



An
Bord
Pleanála

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

Inspector's Report ABP-307239-20

Strategic Housing Development

611 no. apartments, 3 no. townhouses, 1 no. childcare facility, 2 no. cafés, a residential facilities area, 5 no. substations, change of use of Mount Errol House (Protected Structure, RPS Ref. 7846) from commercial offices to residential amenity and refurbishment of the associated stables building to provide the second café.

Location

Former RTÉ lands at Montrose, Donnybrook, Dublin 4.

Planning Authority

Dublin City Council

Applicant

Cairn Homes Properties Limited

Prescribed Bodies

Dept. of Culture, Heritage and the
Gaeltacht
Inland Fisheries Ireland
Irish Water
National Transport Authority
Transport Infrastructure Ireland

Observers

Ailesbury Apartments Management
Company
Ailesbury Residents Association
Ann Governey
Chris Comerford and Others
Hilary Nevin
John Donaghue
John Gleeson and Others
Joseph Stapleton
Kathy Smurfit
Mark Gallagher
Mike and Marian McKillen
Nuala Johnston
Orla and Brian Murphy
Pat Desmond and Others
Radio Teilifís Eireann
Republic of Austria
Sharon Mullin
Shrewsbury Property Services
Tom and Ann Roche
Vincent Slattery

Date of Site Inspection

24th August 2020

Inspector

Sarah Moran

Decision Quashed

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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, stated area 4.155 ha, was formerly part of the RTÉ campus at Montrose, Donnybrook, Dublin 4, prior to being acquired by the applicant in 2017. It fronts onto the Stillorgan Road (R138) and the associated QBC. It is located c. 3km to the south of Dublin City Centre, c. 0.5 km from the centre of Donnybrook and c. 1.3 km from the nearest DART station at Sydney Parade. The proposed Bus Connects Core Bus Corridor 13 (Bray to City Centre), runs along the Stillorgan Road.
- 2.2. Aside from the remaining RTÉ campus to the south east, the site adjoins 2 no. 3 storey apartment complexes to the northwest at Belville and Ailesbury Court, which are both accessed via Ailesbury Close off Ailesbury Road. The site is bound to the west by two dwellings, Belville House and Belville Lodge, which are both accessed from the Stillorgan Road. There are residential properties along Ailesbury Road, Seaview Terrace and Nutley Road to the north and north east of the site, including the German Ambassador's Residence at Danesfield and the Austrian Embassy at no. 93 Ailesbury Road. There are also protected structures at nos. 73, 75, 77, 79, 81, 83, 85, 87, 89, 91 and 93 Ailesbury Road, to the north and northeast of the site.
- 2.3. The site itself primarily comprises landscaped open space and surface car parking. It has a relatively level topography. There are mature trees along the Stillorgan Road frontage and at the boundaries shared with Belville, Ailesbury Close and properties to the north east. There are several existing structures on the site including a studio set, 2 no. office buildings including Mount Errol House (a protected structure) and associated stables building and a recreational/leisure facility. Mount Errol House is a mid 19th century suburban villa, which was originally part of the Pembroke Estate and was used as a staff facility by RTÉ until the lands were sold off in 2017. The applicants own a stated area of 3.51 ha within the red line site boundary. The boundary also includes a strip of land, c. 0.5 ha, linking the Stillorgan Road/Airfield junction with the development site, which is still owned by RTÉ. Two further parcels

of land at the east of the application site are also owned by RTÉ, these areas have been included to provide for drainage upgrade works. The site also includes a strip of land at Ailesbury Close, comprising c. 0.05 ha, owned by Dublin City Council, which is also within the site boundary to facilitate drainage upgrade works.

- 2.4. The main vehicular entrance to the site is from the Stillorgan Road/ Airfield Park junction, which also serves the RTÉ campus. There is a secondary vehicular access from Ailesbury Close, which serves an internal access road that links to the RTÉ campus. The site also has 2 no. gated pedestrian accesses from the Stillorgan Road.

3.0 Proposed Strategic Housing Development

- 3.1. The development involves 614 no. residential units as follows:

| UNIT TYPE | NO. OF UNITS | % |
|------------------------------|--------------|------|
| Houses | | |
| 5 bed | 3 | < 1% |
| Apartments | | |
| 1 bed | 187 | 30% |
| 2 bed | 361 | 59% |
| 3 bed | 63 | 10% |
| Total Houses and Apts | 614 | |

- 3.2. The following key points of the development are noted:

| | |
|---|--|
| Site Area | 4.155 ha |
| Total Gross Residential Floorspace | c. 62,175 sq. m. |
| Residential density | c. 175 units/ha |
| Building height | 9 no. blocks ranging from 4 to 10 storeys over single level basement, maximum height of 34.5m 3 no. 5 bed 3 storey townhouses |
| Plot Ratio | 1.8 |

| | |
|--|--|
| Site Coverage | 24.7% |
| Public open space | Total of c. 10,348 sq.m. of landscaped public open space across 5 primary character areas linked with primary and secondary circulation routes. Includes 2 play areas. |
| Non-residential development | <p>Café (c. 154 sq. m), residential amenity area (c. 368 sq. m), 1 no. concierge facility (c. 185 sq. m), 1 no. parcel collection facility (45.8 sq. m) and 5 no. electricity substations.</p> <p>Change of use of Mount Errol (RPS Ref. 7846) from existing office and studio use (c. 380 sq. m) to a resident's gym (c. 266 sq. m) at basement level (including a c. 66 sq. m new extension) and a resident members club (c. 180 sq. m) at ground level, and associated works. Refurbishment of Mount Errol Stables building (c. 122 sq. m) and change of use from storage to café (c. 146 sq. m) including a mezzanine at first floor level with ancillary outdoor courtyard and the provision of 1 no. security kiosk (c. 23 sq. m).</p> |
| Childcare | 1 no. childcare facility (c. 396 sq. m) |
| Part V | Transfer of 61 no. apartment units comprising 37 no. 1 bed and 24 no. 2 bed apartments, all located in Block 9 |
| Roads / Vehicular / Pedestrian access | <p>Main vehicular and pedestrian access via the Stillorgan Road (R138) Airfield junction, secondary limited vehicular, pedestrian and cycle access from Ailesbury Close (c. 143 no. cars maximum).</p> <p>2 pedestrian/cycle accesses to the south along the Stillorgan Road (R138) with 2 further pedestrian only entrances located between Blocks 7 and 8 and adjacent to the Stillorgan Road (R138) Airfield junction.</p> <p>Amendments and upgrades to the shared access road from the Stillorgan Road (R138) Airfield junction to the southeast.</p> <p>Construction access through the Stillorgan Road (R138) Airfield junction with a temporary left in left out access on the Stillorgan Road (R138) and limited construction access from Ailesbury Close for pedestrians, cyclists, motorcycles, cars and light commercial vehicles.</p> |
| Car and cycle parking | 528 no. basement car parking spaces for the apartments (c. 0.87 spaces/unit) |

| | |
|--------------------------------------|---|
| | <p>12 no. surface car parking spaces (5 spaces adjacent to the crèche, 6 spaces at the townhouses and 1 no. accessible space at Mount Errol House).</p> <p>792 no. basement cycle parking spaces and 90 no. visitor cycle spaces at ground level</p> |
| Drainage and Water Supply | <p>Surface water discharge to existing outfall at the Ailesbury Road side of the site.</p> <p>Upgrade to the existing 150mm diameter sewer at Ailesbury Close to a 225mm diameter sewer to facilitate foul drainage connection.</p> <p>Connection to two 27" main trunk watermains along Stillorgan Road (R138) with a pair of 150mm connections entering the RTÉ lands to the east of the development.</p> |
| Ancillary Development / Works | <p>Demolition of existing buildings on site including 1 no. sports and social club (c. 1,233 sq. m); the former Fair City set (c. 604 sq. m); 1 no. c. 1.5m high wall running east-west adjacent to the internal road; 1 no. shed structure (c. 31 sq. m); 1 no. security hut (c. 5 sq. m); extensions to Mount Errol and Stable building (c. 100 sq. m) and associated infrastructure to facilitate site clearance.</p> <p>All enabling and site development works, landscaping, lighting, services and connections, waste management, the removal of all existing car parking on site (c. 167 no. spaces) and all other ancillary works.</p> <p>Solar panels on the roofs of all apartment blocks and each of the townhouses, all ancillary plant, waste storage, residential storage, security room facilities and ancillary telecommunications at basement level.</p> |

3.22. The development contains 9 no. blocks around a central open space as follows:

- Block 1 26 no. apartments, 4 – 5 storeys with a maximum of 6 units per floor.
- Block 2 54 no. apartments, 5 - 8 storeys with a maximum of 10 units per floor.
- Block 3 55 no. apartments, 5 - 8 storeys with a maximum of 10 units per floor.
- Block 4 55 no. apartments, 5 - 8 storeys with a maximum of 10 units per floor.

