



An  
Bord  
Pleanála

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

### Inspector's Report ABP-306778-20

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#### Strategic Housing Development

Demolition of existing buildings,  
construction of 336 no. apartments,  
childcare facilities and associated site  
works.

#### Location

Docklands Innovation Park, 128-130  
East Wall Road, Dublin 3.

#### Planning Authority

Dublin City Council

#### Applicant

EWR Innovation Park Ltd

#### Prescribed Bodies

1. National Transport Authority (NTA)
2. Transport Infrastructure Ireland (TII)
3. The Heritage Council
4. An Taisce
5. Department of Culture Heritage and  
the Gaeltacht

6. Irish Water (IW)
7. Dublin City Childcare Committee.

**Observer(s)**

1. Atlantic Diamond Limited
2. Euro-Cast Ireland Limited

**Date of Site Inspection**

17<sup>th</sup> June 2020

**Inspector**

Fiona Fair

Decision Quashed

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1.1. The subject site measures at c. 1.45 hectares and is located at the junction of East Wall Road and Merchant's Road, Dublin 3. The lands are bounded by East Wall Road to the north, The Beckett Building site and St. Joseph Educational National School to the west, 3-4 storey residential development to the south and Merchant's Road to the east.
- 2.1.2. The subject site is located within the Dublin Docklands area well served by public transport. The site is within walking distance to the Point Luas stop c. 1km (10 minute walk) and to Clontarf Dart Station c. 1.4km (15 minute walk) and is situated along a Dublin Bus corridor. The site is served by bus routes No.'s 53 and 151 connecting the site to the city centre. The subject site is therefore highly accessible to quality public transport. The site is also in close proximity to the Port Tunnel with direct access to the M50 and Airport.
- 2.1.3. The site comprises of a number of buildings and mostly comprises of hard standing. There are no trees or hedgerows present on the site. The existing buildings comprise of a number of low rise commercial / light industrial properties. As part of the proposed development the majority of the existing buildings on site will be demolished. Three units within the development will be retained and refurbished as part of this development, units 11, 15 and 16. Unit 11 is located in the south east corner of the site and building 15 and 16 are located in the south west corner of the site. Access to these units will remain in place.

### 3.0 Proposed Strategic Housing Development

3.1.1. The proposed development is for a mixed-use scheme which consists of:

3.1.2. Demolition of most of existing structures on site, comprising of two storey light industrial / commercial units (except units 11, 15, 16) and the construction of 336 residential units.

- The proposed development provides for 6 Blocks (4 – 10 storeys). The 10-storey element (Block 2) is located at the centre of the site.
- The proposed housing mix is as follows:
  - 161 no. 1 bed units,
  - 171 no. 2 bed units and
  - 4 no. 3 bed units.
- The provision of a retail unit, creche (120 sq. m), café / restaurant and office accommodation.
- The retention and upgrading of 2,606 sq. m of commercial space in three units. The retained units (11, 15 and 16) will be retained and refurbished externally and the uses will remain in situ in conjunction with the proposed new development.
- The proposed development will also include significant landscaping works comprising of hard and soft landscaping, provision of public and communal open spaces, new internal roads and new boundary treatments.
- The development also includes the provision of residential amenity spaces such as concierge, gym, communal rooms and roof terraces to serve the future residents within the development.
- **Block 1** will comprise of 43 no. apartment units (15 no 1 beds and 28 no. 2 beds) and will be a maximum height of 5 no. storeys (16.9m) (4 no. storeys with set back 5 no. storey). A communal roof terrace is also proposed at 5th floor level.
- **Block 2** will comprise of 74 no. apartment units (37 no. 1 bed, 33 no. 2 beds and 4 no. 3 beds) with a maximum height of 10 no. storeys (32.6m) (9 no. storeys with a 10 no. storey set back penthouse level). Block 2 will include residential

communal space at ground floor level including concierge and multi purpose residential amenity spaces.

- **Block 3** will comprise of 63 no. apartment units (35 no. 1 beds and 28 no. 2 beds) with a proposed height of 7 no. storeys (22.9m).
- **Block 4** will comprise of 62 no. apartment units (33 no. 1 beds and 29 no. 2 beds) with a proposed height of 7 no. storeys (22.9m)
- **Block 5** will comprise of 69 no. apartment units (34 no. 1 beds and 35 no. 2 beds) with a maximum height of 8 no. storeys (26.3m) (7 no. storeys with a set back 8 no. storey). 3 no. commercial office spaces (780 sq.m.) and 1 no. café / restaurant (210 sq.m.) are proposed at ground floor level. 1 no. commercial office unit at the north west corner of the block also extends to first floor level. A communal residential amenity space and roof top terrace is also proposed at roof level (8 no. storey).
- **Block 6** will comprise of 25 no. apartment units (7 no 1 beds and 18 no. 2 beds) with a maximum height of 7 no. storeys (23.5m) (stepping down to 4 no. storeys to the south) A creche (120 sq.m.) and retail unit (205 sq.m.) are proposed at ground floor level including an outdoor play space associated with the creche. A communal roof top terrace is also proposed at 7 no. storey.
- **Unit 11** (c. 375 sq. m) is currently in use as a light industrial / manufacturing use with ancillary office. This use will remain in operation on the site. Access to Unit 11 will be provided through the main vehicular entrance off East Wall Road. It is submitted that currently, Unit 11 contains 3 no. employees with low level daily movement of goods and deliveries to the unit. The unit will be refurbished externally and re-clad to merge in appearance with the new development on the site. There is no change to the overall use of this building as part of this application and all operations will remain on-going.

- **Unit 15 / 16** (c. 2,076 sq. m) is currently in use as a logistics / distribution centre at ground floor and offices at the upper levels. It is proposed to change the use of c.408 sq. m of the ground floor to office as part of this application. The remainder of the building c. 1,668 sq.m will be retained as light industrial use. In addition, the external appearance of the building will be refurbished and re-clad as part of this application.
  - **Unit 16** (155 sq. m) is currently in use for light industry / technology with ancillary offices. The use of unit 16 is proposed to be retained on the site. As per the other retained units, Unit 16 will be refurbished and re-clad externally to merge with the proposed materials and finishes of the overall development.
- 3.1.3. The application contains a statement setting out how the proposal will be consistent with the objectives of the Dublin City Development Plan 2016-2022.
- 3.1.4. The application contains a Statement of Material Contravention indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land. The proposed height is in excess of the development plan standards.
- 3.1.5. It is requested that An Bord Pleanála have regard to the following justification for what might be considered to be a material contravention of the development plan in terms of height on the basis that the policies and objectives stated in the Section 28 Government Guidelines, particularly *“Urban development and Building Height Guidelines 2018”* and *“National Planning Framework 2040”* enable increased building height and residential densities on sites adjacent to quality public transport routes and within existing urban areas. Furthermore, SPPR 3A facilitates such consideration in the light of the criteria set out under Section 3.2 of the Urban Development and Building Height Guidelines.

3.1.6. The following tables set out some of the key elements of the proposed scheme:

**Table 1: Development Standards**

Parameter	Site Proposal
Application Site	1.45 ha
No. of Units	366
Density	265 units/ha.
Plot Ratio	2.3
Site coverage	40.5%
Public Open Space	3,285 sq. m
Part V	34 units (10%)
Car Parking	Total 195 car parking spaces (0.58 spaces per apartment)
Cycle Parking	420
Vehicular Access	The main vehicular access to the site will be located off the East Wall Road. The proposed development will include an internal road network to enable access to basement level towards the south of the site beneath Block 2.

3.1.7. **Table 2: Additional Land Uses / Non-residential (c.12.1% of overall floor area):**

Land Use	Floor Area (sq. m)
Retail unit	205
Office	c. 420
Communal residential amenity spaces (conciierge, gym, multipurpose rooms)	c. 360



Cafe	210
Creche	120
Retained commercial space	2,606
Total	3,921

**Note:** The communal residential amenity spaces and the creche, albeit included in the non-residential floorspace by the applicant, are I would consider ancillary to the residential use and therefore should not be counted as non-residential floor space.

3.1.8. **Table 3: The breakdown of unit types is as follows:**

Unit Type	1 bed	2 bed	3 bed	4 bed	Total
Apartments	161	171	4		
<b>Total</b>					336
<b>% Total</b>	48%	50%	2%	0%	100%

3.1.9. **Table 4: Building Height**

Block	Storeys	Height in m
1	4 - 5	13.4 – 16.9
2	9 - 10	32.6
3	7	22.9
4	7	22.9
5	7 - 8	23.5 - 26.3
6	4 – 7	16.9 – 23.5

Existing Unit 11	2	7.3
Existing Unit 15/16	3	8.9

3.1.10. **Table 5: Childcare Provision**

Creche	120 sq. m which can cater for 24 - 40 childcare spaces
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3.1.11. 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 has been submitted, as required. Irish Water state that

- ‘The development should be connected to 24” DI trunk main in East Wall Road. That could be achieved by connecting existing 12” distribution main adjacent to the site to the trunk main via new PRV with DMA meter and full telemetry outstation. The cross connection point, vales and meter arrangements will be defined at connection application stage. Irish Water currently does not have any plans to commence upgrades works to its network in this area. The cost of the connection will be agreed between Irish Water and the applicant as part of the connection agreement’.
- ‘New connection to the existing network is feasible without upgrades’.
- Irish Water requests the board conditions any grant as follows:  
‘The applicant is required to sign a connection agreement with Irish Water prior to any works commencing and connecting to our network. All development is to be carried out in compliance with Irish Water Standards codes and practices.’

3.1.12. A Flood Risk Assessment was submitted with the application. The subject site is located partially within Flood Zone C and a defended zone (Zone A/B). The site historically has no recorded flood events as noted in the OPW’s historical flood maps. Modelling of the River Dodder has indicated that the subject lands are located outside the 0.1% AEP zone. Predicted flood mapping for pluvial/ tidal and Fluvial

flood events will not affect the subject lands. Consultation with Dublin City Council Drainage Division has taken place regarding the finish floor level and potential flood risk of the area. It has been agreed that a finished floor level of 3.25mOD was appropriate for the site taking into consideration that the site is defended and there is no need to provide for additional allowance for climate change and freeboard.

- 3.1.13. An Appropriate Assessment Screening Report was submitted with the application it concludes that no elements of the development will result in any impact on the integrity or Qualifying Interests/Special Conservation Interests of any relevant European site, either on their own or in combination with other plans or developments, in light of their conservation objectives.
- 3.1.14. A letter of consent from Dublin City Council, City Engineer has been submitted with the application which states that they have no objection to the inclusion of lands (indicated hatched on attached drawing / map) for the purpose of making a planning application. This is without prejudice to the outcome of the planning application process.

## 4.0 Planning History

**Reg. Ref. 4327/19** Retention of existing uses on the site of units 2, 7, 9, 13, 14, 15, 17 and 19 at the Docklands Innovation Park, 128-130 East Wall Road, Dublin 3. The proposed development seeks retention of the existing uses on site as follows:

- Unit 2 and 7: Cultural/Recreational use (Dance Studio)
- Unit 9: Office use
- Unit 13: Gym at ground floor level and office use at 1st and 2nd floor level
- Unit 14: Educational use (Language School) at ground floor level and office use at 1st and 2nd floor level
- Unit 15: Warehouse at ground floor level Unit 17: Cultural/Recreational use (Dance Studio)
- Unit 19: Office use.

Further information requested on the 19<sup>th</sup> December PA Opinion states no response has been submitted to date.

**Reg. Ref. 3885/09**

Dublin City Council issued a decision to grant permission for the following development on 2nd of November 2009

*“Planning permission for the change of use of Units 9 and 10 from light industry to science and technology based industry along with associated internal layout changes. The works within the park include the removal of two small walled yard areas and roller shutters and their replacement with windows/screens, as well as additional fire escape doors to the rear, along with associated modifications to the parking and making good.”*

**Reg. Ref. 3974/00**

Dublin City Council issued a decision to grant planning permission for the following development on 7th February 2001.

*“Change of use from industrial to training facility for the faculty of Tourism and Food, incorporating new canopy in yard and mechanical plant in yard and on roof.”*

**Reg. Ref. 1460/00**

Dublin City Council granted planning permission for the following development on 5<sup>th</sup> July 2000.

