



An
Bord
Pleanála

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

Inspector's Report ABP-307197-20

Strategic Housing Development	105 no. apartments, aparthotel extension and associated site works.
Location	36, 38, 40 Herbert Park and 10 Pembroke Place, Ballsbridge, Dublin 4. (www.herbertparkshd.com)
Planning Authority	Dublin City Council South
Applicant	Derryroe Limited.
Prescribed Bodies	<ol style="list-style-type: none">1. An Taisce2. Development Applications Unit3. Inland Fisheries Ireland4. Transport Infrastructure Ireland.
Observer(s)	<ol style="list-style-type: none">1. Bernard Smith

2. Charles and Melanie Cunningham
3. Chris Andrews
4. Cllr Michael Mac Donnacha
5. Clonoe O'Rahilly's GAA
6. David Ceannt
7. Declan Kealy
8. Elise O'Callaghan
9. Esther Murnane and Dorinda
Kavanagh
10. Gabriel Brady
11. Helen Litton
12. Honor O'Brolchain
13. John and Karen McGuire
14. Labhras and Colleen Joyce
15. Pembroke Place Residents
Association
16. Proinsias O'Rathaille
17. South Georgian Residents
Association
18. Suzanne and Bridie Ward
19. The 1916 Relatives Alliance
20. The Pembroke Road Association
21. Upper Leeson Street Residents
Association
22. Rosa Mylonas

Date of Site Inspection

7th August 2020.

Inspector

Karen Kenny

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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. The site is located at No. 36, No. 38 and No. 40 Herbert Park Road and No. 10 Pembroke Lane in Ballsbridge, Dublin 4.
- 2.2. The site, with a stated area of 0.5 hectares, comprises plots no's 36, 38 and 40 Herbert Park Road and a 4-storey aparthotel building at 10 Pembroke Place. The site contained three early 20th century houses until recently. Dwellings no. 36 and 38 have been demolished under a separate permission (ABP-Ref. 300976-18), while dwelling No. 40 remains in the northern section of the site. This is a detached 20th century dwelling of the arts and crafts style.
- 2.3. The site is located to the south of Ballsbridge village. It is bounded by Herbert Park Road to the west and by Herbert Park to the south. There is a terrace of two storey houses to the immediate north that front onto Pembroke Place. There is a DCC parks depot to the west on the opposite side of Herbert Park Road. To the east the site is bounded by a 4-5 storey commercial development at 10 Pembroke Place. The site incorporates a 4-storey aparthotel block at the southern end of this development.
- 2.4. The site has been partly cleared and comprises buildings and artificial surfaces for the most part, with small areas of amenity grassland, ornamental planting, scrub and hedgerow. There are ornamental boundary railings on granite plinth along the front boundary to Herbert Park Road. Other individual plot boundaries associated with sites No. 36, 38 and 40 have been removed. Proposed water and drainage connections on Herbert Park Road and along Pembroke Place to Ballsbridge Terrace are also included within the red line boundary.

3.0 Proposed Strategic Housing Development

3.1. Permission is sought for demolition of an existing dwelling and construction of 105 no. apartments in a residential block of 4, 6, 8 and 12 storeys over basement (10,465 sq.m GFA); and for extension of an existing aparthotel that consists of 10 no. additional aparthotel bedroom suites and associated floorspace (600sq.m GFA). Associated and ancillary site works including the upgrade of an existing vehicular entrance and landscaping and infrastructural works. The aparthotel would be serviced via the existing commercial development at no. 10 Pembroke Place.

3.2. Key Details:

No. Units	105 apartments
Height	4, 6, 8 and 12 storeys
Site Area	0.5 ha gross; 0.42 ha net
Density	250 units / ha residential
Plot Ratio	3.2
Site Coverage	45.8%
Other Uses	10 no. apart-hotel suites, guest common room and lobby (600sq.m)
Dual Aspect	64%
Open Space	Private: 949.2 sq.m; Communal: 1,852 sq.m.
Car Parking	84 no. spaces (inc. 3 no. surface spaces)
Bike Parking	130 no. spaces at surface level.

3.3. Housing Mix

Beds	Apartments	%
1-bed	37	35
2-bed (3 person)	4	4

2-bed (4 person)	62	59
3-bed	2	2
	105	100%

3.4. The application documents include a statement of consistency and a material contravention statement.

4.0 Planning History

4741/18: Permission granted for change of use from office to medical clinic at ground and lower ground floor levels at 10 Pembroke Place (parent permission PA Ref. 3391/15).

4321/18: Permission granted for alterations to aparthotel at 10 Pembroke Place and No.'s 36 and 38 Herbert Park (parent permissions 3391/15, 2051/17 and 3970/17) resulting in an addition 6 no. aparthotel suites.

3970/17 / ABP-300976-18: Permission granted for amendments to previously permitted aparthotel at 10 Pembroke Place (permitted under PA Ref. 3391/15 PL29S.246002 and as amended by PA Ref. 2051/17) comprising 15 no. additional aparthotel suites and an increase in floor area to 4 no. aparthotel suites; and for demolition to dwellings at No. 36 and 38 Herbert Park Road and for the construction of 2 no. 4-storey residential buildings to accommodate 18 no. apartment units including a gym, studio, changing rooms/wc, media room, recreational space and meeting room, and car park extension.

2051/17: Permission granted for extension to aparthotel and amendments to office development at 10 Pembroke Place (previously permitted under PA Ref. 3391/15 (PL29S.246002)). No change in number of aparthotel suites.

2826/16: Permission refused for change of house type to 2 x apartments and 2 x duplex units and additional storey to residential building permitted under Ref. 3128/14 due to impacts on residential amenities and height.

3391/15 (PL06S.246002 appeal withdrawn): Permission granted for demolition of existing vacant office building and construction of mixed-use scheme (c. 4,720 sq.m

GFA ex. car park) at 10 Pembroke Place – including a 4-storey over basement office building (c. 2,752 sq.m GFA), a new 4-storey over basement aparthotel building (c. 1,968 sq.m GFA) with 43 no. aparthotel studio units and a new basement car park. This represented an increase of c. 1200 sq.m over that permitted under Ref. 3128/14. Condition no. 16 required that the proposed aparthotel rooms not be sold or sublet independent of the operator; and condition no. 17 stated that the maximum occupancy period for the 43 no. aparthotel rooms shall be two months only.

3128/14: Permission granted for demolition of existing vacant office building and construction of a mixed-use scheme (3527 sq.m GFA ex. car park) at 10 Pembroke Place – including a 4-storey over basement office building (c. 2,242 sq.m GFA), a new 4-storey residential building (c. 1,284 sq.m GFA with 8 no. 2-bed and 2 no. 3-bed apartments and new basement car park.

5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre-application consultation took place at the office of An Bord Pleanála on the 21st November 2019. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting. The main topics raised for discussion at the tripartite meeting were as follows:

- Development strategy for the site to include elevational treatment, open space/public realm and connectivity
- Visual and residential amenity
- Surface Water Drainage
- Transport matters
- Any other matters

A copy of the Inspector's report and Opinion is on the file for reference by the Board. A copy of the record of the meeting Ref. ABP-305571-19 is also available on the file.

5.2. Notification of Opinion

The An Bord Pleanála opinion stated that it is of the opinion that the documents submitted constitute a reasonable basis for an application for strategic housing

development to An Bord Pleanála. The applicant was advised that the following specific information should be submitted with any application for permission:

- Report addressing materials and finishes.
- CGI's, visualisations and cross sections showing relationship with existing development.
- Report addressing impacts on residential amenity - specifically overlooking, overshadowing, overbearing, noise and wind / microclimate.
- Landscaping plan and report on protection of trees (inc. trees in Herbert Park).
- Schedule of accommodation having regard to standards in Apartment Guidelines.
- Site Specific Construction and Demolition Waste Management Plan; Life Cycle Report; and Waste Management Plan.
- Additional details of surface water management and traffic and transport having regard to issues raised by the PA.
- Information referred to in Article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the P&D Regulations.

5.3. Applicants Response

- Materials, finishes and landscaping: Refer to the Architectural Design Statement and Statement of Response prepared by OMP Architects and the Landscape Plan and Report prepared by Dermot Foley Landscape Architects.
- Relationship between proposed and existing: Refer to contiguous elevations and sections, the Architectural Design Statement and Statement of Response prepared by OMP Architects, the Landscape and Visual Assessment Report prepared by Doyle & O'Troithigh Landscape Architects and the Architectural Heritage Report prepared by Cathal Crimmins Conservation Architects.
- Residential amenity: Refer to drawings, the Architectural Design Statement and Statement of Response prepared by OMP Architects, the Sunlight, Daylight and Shadow Analysis prepared by Digital Dimensions and Daylight Analysis prepared by Ethos Engineering, the Wind Impact Assessment

prepared by IN2 Consulting Engineers, the Basement Impact Assessment (Noise) prepared by AWN and Construction Management Plan prepared by EirEng Engineering.

- Housing Quality Assessment: Refer to Housing Quality Assessment and Architectural Design Statement prepared by OPM Architects.
- Impact on Trees: Refer to Arboricultural Assessment and drawings.
- Landscaping: Refer to the Architectural Design Statement and Statement of Response prepared by OPM Architects and the Landscape Plan and Report prepared by Dermot Foley Landscape Architects.
- The application is accompanied by a Construction and Demolition and Waste Management Plan, an Operational Waste Management Plan and a Building Lifecycle Report.
- Issues raised by the PA are addressed in the Water Services Report, Site Specific Flood Risk Assessment, Hydrological Impact Assessment and Transport Assessment Report.
- Environmental Impact Assessment Screening is addressed in a standalone Report.

6.0 Applicant's Statement

6.1. 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 Section 28 guidelines, the County Development Plan and regional and national planning policies. The following points are noted:

National Guidance

- Consistent with NPF and RSES policy including policies on more compact urban development, use of brownfield lands, increased density and quality design.
- The proposed development is consistent with the provisions of Smarter Travel A Sustainable Travel Future. The proposed commercial and residential development is located on an underutilised brownfield site in Ballsbridge and close to Dublin City.

- Complies with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas – in particular Chapter 5 which promotes higher densities in highly accessible locations. Design, amenity and unit mix standards also met.
- Development complies with the 12 criteria detailed in the Urban Design Manual a Best Practice Guide (2009).
- Compliance with Sustainable Urban Housing: Design Standards for New Apartments, 2018. Site is in a central / accessible urban location and meets criteria for higher density development. SPPRS of the guidance in relation to unit mix, floor area, dual aspect, floor to ceiling heights, lift and stair core access are met in addition to open space standards. The proposed development is also consistent with the guidance on car parking and bicycle parking.
- Consistent with Building Height Guidelines 2018. Guidelines have a presumption in favour of increased height in urban locations with good public transport accessibility. SPPR 3 takes precedence over conflicting objectives of the development plan. Development management criteria are addressed.
- The application is accompanied by a Site Specific Flood Risk Assessment in accordance with the Flood Risk Management Guidelines.
- The development complies with DMURS.
- The application is accompanied by a Childcare Needs Assessment that addresses the guidance on childcare provision in Childcare Facilities Guidelines and Apartment Guidelines.

Dublin City Development Plan

- The site is zoned Z1 residential for the most part while the aparthotel is on lands zoned S4 District Centre. The proposed uses are consistent with the zoning objectives.
- The proposed development is consistent with housing policies that promote residential development (QH5), attractive mixed use development (QH6), sustainable densities (QH7) use of vacant or underutilised sites within the city (QH8) and high quality apartments for a range of needs within sustainable

neighbourhoods (QH18 and QH19). QH23 discourages the demolition of habitable housing unless streetscape, environmental and amenity considerations are met and there is a net increase in the number of dwellings. The proposed development is consistent with this objective.