- Block 5 121 no. apartments, 1 no. café, 1 no. childcare facility and 1 no. residential amenity area, 8 - 10 storeys. There are 2 no. cores in Block 5 with a maximum of 10 units per floor.
- Block 6 30 no. apartments, 4 - 6 storeys with a maximum of 6 units per floor.
- Block 7 91 no. apartments, 6 - 9 storeys with a maximum of 12 units per core per floor.
- Block 8 91 no. apartments, 6 - 9 storeys with a maximum of 12 units per core per floor.
- Block 9 88 no. apartments, 1 no. concierge/management suite, 1 no. parcel collection facility, 6 - 9 storeys. There are 2 no. cores in Block 9 with a maximum of 13 no. units per floor.

3.23. The application is accompanied by the following particulars in addition to the architectural and engineering drawings:

- Planning Report Including Statement of Consistency
- ABP Response Document
- Social and Community Infrastructure Audit
- Masterplan
- Material Contravention Statement
- Environmental Impact Assessment Report
- Drainage and Watermains Report
- Transport Impact Assessment
- Outline Construction and Demolition Waste Management Plan
- Outline Construction Management Plan
- Wind Microclimate Study
- Flood Risk Assessment
- Operational Waste Management Plan
- Basement Impact Assessment

- Design Statement
- Technical Report / Housing Quality Assessment
- Part V Report
- Landscape Design Rationale and Landscape Drawings
- Arborist Report
- Conservation Assessment Report
- AA Screening Report/NIS Report
- Mechanical & Electrical Report (including Site Lighting Plan)
- Energy Statement
- Internal Daylight & Sunlight Analysis
- CGIs & Verified Photomontages
- Images of Scaled Model
- Life Cycle Report

4.0 **Planning History**

4.1. There is an extensive history associated with the overall RTÉ campus. The most relevant may be summarised as follows.

4.2. **Reg. Ref. 2802/19 ABP-304800-19**

4.2.1. Permission sought for retention of advertising sign fronting onto the Stillorgan Road R138. Dublin City Council refused permission. ABP refused permission for one reason relating to traffic hazard and adverse impacts on the character and setting of the protected structure Montrose House, also contravention of the provisions of Section 19.6 of the Dublin City Development Plan 2016–2022.

4.3. **Reg. Ref. 3897/18**

4.3.1. Permission sought for the construction of a surface car park containing 143 parking spaces (which includes the reconfiguration of 41 car parking spaces permitted under Reg. Ref. 3094/16) on the former main access road to the RTÉ Campus at Nutley Lane. Application withdrawn on 15th February 2019.

- 4.4. **Reg. Ref. 2874/17 PL29S.248946**
- 4.4.1. Permission granted by ABP in January 2018 for the relocation of the Fair City film set comprising 11 sets including internal roads and footpaths, provision of a new road and fence along boundary of set and all associated works.
- 4.5. **Reg. Ref. 3094/16**
- 4.5.1. Permission granted for a new access junction from Stillorgan Road, also the closure of the existing main access/egress to the RTÉ lands from Nutley Lane; reconfiguration of existing surface car parking area; demolition of existing crèche building; and works to Stillorgan Road including new westbound right turn lane to RTÉ lands, new eastbound left turn lane to RTÉ lands, provision of a new central median, pedestrian crossings, realignment of road markings, new footpaths and cycle lanes. The access junction was seen as a necessary component to facilitate the ongoing consolidation of the campus and the disposal of development lands to the northwest of the site, which form part of the current development site.
- 4.6. **Reg. Ref. 2682/16**
- 4.6.1. Permission granted for the change of use of Montrose House from office and administration use as a crèche in association with RTÉ.
- 4.7. **Reg. Ref. 3046/10 PL29S.238261**
- 4.7.1. Relating to the Fair City set within the current development site. Retention permission sought for a period of 10 years of external film sets used in programme production, together with all associated site development works at RTÉ. ABP granted permission for a 3 year period from 21st April 2011.
- 4.8. **Reg. Ref. 4057/09 PL29S.236717**
- 4.8.1. A 10 year permission was granted by ABP in April 2010 for a new broadcasting facility at the RTÉ campus. This development comprised a 6.98 ha site within the overall RTÉ campus and included a large portion of the current development site. The facility included 103,553 sq.m. of the development and ranged in height from 10.7 metres to 36 metres over a double basement. The development provided for:
- Demolition of the remaining walled garden formerly associated with Mount Errol House and other buildings on the site.

- The provision of a commercial building (Block 1) of 6 storeys ranging in height from 28.5m to 36m at the southern end of the site.
- The provision of a studio building (Block 2) to the north of the site ranging in height from 19.5m to 28.5 m.
- Construction of a third block ranging in height from 10.7m to 19.5m to the rear of the residential properties to the northeast.

4.9. **Adjacent Development at Nos. 1, 3, 5, 7, 9 and 11 Eglinton Road Reg. Ref. 3047/18 PL29S.303708 and Current Application ABP-307267-20**

- 4.9.1. Permission granted by ABP under PL29S.303708 for demolition of existing 6 no. 2 storey dwellings and ancillary structures and construction of a residential development of 94 no. apartments with an overall height of 7 storeys (over basement/part second basement level) at the junction of Eglinton Road and Donnybrook Road, reducing in height to 5 and 4 storeys along Eglinton Road and 5-7 storeys along Donnybrook Road, and 3 storeys along Brookvale Road.
- 4.9.2. Permission is currently sought for demolition of buildings, construction of 148 no. apartments and associated site works at the site. The proposed development has a height of 4-12 storeys.

5.0 **Pre-Application Consultations**

5.1. **Pre-Application Consultation PL29S.303097**

- 5.1.1. On 26th November 2018, the applicant submitted a request to enter into pre-application consultations with the Board under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 in relation to a similar scheme on the subject lands. This initial request was subsequently withdrawn by the applicant on 20th December 2018.

5.2. **Pre-Application Consultation ABP-305232-19**

- 5.2.1. The second pre-application consultation relating to the development site related to a proposal to construct 611 no. apartments, 3 no. town houses, 2 no. cafes, 1 childcare facility, demolition of 1 no. existing sports & social club, change of use of

Mount Errol from existing office use to private residents member's club & gym and associated site works at the development site.

5.2.2. A section 5 consultation meeting took place at the offices of An Bord Pleanála on 1st October 2019. Representatives of the prospective applicant, the planning authority and ABP were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the consultation meeting and the submission of the planning authority, ABP was of the opinion that the documents submitted with the request to enter into consultations constitute a reasonable basis for an application for strategic housing development.

5.2.3. The opinion notification pursuant to article 285(5)(b) also referred to specific information that should be submitted with any application as follows:

1. Notwithstanding that the proposal constitutes a reasonable basis for an application, the prospective applicant should satisfy themselves that the extent of car parking proposed is appropriate having regard to the strategic location of the site in close proximity to public transport connections including a QBC and a proposed Bus Connects Route.
2. A report which specifically addresses the proximity of the subject site to the emerging preferred route No. 13 of the Bus Connects Bray to City Centre Core Bus Corridor demonstrating that the proposed development will not impact on this route or future land acquisition required to facilitate same. The applicant is advised to discuss this matter with the NTA.
3. A report that specifically addresses the proposed materials and finishes to the scheme including specific detailing of finishes, the treatment of balconies in the apartment buildings, landscaped areas, pathways, entrances and boundary treatment/s. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development. The report should also demonstrate that the development provides the optimal architectural solution and sustainable development of the site and in this regard, the proposed development shall be accompanied by an architectural report and accompanying drawings which outlines the design rationale for the proposed height and design strategy having

regard to inter alia, National and Local planning policy, the sites context and locational attributes.

4. Landscaping proposals including an overall landscape masterplan for the development site including detail of tree planting, quantity, type and location of all proposed hard and soft landscaping including details of play equipment, public lighting, pedestrian entrances and boundary treatments. Detail to be provided regarding the design and management of proposed green wall systems.
5. A life cycle report shall be submitted in accordance with section 6.3 of the Sustainable Urban housing: Design Standards for New Apartments (2018). The report should have regard to the long term management and maintenance of the proposed development.
6. Visual Impact Assessment and Photomontages/CGI's to include additional views from the Stillorgan Road and where feasible, from the north from the rear gardens of existing residential dwellings located along Ailesbury Road, Seaview Terrace and Nutley Road.
7. Preliminary Construction Management Plan.
8. A report that addresses residential amenity, specifically how the development will limit the potential for overlooking and overshadowing within the proposed development and of adjoining development and should incorporate a comprehensive daylight and sunlight analysis addressing proposed units and open spaces. It should be demonstrated that all units have a satisfactory level of private amenity space and that all apartments primary balcony/terrace is accessible from the principal living, dining kitchen area.
9. A detailed schedule of accommodation which shall indicate compliance with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018 and in particular SPPR 6.
10. A microclimate study of the overall development site (to address matters including down draft and wind tunnelling effects).
11. A Phasing Plan.

5.3. Applicant's Response to Pre-Application Opinion

5.3.1. The application includes a statement of response to the pre-application consultation, as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows.

