



An
Bord
Pleanála

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

Inspector's Report ABP-306987-20

Strategic Housing Development

120 no. apartments and associated site works. The proposed development will amend and supersede the development currently being undertaken on site permitted under ABP-303358-19.

Location

Former Swiss Cottage lands, Swords Road, Santry, Dublin 9.
(www.swisscottagesantry2shd.ie)

Planning Authority

Dublin City Council North

Applicant

Cinamol Ltd.

Prescribed Bodies

Irish Water
Transport Infrastructure Ireland
National Transport Authority

Observers

20 no. observations (Appendix A)

Date of Site Inspection

1st May 2020

Inspector

Rachel Gleave O'Connor

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1.1. The development has a stated site area of 0.48 hectares, and is located along the Swords Road, Santry, Dublin 9. Construction works associated with development permitted under ABP-303358-18 are on-going on site. The lands are bounded by Schoolhouse Lane to the north, Swords Road to the west, commercial and retail development to the south and Magenta Crescent, a two storey residential development to the east.
- 2.1.2. Schoolhouse Lane is characterised by two storey residential units and a two storey apartment block with rooflights. Magenta Crescent, a two storey residential estate is located to the south and east of the development site and is accessed by car from the R-132 south of the site. The Swords Road (R-132) is generally characterised by low rise commercial and industrial type units. Santry Demense is located north of the site with the Crown Plaza hotel and other restaurant units located at the entrance of Northwood Avenue. There is an entrance to Santry Park approx. 200m north of the site. The Omni shopping centre is located approx. 300m south of the development site.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development will consist of:
- The construction of a Build-to-Rent apartment scheme comprising 120 units (26 no. 1 bed, 91 no. 2 bed and 3 no. 3 bed units), ranging in height from 3 storeys on the eastern boundary to 7 no. storeys on the western / northern boundary.
 - Ancillary residential facilities include communal open space, roof terraces, resident lounges, concierge, meeting rooms and laundry.

- Additional uses include provision of a café / retail / restaurant (licenced) at ground floor level fronting the Swords Road.
- Vehicular access to the development will be created from Schoolhouse Lane and the existing access to the site from Swords Road will be closed.
- 36 car parking spaces and 183 no. bicycle spaces;
- Heights range between 3 and 7 storeys;
- Construction of a previously consented development on the site is ongoing and currently at 3rd / 4th floor level. This application seeks to add 1 no. additional floor to the north west of the building, increasing the maximum building height from 6 no. storeys to 7 no. storeys (approx. 24m) and an additional floor to the south west of the building, increasing the height from 5 to 6 storeys (approx. 21m) increasing the number of residential units by 10 no., resulting in a total of 120 units.

Key Figures

Site Area	0.48ha
No. of units	120
Density	250 units/ha
Plot Ratio	2.6:1
Site Coverage	50%
Height	Between 3 and 7 storeys.
Dual Aspect	70%
Commercial Floorspace	392 sq.m (retail 89 sq.m; restaurant 155 sq.m; café 148 sq.m)
Communal Amenity Space	948 sq.m external; 512 sq.m internal (1,460.2 sq.m total)
Part V	12 units.

Vehicular Access	Closure of existing access from Swords Road and creation of new access from Schoolhouse Lane.
Car Parking	36 car parking spaces (10 at surface level and 26 at basement level).
Bicycle Parking	183 no. cycle spaces.
Creche	None.

Unit Mix					
Apartment Type	Studio	1 bed	2 bed	3 bed	Total
No. of Apts	n/a	26	91	3	120
As % of Total	n/a	21.6	75.8	2.5	100

4.0 Planning History

Subject Site

4.1.1. ABP Ref. 303358-19

Permission granted by the An Bord Pleanála for a Strategic Housing Development (SHD) for demolition of the existing single storey licensed premises on site and the construction of a Build-to-Rent Apartment Scheme on lands at Swiss Cottage Public House, Swords Road and Schoolhouse Lane, Santry, Dublin 9. The proposed development comprises of 110 no. units (11 no. 1 bed and 99 no. 2 bed units) and will range in height from 3 no. storeys on the eastern boundary to 6 no. storeys on the western / northern boundary. (The application was originally submitted for 112 units, a condition on the grant of consent reduced this to 110 units, with 2 units at ground level being re-configured to provide for increased residential support services. Alterations to a number of units to the west of the site were also conditioned to facilitate an increased entrance area).

4.1.2. File Ref. 2532/18

Permission refused for demolition of the former Swiss Cottage Bar and Restaurant (single-storey structure and associated out-buildings and rear walls; and the construction of a five storey over basement mixed-use development comprising 2 no. retail / commercial units, 1 no. café / restaurant unit, and 1 no. takeaway unit at ground floor level, all with associated signage; 89 no. apartments (34 no. 1 bed; 41 no. 2 bed; 14 no. 3 bed units), with 100 no. car parking spaces and 45 no. bicycle spaces. There were two reasons for refusal, the first relating to the failure to provide a minimum ratio of 33% dual aspect apartments and the provision of single aspect north-facing apartments without a compensatory outlook; and the second relating to the developments scale massing and position forward of the building line on Swords Road.

4.1.3. File Ref. 4211/15 PL.247121

Permission granted in January 2017 for the demolition of the former Swiss Cottage bar and restaurant structures and the construction of a three storey mixed use structures comprising of 1 retail/commercial unit and 1 no. takeaway unit at ground floor level, 1 no. two storey restaurant/café unit a ground and first floor, and 1 no. retail/commercial units at ground and first floor level, office accommodation at first floor and 1 no. licenced retail convenience/discount store including off licence and ancillary services with terrace at second floor. Permission included relocation of the existing entrance off Swords Road to access the proposed surface level undercroft car park which provides for 80. car parking spaces.

4.1.4. File Ref. 4191/10 ABP PL.29N.239685

Spilt decision issued in August 2012 for 10 year permission for demolition of public house/restaurant, off licence, house and factory and construction of mixed use development (residential, retail, restaurant, public house, offices, medical/consulting room), new access road, 115 car parking spaces and associated site works. This site incorporated the current development site and also the lands to the north-east of the site along Schoolhouse Lane.

The Board granted permission for Block C and D to the rear of the site and refused permission for Block A and B as it considered the proposed design for the development of Block A consisted of over-development of the site, did not give

adequate consideration to the quality of open spaces provided on roof terrace and in the central first floor garden which was surrounded by three floors of construction on three sides, provided for poor quality of private open space to the private balconies, many of which had an undesirable aspect facing onto a busy street or unattractive prospect, and provided for poor amenity by the excessive use of deck access. The Board further considered that the façade of Block A, at a very prominent location, did not provide sufficient articulation or visual interest at upper levels and did not provide an attractive visual street rhythm at ground floor level and that Block A contributed to overshadowing of buildings to the north and east.

4.1.5. **Other Relevant Applications**

4.1.6. Lands to the northeast of Omni Park Shopping Centre, Swords, Santry

4.1.7. ABP Ref. 307011-20

Current Strategic Housing Application for demolition of existing structures, construction 324 apartments, creche and associated site works. Decision pending.

4.1.8. Site Immediately West (St Johns)

4.1.9. File Ref. 2737/19

Modifications to permitted mixed use development under Ref. 2713/17 (see below), located at Santry Avenue and Swords Road, Santry, Dublin 9 (lands to the immediate west of the application site). Permission granted to increase the height of Blocks A, B and C from 5 storeys to 7 storeys and increase the number of apartments by 70 no. apartments, from 137 no. apartments to 207 apartments. Additional alterations to non-residential uses also approved.

4.1.10. File Ref. 3612/17

Permission granted on lands to the immediate west of the application site, on lands forming part of permission File Ref. No. 4211/15 and 4191/10 for demolition of 1 no. vacant commercial warehouse building and the construction of 8 no. two storey, semi-detached, three bed dwellings and associated development. The foundations are in place for this development.

4.1.11. File Ref. 4215/15

Permission granted for the demolition of existing vacant residential dwelling, shed and vacant commercial building and the construction of 5 no. dwellings consisting of two semi-detached and three no. terraced dwellings accessed off Schoolhouse Lane.

5.0 Section 5 Pre Application Consultation

5.1. A pre-application consultation with the applicants and the planning authority took place at the offices of An Bord Pleanála on 12th February 2020 in respect of a proposed development of 120 no. apartments and commercial floorspace. The main topics raised for discussion at the tripartite meeting were as follows:

1. The proposal in context of that previously permitted under File No. ABP-303358-19, to include matters raised in PA Opinion.
2. Any other matters.

Copies of the record of the meeting and the Inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 3rd March 2020 (ABP Ref. ABP-306250-19) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act would constitute a reasonable basis for an application for strategic housing development.

5.3. Specific information was requested which is summarised below:

- Daylight and Sunlight analysis
- Housing quality assessment
- A report that addresses residential amenity
- Additional information that addresses traffic and transportation matters
- Waste management
- Site Specific Construction Management Plan
- Additional details of surface water management for the site
- Details of the management and operation of the Build-to-Rent Apartments

- A proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains in use as Build- to-Rent accommodation

5.4. Applicant's Statement

- 5.4.1. The application includes a statement of response to the pre-application consultation (Statement of Response to An Bord Pleanála's Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

Item 1 – Daylight and Sunlight Analysis

- A Daylight and Sunlight Report has been submitted.
- The report compares the consented development on the site to the proposed development.
- There is an imperceptible impact upon sunlight levels to surroundings.
- Sunlight levels within the central courtyard for the development do not meet guideline minimum standards.
- Two roof gardens and an additional amenity area to the south of the development are included as compensatory measures.