- The proposed development is consistent with policy in relation to aparthotels in CEE12(i) and Appendix 24.
- The proposed development is consistent with plot ratio and site coverage standards in Section 16.5. The indicative plot ratio of 0.5-2.0 in Z1 and 2.0 in Z4 is exceeded. However, the plan states that higher plot ratio's may be permitted in circumstances including adjoining major public transport corridors, where an appropriate mix of residential and commercial is proposed and to facilitate comprehensive redevelopment in areas in need of renewal.
- In relation to building height the site falls within the 'low rise' category under Section 16.7 of the Development Plan with a height limitation of 16 m. The proposed development exceeds the Development Plan limitations but meets the criteria under Section 3.2 and SPPR3 of the Building Height Guidelines. A Material Contravention Statement is submitted in respect of building height.
- The proposed development is consistent with policy in relation to sustainable land use and transportation (MT1) and with bicycle and car parking standards.
- A Community Infrastructure Audit is submitted in accordance with Policy SN5.
- The proposed development is consistent with Policies SI2, SI18 and SI26 relating to the availability of water supply and drainage infrastructure, surface water drainage and use of SUDs, and the design of public lighting.

7.0 Relevant Planning Policy

7.1. National Policy

The government published the National Planning Framework in February 2018. Objective 3a is that 40% of new homes would be within the footprint of existing settlements. Objective 27 is to ensure the integration of safe and convenient alternatives to the car into the design of communities. Objective 33 is the prioritise

the provision of new homes where they can support sustainable development at an appropriate scale.

The applicable section 28 guidelines include -

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').
- Urban Development and Building Heights – Guidelines for Planning Authorities 2018.
- Sustainable Urban Housing: Design Standards for New Apartments (2018).
- Childcare Facilities – Guidelines for Planning Authorities.
- Design Manual for Urban Roads and Streets.
- The Planning System and Flood Risk Management (including associated Technical Appendices).
- Childcare Facilities – Guidelines for Planning Authorities (2001)
- The Planning System and Flood Risk Management (including associated Technical Appendices) (2009).
- Architectural Heritage Protection Guidelines for Planning Authorities (2011).

7.2. Local Policy - Dublin City Development Plan

- The Dublin City Development Plan 2016-2022 is the relevant Development Plan for the area. The site is zoned Z1 (Sustainable Residential Neighbourhoods) for the most part with an objective 'to protect, provide and improve residential amenities'. Residential use is permitted in principle under the Z1 zoning objective. A small section of the site, which relates to the previously approved aparthotel element, is zoned Z4 (District Centres) with an objective 'to provide for and improve mixed service facilities'. Hotel use is permitted in principle under the Z4 zoning.
- Chapter 4 'Shape and Structure of the City' sets parameters for the creation of sustainable communities in association with the objectives of other chapters. Policies include: SC5 to promote the urban design and architectural principles set out in Chapter 15, and in the Dublin City Public Realm Strategy 2012, in order to achieve a quality, compact, well-connected city; SC7 to protect and enhance important views and view corridors into, out of and within the city, and

to protect existing landmarks and their prominence (Fig. 4 details 'Key Views and Prospects'); SC13 to promote sustainable densities (that are appropriate to their context and supported by community infrastructure), particularly in public transport corridors, which will enhance the urban form and spatial structure of the city and having regard to the safeguarding criteria set out in Chapter 16; SC14 to promote a variety of housing and apartment types; and SC16 to recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated SDRA's.

- Chapter 5 'Quality Housing' sets out policies to support sustainable building and design. Policies include: QH6 relating to attractive mixed use neighbourhoods; QH7 relating to sustainable urban densities and high standards of urban design and architecture; QH8 relating to the development of vacant or under-utilised infill sites; QH18 and QH19 relating to the provision of high quality apartments that meet a range of needs.
- Chapter 11 'Built Heritage and Culture' sets out policy in relation to the safeguarding and protection of built heritage, protected structures and architectural conservation areas (e.g. CHC1, CHC2, CHC4 and CHC5). Of note in this instance is policy CHC1 seeks the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the site.
- Section 16.5 refers to an indicative plot ratio standard of 0.5-2.0 for the Z1 zoned lands, and of 2.0 for the Z4 zoned lands.
- Section 16.6 refers to an indicative site coverage standard of 45-60% for the Z1 zoned lands and 80% for Z4 zoned lands.
- The site is categorised as a low-rise, outer-city site under the height strategy. Section 16.7.2 sets a general height limit of 16m in the outer city, or 24m at rail hubs which are defined as within 500m of existing and proposed Luas, mainline, DART, DART Underground and Metro stations.
- The site is in Zone 2 (Map J) for car parking provision and the parking standards set out in Table 16.1 allow a maximum of 1 car space per residential

unit and 1 space per room for aparthotel use. Table 16.2 sets out a minimum standard of 1 bicycle parking space per residential unit.

- Section 16.10.1 of the plan sets down residential quality standards for apartments which reflect those set out the national guidelines. It states that any scheme shall have a maximum of 30% of one-bedroom units and a minimum of 15% shall have three-bedrooms or more. It also states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight: A guide to good practice (Building Research Establishment Report) 2011. Communal open space shall be provided at a rate of 5m² for a one-bedroom apartment, 7m² for a two-bed and 9m² for a three-bed. Section 16.10.3 states that 10% of the site area of residential development shall be provided as public open space but includes provision for payment of a financial contribution in some circumstances.

8.0 Third Party Submissions

8.1. A total of 22 no. third party submissions have been received from local residents and resident groups, historic groups, other interested parties and elected members. The main points made in submissions can be summarised as follows:

- Object to demolition of No. 40 Herbert Park due to architectural, historic and social significance of the property. No's. 36, 38 and 40 Herbert Park built in the early 1900's for an International Exhibition in Herbert Park as an example of Arts and Crafts Architecture. Property home to Michael Joseph O'Rahilly, a founding member of the Irish Volunteers who lost his life in the 1916 rising and his wife Nancy O'Rahilly, who was a vice president of Cumann na mBan. Meetings of historic significance held in the house. Only location where 1916 leaders met to plan the Easter Rising that is still in its original form. No decision should be taken on the subject application pending the completion of a review of No. 40 regarding addition to the RPS.
- The Court of Appeal in Moore v The Minister held that any works or alterations to a building the preservation of which is a matter of national importance requires Ministerial Consent.

- Submitted Architectural Heritage Assessment Report is not independent. ABP should commission an independent professional report.
- No report from the Conservation Department of Dublin City Council.
- Scale and aesthetic (inc. height, mass and bulk) of the proposed development does not respond to context. The Pembroke district is of historic and architectural merit and of cultural value due to associations with the Pembroke Estate. There are c. 500 listed buildings within sight of the proposed development.
- The proposed development is an overdevelopment of the site.
- The development will be overbearing, over-dominant and is not in keeping with the existing character and pattern of development in the area. The scheme will have a negative impact on the surrounding 19th century streetscape, individual buildings and on Herbert Park.
- The elevations and photomontages show that the 12-storey element will dominate and punctuate the landscape and horizon from multiple vantage points (specific reference to bridge at Ballsbridge, Dodder Linear Park, principle entrance and Donnybrook entrance to Herbert Park and sight lines of nearby streets).
- Photomontages demonstrate views when trees are in full leaf and do not show winter views.
- Extension of aparthotel will exacerbate the visual intrusion into Herbert Park.
- Building height materially contravenes Development Plan and is erroneously promoted as acceptable in the context of more recent national and regional planning policy and guidelines.
- Negative impact on amenity of properties to the north due to overshadowing, overlooking and noise and disturbance from traffic and service vehicles during the occupation phase. Sunlight and Daylight assessments show a reduction in available sunlight to amenity spaces of the houses at 4, 6, 8 and 9 Pembroke Place and reduction in sunlight to internal rooms below BRE guidance. There will be noise impacts from vehicles using the basement ramp and service vehicles collecting bins due to the proximity to existing houses.
- Negative impacts on amenity of existing properties during construction including noise and vibration, dust and general disruption from traffic and

operational practices on site. Work practices and hours of operation should take account of proximity to existing dwellings. Proposed construction hours are excessive.

- Concern in relation to structural damage to existing houses in Pembroke Place due to proximity of excavation and basement construction and scale of the proposed structure.
- Concerns in relation to security of dwellings in Pembroke Place.
- Wayleave access to No. 40A Herbert Park only shown on 1 no. drawing.
- Impact on Herbert Park due to visual intrusion, overlooking, overshadowing and wind impacts. The development will overlook the playground in Herbert Park.
- The scheme offers no screening between the park and the buildings. Space given to trees is a characteristic of the visual language of the Pembroke Estate.
- Proposals to protect existing trees in Herbert Park are inadequate. The Landscaping scheme does not include any mature trees.
- Level of car parking provision.
- Conflict between pedestrians / cyclists and vehicles entering the basement car park.
- Capacity of road infrastructure in area to accommodate the development inadequate. Inadequate provision for pedestrians and cyclists given needs during pandemic. Crossings in the area are narrow and becoming a pinch point for social distancing.
- Housing mix and number of smaller 1-bed units unsuitable to meet housing needs.
- Unauthorised demolition of No. 36 and No. 38 Herbert Park.
- Flood Risk.
- No assessment of the impact of this proposed scheme on Herbert Park and the surrounding streets.
- AA Screening Report does not eliminate possibility of significant effects on European Sites in Dublin Bay. Reference to potential impacts due to lack of capacity at the Ringsend WWTP and deficiencies in the Screening Report. EIA Screening is incomplete due to defects in AA Screening and it does not

take account of other relevant assessments inc. SEA of DCC Development Plan 2016-2022 / AA of permits for the extension of the Ringsend WWTP.

- Board cannot grant permission for development which sits outside the Development Plan without satisfying requirements of the SEA Directive.
- Consultation at pre-planning stage is contrary to article 6(4) of the EIA Directive which requires early and effective opportunities for the public to comments.
- No pre-application consultation by the applicant. Consultation under ABP-305571-19 was by Lordglen Limited.

8.2. Submissions from Cllr Michael Mac Donncha and Chris Andrews TD raise similar issues summarised as follows:

- Object to demolition of No. 40 Herbert Park as it is a historic building and an important part of the heritage of Dublin. The submissions reference a number of significant political meetings that were held at the house.
- The submitted Architectural Heritage Assessment is brief, contradictory and fragmented and should carry no weight in ABP's assessment of historic importance.
- Motion submitted to DCC Meeting on 21st April 2020 that No. 40 Herbert Park be added to the RPS.
- The submission of Chris Andrews TD also raises concerns in relation to the costings of Part V units.

9.0 Planning Authority Submission

9.1. Dublin City Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016 on 20th July 2020. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the Area Committee, as expressed on 8th June and 22nd June 2020. 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.

PA Comment on Principle of Development

- Uses are compatible with the zoning objectives pertaining to the site.

PA Comment on Demolition of No. 40 Herbert Park

- Structure is not on the RPS, nor is it within an ACA. The Herbert Park / Ballsbridge area has not been surveyed by the NIAH and there has been no formal assessment of the architectural heritage significance of the property. At a meeting of DCC it was agreed following a motion that an assessment of the property would be carried out to determine the special significance, if any, of this structure.