5.3.2. Applicant's Response in Relation to Car Parking

The proposed car parking provision is below the development plan maximum car parking standard of 1.5 spaces per unit and includes 20 no. visitor spaces. The TIA includes a Car Parking Management Plan which provides details relating to resident parking, visitor parking, car club and electric vehicle charging facilities. While it is acknowledged that a small portion of commuting trips may be undertaken by car, the primary purpose of the car parking provided at the development is to facilitate car storage for trips taken by residents which cannot be easily undertaken by walking, cycling or public transport. The site is close to high quality public transport infrastructure including a QBC / proposed Bus Connects Route and the DART (c. 1.3km). It is within walking / cycling distance of several major employment centres including RTÉ, UCD, St. Vincent's University Hospital, the RDS, Facebook Headquarters and Elm Park Green. These factors support the provision of a lower quantum of car parking than the development plan maximum standard.

The TIA outlines 2016 CSO Census car ownership data for the areas surrounding the site (approx. 1km radius). This shows that 81% of households in the immediate vicinity of the site own at least 1 car while c. 40% own 2 or more cars, with an average rate of car ownership at 1.24 cars per household. This rate of car ownership is not comparable with the proposed scheme of 1, 2 and 3 bed units. The proposed car parking allows for 1 dedicated parking space for a maximum of 82% of the units (0.82 spaces per unit – excluding visitor and car club spaces) which is significantly less than the existing car ownership statistics for the area (1.24 spaces per unit). This is appropriate considering the site's close proximity to public transport infrastructure, major employment centres and existing services and will therefore accommodate the likely minimum demand for car storage at the development. It is submitted that this parking provision will also encourage a more sustainable car ownership level.

5.3.3. Applicant's Response in Relation to Bus Connects

The applicant has engaged with the NTA and met with the NTA on 3rd May 2019. Details of the interface with the Bus Connects proposals are provided at Appendix D of the TIA. It is intended to relocate the Stillorgan Road site boundary inwards by c. 1m to facilitate the proposed cycle path while also catering for ESB service diversions. This would allow a minimum of a 2m wide footpath and 2m wide cycle lane when measured from the existing footpath kerb line. As set out in Appendix D of the TIA, the NTA have confirmed that the development is acceptable in the context of the Bus Connects proposals.

5.3.4. Applicant's Response in Relation to Materials, Finishes and Design

The Design Statement provides detailed information relating to the architectural approach including the elevation concept. The design centres on an inner 'core' and outer 'crust' concept. The outer crust includes intersecting forms and alternating grain with light and solid facades. The 'core' concept includes brick cladding and textured stone effect frames. The design of each of the buildings and their palette of materials has been carefully considered to respond to the spatial objectives of each character area. The development comprises of 5 main placemaking areas:

- Zone A: Stillorgan Road
- Zone B: Montrose North
- Zone C: Montrose East
- Zone D: Central Open Space
- Zone E: Ailesbury West & Mount Errol

Each character area has a distinct architectural approach and palette of materials, landscape design and boundary treatments.

The height and design rationale for the development have been informed by the site's context and attributes. Three key strategies have been used to respond to the site's surrounding context:

1. The southern buildings have been designed and configured to give strong definition and presence to the Stillorgan Road. This frontage provides an

opportunity to create a distinctive urban edge, giving the development identity whilst also acting as a buffer to the dual carriageway.

2. Development blocks around the northern edge have been arranged to respond to the more sensitive Ailesbury Road residential context.
3. The facades facing onto the park are more open character and respond to the park-like setting.

The development has been designed in accordance with the Urban Development and Building Height Guidelines 2018. The Height Strategy responds to the context of the site and has been informed by precedent developments along the Stillorgan Road. The result is a development that delivers higher density in a serviced city location, as promoted in national policy and local policy, which will benefit from investment in public infrastructure. It will deliver a landmark development at one of the main gateways to Dublin City.

5.3.5. Applicant's Response in Relation to Landscaping

The application includes a Landscape Design Rationale, Landscape Plan and Public Open Space Strategy, which address character areas, pedestrian and cycle routes, hierarchy and functionality of open spaces, play areas, legibility, contribution to public realm, tree retention, hard and soft landscaping and green walls.

5.3.6. Applicant's Response in Relation to Residential Amenities

Significant measures have been implemented to mitigate massing, overlooking and overshadowing to surrounding residential properties. Blocks nos. 1, 2, 3 and 4, closest to residential properties to the north, step down from 8 no. to 5 no. storeys closest to the northern boundary in order to reduce the impact on adjoining residential amenity. Detailed design measures have been incorporated in order to mitigate impact on residential amenities of properties to the north of the site. The Design Statement details the design measures to ensure the residential amenities of units within the development. EIAR Chapter 14 covers sunlight, daylight, shadow and light effluence with regard to impacts on adjacent properties and daylight factors within the proposed apartment units.

5.3.7. Applicant's Response in Relation Other Matters

- The Life Cycle Report provides details of the management of common areas, the service charge budget, energy, materials, landscaping, waste management, health & well-being, transport and general management.
- EIAR Chapter 16 contains a Landscape and Visual Impact Assessment (LVIA) of the development including CGIs, Verified Photomontages and a Visual Effects Appraisal on neighbouring residential properties (EIAR Appendix 16.2) which considers impacts on residential amenities.
- The Outline Construction Management Plan (OCMP) provides details of sequencing and programming; site management; construction traffic management and construction and demolition waste management.
- The Schedule of Accommodation and Housing Quality Assessment show how the development meets or exceeds quantitative standards set out in the Apartment Guidelines. All blocks within the scheme have either 12 or less units per core per floor consistent with SPPR 6 of the Guidelines.
- The Microclimate - Wind Report and EIAR Chapter 15 address matters relating to wind. Any issues identified have been addressed by mitigation incorporated into the design of the scheme.
- Section 2 of the OCMP includes details on construction sequencing and programming. The development is anticipated to be constructed in 4 sequential phases over a 36-48 month period.

6.0 **Relevant Planning Policy**

6.1. **Section 28 Ministerial Guidelines**

6.1.1. The following is a list of relevant section 28 Ministerial Guidelines:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual (2009)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (DMURS) (2019)

- Urban Development and Building Height Guidelines for Planning Authorities (2018)
- Childcare Facilities Guidelines for Planning Authorities (2001)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- Architectural Heritage Protection Guidelines for Planning Authorities (2011)
- Framework and Principles for the Protection of the Archaeological Heritage (1999)

6.2. Dublin City Development Plan 2016-2022

6.2.1. Two zoning objectives apply to the development site. The protected structure Errol House and a surrounding area on the eastern side of the site (0.8 ha) is zoned Z2, 'Protect and/or improve the amenities of residential conservation areas' and the remainder of the site (3.2ha) is zoned Z12 'To ensure existing environmental amenities are protected in the predominantly residential future use of these lands'.

6.2.2. Development plan section 14.8.2 states in relation to the Z2 zoning:

Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

The principal land-use in residential conservation areas is housing but can include a limited range of other uses.

The land uses 'childcare facility', 'open space' and 'residential' are permissible under this zoning objective and the uses 'community facility, 'cultural/recreational building', and 'restaurant' are open for consideration.

6.2.3. Development plan section 14.8.12 states in relation to the Z12 zoning:

These are lands the majority of which are in institutional use, which could possibly be developed for other uses.

Where lands zoned Z12 are to be developed, a minimum of 20% of the site, incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public open space. The predominant land-use on lands to be re-developed will be residential, and this will be actively encouraged.

In considering any proposal for development on lands subject to zoning objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. In particular, the masterplan will need to identify the strategy for the provision of the 20% public open space requirements associated with any residential development, to ensure a co-ordinated approach to the creation of high-quality new public open space on new lands linked to the green network and/or other lands, where possible. In addition, development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development.

On Z12 lands, the minimum 20% public open space shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play, unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 20% minimum public open space shall be apportioned otherwise.

And, for the avoidance of doubt, at least 10% social and affordable housing requirement, as set out in the housing strategy in this plan, will apply in the development of lands subject to the Z12 zoning objective

The land uses 'childcare facility', 'open space', 'residential' and 'restaurant' are permissible under this zoning objective.

6.2.4. Development plan section 14.7 states in relation to transitional zone areas.

The land-use zoning objectives and control standards show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and use zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For

instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties.

- 6.2.5. Development plan section 4.5.4.1 sets out policy on building height. Policy SC 16 states:

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

The development site is not located in an area designated for high rise or medium rise as per development plan Fig. no. 39, and therefore the maximum permissible height of 16m for outer city residential development applies.

- 6.2.6. The following development plan policies on residential accommodation are also noted: QH1; QH3(i); QH5; QH6; QH7; QH9; QH13; QH18; QH19; section 16.7 Building Height in a Sustainable City; section 16.10 Standards for Residential Accommodation; section 16.4 Density Standards; section 16.5 Plot Ratio.

6.3. Applicant's Statement of Consistency

- 6.3.1. 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 City Development Plan and other regional and national planning policies.