*“Minor alterations to existing elevations, new louvred screens and plant on existing roof.”*

## 5.0 Section 5 Pre Application Consultation

- 5.1. A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 7<sup>th</sup> November 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 **would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**
- 5.2. Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that in

addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission arising from this notification:

1. Proposals for an appropriate and aesthetically acceptable treatment for large areas of blank gables. Whilst it is noted that such large expanses of blank gable may be due to the future development potential of adjacent sites, the blank gables as they are currently represented could be improved and drawings should adequately detail this.
2. Photomontages, cross sections, visual impact analysis, shadow analysis, boundary treatment and landscaping details to indicate potential impacts on visual and residential amenities, to include views from the wider area including in particular adjacent residential areas (planned and existing); axonometric views of the scheme and CGIs are recommended. Specifically, enlarged cross sections to illustrate level changes and the interface between buildings, ground levels and public spaces should be illustrated.
3. A study or report describing the existing mix and composition of land uses on and in the vicinity of the site in the context of the current Z14 zoning objective for the area.
4. Daylight/Sunlight analysis to an appropriate scale, showing an acceptable level of residential amenity for future occupiers of the proposed development, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development. The analysis should also consider potential overshadowing impacts on adjoining residential areas and other sensitive receptors.
5. Analysis of the wind microclimate at ground level with reference to pedestrian occupation and usability of new public spaces in the context of the scale of buildings proposed.
6. A detailed landscaping plan for the site which clearly sets out proposals for hard and soft landscaping including street furniture where proposed and indicates which

areas are to be accessible to the public. The landscaping plan should critically assess the best and most appropriate way to incorporate underground car parking ventilation structures.

7. Given the city centre location and availability of public transport, a rationale for the proposed car parking provision should be prepared, to include details of car parking management and car share schemes.

8. A site layout plan, which clearly indicates what areas are to be taken in charge by the Local Authority.

9. Surface water drainage proposals to address issues raised in the report of the Engineering Department – Drainage Division of Dublin City Council dated 24 October 2019, with specific reference to a surface water sewer that runs through the site.

10. Site Specific Flood Risk Assessment, to address details that concern vulnerable development, flood zone A/B and finished floor levels set at 4m OD, raised in the report of the Engineering Department – Drainage Division of Dublin City Council dated 24 October 2019. Reference should be made to the 'Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment', and to consider downstream / displacement impacts as a result of the proposed development.

## 6.0 Applicant's Statement

6.1. A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the ten issues raised in the Opinion.

### **Item 1. Response to Specific Item: Design of gable treatment.**

6.1.1. A review of the gable treatment of each of the blocks has been carried out. Block 5 and 6 fronting East Wall Road are the only locations where elements of blank gables are present. The western gable on Block 5 adjoining the School site has been designed having regard to potential overlooking of the school development. The gable treatment at this location provides for a corner feature to the block, however,

avoids the inclusion of any windows along the western elevation as to ensure a high level of privacy is maintained to the school site.

- 6.1.2. The proposed elevational treatment to Block 6 has been revised following the pre application consultation to introduce more variation in the proposed materials and finishes and thereby providing for a greater level of visual interest at this location.
- 6.1.3. The proposed eastern gable of Block 6 directly adjoins the corner site currently comprising of a two storey commercial premises. It is essential that the proposed development safeguards the potential redevelopment of this site and thereby provides for an appropriate boundary treatment as to not hinder the future redevelopment of the adjoining lands. In this regard, the eastern elevation of Block 6 has been intentionally designed without any window openings to protect the future potential development of the adjoining site.
- 6.1.4. However, in order to provide for visual interest at this gable, a variety of materials and finishes are proposed to break up this elevation. The design has been visually broken down into different planes, allowing the façade to be dynamic and to provide an interface with the nature of the existing fabric along Merchants Road and East Wall Road. The stone detail around the balconies along the East Wall Road elevation continues along the Merchants Road elevation, allowing the volume of the block to consistently turn the corner. The brickwork is divided in two planes, and the zinc cladding on the top floor along East Wall Road continues as it turns the corner. Vertical stone recesses are also proposed to balance the openings proportions of the gable in relation to the context.

## **Item 2. Response to Specific Item: Cross Sections and CGI's**

- 6.1.5. A number of additional cross sections, photomontages and CGI's have been prepared and submitted with this application. The proposed cross sections illustrate the relationship and interface at all major junctions within the development, including the surrounding properties and the proposed blocks themselves. The proposed development also includes a visual impact assessment which has been prepared by Mitchells and Associates and a shadow analysis which has been prepared by IES.
- 6.1.6. Additional CGI's have also been prepared within the development which demonstrate the quality of the residential amenity spaces and the overall material

and finishes proposed within the development. The CGI's clearly indicate that the proposed development is a high quality new urban space and provides for an appropriate scale and density of development in the area.

### **Item 3. Response to Specific Item: Land use mix**

6.1.7. The subject site is located within a Z14 zoned area, which promotes the mix of commercial and residential uses. Currently the breakdown of uses within the Z14 are immediately surrounding the site largely comprise of commercial uses with only a small proportion of residential development. The following uses are noted immediately surrounding the site:

- Office Space
  - No. 1 Gateway 4,785 sq. m
  - No. 2 Gateway 7,228 sq. m (ESB networks)
  - No. 3 Gateway 4,020 sq. m
  - Transit / Beckett House 20,740 sq. m (Facebook)
  - Aldi MU Centre 2,863.1 sq. m
- Commercial Space
  - Portside Business Park (8 no. units)
  - An Post mail delivery warehouse 2,686 sq. m
- Retail Space
  - Aldi c. 4,000sq. m, 1,125 sq. m, 2,863 sq. m of office (2,318/09)
  - Lidl 6,258 sq. m (MU) (255/13)

6.1.8. The level of commercial development in the area is therefore quite significant and comprises of the majority of the Z14 lands. The inclusion of a mix of residential and commercial development as proposed within the subject site is therefore considered to improve the overall mix in the area in compliance with the Z14 zoning objective of the area.

6.1.9. The proposed development within the subject site alone, provides for 87.9% residential / 12.1% commercial. The proposed mix of uses is considered to be



appropriate giving the context of the surrounding area and the need to regenerate the area. In addition, taking the overall site area, the proportion of commercial land use comprises of 18.6% of the overall site area with residential development comprising of 30.7%, the remaining being afforded to public and communal open spaces and the proposed internal road network. In this regard it is considered that the proposed development complies with the overall Z14 land use objective of the area and provides for a mix of uses both commercial and residential.

- 6.1.10. Having regard to the entire area zoned Z14 in the area, the majority of the Z14 lands surrounding the subject site including the SDZ area are in commercial use with only 2 no. sites in residential use outside the SDZ area. The level of commercial use in the area therefore far exceeds the intention of the Z14 zoning which seeks to provide a mix of uses.
- 6.1.11. The surrounding area comprises of a number of commercial uses such as the local centre to the west, which provides for 2 no. convenience food stores and a restaurant. In addition, the site is bound to the west by a significant office development and to the east by other industrial / commercial uses. It is considered that the proposed ratio between the provision of residential and commercial uses on the site is in keeping with the general principle to provide a mix of uses in the overall Z14 area and is in keeping with the immediate land uses surrounding the development.
- 6.1.12. The proposed mixed use development on the subject site therefore adds to the residential land use in the area and increasing the overall mix proposed within the entire Z14 zoned lands. As such it is considered that the proposed land use mix as set out within the development is appropriate both within the wider context of the Z14 lands and within the site itself providing for an adequate mix and proportion of residential and commercial development.
- 6.1.13. The Z14 zoned lands also include the North Lotts and Grand Canal Dock SDZ area which has a set land use mix for residential and commercial uses. The SDZ area however, has not delivered on the residential proportion of the land use mix. The SDZ area is predominantly office use with only limited residential use delivered to date. The Z14 zoning in the Docklands has therefore been very successful in employment creation but has exacerbated shortage of residential in the area. There

is an urgent need for significant residential development to support this job creation and inward investment within the overall Z14 zoned lands.

- 6.1.14. It should also be noted that a large expanse of lands adjacent to the site to the north (on the opposite side of East Wall Road) is proposed to be rezoned from Z6 to Z10 (mixed use) under variation No 25 to the Dublin City Development Plan. The re-zoning of these lands highlights the change to the land use mix in the area, from commercial / employment based uses (Z6) to mixed use (Z10) and therefore is encouraging a shift from predominantly employment / commercial uses to a range of mixed uses in the area, which is provided within the proposed development.
- 6.1.15. In addition, having regard to the change to the overall mix of uses on the subject site from predominantly commercial/ employment uses to a mix of both residential and commercial uses, a report has been prepared by Element 78 to set out the existing and proposed mix of the subject site and surrounding area. The subject site is currently occupied by a number of commercial. light industrial uses which generate low levels of employment. In total, based on the existing uses, 125 no. people are employed within the existing development. The proposed development seeks to provide for a total of 219 no. employment opportunities therefore increasing the number of employment uses on the site.
- 6.1.16. Therefore the proposed development will increase both the level of employment opportunities on the site and the overall residential mix in the area, therefore complying with the overall objectives of the Z14 zone.

#### **Item 4. Response to Specific Item: Daylight and Sunlight Analysis**

- 6.1.17. A daylight and sunlight analysis has been prepared by IES and is submitted as part of the planning application. It states the following

“All points tested on the National Scheme in East Wall have a Vertical Sky Component (VSC) greater than 27% or not less than 0.8 times their former value (that of the Existing Situation) in line with BRE Guidelines”.

“43% (10 out of 23) of the points tested on the Merchants Road Dwellings have a Vertical Sky Component (VSC) greater than 27% or not less than 0.8 times their former value (that of the existing situation) in line with BRE guidelines”.

“The analysis images show that on 21st March for the proposed scheme amenity area, over half of the proposed amenity spaces (70%) would receive at least 2 hours of sunlight in line with the BRE recommendations”

“93% of the tested rooms of the proposed scheme exceed the Average Daylight Factors (ADF) from the BRE Guidelines. This overall rate within the propose scheme would be greater than 95% if all of the upper floor rooms were included in the results”.

6.1.18. The daylight / sunlight analysis concludes that “the shadow images in this proposal highlight there is no additional shading visible from the proposed development on the existing residential dwellings due to their location respective to the development site”.

#### **Item 5. Response to Specific Item: Wind Analysis**

6.1.19. A wind and microclimate has been prepared by In2 and is submitted as part of the application. The wind microclimate report analysed the pedestrian comfort of the communal spaces proposed within the development. The initial results of the wind analysis highlighted some areas within the civic plaza as unsuitable for sitting.

6.1.20. In response to this, a canopy above the café seating area, in conjunction with foliage as proposed for in the landscaping plan were introduced to mitigate against any potential wind impact in the area. The proposed design solutions were re-analysed and the civic area was subsequently determined to be suitable for frequent/ occasional sitting in accordance with the methodology.

6.1.21. In addition, all balconies were tested for wind and microclimate conditions, and were deemed suitable for long / short term sitting. The penthouse floor of Block 2 was initially identified as an area of potential exposure for high winds. In response, a 2m high glass screen has been introduced to mitigate against the potential wind impacts. The penthouse area with the proposed mitigation design features are now suitable for frequent/ occasional sitting and therefore is a viable amenity space within the development.

6.1.22. Full details of the methodology and analysis of the wind and microclimate assessment is set out in the In2 report submitted as part of this application.

## **Item 6. Response to Specific Item: Landscaping Strategy**

6.1.23. A landscape masterplan has been prepared by Mitchells and Associates for the subject site and is submitted as part of the planning application. The landscape masterplan sets out the hard and soft landscape treatment to the scheme.

## **Item 7. Response to Specific Item: Car Parking**

6.1.24. The proposed development provides for a total of 158 no car parking spaces which results in a ratio of 0.58 car parking spaces per unit. It is requested to justify the proposed number of car parking spaces provided having regard to the availability of public transport in the area.

6.1.25. An assessment of the proposed car parking has been carried out by NRB Consulting Engineers and is submitted as part of this application. The assessment notes that the Dublin City Development Plan standard for this area suggests a maximum car parking ratio of 1 no. space per unit. In addition, the City Council through the pre application consultation have requested that the car parking provision be increased to meet this maximum ratio and to avoid overspill of car parking into the surrounding area.

6.1.26. It is considered that given the location of the proposed development within the city centre and having regard to the availability of public transport in the area, that the provision of 1 no. car parking space per unit is excessive. Therefore, it is considered that a balance must be struck between the requirements of the City Council and the requirements to promote sustainable modes of transport. As such it is considered that a reduced rate of 0.58 no. car parking spaces per residential unit is appropriate for the subject site.

6.1.27. It is noted that the apartment guidelines seek car parking in urban areas well served by public transport to be wholly eliminated or substantially reduced, however having regard to the Dublin City Council requirements and the CSO data for car ownership in the area, it is considered that some element of car parking should be provided on the site.

6.1.28. The CSO data for the area immediately surrounding the site, suggests a typical car ownership rate of 0.6 cars per household. Therefore, taking account the current

trends and to apply an appropriate balance of supply verses encouraging modal split, it is considered that the proposed ratio of 0.58 car parking spaces per units is considered acceptable in this instance.