PA Comment on Height, Scale and Design

- 4-6 storey height of the main spine block is an acceptable response to the prevailing pattern of development within the area, and when combined with the landscaping plan would form a satisfactory streetscape along the western side of Herbert Park Road.
- The design principle of creating a landmark building and a gateway to Herbert Park is acceptable, and the creation of a counter-point reference to Ardoyne House on the opposite side of the Park is understood. The principle of additional height at the south-western corner of the site and adjacent to Herbert Park is acceptable.
- The additional height to the aparthotel would present a closer alignment of height with the 6-storey Herbert Park Hotel to the east. The 5th floor level would match the existing shoulder height of the hotel. The uppermost setback level is a little incongruous as the roof level is above the eaves of the hotel.
- Concerns regarding the width of the 12-storey section and its bulk and mass on the corner. There may be an opportunity for refinement to enhance slenderness and elegance. Given the change in scale from parkland to 12 storeys considered that the external finishes are important. Concern in relation to the extent of anodised bronze panels on the tower and question appropriateness in a predominantly residential area. Preferred option is to soften the visual impact of the tower to Herbert Park.
- The principle of additional height is acceptable at this location. However, the long-term visual impact will be significant. The landscaping proposals and the sylvan nature of Herbert Park will soften the visual impact at street level. The

PA has concerns regarding the external finishes proposed for the 12-storey structure and the visual impact of anodised panels on the wider area.

Recommended that the materials are reconsidered in favour of more natural materials. It is recommended that a condition is included to this effect in the event of a grant of permission.

PA Comment on Plot Ratio and Coverage

- The site coverage is within the DP standard for Z1 and Z4 zoned lands. While the plot ratio exceeds the recommended provision of 2.0, given the location of the proposal on the edge of a large public park and in close proximity to the District Centre of Ballsbridge the increase is considered acceptable.

PA Comment on Residential Amenity of Proposed Units

- The standards set out in the Apartment Guidelines in relation to individual units and communal space are generally met. Wind mitigation measures for 10th floor terrace acceptable. Daylight levels for the proposed development exceed BRE recommendations.
- Payment of a contribution in lieu of public open space provision within the site considered acceptable, given the proximity to Herbert Park.

PA Comment on Residential Amenity of Existing Development

- The proposed development would adversely impact dwellings to the north due to loss of light and overshadowing to internal rooms and open spaces. It is noted that the amenity spaces to these dwellings are small and extension of varying sizes have been constructed to the rear in order to gain more living space. It is considered that the dwellings that will be most impacted are no. 6, 7 and 8 Pembroke Place.

PA Comment on Transport

- Traffic layout including sightlines from vehicular access point considered acceptable. Vehicular access to substation can be addressed by condition. Quantity of residential and visitor cycle parking considered acceptable, subject to ongoing monitoring and identification of suitable locations for additional cycle parking by condition. Design of bicycle parking compounds unclear and recommended that the final design be subject to agreement. The

12-storey block does not have direct access to the garden where the bicycle compound is located. Recommended that a fire exit be redesigned to provide direct access.

- The ratio of car parking provision at 0.75 spaces per unit (ex. surface and car share spaces) is considered acceptable having regard to the location, census data, mix of units and car share provision. At least 10% of the spaces should be fitted with electric charging points. MMP with modal split targets should be submitted under condition of permission.
- The TIA demonstrates that there is capacity to accommodate the proposed development. Overall conclusion that the operational phase of the proposed development will have a negligible impact on the capacity of the local junctions is accepted.
- No assessment of impact during the construction phase. A detailed Traffic Management Plan should be submitted for construction traffic.

PA Recommendation

- Subject to minor amendments that can be addressed by way of condition, it is considered that the proposed development will not have an undue adverse impact on the residential and visual amenities of the area and will not result in undue overshadowing, overlooking or have an overbearing impact on neighbouring properties. The development is therefore considered to be acceptable.

Comments of the South East Area Committee – summarised.

- Out of context in Ballsbridge. Concerns in relation to visual impacts. The height is out of step with neighbourhood. Concern re saturation of the area. 12 storeys not appropriate.
- Overlooking houses on Pembroke Place and Herbert Park.
- Car parking provision high for inner city development. Query number of charging points for electric vehicles.
- Queries in relation to communal facilities and accessibility to public.
- Impact on Herbert Park – visual and privacy / child protection concerns.

- Concerns in relation to conservation. 27 protected structures on the road and a large historic park.
- No. 40 should be on the RPS. Historic, social, cultural, architectural significance. Question conclusions of the submitted Architectural Heritage Report.
- Question process in relation to EIA Screening and AA process.
- Questions in relation to Part V – location and cost of acquisition.

10.0 Prescribed Bodies

10.1. Irish Water

The submission from Irish Water indicates that connection to the public water and wastewater infrastructure is feasible. The submission states that surface water flow into the combined sewer is not permitted. The development has to incorporate Sustainable Drainage Systems on available green land or a connection to the 2300mm Dodder River surface water culvert for the management of storm water.

10.2. An Taisce

An Taisce does not support the demolition of no. 40 Herbert Park. The house has historic / social significance due to the historic association with Michael Joseph O’Rahilly who died in the 1916 Rising. In addition, the house is an attractive Edwardian villa type design that is largely unaltered and characteristic of the development of the inner suburbs in the late 19th and early 20th century. Given the historic association and the age and design the house would almost certainly fulfil the requirements for addition to the RPS. The Development Plan (Section 16.10.17 and Policy CHC1) encourages retention of older buildings of significance that are not protected in order to conserve the built heritage of the city. Its demolition would represent a significant loss of cultural heritage for the city and the nation.

10.3. Development Applications Unit

On the basis of the information contained in the Architectural Impact Assessment Report submitted with the application there are no archaeological requirements. The Department raises the following concerns in relation to architectural heritage:

- Removal of several structures that are understood to represent the evolution of the suburbs is not supported by the Department, as it removes 20th century typologies that are fully viable and their loss may be regarded as undermining local character and identity of the historic village of Ballsbridge.
- The increased scale of the development is of such scale, plan arrangement and monolithic character that it is not in-keeping with the overall pattern of development or character of the area. The proposal dominates the approach to Herbert Park from the historic village of Ballsbridge. The residential block is visually jarring in its juxtaposition with this historic context.
- The Department would welcome a reconsideration to include the retention of the extant residential property, or where demolition is supported the new build should reference the extant characteristics of the area, that follows the historic building patterns and references key aspects of the receiving environment in terms of scale, grain and materiality. Transition in scale needs to be well considered.
- The recently completed climate change adaption sectoral plan of the Department of Culture, Heritage & the Gaeltacht promotes the reuse of existing assets and their craftsmanship, as a government policy to combat climate change and loss of cultural significance / sense of place.

10.4. Inland Fisheries Ireland

Development is in the River Dodder Catchment an important salmonid system. All works to be completed in line with the Construction Management Plan and mitigation measures should be implemented to ensure protection of the Dodder catchment. The submission includes a list of specific mitigation measures relating to the treatment of water before discharge; management of groundwater recharge; storage of materials on site; preventing solids entering the river during connection or stripping of old pipework; and maintenance of silt traps and oil interceptors. Recommended that a condition is included in the event of a grant of permission requiring the owner to enter into an annual maintenance contract for petrol and oil interceptors.

10.5. Transport Infrastructure Ireland

No comment.

11.0 Assessment

Having considered all of the documentation on file, the PA's Chief Executive Report, the submissions from prescribed bodies and elected representatives and third-party submissions, I consider that the planning issues arising from the proposed development can be addressed under the following headings:

- Principle and Quantum of Development
- Architectural / Historic Significance of No. 40 Herbert Park
- Visual Impact
- Quality of Development
- Impact on Amenity
- Traffic and Transportation
- Water Services and Flood Risk
- Other Matters
- Material Contravention – Building Height

These matters are considered under separate headings below. Furthermore, Environmental Impact Assessment and Appropriate Assessment are addressed in Sections 12.0 and 13.0 below.

11.1. Principle and Quantum of Development

11.1.1. The Dublin City Development Plan 2016-2022 is the relevant Development Plan for the area. The site is zoned Z1 (Sustainable Residential Neighbourhoods) for the most part with an objective 'to protect, provide and improve residential amenities'. Residential use is permitted in principle under the Z1 zoning. The section of the site that relates to the aparthotel is zoned Z4 (District Centres) with an objective 'to provide for and improve mixed service facilities'. Hotel use is permitted in principle under the Z4 zoning. I am therefore satisfied that the proposed development is acceptable in principle and that it accords with the land-use policies and settlement strategy of the Dublin City Development Plan.

11.1.2. The quantum of development is considered in terms of density, plot ratio and site coverage. The proposed apartment development has a stated density of 250 units per hectare (net), while the development as a whole has a plot ratio of 3.2 and a site coverage of 45.8%. Submissions received from third parties and the comments of the elected members express concern in relation to the overall quantum of development proposed with some suggesting that it represents an over development of the site. The applicant describes the site as a significant, urban brownfield site on the edge of Dublin city centre. I concur with the applicant's description. The site is within 2 km of St. Stephen's Green and Merrion Square, within 1km of 2 no. DART stations and is served by high frequency bus services on Merrion Road. The proposal for high density residential led development at this location is in accordance with numerous national planning policies that support increased density at accessible urban locations such as this, including National Policy Objective's 33 and 35 of the National Planning Framework, SPPR 1 of the Urban Development and Building Height Guidelines, 2018 and Section 2.4 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2018. I would note that the proposed plot ratio of 3.2 exceeds the indicative maximum standard for Z1 and Z4 zoned lands (2.0) but that the development meets the criteria in the development plan for higher plot ratios. The CE Report states that given the location of the proposal, on the edge of a large public park and in close proximity to the District Centre of Ballsbridge, that the increase in plot ratio can be considered. Site coverage is within the Development Plan standard. On the basis of the foregoing, I consider that the subject site is well placed to accommodate the quantum of development proposed.

11.2. Architectural / Historic Significance of No. 40 Herbert Park

11.2.1. The proposed development involves the demolition of an existing dwelling at no. 40 Herbert Park (Road). The SHD site combines the sites of no.'s 36, 38 and 40 Herbert Park (Road). Dwellings no. 36 and 38 were recently demolished under an extant permission that relates to the southern section of the site (ABP-300976-18 / PA Ref. 3970/17). Several third-party submissions received from local residents and resident groups, historical groups and other interested parties object to the demolition of no. 40 Herbert Place due to its architectural and historic significance. The submissions cite an important historic association with the 1916 rising and war

of independence as the house was home to Michael Joseph O’Rahilly a member of the Irish Volunteers who died in the 1916 Rising. The house was also home to his wife Nancy (Nannie) O’Rahilly a member of Cumann na mBan. Submissions state that O’Rahilly prepared and stored guns for the rising at the house and that historic meetings including members of the volunteers and Cumann na mBan were held at the house. Submissions also refer to the architectural significance of the property constructed in the Arts and Crafts style for an international trade exhibition in 1907. The submission received from An Taisce, a prescribed body, objects to the demolition of no. 40. The submission refers to the association with Michael Joseph O’Rahilly and the age and design of the property, stating that the structure would almost certainly fulfil the requirements for addition to the Record of Protected Structures (RPS). A submission received from the Department of Culture, Arts, Heritage and the Gaeltacht notes the historic association with the O’Rahilly family and the trade exhibition. However, the concerns raised in this submission relate to removal of several 2-storey structures which are understood to represent the ongoing evolution of the residential suburbs of Dublin and to the potential impact on local character and identity. The submission also refers to policy in the Departments Sectoral Climate Change Adaption Plan which promotes the reuse of existing buildings. The PA’s CE Report notes the historic associations of the dwelling but states that the house is not listed on the RPS, nor is it located within an Architectural Conservation Area. The report also notes that the Herbert Park / Ballsbridge area has not been surveyed by the NIAH. The Report does note that a motion was received from an elected member at a meeting on 8th June to add the property to the RPS. In response, a commitment was made to undertake an assessment of no. 40 Herbert Park (Road) to determine the special significance, if any, of this structure and to prepare a written report.