- 6.3.2. The following points are noted in relation to consistency with national and regional planning policy:

- The development is in accordance with National Policy Objectives 3a and 3b, which seek to achieve compact and sustainable growth within the built-up footprint of existing settlements and also the delivery of 50% of new homes in the five cities of Dublin, Cork, Waterford, Limerick and Galway. It is consistent with NPO 11 which seeks to encourage more people and generate more jobs and activity within existing cities, towns and villages. The design of the development,

with pedestrian permeability and connections to public transport, will provide safe and convenient alternatives to the car, in accordance with NPO 27. The development is consistent with NPOs 33 and 35 which seek to provide new homes in appropriate locations and higher densities through increased building height in existing settlements, and in accordance with the requirement 'to build inwards and upwards, rather than outwards' as highlighted in the NPF.

- The development is consistent with the RPOs of the Eastern & Midland RSES which seek compact growth, intensification and consolidation of the city and the integration of transportation and land use planning. The scheme will provide for a more efficient use of serviced zoned lands, achieving a more compact urban form and allowing for continued population and economic growth of Dublin City and Suburbs consistent with RSO1, RSO2, RPO 4.3 and RPO 5.5 of the RSES.

6.3.3. The following points are noted in relation to consistency with ministerial guidelines:

- The applicant submits a rationale in relation to the development management principles and criteria and SPPR 3 of the Building Height Guidelines.
- The provision of high density development at this location is in accordance with the general principles of the Sustainable Residential Development in Urban Areas Guidelines, specifically the design criteria provided in section 5.2 of same. The development has been designed with regard to the 12 criteria provided in the Urban Design Manual and details of consistency with same are provided in the Design Rationale and Housing Quality Assessment.
- The site is located at a 'central and/or accessible' urban location as per the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities. The development complies with the standards set out in SPPR 3, SPPR 4, SPPR 5 and SPPR 6 of the Apartment Guidelines.
- A rationale for the proposed childcare provision is provided with regard to the Childcare Guidelines and the Apartment Guidelines.
- The proposed roads layout, pedestrian and cycle accessibility and permeability are in accordance with DMURS.
- The development has been designed to protect the settings of Mount Errol House and adjacent protected structures and with regard to the amenities of the Z2

Residential Conservation Area, as per the submitted Conservation Report. The development is therefore consistent with the Architectural Heritage Protection Guidelines.

- A site specific Flood Risk Assessment is submitted in accordance with the Planning System and Flood Risk Management Guidelines.

6.3.4. The following points are noted in relation to consistency with the Dublin City Development Plan 2016-2022:

- The core strategy is based on a predicted increase in population of 59,038 during the plan period. The housing requirement for the plan period amounts to c. 29,500 units, based on occupancy of 2 people per unit. An examination of residential units granted permission in Dublin City since the development plan was adopted in 2016 was carried out. There were c. 13,324 no. residential units permitted but not yet completed in Dublin City as of c. Q3 2019, with a further 4,879 no. residential units in the planning system (as of April 2020). There were 5,487 no. new dwelling completions in Dublin City during the plan period to date, according to the CSO, resulting in an estimated total permitted and completed units of 18,811. This leaves approximately 10,689 units remaining within the core strategy housing allocation for the period to 2022. It is therefore submitted that the development is consistent with the core strategy and will make a positive contribution towards meeting the target of 29,500 new dwellings required during the plan period.
- It is submitted that subject to compliance with the relevant sections of Chapters 11 Built Heritage and Culture, Chapter 16 Development Standards and the provision of a Masterplan outlining a clear vision for the development of the entire landholding, the development is acceptable in principle with regard to the relevant Z2 and Z12 zoning objectives.
- The development is consistent with development plan policies QH7, QH8 and SC13 in relation to achieving a more compact, sustainable urban form through increased densities. In addition, the core strategy is based on a density assumption of 100 units/ha, although not all residential zoned lands will be suitable for high densities or have the benefit of existing infrastructure to support such high density development. This highlights the need to gain maximum benefit

from existing sites and assets such as public transport and social infrastructure through ongoing consolidation and increasing densities within the built footprint of the city, in line with national and regional planning policy to achieve compact growth.

- It is submitted that there is a pattern of development in the immediate suburbs of Dublin and recent similar projects that have achieved high density at appropriate locations in the city. Several examples of permitted / completed developments are cited including Shrewsbury Square Ballsbridge (Reg. Ref.1103/04) Ballsbridge; Lansdowne Place, Jury's Site (Reg. Ref. 4015/09, ABP PL29S.237454); Marianella Rathgar (Reg. Ref. 2186/09, PL29S.237454); Dunluce, Anglesea Road, Ballsbridge (Reg. Ref. 4049/09) and Eglinton Road, Donnybrook (Reg. Ref. 3047/18, PL29S.303708).
- Notwithstanding the fact that the development materially contravenes the Development Plan in terms of building height, its design has incorporated the criteria for mid-rise and taller buildings outlined in the development plan, this issue is considered further in relation to the Material Contravention Statement.
- The design rationale for the scheme is outlined, it is submitted that the proposed quantum of public open space complies with relevant criteria for the Z12 and Z2 zoning objectives.
- The indicative plot ratio standard for Z2 zoned land is 0.5 – 2.0 while the indicative plot ratio for Z12 zoned land is 0.5 – 2.5. The proposed plot ratio of c. 1.82 is within these parameters. The indicative site coverage for Z2 zoned land is 45%, while the indicative site coverage for Z12 zoned lands is 50%. The proposed site coverage is c. 8,989 sq. m, amounting to c. 26% site coverage which is well below the above standards.
- The development has been designed with consideration for the setting of Mount Errol House and adjacent protected structures in accordance with development plan policy CHC2 to ensure that the special interest of protected structures is protected.
- Existing trees at the development site are to be retained in accordance with development plan green infrastructure policy GIO25.

- The childcare facility is consistent with development plan policy SN17 and relevant guidance provided in Appendix 13 of the development plan.
- Development plan standards for residential development have been superseded by the 2018 Apartment Guidelines. A detailed rationale for same is provided. The development contravenes the development plan in terms of unit mix and block configuration, these matters are addressed in the Material Contravention Statement.
- The car parking provision is in accordance with development plan standards.

6.4. Material Contravention Statement

6.4.1. The statement notes that the development materially contravenes the development plan in relation to height, block configuration and unit mix and sets out a rationale for the development with regard to the considerations set out in section 37(2)(b) of the Planning and Development Act 2000 (as amended). This rationale may be summarised as follows.

6.4.2. Material Contravention of Development Plan Policy on Building Height

- The development ranges in height from 4 no. storeys (c. 13.5m) to 10 no. storeys (c. 34.5m) and therefore exceeds the maximum permissible height of 16m for outer city residential development.
- The development plan was adopted in 2016, prior to the adoption of the Building Height Guidelines in December 2018.
- The development is in accordance with NPOs 3a and NPO 3b of the National Planning Framework in relation to securing compact and sustainable growth as it facilitates well designed, high density residential development c. 3 km from the city centre and on a public transport corridor (Stillorgan Road QBC and proposed Bus Connects route). The site is also in close proximity to the Dart at Sydney Parade (1.3 km) and to significant employment centres at St. Vincent's University Hospital, The RDS, Fibonacci Square/ Facebook HQ, Elm Park Green and UCD, as well as numerous existing services and amenities nearby.
- NPO 13 of the NPF states:

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

NPO 35: Housing states:

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

It is submitted that the development plan application of a blanket height restriction of 16m for residential development in most of Dublin city to protect its low-rise character is inconsistent with section 4.5 of the NPF and NPOs 13 and 35. The NPF notes on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, greater mobility in the labour market and a higher proportion of households in the rented sector and highlights the need to “build inwards and upwards, rather than outwards” and that “this means that apartments will need to become a more prevalent form of housing, particularly in Ireland’s cities”.

- The development meets performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. It has been designed having regard to the criteria for mid-rise and taller buildings outlined in the development plan including *inter alia*: relationship to the receiving context, the protection of important views of Mount Errol, proximity to public transport infrastructure, contribution of high quality urban parkland with permeable pedestrian access and the provision of a Masterplan.
- The Material Contravention Statement assesses the development with regard to the Development Management Principles and Development Management Criteria set out in sections 3.1 and 3.2 respectively of the Building Height Guidelines. The following points of same are noted:

- The development plan was adopted prior to the Building Height Guidelines. The development is consistent with NPF policies in relation to compact urban growth. Development plan policy promotes a low rise city which does not align with or support the objectives and policies of the NPF which seek to 'build upwards and inwards rather than outwards'.
- The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport, i.e. Stillorgan QBC; proximity to Sydney Parade Dart station; good linkages to the M50 via the N11; cycle and pedestrian connections adjoining the site.
- The development provides high quality residential units in a series of landmark buildings appropriate to the context of the subject site. The blocks are tapered down towards the northern boundary, adjacent to residential dwellings on Nutley Road, Ailesbury Road and Seaview Terrace, in order to reduce the impact on residential amenities. Increased height is proposed for the blocks fronting onto Stillorgan Road, having regard to the reduced visual impact and current pattern of development along Stillorgan Road. Several precedents are cited in this regard including The Grange Apartments at Brewery Road/Stillorgan Road (8 storeys); Beechwood Court at Farmleigh Avenue/Stillorgan Road (8 storeys); Booterstown Wood at Booterstown Avenue/Stillorgan Road (8 storeys); Thornwood at Booterstown Avenue/Stillorgan Road (8 storeys).
- The development has been designed to protect and incorporate the built heritage associated with Mount Errol House (RPS Ref. 7846).
- The character of the existing urban landscape has been incorporated into the development, creating a new neighbourhood in an urban parkland setting with a strong sense of place. It provides new pedestrian connections and improves connectivity. It provides a high quality, publicly accessible urban realm. It will contribute to the range of dwelling typologies available in the area.