Item 2 – Housing Quality Assessment

- A Housing Quality Assessment has been submitted.

Item No. 3 – Residential Amenity

- A report that addresses the impact on the existing and future residents has been submitted.

Item No. 4 – Traffic and Transport

- Traffic and Transport Assessment Report Submitted.

Item No. 5 – Waste Management Plan

- A Construction Waste Management Plan and Operation Waste Management Plan have been submitted.

Item No. 6 – Site Specific Construction Management Plan

- A Demolition and Construction Management Plan has been submitted.

Item No. 7 – Surface Water Management

- The proposed surface water system is described in the Infrastructure Design Report submitted.
- The development complies with surface water management requirements.
- A Site Specific Floor Risk Assessment has been submitted.

Item No. 8 – Management and Operation of Build-to-Rent

- An Operational Management Plan has been submitted.
- The submitted Statement of Consistency describes compliance with SPPR7 relating to resident support facilities, services and amenities.

Item No. 9 – Legal covenant or agreement

- A draft legal covenant has been submitted.

6.0 Relevant Planning Policy

6.1. National Policy

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual') (2009).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018).
- Urban Development and Building Height, Guidelines for Planning Authorities (2018).
- Childcare Facilities – Guidelines for Planning Authorities (2001).

Other relevant national guidelines include:

- Project Ireland 2040, National Planning Framework.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

6.2. Local Policy

6.2.1. Dublin City Council 2016-2022 is the operative plan for the local area.

6.2.2. Land-Use Zoning Objective Z1: To protect, provide and improve residential amenities. The vision for residential development in the city is one where a wide range of accommodation is available within sustainable communities where residents are within easy reach of services, open space and facilities such as shops, education, leisure, community facilities and amenities, on foot and by public transport and where adequate public transport provides good access to employment, the city centre and the key district centres. Land-Use Zoning Objective Z3: To provide for and improve neighbourhood facilities. These are areas that provide local facilities such as small convenience shops, hairdressers, hardware etc. within a residential neighbourhood and range from the traditional parade of shops to neighbourhood centres. They may be anchored by a supermarket type development of between 1,000 sqm and 2,500 sqm of net retail floorspace. They can form a focal point for a neighbourhood and provide a limited range of services to the local population within 5 minutes walking distance. Neighbourhood centres provide an essential and sustainable amenity for residential areas and it is important that they should be maintained and strengthened, where necessary. Neighbourhood centres may include an element of housing, particularly at higher densities, and above ground floor level. When opportunities arise, accessibility should be enhanced. The policy chapters, especially Chapters 4 – Shape and Structure of the City, 5 – Quality Housing, and 12 – Sustainable Communities and Neighbourhoods, detailing the policies and objectives for residential development, making good neighbourhoods and standards respectively, should be consulted to inform any proposed residential development. Policy SC25 in Chapter 4, concerns the promotion of development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the

design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate. (Chapter 16 deals with Development Standards: Design, Layout, Mix of Uses and Sustainable Design. Section 16.7.2 deals with Height Limits and Areas for Low-rise, Mid-Rise and Taller Development, Section 16.10 – Standards for Residential Accommodation).

- 6.2.3. I note that the City Plan refers to Build-to-let apartments and it provides that this particular managed rental model shall be retained in single ownership for 20 years (minimum) during which period units may not be sold off on a piecemeal basis. Build-to-let schemes for mobile workers should be adaptable for future demographic needs of the city, e.g. by providing for the amalgamation of studios in a change of use scenario.

7.0 Statement of Consistency

- 7.1.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of National Planning Framework, Section 28 Guidelines and the City Development Plan and I have had regard to same. The following points are noted:
- The proposed development accords with the relevant quality standards described in the ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’, taking into account flexibility that may be applied to Build-to-Rent proposals.
 - Where the development does not comply with BRE daylight and sunlight recommended standards, mitigation has been included in the design.
 - The Statement of Consistency refers to the Draft Eastern and Midlands Regional Assembly Regional Spatial and Economic Strategy, however I note that this policy document is now adopted and is no longer in draft form.
 - In relation to the Dublin City Development Plan 2016-2022 (DCDP), the following is noted within the applicant’s statement – while the development is over the maximum height limit within the DCDP, it is consistent with national planning policy in the Urban Development and Building Height Guidelines. In addition, the

development is considered to promote a sustainable density in accordance with national planning policy standards. Furthermore, the car parking levels included in the development have regard to the Apartment Guidelines for Build-to-Rent developments.

- The applicant has submitted a Statement of Material Contravention with the Dublin City Development Plan 2016-2022. This describes a justification for the height of the proposed development 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 adjacent to quality public transport routes and within existing urban areas. The applicant’s justification describes how the proposed development performs in relation to criteria in section 3.2 in the Building Height Guidelines as indicated in SPPR 3A.

8.0 Third Party Submissions

20 no. submissions on the application have been received from the parties as detailed in Appendix 1 of this report. The issues raised are summarised below.

General/Principle/Nature of Development

- Unprecedented number of poor applications in the Santry area centred on building ‘Build to Rent’ apartments.
- Low quality ‘Build to Rent’ or fund owned apartments as well as student accommodation and co working is creating social problems and extending homelessness.
- The development is an eyesore and an increase will be a disaster for the area.
- The plans for extra apartments were already refused and planning permission was granted on revised plan.

Infrastructure

- Insufficient infrastructure in the area to service the development.
- The Department of Education have rejected development in the area as there is not enough educational facilities.
- There a waiting lists for dentist and GP services.

- Drainage, sewage and flooding is an ongoing issue in Santry.
- The 6 new dwellings adjacent to the site are unoccupied as there are issues in relation to sewer access.
- Insufficient schools, recreational services, transport and policing in the area.
- Lack of emergency services in the area.
- Nearest GAA club is lacking in facilities.
- The submitted Community Audit is flawed and includes an insufficient survey area.
- Current water pressure issues for existing residents.
- Insufficient access to public parks in the area and no open space provided.
- Recently DCC withdrew plans to rezone two sites in Santry because of existing high density housing in the area and inadequate infrastructure and amenities.

Residential Amenity

- The development is already detrimentally affecting people's mental health, with a loss of light, space and loss of heart and soul.
- Already impacts from noise, dust and general sense of no privacy as a result of construction works.
- Current construction activity start earlier than they should and general dissatisfaction from residents with conduct of construction works due to noise, dust, damage.
- Construction works have caused damage to boundary walls to neighbouring residents garden.
- Overlooking and loss of privacy.
- Loss of privacy as a result of roof terraces in the proposed development.
- Loss of daylight and sunlight.
- Loss of sunlight to Magenta Hall.
- Too close to the boundary walls for Magenta Crescent, overlooking into rear gardens.
- Removal of Leylandii trees on boundary between gardens for Magenta Crescent and the site.
- The development does not take into account the new houses on Schoolhouse Lane and refers to the previous factory structure.

- 5 of the additional apartments have an under-provision of private open space. On other floors, 37 units have under-provision / no provision of private open space. While compensatory communal provision is provided, the covid-19 restrictions increase dependence on the 'home' to provide for sustainable living.
- No daylight assessment or privacy consideration given to residents living in Magenta Hall.
- Covid-19 requirements should be incorporated as part of future planning, including for social distancing, need for amenity space, need for storage, no room to work from home, limited windows, few car and bike spaces.
- Overshadowing to the north and east of the development will be increased.
- Impact on Schoolhouse Lane from overshadowing and loss of privacy.
- Previous applications have been refused for development of this size due to impact on neighbouring properties.
- Query that the apartments have been reduced in size.

Transport

- Has the effect of increase in traffic and parking been taken into consideration.
- Although the public transport in the area is good, a family needs a car to get around.
- Public transport is over capacity in the area.
- Road network is over capacity in the area.
- The development will impede the potential to develop the proposed 'BusConnects' corridor.
- Very little development in cycle paths or cycle ways for the area.
- Lack of car parking will cause overspill parking issues.
- Lack of car parking for the retail element in the development.
- Adverse impacts on transport and overspill parking during construction already being experienced.

Height/Density

- The building is out of scale, mass and density with the retail buildings to the north and south of the site and the housing estates (Magenta Crescent, Schoolhouse Lane, Burside).

- The approved application already disregards the maximum height specifications in the Dublin City Council Development Plan. To add further height will add insult to injury.
- The development is out of scale with the Swiss Cottage building.
- The additional height further compounds the disregard of element 16.10.2 'Private Open Space Privacy as an important element of residential amenity, and contributes towards the sense of security' of the Development Plan.
- The development shows little concern for the suburban character of Santry.
- The scale and massing and position forward of the building line on Swords Road, present an abrupt transition from the adjoining low-rise residential and commercial properties, particularly relevant for the additional 5th and 6th floors.
- Increase in height will set an undesirable precedent for the area.
- The site is at a higher level than Magenta Crescent. The parapets and lift shafts already create significant height above four storeys.