- 6.1.29. In addition, to reduce car dependency and encourage sustainable modes of transport, the car parking on site will be managed through a rental agreement. The car parking spaces are therefore not guaranteed with each unit and will be available at a first come first served basis. The restrictions in car parking usage and the additional cost to obtain a car parking spaces within the development will encourage a reduced reliance on car parking within the scheme.
- 6.1.30. The proposed development will also provide for a car club facility which again will reduce the need for residents to own a car, encouraging the use of the available public transport in the area.
- 6.1.31. The Transport Assessment prepared by NRB Consulting Engineers sets out the proposed rationale for the proposed level of car parking at this location.

#### **Item 8. Response to Specific Item: Areas to be taken in charge**

- 6.1.32. A site layout plan has been prepared by MCORM Architects indicating the proposed areas to be taken in charge. The areas indicated relate to the public footpaths along Merchants Road and East Wall Road. All other areas within the scheme will be managed through a management company on the site.

#### **Item 9. Response to Specific Item: Surface Water Drainage proposal**

- 6.1.33. The surface water drainage proposal has been agreed with the planning authority prior to the submission of the application. The drainage details have been re-represented to make the proposed layout and detailed arrangements clearly identifiable. For full details, see Engineering Services Report prepared by POGA Engineers submitted as part of the application.

#### **Item 10. Response to Specific Item: Site Specific Flood Risk Assessment**

- 6.1.34. Following the pre application meeting and the points raised by the drainage department, it was agreed that the finished floor level of the development be raised from 2.6m to 3.3m OD. It is noted that the Development Plan Guidance states a

finish floor level of 4m OD is required, however following a number of detailed discussions with Dublin City Council Drainage Department, the proposed level of 3.3m was agreed as acceptable for this site and the proposed development.

6.1.35. The flood risk assessment, prepared by JBA Consulting, has been revised on the basis of the 3.3m OD. For full details, please see Flood Risk Assessment.

## 7.0 Relevant Planning Policy

### 7.1. National Planning Policy

7.1.1. 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.

- National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040.
- Draft Eastern and Midland Region Spatial and Economic Strategy (RSES) published on 5<sup>th</sup> November 2018
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Urban Development and Building Heights Guidelines for Planning Authorities, 2018.
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities

## 7.2. Local Planning Policy

### 7.2.1. Dublin City Council Development Plan 2016-2022

7.2.2. The subject property is predominantly within the 'Z14' zoning objective, Strategic Development and Regeneration Areas.

7.2.3. The Z14 objective is "to seek the social, economic and physical development and/or rejuvenation of an area with mixed use of which residential and 'Z6' would be the predominant uses".

7.2.4. Z14 areas are capable of accommodating significant mixed-use development, therefore, developments must include proposals for additional physical and social infrastructure/facilities to support same. Residential development is listed as a permissible use within this zone.

7.2.5. Zoning objective Z6 states – 'To provide for the creation and protection of enterprise and facilitate opportunities for employment creation'.

7.2.6. Chapter 5 Quality Housing. Policy QH8 states:

"To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area."

7.2.7. Development plan section 4.5.4 deals with taller buildings. It states:

"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. For example, the North Lotts and Grand Canal Dock SDZ planning scheme provides for a limited number of tall buildings at Boland's Mills, the Point, Spencer Dock Square and Britain Quay.

7.2.8. 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.”

7.2.9. There are no specific objectives relating to building height at the development site. Policy SC16 applies:

‘To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA’).

7.2.10. The site is located in SDRA 6 Docklands (SDZ and Wider Docklands Area), within the Docklands Area of the SDRA. Development Plan section 15.1.1.7 applies. The following points are noted in relation to residential development:

- Holistic approach to housing that will achieve successful integration of residents, neighbours and the wider community.
- Promote the expansion of the Docklands’ residential population, cater for life-cycle requirements of the existing population and provide recreational facilities for children across a range of ages.
- Provide for residential choice with schemes conducive to family living, long term rental and homeownership
- Achieve successful interaction between the SDZ scheme and surrounding streets and public realm to retain and foster a strong sense of neighbourhood within communities
- Ensure that residential developments optimise the unique Docklands character in terms of visual context, maritime location, heritage assets and community identity
- Provide physical, social and amenity infrastructure in tandem with new housing



- Safeguard residential amenity and ensure appropriate transition in scale. Design of new development to have regard to the context, setting and amenity of existing housing within the SDZ and wider Docklands area
- Provision of Part V and use of the voluntary and co-operative model to achieve mixed tenure communities, also provision of support housing in conjunction with housing agencies.
- Encourage 'own front doors' and defensible open space as far as practicable

#### 7.2.11. Applicant's Statement of Consistency

A Statement of Consistency with local and national policy has been submitted with the application, as per Section 8(1)(iv) of the Act of 2016.

#### 7.2.12. Statement of Material Contravention

This report has been prepared to set out the justification on building height for the proposed development. The proposed development might not be considered to materially contravene the Dublin City Development Plan 2016-2022 in terms of building height having regard to the provisions of the Urban Development and Building Height Guidelines, and in particular, to SPPR 3(A) and considered in the context of the criteria under section 3.2 of the Guidelines, which were issued by the Minister under Section 28 of the Planning and Development Act 2000, as amended. However, it is considered appropriate that a justification by reference to SPPR 3(A) of what might be regarded by the Board as a material contravention of the development plan should be addressed in any decision of the Board to grant permission for the proposed development, in the event that the Board so decides.

The Development Plan sets out a maximum building height of 24m within the subject location. The proposed development ranges in height from 4 no. storeys to 10 no. storeys (c.32.5 m) which is in excess of the development plan height limits.

## 8.0 Third Party Submissions

- 8.1. Five number third party submission received (three of which are from prescribed bodies and summarised at section 10 of this report) the remaining two are collectively summarised under the following headings:

### Flawed SHD Application Form

- Query with respect to statutory notices (e.g. Fire Safety, Enforcement, Dangerous Buildings, Derelict Sites, Building Control, etc) apply to the site and / or any building thereon.
- There are 8 enforcement notices of relevance to this site.
- Missing detail on statutory notices.
- This is not a de minimis matter

### Planning History

- The statement of consistency fails to mention Reg. Ref. PL4327/19 which is currently under consideration by DCC.
- Simultaneously seeking permission for contradictory plans is an abuse of the planning process.
- Section 37(5) of the Planning and Development Act 2000 is of relevance.
- The Board should not consider this application until the earlier application PL4327/19, for the 'same development' is decided.

### No Legal Right

- Atlantic Diamond Ltd. holds a 35 year lease for Unit 11 on this estate. The lease will run for many years beyond the expiry date of any possible grant under this application.
- Also enjoy statutory renewal rights in accordance with the landlord and Tennent Amendment Act.
- Enjoy right of way over the roads and pathways of the estate.
- The applicant is not legally entitled to restrict access to unit number 11.
- The applicant does not have a legal right to demolish the Common Areas.
- The lessor of No. 11 has a right to quiet enjoyment.

- It would be impractical to expect EWR (manufacture of diamond tools) to continue their business whilst situated in the middle of either a building site or a residential apartment complex.
- The applicant has not sought permission to alter the cladding of No. 11
- The applicant was advised that the lessor of No. 11 would not consent to any development that infringed on their property rights.
- Propose to seek injunctive relief should any attempt be made to carry out the proposed works.
- Proposal to use the estate road as a material store during construction of the underground car park interferes with RoW
- EURO-CAST Irl. Ltd. have been tenants of Unit 4 / 4 a since April 1981. There has been no notification or consultation regarding the proposed development with the lessors until the planning notices appeared.
- EURO-CAST Irl. Ltd. have a right to be accommodated in the proposed development, if permitted, should a suitable unit be identified.

#### **Site Boundary**

- Site boundary is drawn incorrectly

#### **Viability**

- The plans presented will never be built as they are not economically viable.
- The noise and traffic associated with industrial use is not compatible with residential accommodation.
- The factory's engineering plant is located outdoors in a yard to the front of the premises.
- Traffic reversing and manoeuvring into loading bays will give rise to a traffic and safety hazard for perspective residents and in particular small children.

#### **Misleading CGI's and traffic Issues**

- Unit No. 11 is not changing.
- The residential scheme is proposed within the curtilage of an industrial estate.
- The CGI have no regard to the current uses within the industrial estate.
- The roads will remain as industrial routes.

- The swept path analysis does not identify the path of a 40 foot lorry.
- Lorries will pass through the children's play area, through the outdoor gym and games area, through the workers' seating area and right over the tables of the café seating area.
- The drawing of the 'Road & Block Layout and Traffic Signs' indicating 'Pedestrian Zone' is incorrect.
- Under provision of car parking proposed. Will have a spill over impact to the wider area.
- Traffic in the area is difficult, proposal will exacerbate current situation.
- There is no formal traffic management plan for the East Wall Area
- The operational management plan nor the operational waste management plan makes a mention of how it will manage HGVs forklifts delivering to No. 11
- The preliminary C&WMP is mistaken. Employees of No. 11 visitors and delivery vehicles will not be entering a construction site.

### **Flood Risk**

- FRA does not assess the increased risk of flooding to unit no. 11
- Docklands Innovation Park is situated in Flood Zone A/B and is highly vulnerable to being flooded.
- Flood risk assessment submitted is deficient.

### **Design and Amenity**

- Poor site usability and substandard design
- Safety of residents and children at play is compromised.
- Residents would be subjected to noise, fumes of industrial traffic and machinery
- Recreational spaces are poor usability and unsuitable for families.
- Materially contravenes the Development Plan; height and car parking.
- Development does not comply with zoning objectives
- Photomontages misleading and incorrect.
- Height is inappropriate and out of context with the character of the area.

### **Consistency in Planning Policy**

- Materially contravenes the Development Plan.

- No proper planning grounds why units 15, 16 and 11 alone have been omitted from the proposed development site; this could have been extended to Unit 4 / 4 a with suitable design strategies.
- Under legislation neighbours and others affected by a SHD development are not involved in pre-planning consultations.
- ABP expressed concerns on numerous issues Including
  - Dual aspect
  - Mix of unit type proposed
  - Flooding affecting basement car parking
  - Height of the proposed development
  - Retention of certain units on site

### **Planning Precedent**

- The proposed development is entirely consistent with at least one development refused permission recently in the locality and inconsistent with proper planning and development of the area.
- Material Contravention
- Excessive scale in Blocks 2 and 5
- Car parking shortfall
- Lack of compliance with the zoning objective to promote sustainable businesses and to maximise employment generating opportunity.
- Proposal is contrary to creation / maintenance of employment

### **Other Issues**

- The content of the pre planning consultation report, with particular, regard to existing users of the Docklands Innovation Park, is unacceptable.

## **9.0 Planning Authority Submission**

- 9.1. 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 22<sup>nd</sup> June 2020. The report may be summarised as follows:

Information Submitted by the Planning Authority

Details were submitted in relation to the site description, proposal, planning history, interdepartmental reports and consultees. A summary of representations received was outlined and a summary of the views of the elected members as expressed at the Central Area Committee Meeting.

## 9.2. Summary of Inter-Departmental Reports

**Roads Department:** No objections subject to conditions.

**Environmental Health Officer:** No Objection. A CMP is required. Conditions recommended in the event of a grant.

**Drainage Division:** The report from the Drainage Division raises no objection to the proposal subject to conditions.

**Parks & Landscape:** Report received raises concerns with respect to location of vents, green roofs, protection of existing trees and open space management. Conditions recommended in the event of a grant.

**Housing and Community Services:** Confirms that the applicant has engage in consultation with Housing Department and are aware of Part V obligations in the event that planning permission is granted.

**Archaeology:** A report has been received from the City Archaeologist. No objection is raised in relation to the proposal subject to compliance with suggested mitigation and monitoring set out within the archaeological assessment, written by Ross Waters of IAC.

**The main issues raised in the p.a. submission are summarised as follows:**

- It is considered that the proposed ratio between the provision of residential and commercial uses on the site is in keeping with the general principle to provide a mix of uses in the overall Z14 area and is in keeping with the immediate land uses surrounding the development.
- The proposal includes the creation of increased permeability through the site and physical changes to the street edge. It is considered that the proposal would

integrate into and enhance the character and public realm and would not have a detrimental impact on the area. The subject site is not located within an architecturally sensitive or historic part of the city and the development would not impact on the setting of key landmarks and views. The staggered height design approach at the site boundaries minimises the impact on the adjoining areas.