- The development is consistent with relevant standards with regard to residential development (Apartment Guidelines) and is consistent with both the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.
- The Apartment Guidelines note that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities. The development site is located in a 'Central Accessible Urban Location' having regard to its proximity to several major employment centres, the Stillorgan Road QBC and the Sydney Parade Dart station and the proposed development is acceptable in this context.
- The development meets the design standards set out in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities.
- Section 9(3) of the SHD Act provides that when making a decision on an SHD application, where SPPRs of guidelines issued under Section 28 of the 2000 Act differ from the provisions of the development plan, then those requirements shall to the extent that they so differ, apply instead of the provisions of the plan. It is submitted that the development plan height limit of 16m differs from SPPR 1 of the Building Height Guidelines which does not set a rigid height cap and instead applies performance based criteria. In accordance with section 9(3), the Board is required to apply SPPR 3 of the Building Height Guidelines instead of the development plan provision when making a decision on an application pursuant to the SHD Act. As the proposed development is consistent with SPPR 3 of the Building Height Guidelines, the Board is not precluded from granting permission for the proposed development.

6.4.3. Material Contravention of Development Plan Policy on Block Configuration

- Section 16.10 of the development plan sets out that there shall be a maximum of 8 units per core per floor subject to compliance with dual aspect ratios. The block

configuration of the development ranges between 5-12 units per core and Blocks nos. 2, 3, 4, 7 and 8 exceed the 8 unit limit.

- Section 37(2)(b) of the 2000 Act includes the following criteria:

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under Section 28, policy directives under Section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government.

- SPPR 6 of the Apartment Guidelines allows for a maximum of 12 units per core per floor. All of the proposed blocks meet this requirement.
- This aspect of the development is therefore acceptable with regard to the provisions of section 37(2)(b)(iii) of the 2000 Act and section 9(3) of the SHD Act.

6.4.4. Material Contravention of Development Plan Policy on Mix of Residential Units

- The development plan notes that each apartment development shall contain a maximum of 25-30% one bed units and a minimum of 15% 3 + bed units. The proposed scheme includes 187 no. 1 bed units (30%) and 63 no. 3 bed units (c. 10%) and therefore materially contravenes the development plan in terms of residential unit mix.
- SPPR 1 of the Apartment Guidelines states:
Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).
- It is submitted that the development is consistent with SPPR 1 in relation to the provision of one and 3 bed units. The Board is required to apply SPPR 1 in accordance with Section 9(3) of the SHD Act.

6.5. Masterplan

6.5.1. The application includes a Masterplan in respect of compliance with the Z12 zoning objective. The following points of same are noted:

- The current Masterplan is to be considered in the context of the 2016 Masterplan submitted with Reg. Ref. 3094/16, which related to the overall RTÉ lands, including the current development site. The 2016 Masterplan provided for three separate zones: (1) a public interface zone at the centre of the RTÉ site, around the current location of the Stillorgan Road Airfield junction; (2) a zone for RTÉ's secure operations to remain to the south-east of the current development site and (3) a zone for future development by third parties at the northwest end of the site, i.e. the current development site. The first phase of the 2016 Masterplan included the provision of the new access junction from Stillorgan Road, the relocation of an existing crèche to Montrose House, to establish the new public space, the re-location of the Fair City Lot and the re-location of the Sports and Social Club. Further phases included the provision of *inter alia* a new media centre entrance building, a new public plaza, renovation of the Television Centre, extension of Stage 7 Programmes building and the extension of the Television Centre/ placement of the Workshop Building.
- The current development site has a stated total area of c. 4.155 ha, of which a 'net developable area' of c. 3.51 ha is identified (excluding areas not in the ownership of the applicant). The development provides of c.10,348 sq. m of landscaped public open space, which may be considered with regard to the public open space requirements of the Z12 and Z2 zoning objectives as follows:

| Land Use Zone | Total Area | % Open Space Requirement | Total Required | Total Provided |
|---------------|---------------------|--------------------------|--------------------|---------------------|
| Z2 | 7,542 sq.m. | 10% | 754 sq.m. | 4,427 sq.m. |
| Z12 | 27,546 sq.m. | 20% | 5,509 sq.m. | 5,912 sq.m. |
| Total | 35,088 sq.m. | | 6,263 sq.m. | 10,348 sq.m. |

The Masterplan notes that the Civic Plaza (Character Area 5) within the development site but located at the interface with the RTÉ campus at the eastern

site boundary will provide a further 1,615 sq. m of open space, however this has not been included in the overall public open space calculation.

- The proposed development will retain the site's urban parkland setting through the retention of trees where possible, the provision of a high quantum of landscaped open space, the protection of key views and the provision of landscape character areas including a formal landscape in front of Mount Errol House. This meets the Z12 requirements in relation to provision of a minimum of 20% of the site as accessible public open space and the retention of the essential open character of the site as accessible public open space. A substantial amount of trees are retained at the western site boundary to form a woodland character area. In addition, Mount Errol House and its curtilage have been protected and incorporated into the design of the scheme by providing landmark vistas through the central open lawn and from the Stillorgan Road (R138) inviting visitors and residents through the entrances and into the open spaces, which also supports this objective.
- The Landscape Strategy provides for 5 no. character areas within the public open space:
 - Formal landscape in front of Mount Errol House;
 - Existing Woodland with natural play at the northern end of the site;
 - Central Plaza acting as a node within the open space;
 - Open lawn as extensive multifunctional landscape at the centre of the apartment blocks;
 - Entrance Square at the interface with the RTÉ campus.

There are distinct routes linking the character areas and creating improved permeability for pedestrians and cyclists. The layout provides a range of spaces including flat open spaces, play areas and smaller spaces with seating. Semi-private courtyards are provided between the apartment blocks. There is clear legibility between public and private open space, ensuring a positive addition to the public realm of the wider area. There are two formal play areas, i.e. a natural play area at the existing trees in the northern end of the site (5-12 years) and an area for younger children (0-5 years) at the central public open space.

- Blocks nos. 1, 2, 3 and 4, which are closest to the adjacent residential properties to the north of the site, step down from 8 to 5 no. storeys closest to the northern site boundary in order to protect adjacent residential amenities. The following design alterations have also been incorporated in order to mitigate impacts on residential amenities:
 - No north facing balconies are proposed across Block nos. 1-4.
 - Projecting/outset balconies are only provided at ground and 1st floor across Blocks 2 - 4, with no projecting/outset balconies in Block 1. Inset balconies are utilised from 2nd to 4th floor across Blocks 2 - 4, and throughout Block 1. Privacy screens to balconies to be provided with opaque glazing.
 - Any glazing to facades closest to the boundary, facing north, will be considered as high level or opaque from 2nd to 4th floors across Blocks 2 - 4, and from 1st to 4th floors across Block 1.
 - Trees along the northern boundary to provide screening.
 - Green walls on north facing facades.

7.0 Observer Submissions

7.1. Raidió Teilifís Eireann

7.1.1. This submission is made by John Spain Associates Planning Consultants on behalf of RTÉ. The Observer states support for the development. Conditions are requested in relation to the following matters:

- Developer to undertake a Noise and Vibration Management Plan (NVMP) to mitigate against potential impacts on the RTÉ campus, to be undertaken in consultation with RTÉ and submitted to the planning authority for approval prior to the commencement of development.
- Assessment of noise levels from the crèche play area, to demonstrate no adverse impact on RTÉ radio operations, with potential for appropriate revisions to the location of the crèche play area and/or mitigation measures.

- Real time noise, dust and vibration monitoring to enable RTÉ to react if limits set out in the NVMP are exceeded.
- Appropriate revisions to the storm water drainage to include:
 - Removal of the uncontrolled discharges into the proposed RTÉ Surface Water drain downstream of Manhole SMH6, at Manhole SMH9 and from the 3 no. townhouses.
 - Revised surface water drainage design to upsize the existing 450 mm dia. pipe to the same size as the upstream 600mm dia. pipe.

7.2. Chris Comerford, Pat Desmond and John Gleeson

7.2.1. There are several submissions made by Ken Kennedy Solicitors on behalf of Chris Comerford, Pat Desmond and John Gleeson, who all reside at Aillesbury Road, Dublin 4, all dated 30th June 2020. The matters raised in these submissions may be summarised as follows.