Other

- Strategic Housing Development legislation has resulted in a vastly diminished planning system that has disenfranchised communities.
- Vehicles of workers on the site are parking in the car park for the Church of St Pappan on Church Lane. Overflow parking will detract from this historical part of Santry and impede access to the church.
- Unable to view the application documents at An Bord Pleanála or Dublin City Council Offices.
- Because of covid-19 restrictions, access to view documents was limited and only possible close to the observations deadline.
- Overcrowding and density partially to blame for high covid-19 cases in Dublin North West.
- The application should be deferred until there is a Local Area Plan for the area.
- The planning documents are misleading in relation to the number of developments coming forward in the area and population growth.
- Area is subject to flooding.
- The proposed amendment is contrary to the An Bord Pleanála condition on the permitted development reducing the number of units from 112 to 110.

- Only 1 of the additional 11 units is a 3 bed unit, and therefore the rest are not suitable for family housing.
- Another SHD application to the south west at Omni Park SC and other developments in the area should be assessed in conjunction with this application, they increase the transient population and unacceptable traffic.
- Query the ability of the existing structure to support the additional floors.
- Query that Dublin and North Dublin have an oversubscription of student accommodation.
- Negative impact on property value.
- Previous spilt vote at An Bord Pleanála and apprehensions on the height, demonstrating that there is not full agreement on the site.
- Consider that the planning system is designed to ensure developers continue to profit at the detriment of the city's citizens.
- The nearby 7 storey development approved is in an industrial area, set back from street and surrounded by trees.
- Lack of consultation.
- Process unfair and objections falling on deaf ears.

Submitted attachments include: Santry Apartments – Works Overview II (3 no. aerial views of construction works on the site); Community Audit of Santry (review of errors); Signed petition against the proposals – 70 signatures; New developments in Santry schedule.

9.0 Planning Authority Submission

- 9.1. Dublin City County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows.

General/Principle

- Permission has been granted for a substantial proportion of the development with the general acceptability of the form and scale of development on the site established.

Height, Scale and Design

- The Planning Authority expressed concern at pre-planning stage relating to the impact of the proposed amended development on adjoining residential occupiers to the north and on the central courtyard area of the permitted scheme.

Residential Quality Standards

- A Housing Quality Assessment submitted with the application outlines the under provision of private amenity space to a number of units and compliance with key requirements. SPPR8 states there is flexibility in relation to the provision of private amenity space to Build to Rent developments.

Daylight and Sunlight

- There is still some uncertainty with the outcome of the daylight and sunlight assessment, which indicates different baseline levels and in a number of instances, a better relationship between the proposed taller development and neighbouring properties.
- It is clear that overshadowing of the Schoolhouse Court apartment development would continue to be significant, with all of the surveyed windows experiencing a reduction of skylight of between 27-37%.
- It is not considered that the low-level nature of additional overshadowing, as outlined in the Daylight and Sunlight Analysis Results, is an adequate justification for its acceptability.
- The Schoolhouse Court development is likely to be directly and significantly impacted by the proposed development. All other third party surveyed lands would achieve adequate access to light.
- In relation to the central courtyard area, a month-by-month assessment details that the courtyard will experience 30 mins or less of sunlight hours for 7 months of the year in the development as currently approved. With the proposed additional floors, it will experience a further reduction in sunlight levels by 15 mins or around 6.66% in each instance.

- The Planning Authority has serious concerns in relation to the poor level of light penetration to this courtyard area as demonstrated, which it is considered would provide a poor quality residential environment for residents in the future.

Communal Open Space

- The Planning Authority seeks attachment of a condition that roof terraces should be inaccessible after sunset.
- Serious concerns regarding the quality of the communal courtyard space in terms of sunlight (as described above).

Impact on Neighbouring Properties

- Concerns in relation to the proposed increased height and likely impact on neighbouring properties along Schoolhouse Lane in particular.
- Overlooking of the development approved under ref.3612/17 may arise, from the newly proposed roof terrace at the north-western end of the development.
- Changes to the design and size of a number of windows within the east elevation are incorporated, which may give rise to increased overlooking of a number of properties at Magenta Crescent.
- Seek retention of the belt of Lawson Cypress trees which would provide screening value for a number of neighbouring properties during the construction stage, after which a program of replacement tree planting could then occur.

Childcare

- The proposed development gives rise to a requirement for 27 spaces.

Planning Authority Conclusion

The Planning Authority recommends that planning permission should be refused as follows:

- The proposed development due to its excessive height and overall massing would fail to provide a high quality residential environment for future occupiers by reason of the high level of overshadowing of the central courtyard area which is the primary area of open space for the development and which has

been shown in modelling as likely to receive little or no direct sunlight for 7 months of the year. The development would also be likely to have a significant overshadowing impact on the Schoolhouse Court apartment complex which lies directly north of the application site. The proposed development would therefore be seriously injurious to the residential amenities of the area and would be contrary particularly to the requirements of the Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG 2018) and Policy SC25 of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

The Planning Authority reason for refusal is addressed in detail below.

Planning Conditions and Reasons

3 specific no. conditions are recommended if the Board considers it appropriate to approve the application and an additional condition listed as non-standard under 'other issues'. The conditions are summarised below:

Non-standard condition – A requirement to provide an equipped children's play area, in lieu of the outdoor exercise area;

Condition 1 – Requirement for a childcare facility.

Condition 2 – That the roof terrace should not be accessible after sunset, in order to mitigate a potential noise nuisance issue for neighbours.

Condition 3 – Details of the proposed extract and ventilation system for the commercial units, where such details were not provided with the application.

Conditions are also recommended in relation to drainage, transport, waste and landscaping.

Departmental Reports

Housing and Community Services

The applicant has engaged with the Housing Department and is aware of their obligations under Part V.

Transportation Planning Division

No objections raised, conditions recommended.

Drainage Division

No objection subject to technical conditions.

Waste Management

Technical conditions recommended.

Parks and Landscape Services

Landscaping measures sought as part of any grant of permission including contribution in lieu of public open space, retention of Lawson Cypress tree belt during construction and a longer-term replacement of this, request for 70% green roof coverage, new tree planting on Swords Road and details of play area requested.

Elected Members

9.1.1. A summary of the views of elected members as expressed at the Area Committee (North Central) Meeting at the meeting on 6th May 2020 is included in the Chief Executive's Report and is reproduced below:

- Concern about the height and scale and density of proposed development and how it might shadow nearby dwellings. Concern was also expressed about the build to rent model, the impact on school places and traffic congestion in the area. Concern was expressed about the need to consider the Swiss Cottage in conjunction with Omni SHD and other applications in the immediate vicinity.

10.0 Prescribed Bodies

Transport Infrastructure Ireland

No observation to make.

Irish Water

A confirmation of feasibility for 135 units has been issued to the applicant. The applicant has been engaging with Irish Water in respect of the design proposal for which the applicant has been issued a Statement of Design Acceptance. Therefore, Irish Water requests any planning permission be conditioned to require a connection agreement with Irish Water prior to any works commencing.

11.0 Screening

11.1. Environmental Impact Assessment (EIA)

- 11.1.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 11.1.2. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIAR Screening Statement (dated March 2020) and I have had regard to same. The report concludes that the proposed development is below the thresholds for mandatory EIAR and that a sub threshold EIAR is not required in this instance as the proposed development will not have significant impacts on the environment.
- 11.1.3. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units;
 - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- 11.1.4. EIA is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, it can be concluded that there is no real likelihood of significant effects on the environment
- 11.1.5. The proposed development involves 120 residential units and ancillary facilities on a 0.48ha site in an urban area that is zoned and serviced. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and

Development Regulations 2001-2017. It is not a large-scale project and there are no apparent characteristics or elements of the design that are likely to cause significant effects on the environment. The Santry River flows from west to east and lies approximately 800m to the north of the site. The site is sufficiently removed from the Santry River, and other sensitive sites beyond, to ensure that no likely significant effects will result. The proposed development is not likely to have a significant effect on any Natura 2000 site (as per the findings of section 11.3.20 of this report).

11.1.6. Having regard to;

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

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

11.2. **Appropriate Assessment**

- 11.2.1. An Appropriate Assessment Screening Report (dated March 2020) was submitted with the application. I have had regard to the contents of same. This report concludes that the possibility of any significant effects on any European Sites arising from the proposed development are not likely to arise, whether considered on its own or in combination with the effects of other plans or projects.

11.3. **The Project and Its Characteristics**

- 11.3.1. See the detailed description of the proposed development in section 3.0 above.

The European Sites Likely to be Affected - Stage I Screening

- 11.3.2. The development site is not within or directly adjacent to any Natura 2000 site. This site lies within an urban area and current land uses in the vicinity predominantly

comprise residential, retail, business and civic developments along with transport arteries.