- The AA screening report has been subject to review by the Biodiversity officer in DCC. Concerns were raised in relation to the content, scope and conclusions of the study. Having reviewed the Screening report, which has been reviewed by Parks and Landscape Services, the Planning Authority concur with the conclusions reached and recommend a number of conditions to be attached to a grant of permission. For instance, the applicant should be required to undertake a survey of nesting birds, a bat survey and a risk assessment and strategy for a management system for invasive alien species.
- The proposed residential and commercial development located within the inner city, in close proximity to public transport and a wide range of amenities, services and multiple employment locations is therefore acceptable in principle at this site.
- It is considered that the development will provide an acceptable standard of residential amenity for future occupants and the proposed design and layout of the ground floor including the street level access units within Block 1 and the café, retail and commercial / office accommodation will provide animation onto East Wall Road.
- The proposal on balance is considered to be acceptable and given the surrounding context, the proposed scheme would not result in a level of impact upon the adjoining properties that would be unacceptable.

### **Grant Recommended**

The planning authority recommends that permission be granted subject to 27 number conditions.

## 10.0 Prescribed Bodies

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

- National Transport Authority (NTA)
- Transport Infrastructure Ireland (TII)
- The Heritage Council
- An Taisce
- Department of Culture Heritage and the Gaeltacht
- Irish Water (IW)
- Dublin City Childcare Committee.

### Transport Infrastructure Ireland

The submission from TII states that the Authority will rely on the p.a. to abide by official policy in relation to development on/affecting national roads as outlined in DoECLG Spatial Planning and National Roads Guidelines for p.a. (2012), subject to the condition:

- The proposed development shall be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and RSA submitted. Any recommendations arising should be incorporated as Conditions in the Permission, if granted. The developer should be advised that any additional works required as a result of the Transport Assessment and RSA should be funded by the developer.
- The authority will entertain no future claims in respect of impacts (e.g. noise and visual) on the proposed development, if approved, due to the presence of the existing road or any new road scheme which is currently in planning.
- The proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme Luas Red Line Docklands Extension (Luas C1) under the Planning and Development Act 2000, as amended. If the above application is successful and not exempt, it is recommended that a condition to apply the Section 49 Luas line Levy apply.



#### 10.1.1. Department of Culture Heritage and the Gaeltacht:

The Department notes that the development site is large in scale and that the Archaeological Assessment Report attached to the application recommends that an archaeologist monitors all excavation works. Submission recommends a condition with respect to monitoring by a suitably qualified archaeologist in the event that planning permission is forthcoming.

#### 10.1.2. Irish Water:

The Irish Water submission states that:

Based on the details provided, it is considered that, subject to a valid connection agreement between the developer and Irish Water, the proposed connections to Irish Water networks can be facilitated.

- 'The development should be connected to 24" DI trunk main in East Wall Road. That could be achieved by connecting existing 12" distribution main adjacent to the site to the trunk main via new PRV with DMA meter and full telemetry outstation. The cross connection point, vales and meter arrangements will be defined at connection application stage. Irish Water currently does not have any plans to commence upgrades works to its network in this area. The cost of the connection will be agreed between Irish Water and the applicant as part of the connection agreement'.
- New connection to the existing water supply network is feasible without upgrades.
- Irish Water requests the Board conditions any grant as follows:  
'The applicant is required to sign a connection agreement with Irish Water prior to any works commencing and connecting to our network. All development is to be carried out in compliance with Irish Water Standards codes and practices.'

### 11.0 Oral Hearing Request

None requested.

## 12.0 Assessment

12.1.1. I consider that the key issues for consideration by the Board in this case are as follows: -

- **Principle and Compliance with Policy**
- **Layout, Design, Building Height and Visual Impacts**
- **Impacts Upon Amenity**
- **Traffic and Transport**
- **Public and Communal Open Space**
- **Childcare**
- **Other Matters**
  - **Drainage**
  - **Flood Risk**
  - **Part V**
  - **Material Contravention Issue**
  - **Procedural Issues**

These matters are considered separately below. Furthermore, I have carried out Environmental Impact Assessment and Stage 1 Appropriate Assessment in respect of the proposed development, as detailed in Sections 12.9 and 12.10 below.

### 12.2. Principle and Compliance with Policy

12.2.1. Having regard to the nature and scale of development proposed, namely an application for demolition of existing light industrial structures on site, retention of 3 no. units and construction of 336 residential units, creche, retail, commercial / office and cafe 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 (note: total non-residential uses does not exceed 4,500 sq. m).

12.2.2. Under the current Dublin City Development Plan 2016 – 2022 the site has the zoning objective Z14, - 'to seek the social, economic and physical development and / or rejuvenation of an area with mixed use of which residential and Z6 would be the predominant uses.'

12.2.3. Zoning objective Z6 seeks 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.'

12.2.4. A wide range of uses are listed as permissible within the Z14 zoning, including residential, office, restaurant and shop (neighbourhood). The Z14 zoning promotes the mix of commercial and residential uses. It is submitted that currently the breakdown of uses within the Z14 zoning, immediately surrounding the site, largely comprise of commercial uses with only a small proportion of residential development. The following uses are noted immediately surrounding the site:

- Office Space
  - No. 1 Gateway 4,785 sq. m
  - No. 2 Gateway 7,228 sq. m (ESB networks)
  - No. 3 Gateway 4,020 sq. m
  - Transit / Beckitt House 20,740 sq. m (Facebook)
  - Aldi MU Centre 2,863.1 sq. m
- Commercial Space
  - Portside Business Park (8 no. units)
  - An Post mail delivery warehouse 2,686 sq. m
- Retail Space
  - Aldi c. 4,000sq. m, 1,125 sq. m, 2,863 sq. m of office (2,318/09)
  - Lidl 6,258 sq. m (MU) (255/13)

12.2.5. It is argued that the level of commercial development in the area is therefore quite significant and comprises of the majority of the Z14 lands. The inclusion of a mix of residential and commercial development as proposed within the subject site is therefore considered to improve the overall mix in the area in compliance with the

Z14 zoning objective of the area. I refer the Board to Table 2 at paragraph 3.1.5 of this report which sets out additional land uses / non-residential uses proposed within the subject site.

- 12.2.6. The proposed development within the subject site alone, provides for c. 87.9% residential / c. 12.1% commercial. I agree with the applicant and the planning authority that the proposed mix of uses is appropriate given the context of the surrounding area and the need to provide a mix of use and regenerate the area. In this regard it is considered that the proposed development complies with the overall Z14 land use objective of the area and provides for an appropriate mix of uses both commercial and residential, regard being had to the immediate land uses surrounding the site.
- 12.2.7. I note it is submitted in supporting documentation accompanying the application, that the majority of the Z14 lands surrounding the subject site including the SDZ area are in commercial / employment use with only 2 no. sites in residential use outside the SDZ area. I can confirm from my knowledge of the area and my site visit that there is a substantial level of commercial use in the area. I note that the planning authority has some concern in relation to the proposed mix of uses on the site and compliance with the Z14 objectives in terms of the provision of an appropriate mix of uses on the site. However, I highlight that the planning authority are also of the opinion that this site is capable of delivering a significant quantum of residential accommodation within the city centre, adding to the mix and provision of residential stock in the area and would overall comply with the intention of the Z14 zoning which seeks to provide a mix of uses. I agree with this opinion and I consider that the proposed land use mix as set out within the development is appropriate both within the wider context of the Z14 lands and within the site itself providing for an adequate mix and proportion of residential and commercial development.
- 12.2.8. I note the submission by the applicant that a large expanse of lands adjacent to the site to the north (on the opposite side of East Wall Road) is proposed to be rezoned from Z6 to Z10 (mixed use) under variation No 25 to the Dublin City Development Plan. The re-zoning of these lands highlights the change to the land use mix in the area, from commercial / employment based uses (Z6) to mixed use (Z10) and therefore is encouraging a shift from predominantly employment / commercial uses

to a range of mixed uses in the area, which is provided within the proposed development.

- 12.2.9. As set out in Table 1 of this report, see paragraph 3.1.4, 'Development Standards', the subject development provides for a plot ratio of 2.3 and site coverage of 40.5% which are both considered acceptable regard being had to indicative plot ratio and site coverage standards for sites with Z14 zoning. The Development Plan sets out indicative plot ratio as 1.0 – 3.0 while the indicative site coverage s 50% for Z14 zoned lands).
- 12.2.10. The proposed development, as set out in this application, seeks to achieve greater height and density. I consider that the density of 265 units per hectare is appropriate on this highly accessible urban location and in compliance with relevant section 28 ministerial guidelines. The subject site, is a prime example of the type of site anticipated in the Guidelines that can achieve increased building height and resulting increased density, while critically not being a singular use on the site but rather a wholly integrated mixed-use environment where people will live and work.
- 12.2.11. Overall, I agree with the planning authority and the applicant that the proposed development is in compliance with the zoning objective for the area ('Z 14' zoned lands), as set out in the operative Dublin City Development Plan 2016-2022, particular, regard being had to the Objectives and Guiding Principles for Docklands SDRA 6 as set out in paragraph 7.2.10 of this report (Section 15.1.1.7 of the Development Plan applies) and the relevant national, regional and local planning policy framework and is therefore acceptable in principle at this location.
- 12.2.12. The SDRA requirement for 5% social, cultural, creative and artistic purpose is noted. The applicant states the development will provide communal space which will be made available for the local residents to rent for various community activities. This is considered acceptable.

### 12.3. **Layout, Design, Building Height and Visual Impact**

#### Layout & Design

- 12.3.1. The subject site is currently in use as a multi-use commercial development comprising of a range of light industrial, office and technology uses in approximately

40 no. separate units. The proposal provides for the demolition of all of the light industrial units on site, with the exception of units 11, 15 and 16. I have no objection to the demolition works proposed, which would facilitate the redevelopment of the site.

- 12.3.2. The mix of units at 161 x 1 bed, 171 x 2 bed and 4 x three bed units is considered acceptable. This would lead to a good population mix within the scheme, in an established urban area where the quantum of dwellings is noted. The proposed apartments have been designed to accord with the Sustainable Urban Housing: Design Standards for New Apartments 2018 ("the Apartment Guidelines"). A Housing Quality Assessment is submitted which provides details on compliance with all relevant standards including private open space, room sizes, storage and residential amenity areas for built to rent developments.
- 12.3.3. The orientation of the proposed development has been designed to ensure that all of the proposed units achieve adequate levels of daylight/sunlight throughout the year. 58% of the proposed units are dual aspect which is above the requirement as set out in the Apartment Guidelines. The proposed development is laid out in 6 no. new Blocks ranging in height from 4 no. storeys to 10 no. storeys and 2 no. existing commercial blocks.
- 12.3.4. A series of Blocks are proposed around a central feature block with an enlarged public square located between the feature Block 2 and the East Wall Road Block 5. It is proposed that this space be finished and landscaped to a high standard and will provide an amenity for the future residents of the scheme and the greater East Wall community. The retail / commercial uses at the ground floor of Block 5 and 6 will provide activity along the East Wall frontage and to the new public plaza within the scheme. A café with outdoor seating will activate the space together with the main concierge facility (located in the ground floor of Block 2), which is also assessed from the main square.
- 12.3.5. Blocks 5 and 6, eight storeys in height create a built edge to East Wall Road. Block 5 being seven storey plus penthouse some 26.3m in height and Block 6 is 4 – 7 storey 23.5 m in height.
- 12.3.6. Block 1 which addresses Merchants Road is set back to create a landscaped buffer between the new building and the street. New recessed street parking is proposed

along merchants Road. This block is 4 / 5 storey in height. Two pedestrian / cycle access points are proposed connecting East Wall Road and Merchants Road.

- 12.3.7. Block 2 located in the centre of the site is 10 storey (32.6m) in height and therefore, is the highest block proposed.
- 12.3.8. Block 3 is located 10.3 m from the site southern boundary and c. 12.3m from an existing apartment Block which has a blank north facing façade, so overlooking is not an issue.
- 12.3.9. Block 4 is located 31.8m from the Beckett Building to the west. Block 6 directly adjoins a 2 storey commercial property at the Junction of East Wall Road and Merchants road.
- 12.3.10. The proposed office accommodation is to be located at ground floor level of Block 5 with dual frontage addressing the East Wall Road and the civic plaza. The provision of office accommodation at this location will support the existing uses on the site and provide for high quality office accommodation in accordance with the mixed use development zoning objective on the site.
- 12.3.11. I consider the proposed layout has been designed to ensure that there is no direct overlooking between the residential apartment units themselves or to the surrounding properties. I also consider that the level of existing commercial space to be retained and the overall additional provision of office accommodation will provide for an appropriate mix of uses on the site.
- 12.3.12. A creche, of approximately 120 sq. m. is also proposed. It can accommodate between 24 to 40 children. The creche, located at ground floor of Block 6, contains a designated outdoor play area for the children.
- 12.3.13. I acknowledge that the retention of Units 11, 15 and 16 present a challenge and as such are identified as site constraints. It is submitted:
- Unit 11 is currently in use as a light industrial / manufacturing use with ancillary office. This use will remain in operation on the site. Access to Unit 11 will be provided through the main vehicular entrance off East Wall Road. The unit will be refurbished externally and re-clad to merge in appearance with the new development on the site. There is no change to the overall use of this building as part of this application and all operations will remain on-going.