7.2.2. Observers' Requirement for Specific Information

One submission requires the Board to furnish specific information, clarifications and Board records relating to the pre-application consultation ABP-305232-19 and the Inspector's Report on the recommended opinion for same, dated 2nd October 2019. The matters raised relate to the pre-application opinion and not to the current SHD application.

7.2.3. Observers' Preliminary Objection

A separate submission comprises a preliminary objection to the subject application. The observers consider that the Board has no jurisdiction to deal with the application and are advised that Sections 50, 50A and 50B apply to the Board's decision to proceed with the application. The matters raised may be summarised as follows.

The observer submits that Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) provides for only the consideration of a limited number of matters in respect of whether there is a reasonable basis or not to deem any application incapable to being considered to be a SHD, i.e. that the development comprise 100 or more residential units, that the applicant owns the land or has the consents of the land owner in respect of the

application and that the land is zoned for residential use. These matters are considered as follows:

- **Ownership.** The subject lands are in several separate ownerships including portions in the ownership of RTÉ, Dublin City Council, an unclear right of way and areas controlled by Irish Water. The Inspector's Report of 2nd October 2019 on ABP-305232-19 does not adequately address the ownership of the lands in question and does not consider these matters in sufficient detail, therefore there was inadequate consideration of this matter, therefore the determination of the Board on foot of the Inspector's Report and the decision to accept the subject application under the SHD Act are ultra vires, invalid and void.
- **Zoning.** The Inspector's Report of 2nd October 2019 does not include detailed consideration or analysis of relevant zoning objectives and did not consider the interaction between the scale and extent of the proposed development and the manner in which the land is zoned. The Board cannot proceed to consider the application in the absence of this analysis having been carried out, which is a condition precedent to the acceptance of this application.
- **Z2 Zoning.** There are particular issues in relation to the Z2 zoning objective and potential interactions with protected structures including the property of one of the observers. There is an absence of consideration of the relevant development plan provisions and of interpretation and application of the Z2 zoning that is required to be addressed at a level of detail appropriate to town planning considerations. The development is not consistent with the requirements of the Z2 objective that it protect and improve the amenities of properties and this matter was not considered in the Inspector's Report of 2nd October 2019. The submission provides further consideration of this matter including consideration of the scale and proximity of Block 1 to the site boundary; removal of trees and screening vegetation; installation of 595 car parking spaces in a basement car park and associated excavation and waste disposal and other construction impacts including hydrogeology and traffic. It is also submitted that basement construction in proximity to several protected structures and within a residential conservation area amounts to a material contravention of the development plan and is of itself sufficient to render the development inconsistent with the Z2 zoning. The development therefore could never have been considered consistent

with the Z2 zoning objective as set out in the development plan and could not form the basis upon which at least that part of the development located within the Z2 zoning objective could proceed as strategic housing. This in turn deprives the Board of jurisdiction to deal with the entire development. Furthermore, if part of the site is incompatible with this zoning, then it fundamentally undermines the totality of the application and there could never be compliance with Section 3 in respect of the definition of SHD.

- Z12 zoning. The Inspector's Report of 2nd October 2019 does not consider relevant development plan provisions in relation to the Z12 objective, e.g. the protection of existing environmental amenities and other considerations specific to the Z12 objective. In the absence of a document setting out these considerations and containing a detailed analysis of the issues, the Board has no jurisdiction to accept and/or consider the application as lodged under Section 4. The Board is invited to furnish any consideration and analysis in respect of this issue which may have been undertaken separate and distinct from the Inspector's Report.
- Z12 Masterplan. The Masterplan required for the Z12 lands is subject to the requirements of the Strategic Environmental Assessment Directive (SEA Directive). Having regard to the provisions of the Directive, this must be carried out and finalised in advance of any application being made as the planning application must be prepared as such as to comply with its requirements. The submission refers to case C-24/19 of the European Court in relation to the SEA Directive, i.e. a plan or programme without an SEA in breach of the SEA Directive must be suspended, annulled or disapplied by the national Courts in order to give effect to the primacy of EU law. The Board has had no consideration to these obligations and cannot proceed in these circumstances. In addition, the submitted Masterplan document relates to the subject lands only rather than the overall Z12 lands at this location, is deficient in several respects and does not comply with Z12 requirements in respect of 20% public open space for the entire Z12 lands, building height and other matters.

- Failure to be consistent with the Z2 and Z12 zoning objectives deprives the Board of jurisdiction having regard to the provisions of the Strategic Housing Act.
- Irrelevant / Inappropriate Considerations. The PA and the Board engaged in a qualitative analysis of the development during the pre-application consultation period, e.g. matters relating to the detailed design and layout. The PA conducted 7 no. separate section 247 consultation meetings with the applicant, during which the layout and design evolved and other matters, including residential density, were considered. The final design is a product of this engagement with inputs from Dublin City Council, Irish Water, An Bord Pleanála and possibly the Dept. of Arts, Heritage, Culture and the Gaeltacht. Matters including height strategy, elevation and design, residential amenity and other matters were all discussed and resolved at the tripartite meeting between the Board, the developer and the PA and formed the basis of the Board decision. The observers are now faced with a scheme that has in effect been designed by a partnership between the PA, the Dept. of Arts, Heritage and the Gaeltacht, Irish Water and the Board. This is a fundamental breach of the observers' rights under Council Directive 2014/52/EU and 92/43/EEC and amounts to a fundamental breach of the Directive. The observer's properties including the protected structure no. 89 Ailesbury Road appear to have been entirely overlooked by all parties in the process. The substantive matters relating to design and layout cannot be dealt with during the consultation procedure not can they be relevant when considering if there is a basis for the making of an application. These matters can only be of relevance during the second stage of the SHD process. The PA and the Board cannot now form an open and objective view of the development. In addition, the PA has reached agreement with the application in relation to Part V obligations and therefore has a material interest in the outcome of the application process.

The observers note that the application was lodged on 27th May 2020 and was recorded as being invalid for 10 days. Application documentation was not available on the website, even after the 10 day period. The Board is requested to confirm that time in respect of submissions and any proceedings to be brought under Section 50,

50A and 50B will not accrue until the date upon which the application appeared on the Board's official website and thereafter confirmed as being validly made and until all documentation which was required to be made available by the Board was in fact made available.

The observers seek an oral hearing in the light of the complex and difficult issues that arise.

7.2.4. Observers' Planning Comment

The submission includes an assessment by Simon Clear & Associates planning consultants, which addresses planning issues. The following points of same are noted.

Z12 Zoning Objective:

- The development does not meet the requirements of the Z12 objective, including the provision of a Masterplan for the entire landholding; development to ensure protection of existing residential amenities; provision of public open space that retains the essentially open character of the site and is not split up into sections; buildings at the perimeter to have regard to the prevailing height of existing residential development; 20% of gross site area to be provided as a single public open space accessible to the public and forming part of a wider network of interlinked green infrastructure, this space to retain the open character of the lands. Judgements in the High Court have indicated that compliance with all specified requirements of a zoning objective is mandatory.
- The Masterplan submitted fails to provide a clear vision for the overall landholding. The only reference to lands outside the development site is to the 'Outline Development Masterplan' submitted with the RTÉ application Reg. Ref. 3094/16. This does not meet the requirements of the development plan in respect of the current application. The submitted Masterplan provides no details of discussions with RTÉ and no clarity on the future development of the overall Z12 landholding.
- The quantitative public open space requirement for the Z12 portion of the site is 5,509 sq.m. as set out in the Masterplan. The minimum 20% provision must retain the essential open character of the site and not be split up into sections.

As per the Masterplan, the Z12 land is served by Landscape Character Areas 3 and 4 which are together described as 'Central Park' (5,921 sq.m.). Landscape Character Area 3 does not contribute to the essential open character of the zoned area or link to the external green network. The quality of the central open space would be severely undermined by shadow and would fail to meet the recommended BRE standard of 2 hours sunlight on 21st March over at least half of the amenity area. Area 4 was artificially combined with Area 3 and semi-private open space located between Blocks 1 and 2 to create a larger 'central' space, which is not consistent with the open space strategy explained elsewhere in the documentation.

- The number of pedestrian connections to the Z12 public open space does not overcome the visual disconnection between the public domain at Stillorgan Road and the central public open space. The scheme will read as a private residential development, in contravention of the Z12 objective.
- The development plan requires that proposals for Z12 lands shall have regard to the prevailing height of existing residential development at the perimeter. The proposed tapering of buildings towards the northern site boundary does not adequately address this issue. The lowest parts of the blocks will still exceed the development plan standard for building height at this location.

