropriate repair works are likely to give rise to positive effects on their heritage and on the surrounding architectural heritage. In terms of the entrance arch, constructed mainly of limestone with some granite details, it shows significant evidence of stone damage, particularly to the granite detail. There is a clear need for cleaning and some repair. Any

appropriate repair works to it are likely to give rise to positive effects on its heritage and on the surrounding architectural heritage.

In terms of historic buildings on site, not designated under the Record of Protected Structures, I firstly note the large warehouse building, which was built between 1882 and 1886. The documentation states that its roof structure consists of cast iron columns carrying cast iron beams, of standard components available at the time. An inner brick wall runs parallel to but is separate to the riverside stone wall, and this supports the southern end of the warehouse. While the warehouse is grand in scale, it is described as an ad hoc building made of components that were available from demolished buildings of the Phoenix Ironworks. It is acknowledged that the loss of this building will be a heritage loss but without its loss there will be no real prospect of development on the site. Its loss is regarded as having a moderate effect on architectural heritage. The proposed reuse of some of the cast iron elements from the warehouse as features in the open spaces of the proposed development, has the potential to give rise to positive effects on architectural heritage.

In addition, I note the ruinous late Georgian house, referred to as Parkgate House, constructed circa 1808. The house is now entirely isolated from its original setting, including structures that once continued north from the house to Parkgate Street. The house is in poor structural condition and is unsafe with areas of structural collapse internally, with extensive water damage. It is not listed in the Record of Protected Structures, but is listed in the National Inventory of Architectural Heritage (Record No. 50060347). It is noted that the Record of Protected Structures specifically excludes this house and many of the other structures on the site. Its loss will be a heritage loss, however given what little is left of it and that most of its original heritage interest has already been lost, the extent of effects on architectural heritage of the surrounding area arising from its loss are regarded as slight.

In terms of the gabled industrial buildings on the river front, which date from 1880s reconstruction, it is noted that it is proposed to retain the larger of the two gabled buildings and the river façade of the smaller gabled building. The retention of these unlisted buildings will retain some of the historic riverfront character of the site and will result in positive effects on the architectural heritage of both the site and its surroundings. The loss of the upper level, roof and north and east walls of the smaller gabled building, whilst retaining the river façade, will be a heritage loss, slight

in the overall context. The riverside gable of the smaller of these two buildings will be a feature at the side of a proposed public river walk, and the river walk will pass through the larger of the two buildings, retaining uses directly connected with the river.

The loss of the small two-storey building attached to the inside of the arched entrance gateway represents a heritage loss. However, the extent of effects on architectural heritage of the surrounding area arising from the loss of the building is considered to be 'slight' while the loss of the long curved wall of the warehouse facing onto Parkgate Street (constructed between 1882 and 1886) will also be a heritage loss, likely to give rise to 'moderate' negative effects on the architectural heritage of the surrounding area. However, without its loss there would be no real prospect of the redevelopment of the site. Also, the removal of the wall will permit access from the street into the new public plaza facing the river.

It is acknowledged that the loss of the historic built fabric from the application site has the potential to result in effects on the architectural heritage of the area. However, appropriate repair works to buildings proposed for retention will give rise to positive effects on surrounding architectural heritage. Retained and repaired historic structures will be maintained in sustainable use. Cumulative impacts have been examined. No other mitigation measures are proposed, aside from repair and refurbishment works detailed. The structures will be maintained into the future in sustainable use.

I have considered all of the written submissions made in relation to architectural heritage. I refer the Bord to my assessment of Architectural Heritage above, together with my assessment of Architectural Design of Block A, which raises concerns in relation to impacts of the proposed Block A on Heuston Station, a Protected Structure. My concern in this regard relates to an aesthetic impact of Block A on the character and setting of Heuston station, not the height of the structure per se or its proximity. My concern is not from an environmental perspective but from a planning perspective. I consider that Block A falls short from a planning perspective, doesn't meet design standards espoused in the operative City Development Plan and that the site has the potential to deliver a building of much higher architectural standard. Therefore, while not acceptable from a planning perspective, it would, in my mind, be acceptable in terms of EIA. It could be argued, that as proposed, Block A would, at

best, have a permanent neutral or some may argue negative impact on Heuston station. I am satisfied that architectural heritage has been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on architectural heritage would arise.

### Landscape and Visual

Section 13 of the submitted EIAR deals with landscape and visual. Verified photomontages were submitted in this regard. Surveys were undertaken in the summer and autumn of 2018, with the area revisited on unspecified dates in 2019. Following consultations with the planning authority, 19 view locations were selected in terms of potential visual effects. The study area examined the River Liffey corridor from Dublin Port to west of Islandbridge, the Phoenix Park and the lands of the Royal hospital Kilmainham, together with areas of Dublin city north, east and south of the subject site up to a distance of 1km from the site.

The height of the proposed development, at a maximum of approximately 92.5 metres, will be such that it will be likely to be openly visible from a wide area of the surrounding city, including from some medium and long-distance vantage points. It has the potential to result in a major change to the character to Parkgate Street. I do not consider this to be a negative. The proposal will give rise to a more urban, city centre character to the area when compared with the character of the site presently. The Landscape and Visual Impact Assessment outlines that there will no significant adverse visual impact on key views, and that the proposed development is anticipated to make a generally positive contribution to place making and city legibility.

During construction, the proposed development will give rise to usual visual impacts, in the form of excavation and ground works, structural and general construction works. The construction phase will include construction traffic, erection and operation of tower cranes, movement of machinery and personnel, and the gradual emergence of the various elements of the development. It is anticipated that landscape and visual effects during construction phase will be wholly negative at first, changing to neutral to positive as work proceeds.