- Unit 15 is currently in use as a logistics / distribution centre at ground floor and offices at the upper levels. It is proposed to change the use of the ground floor to office as part of this application. In addition, the external appearance of the building will be refurbished and re-clad as part of this application.
- Unit 16 is currently in use for light industry / technology with ancillary offices. The use of unit 16 is proposed to be retained on the site. As per the other retained units, Unit 16 will be refurbished and re-clad externally to merge with the proposed materials and finishes of the overall development.

12.3.14. These buildings to be retained are located at corners and periphery of the site. It is proposed to upgrade the façade treatment of these units as part of the overall scheme design proposal. I note the civil issues raised by third parties with respect to recladding and impact of a residential scheme upon the nature of the existing uses and vice versa. Such concerns are addressed in detail at paragraph 12.8.6 of this report. In addition, I consider that should the recladding of the units not materialise or go ahead, given civil dispute, I would still be satisfied that permission should be forthcoming for the proposed scheme.

#### Building Height

12.3.15. Table 4 at paragraph 3.1.7, above, sets out 'Building Height' within the subject site which is proposed to range from 2 storey - 7.3 m in height (existing light industrial units to be retained) to 10 storey 32.6 m in height. The proposed blocks 1, 3, 4 and 6 to the south, east and west range in height from 5 storeys (16.9m) to 7 storeys (23.5m) and are within the Development Plan height limits. Block 5 is 8 storeys (rising to 26.3m) in height and therefore is just above the Development Plan height limits. Block 2 is located in the centre of the site is 10 storeys (32.6m) in height and therefore, is the highest block proposed and is in excess of the Development Plan standards. The Dublin City Development Plan Height Strategy identified a building height cap of 28m for commercial development and 24m for residential development at this location. The Urban Development and Building Height Guidelines 2018 remove numerical limitations on building height and take precedence over the Development Plan. A case for the proposed heights over and above the Development plan standards is addressed within the material Contravention Statement which puts forward a case for the proposed height at this



location in accordance with SPPR3 of the Building height Guidelines. The issue of Material Contravention is considered in detail in the succeeding section 12.8.4 of this report.

12.3.16. A detailed visual impact assessment was submitted which demonstrates how the development sits comfortably within the overall urban context of the area. The height of the blocks have cognisance to surrounding development, with the proposed 10 storey Block 2 centrally located while perimeter Blocks have a lower height. Block 1 is 4 / 5 storey addressing Merchants road, Block 6 is 4/ 7 storey located to the north east corner of the site close to the junction of Merchants Road and East Wall Road. I consider that the height of the blocks would not create significant visual impacts on surround streets. The staggered height design approach at the site boundaries minimises the impact on adjoining areas. I note recent development in the vicinity including the Beckett Building to the west. The proposed development is not within an architecturally sensitive or historic part of the city and the development would not impact upon key landmarks or views. Overall, regard being had to the foregoing I consider that the building height proposed is acceptable on this site.

12.3.17. I am of the opinion that given its zoning, the delivery of residential 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, it is within easy walking distance of good quality public transport in an existing serviced area. The proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community. The principle of higher central block surrounded by blocks of a lower height is considered acceptable. I consider that the proposal does not represent over-development of the site and is acceptable in principle on these lands.

12.3.18. I consider that the site has the capacity to absorb a development of the nature and scale proposed and will enhance the amenities of 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 proposed café and retail spaces are located at the entrance to the site accessible off East Wall Road. They address the proposed civic space to create

animation and activity to the civic plaza. The provision of the retail and café uses at ground level provide for additional amenity to the future and existing residents in the area.

#### Visual Impact

12.3.19. A simple palate of materials is proposed using high quality brickwork with enhanced stone features. Curtain walling is proposed at penthouse level as well as a zinc/ aluminium cladding system. The material choice will ensure that the buildings proposed are durable as well as being of high visual interest. Red and white brick is proposed as the principle materials on all facades.

12.3.20. I am of the opinion that the proposed buildings are of high quality, well designed and would be an addition to the surrounding built environment. The development as a whole is well considered and would make a positive contribution to the urban neighbourhood and streetscape. The proposed commercial uses opening onto the open space plaza area and East Wall Road will add to the vibrancy of the area. The CGI's, photomontages and visual impact assessment submitted with the planning application indicates that the impact of the proposal on the area will be positive. I agree that the design of the buildings are to a high quality and will make a positive contribution to the wider area. As stated earlier in this report I consider that should the recladding of the units not materialise or go ahead, given civil dispute, I would still be satisfied that permission should be forthcoming for the proposed scheme.

#### 12.4. Impacts on Amenity

12.4.1. Having regard to the existing nature and use of the site, site context, adjoining uses, orientation, the separation distances involved and the design of the proposed development, I do not have undue concerns with regards the impacts on amenity of properties in the vicinity.

12.4.2. In terms of “using massing and height to achieve the required densities”, the proposed development has provided for a series of 6 no. blocks on the site which vary in scale, height and massing in response to the immediate context surrounding the site. The massing and height of the development is considered in response to the site context, and therefore has created a series of different scales and densities

within the development in keeping with the existing character of the area, in particular regard being had to the existing residential dwellings on Merchants Road. The proposed development at a height of 4 no. storeys addressing Merchants Road achieves a lower density than the general height of 7 no. storeys throughout the site. The proposed 10 no. storey element, Block 2, centrally located allows greater densities to be achieved on the site, while at the same time protecting the residential amenity of the surrounding area.

- 12.4.3. I note the concerns raised with respect to noise and mixing residential and industrial use in the manner proposed. The owner of Unit 11 submits that this unit is in factory / engineering use. It is contended that grinding machines, outdoor air compressor and water treatment pumps run intermittently in the dead of night. Concern is raised if apartments are constructed the plant machinery could be running at the same time families are trying to sleep and cause noise disturbance.
- 12.4.4. This is a mixed-use zoned site, as set out in section 12 of this report a wide range of uses are listed as permissible including residential and commercial. The statutory Dublin City Development Plan was subject to SEA, a precedent has been set for new 2 – 4 storey residential development granted planning permission to the south west of the site. There is mature housing established along Merchants Road to which Unit 11 backs onto. There is clearly a mix of residential and commercial uses established in the area. I note the location of Unit 11 to the south east corner and the concerns with respect to noise and use raised by its owners. I also note the detailed noise risk assessment report carried out by awnconsulting submitted with the application. It sets out daytime and night time noise levels prevailing on the site and indicates noise levels vary across the site from medium across most of the site to high noise risk at frontage onto the East Wall Road. Noise from Unit 11 or any of the units to be retained is not recorded. I consider the contents of the report, carried out by professionals, is reasonable and robust, it recommends good acoustic design principles be applied. Overall given the foregoing I consider that noise can be adequately mitigated with enhanced acoustic glazing and mechanical ventilation. To protect the residential amenity of future residents, who will be aware in advance of the mixed use nature of this development, I recommend that apartment Units in Block One (1<sup>st</sup> – 3<sup>rd</sup> floor Apt, 17, 27, 37, Fourth Floor Apt 42, Ground Floor Apt 08) and Block 3 (Ground Floor Apt 02 and 03, Third Floor Apt 29 and 30, First and

Second Floor Apt, 12, 21, 11 and 20 and Fourth – Sixth Floors Apt 39, 48, 57, 38, 47 and 56) adjoining Unit 11 should be conditioned with enhanced acoustic glazing. See condition 2(b) attached.

- 12.4.5. There may be some noise disruption during the course of construction works. 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. If the Bord is disposed towards a grant of permission, I recommend that such issues like wheel wash facilities, hours of works and the like be dealt with by means of condition. In addition, 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.
- 12.4.6. A daylight/ sunlight assessment has been prepared by IES and is submitted with this application. The report concludes that the proposed development will not result in any significant impact on the surrounding properties or within the civic / communal spaces within the development in line with the BRE Guidelines. The proposed development has been modulated having regard to the impact on the surrounding properties, in particular regard being had to the National School to the west of the site and to residential properties on the opposite side of Merchants road.
- 12.4.7. All of the points tested on the National School in East Wall have a Vertical Sky Component (VSC) greater than 27% or not less than 0.8 times their former value (that of the Existing Situation) which exceeds the BRE guidelines. The analysis images show that the existing amenity area at the National School in East Wall would continue to exceed the BRE recommendations with over half of the amenity space receiving at least 2 hours of sunlight on the 21st of March. 43% (10 out of 23) of the points tested on the Merchant Road Dwellings have a Vertical Sky Component (VSC) greater than 27% or not less than 0.8 times their former value (that of the Existing Situation) in line with BRE guidelines.
- 12.4.8. Shading from the proposed development is summarised as follows based on shadow analysis assessment:

March and June

- Morning (0800h until 1200h)

- National School in East Wall – minor additional shading visible from the proposed development on the existing School during the early mornings of March. No additional overshadowing in June.
- Merchants Road dwellings – no additional shading visible from the proposed development on the existing residential dwellings due to their location respective to the development site.
- Afternoon (from 1200h until 1600h)
  - National School in East Wall– no additional shading visible from the proposed development on the existing residential dwellings during March.
  - Merchants Road dwellings – no additional shading visible from the proposed development on the existing residential dwellings due to their location respective to the development site.

#### December

Additional shading is to be expected on the existing residential dwellings during winter periods due to the lower sun angle and longer shadows being cast. The impact caused by overshadowing are generally most noticeable during the summer months and least noticeable during the winter months. I note that the front of houses on Merchants Road, only, would be affected in this regard and not their rear gardens.

12.4.9. Average daylight factors indicate that of the 135 tested 125 exceed the BRE guidelines. This equates to 93% of all the tested rooms. It is expected that this overall percentage would rise if all of the upper floors were included in the results. A case is made that the reduction in ADF in ground floor units is typically expected on an urban site that provides for a high-density development. In addition, due to site constraints, particularly the right of way and surrounding properties, the layout of the development is restricted to the current arrangement. In this regard a balance must be struck between the overall regeneration of the site and the improvements to the overall quality of the area and the minor reduction in VSC of some of the proposed units at ground floor. I accept this argument as reasonable in this instance.

12.4.10. The height of the development increases towards the centre of the site, with the blocks to the south, east and west, reducing in height as to avoid any overbearing impact on the existing properties. The proposed development has also

been adequately set back from the boundaries of the site to enable increased separation between the existing and proposed building, reducing the potential for any overbearing impacts.

- 12.4.11. The analysis images show that on the 21st of March for the proposed scheme amenity areas, over half of the proposed amenity spaces (70%) would receive at least 2 hours of sunlight in line with the BRE recommendations
- 12.4.12. Having regard to the foregoing, I am satisfied that the proposal will enhance this inner urban location. The level of amenity being afforded to future occupants is considered good. Adequate separation distances are proposed between blocks to avoid issues of overshadowing or overlooking. A Sunlight and Daylight Access Analysis was submitted with the application with which I am generally satisfied. Standards have generally been met in relation to issues such as number of dual aspect units, ceiling heights, floor areas and private open space provision. A Microclimate Wind Analysis and Pedestrian Comfort Preliminary Report has also been submitted, the contents of which appear reasonable and robust, and includes for mitigation measures. It is noted that the proposed development varies in height with only one building reaching 9 – 10 no. storeys. As the proposal is not for tower or taller buildings an assessment of microclimatic effects from tall buildings was not considered necessary in this instance. However, a wind analysis has been carried out to assess the proposed level of pedestrian comfort within the development in that context. The results indicate that the proposed public realm areas are suitable for frequent / occasional sitting. I note mitigation measures proposed and consider same appropriate and reasonable.
- 12.4.13. 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 / employment / school amenity would not be so great as to warrant a refusal of permission. The noise concerns raised by the owner of Unit 11 has been addressed above, I would highlight that none of the existing residents have raised an issue with noise from the site at present. Houses on Merchants road directly face the rear of Unit 11.