Impacts on 89 Ailesbury Road:

- No.89 Ailesbury Road including its private amenity space will be impacted by the row of townhouses to the west and by Block 1 to the south.
- No. 89 Ailesbury Road is located in the Z2 zone. The development plan requires that developments at transitional locations that would be detrimental to the amenities of more environmentally sensitive zones must be avoided.
- Block 1 overlooks the private amenity space of no. 89 Ailesbury Road.
- The ramp access to the basement car park is 11m from the boundary shared with 89 Ailesbury Road. The ramp and associated roadway will have an unacceptable impact on the amenities of 89 Ailesbury Road.

The planning comment concludes that the application is fundamentally flawed in several respects and the Board is urged to refuse permission.

7.2.5. Observers' Comment on Roads and Traffic Matters

The submission includes an assessment by Trafficwise consulting engineers. This outlines traffic matters considered in the course of the previous applications at the development site, Reg. Ref. 4057/09 PL29S.236717 and Reg. Ref. 3094/16, including in particular considerations in relation to access via Ailesbury Close in both cases. In the case of PL29S.236717, the development involved emergency access only via Ailesbury Close. The Masterplan submitted with 3094/16 provided for only small quantities of traffic via Ailesbury Close.

The comment describes Ailesbury Close in detail and the following points of same are noted:

- Ailesbury Close is essentially a cul-de-sac since the entrance to RTÉ is gated. It serves two residential developments, i.e. Ailesbury Court (16 no. units) and Belville (48 no. units), also Donnybrook Parish Church and Parish Pastoral Centre (63 no. spaces).
- There is on street parking on the western side of Ailesbury Close with a 'Pay & Display' scheme in operation. There are double yellow lines along the eastern side of Ailesbury Close and on both sides of the road between the church entrance and access to Belville.
- There is a pedestrian footpath along part of the western side of the road and no footpath along the eastern side of the road at Ailesbury Close.
- Visibility is extremely limited at the accesses to Ailesbury Court and to Belville.

The following points are noted in relation to the proposed development:

- The red line boundary includes some but not all of Ailesbury Close. There is no evidence to suggest that the development includes any road or footpath improvement at Ailesbury Close. The application ignores the issue of safe access via Ailesbury Close by all modes of transport. The TIA considers DMURS standards with regard to the internal layout of the development but not beyond the gated boundary with Ailesbury Close. Footpaths at Ailesbury Close are

absent or narrow. The character of Ailesbury Close is significantly sub-standard with regard to the principles of DMURS. This issue has been ignored by the applicant.

- The intensification in use at Ailesbury Close will give rise to serious traffic hazard, particularly at the entrances to Ailesbury Court and Belville where footpaths are narrow and visibility sight lines are substandard.
- The submitted Road Safety Audit (RSA) is inwardly focused and does not adequately consider Ailesbury Close including safe access /egress.
- The TIA does not present traffic count data for Ailesbury / Ailesbury Close. There is no assessment of the width, character or capacity of Ailesbury Close. It fails to provide any information on the existing vehicular, pedestrian or cycle demand on Ailesbury Close or any forecast for same in relation to the proposed development. There is no rigorous or objective assessment of impacts at Ailesbury Close. The submission questions the functionality and efficacy of the proposed barrier mechanism at Ailesbury Close. It is submitted that the proposed system cannot be relied upon to limit the volume of vehicular traffic using Ailesbury Close.
- The imposition of planning conditions relating to the above matters may include material planning considerations and would prevent any further engagement by the public and meaningful participation in the decision making process.
- The submission suggests a condition that the use of Ailesbury Close be restricted to small quantities of traffic associated with Mount Erroll House, as was previously considered appropriate.

7.2.6. Observers' Architectural Comment

The submission includes a comment by Shane O'Toole Architect. The following points of same are noted:

- The Design Statement is unrealistic and does not adequately present the likely visual impact of the proposed development.
- Lack of detail in the proposed Masterplan.

- Development will add a substantial amount of additional traffic to the already overloaded Ailesbury Road / Ailesbury Court / Anglesea Road junction, without any clear planning justification, with consequent adverse impact on the amenities of a Residential Conservation Area.
- The TIA does not refer to the previous RTÉ Masterplan submitted with Reg. Ref. 3094/16. The Board is urged to take cognisance of the 2016 RTÉ Outline Masterplan, which proposed access to the development site solely from the Stillorgan Road, with access via Ailesbury Close restricted to emergency access and to access to the townhouses and Mount Errol House only.
- The principle of tapering building height at site boundaries to step down towards existing residential development is sound as has recently been achieved at the Marianella development. The proposed development does not achieve a satisfactory resolution of this issue. The western half of the wraparound 4th floor terrace of Block 1 will directly overlook of the back garden of no. 89 Ailesbury Road. This area should be omitted by the Board.
- The proposed northern elevation will appear visually oppressive from adjacent residential properties due to its height and proximity to the site boundaries. Proposed measures to mitigate massing, overlooking and overshadowing at this location are inadequate.
- There is an unguarded open laneway at the back of townhouses on Ailesbury Close, adjoining the boundary wall of no. 89 Ailesbury Road. This laneway should be gated at its southern end for security and other reasons.
- The LVIA indicates that visual impacts on neighbouring properties will be 'significant negative' in several instances and that some impacts would trigger the Residential Visual Amenity Threshold.
- The landscaping proposals lack detail in relation to the design and long term maintenance and management of the proposed green walls. There are concerns about the sustainability of this feature and of visual impacts associated with potential failure of the green walls. The submission cites several examples where green walls have failed.

- The Board is urged to refuse permission on grounds of material contravention of the development plan in relation to height, due to excessive height of Blocks 1-4 in proximity to a Residential Conservation Area. In addition, Blocks nos. 2, 3, 4, 7 and 8 materially contravene development plan policy in relation to block configuration with regard to the maximum of 8 units per core per floor, notwithstanding that the Apartment Guidelines provide for 12 units per core, in light of new health concerns in relation to the Covid 19 pandemic and consequent serious public health risk. The development also materially contravenes the development plan in relation to unit mix. These Material Contraventions could easily have been avoided if other design choices have been made.

7.3. Republic of Austria

- 7.3.1. This submission is made by Manahan Planners on behalf of the Republic of Austria, The Embassy of Austria, 6 Ailesbury Road. The Observer also owns a property at Apt. 15, Ailesbury Court and the Ambassador's residence is at no. 79 Ailesbury Road.
- 7.3.2. The development is over double the 16m maximum permissible height under the Dublin City Development Plan. Relevant national planning policies are noted, i.e. the NPF and the Building Heights Guidelines. It is submitted that Blocks 1-4 along the northern site boundary are of excessive height, even if they are 'tapered down' towards the boundary. It is submitted that the performance criteria set out in the application do not justify the proposed building heights.
- 7.3.3. The development will have adverse impacts on the residential amenities of adjacent properties due to overlooking and visual impact associated with the height and proximity of Blocks 2 and 3 to dwellings at Danesfield and 79 Ailesbury Road. While there are no balconies on the northern elevations of Blocks 1-4 and balconies located on the east and west elevations will have privacy screening looking north, due to the slightly different orientation of Block 4, the balcony on the western elevation will result in overlooking of Danesfield and beyond. The proposed planting along the northern boundary will take years to form a visual buffer and the development may result in the loss of existing trees at this location, with consequent impacts on residential amenities at Ailesbury Road and Seaview Terrace. The submission refers to photomontages nos. 19 and 20 in the Visual Impact

Assessment which indicate views from no. 79 Ailesbury Road (view no. 20 was not included in the final report).

- 7.3.4. The submission refers to the Sunlight, Daylight, Shadow and Light Effluence Study in the EIAR, ref. figure 14.6 of same and analysis of impacts on Danesfield, close to 79 Ailesbury Road. The study includes analysis of locations within Danesfield and their ability to receive at least two hours of sunlight on March 21st. The observer considers that this is of little relevance to consideration of the development and refers to the overshadowing diagrams within the Architectural Design Statement, which all relate to March 21st at 8 am. It is submitted that the shadow study therefore does not give an accurate or comprehensive representation of the overshadowing impact of the development and there is doubt about the EIAR conclusion that there would be a negligible – minor impact on daylight and sunlight in the surrounding area. Therefore, the performance based criteria for increased height at this location have not been met.
- 7.3.5. The submission states concerns about traffic impacts at Ailesbury Close, similar to those summarised in other observer submissions, including impacts relating to construction traffic. It is submitted that a solution would be to omit the access to the basement car park from Ailesbury Close and to allow access to the three townhouses and Mount Erroll House only at this location.
- 7.3.6. It is submitted that, due to the sensitive nature of the business conducted by the Austrian Ambassador, the Observer should be consulted regarding any changes to the hours of construction work from those proposed.

7.4. **Mike and Marion McKillen**

- 7.4.1. There is a detailed submission by the above observers, of 'The Mews', located to the side of No. 3 Seaview Terrace, to the immediate north of the development site. It notes that Block 4 within the development is adjacent to their residence. The submission states concerns in relation to the following matters:
- The development is named 'Project Montrose' but is taking place on Mount Erroll land, so is misnamed.