Once completed, and in operation, the proposal will result in very substantial changes in the visual character of the immediate area. Potential visual effects are described as being moderate where the development is consistent with existing and emerging trends as expressed through planning policy.

I refer the Bord to my concerns expressed above, with regards to the 29 storey tower element of the scheme (Block A). While I am satisfied with the remainder of the development, in this regard, I have serious concerns with regards the impacts that Block A, if permitted, would have given its pivotal, prominent location. I would concur with the opinion of the City Architect when it is stated that these concerns would require a wholesale redesign as opposed to minor changes by condition. These concerns do not relate to the height, with which I am satisfied, but instead with regards the architectural design and finish of the proposed tower element. My concern in this regard relates to its aesthetics. My concern is not from an environmental perspective but from a planning perspective. I consider that Block A falls short from a planning perspective, doesn't meet the design standards espoused in the operative City Development Plan and that the site has the potential to deliver a building of much higher architectural standard. Therefore, while not acceptable from a planning perspective, it would, in my mind, be acceptable in terms of EIA. It could be argued, that as proposed, Block A could be considered to have a permanent neutral or some may argue adverse impact on landscape and visual at this location. While the structure as proposed may have neutral or negative impacts on views within the city, by virtue of its design expression, I am generally satisfied that a structure of appropriate design quality would not negatively impinge on such views, given their fleeting nature within an evolving city.

I have considered all of the written submissions made in relation to landscape and visual, including the third party submissions and the Opinion of the planning authority, as expressed in its Chief Executive Opinion. I am generally satisfied that Landscape and Visual have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on landscape and visual are likely to arise.

## Water and Hydrology

Section 14 of the submitted EIAR deals with water and hydrology. The site is located within the Eastern River Basin District Area. The River Liffey flows immediately south of the site. There is no evidence of historic flooding of the site. A SSFRA was submitted with the application, which identifies that the risk of fluvial and tidal flooding for the River Liffey is limited to the southern site boundary. The risk of pluvial flooding and groundwater flooding to the site is low. It is stated that the proposed development will not increase flood risk off site.

The site is currently serviced by a connection to the public watermains on Parkgate Street. Proposed drainage includes for the construction of a new stormwater drainage network and includes for SuDS features. A new wastewater drainage network and water supply network are also proposed. The proposed development will result in additional effluent volume discharging to the public sewer and upgrade works are proposed to address this. Foul effluent from the proposed development will discharge to Ringsend WWTP and while currently operating at constrained capacity, there are plans in place to alleviate this.

A CEMP has been prepared and good construction practices are proposed. No mitigation measures are required during operational phase. Visual monitoring will be undertaken regularly. No significant residual effects are anticipated. No objections have been raised in relation to this matter by the Drainage Division of the planning authority. Irish Water are satisfied with the proposal, subject to conditions.

I have considered all of the written submissions made in relation to water and hydrology. I refer the Bord to my assessment of drainage and flooding above. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of water and hydrology.

## Land and Soils

Section 15 of the EIAR deals with land and soils. The site is located within a built-up, urban environment. Ground investigations were undertaken in 2002, which includes for environmental soil testing. The profile onsite comprises made ground overlying a layer of clay with occasional shell fragments, which overlies sand and gravel. Limestone bedrock is present underneath the natural soils. The site is located on the original floodplain of the River Liffey. The topography of the site falls to the south. The importance of the bedrock is rated as weak to very strong, bedrock was encountered approximately 6.7 to 17m below ground level.

During site investigations, soil samples were recovered and tested against a suite of parameters which included contaminants. These are set out in Table 15.3 of the submitted EIAR. Some soil samples were noted to contain low levels of asbestos (<0.1%).

Likely potential effects, including cumulative effects during construction phase have been outlined while the operational phase will have an overall neutral long-term impact.

Mitigation measures, which includes for a CEMP contained in Appendix 4.1, have been proposed for construction stage, which address potential impacts of soil removal and storage; fuel and chemical handling; transport and storage. Temporary storage of soil will be carefully managed to prevent any potential negative impact on the receiving environment. All excavated material will be reused, if possible, as construction fill. As it has already been determined that soil material underlying the site is contaminated, this will be segregated, classified and appropriately disposed of by a suitably permitted/licensed waste disposal contractor.

No mitigation is required for operational phase of works, which will have a neutral long-term impact. The effect of the proposed development on land and soils is considered to be of negligible magnitude and imperceptible significance during construction and operation. No residual effects of significance on land and soils have been identified.

No objections have been raised in relation to this matter by the planning authority. I have considered all of the written submissions made in relation to land and soils. In

particular, I note the submission from TII in relation to impacts on the adjoining building. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land and soils.

### Hydrogeology

Section 16 of the EIAR deals with hydrogeology. The geological environment at and in the vicinity of the study area can be described as a historically stable geological environment and underlain by a poor aquifer. The hydrogeological features of importance include the locally important bedrock aquifer beneath the site; the sand and gravel deposits beneath the site; and the River Liffey. The bedrock aquifer and River Liffey were both designated a 'Medium' importance ranking, with the sand and gravel layer beneath the site designated a 'Low' importance ranking. Works required during construction which may have an impact on the baseline environment have been identified. The operational phase of the proposed development would have an overall neutral long-term impact. Some positive effects have been identified. Mitigation measures have been proposed, together with monitoring during construction. Effects of the proposal is considered to be negligible magnitude and imperceptible significance during construction and operation. No residual effects have been identified.

I have considered all of the written submissions made in relation to hydrogeology. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of hydrogeology.