- 11.3.3. EPA mapping indicates that the Santry River flows from west to east and lies approximately 800m to the north of the site. It enters Dublin Bay at Raheny, where there is a tidal channel to the west of Bull Island.
- 11.3.4. I have had regard to the submitted Appropriate Assessment Screening Report which identifies the following 5 no. Natura 2000 sites within the potential zone of influence of the development:
- South Dublin Bay and River Tolka Estuary SPA (004024);
 - South Dublin Bay SAC (00210);
 - North Dublin Bay SAC (00206);
 - North Bull Island SPA (004006); and
 - Poulaphouca Reservoir SPA (004063).
- 11.3.5. In determining the Natura 2000 sites to be considered, I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie).
- 11.3.6. The Natura 2000 sites listed above have a potential pathway to the development site due to surface water and wastewater pathways ultimately leading to Dublin Bay. Drinking water supply for the development may also originate from the Poulaphouca Reservoir.

There are no other Natura 2000 sites sharing a pathway to the development site.

Table 11.1 Natura 2000 Sites within 'Zone of Influence' of the Project.

Site (site code)	Distance from site	Qualifying Interests/Species of Conservation Interest
South Dublin Bay and River Tolka Estuary SPA (004024)	6km	Light-bellied Brent Goose (Branta bernicla hrota) [A046]

		<p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A140]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
South Dublin Bay SAC (000210)	6km	Mudflats and sandflats not covered by seawater at low tide [1140].

		<p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
<p>North Bull Island SPA (004006)</p>	<p>6km</p>	<p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Sanderling (Calidris alba) [A144]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p>

		<p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
North Dublin Bay SAC (000206)	6km	<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>Annual vegetation of drift lines</p> <p>Embryonic shifting dunes</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p>

		Fixed coastal dunes with herbaceous vegetation (grey dunes) Humid dune slacks Petalophyllum ralfsii (Petalwort)
Poulaphouca Reservoir SPA (004063)	23km	Greylag Goose (<i>Anser anser</i>) Lesser Black-backed Gull (<i>Larus fuscus</i>)

Potential Effects on Designated Sites

- 11.3.10. Whether any of these SACs or SPAs is likely to be significantly affected must be measured against their 'conservation objectives' and the related qualifying interests / species of conservation interest.
- 11.3.11. Specific conservation objectives have been set for mudflats in the South Dublin Bay SAC (NPWS, 2013), the North Dublin Bay SAC (NPWS, 2013). The objectives relate to habitat area, community extent, community structure and community distribution within the qualifying interest. There is no objective in relation to water quality.
- 11.3.12. For the South Dublin Bay & Tolka Estuary SPA and the North Bull Island SPA (NPWS, 2015a & b) the conservations objectives for each bird species relates to maintaining a population trend that is stable or increasing and maintaining the current distribution in time and space.
- 11.3.13. For the Poulaphouca Reservoir SPA (NPWS, 2018), the objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
- 11.3.14. The site is between 4–6km (approx.) from the boundary of the Natura 2000 areas within Dublin Bay. In reality however, this distance is likely to be greater when following the flow of water courses. Because of the distance separating the site and the SPAs/SACs noted above, there is no pathway for loss or disturbance of

important habitats or important species associated with the features of interest of the SPAs or qualifying interests of the SACs.

11.3.15. There is a hydrological pathway from the site via surface water flows to the Tolka Estuary, via the Santry River and wastewater flows to Dublin Bay via the Ringsend wastewater treatment plant. Water quality is not listed as a conservation objective of the SPAs or SACs and there is no evidence that poor water quality is negatively affecting the conservation objectives of the SPAs/SACs. The development will increase loadings to the Ringswater wastewater treatment plant. This increase will be relatively small compared to overall capacity and therefore the impact of this project is considered to not be significant. No significant effects will occur to the SACs or SPAs from surface water leaving the site during operation, and as a result of the distance and temporary nature of works, no significant effects to the SACs or SPAs will occur during construction.

11.3.16. I am therefore satisfied that there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated sites in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

In Combination or Cumulative Effects

11.3.17. This project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased volumes to the Ringsend WWTP.

11.3.18. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, including the Dublin City Development Plan 2016-2022 covering the location of the application site. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is for a relatively small residential development providing for 120 residential units on serviced lands in an urban area, and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the

Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is currently operating under EPA licencing which was subject to Appropriate Assessment Screening. Similarly, I note the planning authority raised no Appropriate Assessment concerns in relation to the proposed development.

11.3.19. Taking into consideration the average effluent discharge from the proposed development, the impacts arising from the cumulative effect of discharges to the Ringsend WWTP generally, and the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to Natura 2000 Sites within the zone of influence of the proposed development.

AA Screening Conclusion

11.3.20. In conclusion, therefore, having regard to the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites, and the hydrological pathway considerations outlined above, it is reasonable to conclude that on the basis of the information on the 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 any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

11.3.21. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

12.0 Assessment

12.1.1. Currently under construction on the site is the recently consented SHD development (ref. 303358-19) for a development of 110 Built-to-Rent residential units and 398sqm of commercial floorspace.

12.1.2. The principle of development was therefore established as part of the original planning approval referenced above. This report describes an assessment of the current application for 120 Build-to-Rent units and 392sqm of commercial floorspace

against relevant policy requirements, with a focus on whether there are any additional impacts for consideration as a result of the proposed modifications to the development.

12.1.1 The planning issues arising from the proposed development can be addressed under the following headings-

- Principle of Development
- Height, Design and Density
- Neighbouring Residential Amenity
- Proposed Residential Standards
- Traffic and Transport
- Material Contravention
- Planning Authority Reason for Refusal
- Other Issues

12.2. Principle of Development

12.1.2 The application site is subject to two land use zonings under the Dublin City Plan 2016-2022 (DCP). The majority of the site area is zoned Z3 – Neighbourhood Centres with the land use objective “To provide for and improve neighbourhood facilities”, whilst the north-eastern corner of the site is zoned Z1 – Sustainable Residential Neighbourhoods with the land use objective “To protect, provide and improve residential amenities”. Residential is a permissible use in these land use zonings. It is also proposed to include 392 sq.m of commercial floorspace as part of the development, comprising retail, restaurant and café uses. These units will be located along the Swords Road frontage and all within zoned Z3 area. These uses are permissible under land use zoning Z3. The proposed development is therefore consistent with the land use zonings under the DCP.

12.1.3 The residential component of the application specifically relates to the provision of Build-To-Rent (BTR) apartment units. This refers to development that is purpose built for rental occupation, managed and maintained by a large-scale commercial landlord, with specific communal and leisure spaces for residents use only. I note that objections have been received relating to the provision of BTR units on the site, relating this type of accommodation to the creation of social problems.

12.1.4 The provision of BTR is promoted through ‘The Sustainable Urban Housing Design Standards for New Apartments’ 2018 (‘The Apartment Guidelines’) and recognised as providing a greater choice for people in the rental sector, a pillar of Rebuilding Ireland. Rebuilding Ireland is an action-driven plan to drive an increase in the delivery of housing.

12.1.5 I refer the Board to the provisions of Specific Planning Policy Requirement (SPPR) 7 of the Apartment Guidelines. This provides that BTR development must be clearly stated as such in public notices and be accompanied by a proposed covenant or legal agreement to ensure that the development remains a long-term rental housing scheme. Planning conditions can then be attached to this to secure the development remains BTR for a period of not less than 15 years. Developments will also be required to be owned and operated by an institutional entity. Specific requirements in relation to residential support, services and amenities are also described.

12.1.6 The public notices refer to the scheme as ‘Build-to-Rent’ and a copy of a draft legal agreement referred to in SPPR 7 has been enclosed, which indicates that the applicant is willing to accept a condition requiring that the residential units remain in use as BTR accommodation owned and operated by an institutional entity and that no individual residential unit within the development be sold or rented separately upon completion of the development for a minimum period of at least 15 years.

12.1.7 The proposed BTR units are therefore acceptable in principle. It should be noted that in accordance with SPPR 8 of the Apartment Guidelines, a number of residential standards are applied flexibly to BTR proposes. The issue of communal open spaces, private open spaces and provision of support services is discussed in more detail below. Given the flexibility that applies, after the expiration of the 15 year period referred to in the covenant securing BTR use on the site, details shall be submitted for the written agreement of the planning authority to ensure suitable management structures are in place to continue the operation of the scheme as BTR. Where any amendment or deviation from the BTR model is proposed this should be subject to a separate planning application. This is required to ensure appropriate management and operation of the residential development in the future and appropriate assessment of any change of use on the site.

12.1.8 The combined floor area of other non-residential uses in the development is approximately 392sq.m. The Planning and Development (Housing) and Residential Tenancies Act of 2016 provides that for other uses on the land, where the zoning of which facilitates such use, these uses can be included only if the cumulative gross floor area of the residential units comprises not less than 85% of the gross floor space of the proposed development, and that the other uses cumulatively do not exceed 15sq.m. gross floor space for each residential unit subject to a maximum of 4,500sq.m. gross floor space for such other uses in any development. The proposed development is consistent with the provisions of the Planning and Development Act of 2016 as amended in respect of strategic housing applications.