## 12.5. Traffic and Transport

- 12.5.1. Traffic safety concern has been raised by a third party. The owner of Unit 11 submits that HGV's service his factory. A photo of a 40 foot container lorry, which it is submitted is being loaded with cargo outside Unit 11 has been submitted. Concern is also raised that children may be playing in the creche or open space areas inhaling diesel fumes from industrial lorries passing within close proximity. I have addressed these matters in paragraph 12.5.5 and 12.5.10 of this report. With respect to legal rights and RoW issues raised by third parties, these are considered civil matters, in this regard I note the provisions of s.34(13) of the 2000 Planning and Development Act, as amended.
- 12.5.2. The following documents have been submitted in support of this proposal:
- Engineering Planning Report
  - Transport Assessment Report
  - Operational Waste Management plan
  - Construction Management Plan & Construction Waste Management Plan
- 12.5.3. The principal entrance to the proposed development will be via an improved existing vehicular access to East Wall Road. Additional pedestrian access points will be provided from Merchants Road and to the west along East Wall Road. The proposed access and egress points will provide for greater permeability to the development and will link the proposed public plaza from all access points.
- 12.5.4. Vehicular access will be directed along the eastern boundary of the site and into the basement access point to the south of the site. All future residents will have restricted vehicular access to basement level only.
- 12.5.5. Vehicular access to the existing, retained commercial / light industrial units will also be provided on restricted access only with direct access to the delivery/ servicing area for these units. A wayleave is also provided through the site for access by the existing tenants. It is submitted that clear traffic management will be provided to ensure no conflicts between pedestrian / cyclists and vehicles. The Traffic Impact Assessment prepared by NRB sets out the proposed vehicular accessibility for the site.

- 12.5.6. A total of 195 car parking spaces are proposed (0.58 spaces per apartment), together with 420 bicycle parking spaces and 8 motorcycle spaces are proposed.
- 12.5.7. The Transportation Assessment Report concludes that the sites current use has very significant traffic generation characteristics in its own right if the entire site were open and occupied, and, in these terms, the now-proposed development represents significantly lower traffic generation characteristics. The traffic report confirms that the traffic generated by the proposed development will have an unnoticeable impact upon the established local traffic conditions and can easily be accommodated on the road network.
- 12.5.8. An assessment of junction capacity has been undertaken based on recent traffic data and this confirms that the proposed improved access and the affected road links and junctions are adequate to accommodate the worst-case traffic associated with the development scheme.
- 12.5.9. The Transportation Department of the planning authority have submitted a comprehensive report to ABP, it states that they have no objections to the proposed development, subject to conditions.
- 12.5.10. While the traffic safety concerns of the owner of Unit 11 are duly noted, given the reports carried out including Transportation Assessment, Preliminary Mobility Management Plan / Travel Plan and a Stage 1 Road Safety Audit, I consider that the proposed mixed-use development would not pose an unacceptable traffic safety risk subject to the development being carried out in compliance with proposals submitted. To my mind the applicant has adequately demonstrated they can deliver what is proposed. To ensure compliance I recommend that a condition be attached which requires a Mobility Management Strategy to be prepared and submitted to and agreed in writing with the planning authority. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include precise details of vehicular / service access to Unit no. 11, 15 and 16. See condition 13 (e)
- 12.5.11. The principle design guidance of DMURS has been considered and responded to appropriately in the design of this development. As demonstrated in the Design Statement accompanying this planning application, the proposed



development seeks to prioritise pedestrian and cyclists throughout and around the site in accordance with the policies set out in DMURS.

- 12.5.12. An assessment of car parking and cycle parking has been undertaken and it is considered more than adequate to cope with the demands of the development. The applicant has submitted a rationale for the reduced level of car parking within the transportation assessment report. The report concludes that there is clear rationale for reduced car parking in residential schemes in the city centre. This would be in line with the City Councils policy that car parking provision be minimised, substantially reduced or wholly eliminated in certain circumstances where developments are located in highly accessible areas such as adjoining city cores and in close proximity to public transportation stations.
- 12.5.13. This site is within easy walking distance of the Dublin Docklands employment area, is within walking distance of the Luas at The Point and Spencer Dock, as well as the Docklands LUAS Train Station, and is of course also well served by Dublin Bus Services. In this regard the site is considered to represent a highly 'sustainable' location for mixed/residential development of the nature proposed.
- 12.5.14. 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. The proactive mobility management strategy for the site will provide alternative sustainable transport options for future residents, thus reducing the overall impact in the surrounding road network. I am also satisfied with the quantum of cycle parking space proposed.
- 12.5.15. The subject site is strategically located proximate to the city centre, where there are a number of high quality intercity and commuter links, as well as employment opportunities within walking distance. The proposed roads improvement works will benefit the wider area. Given the location of the site within an urban area on zoned lands, proposals for mobility management, access and service arrangements I do not have undue concerns in relation to traffic or transportation issues. I note details have to be agreed for construction and operational traffic and access to Units 11, 15 and 16 to be retained. Civil rights issues have been raised with respect to access during construction and operation stages of the proposed

development such matters are addressed in preceding sections of this report and I have concluded that subject to the proposals submitted being carried out in accordance with details submitted that subject to condition the proposal is acceptable, regard is had once again to provisions of S.34(13) of the 2000 Planning and Development Act, as amended. There is a good road infrastructure in the vicinity of the site with good cycle/pedestrian facilities. Public transport is available in close proximity. 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 give rise to obstruction of road users and I consider the proposal to be generally acceptable, subject to condition, in this regard.

## 12.6. Public and Communal Open Space

12.6.1. The scheme provides for residential amenity and recreational areas including:

- Concierge, gym, multi-purpose rooms (Block 2)
- Multi-purpose penthouse (Block 5)
- Roof terraces (Block 1, Block 5 and Block 6)
- Landscaped spaces (Block 3 and Block 4)

12.6.2. The residential amenity spaces have a combined GFA of 2,347 sq. m. An operational management plan was submitted detailing the ongoing management and how the residential amenities will be managed effectively.

12.6.3. Terraces and balconies will be provided for each of the individual units. The quantum of private open space is in accordance with the standards set out within the apartment guidelines.

12.6.4. The apartment guidelines set out standards for private and communal open space. The proposed development includes a range of open spaces such as the public plaza and playground space (public open space) and a number of communal gardens and roof terraces (communal open space).

12.6.5. The public open space accounts for more than 10% of the site area in accordance with the Dublin City Development Plan, providing for 3,285 sq. m of open space to serve the existing and future residents in the area. The public amenity plaza spaces

provide a games and outdoor gym area, play space, seating space associated with the café, concierge space associated with the central block and seating space associated with office.

12.6.6. In addition, a total of 2,347 sq. m of communal open space is provided. The overall requirement for the development is 2,038 sq. m regard being had to the apartment guidelines. The proposed development is therefore in accordance with the relevant standards in this regard.

12.6.7. I consider that the proposed non-residential uses, of the scale proposed, are appropriate at this location. The open space proposed is acceptable in terms of its location within the site. The Daylight and Sunlight assessment report referred to earlier in paragraph 12.4.8 of this report provides an analysis of the proposed amenity spaces. This report is noted and I am of the opinion that sunlight to the proposed amenity spaces is in line with BRS recommendations and acceptable in principle. Also as referred to earlier in this report a wind and microclimate study was submitted, which analysis the pedestrian comfort of communal spaces. The public area was determined to be suitable for frequent / occasional sitting. In addition, all balconies were deemed suitable for long / short term sitting.

12.6.8. I note that the Parks Department have raised a number of concerns in relation to the potential conflicts between the public open space provision and the proposed vents within the open space area. It is the recommendation of the Parks Department that a condition be attached requesting the applicant to submit a landscape scheme prepared by a qualified Landscape Architect to address these concerns. This matter can be dealt with by way of condition.

12.6.9. The proposal will integrate into and enhance the public realm of the area. It includes the creation of increased permeability through the site and physical changes to the street edge. The incorporation of high-quality public and communal open space is welcome in this area which is poorly provided for at present.

## 12.7. **Childcare Facilities**

12.7.1. The subject proposal includes a creche (c.120 sq. m) in Block 6, which would have one classroom of 55.9 sq. m a staff / office 11.7 sq. m a store, two no. W.C. and kitchen 15.2 sq. m. It has an 80 sq. m outdoor play area located to its south east. It can cater for 24 childcare spaces. The facility has been sized to cater for expected

childcare care demand for the proposed development based upon unit mix proposed and national guidelines in respect of childcare and design standards for new apartments (2018). In addition, a review was carried out on the provision of creche facilities in the East Wall / IFSC/ City Quay / Fairview / Clontarf / Drumcondra Area,

12.7.2. I note that the proposal is acceptable to the p.a. When 1 bed units are omitted, specifically from the proposed development and number of 2 bed units proposed are taken at 50% requirement rate, the remaining no. units have a childcare requirement of c. 24 childcare places based on the guidance contained in the Childcare Facilities Guidelines. On the basis of the justification submitted for childcare I am satisfied that the level of childcare provision is adequate.

## 12.8. Other Matters

### 12.8.1. Drainage

In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. It is proposed to renew a large portion of the existing private networks within the site, apart from the drainage which caters for the units 11, 15 and 16 as these units will be retained as part of the new development. The new surface water drainage from the subject site will connect into the  $\varnothing$ 1200mm pipe at same location as the existing drainage network. Irish Water have indicated in their submission on file that a new connection to the existing water supply network is feasible without upgrades and that based on the details provided, it is considered that, subject to a valid connection agreement between the developer and Irish Water, the proposed connections to Irish Water networks can be facilitated. Irish Water requests that a condition be attached, in the event that planning permission is forthcoming, requiring that a connection agreement with Irish Water is signed prior to any works commencing and connecting to the network. All development is to be carried out in compliance with Irish Water Standards codes and practices. This is considered appropriate.

### 12.8.2. Flood Risk

An Engineering Planning Report and a Site-Specific Flood Risk Assessment (SSFRA) were submitted with the application. The information contained within these documents appears reasonable and robust. The report of the Engineering Department of the planning authority, as contained in the Chief Executive Report, states that there is no objection to the proposal, subject to proposed conditions. It is noted that part of the site is located within Flood Zone A/B for tidal flooding, although the site is located in an area that benefits from flood defence measures. It is noted that the site is protected by the Spencer Dock tidal barrier.

Having regard to the concerns raised by Dublin City Council Drainage Division, detailed analysis and assessment has been carried out and agreed based on the flood levels on the site. It has been agreed that a finished floor level of 3.25mOD was appropriate for the site taking into consideration that the site is defended and there is no need to provide for additional allowance for climate change and freeboard. Dublin City Council Drainage Division are supportive of this approach in this instance.

Mitigation measures which it is proposed to implement in the scheme include:

1. The finished floor level of the new buildings will be at, or higher than 3.3m OD.
2. All vents and basement openings will be at, or higher than 3.25mOD.
3. A self-closing flood barrier gate will be provided at the basement car park access.
4. The management company should subscribe to the Dublin city flood warning system and should develop an evacuation plan for the basement during a flood event.
5. Surface water flows onsite will be managed by incorporating a stormwater system as part of the development.
6. A threshold of 150mm is to be provided between the FFL of each building and the surrounding landscape area.

I have had cognisance to the third-party concerns with respect to flood risk, in particular, to those units to be retained. This is a serviced, appropriately zoned site at an urban location. The site historically has no recorded flood events as noted in the

OPW's historical flood maps. Modelling of the River Dodder has indicated that the subject lands are located outside the 0.1% AEP zone. I note the mitigation measures proposed for surface water management, the inclusion of SUDS, green roofs, permeable paving, green areas and the advance flood warning system.

I consider that the proposed development would not cause increased flood risk given the design and mitigation measures proposed. I note that Units 11, 15 and 16 are uses which are considered less vulnerable and I highlight section 3.1 of the Planning System and Flood Risk Management Guidelines for Planning Authorities which states:

'There should be a degree of flexibility in the location of land uses to reflect existing or future sustainable urban structure; and Less vulnerable uses should be provided at ground floor level in areas of greater flood risk where a sustainable mix of uses is sought'.

Again I note the concerns raised by the owner of Unit 11 with respect to flood risk from displacement. However, I consider that having regard to all of the information before me, including the guidance contained within the relevant Section 28 guidelines on flood risk management and mitigation measures proposed that the proposal is reasonable and would not give rise to an unacceptable flood risk. I see no evidence before me to recommend that planning permission be refused on grounds of flood risk.

### 12.8.3. **Part V**

34 no. units are proposed to be provided as part of the Part V obligations. The proposed mix of Part V units to be transferred includes 20 no. one bed apartments and 14 no. two bed apartments.

The Housing Section of the Council has confirmed that the applicant has engaged with Dublin city Council in relation to compliance with Part V.

I note the Part V details submitted, together with the report of the Chief Executive of the planning authority. I have no issue with the proposal in this regard.

#### 12.8.4. Material Contravention Issue

The application contains a statement setting out how the proposal will be consistent with the objectives of the Dublin City Development Plan 2016-2022.”

The proposed development is accompanied with a Material Contravention Statement which sets out justification for the proposed development in terms of building height having regard to the provisions of the Urban Development and Building Height Guidelines 2018. I have addressed the building height and planning issues in this regard in paragraph 12.3.15 of this report

A justification has also been provided in relation to the level of car parking provision although it is considered that the proposed development is not in material contravention of the development plan in this respect.