### Resource and Waste Management

Section 17 of the EIAR deals with resource and waste management. During the demolition and construction phases, typical construction and demolition waste materials will be generated which will be source segregated on-site into appropriate skips/containers and removed from site by suitably permitted waste contractors to



authorised waste facilities. Where possible, materials will be re-used on site. Excavated material which is to be taken offsite will be taken for offsite reuse, recovery, recycling and/or disposal. A Construction and Demolition Waste Management Plan is included within Appendix 17.1 of the submitted EIAR.

During the operation phase, waste will be generated from the residents as well as the commercial tenants. Dedicated communal waste storage areas have been allocated throughout the development. An Operational Waste Management Plan has been prepared which provides a strategy for segregation (at source), storage and collection of wastes generated within the development during the operational phase.

Provided the mitigation measures are implemented and a high rate of reuse, recycling and recovery is achieved, the predicted effect of the operational phase on the environment will be long-term, neutral and imperceptible.

I have considered all of the written submissions made in relation to resource and waste management. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of resource and waste management.

#### Population and Human Health

Section 18 of the EIAR is entitled population and human health. The site is located within the Local Electoral Area of Phoenix Park, with this ED have a population of 1,534 in 2016, with 79% of the population describing their health as 'good' or 'very good'. Potential effects on population during construction relate to issues of employment generation and community disturbance. The construction phase will provide temporary employment for 600-700 construction workers. Best practise construction management measures will be employed to limit the level of disturbance incurred. Dust or asbestos containing materials released to atmosphere during the construction phase could pose a risk to human health and this has been raised as a concern by some of the third parties. However, appropriate mitigation measures will

be employed during construction to ensure that emission levels are contained within all legal limits.

It is concluded that the proposed development will provide for the creation of this high-quality quarter will provide a catalyst for the further regeneration of the area increasing footfall and a sense of local community and will have a permanent, positive effect on population. Mitigation measures have been outlined that will ensure no negative impacts/effects on human health or population. The Planning Authority state that they are satisfied in this regard.

I have considered all of the written submissions made in relation to population and human health. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on population and human health are likely to arise.

#### Material Assets

Section 19 of the EIAR deals with Material Assets. Potential impacts associated with the proposed development, if any, are assessed with regards to a number of built services including land use and properties; land ownership; wastewater services; water supply; gas supply; electricity and telecommunication. Existing services are described, together with predicted impacts and mitigation measures.

The planning authority state that they are satisfied in this regard. I have considered all of the written submissions made in relation to material assets. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets.

#### Major Accidents and Disasters

Section 20 of the EIAR deals with Major Accidents and Disasters. This section describes the proposed development in respect of its potential vulnerability to major

accidents/disasters and its potential to give rise to same. A risk analysis-based methodology that covers the identification, likelihood and consequence of major accidents and/or disasters has been used for this assessment.

The scenario with the highest risk score in terms of a major accident and/or disaster during the construction phase of the proposed development was identified as being 'quay wall/upper quay wall collapse'. This risk was identified as being 'very unlikely' to occur, with 'limited' consequences should it do so, indicating a 'low risk scenario'. Standard best practice construction measures will be implemented during construction, and lateral steel restraints will be provided to the existing stonework along the river, throughout construction, to avoid risk of collapse.

The scenario with the highest risk score in terms of a major accident and/or disaster during the operational phase of the proposed development was identified as being an incident at nearby Heuston Station. This risk was identified as being 'very unlikely' to occur, but with 'very serious' consequences should it do so, indicating a 'medium risk' scenario. In 2018, Ireland was ranked as the 65<sup>th</sup> country most impacted by terrorism of the 163 countries by the 'Global Terrorism Index'.

By their nature, major accidents and/or disasters have the potential to give rise to indirect effects such as effects on the economy, tourism, transport, human health etc.

I note the report of the Irish Aviation Authority which recommends a condition be attached to any grant of permission in relation to the provision of an aeronautical obstacle warning light scheme. This is considered reasonable. I have considered all of the written submissions made in relation to major accidents and disasters. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of major accidents and disasters.

### Cumulative and Interactive Effects

Section 21 of the submitted EIAR provides a summary of principal cumulative and interactive effects, which have been discussed in the preceding chapters.

I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. In conclusion, I am generally satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions.

### Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population due to increase in housing stock
- Biodiversity impacts mitigated by proposed landscaping strategy which will use mix of appropriate species that will attract pollinators; no direct lighting onto river; good construction management practices.
- Hydrogeology impacts to be mitigated by construction management measures including minimal removal of topsoil and subsoil, reuse of excess material within the site; assessment for possible contamination; management and maintenance of plant and machinery.
- Land and Soil impacts to be mitigated by construction management measures including preparation of CEMP; provision of silt traps; adequately securing potential pollutants; dust suppression measures
- Water impacts to be mitigated by management of surface water run-off during construction; mixing and batching activities away from watercourses; good construction management; controlled run-off

- Neutral or negative impacts on Landscape and Visual from proposed Block A due to its elevational design and materiality which will not be avoided, mitigated or otherwise addressed by means of condition; impacts from the remainder of the development will be positive and permanent due to provision of a quality streetscape; provision of quality, public open space and high quality landscaping proposals
- Moderate permanent, negative impacts on Architectural Heritage due to loss of some historic buildings on site; significant, overall positive impacts due to proposed conservation measures to integrate remaining historic structures into the development and their quality re-use and protection into the future.
- Archaeological impacts which will be mitigated by archaeological monitoring of ground disturbance works.
- Air quality impacts which will be mitigated by dust minimisation measures;
- Traffic and transport impacts which will be mitigated by the management of construction traffic; urban realm improvement works
- Noise and vibration impacts which will be mitigated by adherence to requirements of relevant code of practice; proactive community relations; noise control techniques
- Material Assets-Services impacts which will be mitigated by consultation with relevant service providers; final Construction Management Plan and Traffic Management Plan to be implemented; service disruptions kept to a minimum
- Resource and Waste Management impacts which will be mitigated by preparation of site specific C&DWMP