12.3. **Height, Design and Density**

Height and Design

- 12.3.1. Concerns have been raised regarding the proposed height and design of the development by many of the third parties making representations on the application. Concerns centralise on the scale of the development in comparison to the surrounding environment, the position of the building forward of the building line and the resulting impacts upon residential amenity from the increased height. The Planning Authority have also recommended that the application be refused, in part as a result of the proposed height and massing, which it considers would fail to provide a high quality residential environment for future occupiers. I consider the Planning Authority reason for refusal in detail in section 12.8 below.
- 12.3.2. My assessment of the impact upon surrounding residential amenity and the residential quality of accommodation is undertaken in section 12.4 and 12.5 below. This section of my report appraises the acceptability of the proposed height and design in relation to relevant planning policy and in light of concerns raised.
- 12.3.3. Development is currently underway on the site, with construction of a primarily 4 and 5 storey building with 6 storeys on the corner of Swords Road and Schoolhouse Lane. Construction of the concrete frame of the building was evident at the time of my visit to the site. The current proposal is to increase the development height on the site up to 6 storeys to the south west and 7 storeys to the north west of the site.
- 12.3.4. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) provides clear criteria to be applied when assessing

applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards. Including national policy in Project Ireland 2040 National Planning Framework, and particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements.

- 12.3.5. SPPR 3 states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. In this case, the development plan indicates a maximum height of 16m, while the proposed development has a height of 24m (7 storeys). The development was previously approved above the 16m datum in consideration of the criteria under section 3.2 and SPPR 3. I have addressed the material contravention of the development plan in section 12.7 below and I will provide further assessment against the criteria in section 3.2 here.
- 12.3.6. The first criterion relates to the accessibility of the site by public transport. The site is located in a highly accessible location directly onto Swords Road and benefiting from excellent bus links, with a bus stop located immediately adjacent to the site. In the immediate locality, the Omni Shopping Centre, local shopping parade and other industrial / commercial lands, provide a range of employment opportunities, amenities and facilities for residents of the area.
- 12.3.7. The second criterion relates to the character of the area in which the development is located. The site is not located in a conservation area or close to any protected structures. The proposed increase in height is focused onto Swords Road, turning the corner into Schoolhouse Lane. Swords Road is a busy and robust environment, characterised by a range of architectural styles and periods. No harm would result to the character of the road with the proposed limited increase in height on the application site. Schoolhouse Lane and surrounds are characterised by 2 storey residential dwellings and while the proposed development represents a change in

scale, height across the site is stepped, transitioning to the lower rise buildings to the east. The massing of the development is modulated through the inclusion of projecting balconies, stepped heights and distinct bay arrangements. The incorporation of two different material finishes to the elevations also contributes to breaking down the overall mass of the proposed development. Visualisations of the proposed development, alongside a landscape and visual impact assessment, have also been submitted with the application and have assisted in my assessment of the proposal. Overall, I am content that the design and massing of the development is appropriate for the location.

- 12.3.8. The remaining pertinent criteria relate to the contribution of the proposal to the street, the avoidance of uninterrupted walls, contribution to public spaces, compliance with flood risk management guidelines, improvement of legibility, contribution to mix / typologies in the area and daylight and sunlight considerations alongside performance against BRE criteria. Specific assessments are also required depending on the scale of the building proposed.
- 12.3.9. The proposed development will improve the street frontage along both Swords Road and Schoolhouse Lane, consolidating the urban fabric for this development block. There are no monolithic facades included, with all elevations featuring fenestration in a sympathetic arrangement to avoid overlooking (discussed further below). The proposal includes new street tree planting, active frontages and fenestration that will passively survey surrounding streets. The proposal will contribute to the legibility of the area, by establishing an assertive addition to the streetscape and the addition of BTR apartment units will also contribute to the dwelling mix of the location. My assessment of the development in relation to daylight and sunlight is set out further below, as is my consideration of flood risk. In summary, the proposed increase in height does not alter the performance of the development in relation to daylight and sunlight to any significant degree and the proposal has been developed in light of flood risk management guidelines.
- 12.3.10. I therefore find that the proposed development satisfies the criteria described in section 3.2 and therefore SPPR 3 of the Building Height Guidelines.
- 12.3.11. Having regard to the considerations above, I consider that the principle of increasing the height of the development to maximum 7 storeys is acceptable. This is in

consideration of overarching national policy, and subject to the assessment set out in the remainder of this report, particularly relating to residential amenity.

Density

- 12.3.12. The proposed density is 250 units/ha, increased from 233 units per hectare in the consented development.
- 12.3.13. A significant number of submissions have stated that the density is excessive and represents an overdevelopment of the site, and cite the lack of available capacity within existing infrastructure, including transport, health, education and other community amenities.
- 12.3.14. In relation to density, policy at national, regional and local level encourages higher densities in appropriate locations. Project Ireland 2040: National Planning Framework (NPF) promotes the principle of 'compact growth'. Of relevance, objectives 27, 33 and 35 of the NPF which prioritise the provision of new homes at locations that can support sustainable development encouraging increased densities in settlements where appropriate. Section 28 guidance, including the Building Heights Guidelines, the Sustainable Residential Development Guidelines and the Apartment Guidelines, assist in determining those locations most appropriate for increased densities. The Guidelines define the types of location in cities and towns that may be suitable for increased densities, with a focus of the accessibility of the site by public transport and proximity to city/town/local centres or employment locations.
- 12.3.15. The proposed development is located in a Metropolitan area, with excellent accessibility to high frequency bus routes into the city centre and to Dublin Airport. Within the immediate area surrounding the site there are a range of largescale retail, business and other institutions that will also provide employment opportunities and services to future residents of the development. The level of increased densification proposed on the site is marginal, with an increase of 17 units per hectare. As such, I consider that the site can sustainably support the increased density level proposed.
- 12.3.16. However, the acceptability of this density is subject to appropriate design and amenity standards, which are considered in the relevant sections below.

12.4. Neighbouring Residential Amenity

Daylight and Sunlight

- 12.4.1. A number of submissions from local residents raise objections in relation to loss of daylight and sunlight as a result of the proposed development. Particularly in relation to the impact from overshadowing upon properties in Magenta Crescent, Magenta Hall and Schoolhouse Lane.
- 12.4.2. A Daylight and Sunlight Analysis Report accompanies the application, this includes reference to the baseline condition (prior to development), the granted condition (consented development) and the proposed condition (proposed under the current application). Month by month data for sunlight hours in proposed amenity areas is also included.
- 12.4.3. In relation to the baseline data, this differs to the figures provided in the report for the consented development. The applicant has described the following reasons for the discrepancies between the two reports concerning the baseline condition:
- Software used at the time of the original application (November 2018) has discontinued and is no longer available. As a result of the subsequent necessary software change, there is a difference in the testing results;
 - As a result of compliance with conditions under the consented scheme, the layout of the development alters, as a consequence there are differing results in some areas to that previously described. This is most notable for sunlight levels to the central courtyard.
- 12.4.4. The Planning Authority have raised concerns relating to the Daylight and Sunlight Analysis Report submitted. It recommends that the application be refused, in part as a result of the excessive overshadowing that will occur, particularly in relation to the Schoolhouse Court apartment complex. I address the Planning Authority's reason for refusal in detail in section 12.8 below.
- 12.4.5. I have reviewed the submitted Daylight and Sunlight Analysis Report and compared this to the report submitted for the consented development. It is apparent that there are inconsistencies between the baseline data provided, however generally this inconsistency is within a few percentage points and not substantial in nature. There are more notable areas where the baseline results for sunlight differ when comparing the submission for the current application with the consented development. Of note

are the considerable discrepancies in ASPH levels provided for the baseline condition in the current application, compared to that described in the submission for the consented development. However, generally the degree of alteration for the baseline data is consistent between the current application submission and the consented development submission. As a result, I am satisfied with the applicants explanation regarding these inconsistencies.

- 12.4.6. Importantly, the level of adherence to BRE target levels remains unchanged in the data set out in the current application submission compared to that in the consented development submission. Therefore, while there are areas where BRE target levels are not achieved, this remains consistent with the consented condition for the site. As a result, I am satisfied that the proposed development to increase the height of the development, does not significantly alter the impact upon daylight and sunlight levels surrounding the site.
- 12.4.7. I also note that the submitted Daylight and Sunlight Analysis omits assessment of the newly constructed and currently unoccupied dwellings to the east of the application site (DCC Ref. 3612/17). However, the application drawings do include a representation of this development in street context elevation views (albeit referencing a previous application). I have examined the relationship between the development proposal and the dwellings to the east. Where the proposed development is closest to these houses, it is increased in height by approximately 1.5m at fourth floor level to enclose a new roof terrace at the north east corner of the site and create a 2m high screen. This slight increase in height is approximately 8m away from the recently constructed houses to the east. The more substantive increase in height for the proposed development is located approximately 38m west of the houses.
- 12.4.8. My assessment focuses on the alteration in impact from the consented condition compared to the proposed condition under this current application. This approach has been taken in recognition of the current site condition, which is now substantially developed with construction of the consented scheme. Therefore, the baseline condition is no longer reflected in the physical condition on the site.
- 12.4.9. Overall, the proposed development will slightly increase the margin of impact in most cases. In relation to the impact on Schoolhouse Court, it is acknowledged that the

development will not meet BRE Criteria when comparing the baseline condition (prior to development) to the proposed condition, however, as previously outlined, the baseline condition no longer exists on the site, and my assessment focuses on the comparison of the granted condition with the proposed condition. When comparing the consented condition to the proposed condition, the degree of alteration in impact to Schoolhouse Court is extremely marginal.