Section 16.7.2 of the Development Plan identifies building heights for the city and identifies a building height cap of 28m for commercial and 24 metres for residential within this location. The proposed development ranges in height from 4 no. storeys to 10 no. storeys (c.32.5 m) which is in excess of the development plan height limits.

Under Section 5(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, the Board may grant planning permission for a proposed development that is considered to materially contravene the Development Plan, other than in relation to zoning, having regard to the requirements of Section 37(2)(b) of the Planning and Development Act 2000, as amended. The requirements of Section 37(2)(b) of the Act are as follows:

- i. The proposed development is of strategic or national importance,
- ii. There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

The current application has been lodged under the strategic housing legislation and the proposal is considered to be strategic in nature. The Urban Development and Building Height Guidelines 2018 removed numerical limitations on building height and take precedence over the Development Plan.

A case for the proposed heights over and above development plan standards is contained within the Material Contravention Statement which puts forward a case for the proposed height at this location in accordance with SPPR3 of the Building Height Guidelines. The Section 28 Guidelines specifically promote the increase in building heights in appropriate urban locations. Therefore, the proposed development at a maximum height of 32.5m is considered to be acceptable building height in accordance with the Urban Development and Building Height Guidelines

The proposed development is considered to be of strategic and national importance having regard to: the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); its location, proximity to the city centre and its Z14 mixed use zoning in the Dublin City Development Plan 2016-2022, and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 13 and 35), the 'Dublin Metropolitan Area Strategic Plan', the 'Urban Development and Building Height Guidelines' (in particular section 3.2, SPPR 3).

I highlight to the Board that s3.2 of the Urban Development and Building Height Guidelines states:



'In the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies the following criteria:

**At the scale of the relevant city/town**

- The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.
- On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape'.

Regard being had to the foregoing I am of the opinion that exemptions set out in Section 9 (6)(a) of the 2016 Act and Section 37 (2)(b) (i) and (iii) of the 2000 Act could be relied upon in this instance. The newspaper notice contains a statement indicating that the application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

**12.8.5. Procedural issues**

12.8.6. Legal argument with respect to recladding or alteration to units to be retained, RoW access thereto, validity of information submitted, abuse of the planning process and disturbance during construction as set out in the detailed submission from the owner of Unit 11 is duly noted. I have sought to address the planning issues raised by third parties in other sections of this report and I intend to deal with procedural issues below:

- In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence that they have sufficient legal interest for the purposes of the planning application and decision.
- With respect to abuse of the planning process and validity of the documentation submitted, I consider that the plans, drawings and documentation on file are sufficient and adequate for the purpose of making a planning application, carrying out an assessment and making a decision. I see no evidence before me that would warrant the Board to question the bona fides of the application and refuse planning permission on grounds of inadequate or insufficient information / documentation.
- With respect to fire safety, dangerous buildings, derelict sites, building control etc. raised by the third party I would note that any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the subject planning application.
- With respect to legal rights and RoW issues raised by third parties, these are considered civil matters to be resolved between the parties, in that regard I note here the provisions of s.34(13) of the 2000 Planning and Development Act, as amended.
- Enforcement concerns raised relate to existing and historic uses on the site. The subject application is a new application. I would also note that unauthorised use / enforcement comes within the remit of the planning authority and is not a matter for the Board to adjudicate upon in this instance. Concurrent planning application Reg. Ref PL4327/19 is for a wholly different development to that proposed in the subject development. See Planning History section 4.0 of this report. Therefore Section 37(5) of the Planning and Development Act 2000 does not apply.
- The application before the board falls to be determined on the basis of the proper planning and sustainable development of the area having regard to the material considerations set out in section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The matters raised in the third-party observations, with respect to flawed SHD application form, planning history, site boundary and viability do not justify refusing the current application for permission or to refrain from making a decision upon it. I consider that the information on file,

including plans and drawings and supporting documentation is sufficient for an informed decision to be made in this case.

## 12.9. Environmental Impact Assessment

- 12.9.1. The subject site is located within the Dublin Docklands south of East Wall Road Dublin 3. There are no trees or hedgerows present on the site. The site is currently in operation as a business park. The existing buildings comprise of a number of low rise commercial / light industrial properties surrounded by hard standing. As part of the proposed development the majority of the existing buildings on site will be demolished. Three units within the development will be retained and refurbished as part of this development, units 11, 15 and 16. It is proposed to construct 336 no. apartments, a childcare facility a retail unit, a café, some office accommodation and associated site works.
- 12.9.2. The development is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations. An Environmental Impact Assessment would be mandatory if the development exceeded the specified threshold of 500 dwelling units or 10 hectares, or 2 ha if the site is regarded as being within a business district. The site is zoned Z14 – ‘to seek the social, economic and physical development and / or rejuvenation of an area with mixed use of which residential and Z6 would be the predominant uses.’ The overall proposal for 336 apartments on 1.45 ha is below the mandatory threshold for EIA.
- 12.9.3. The criteria at schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The application is accompanied by an Environmental Report and Ecological Report and a Hydrological Assessment. The Environment Report containing an EIA screening statement includes the information required under Schedule 7A to the planning regulations. With regard to characteristics the size of the proposed development is well below the applicable thresholds. The mixed-use scheme would be similar to predominant land uses in the area. The proposed alterations would not significantly alter the existing environment or increase the risk

of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The development is served by municipal drainage and water. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The submitted Bat report and the report of the parks, biodiversity and landscape services department of DCC are noted here. This matter can be dealt with by way of condition. I recommend that a condition be attached requiring that the applicant be required to undertake a survey of Bats, Birds and a risk assessment and strategy for invasive species, should planning permission be forthcoming from the Board. See conditions 10 and 11 attached. The site does not overlap with any European Sites. It is located 0.6m to Dublin Bay and to The South Dublin Bay and River Tolka Estuary SPA (site code: 4024) to the north east and 2.1 Km distant from it to the south east. It is located approx. 3.2 Km to the North Bull Island SPA (004006) and North Dublin Bay SAC (000206). The AA Screening set out in section 12.10 of this report concludes that the potential for adverse impacts on Natura 2000 sites can be excluded at the screening stage.

12.9.4. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects, the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA screening assessment report submitted with the application.

## 12.10. APPROPRIATE ASSESSMENT (AA)

12.10.1. An Appropriate Assessment, Stage 1 Screening Report was submitted with the application. It states that the site is not located within or directly adjacent to any Natura 2000 area (SAC or SPA). This part of north Dublin is a built-up business and

residential zone and is predominantly composed of surfaces that are sealed with tar macadam and concrete. Recent aerial photography shows that the site is entirely composed of buildings. It is located approximately 550m from the Tolka Estuary to the north and 700m to the River Liffey to the south, the banks of which are composed of artificial quay walls at this location. The site is surrounded on all sides by either roads or other commercial properties.

12.10.2. There is no direct discharge to an open stream/Dublin Bay proposed as part of this development. Discharge from the site has been directly to public service water pipes and existing private drainage within the existing industrial development (the private drainage discharges into the public service pipe). The nearest surface water receptors lie to the north and south of the proposed development site. These are identified as the Tolka River Estuary (EPA code: 09T01) located to the north of the site (<600 m), and Liffey River Estuary (EPA code: 09L01) located <1 km to the south of the site. There is no direct open water linkage between the proposed development and these water bodies. Fresh water supply for the development will be via a mains supply. This originates in the Poulaphouca Reservoir.

12.10.3. There are no Natura 2000 sites within the application site boundary. The nearest Natura 2000 site is South Dublin Bay and River Tolka Estuary SPA (site code: 004024) is located approx. 0.6 Km distant to the north east and is also located approx. 2.1 Km distant to the south east. North Bull Island SPA (004006) and North Dublin Bay SAC (000206) are located 3.2 Km to the north east.

12.10.4. In terms of zone of interest the following Natura 2000 sites are within 15 km of the application site:

- The South Dublin Bay and Tolka Estuary SPA
- North Bull Island SPA
- North Dublin Bay SAC
- The South Dublin Bay SAC
- Rockabill to Dalkey Island SAC
- Wicklow Mountains SAC and SPA
- Baldoyle Bay SAC/SPA

- Malahide Estuary SAC and SPA
- Howth Head SAC and Howth Head Coast SPA
- Irelands Eye SAC / SPA

12.10.5. The application site is on serviced land within the existing built up area of the city. The proposed development would be served by the city's water supply and foul sewerage network and by the municipal surface water drainage system for Eastwall. Its impact at the outfall of the foul drainage network systems would be negligible, given the scale of the proposed development in the context of the city. The surface water drainage system includes the usual attenuation, SUDs features and interceptors so the stormwater runoff from the development would not be likely to have any significant effect on downstream habitats or species, whether in relation to the quality or quantity of runoff or otherwise. Having regard to the separation distances between the subject site and Natura 2000 sites, the receiving environment the nature and scale of development proposed, it is considered appropriate and reasonable in this instance to exclude a number of Natura 2000 sites and to carry out AA screening of 3 Natura Sites. Table 1 hereunder details their qualifying features of interest.

- The South Dublin Bay and River Tolka Estuary SPA (site code: 004024)
- North Bull Island SPA (004006)
- North Dublin Bay SAC (000206)

**Table 1 Qualifying Features**

<b>North Bull Island SPA</b>	<b>North Dublin Bay SAC</b>	<b>South Dublin Bay and Tolka Estuary SPA</b>
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	Mudflats and sandflats not covered by seawater at low tide (1140)	Light-bellied Brent Goose (Branta bernicla hrota) [A046]
Oystercatcher (Haematopus ostralegus) [A130]	Salicornia and other annuals colonizing mud and sand (1310)	Oystercatcher (Haematopus ostralegus) [A130]

Teal ( <i>Anas crecca</i> ) [A052]	Atlantic salt meadows (1330)	Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137]
Pintail ( <i>Anas acuta</i> ) [A054]	Mediterranean salt meadows (1410)	Grey Plover ( <i>Pluvialis squatarola</i> ) [A140]
Shoveler ( <i>Anas clypeata</i> ) [A056]	Annual vegetation of drift lines (1210)	Knot ( <i>Calidris canutus</i> ) [A143]
Shelduck ( <i>Tadorna tadorna</i> ) [A048]	Embryonic shifting dunes (2110)	Sanderling ( <i>Calidris alba</i> ) [A144]
Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]	Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) (2120)	Dunlin ( <i>Calidris alpina</i> ) [A149]
Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]	Fixed coastal dunes with herbaceous vegetation (grey dunes) (2130)	Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157]
Knot ( <i>Calidris canutus</i> ) [A143]	Humid dune slacks (2190)	Redshank ( <i>Tringa totanus</i> ) [A162]
Sanderling ( <i>Calidris alba</i> ) [A144]	<i>Petalophyllum ralfsii</i> Petalwort (1395)	Black-headed Gull ( <i>Croicocephalus ridibundus</i> ) [A179]
Dunlin ( <i>Calidris alpina</i> ) [A149]		Roseate Tern ( <i>Sterna dougallii</i> ) [A192]
Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156]		Common Tern ( <i>Sterna hirundo</i> ) [A193]
Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157]		Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]
Curlew ( <i>Numenius arquata</i> ) [A160]		Wetlands & Waterbirds [A999]
Turnstone ( <i>Arenaria interpres</i> ) [A169]		
Black-headed Gull ( <i>Larus ridibundus</i> ) [A179]		
Wetlands & Waterbirds [A999]		

The Conservation objective of North Bull Island SPA (004006):

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

The Conservation objective of North Dublin Bay SAC (000206):

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

The Conservation objective of South Dublin Bay and River Tolka Estuary SPA (004024):

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

12.10.6. The site is in a built-up area and is not directly adjacent to any Natura 2000 sites. There are hydrological links via surface and wastewater flow to the estuaries of the River Tolka and the River Liffey as well as to Dublin Bay. Due to the great dilution factor of any potential pollution source, there is no pathway to any Natura 2000 site beyond Dublin Bay. While there is a potential surface water pathway between the development site and coastal European sites associated with Dublin Bay, via the local surface water drainage network. No significant impacts on water quality are predicted during the construction phase. 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. At operational stage, the site is serviced by an existing surface water sewer. The 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 with the requirements of planning authority. The proposed development is designed in accordance with the principles of Sustainable Urban Drainage Systems (SuDS), greenroofs, permeable paving and green areas. Stormwater Retention System to the roof areas and the podium slab over the basement. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a



residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission.

12.10.7. It is concluded within the submitted assessment there will be no likelihood of significant effects on any European sites during the construction or operation of the proposed development, in combination with other plans or projects. It is noted that water quality is not listed as a conservation objective for these designated sites within Dublin Bay. Significant effects are not likely to arise, either alone or in combination with other plans or developments that would result in significant effects on the integrity of the Natura 2000 network

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

### 13.0 Recommendation

13.1.1. I recommend that permission be **granted** for the proposed development subject to the conditions set out below in the 'Recommended Order':

### 14.0 Recommended Draft Board Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 03<sup>rd</sup> March 2020 by EWR Innovation Park Limited, Dublin Road Ashbourne Co. Meath.