10.4 The submitted EIAR has been considered with regard to the guidance provided in the EPA documents 'Guidelines for Planning Authorities and An Bord Pleanála on Carrying out Environmental Impact Assessment' (2018); 'Guidelines on the Information to be Contained in Environmental Impact Assessment Reports' (draft August 2017) and 'Advice Notes for Preparing Environmental Impact Statements' (draft September 2015). The assessments provided in the individual EIAR chapters are considered satisfactory. The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed. In the main, they would not require or justify

refusing permission for the proposed development or requiring substantial amendments to it.

## 11 Appropriate Assessment

11.1.1 The subject site is not located within any Designated European site, however the following Natura 2000 sites are located within the potential zone of impact:

| Site Name and Code                                    | Distance from Dev Site |
|---|------------------------|
| Baldoyle Bay SAC (000199)                             | 11.96km                |
| Howth Head cSAC (000202)                              | 13.22km                |
| Rockabill to Dalkey Island SAC (003000)               | 13.48km                |
| Malahide Estuary SAC (000205)                         | 14.1km                 |
| Wicklow Mountains SPA (004040)                        | c. 12.11km             |
| North Bull Island SPA (004006)                        | 7.46km                 |
| South Dublin Bay and River Tolka Estuary SPA (004024) | 4.37km                 |
| Baldoyle Bay SPA (004016)                             | 12.34km                |
| Malahide Estuary SPA (004025)                         | 14.1km                 |
| Wicklow Mountains SAC (002122)                        | 12.02km                |
| Glenasmole Valley SAC (001209)                        | 10.99km                |
| Rye Water Valley/Carton SAC (001398)                  | 13.14km                |
| North Dublin Bay SAC (000206)                         | 7.47km                 |
| South Dublin Bay SAC (000210)                         | 5.41km                 |

11.1.2 A Screening Report and NIS were submitted with the application. Appendices to the NIS include a Construction and Environmental Management Plan and a Hydrological & Hydrogeological Qualitative Risk Assessment. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified and sound scientific information and knowledge was used. The information contained within these reports is considered sufficient to allow me undertake an Appropriate Assessment of the proposed development.

11.1.3 It is noted that the primary pathway to European sites during the construction phase is hydrologically via the River Liffey. There will be indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant during the operational phase.

11.1.4 The Stage One screening conclusions note that applying a precautionary principle, it is not possible to exclude the following sites:

| Site Name                                    | Site Code |
|--|-----------|
| North Bull Island SPA                        | 004006    |
| South Dublin Bay and River Tolka Estuary SPA | 004024    |
| South Dublin Bay SAC                         | 000210    |
| North Dublin Bay SAC                         | 000206    |

11.1.5 I agree with the conclusions of the Screening Assessment that, if a Stage 2 AA is being undertaken, it can be confined to these four sites listed above. The remaining ten sites identified above are considered not to be affected by the proposal, having regard to the nature of the proposal and the distance involved. I have examined the conservation objectives and QIs/SCIs for all sites within the zone of influence on the [www.npws.ie](http://www.npws.ie) and I refer the Bord to same.

11.1.6 The Qualifying Interests/SCI for the four designated sites which it is not possible to exclude are as follows:

| South Dublin Bay cSAC                                      | North Dublin Bay cSAC                                      | North Bull Island SPA | S. Dublin Bay & River Tolka Est. SPA |
|--|--|-----------------------|--------------------------------------|
| Mudflats and sandflats not covered by seawater at low tide | Mudflats and sandflats not covered by seawater at low tide | Light-bellied Brent   | Light-bellied Brent                  |
| Annual vegetation of drift lines                           | Annual vegetation of drift lines                           | Goose                 | Goose                                |
| Salicornia and other annuals colonising mud and sand       | Salicornia and other annuals colonising mud and sand       | Shelduck              | Oystercatcher                        |
| Embryonic shifting dunes                                   | Atlantic salt meadows                                      | Teal                  | Ringed Plover                        |
|  | Mediterranean salt meadows                                 | Pintail               | Grey Plover                          |
|  | Embryonic shifting dunes                                   | Shoveler              | Knot                                 |
|  |  | Oystercatcher         | Sanderling Dunlin                    |
|  |  | Golden Plover         | Bar-tailed Godwit                    |
|  |  | Grey Plover           | Redshank                             |
|  |  | Knot                  | Black-headed Gull                    |
|  |  | Sanderling            | Roseate Tern                         |
|  |  | Dunlin                | Common Tern                          |

|  |   |  |                                      |
|--|---|--|--------------------------------------|
|  | Shifting dunes along the shoreline with white dunes | Black-tailed Godwit<br>Bar-tailed Godwit<br>Curlew | Arctic Tern<br>Wetlands & Waterbirds |
|  | Fixed coastal dunes with grey dunes                 | Redshank   |                                      |
|  | Humid dune slacks                                   | Turnstone  |                                      |
|  | Petalwort   | Black-headed Gull<br>Wetlands & Waterbirds         |                                      |

11.1.7 The Conservation Objectives for the four sites are to maintain or restore the favourable conservation condition of each qualifying species/habitat. It is noted that the Grey Plover is proposed for removal for the list of SCIs for South Dublin Bay and River Tolka Estuary SPA and as a result, a site-specific conservation objective has not been set for this species.