12.4.10. In relation to the recently constructed houses to the east of the site, it is recognised that the submitted Daylight and Sunlight Analysis fails to consider the impact upon these houses. However, the slight increase in height to the development in the area most proximate to those houses, would in my view result in a marginal change from the consented condition compared to the proposed condition.

12.4.11. In all cases, the degree of alteration in impact between the consented condition and the proposed condition is insignificant and would not result in any change to the perceptible impact experienced by surrounding residents. As a result, I am satisfied that the proposed development is acceptable in relation to daylight and sunlight impacts upon neighbouring residents.

Overlooking

12.4.12. A number of representations from local residents were received in relation to overlooking. Particularly in relation to privacy impacts upon residents in Magenta Crescent. The Planning Authority also requested that the adequacy of screening be considered, alongside conditions upon the use of roof terrace areas. The proposed development remains largely as detailed under the consented scheme, with the addition of floors to the south west and north west of the site.

12.4.13. Separation to surrounding residential properties exceeds 21m between windows in all cases. The proposed increased height is focused onto Swords Road and partly onto Schoolhouse Lane. To the south west of the site, the development would increase from 5 to 6 storeys, with fenestration and windows overlooking Swords Road, a wide busy road without any residential dwellings opposite, and a commercial property to the south. As a result, I consider that there is no increased opportunity for overlooking of the rear gardens for properties on Magenta Crescent. To the north west, the building would increase from 6 to 7 storeys in height, with fenestration and windows onto Swords Road and Schoolhouse Lane. The front of dwellings on

Schoolhouse Lane are located approximately 21m away and the additional storey continues the consented schemes arrangement of windows / balconies on this edge. As a result, no increased impact from overlooking would result from the additional storey proposed. To the east elevation of the additional storey, fenestration and balconies look onto the proposed developments own internal courtyard area only. Internal separation distances within the proposal remain acceptable. While there is alteration to some fenestration in the development's eastern elevation, this is minor in nature and separation distances remain adequate.

12.4.14. The proposed development includes two roof terrace areas. One is as detailed in the consented scheme, with an additional terrace located to the north east of the site. A 2m high screen is included to the roof terraces to prevent overlooking. The submitted Operational Management Plan describes how the use of roof terrace areas will be limited overnight. In order to ensure the use of the roof terrace areas does not generate disturbance to adjoining residents, a condition is recommended to secure the submission of a management plan for the use of these spaces, along with detailed drawings of the screen along the terrace edge.

12.4.15. There is an existing line of mature Lawson Cypress trees along the boundary with rear gardens in Magenta Crescent. It is proposed that these trees are removed and replaced with new tree planting. The proposed development does not alter the relationship with properties in Magenta Crescent in terms of overlooking. While a new storey is proposed, there are no windows within this storey facing east and towards the rear of properties on Magenta Crescent. The existing Lawson Cypress trees do however create the perception of increased privacy for residents in Magenta Crescent and therefore I consider the replacement of these trees to be beneficial. I have included a condition in my recommended order regarding the same.

Ventilation

12.4.16. The Planning Authority has requested a condition regarding the detail of extract ventilation from the proposed commercial units. A restaurant is included in the proposed development at ground floor. This will require extract ventilation from the working kitchen area and there is no detail of filtration of potential smells. As a result, I recommend a condition requiring further detail of ventilation and extraction from the restaurant use proposed.

Impact During Construction

12.4.17. A number of residents have raised objection to the proposed development as a result of the noise, dust and general disturbance that construction works will generate. This is based on the current disruption that has occurred as a result of works taking place on the site. A Demolition and Construction Management Plan has been submitted with the application. This commits to working hours between 08:00-19:00 Monday to Friday and 08:00-14:00 Monday to Saturday, with no work on Sundays and Bank Holidays. Measures for the management of communication with residents, noise and conduct on site are also described. A condition is recommended to secure construction working hours on site. In the event that measures are not observed, the Planning Authority is the responsible authority for enforcing compliance.

12.5. Proposed Residential Standards

The consented development included a condition, to reduce the number of apartments down from 112 to 110 units. The re-configuration was required to provide for increased residential support services, bin store and floor area for two other apartments. A condition also required the widening of the entrance between the café and restaurant with necessary reconfiguration to apartments over all floors to accommodate this. The proposed development incorporates these design changes within the submitted plans for approval.

Daylight and Sunlight

12.5.1. The Daylight and Sunlight Analysis Report accompanying the application describes the projected conditions for the proposed development. The conditions for the proposed development remain within a few percentage points of that described for the consented scheme, with some improvement in areas as a result of compliance with conditions under that consent.

12.5.2. There remain a limited number of rooms that do not achieve the BRE target levels for daylight, however within these units there are other rooms that meet or exceed BRE target levels and overall conditions reflect that experienced in the consented scheme.

12.5.3. In relation to sunlight, the central communal courtyard within the development will not meet BRE target levels. The Planning Authority recommend that the application

be refused as a result and I consider this reason for refusal in section 12.8 below. My assessment of the performance of the development against BRE criteria is described here.

- 12.5.4. The applicant has outlined the mitigation measures put into place to compensate for the overshadowed central courtyard area, including selected landscaping to enable use throughout the year. Monthly results have also been provided that demonstrate that the central courtyard achieves at least 2hrs of sunlight by April (BRE target level is March). Having assessed the submitted analysis, I conclude that the proposed development achieves the same level of sunlight as the granted development between August through to April. Between May and July the level of sunlight is reduced by 15 minutes on a month-by-month basis when comparing the granted condition to the proposed condition. I also note that there are two roof garden areas and a ground level residential amenity area within the development that meet BRE target levels for sunlight.
- 12.5.5. Overall, when comparing the consented development to the proposed development, the alteration to daylight and sunlight conditions for future residents is not significant.

Communal Amenities and Resident Facilities

- 12.5.6. In accordance with SPPR 7 of the Apartment Guidelines, the proposed development provides 1,460.2sqm of communal amenity space, formed of both internal and external spaces. Internal amenities include bookable conference space, communal laundry provision, residents amenity room, multi-purpose gym and flexible space, and residents yoga / quiet space. A concierge area is also provided. Details of external spaces is set out below.

Private Amenity Space

- 12.5.7. Representations have been received in relation to the quantum of private amenity space within the proposed development. SPPR 8 of the Apartment Guidelines allows flexibility in the application of standards for private amenity space. In the proposed development, a total of 26 units have reduced private amenity space and 11 units have no private amenity space, amounting to 150sqm less than the 785sqm expected under the standards. This 150sqm has been added to the communal areas proposed in accordance with the Apartment Guidelines and the quality of these areas is described further below.

Communal Open Space

- 12.5.8. At ground floor level, the size of the central courtyard space has been reduced taking account of circulation, ventilation and defensible space areas. However, in light of the overshadowed quality of this space, the reduction in size of the central courtyard and increase in roof terrace areas with greater sunlight exposure is considered to be acceptable. There is 224sqm of landscape residents space to the south of the development in both the granted and proposed conditions. The proposed development also includes 445sqm of roof terrace areas at fourth floor level to the east of the site. A total of 948sqm of external communal amenity area is provided, in addition to 371.8sqm of internal amenity areas (live/work, conference room, gym, bookable space and amenity room), providing a total of 1,319sqm of communal amenity or 1,460sqm when including other residents facilities. This exceeds the required 935sqm taking into account the shortfall of private amenity space.
- 12.5.9. The Planning Authority has raised concerns regarding the quality of sunlight access to the central courtyard amenity space as outlined above, and the lack of children's play space. I consider that the quality of roof terrace areas and the external southern amenity space, with good access to sunlight levels, adequately compensate for the overshadowed nature of the central courtyard. In relation to the lack of play space, it is recognised that the proposed Build to Rent development is expected to generate a lower child yield than a comparative build for sale scheme. However, to ensure adequate provision for children, a condition is recommended for the incorporation of incidental playable space within the external southern amenity area. Incidental playable space means the use of features such as landscaping or structures / artwork that can be used for play.

Mix

- 12.5.10. The proposed mix is acceptable: 1 bed 2 person 12%; 2 bed 3 person 18%; 2 bed 4 person 68%; 3 bed 5 person 3%.

Floor Area

- 12.5.11. The apartments meet the standards outlined in the Apartment Guidelines.

Floor to Ceiling Height

12.5.12. The proposed development provides for a typical floor to floor height of 2.93m on upper floors. This allows for a service zone and achievement of the minimum standards for ceiling heights of at least 2.7m at ground floor and 2.4m on upper floors as described in the Apartment Guidelines.

Number of Apartments to a Core

12.5.13. The proposed development has between 7 and 12 apartments per core in accordance with policy standards described in the Apartment Guidelines.

Dual Aspect

12.5.14. The applicant has stated that the number of dual aspect units is 70%, which exceeds the policy requirement set out in the Apartment Guidelines. There are no north facing single aspect units.