11.2.2. The application is accompanied by an Architectural Heritage Report, prepared by Cathal Crimmins, Grade 1 Conservation Architect. This report assesses the condition and significance of the existing structure and the impact of the proposed development. The report states the following:

- No. 40 is an example of Edwardian architecture, however, its setting has been undermined over the years through the development of hotels and apartments to the east and north.

- Houses of similar vintage and style at no. 1-34 Herbert Park Road are included on the RPS (RPS Ref. 3678-3704). No. 40 is not on the RPS or subject to any heritage designation.
- Features of the property that contribute to the character of Herbert Park Road, such as the existing boundary railings will be retained and incorporated into the development.
- No. 40 forms part of the early 20th century development of the road and is also of historic interest as the residence of Michael O’Rahilly who took part in the 1916 Rising.
- The house had no direct role in the 1916 rising. The Report argues that the house was not used in preparation or training for the rising, nor was it used by the insurgents during it.
- Appendix 1 is a ‘Historical Assessment by Prof. Charles Townsend’ of Keele University in the UK on the historical significance of 40 Herbert Park, Dublin. The Report sets out an overview of Mr. O’Rahilly. It acknowledges O’Rahilly’s role as a prominent figure in the volunteer movement who played a part in raising funds to buy rifles and in importing guns for the 1916 rising. The report suggests that O’Rahilly was not one of the main players in the events of Easter week.
- The report notes that O’Rahilly is commemorated by the naming of O’Rahilly Parade in Dublin’s City Centre and as a founder member of the Irish Volunteers on a plaque in Wynn’s Hotel on O’Connell Street.
- In terms of mitigation a drawn survey of the house has been prepared and there is a commitment to lodge the record in the Irish Architectural Archive. It is proposed to place a commemorative plaque to Michael and Nannie O’Rahilly on the site.
- The Architectural Heritage Report concludes that the removal of the existing house does not represent a loss of significant architectural or historic fabric.

11.2.3. I acknowledge the historical accounts set out by the applicant and in the submissions received. Section 54 (i) of the Planning and Development Act provides that a planning authority may add a structure to the Record of Protected Structures (RPS)

where the addition is considered necessary or desirable in order to protect a structure, or part of a structure, of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. Section 81 of the Planning and Development Act relating to Architectural Conservation Areas, provides that a planning authority shall include an objective in the Development Plan to preserve the character of a place, area, group of structures or townscape, that is of special architectural, historical, archaeological, artistic, cultural scientific or technical interest or value, or contributes to the appreciation of protected structures. The dwelling at no. 40 Herbert Park (Road) is not a Protected Structures, a proposed Protected Structure, nor is it within an Architectural Conservation Area or a proposed Architectural Conservation Area. The PA's CE Report indicates no objection to the demolition of the structure. The submission received from DCHG indicates no objection to the demolition based on the architectural or historic significance of no. 40 Herbert Park in its own right. The concerns raised by DCHG relate to the collective loss of structures at this location and the impact this would have on local character. I would note that there are a significant number of Protected Structures in this area. This includes dwellings no. 1-34 Herbert Park, which are of similar age and architectural character to no. 40 Herbert Park. In addition, many of the traditional 19th century streets in the area are subject to a residential conservation zoning (Z2) that protects the character of groupings of buildings. While I acknowledge the issues raised in the submission received from An Taisce, a prescribed body, I am not satisfied on the basis of the documentation submitted or arguments made that they have supplied such information as would warrant retention of the building, in particular in view of the fact that the structure is not protected, that there are similar examples of this architectural style in the area that are protected and having regard to the mitigation measures proposed by the applicant. The dwelling at no. 40 Herbert Park Road is not subject to any form of heritage designation and on this basis, I consider that a refusal of permission based on the sites architectural or historical significance is not warranted.

11.3. Visual Impact

11.3.1. Context

The SHD site is a brownfield site of 0.42 hectares (net) with extensive frontage onto Herbert Park Road in Ballsbridge. The site is located to the south of the historic core of Ballsbridge and to the north of Herbert Park. There is an existing terrace of two storey houses to the north of the site on Pembroke Place. To the east there is a 4-storey commercial building at no. 10 Pembroke Place. To the west of the site on the opposite side of Herbert Park Road there is a Dublin City Council Parks Depot. Many of the traditional residential streets in Ballsbridge date from the 19th century and retain a traditional character. Nonetheless, there have been several additions to the area in the intervening period. Notable insertions into the historic streetscape that are close to the site include Herbert Park Hotel a 6 storey over basement hotel structure that sits to the east of the site. There are two curved apartment blocks of up to 7 storeys beyond the hotel that overlook Herbert Park. Embassy House to the east is a 6-storey office development. The American Embassy to the north of the site is a 3-storey circular building. Ardoyne House to the south west is a 12-storey apartment building dating from the 1960's that overlooks the western side of Herbert Park. Sites in the area continue to be redeveloped for more intensive forms of commercial and residential development. Notable examples at present include the former Bank Centre complex off Merrion Road which is being redeveloped for office use of up to 6 storeys and former hotel sites at Pembroke Road and Lansdowne Road which are being redeveloped for a large-scale mixed-use urban development of up to 10 storeys.

11.3.2. Landscape and Visual Impact Assessment

The proposed development comprises a T-shaped block of 4, 6, 8 and 12 storeys over basement levels. The elevation to Herbert Park Road is 4 storeys with two setback levels above. The proposed south west elevation to Herbert Park is 6 and 8 storeys. The building steps up at the south west corner to 12 storeys. The twelve-storey corner element stands above the rest of the block and reads as a tower element. In terms of building height, the four storey section at the northern end of the block is +18.4m OD, the six storey sections are +25.15m OD (residential) and +27.45m OD (aparthotel), the eight storey section is +31m OD and the twelve storey tower is +45.1m OD.

I have inspected the site and viewed the site from a variety of locations in the surrounding area. I have also reviewed the LVIA and the photomontage images

submitted with the application. I am satisfied that the 10 no. viewpoints selected are a representative sample of short-range and medium-range views. I set out the following assessment of each viewpoint.

No.	Location	Description of change.
1	Junction of Merrion Rd/ Anglesea Rd	Medium range view from the north east. The 6-storey northern section of the block visible between trees and existing developments, with glimpses of the 12-storey section in the winter view.
2	Ballsbridge	Short range view from the north east. 6 storey section and 12 storey tower is readily visible above the ridge line of Ballsbridge Terrace and no. 10 Pembroke Place.
3	Junction Pembroke Road / Herbert Park Road	Short range view from nearby road junction. Taller section is visible behind trees when trees in leaf, with glimpses of the overall building form and elevation to Herbert Park Road through the trees in winter.
4	Northern end of Herbert Park Road.	Short-range view from location north of the site. Full building formation and elevation to Herbert Park Road visible.
5	Herbert Park West / Clyde Road.	Medium range view across Herbert Park from the north western edge of the park. Upper sections of the 12-storey tower visible on opposite side of the park, with the rest of the building screened by tree planting.
6	Herbert Park Road	View from the west at a point midway along Herbert Park Road. Upper sections of the 12-storey tower visible above street trees in summer, with increased visibility through the trees in winter.

7	Herbert Park South	Medium range view from the south west section of the park. Stepped building line along the southern elevation to Herbert Park visible above the treeline.
8-10	Herbert Park South Ponds:	Medium to short range views from ponds in the southern section of Herbert Park west of the site at 3 setbacks. In the most distant view the development is screened by tree planting when trees are in leaf, with 12-storey tower visible through the trees in the winter view. In the medium range and closer views, the southern elevation is visible intermittently when trees are in leaf, with increased visibility through the trees (partial screening) in winter.

11.3.3. Many of the third-party submissions object to the proposed development, stating that the scale and aesthetic of the proposal does not respond to its context. Submissions argue that the proposal would be overbearing and dominant and that it would have a negative impact on the surrounding 19th century streetscape and on individual buildings in Herbert Park. Submissions refer to the architectural quality of the area and the fact that there are c. 500 listed buildings in the area. It is argued that the 12-storey element will dominate and punctuate the landscape and horizon from multiple vantage points (inc. Ballsbridge, Dodder Linear Park and at entrances to Herbert Park). The submission from the Department of Culture, Heritage and the Gaeltacht raises concerns in relation to the scale of the proposal. This submission states that the scale, plan arrangement and monolithic character is not in-keeping with the overall pattern of development or character of the area; that the proposal dominates the approach to Herbert Park from the historic village of Ballsbridge; and that the residential block is visually jarring in its juxtaposition with this historic context.

11.3.4. The proposed development exceeds the prevailing 2-3 storey building height in the area and higher sections sit above the more recent 6-7 storey commercial and residential developments situated to the east of the site. The elevations to Herbert Park Road and Herbert Park represent a substantial insertion into the streetscape and it is clear that the proposed development will give rise to visual change at a

location that is locally prominent. However, I would not concur with the view set out in submissions that this change is necessarily negative. The visual landscape within any city will change overtime and this is unavoidable when applying national policy that promotes increased density and building height within urban areas. What is of primary importance in my view, is that the proposed development provides a quality addition to both the streetscape and the skyline and that it does not unduly dominate or undermine the wider character of the area.

11.3.5. While the development will be visible from local vantage points, I am of the view that the development would not be overly prominent or impact negatively on the overall character of the area. This is consistent with the view set out in the PA's CE Report. The modulated heights and the use of different materials serves to break up the overall massing. The steeping up to 12 storeys at the south western corner provides a local landmark at an entrance to Herbert Park. I am satisfied that the large urban park can absorb this scale of development. I would accept the argument put forward by DCHG that there is a juxtaposition between the proposed development and houses on Pembroke Terrace to the north. I consider the transition in scale from 2 to 4 storeys with two setback levels above to be acceptable having regard to national guidance in relation to building height and given the mixed and evolving character of the wider area. I am not satisfied that the extent of detailing on the northern and eastern elevations of the upper floors of the 12-storey tower presents an appropriate architectural response given the visibility of these elevations. Given the level of visibility it is important, in my view, that the tower presents a quality addition to the skyline on all sides. In addition, I concur with the PA's concerns in relation to the proposed external finishes to the tower and the need to soften them and use materials that reflect the residential use of the building. These are detailed design matters that can be addressed by condition.

11.3.6. Public Realm

The public realm at street level comprises a landscaped garden area to the front of the block, open space to the rear and a large roof terrace at 6th floor level. Existing ornamental railings to front of no. 36, 38 and 40 Herbert Park Road are to be retained and landscaping provided on the inside of the railings. The development provides for active frontage onto Herbert Park Road and onto Herbert Park and will use the existing access points to provide for vehicular access to basement car

parking and to the individual residential access points. Access to the apartment hotel suites will be via no. 10 Pembroke Place. I consider the approach to be generally acceptable and am satisfied that any outstanding matters can be adequately addressed by way of condition.

11.3.7. Visual Impact Conclusion

In conclusion, the SHD site is a highly accessible urban site. National and local planning policy promotes higher densities and building heights at such locations. I am satisfied that this has been achieved under the subject scheme. I am satisfied that the proposed development will not impact unduly on the character or setting of historic structures; that it will add visual interest; will make a positive contribution to the skyline and will improve legibility locally, and that its height, scale and massing is acceptable in townscape and visual terms. While I accept the arguments put forward in submissions that the scheme is of a greater mass and scale than surrounding development, I am satisfied that the proposed development is of a scale that will contribute to the physical and social regeneration of this area and I am satisfied that on balance, any negative impacts arising from the scale would be outweighed by positive impacts in terms of place making, renewal and housing provision. Impacts on residential amenity are considered separately below.