11.1.8 The AA Screening Report states that

- The proposed development lies outside the boundaries of the Natura sites identified above and therefore there will be no reduction in habitat nor will there be any fragmentation of any designated site, given the distance from the European sites in Dublin Bay.
- There is no potential for cumulative effects of habitat loss or fragmentation to occur.
- The proposed development site is not under any wildlife or conservation designation and there are no rare, threatened or legally protected plant species known to occur within the site.
- The site has no key ecological receptors.
- No evidence of any habitats or species with links to European sites was recorded during any surveys/studies.
- No direct impacts on the Dublin Bay European sites are predicted, and
- Potential direct impacts on SPA bird species can also be ruled out, given the nature of the proposed development within an existing urban zone, with



existing levels of human activity, e.g., movement of vehicles and background noise, as well as the distance of the site from Dublin Bay.

11.1.9 In terms of indirect impacts, there is a pathway from the site of the proposed development to Dublin Bay through both surface water runoff to the River Liffey during the construction phase, and wastewater discharge during the operational phase, which will flow via the foul sewer on Parkgate Street to Ringsend wastewater treatment plant, ultimately discharging to Dublin Bay. It has been established that the peak effluent discharge, calculated for the proposed development, would equate to 0.023% of the licensed discharge (peak hydraulic capacity) at Ringsend WWTP and would not impact on the overall water quality within Dublin Bay and therefore would not have an impact on the current Water Body Status (as defined within the Water Framework Directive). However, in accordance with the precautionary principle, the potential for indirect impacts on European sites or species from wastewater discharge to Dublin Bay has been brought forward for further assessment in a Stage 2 Appropriate Assessment.

11.1.10 It is my opinion, given its adjacency to the River Liffey, the extent of site frontage to the River Liffey, together with the intensity of development proposed, the carrying out of a Stage 2 AA is warranted in this instance. In addition, the distance of the four designated sites which it is not possible to exclude is noted, being nearer the development site than those excluded.

11.1.11 Within the Stage 2 Natura Impact Assessment, the following is noted:

- During the construction phase, the primary surface water pathway to European sites in Dublin Bay is hydrologically via the River Liffey (nearest European site being further than 4km away),
- During the operational phase, there will be indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend wastewater treatment plant, ultimately discharging to Dublin Bay.
- In the absence of mitigation during the construction phase, leakage, unmitigated run-off or chemical spills could result in fish mortality and could affect feeding habitats for bird species; wet concrete and cement have the potential to cause serious pollution to watercourses and receiving water

bodies in Dublin Bay; elevated suspended solids may be harmful to salmonids resulting in reduced oxygenation of surface waters

- Mitigation measures, which are essentially pollution control/best practice construction practices have been outlined for both construction and operational phases of development. Any suspended solids would naturally settle within the 0.5km stretch of the River Liffey. Mitigation measures include temporary storage of stockpiles of demolition material on impermeable surfaces and covering to prevent contaminated run-off entering the surface water system; use of silt traps and settlement tanks to capture excess silt; storage of chemical in sealed containers. A foreshore consent licence will be sought for surface water discharge to River Liffey and surface water management measures will be incorporated. The installation of SuDS measures and a 2-stage treatment approach to the drainage strategy to improve the quality of water discharging to the Liffey will be implemented.
- No direct impacts on European Sites or species are predicted during construction or operational phases from surface water connections
- At operational stage, the site is serviced by an existing surface water sewer located on Parkgate Street. Foul and storm sewers have adequate capacity for the likely discharge from the development and Irish Water are satisfied in this regard.
- Management of surface water for the proposed development has been designed to comply with the policies and guidelines outlined in the Greater Dublin Strategic Drainage Study (GDSDS) and generally complies with the requirements of planning authority.
- The proposed development is designed in accordance with the principles of Sustainable Urban Drainage Systems (SuDS).
- In-combination effects have been examined, together with consideration of other plans/projects.

11.1.12 It is concluded within the submitted assessment, that on the basis of best scientific knowledge and subject to the implementation of mitigation measures, that the possibility of any adverse effects on the integrity of the European sites considered in

the NIS, or on the integrity of any other European Site (having regard to their conservation objectives), arising from the proposed development, either alone or in combination with other plans or projects, can be excluded beyond a reasonable scientific doubt.

11.1.13 I note that water quality is not listed as a conservation objective for these designated sites within Dublin Bay. I am of the opinion that the risk of contamination of any watercourse is extremely low and in the event of a pollution incident significant enough to impact upon surface water quality locally, it is reasonable to assume that this would not be perceptible to offshore European sites due to the distance involved and levels of dilution.

11.1.14 In light of the above assessment, I am of the opinion, on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the relevant European sites North Bull Island SPA; South Dublin Bay and River Tolka Estuary SPA; South Dublin Bay SAC and North Dublin Bay SAC, or any other European site, in view of the site's Conservation Objectives.

## **12 Recommendation**

12.1 Having regard to the above assessment, I recommend a SPLIT DECISION

I recommend that permission be REFUSED for proposed Block A, for the reasons and consideration marked (1) below and

I recommend that permission be GRANTED for the remainder of the development, as proposed, in accordance with the said plans and particulars based on the reasons and considerations marked (2) under and subject to the conditions set out below.

## **13 Reasons and Considerations (1)**

1. Policy SC25 seeks to 'promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively

contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate'. In addition, the guiding principles of SDRA 7, together with the Assessment Criteria for Higher Buildings, as set out in the Dublin City Development Plan 2016-2022, refer to architectural designs of exceptional high standard and architectural excellence for high buildings.