12.6. Traffic and Transport

Public Transport Capacity

12.6.1. It is noted that a number of representations from local residents raised concerns relating to public transport capacity in the area. The accessibility of the site to public transport is one of the criteria under section 3.2 of the Building Height Guidelines and I have assessed the proposal in relation to this in section 12.3 above. I note that Dublin Bus operates route numbers 16, 33, 41, 41a, 41b and 41c on the Swords Road. Transport Infrastructure Ireland confirmed they have no observations to make on the application and the National Transport Authority were consulted on the application but did not respond. As a result of the numerous high frequency bus routes serving the site and the absence of any concerns from relevant authorities, I consider that the site is adequately serviced by public transport.

Car Parking

12.6.2. A number of representations were received relating to the low level of car parking proposed as part of the development and potential for overspill parking in surrounding streets as a result. It is proposed to include 36 car parking spaces within a basement and surface level car park (inclusive of two disabled parking bays). An additional disabled parking bay will be provided on street on Schoolhouse land, alongside a loading bay for the commercial element of the development. Of the 36

spaces, 32 are for designation to future residents (available to rent) in the development, while 4 are to be allocated to GoCar for car share use.

12.6.3. SPPR 7 of the Apartment Guidelines is clear that there is a default of minimal or significantly reduced car parking provision for BTR schemes on the basis that this type of scheme is to be located in central areas proximate to public transport services. The proposed development is located in a highly accessible location, proximate to a range of infrastructure, including shopping, community and education establishments, alongside a bus stop serving a number of bus routes. Car share spaces will also deter car storage as part of occupation of the development. A large number of cycle parking spaces will also serve residents transportation needs.

12.6.4. I do not consider that a car parking ratio of 0.3 space per unit would result in an overspill of parking in the surrounding residential housing estates. This is particularly in light of the nature of this development for Build-to-Rent, where an overall operator will exercise increased levels of control and management over such matters, when compared to developments for private sale. A Mobility Management Plan has been prepared with the application to describe measures to reduce levels of private car use and encourage sustainable modes of transport for future residents of the scheme. Overall, I consider the provision to be acceptable, given the location of the site, and the considerations and constraints as identified above.

12.6.5. Cycle Parking

12.6.6. A total of 183 cycle parking spaces are included, exceeded the DCDP standard of 122 spaces for a development of this size.

Impact on the surrounding road network

12.6.7. A number of representations raise concerns regarding the impact upon the surrounding road network as a result of the development. A Traffic and Transport Assessment provides full details of the expected number of trips to be generated and this can be accommodated within existing road infrastructure surrounding the site. A loading bay is proposed on Schoolhouse Lane as part of the development. The Transport Planning Division at DCC have requested that details of this be submitted for approval and I have recommended a condition in this regard. Having reviewed the details submitted with the application, I conclude that the occupation stage of the development will not adversely impact the surrounding road network.

12.7. Material Contravention

- 12.7.1. The applicant has submitted a Statement of Material Contravention with Dublin City Development Plan 2016-2022 with the application. The public notices make reference to a statement being submitted indicating why permission should be granted having regard to the provisions s.37(2)(b). There is one issue raised in the applicant's Material Contravention statement, it relates to building height.
- 12.7.2. I have considered the issue raised in the applicants submitted statement and advise the Board to adopt the precautionary approach and invoke the provisions of s.37(2)(b) of the 2000 Act (as amended).
- 12.7.3. I draw the Boards attention to the height of the proposed development which exceeds the DCP height strategy for this area of 16m, rising to a maximum of 24m (7 storeys). The previous consent on the site was also above this datum, at a maximum 20.9m (6 storeys) in height.
- 12.7.4. I have considered the Statement of Material Contravention submitted with the application which describes the justification for the proposed height. I consider that the site is appropriate for increased height in light of guidance in the Urban Development and Building Height, Guidelines for Planning Authorities. Particularly in consideration of the Development Management Criteria in section 3.2 of the guidelines relating to proximity to high quality public transport services, character of the location, the contribution of the proposal to the street, the avoidance of uninterrupted walls, contribution to public spaces, compliance with flood risk management guidelines, improvement of legibility and daylight and sunlight considerations alongside performance against BRE criteria. My assessment of the development against the section 3.2 criteria in the Building Height Guidelines is set out in detail in section 12.3 above. Specific assessments have also been provided to assist my evaluation of the proposal, specifically CGI visualisations and a landscape and visual impact assessment. There are no additional specific assessments required for a building of this scale (less than 50m in height).
- 12.7.5. Section 37(2)(a) of the Planning and Development Act 2000 (as amended), states that the Board may decide to grant a permission even if the proposed development contravenes materially the development plan. Section 37(2)(b) (i)-(iv) lists the

circumstances when the Board may grant permission in accordance with section 37(2)(a).

- 12.7.6. Under section 37(2)(b) (i) 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) 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 (iii) permission for the development should be granted having regard to guidelines under section 28 of the Act, specifically SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria in section 3.2 of those guidelines. I refer the Board to section 2.3 of this report above that addresses these criteria in detail.
- 12.7.7. Following reflection of the above, I am satisfied that a grant of permission, that may be considered to materially contravene the Dublin City Development Plan is justified in this instance. I have incorporated specific reasoning and justification having regard to s.37(2)(b) of the 2000 Act (as amended) into the Conclusion and Recommended Order for the Board's consideration at the end of this report.

12.8. Planning Authority Reason for Refusal

- 12.8.1. The Planning Authority recommended that the application be refused as a result of excessive height, overall massing, the failure to provide high quality residential environment as a result of overshadowing in the central courtyard area and overshadowing of Schoolhouse Court apartment complex.
- 12.8.2. Section 12.3 above describes in detail my assessment of the height and design of the proposed development. This assessment is undertaken in context of national policy and guidance, particularly objective 13 concerning performance criteria for

building height, and objective 35 concerning increased residential density in settlements, and the criteria under section 3.2 and associated SPPR 3 of the Building Height Guidelines. My assessment concludes that the height is appropriate, in consideration of the characteristics of the area and the relative minimal increase in scale proposed by this application, when compared to the previously approved development on the site. Furthermore, I note the development recently approved by the Local Authority opposite the site (St Johns) for 23.5m (7 storeys). However, I note that the Planning Authority's concern relates more to the resulting impact of increased height upon amenity in the area / in the development, rather than being related to the principle of the height / massing proposed and I address this further below.

12.8.3. The Planning Authority state that the height and massing of the development would fail to provide a high quality residential environment for future occupiers by reason of the high overshadowing to the central courtyard area. I have provided a detail appraisal of the daylight and sunlight performance of this area against criteria in the BRE guidelines (section 12.5 above). My conclusion is that the change in impact from the approved situation is minimal and would be undetectable for residents experiencing the conditions in the development. The Planning Authority stress that the central courtyard area is the primary area of open space for the development and will have little or no direct sunlight for 7 months of the year. I do not consider the central courtyard to be the primary area of open space for the development. The two roof top terraces, one to the north (252sqm) and one to the east (193sqm) are linked via core B. As a result, residents can seamlessly pass between the two spaces and access the areas in unison, therefore the spaces may be considered in combination. The combined area of the roof terraces (445sqm) significantly exceeds the central courtyard area of 279sqm. Following a review of the submitted daylight and sunlight assessment, I conclude that the proposal will achieve the same level of sunlight as the granted development between August through to April (9 months of the year), and that between May and July (3 months of the year) the level of sunlight is reduced by 15 minutes on a month-by-month basis when comparing the granted condition to the proposed condition. The two roof terraces areas meet the performative criteria under BRE Guidelines for daylight and sunlight, as does an external amenity area to the southern boundary for the site, I consider this to

adequately compensate for the overshadowed character of the central courtyard area.

- 12.8.4. The Planning Authority state that the development would be likely to have a significant overshadowing impact on the Schoolhouse Court apartment complex. I have evaluated the submitted daylight and sunlight assessment in section 12.4 above. While there are areas where BRE target levels are not achieved, this remains consistent with the consented condition for the site. I conclude that the level of additional impact as a result of the increased height proposed by this application will be imperceptible to adjacent residents in reality, when comparing the approved situation to the proposed situation.
- 12.8.5. The Planning Authority does not consider that the low-level nature of additional overshadowing, as outlined in the daylight and sunlight analysis results, is an adequate justification for its acceptability. However, having assessed the results in detail and considered the discernible alteration in impact that will result, I do not agree (with the Planning Authority conclusion) that the development would be seriously injurious to the residential amenities of the area.
- 12.8.6. The lands are located within the Metropolitan area and along a QBC, approximately 5km from the city centre. The site is also located on the future BusConnects route. While the area adjacent to the site is characterised by two storey buildings, the site is strategically positioned to cater for increased intensification with excellent accessibility to surrounding amenities and facilities. It is also noted that the level of intensification proposed is contained, increasing the height by one storey across its western edge, fronting onto Swords Road and partially onto Schoolhouse Lane.
- 12.8.7. This part of Swords Road features a range of built form, with two storey housing dating from various periods, small scale neighbourhood retail units, modern commercial buildings and a contemporary apartment block currently under construction opposite the site (St Johns). The proposed development will create a strong urban edge to the busy Swords Road and a focal point for the area, with a consistent design approach across the urban block forming the site area.
- 12.8.8. I am satisfied following review of the submitted photomontages and CGIs that the increased height will have an acceptable appearance in this location and that for the

reasons outlined above, the proposal will not adversely impact the amenities of residents in the surrounding area or future occupiers of the site.