11.4. Quality of Development

11.4.1. The following assessment considers the quality of blocks overall to ensure that the scheme as a whole would meet the relevant quantitative and qualitative standards. The assessment has regard to guidance set out in the ‘Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities’ 2018; and the Dublin City Development Plan 2017-2023.

11.4.2. Housing Mix

The proposed development would provide for the following housing mix:

Beds	Apartments	%
1-bed	37	35
2-bed (3 person)	4	4
2-bed (4 person)	62	59

3-bed	2	2
	105	100%

SPPR1 of the Apartment Guidelines states that apartment developments may include up to 50% one-bedroom or studio type units and that there shall be no minimum requirement for apartments with three or more bedrooms. A number of third-party submissions raise concern in relation to the housing mix and lack of family type units. While I acknowledge the concerns raised, I would note that the proposed development meets the standards set out in national guidance with regard to housing mix. The proposed housing mix is, therefore, acceptable in my view. The applicant has submitted a material contravention statement that addresses (among other matters) the failure to adhere to unit mix standards set out in the Dublin City Development Plan. However, the development is not in conflict with any specific policy or objective of the plan and adheres to national guidance in relation to unit mix. I am of the view that the issue of material contravention does not arise in this instance.

11.4.3. Apartment Design and Layout

The schedule of floor areas set out in the Housing Quality Assessment indicates that floor areas for all apartment units meet or exceed the minimum specified in SPPR3 of the apartment guidelines.

Section 3.7 of the guidelines stipulate that no more than 10% of the total number of two bed units in any private residential development may comprise two-bedroom, three person apartments. There are 4 no. two-bedroom three person apartments in the scheme overall equating to c. 6% of the two-bed units overall.

Section 3.8 of the guidelines 'Safeguarding Higher Standards' requires that the majority of all apartments in any scheme (> 10 units) shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bed unit types by a minimum of 10% (any studio apartments must be included in the total but are not calculable as units that exceed the minimum by at least 10%). A total of 83 no. units exceed the minimum floor area standard. The requirement is met and exceeded.

SPPR 4 requires a minimum of 33% dual aspect units for developments in more central and accessible urban locations and a minimum of 50% dual aspect units for developments in suburban or intermediate locations. The housing quality assessment submitted with the application indicates that 64% of the units overall are dual aspect. I am satisfied that the requirements of SPPR 4 of the Guidelines are met and exceeded.

SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. This requirement is complied with.

SPPR 6 specifies a maximum of 12 apartments per floor per core. This requirement is complied with.

Appendix 1 of the guidelines set out minimum storage requirements, minimum aggregate floor areas for living / dining / kitchen rooms, minimum widths for living / dining rooms, minimum bedroom floor areas / widths and minimum aggregate bedroom floor areas. Private open space is provided in the form of balconies and the minimum space and depth standards are met.

11.4.4. Open Space

Appendix 1 of the Apartment Guidelines sets out the following minimum area requirements for communal amenity space in new apartment developments:

Unit	No.	Per Unit (sq.m.)	Total Requirement
1 bed	37	5 sq.m	185 sq.m
2 bed (3 person)	4	6 sq.m	24 sq.m
2 bed (4 person)	62	7 sq.m	434 sq.m
3 bed	2	9 sq.m	18 sq.m
Total	105		661 sq.m.

The scheme provides for 1852 sq.m of communal amenity space in the form of open spaces at ground level and a roof level terrace. The requirement of the guidelines is met and exceeded within the scheme.

Section 16.10.3 of the Dublin City Development Plan states that in new residential developments 10% of the site area shall be reserved as public open space but

allows for the payment of a financial contribution in some circumstances where a shortfall arises. The proposed development does not incorporate any public open space. The PA's CE Report indicates no objection to the payment of a financial contribution in lieu of public open space provision. Having regard to the site's urban context and its proximity to Herbert Park I would concur with the view of the PA. The applicant has submitted a material contravention statement that addresses, among other matters, the absence of public open space within the site. However, given the flexibility provided for under the development plan I am of the view that the issue of material contravention does not arise in this instance.

11.4.5. Communal Facilities

The Apartment Guidelines promote the provision of communal rooms for use by residents in apartment schemes, particularly in larger developments. The proposed development includes 210sq.m of communal facilities at basement level (gym, studio, cinema and parcel room). I consider the level of provision to be sufficient.

11.4.6. Daylight, Sunlight, Overshadowing and Wind

I refer the Board to the Internal Sunlight + Daylight Analysis prepared by Ethos Engineering. The report states that Average Daylight Factor (ADF) values presented in Appendix 1 of the Report were calculated for all rooms located on lower floors in the development and that 99.3% of rooms tested will meet the BRE recommendations. Appendix 1 details the results of comprehensive testing at the lower levels and I am satisfied that the values presented show a high level of compliance with BRE guidance.

BRE guidance recommends that over 50% of amenity areas should have access to sunlight for a minimum of 2 hours on the 21st March. The shadow diagrams contained in the Digital Dimensions assessment shows that on 21st March most of the ground plane within the development is in shade between 10 am and 3 pm. While it is not assessed, the terrace at 6th floor (682sq.m) is not overshadowed by surrounding development and I am satisfied that this area would have good levels of sunlight provision. In addition, the future residents of the scheme will have access to high quality open space in the adjacent Herbert Park.

11.4.7. The submitted Wind Microclimate Study indicates that overall, the development is likely to provide a comfortable and attractive environment for pedestrians and

occupants. It is necessary to provide wind screening to balconies and terraces at upper levels to ensure suitable sitting conditions. I consider the mitigation to be acceptable.

11.4.8. Waste Management

Provisions are made for waste at basement and surface levels and the application is accompanied by an Operational Waste Management Plan and Construction & Demolition Waste Management Plan. I am satisfied that adequate provision is made for waste management during both the constructional and operational phases of the development.

11.4.9. Quality of Residential Development Conclusion

To conclude, I consider that the design and layout of the development is satisfactory with regard to national and development plan guidance for residential development and that it would offer a reasonable standard of residential accommodation and amenity for future residents of the scheme.

11.5. Impact on Amenity

11.5.1. Submissions have been received from the owners and occupiers of properties to the north of the site at no. 6, 7, 8 Pembroke Place, Elevation at the corner of Pembroke Place and Clyde Lane, no. 40A Herbert Park Road and from the Pembroke Place Resident's Association. The proposed development is proximate to the existing residential properties. The dwellings to the immediate north have small rear gardens with some dwellings extending close to the shared boundary which reduces the capacity of these properties to absorb development to the rear. Concerns are expressed in relation to the impact of the proposal on the privacy and amenity of these dwellings. A key question for this assessment is whether the proposed development would impact on the amenities of the properties to the north to an undue degree and in a manner that would justify refusing permission or substantially altering the proposed development.

11.5.2. Occupational Phase Impacts

The submissions express concern in relation to the potential for overlooking; loss of sunlight and daylight; overshadowing and overbearing impacts; and noise and disturbance from the completed development. The 4-storey section at the northern

end of the development maintains a setback of c. 6-9 m from the shared northern boundary and is + 18.4 m OD in height. The 6-storey section maintains a setback of c. 12.4 to 16.8 metres from the shared boundary and is +25m OD in height. The submitted daylight and sunlight analysis indicates that the proposed development would impact negatively on sunlight to windows at no. 6, 7, 8 and 9 Pembroke Place. I would note that no. 9 is in the applicant's ownership. In relation to private yard areas to the rear of properties on Pembroke Place the assessment notes that there will be a reduction in available sunlight to the amenity space of houses at 4, 6, 8 and 9 Pembroke Place. Shadow diagrams also show that the proposed development would cast a shadow over the properties to the north throughout the day. While the assessment points to the fact that the yard areas are small and, in most cases, do not meet BRE guidance at present, I consider the level of impact, in terms of overbearing and overshadowing impacts, to be significant. The level of impact is unacceptable in my view and I consider that the scheme should be altered to reduce the level of impact. In the event that the Board is minded to grant permission, I recommend that condition is included requiring the omission of a floor from the northern end of the block reducing the height of the 4-storey section on the northern end (over the basement ramp) to 3 storeys. This would involve the omission of 2 no. units and the reconfiguration of 2 end units.

In relation to overlooking, I note that the applicant has used high levels windows in the northern elevation at 1st, 2nd and 3rd floors to reduce the potential for overlooking of properties to the north. However, the potential for overlooking from windows in the northern elevation at 4th and 5th floor, from the roof garden at 6th floor and from projecting balconies in the north west / south east elevations at the corner is not adequately addressed within the submitted documents. I consider that the level of overlooking would be unacceptable given the proximity of the windows and open spaces to the properties to the north. I would suggest that a condition is included in the event of a grant of permission that requires design mitigation measures to address overlooking. I recommend that all windows in the northern elevation are high level windows and that the communal roof garden and private balconies close to the northern corner should incorporate suitable screening on the northern side to protect the amenities of the existing properties. All living or bedroom spaces

impacted by the change in windows have windows on the north west or south east elevation also and as such, will maintain a high level of internal amenity.

In relation to concerns about noise from vehicles accessing the basement car park via the ramp, I would suggest that traffic movements of this nature are normal within a busy urban environment and that a level of traffic noise is to be expected. In relation to refuse collection, I note that the turning area detailed on the auto track drawings for refuse vehicles is to the immediate rear of the existing dwellings and that the associated turning movements could give rise to undue disturbance during night-time hours. The Report of the PA's Transport Section requests that refuse collection is from within the site and indicates that refuse collection will not be permitted from the public roadside. I recommend that service vehicles are excluded from the site between 23.00 and 7.00 hours to protect the amenity of the adjoining residential properties. This can be addressed by way of condition.

The submitted Wind Microclimate Study indicates that the proposed development would not impact unduly on the neighbouring environment due to localised wind impacts.

11.5.3. Construction Phase Impacts

In relation to construction phase impacts I would concur with the view set out in third party submissions and in the submitted CMP that activities on site, including noise, vibration and dust emissions have the potential to impact adversely on the amenities of neighbouring properties. However, any impacts arising during the construction phase will be short-term in nature and subject to the implementation of the mitigation measures set out in the submitted Construction Management Plan and adherence to standard construction hours, I am satisfied that undue impacts would not arise. In the event of a grant of permission I recommend that a finalised Construction Management Plan and Traffic Management Plan is submitted to the PA for agreement. I also recommend that the standard condition in relation to hours of operation is attached. Concerns raised in relation to the potential for structural damage to properties are a civil matter and fall outside of the Boards considerations under the SHD application.

11.5.4. Impacts on Herbert Park

A submission received expresses concern in relation to the potential impact of the proposed development on Herbert Park, due to the potential for overshadowing and in relation to potential for overlooking of the children's playground. In relation to overshadowing I refer to the shadow diagrams prepared by Digital Dimensions which show that significant impacts will not arise to the south of the development. In relation to overlooking of the children's playground, I note that the playground is at a remove from the subject site on the opposite side of Herbert Park Road and as such, the issue of direct overlooking will not arise.

11.5.5. Impact on Amenity Conclusion

I consider that the development as proposed would have the potential to impact on the amenity of properties to the north. However, I am satisfied that subject to the implementation of the measures set out above, including a redesign of the northern end of the block, that the level of impact would be reduced to an acceptable degree and that undue impacts would not arise.