Having regard to the prominent and sensitive location of the subject site by reason of its important gateway location for the city; its relationship to the River Liffey; together with its connection to Heuston Station and the Phoenix Park; it is considered that the proposed development, due to its architectural design quality and materiality, does not successfully address the opportunities provided by the site; does not protect nor enhance the skyline at this location nor does it make a positive contribution to the urban character of the area. It has not been adequately demonstrated to the Bord that a building of exceptional architectural design has been proposed in Block A and if permitted, it would seriously detract from the setting and character of Heuston station, one of the city's important architectural landmarks.

Having regard to all of the above, the proposal is therefore considered not to comply with Policy SC25 of the Dublin City Development Plan 2016; would be contrary to the guiding principle of SDRA 7 which seeks architectural designs of exceptional high standard and would be contrary to the Assessment Criteria for Higher Buildings, as set out in the Dublin City Development Plan 2016-2022 which seeks architectural excellence for high buildings. The proposal would seriously injure the urban character and visual amenities at this pivotal location and would be contrary to the proper planning and sustainable development of the area.

## Reasons and Considerations (2)

Having regard to the following:

- (a) the site's location within Dublin city centre, within an established built-up area and in the Heuston and Environs Strategic Development Regeneration Area and adjacent to Heuston Station (mainline rail, LUAS and Dublin Bus services) and Dublin Bus Services on adjoining streets
- (b) the policies set out in the Dublin City Development Plan 2016,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (d) 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
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) Urban Development and Building Heights, Guidelines for Planning Authorities,

2018 Chief Executive Opinion and associated appendices

- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a wide range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history within the area, and
- (m) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this urban location, would not seriously injure the residential or visual 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.

## Recommended Draft Board Order

### Planning and Development Acts 2000 to 2019

#### Planning Authority: Dublin City Council

**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 05<sup>th</sup> day of February 2020 by Ruirside Developments Ltd care of Stephen Little & Associates, Co. Dublin.

#### Proposed Development:

Permission for a strategic housing development on lands at 42A Parkgate Street, Dublin 8.

The proposed development will consist of:

The proposed development comprises a mixed use (residential, commercial, local services and amenities) scheme. This includes 481 no. 'Build to Rent' residential units (66no. Studios, 298no. 1-Bed and 117no. 2-Bed apartments) and non-residential employment uses (c. 4,356 sq. m), accommodated in 6no. Blocks (Blocks A, B1, B2, C1, C2 and C3) ranging in height from 8 to 29 storeys (including mezzanine level), over basement and undercroft levels. A new public square and public riverside amenity walkway are included in the proposed layout.

The block summary description is as follows:-

- **Block A** (c. 12,207 sq. m gross floor area): 29-storeys with setback at 25th floor, accommodating: 1no. café/restaurant (c. 208 sqm); residents' amenity areas; and, 160no. apartments. Residents' roof gardens at 9th and 25th floors. Ancillary plant / storage at ground floor level.
- **Block B1** (c. 10,520 sq. m): 10 to 13-storeys with setback at 7th floor, accommodating: 1no. café/restaurant (c. 236 sqm); residents' amenity areas,

including co-working spaces made available to the residential community within the proposed development, and one of which (c. 119sqm) to be made available also to the public for hire for cultural uses/ events; and, 141 no. apartments. Residents' roof gardens at 9th floor. Ancillary plant / storage at basement and ground floor level.

- **Block B2** (c. 3,698 sq. m): 8-storeys with setback at 6th floor, including 6 storeys of commercial office floorspace (c. 3,698 sqm) over entrance foyer and site entrance. Residents' garden on the roof. Ancillary plant / storage at basement level.
- **Block C1** (c. 4,207 sq. m): 9-storeys, accommodating 58no. apartments. Ancillary plant / storage at undercroft and ground floor level. Link with 'River Building' at undercroft level.
- **Block C2** (c. 2,520 sq. m): 9-storeys, accommodating residents' amenity areas and 40no. apartments. Residents' roof garden at 8th floor.
- **Block C3** (c. 6,274 sq. m): 11-storey building over basement with setback at 7th floor, accommodating: 1no. retail unit (c. 80 sq. m); residents' amenity areas; and, 82no. apartments. Residents' roof garden at 7th floor. Ancillary plant / storage at ground floor level.

Associated and ancillary conservation and site development works, including: conservation, repair and adaptation, with some partial demolition of protected and other heritage structures; demolition of other existing structures; provision of public and private communal amenity open space; car and bicycle parking; storage, plant; transportation and environmental infrastructure; and, landscaping enhancement works in the public road.

## **Decision**

### **SPLIT DECISION**

**REFUSE permission for proposed Block A, in accordance with the said plans and particulars based on the reasons and considerations under (1)**

**GRANT permission for the remainder of 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 (2).**



## **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 (1)**

1. Policy SC25 seeks to 'promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate'. In addition, the guiding principles of SDRA 7, together with the Assessment Criteria for Higher Buildings, as set out in the Dublin City Development Plan 2016-2022, refer to architectural designs of exceptional high standard and architectural excellence for high buildings.

Having regard to the prominent and sensitive location of the subject site by reason of its important gateway location for the city; its relationship to the River Liffey; together with its connection to Heuston Station and the Phoenix Park; it is considered that the proposed development, due to its architectural design quality and materiality, does not successfully address the opportunities provided by the site; does not protect nor enhance the skyline at this location nor does it make a positive contribution to the urban character of the area. It has not been adequately demonstrated to the Bord that a building of exceptional architectural design has been proposed in Block A and if permitted, it would seriously detract from the setting and character of Heuston station, one of the city's important architectural landmarks.