- 12.8.9. I have fully considered the planning authority recommendation to refuse the application, however having regard to the foregoing matters, alongside the wider assessment set out in my report (both above and below), I have decided to recommend that the application be approved.

12.9. **Other Issues**

Flood Risk / Surface Water Runoff / Drainage

- 12.9.1. A number of residents raised concerns regarding localised flooding in the area and the inadequacy of existing drainage infrastructure. I also note that criteria under section 3.2 of the Building Height Guidelines refers to the flood risk management guidelines.
- 12.9.2. A site specific flood risk assessment has been submitted with the application and follows flood management guidelines. This outlines that the site is at low risk of flooding and the measures to be incorporated into the design of the development to improve drainage. Conditions were also attached to the previous planning approval on the site and I have included a condition to link to that decision in my draft recommendation below, as well as a requirement to liaise with Irish Water regarding connection to the network. It is noted that the Drainage Division confirmed that there was no objection to the application subject to incorporation of conditions. Conditions were incorporated on the previous approval and I recommend that these conditions continue to form part of any subsequent grant of consent for the proposed development, as set out in my draft recommended order below.

Landscape / Trees

- 12.9.3. The development includes new street tree planting on Schoolhouse Lane. Trees are also proposed to be planted within the site amenity areas and along boundary areas. Overall, the proposed landscaping will improve the biodiversity value of the site. I recommend that tree planting be secured by condition.

Social Infrastructure (creche)

- 12.9.4. The proposed development would generate the requirement for approximately 28 no. childcare spaces. This is an increase of 1 child compared to the approved

development which previously generated a requirement of 27 no. childcare spaces. The Planning Authority recommends a condition requiring the development to incorporate a creche, however I do not consider this to be necessary given that the approved development does not contain a creche or a condition to provide a childcare facility. The degree by which the current proposal increases the number of childcare spaces (by 1) is not significant enough to warrant a change in approach under this application, when compared to the approved situation.

Archaeology

- 12.9.5. An Archaeological Assessment has been submitted with the application. It describes the archaeological monitoring undertaken in compliance with conditions under the original planning permission. No further archaeological impact would result from the modifications proposed under this current application.

Cumulative Impact of Development in the Area

- 12.9.6. A number of representations have been made by local residents in relation to the cumulative impact of this proposed development alongside other large scale developments in the area. The Planning Authority also suggest that this development should be considered alongside the current SHD application submitted on lands to the northeast of Omni Park Shopping Centre (ABP Ref. 307011-20).
- 12.9.7. I have considered the development alongside both approved and current planning applications in the area. The scale of this development, comprises an additional floor along the west of the building and new roof terraces along the east of the building, accommodating an additional 10 no. units. The City Development Plan provides an overarching policy context for the area with consideration of population increase as a result of new development. I do not consider that the proposal would generate any significant negative impact in combination with surrounding developments.

Part V

- 12.9.8. The applicant has submitted Part V proposals as part of the application documents. 12 no. apartments (10% of the development) are identified in compliance with Part V of the Planning and Development Act 2000 (as amended). A validation letter from Dublin City Council has been submitted with the application.

13.0 Conclusion and Recommendation

The proposed Build-to-Rent residential units, ancillary residential amenity spaces and additional commercial units (retail, restaurant, café) are acceptable in principle at this site with regard to the relevant Z3 – Neighbourhood Centres and Z1 – Sustainable Residential Neighbourhoods zoning. The provision of increased height and higher density residential development at this location is desirable with regard to its urban location and proximity to high frequency transport services and surrounding infrastructure. The height, bulk and massing, detailed design and layout of the scheme are acceptable. I am also satisfied that the development would not have any significant adverse impacts on the amenities of the surrounding area. The future occupiers of the scheme will also benefit from an acceptable standard of internal amenity. The overall provision of car parking and cycle parking is considered acceptable. I am satisfied the future occupiers of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.

Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be **GRANTED** for the proposed development, subject to conditions, for the reasons and considerations set out below.

14.0 Recommended Order

Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 23rd Day of March 2020 by Cinamol Ltd care of John Spain Associates, 38 Fitzwilliam Place, Dublin 2.

Proposed Development:

- Construction of 120 no. residential apartment units comprising of 26 no 1 beds, 91 no. 2 beds, and 3 no. 3 beds and the provision of 3 no. retail/ café/ restaurant units fronting the Swords Road.
- The proposed height of the development ranges from 3 no. storeys (10.2m) to 7 no. storeys (23.59m) over partial basement level;
- Provision of 3 no. commercial units at ground floor level comprising of a retail unit (89 sq.m.), a restaurant (licensed) (155 sq.m.) and a café (148 sq.m.) including fascia signage;
- Provision of 36 no. car parking spaces (26 no. at basement level 10 at surface level) including the provision of 4 no. car club spaces and 2 no. disabled spaces, 183 no. cycle parking spaces and 2 no. motorbike spaces;
- The proposed development will also include the provision of communal open space including courtyard area, resident outdoor exercise area and 2 no. roof terraces located on the northern boundary and the eastern boundary of the development, the provision of internal resident support facilities including reception / concierge, and waste management facilities, and the provision of internal resident services and amenities including, internal common areas, shared work space, bookable rooms, lounge area, kitchen area, event space, gym and associated outdoor training facilities;
- The proposed development will provide balconies and/ or terraces on all elevations, revised boundary treatments and landscaping, provision of green roof, ESB sub-station, SUDS drainage, and all ancillary site development works necessary to facilitate the development.

The proposed development will amend and supersede the development currently being undertaken on site, pursuant to and in accordance with Strategic Housing Planning Permission Ref: ABP-303358-19.

Decision

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

Matters Considered

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

Reasons and Considerations

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

- (a) the location of the site in the established urban area of Dublin City in an area zoned for residential;
- (b) the policies and objectives of the Dublin City Development Plan 2016-2022;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018 and particularly Specific Planning Policy Requirement 7 and 8;
- (g) 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;
- (h) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (i) The pattern of existing and permitted development in the area;
- (j) The planning history of the site and within the area;

- (k) The submissions and observations received;
- (l) The Chief Executive Report from the Planning Authority and specifically the recommended reason for refusal; and
- (m) the report of the inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. 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 area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment 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 other sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

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

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the Planning Authority and particularly the recommended reason for refusal, which was addressed in detail in the Inspector's Report.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene Dublin City Development Plan 2016-2022 in relation to building height. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the City Development Plan would be justified for the following reasons and consideration.

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

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) 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.

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

Permission for the development should be granted having regard to guidelines under section 28 of the Act, specifically SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria in section 3.2 of those guidelines.

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, the 'Urban Development and Building Height Guidelines' (in particular section 3.2, SPPR 3), 'Sustainable Urban Housing: Design Standards for New Apartments' and the Dublin City Development Plan 2016-2022.

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 and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

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

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

3. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a Build to Rent scheme. Any proposed amendment or deviation from the Build to Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity

4. The terms and conditions of the permission for the original development, which was issued under Ref. ABP-303358-19 shall be fully complied with, except where modified by this permission.

Reason: To provide for an acceptable standard of development.

5. Prior to the commencement of development above 6th floor level, the following details shall be submitted to, and agreed in writing with the planning authority:
 - (a) Details of a Roof Terrace Management Scheme to mitigate against the potential disturbance of neighbouring occupiers (during use of roof terrace areas by future occupiers of the development). The management scheme shall include a description of how neighbours can contact the management team in relation to complaints and how these contact arrangements will be advertised to neighbouring occupiers.
 - (b) Details of street tree planting and tree planting along the south and east boundary to provide replacement screening for the existing belt of Lawson Cypress trees.
 - (c) Detailed drawings of screens to roof terrace areas.
 - (d) Details of incidental playable space to be incorporated into the external southern amenity area.
 - (e) Details of the extract and ventilation system to be used by the commercial Premises within the scheme.

Reason: In the interest of residential amenity of future occupants.

6. Any alterations to the road network serving the proposed development, including loading bays, turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. Prior to the commencement of development above 6th floor level, the applicant shall provide details for approval to the Planning Authority of a loading bay on Schoolhouse Lane. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

7. The developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development above 6th floor level.

Reason: In the interest of public health.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, 0800 to 1400 Monday to Saturday, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

Rachel Gleave O'Connor
Planning Inspector

5th August 2020

Appendix A – List of Observers

1. Cllr. Allison Gilliland
2. Anne O'Neill
3. Anne O'Rourke
4. Brenda Sullivan
5. Caroline Molloy
6. Fran Keoghan
7. Ian Croft
8. John Fitzgerald
9. Kevin O'Connell
10. Madeleine Ebbs
11. Magenta Crescent Residents Association
12. Marion Kelly
13. Mark Duignan
14. Maura and John O'Grady
15. Patricia Roe
16. Paul Kelly
17. Paul McAuliffe TD
18. Roisin Shortall TD
19. Santry Community Resource Centre
20. Simon Ellis