## Proposed Development:

A planning permission for strategic housing development on a site of c. 1.45 hectares located at the junction of East Wall Road and Merchant's Road, Dublin 3. The lands are bounded by East Wall Road to the north, The Beckett Building site and St. Joseph Educational National School to the west, 3-4 storey residential development to the south and Merchant's Road to the east. The existing buildings on site comprises of a number of low rise commercial / light industrial properties. As part of the proposed development the majority of the existing buildings on site will be demolished. Three units within the development will be retained and refurbished as part of this development, units 11, 15 and 16. Unit 11 is located in the south east corner of the site and building 15 and 16 are located in the south west corner of the site. Access to these units will remain in place.

The subject site is located within the Dublin Docklands area well served by public transport. The site is within walking distance to the Point Luas stop c. 1km (10 minute walk) and to Clontarf Dart Station c. 1.4km (15 minute walk) and is situated along a Dublin Bus corridor. The subject site is therefore highly accessible to quality public transport. The site is also in close proximity to the Port Tunnel with direct access to the M50 and Airport.

14.1.1. The proposed development is for a mixed-use scheme which consists of:

- Demolition of most of existing structures on site, existing two storey light industrial / commercial units (except units 11, 15, 16) and the construction of 336 residential units.
  - The proposed development provides for 6 Blocks (4 – 10 storeys). The 10-storey element (Block 2) is located at the centre of the site.
  - The proposed housing mix is as follows:
    - 161 no. 1 bed units,
    - 171 no. 2 bed units and
    - 4 no. 3 bed units.
- The provision of a retail unit, creche (120 sq. m), café / restaurant and office accommodation.

- The retention and upgrading of 2,606 sq. m of commercial space in three units. The retained units (11, 15 and 16) will be retained and refurbished externally and the uses will remain in situ in conjunction with the proposed new development.
- The proposed development will also include significant landscaping works comprising of hard and soft landscaping, provision of public and communal open spaces, new internal roads and new boundary treatments.
- The development also includes the provision of residential amenity spaces such as concierge, gym, communal rooms and roof terraces to serve the future residents within the development.
- **Block 1** will comprise of 43 no. apartment units (15 no 1 beds and 28 no. 2 beds) and will be a maximum height of 5 no. storeys (16.9m) (4 no. storeys with set back 5 no. storey). A communal roof terrace is also proposed at 5th floor level.
- **Block 2** will comprise of 74 no. apartment units (37 no. 1 bed, 33 no. 2 beds and 4 no. 3 beds) with a maximum height of 10 no. storeys (32.6m) (9 no. storeys with a 10 no. storey set back penthouse level). Block 2 will include residential communal space at ground floor level including concierge and multi purpose residential amenity spaces.
- **Block 3** will comprise of 63 no. apartment units (35 no. 1 beds and 28 no. 2 beds) with a proposed height of 7 no. storeys (22.9m).
- **Block 4** will comprise of 62 no. apartment units (33 no. 1 beds and 29 no. 2 beds) with a proposed height of 7 no. storeys (22.9m)
- **Block 5** will comprise of 69 no. apartment units (34 no. 1 beds and 35 no. 2 beds) with a maximum height of 8 no. storeys (26.3m) (7 no. storeys with a set back 8 no. storey). 3 no. commercial office spaces (780 sq.m.) and 1 no. café / restaurant (210 sq.m.) are proposed at ground floor level. 1 no. commercial office unit at the north west corner of the block also extends to first floor level. A communal residential amenity space and roof top terrace is also proposed at roof level (8 no. storey).
- **Block 6** will comprise of 25 no. apartment units (7 no 1 beds and 18 no. 2 beds) with a maximum height of 7 no. storeys (23.5m) (stepping down to 4 no. storeys to the south) A creche (120 sq.m.) and retail unit (205 sq.m.) are proposed at

ground floor level including an outdoor play space associated with the creche. A communal roof top terrace is also proposed at 7 no. storey.

- **Unit 11** (c. 375 sq. m) is currently in use as a light industrial / manufacturing use with ancillary office. This use will remain in operation on the site. Access to Unit 11 will be provided through the main vehicular entrance off East Wall Road. It is submitted that currently, Unit 11 contains 3 no. employees with low level daily movement of goods and deliveries to the unit. The unit will be refurbished externally and re-clad to merge in appearance with the new development on the site. There is no change to the overall use of this building as part of this application and all operations will remain on-going.
- **Unit 15 / 16** (c. 2,076 sq. m) is currently in use as a logistics / distribution centre at ground floor and offices at the upper levels. It is proposed to change the use of c.408 sq. m of the ground floor to office as part of this application. The remainder of the building c. 1,668 sq.m will be retained as light industrial use. In addition, the external appearance of the building will be refurbished and re-clad as part of this application.
- **Unit 16** (155 sq. m) is currently in use for light industry / technology with ancillary offices. The use of unit 16 is proposed to be retained on the site. As per the other retained units, Unit 16 will be refurbished and re-clad externally to merge with the proposed materials and finishes of the overall development.

14.1.2. The application contains a statement setting out how the proposal will be consistent with the objectives of the Dublin City Development Plan 2016-2022.

14.1.3. The application contains a Statement of Material Contravention indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land. The proposed height is in excess of the development plan standards. Located at Docklands Innovation Park, 128-130 East Wall Road, Dublin 3

## **Decision**

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

### **Matters Considered**

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

### **15.0 Reasons and Considerations**

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

(a) the site's location close to Dublin city centre, within an established built-up area on lands with zoning objective Z14, which is to 'seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and "Z6" would be the predominant uses' in the Dublin City Development Plan 2016-2022

(b) the policies set out in the Dublin City Development Plan 2016 - 2022,

(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) 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 report of the Chief Executive of Dublin City Council

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

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
  - (b) the absence of any significant environmental sensitivities in the area,
  - (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),
- the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

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

The Board considered that the proposed development is, apart from the building height parameters, broadly compliant with the current Dublin City Development Plan

2016 – 2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the Plan with respect to building height limits. The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the development plan would be justified for the following reason and considerations:

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

The proposed development is considered to be of strategic and national importance having regard to: the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); its location, proximity to the city centre and its Z14 mixed use zoning in the Dublin City Development Plan 2016-2022, and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

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

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 13 and 35) and the 'Urban Development and Building Height Guidelines' (in particular section 3.2, SPPR 3).



## 16.0 Conditions

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

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

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

(b) In addition to the apartments facing the East Wall Road all glazing in apartment units in Block One (1<sup>st</sup> – 3<sup>rd</sup> floor Apt, 17, 27, 37, Fourth Floor Apt 42, Ground Floor Apt 08) and Block 3 (Ground Floor Apt 02 and 03, Third Floor Apt 29 and 30, First and Second Floor Apt, 12, 21, 11 and 20 and Fourth – Sixth Floors Apt 39, 48, 57, 38, 47 and 56) adjacent Unit 11 shall be provided with acoustic glazing, details and specification of which shall be submitted to and agreed in writing with the planning authority, prior to the commencement of any development on this site.

**Reason:** In the interest of visual amenity and to protect the residential amenity of future occupants of the apartment units adjacent to Unit 11.

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

**Reason:** In the interest of planning control.

4. Prior to occupation of the ground floor units the developer shall submit full details of the location and management of the area to be reserved for social, cultural, creative and artistic purposes. This shall amount to 5% of the floor area of the permitted development.

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

5. Details of all security shuttering, external shopfronts, lighting and signage of the commercial/retail units shall be the subject of a separate planning application for permission. All signage to ground floor units should consist of individual lettering mounted or hand painted on building, with the lettering to be of an appropriate scale and consist of high-quality materials.

**Reason:** In the interest of the amenities of the area/visual amenity.

6. No advertisement or advertisement structure shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

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

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

8. (a) The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works and shall notify the planning authority of the appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works area inspected and completed to the satisfaction of the Landscape Consultant, he / sha shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.
- (b) Development shall not commence until a landscape scheme prepared by a qualified Landscape Architect comprising full details of the size, species and location of all vegetation to be planted and the treatment of all external ground surfaces, playground and gym proposals for Civic Plaza and green roof proposals for new buildings has been submitted to and agreed in writing by the planning authority.
- (c) The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.
- (d) Prior to commencement of development, a tree retention and protection plan shall be prepared and submitted by a qualified Arboriculturist for approval of the Planning Authority prior to construction commencement. All public street trees adjacent to the site, shall be adequately protected during the period of

construction as per BS 5837, such measures to include a protection fence beyond the branch spread, with no construction work or storage carried out within the protective barrier.

(e) The developer shall be responsible for maintenance and management of all open spaces. The public open spaces shall 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.

(f) Where feasible the planting of native pollinator friendly species of plants and trees shall be incorporated into the landscape plan.

(f) No gates shall be erected at the entrances to the site from East Wall Road or Merchants Road.

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

9. Prior to the commencement of development the developer shall provide a risk assessment and a strategy for a management system for invasive alien species to be used for the duration of the proposed project in accordance with the Dublin City Council Invasive Alien Species Action Plan (2016-2020).

**Reason:** To ensure compliance with the EU Invasive Alien Species Regulation (2014) and the Birds and Habitats Regulations (2011) and with the policies of the National and City Biodiversity Action Plans and the Dublin City Development Plan.

10. A survey of nesting birds for the development site shall be prepared by a qualified ecologist, with particular reference to nesting gulls and passerine birds to be completed and submitted to the planning authority prior to any demolition or construction activity on site. Pending the results of this survey, a license may be required to re-locate/re-house birds from the National Parks and Wildlife Service and evidence of obtaining such license and successful re-location is required to be submitted to the local authority prior to any demolitions or construction activity on site. The applicant should ensure that the works are monitored by a qualified ecologist. Works may need to be delayed to ensure breeding is complete. The

nesting birds survey shall include recommendations for the location, mounting and design of bird nesting boxes to be included in the proposed development and installation of these shall be verified post-installation in writing and photographed by a qualified ecologist to the local authority.

**Reason:** To ensure compliance in accordance with Annexes I and II of the EU Birds Directive and the Wildlife Act and with the City Biodiversity Action Plan and City Development Plan.

11. A further bat survey shall be carried out during May-September by a qualified ecologist and shall be completed and submitted to the local authority prior to any demolition or construction activity on site. Pending the results of this survey, a license may be required to re-locate/re-house bats from the National Parks and Wildlife Service and evidence of obtaining such license and successful re-location is required to be submitted to the local authority prior to any demolitions or construction activity on site. The applicant should ensure that the works are monitored by a licensed bat worker.

The bat survey shall include recommendations for the location, mounting and design of bat boxes to be included in the proposed development and installation of these shall be verified post-installation in writing and photographed by a qualified ecologist to the local authority.

**Reason:** To ensure compliance in accordance with Annex IV and Article 10 of the EU Habitats Directive and the Wildlife Act and with the City Biodiversity Action Plan and City Development Plan.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

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

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

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

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

13. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;

(c) The proposed roads, junctions, car parking spaces, footpaths and hard landscaping areas to be taken in charge including public lighting and all materials shall be agreed in writing with the Roads Maintenance Division of Dublin City Council

prior to the commencement of development.

(d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

(e) Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include service access arrangements to units 11, 15 and 16 for construction and operational purposes (such arrangements shall be as indicated in the plans and drawings submitted with the application), provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

(g) A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted

requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and in the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

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

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

15. 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.

16. Each apartment shall be used as a single dwelling unit, only.

**Reason:** To prevent unauthorised development.



17. The glazing to the all bathroom and en-suite windows shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

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

18. The developer shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining property(s) as a result of the site construction works and repair any damage to the public road arising from carrying out the works.

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

19. Balustrading to balconies should be safe for children. Balconies and terraces shall have unrestricted widths of 1.5m (minimum) in one useable length. Vertical privacy screens should be provided between adjoining balconies and the floors or balconies should be solid and self – draining.

**Reason:** In the interest of safety, privacy and residential amenity.

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

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

21. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development

22. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

**Reason:** To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

23. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

24. 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.

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

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

26. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured [at the nearest dwelling] [at the nearest noise sensitive location] or [at any point along the boundary of the site] shall not exceed:-

- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
- (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

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

27. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Street lighting in private areas shall be independent to the public lighting power supply. Public lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of residential amenity and nature conservation.

28. 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.

29. 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 of roads, footpaths, watermains, drains, 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 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 of the development

30. The developer shall pay to the planning authority a financial contribution in respect of extension of Luas Line C1 – Red Line Docklands Extension in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Fiona Fair  
Senior Planning Inspector  
23/07/2020