11.6. Traffic and Transportation

11.6.1. Accessibility

The site is located close to the centre of Ballsbridge. It is bounded by Herbert Park Road to the west and Pembroke Place is to the north. Herbert Park Road is a single carriageway urban street with on-street parking. It provides a direct connection between Donnybrook and Ballsbridge. The site is a highly accessible urban site that is within 2 km of St. Stephen's Green and Merrion Square, within 1km of 2 no. DART stations and is immediately served by high frequency bus services on Merrion Road.

11.6.2. Car Parking

The development includes 81 no. car parking spaces at basement and 3 no. set down spaces at surface level. Vehicular access is proposed from Herbert Park Road via the existing access point to no. 40. The car parking is for the residential units only and will be managed by a Management Company. The level of provision is 0.8 spaces per unit overall. The rate of provision falls below the Development Plan standard of 1 space per dwelling (Map J and Table 16.1 refers). Third-party submissions express concern in relation to the low level of car parking and some cite potential for increased demand on the on-street spaces. However, the PA's CE

Report states that the level of provision is acceptable. While I note the concerns raised by third parties, national guidance set out in the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018) recommends that car parking is minimised, substantially reduced or wholly eliminated for apartment developments in more central and accessible urban locations. In the context of this guidance and the sites accessible urban location, I consider the level of car parking to be at the upper level of what would be considered acceptable.

11.6.3. Bicycle Parking

A total of 130 no. bicycle parking spaces are proposed, 120 residential spaces to the rear of the block and 10 no. visitor spaces to the front. While the provision exceeds the Development Plan standard of 1 space per unit, it falls short of the recommended minimum standard in the Sustainable Urban Housing Design Standards for New Apartments Guidelines. The guidelines recommend 1 cycle storage place per bedroom and visitor provision at a rate of 1 space per two units. This would equate to a total of 231 no. spaces. Deviation from this standard is at the discretion of the authorising authority. A case is made for the level of provision based on the site's location within walking distance of many services and public transport options. There is also a commitment to monitor on site demand and to provide additional cycle parking if required. I accept the case made and consider the level of provision to be acceptable. Further detail is required in relation to the design of the cycle parking compound to the rear of the apartment block and in relation to how units in the southern block will access the cycle parking. At present access seems to be via an emergency exit. These issues can be addressed prior to the commencement of development by way of condition.

11.6.4. Traffic Assessment

A number of third-party submissions raise concerns in relation to the impact of traffic from the development on junctions, streets and crossings. The application is accompanied by a Transportation Assessment. The assessment is generally in accordance with the recommendations of TII's Traffic Assessment Guidelines 2014 and includes an assessment of impact on the junction of Pembroke Road, Herbert Park and Eglin Road; the junction of Herbert Park, Clyde Lane and Ballsbridge Terrace and the junction of Pembroke Road and Ballsbridge Terrace. Traffic

surveys were undertaken at each junction in October 2019 and trip rates from the proposed development are calculated using the TII approved TRICS Database. The overall conclusion is that the increase in traffic movements during the operational phase at the 3 no. local junctions would be below 5% and that the proposed development would have a negligible impact on the capacity of the junctions. An assessment of the proposed vehicular access into the SHD site shows that this junction will also perform within capacity. I am satisfied that the submitted traffic assessment is robust and accords with relevant national guidance. The assessment demonstrates that the impact of the proposed development on the traffic network in the area would be negligible.

11.6.5. Construction Traffic

The volume of traffic generated during construction will be lower than that generated during the operational phase. The submitted Construction Management Plan states that a traffic management plan will be prepared in advance of construction. The PA request that this is submitted for agreement prior to the commencement of construction. This can be addressed by way of condition.

11.6.6. Conclusion Traffic and Transport

Having regard to the above assessment, I am satisfied that the development will not result in undue adverse traffic impacts and that any outstanding issues are of a minor nature and may be dealt with by condition.

11.7. **Water Services and Flood Risk**

11.7.1. Wastewater and Water Supply

It is proposed to connect to a combined sewer on Herbert Park Road for foul drainage and to the water supply network on Herbert Park Road. Irish Water have no objection to the proposed drainage arrangement.

11.7.2. Surface Water

Surface water discharge is not permitted to the combined sewer on Herbert Park Road. The applicant proposes to construct a new surface water sewer along Herbert Park Road and Pembroke Place to connect to an existing surface water culvert on Ballsbridge Terrace that outfalls to the River Dodder. It is envisaged that this sewer will be taken in charge by Dublin City Council. Within the site it is proposed to install

a surface water system combining sustainable urban drainage features (green roofs, permeable grass, and permeable paving) with onsite attenuation. As infiltration rates on site are poor it is proposed to collect runoff from the SUDS features using slung drainage pipes that will drain to the attenuation tank. The SUDS features will allow for some evaporation, intercept first flush flows and improve the quality of the runoff. Runoff from the basement car park will run through an interceptor and drain to the foul network. The proposed development will outfall to the new sewer at a controlled flow rate of 2l/s (greenfield rate). The submission from Inland Fisheries Ireland highlights the need to protect the Dodder catchment. I consider the proposed system to be acceptable in this regard.

11.7.3. Flood Risk Assessment

I refer the Board to the Flood Risk Assessment (FRA) submitted with the application. CFRAM mapping for the area shows that the site is in Flood Zone A and B for fluvial flooding. The CFRAM modelling indicates that in an undefended scenario flood waters from the Dodder would follow an overland pathway through Herbert Park west of the site and flood the site. The flood depth mapping shows flood depths of 0-0.25m in the south west corner of the site in the 1 in 100 year event; and ranging from 0-0.25m across the site, with depths of 0.25-0.5m in the western section and depths of 0.5-1m in a small pocket in the south west corner of the site in the 1 in 1000 year event. A flood alleviation scheme has recently been completed along this section of the Dodder and as such, the residual risk of flooding is extremely low. The site is not at risk from tidal flooding and no significant risk of pluvial flood risk or ground water flooding is identified. Nonetheless, the Planning System and Flood Risk Management – Guidelines classify residential development as a highly vulnerable development class (Table 3.1) and indicates that such development can only be considered in Flood Zone A or B, where it meets the criteria of the Development Management Justification Test (in Chapter 5). Section 5 of the submitted FRA assesses the proposed development against the criteria. I set out the following assessment:

Development Management Justification Test

Criteria	Assessment
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<p><i>Lands zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines.</i></p>	<p>Yes. The lands are zoned for residential use and the site has passed the Development Plan Justification Test. The Plan requires FRA for sites in this area. I am satisfied that Development Plan policies in relation to flood risk management are met.</p>
<p><i>The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.</i></p>	<p>No. The site is in the area of the recently completed River Dodder Flood Alleviation Scheme. The level of residual flood risk is extremely low. As the site is in a defended area there is no requirement to provide compensatory storage. In any case, there will be no significant increase in development in Flood Zone A and no impact on flood storage during the 1 in 100-year event. As the site is on a conveyance route rather than a flood storage cell any localised loss of storage will have a negligible impact on flood levels in the surrounding area.</p>
<p><i>The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible.</i></p>	<p>Site specific mitigation measures have been integrated into the design of the scheme. FFL's and the basement entry are set above the 1% AEP flood dept. The attenuation tank is designed to retain a 100 year rainfall event with 20% allowance for climate change and a flap valve has been incorporated in the final manhole to restrict potential backflow into the system. An Emergency Management Plan is to be implemented in the event of failure of the Dodder defences and an alternative means of escape is identified.</p>
<p><i>The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any</i></p>	<p>Yes. See responses above.</p>

<i>future flood risk management measures and provisions for emergency services access.</i>	
<i>The development addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.</i>	I am satisfied that this is achieved.

11.7.4. On the basis of the assessment above, I am satisfied that the proposed development passes the Development Management Justification Test and that the level of residential risk to the proposed development from flooding is low, having regard to its position within a defended urban area. Furthermore, I am satisfied that the area has a long history of urban development and that it is reasonable to expect that flood defences along the Dodder will be maintained.

11.8. Other Matters

11.8.1. Childcare and Community Infrastructure

The Apartment Guidelines, 2018, states that the threshold for provision of childcare in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. The guidelines state that 1 bed or studio units should generally not be considered to contribute to a requirement for childcare provision and, subject to location, this may also apply in part or whole to units with 2 or more bedrooms. The application is accompanied by a Childcare Needs Assessment that estimates a potential requirement for 18 no. childcare spaces, based on the number of 2 and 3 bed units. The assessment concludes that there are existing and permitted childcare facilities in the vicinity of the site with the potential to accommodate the estimated needs of the development. Having regard to the guidance contained in the Apartment Guidelines and in view of the predominance of 1 and 2 bed units within the proposed development I am satisfied that the omission of childcare from the development is acceptable.

A submitted Community Infrastructure Audit provides a breakdown of infrastructure and community services in the area – looking at education facilities, health facilities, sports and recreation, social and community services, arts and culture, faith and other services. The audit concludes that the area is well served by a range of community, social, sporting, cultural, educational and health facilities.

11.8.2. Part V provision

The applicant has submitted proposals for transfer of 10 no. units or 10% of the proposed units to the planning authority. The PA indicates no objection.

11.8.3. Archaeology

The application is accompanied by an Archaeological Impact Assessment. There are no known archaeological monuments on the site, and it is not within the archaeological zone of notification for the settlement of Ballsbridge. While the site is located within a wider landscape with evidence of past settlement monitoring undertaken for the adjacent 10 Pembroke Place development indicates that there is little likelihood of encountering archaeological deposits of any significance. The submission received from the Archaeological Services section of DHCG states that on the basis of the submitted information there are no archaeological requirements.

11.8.4. Ecology

An Ecological Impact Assessment, dated May 2020, was submitted with the application. The site has been partly cleared and comprises buildings and artificial surfaces for the most part, with small areas of amenity grassland, ornamental planting, scrub and hedgerow. There are no water courses or habitats of conservation significance within the site. Given the potential presence of local bat or breeding bird populations within the site mitigation measures are proposed to minimise the effects of site clearance, demolition and construction works on these species. No other significant ecological impacts are anticipated. In the event of a grant of permission I recommend that a condition is included requiring the proposed mitigation measures to be implemented. The potential impact on European sites is addressed separately in section 13.0 below.

11.8.5. Right of Way

The submission from the owner of No. 40A Herbert Park Road refers to a wayleave detailed on the site location plan. The submission states that the development, as proposed, would deprive residents of no. 40A of vehicular access to the property. I would note that the proposed building do not encroach onto the shaded area. However, the right of access through the site is a legal matter between the parties and is not within the scope of the Boards considerations under the subject application.

11.8.6. Pre-Application Consultation

One third-party submission raises concerns in relation to pre-application consultation noting that the applicant in this instance was not the prospective applicant at pre-application stage. However, it is clear that proposal has had the benefit of pre-application consultation under ABP Ref. ABP-305571-19 and I would note that there is a letter of consent on the file from the perspective applicant consenting to the making of the application. The submission also suggests that the pre-planning consultation is contrary to Article 6(4) of the EIA Directive which allows for early consultation in relation to EIA. However, the matters considered by the Board at pre-application stage did not extend to EIA.