Having regard to all of the above, the proposal is therefore considered not to comply with Policy SC25 of the Dublin City Development Plan 2016; would be contrary to the guiding principle of SDRA 7 which seeks architectural designs of exceptional high standard and would be contrary to the Assessment Criteria for Higher Buildings, as set out in the Dublin City Development Plan 2016-2022 which seeks architectural excellence for high buildings. The proposal would seriously injure the urban character and visual amenities at this pivotal location and would be contrary to the proper planning and sustainable development of the area.

## **Reasons and Considerations (2)**

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 and in the Heuston and Environs Strategic Development Regeneration Area and adjacent to Heuston Station (mainline rail, LUAS and Dublin Bus services) and Dublin Bus Services on adjoining streets
- (b) the policies set out in the Fingal County Development Plan 2017,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (d) 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
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (g) the Planning System and Flood Risk Management (including the associated

Technical Appendices), 2009

- (h) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (i) Chief Executive Opinion and associated appendices
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a wide range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history within the area, and
- (n) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban 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.

### **Appropriate Assessment Screening**

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board had regard to the nature, scale and location of the proposed development, the documentation including submissions on file, and the Inspector's screening assessment.

The Board accepted and adopted the screening assessment carried out by the Inspector and the conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the following ten European sites:- Baldoyle Bay SAC (000199), Howth Head SAC (000202), Rockabill to Dalkey Island SAC (003000), Malahide Estuary SAC (000205), Wicklow Mountains SPA (004040), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), Wicklow Mountains SAC (002122), Glenasmole Valley SAC (001209) and Rye Water Valley/Carton SAC (001398) in the light of their conservation objectives, having regard to the nature of the proposed development and the distances from the site to these European sites.

## **Appropriate Assessment**

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment in respect of the subject development, in relation to the remaining European sites identified by the Inspector, that is, North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), North Dublin Bay SAC (000206) and South Dublin Bay SAC (000210).

The Board completed an Appropriate Assessment in relation to the potential effects of the proposed development on these four designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Natura Impact Statement submitted with the application, and the Inspector's report and submissions on file.

In completing the assessment, the Board considered, in particular:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal,
- (iii) the conservation objectives for these European sites, and

In completing the Appropriate Assessment, the Board adopted the report of the Inspector and concluded that, subject to the implementation of the proposed mitigation measures contained in the Natura Impact Statement, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the relevant European sites North Bull Island SPA; South Dublin Bay and River Tolka Estuary SPA; South Dublin Bay SAC and North Dublin Bay SAC, or any other European site, in view of the site's Conservation Objectives.

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted in support of the planning application;
- (c) The submissions from the planning authority, the observers and the prescribed bodies in the course of the application; and
- (d) The Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Significant direct positive effects with regard to population due to increase in housing stock
- Biodiversity impacts mitigated by proposed landscaping strategy which will use mix of appropriate species that will attract pollinators; no direct lighting onto river; good construction management practices.
- Hydrogeology impacts to be mitigated by construction management measures including minimal removal of topsoil and subsoil, reuse of excess material within the site; assessment for possible contamination; management and maintenance of plant and machinery.
- Land and Soil impacts to be mitigated by construction management measures including preparation of CEMP; provision of silt traps; adequately securing potential pollutants; dust suppression measures
- Water impacts to be mitigated by management of surface water run-off during construction; mixing and batching activities away from watercourses; good construction management; controlled run-off
- Neutral or negative impacts on Landscape and Visual from proposed Block A due to its elevational design and materiality which will not be avoided, mitigated or otherwise addressed by means of condition; impacts from the remainder of the development will be positive and permanent due to provision of a quality streetscape; provision of quality, public open space and high quality landscaping proposals
- Moderate permanent, negative impacts on Architectural Heritage due to loss of some historic buildings on site; significant, overall positive impacts due to proposed conservation measures to integrate remaining historic structures into the development and their quality re-use and protection into the future.

- Archaeological impacts which will be mitigated by archaeological monitoring of ground disturbance works.
- Air quality impacts which will be mitigated by dust minimisation measures;
- Traffic and transport impacts which will be mitigated by the management of construction traffic; urban realm improvement works
- Noise and vibration impacts which will be mitigated by adherence to requirements of relevant code of practice; proactive community relations; noise control techniques
- Material Assets-Services impacts which will be mitigated by consultation with relevant service providers; final Construction Management Plan and Traffic Management Plan to be implemented; service disruptions kept to a minimum
- Resource and Waste Management impacts which will be mitigated by preparation of site specific C&DWMP

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, the refusal of permission for Block A, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual 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 a grant of permission that could materially contravene section 16.10.1 of the Dublin City Development Plan 2016-2022 in terms of floor

area and unit mix would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

- (a) The Government's policy to ramp up delivery of housing from its current under-supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016;
- (b) SPPR8 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018;
- (c) SPPR3 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018;
- (d) Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018;
- (e) Section 16.10.1 of the city development plan,

all of which support denser residential development consisting of apartments on public transport corridors within the built-up area of Dublin City and its suburbs, as is proposed in this case.

The Board considered that a grant of permission that would materially contravene section 16.10.1 of the Dublin City Development Plan 2016-2022, which applies to the site, would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

- (a) SPPR 3 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, issued in March 2018 which sets minimum apartment floor area of 37 square metres for studio units and (b) SPPR 8 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued in March 2018 which states no restriction on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise and that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes; with which the proposed development would comply.