11.9. Material Contravention – Building Height

11.9.1. The Dublin City Development Plan 2016-2022 height strategy identifies areas for low-rise, mid-rise and high-rise development and specifies a maximum height limit for each area. The proposed development ranges in height from c. 18-45 metres and exceeds the height limit of 16 metres for developments in the ‘outer city’ area as defined in Section 16.7.2 of the Development Plan. I consider the exceedance of between 2metres and 29 metres to be material. The application includes a Material Contravention Statement in respect of building height, and this statement is referenced in the public notices. The Board, therefore, has recourse to the provisions of Section 37 (2) (b) of the Planning and Development Act should it consider the exceedance to be material. The applicant’s case for material contravention refers to national policy set out in the NPF, the Sustainable Urban Housing Design Standards for New Apartment Guidelines and the Urban Development and Building Height Guidelines. It is noted that SPPR 3 of the Building

Height Guidelines provides that permission may be granted for taller buildings where the development management criteria in the guidelines are met, even where specific objectives of the relevant development plan or local area plan indicate otherwise. The applicant makes a case for the proposed development based on the criteria set out in Chapter 3 of the Building Height Guidelines and I am satisfied that the criteria are met. As discussed in Section 11.3 above, a number of submissions received expresses concern in relation to the height of the development and the potential visual impacts and impact on the character of the area. Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act (as amended), and based on the assessment above in relation to visual impact, I consider that a grant of permission, that may be considered to material contravene the Development Plan, would be justified in this instance under sub sections (i) and (iii) of the Act on the basis of the following reasons and considerations:

- (a) The proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.
- (b) It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 13 and 35) and the Urban Development and Building Height Guidelines for Planning Authorities, in particular SPPR1 and SPPR3.

One third party submission argues that it is unlawful in light of the SEA Directive for the Board to grant permission for development which contravenes the Development Plan in respect of height. In this regard, I would note the provisions of Section 37 (2) of the Planning and Development Act in respect of materially contravention. I would also note that both the NPF and the Urban Development and Building Height Guidelines have been subject to SEA.

12.0 Screening for Environmental Impact Assessment

- 12.1.1. The site is an urban brownfield site located in a mixed-use area and is partly within the zoning of Ballsbridge District Centre. The proposed development relates to the demolition of an existing dwelling and construction of 105 no. apartments and 10 no. aparthotel bedroom suites on a site brownfield site of 0.5 ha. The site of the apartments was previously in residential use containing 3 no. separate dwellings, no.'s 36, 38 and 40 Herbert Park Road. The aparthotel bedroom suites would sit above an existing 4 storey aparthotel building at 10 Pembroke Place. It is of note that the demolition of buildings at no. 36 and 38 Herbert Park Road was carried out under an extant permission (ABP-300976-18) and the current application seeks to amend that permission. The site has been partly cleared and comprises buildings and artificial surfaces for the most part, with small areas of amenity grassland, ornamental planting, scrub and hedgerow.
- 12.1.2. The development is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations. An environmental impact assessment would be mandatory if the development exceeded the specified threshold of 500 dwelling units or 10 hectares, or 2ha if the site is regarded as being within a business district. The site is zoned Z1 Sustainable Residential Neighbourhoods for the most part, and the section which relates to aparthotel element, is zoned Z4 District Centres. The predominant use in the area is residential and commercial with some community uses. The site could therefore be considered to fall within a business district. In any case the proposal for 105 no. residential units and 10 aparthotel suites on a site of 0.5 ha is below the mandatory threshold for EIA both within and outside of a business district.
- 12.1.3. The criteria at schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The application is accompanied by an EIA Screening Report which includes the information required under Schedule 7A to the planning regulations. The nature and the size of the proposed development is well below the applicable thresholds for EIA. The residential and commercial uses proposed would be similar to predominant land uses in the area. The proposed development will not

increase the risk of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The development is served by municipal drainage and water supply. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. It is, however, close to the River Dodder an important salmonid river catchment that flows into Dublin Bay where there are a number of downstream Natura 2000 sites. The AA Screening set out in Section 13.0 concludes that the potential for adverse impacts on Natura 2000 site can be excluded at the screening stage.

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

13.0 Appropriate Assessment

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

13.1. Compliance with Article 6(3) of the Habitats Directive

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to

appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

The applicant has submitted a Screening Report for Appropriate Assessment as part of the planning application. The Screening Report has been prepared by Scott Cawley Ltd and is supported by an Ecological Impact Assessment prepared by Scott Cawley and a Hydrological & Hydrogeological Qualitative Risk Assessment prepared by AWN Consulting. The Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The AA screening report concludes that “...*the possibility of any significant effects on any European Site, whether arising from the project alone or in combination with other plans and projects, can be excluded..*”

Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

13.2. Need for Stage 1 AA Screening

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

13.3. Brief Description of the Development

The applicant provides a description of the project in Section 3.1 of the Screening Report. The development is also summarised in Section 3 of this Report. In summary, permission is sought for a housing development comprising 105 no. apartment units and for 10 no. aparthotel suites and ancillary works on a brownfield

site of 0.5 ha situated in an urban area of Dublin. The area is characterised by residential and commercial development. The site is serviced by public water and drainage networks. Foul effluent will drain to a combined sewer. Surface water from the development will drain to a new external surface water sewer that will in turn drain to the River Dodder c. 105 m east of the site. The dominant habitat on site is buildings and artificial surfaces. There is also amenity grassland, ornamental planting, scrub and hedgerow. There are no watercourses within or immediately adjoining the site. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site and there are no third schedule¹ non-native invasive plant species were encountered on site.

13.4. Submissions and Observations

The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 7, 8 and 9 as well as in Appendix 2 of this Report. One submission refers to AA concerns. The submission states that the AA Screening does not eliminate the possibility of significant effects on European Sites located in Dublin Bay arising from wastewater. The submission states that there is a possibility of raw sewerage from the development entering Dublin Bay due to a lack of capacity in the Ringsend Wastewater Treatment Plant. The submission states that the applicant's screening report contains no characterisation of European sites which may be affected. The submission also states that the applicant's screening report relies almost entirely on the EPA's assessment of water quality under the WFD and that there is no scientific justification for this. The submission refers to impacts on seagrass habitat in the SAC's in Dublin Bay that are sensitive to nutrient discharges stating that a reduction in seagrass is leading to a reduction in feeding resources for light bellied Brent Geese an SCI for the South Dublin Bay and River Tolka Estuary SPA.

13.5. Zone of Influence

A summary of European Sites that occur within the vicinity (15km radius) of the proposed development is presented in Appendix 1 of the applicant's AA Screening Report. In terms of the zone of influence, I would note that the site is not within or immediately adjacent to a Natura 2000 site. The nearest Natura 2000 sites are sites

¹ Third Schedule of the EC (Birds and Natural Habitats) Regulations 2011.

in Dublin Bay. The South Dublin Bay SAC [Site Code 000210] and South Dublin Bay and River Tolka Estuary SPA [Site Code 004024] are both located c. 1.4 km to the east of the site and c. 537 metres south of the Ringsend WWTP outfall, North Bull Island SAC [Site Code 004006] and North Dublin Bay SAC [Site Code 000206] are located c. 4.8 to 4.9 km north east of the site and are 2.3km north east of the Ringsend WWTP outfall. Also within the Dublin Bay coastal waterbody Rockabill to Dalkey Island SAC [Site Code 003000] is c. 9.5 km east of the proposed development and is c. 7.2 km east of the Ringsend WWTP outfall, Dalkey Island SPA [Site Code 004172] is c. 10.7 km south east of the proposed development and c. 9.6 km south east of the Ringsend WWTP outfall, and Howth Head Coast SPA [Site Code 004113] is c. 12.5 km north east of the proposed development and c. 9.9 km north east of the Ringsend WWTP outfall.

13.5.1. Section 3.3 of the applicant's screening report identifies all potential impacts associated with the proposed development taking account of the characteristics of the proposed development in terms of its location and scale of works, examines whether there are any European sites within the zone of influence, and assesses whether there is any risk of a significant effect or effects on any European sites, either alone or in combination with other plans or projects. The issues examined are impacts on surface water due to surface water run-off and discharges during construction and operational phases, habitat loss and fragmentation during site works and habitat degradation as a result of hydrological impacts due to surface water runoff / discharges and foul water discharges. The possibility of a hydrological connection between the proposed development and habitats and species of European sites in Dublin Bay is identified due to surface water and foul water connections. This is discussed further below. The potential for a hydrological connection to any site through groundwater is excluded due to the hydrological and hydrogeological conditions underlying the site (AWN Hydrological and Hydrogeological Qualitative Risk Assessment refers). The potential for significant impacts such as displacement or disturbance due to loss or fragmentation of habitats or other disturbance is excluded due to the lack of suitable habitat for qualifying interests of SPAs and the intervening distances between the site and European sites.

13.5.2. In applying the 'source-pathway-receptor' model in respect of potential indirect effects, all sites outside of Dublin Bay are screened out for further assessment at the preliminary stage based on a combination of factors including the intervening minimum distances, the lack of suitable habitat for qualifying interests of SPAs and the lack of hydrological or other connections. In relation to the potential connection to sites in Dublin Bay I am satisfied that the Rockabill to Dalkey Island SAC, Dalkey Island SPA and Howth Head Coast SPA are not within the downstream receiving environment of the proposed development given the nature and scale of the proposed development, the insignificant loading in terms of either surface water or wastewater, the intervening distances and the significant marine buffer and dilution factor that exists between the sites. I conclude that it is reasonable to conclude on the basis of the available information that the potential for likely significant effects on these sites can be excluded at the preliminary stage.

13.5.3. The designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are closer to the development site and to the outfall location of the Ringsend WWTP and River Dodder and could therefore reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.

13.5.4. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

13.6. Screening Assessment

The Conservation Objectives (CO) and Qualifying Interests of sites in inner Dublin Bay are as follows:

South Dublin Bay SAC (000210) - c. 1.4 km east of the proposed development. c. 537 m south of Ringsend WWTP outfall.
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CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
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Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Embryonic shifting dunes [2110]

North Dublin Bay SAC (000206) – c. 4.9 km north east of the proposed development; c. 2.3 km north east of Ringsend WWTP outfall.

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

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

Rockabill to Dalkey Island SAC (003000) - c. 9.5 km east of the proposed development; c. 7.2 km east of the outfall.

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

Qualifying Interests/Species of Conservation Interest: Reefs [1170] / Harbour Porpoise [1351].

Howth Head SAC (000202) - c. 10 km north east of the proposed development; c. 7.4 km north east of the Ringsend WWTP outfall.

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

Qualifying Interests/Species of Conservation Interest: Vegetated sea cliffs of the Atlantic and Baltic coasts [1230], European dry heaths [4030]

South Dublin Bay and River Tolka Estuary SPA (004024) - c. 10 km from the site.

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

Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Oystercatcher (*Haematopus ostralegus*) [A130] / Ringed Plover (*Charadrius hiaticula*) [A137] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Redshank (*Tringa totanus*) [A162] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Roseate Tern (*Sterna dougallii*) [A192] / Common Tern (*Sterna hirundo*) [A193] / Arctic Tern (*Sterna paradisaea*) [A194] / Wetland and Waterbirds [A999]

North Bull Island SPA (004006) - c. 13.8 km north east of the site.

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

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

Howth Head Coast SPA (004113) - c. 12.5 km north east of the proposed development; c. 9.9km north east of the Ringsend WWTP outfall.

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

Qualifying Interests/Species of Conservation Interest: Kittiwake Rissa Tridactyla [A188]

Dalkey Island SPA (004172) - c. 10.7 km south east of the proposed development; c. 9.6km south east of the Ringsend WWTP outfall.

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

Qualifying Interests/Species of Conservation Interest: Roseate Tern (*Sterna dougallii*) [A192], Common Tern (*Sterna hirundo*) [A193], Arctic Tern (*Sterna paradisaea*) [A194]

13.6.1. Consideration of Impacts on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA:

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There are no surface water features within the site. During the operational stage surface water from the proposed development will drain to a new external surface water sewer that will be constructed as part of the proposed development. This sewer will drain to an existing surface water culvert located on Ballsbridge Terrace, which in turn discharges to the Dodder River. The aparthotel units will connect to the existing surface water drainage system serving no. 10 Pembroke Place. From the point of outfall, the River Dodder flows c. 2.2km before discharging into the Liffey Estuary Lower transitional waterbody. Surface waters then flow an additional c. 5.8km downstream before discharging into Dublin Bay coastal water. According to the EPA Map Viewer, both the Liffey Estuary Lower transitional waterbody and Dublin Bay coastal waterbody are classified as 'unpolluted'. Under the WFD 2010-2015, water

quality of the Liffey Estuary transitional waterbody and Dublin Bay coastal waterbody have been classified as 'moderate' and 'good' respectively and Dublin bay coastal waterbody has a WFD risk score of 'not at risk'. The nearest European sites to the proposed development site are the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA, both located c. 1.4 km downstream of the site. The surface water pathway creates the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay. During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system. During the operational phase clean, attenuated surface water will discharge to the River Dodder in small and controlled volumes. (See Engineering Planning Report and Outline Construction Management Plan). The pollution control measures to be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).

- The foul discharge from the proposed development would drain, via the public network, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. The stated increase in foul effluent arising from the proposed development is c. 284 P.E. There is potential for an interrupted and distant hydrological connection between the site and sites in Dublin Bay due to the wastewater pathway. In this regard I would note the concerns raised in a third-party submission in relation to capacity of the Ringsend WWTP. However, the foul discharge from the site is negligible in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge

would be negligible. I would also note that the proposed development, if granted, will supersede an extant permission pertaining to the site for 18 no. apartment units and 15 no. hotel suites (ABP-300976-18 / DCC 3970/17).

- I note concerns raised in a third-party submission in relation to a lack of capacity at the Ringsend WWTP and the potential for discharge of untreated foul water into Dublin Bay. The AA Screening Report notes and addresses the fact that the most recent information from Irish Water indicates that the WWTP at Ringsend is operating above its capacity of 1.64 million P.E. (IW 2017) with a current operational loading of c. 2.2 million P.E. The Report notes that the WWTP operates under a discharge licence from the EPA (D0034-01) and must comply with the licence conditions. The EPA is the competent authority in respect of issuing and monitoring discharge licences and the license itself is subject to the provisions of the Habitats Directive. Despite the capacity issues at Ringsend WWTP the Liffey Estuary and Dublin Bay are currently classified by the EPA under the WFD 2010-2015 as being of 'unpolluted' water quality status. Under the WDF 2010-2015, the Tolka Estuary is currently classified by the EPA as being 'Potentially Eutrophic'. The pollutant content of future discharges to Dublin Bay is likely to decrease in the longer term due to permissions granted for upgrade of the Ringsend WWTP (2019). It is also an objective of the GSDS and all development plans in the catchment of Ringsend WWTP to include SUDS within new developments and to protect water quality in the receiving freshwater and marine environments and to implement the WFD objective of achieving good water quality status in Dublin Bay. On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also

subject to AA. In this way in-combination impacts of plans or projects are avoided. The third-party submission states that the AA Screening Report relies on the EPA's assessment of water quality under the WFD and that no scientific justification is advanced as to why these assessments satisfy the requirements of Article 6(3). In this regard, I would note that the EPA is an independent public body established under the Environmental Protection Agency Act, 1992 and that the agency plays a key role in environmental regulation and monitoring. The EPA is a recognised source of scientific data on water quality and I consider the use of this information for the purpose of AA Screening to be acceptable within the terms of Article 6(3).

It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would be not be likely to have a significant effect on the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA and that Stage II AA is not required.

13.6.2. AA Screening Conclusion:

It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

14.0 Recommendation

Having regard to the above assessment, I recommend that permission is GRANTED for the development as proposed for the reasons and considerations and subject to the conditions set out below.

Reasons and Considerations

Having regard to the following:

1. The location of the site in the established urban area of Dublin City;
2. The policies and objectives in the Dublin City Development Plan 2016-2022 including the fact that the proposed development is on lands zoned residential and for mixed use development;
3. The Rebuilding Ireland Action Plan for Housing and Homelessness;
4. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual;
5. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities;
6. The Urban Development and Building Height Guidelines for Planning Authorities;
7. The Design Manual for Urban Roads and Streets (DMURS);
8. The Planning System and Flood Risk Management (including associated Technical Appendices);
9. The Architectural Heritage Protection Guidelines for Planning Authorities;
10. 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;
11. The pattern of existing and permitted development in the area;
12. The planning history within the area;
13. The report received from the planning authority; and
14. The submissions and observations received.

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

15.0 Recommended Order

Application: for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 20th day of May 2020 by Stephen Little and Associates, on behalf of Derryroe Limited.

Proposed Development: The development will consist of the following:

The proposed residential development, at Nos. 36, 38 and 40 Herbert Park, comprising an apartment building (c. 10,465sq.m GFA), at modulating height of 4, 6, 8 and 12 storeys, over a basement (3 split levels), accommodating: 105 no. dwellings (37 no. 1-bed, 66 no. 2-bed and 2 no. 3-bed apartment units), all with private balconies; and, internal residential amenity space (c. 210 sq.m gross floor area) at basement level -01. Ancillary external amenity open space is at ground level and at 6th floor roof garden (total c. 1,852 sq.m). The proposed commercial development (c. 600 sq.m GFA), at 10 Pembroke Place, comprises 10 no. aparthotel bedroom suites (c. 440 sq.m), guests' common room and lobby (c. 160 sq.m), accommodated in 2 no. new floors to the existing permitted aparthotel building, resulting in a 6-storey aparthotel building (over podium) with 5th floor set back. And, all associated and ancillary site development works, hard and soft landscaping, external lighting and boundary treatment works, to serve the proposed residential development, including: Demolition of existing detached house at No. 40 Herbert Park; Modifications of 1 no. existing vehicular site entrance, at No. 40 Herbert Park, to access proposed residential basement car park; Incorporation of 2 no. existing pedestrian entrances on the western Herbert (road) site boundary; 84 no. residential car parking spaces (3 no. at surface level and 81 no. at basement levels); 130 no. residential bicycle parking spaces at surface level; 1 no. ESB substation and switch room; Ancillary plant, bin storage and stores at basement levels; Ancillary plant and telecommunications antennae at roof level (Level 12); Ancillary public realm and surface water drainage infrastructure works including in the public road at Herbert Park, Pembroke Place and Ballsbridge Terrace. The demolition of the buildings at Nos. 36 and 38 was carried out under planning permission (An Bord Pleanála Ref. 3000976; DCC Ref. Ref. 3970/17) and the current application seeks to amend that permission by proposing to complete the development

of the site in accordance with the plans and particulars lodged with this application in the context of the proposed development as set out above.

The application contains a statement setting out how the proposal is consistent with the objectives of the Dublin City Council Development Plan 2016-2022. The application also contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

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:

Having regard to the following:

1. The location of the site in the established urban area of Dublin City;
2. The policies and objectives in the Dublin City Development Plan 2016-2022 including the fact that the proposed development is on lands zoned residential and for mixed use development;
3. The Rebuilding Ireland Action Plan for Housing and Homelessness;
4. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual;
5. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities;
6. The Urban Development and Building Height Guidelines for Planning Authorities;

7. The Design Manual for Urban Roads and Streets (DMURS);
8. The Planning System and Flood Risk Management (including associated Technical Appendices);
9. The Architectural Heritage Protection Guidelines for Planning Authorities;
10. 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;
11. The pattern of existing and permitted development in the area;
12. The planning history within the area;
13. The report received from the planning authority; and
14. The submissions and observations received.

Appropriate Assessment

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

Environmental Impact Assessment

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

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
- (b) the absence of any significant environmental sensitivities in the area,

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

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is, apart from the building height parameters, broadly compliant with the current Dublin City Council Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

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

- (a) The proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.
- (b) It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 13 and 35) and the Urban Development and Building Height Guidelines for Planning Authorities, in particular SPPR1 and SPPR3.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

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

16.0 Conditions

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

2. The proposed development shall be amended as follows:
 - (a) The northern and eastern elevations of the proposed tower element shall be amended at level 10 and 11 to provide for increased articulation and detailing. The detailing shall take account of the prominence of these elevations on medium range views within the local area.
 - (b) The 4-storey section at the northern end of the proposed apartment block (over the basement ramp) shall be reduced to three storeys. This shall result in the omission of unit AT02A4 and unit AT02C at

3rd floor level and a reconfiguration of units AT02A2 and AT02A at 3rd floor level.

- (c) All windows in the northern elevation of the proposed development shall be high level windows.
- (d) Privacy screening shall be provided on the northern end of balconies and terraces and roof gardens at the northern end of the block at 1st to 6th floor levels.
- (e) Provision for a secondary entrance / egress to the southern residential access core from the rear of the block shall be provided.
- (f) Provision shall be made for vehicular access to the proposed ESB substation.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

- 3. The following details shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development:
 - (a) Details of the materials, colours and textures of all the external finishes to the proposed buildings. The external treatment of the tower element shall be revised. This shall include a reduction in the extent of bronze metal finish with alternative materials that are reflect the residential use of the development. A sample panel of the principle finishes to each block shall be erected on site for the consideration of the planning authority. Construction materials and detailing shall be of high quality and shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.
 - (b) Details of a wayfinding through the site to ensure clear and legible access to the principle doorways, parking area, and open spaces.

Revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

4. All mitigation measures identified in the Ecological Impact Assessment, Construction Management Plan, Basement Impact Assessment, Flood Risk Assessment and Architectural Heritage Report shall be implemented in full by the applicant except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.

5. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interests of clarity and public health.

6. Details of works to the public road to facilitate the proposed development shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. All works to the public roads / footpaths shall be completed to the satisfaction of the Planning Authority.

Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

(a) The development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

(b) The outfall manhole from the development must be constructed in accordance with the Code of Practice for Development Works – Drainage.

- (c) Permanent discharge of groundwater to the drainage network is not permitted.
- (d) All internal basement drainage must be lifted, via a pumping station, to a maximum dept of 1.5 m below ground level before being discharged to gravity from the site to the public sewer.
- (e) All surface water discharges from the development shall be attenuated to two litres per second per hectare.
- (f) The flood mitigation measures outlined in the Flood Risk Assessment prepared by JBA Consulting shall be implemented in full.

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

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

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

- 9. The site shall be landscaped (and earthworks carried out) in accordance with the detailed scheme of landscaping, which shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site, boundary treatments and includes measures for the protection of trees within and adjoining the site.

Reason: In order to ensure the satisfactory completion of the development.

- 10. A total of 130 no. secure bicycle parking spaces shall be provided within the development. 120 no. spaces shall be provided within a secure cycle compound to the rear of the apartment block and 10 no. surface spaces shall be provided to the front of the apartment block. Spaces at surface level shall consist of Sheffield stands. Design details for the cycle spaces and the compound shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

11. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 81 no. clearly identified car parking space shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission. The spaces at surface level shall provide for set down only.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and also to prevent inappropriate commuter parking.

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

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

13. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided

for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

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

Reason: In the interest of urban legibility.

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

Reason: In the interests of amenity and public safety.

16. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

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

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

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

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

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

Reason: In the interest of sustainable waste management.

20. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;
 - (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to the matters outlined in the submission received from Inland Fisheries Ireland.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

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

been received from the planning authority.

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

22. During the operational phase of the development refuse collection vehicles shall be excluded from entering the site between the hours of 23.00 and 7.00 hours.

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

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

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

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on and adjoining the site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the

substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the trees on the site.

25. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

26. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in lieu of the provision of public open space within the site. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the ***Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning

authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

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

Karen Kenny

Senior Planning Inspector

27th August 2020