## 14. Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the, 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. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 22 of the EIAR 'Summary of Mitigation, Monitoring and Residual Effects', shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

3. The number of residential units hereby permitted by this grant of permission is 321 no.

**Reason:** In the interests of clarity

4. The following details shall be submitted to, and agreed in writing with, the planning authority within six months:
  - (i) Details of all signage and shopfronts associated with the development
  - (ii) Details of a maintenance strategy for materials within the proposed development
  - (iii) Details of changing/toilet facilities to be provided in close proximity to the ancillary residential facilities/services

- (iv) Detailed drawings of the formation of the proposed wall openings in the River Liffey quay wall, including new beam and columns
- (v) Detailed drawings and schedule of salvaged cast iron elements from the large warehouse and how these will be incorporated into the proposed scheme.
- (vi) Details of a piece of public art, of suitable quality, that shall be incorporated into the proposed public open space
- (vii) Details of greening of flat or gently sloping roofs

**Reason:** In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability

5. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2018) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

**Reason:** In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

6. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

**Reason:** In the interests of proper planning and sustainable development of the area.

7. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and

management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity.

8. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed dwellings.

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

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

10. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

11. Prior to the occupation of the development, a schedule of proposed uses for the proposed ground floor retail and commercial units shall be submitted for written agreement of the planning authority.

**Reason:** In the interests of the proper planning and sustainable development of the area.

12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the

matter(s) in dispute shall be referred to An Bord Pleanála for determination. In particular, the following information shall be submitted to the planning authority for their written approval, prior to the commencement of any works on site:

(a) Mobility Management Plan and Car Parking Strategy.

(b) Details of works to the public road to facilitate the proposed development. All works to the public roads / footpaths shall be completed to taking in charge standards and shall be to the satisfaction of the planning authority.

(c) All car parking spaces at basement level serving the development shall be designated for car share use.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

13. All of the communal parking areas serving the apartments shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transport.

14. The public open spaces will operate as public park/public realm in perpetuity, with public access and use operated strictly in accordance with the management regime, rules and regulations including any byelaws for public open space of the Planning Authority at all times.

**Reason:** In the interest of residential amenity and to secure the integrity of the proposed development including open spaces.

15. The landscaping scheme as submitted to An Bord Pleanála shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next

planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The developer's Landscape Architect shall certify to the planning authority by letter his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

**Reason:** In the interests of residential and visual amenity.

16. Mitigation and monitoring measures relating to biodiversity outlined in the plans and particulars, submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission. In this regard:

- (a) The applicant shall make available a single document of the mitigation measures/recommendations relating to biodiversity that are outlined in the various documents that form part of the application, for the written agreement of the planning authority. This document shall include a programme for the implementation of the mitigation measures including any monitoring requirements by a suitably qualified ecologist shall accompany this document for written agreement at least 5 weeks in advance of site clearance works
- (b) All demolition works shall take place outside of the bird nesting season (March 1<sup>st</sup> to August 31<sup>st</sup>)
- (c) Prior to commencement of development, details of locations of appropriately placed, replacement bat roosts shall be submitted for the written agreement of the planning authority. Damage to roosts can only be undertaken under derogation licence from the NPWS
- (d) No moss, lichen and vascular plants shall be removed from the river wall, with the exception of that located on the wall elements proposed for removal, without the prior written agreement of the planning authority. In the case of proposed removal of any legally protected species, a licence will be required from the

**Reason:** in the interests of protection of biodiversity

17. 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/An Bord Pleanála prior to commencement of development. In addition, details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of the planning authority, prior to the commencement of any works on site. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. Render shall not be used as an external finish.

**Reason:** In the interest of visual amenity and durability.

18. No 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.

19. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

**Reason:** In the interest of residential amenity.

20. Prior to the commencement of the development the applicant shall contact the Irish Aviation Authority in relation to all crane operations, with a minimum of 30 days prior notification of their erection. Details of a suitable marking and lighting scheme as agreed with the Irish Aviation Authority shall be submitted to the planning authority

prior to the commencement of construction. Additional information regarding crane type (tower, mobile), elevation of the highest point of crane, dimensions of crane, ground elevation and location co-ordinate shall also be required by the Authority to allow for an aviation safety assessment.

**Reason:** In the interests of clarity and proper planning and sustainable development of the area.

21. (a). Commercial units shall not be amalgamated or subdivided, unless authorised by a further grant of planning permission.
- (b) No external security shutters shall be erected for any of the commercial premises (other than at services access points) unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interests of clarity.

22. 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.

23. 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.

24. All works to the protected structure, shall be carried out under the supervision and in accordance with the requirements of a qualified professional with specialised conservation expertise (RIAI Grade 2 or higher). The following shall also be complied with:

- (a) All works to the protected structure and other historic buildings to be retained shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- (b) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.
- (c) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.
- (d) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.
- (e) Provide detailed survey drawings and photographs of all historic buildings and fragments of buildings to be demolished as part of the works to the planning authority prior to the commencement of any works on site.
- (f) Provide interpretive information panels within the public realm that illustrate and recount the history of the site. Details to be agreed with the planning authority prior to the commencement of works.

**Reason:** To secure the authentic preservation of this protected structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

25. Site development and building works shall be carried only out between the hours of 07.30 to 18.00 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 amenities of property in the vicinity.

26. 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.

27. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.
- (d) Agree in writing the archaeological method statements for mitigation with the Department of Culture, Heritage and the Gaeltacht, prior to commencement of any works on site

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

28. 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.

29. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

30. 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.

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

31. 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.

**Reason:** In the interest of sustainable waste management.

32. (a) All entrance doors in the external envelope shall be tightly fitting and self-closing.

(b) All windows and roof lights shall be double-glazed and tightly fitting.

(c) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity.

33. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

34. 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.

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Lorraine Dockery

Senior Planning Inspector

May 14<sup>th</sup> 2020