- Seaview Terrace is not marked on drawings submitted with the application. It is a Z2 Residential Conservation Area that dates to c. 1825. The applicant should be required to delineate Seaview Terrace accurately on all drawings and resubmit.
- The observers use their rear garden to grow fruits and vegetables. There is currently an elevated car deck within the RTÉ campus that abuts the garden, with an associated forest tree screen, which severely attenuates daylight/sunlight to the rear of the observers' property. This planting has not been managed by RTÉ with resultant impacts associated with root invasion, overhanging tree branches and overshadowing. The observers do not wish a similar planting screen at the shared boundary within the proposed development.
- The development will result in overshadowing of the observers' property.
- Some of the drawings online, including the 5th floor plan for Block 4 are of too low a resolution to permit detailed scrutiny of dimensions or text. The applicant should be required to rectify this matter.
- The proposed development should not be subject to the SHD process. The apartments will be very expensive and are likely to be purchased by institutional investors and therefore will not be affordable.
- The heights of Blocks 2 – 4 are excessive, unsuitable for a Z2 Residential Conservation Area and exceed development plan height standards. The development will be visually obtrusive from the habitable rooms and garden within the observers' property due to its height and scale. The rear garden will be dominated by Block 4 within the scheme. The development will overshadow the observers' property.
- The observers state concerns about impacts on the amenities of their property associated with traffic on a road within the development, alongside the boundary shared with properties within Seaview Terrace. Request clarification on the functions of this road.
- Concerns about a lack of clarity on the location of the proposed cycle parking within the development and compliance with the cycle parking policies in the Apartment Guidelines, e.g. lack of detail on the type of stands to be used. No indication of cycle parking for cargo bike users, this should be incorporated into

the scheme. No indication of charging points for e-bikes. Need for clarification regarding cycle access at control gates / barriers. Possible cycle safety issues at basement access ramps and circulation areas. Concerns about cyclist safety at adjacent road junctions.

- Concerns about management of construction traffic and impacts on vulnerable road users, e.g. HGVs, including potential HGV parking on pavements and cycle tracks during the construction period.

7.5. Ailesbury Apartments Management Company

7.5.1. This submission is made by Kieran O'Malley & Co. Ltd. planning consultants on behalf of Ailesbury Apartments Management Company Ltd., in relation to potential impacts on the Ailesbury Court apartment complex, in particular concerns about impacts of the proposed access via Ailesbury Close. It is submitted that the existing RTÉ car park at this location is used very infrequently. Ailesbury Close was considered unsuitable for vehicular access to the RTÉ lands during previous planning applications, ref.:

- Reg. Ref. 4057/09 PL.29S.236717 RTÉ Project 25 application
- Reg. Ref. 3094/16 RTÉ Stillorgan Road access junction and Masterplan.

It is submitted that vehicular access to the development site has been provided for under the Stillorgan Road access permitted under Reg. Ref. 3094/16. Since there have been no material improvements at Ailesbury Close in the interim and there are none proposed in the subject application, this location remains unsuitable for the proposed vehicular access to up to 143 no. cars serving 169 no. residential units within the development. This quantum of housing would constitute a SHD in its own right and is substantial in scale. Existing sight visibility is almost nil in both directions at Ailesbury Close, with double yellow lines on both sides of the road. There are also restricted sight distances at Belville opposite with potential for conflicting vehicular movements. Footpath provision within Ailesbury Close is narrow and limited in extent. The proposed access will result in traffic hazard due to increased vehicular movements at Ailesbury Close with consequent danger to public safety. The submitted Road Safety Audit and TIA are referred to in this regard. The observer considers that this issue has not been fully assessed in the application, also this the issue should have been given greater consideration at pre-application stage. The

TIA does not consider impacts on footpaths or the suitability of the area for pedestrians or cyclists with regard to DMURS, or impacts at the access to Ailesbury Close. In addition, the Road Safety Audit raises issues regarding visibility within the site but does not consider the same issue in relation to visibility at the access to Ailesbury Close.

- 7.5.2. There is no objection to the continued use of Ailesbury Close on a limited basis, in keeping with the usage established under previous permissions. The Observer suggests that the access be limited to the proposed townhouses and Mount Errol House, with access to the basement car park from the Stillorgan Road only. The submission notes that access via Ailesbury Close is not necessary to achieve the objectives of the Masterplan considered under Reg. Ref. 3094/16. The proposed pedestrian / cycle access via Ailesbury Close is welcomed by the Observer in the interests of improving permeability. However, Ailesbury Close does not currently provide adequately for safe pedestrian movements in accordance with DMURS and the existing road and pedestrian footpaths must be improved to safely facilitate same and this would further restrict vehicular traffic. The Observer requests conditions in respect of these matters, also a condition precluding the use of Ailesbury Close for construction traffic.
- 7.5.3. It is submitted that the development materially contravenes the Z2 zoning objective due to adverse impacts on the amenities of Ailesbury Court and Ailesbury Close related to serious traffic hazard. The Observer refers to development plan section 14.7 in relation to transitional areas and impacts on the more sensitive zone, i.e. Z2 in this instance. The Observer considers that, due to the height of Blocks 1 and 6 and their location relative to the Z2 zone, the development does not have adequate regard for the amenities of the Z2 zone and does not comply with the transitional zonal areas policy. The Observer comments that the proposed car parking ratio of 0.82 spaces per unit is higher than that proposed under ABP-307267-20 at 0.51 spaces per unit at an adjacent site on Eglinton Road. The Observer also states concerns in relation to inadequate separation distances between Blocks 7 and 8 and Blocks 8 and 9.
- 7.5.4. The observer requests an oral hearing on the following grounds:

- The residential portion of the application site at c. 3.5 ha is a significant site in the local area with potential for serious impacts on local residential amenities.
- Potential for serious danger to public safety due to traffic hazard at Ailesbury Close.
- The overall size of the site, the proposed large number of residential units and the potential traffic implications require comprehensive assessment in an open and transparent manner in the interests of proper planning.

7.6. Kathy Smurfit

- 7.6.1. The Observer is the owner/resident of 24 Ailesbury Road. The submission makes several points in relation to the SHD process, relating to the lack of opportunities for involvement by local residents, greater involvement of the Planning Authority and ABP and to the potential 'forward momentum towards a positive decision' associated with the SHD pre-application process.
- 7.6.2. The Observer states concerns about the proposed Ailesbury Close access, similar to those stated in the submissions of other observers as summarised above. The Observer also comments that the TIA is likely to underestimate traffic impacts at this location, with associated congestion in confined area, along with cycle traffic associated with the cycle access from Ailesbury Close. The Observer suggests that the Ailesbury Close vehicular access be omitted from the development due to road safety risk and traffic impacts.
- 7.6.3. The Observer notes various flaws in the submitted TIA. It is based on a single date, i.e. Tuesday 11th February 2020, which is not representative as traffic flows in the area are regularly affected by national and regional events associated with several local schools, the RDS, Energia stadium in Donnybrook, Aviva Stadium and Donnybrook Church. All junctions are either at capacity or over capacity at peak hours. Traffic assessment should have been undertaken over several dates. The proximity of junctions to each other has not been taken into consideration, this would cause higher levels of queuing. ABP is requested to review the TIA in light of these issues.

7.6.4. The remainder of the submission states similar concerns in relation to the height and character of the development, to those summarised in relation to other Observer submissions.

7.7. Shrewsbury Property Services Ltd.

7.7.1. This submission is made by the management company with charge over the neighbouring residential development Belville Court, Ailesbury Close. It notes that Ailesbury Close will be used as a secondary access to the development. While the construction traffic management plan excludes HGVs from this access, there are concerns that what is referred to as 'limited light vehicles' will add to congestion at this location during the construction period due to increased traffic flow and set down and construction worker parking. There are also concerns about increased traffic from the completed development and related use of the area as a 'drop off point' for residents and visitors to the scheme, given that Belville Court itself is not a gated community. It is noted that Donnybrook Parish Church has recently undertaken a large development programme and has created a second point of access/ egress onto Ailesbury Close, which will also contribute to congestion at this location.

7.8. Ailesbury Road Residents Association

7.8.1. The submission states concerns about the height of the development and associated impacts on Ailesbury Road Residential Conservation Area. Nos. 77-91 Ailesbury Road are protected structures, located on the northern boundary of the development. The height of the development in proximity to this area exceeds development plan standards and contravenes development plan policy that development at the perimeter of a site adjacent to existing residential development shall have regard to the prevailing height of same. The height of the development is excessive and detrimental to the area's intrinsic character, attractiveness and sense of place.

7.8.2. The Observer disagrees with the submitted Conservation Report and EIAR Chapter 18, which consider the change in the setting of the area to a more urban context to be appropriate. The development site is in a suburban location over 4 km from the city centre. It is not within a SDZ or high capacity public transport node, locations identified in the development plan as suitable for buildings of increased height and density. The Observer does not agree that the development would have a 'neutral' impact on the sensitive area to the north and east of the site. The EIAR

photomontages do not adequately demonstrate visual impacts on this area and it is therefore unclear what the conclusion of the Conservation Report is based on. It is submitted that the development does not evolve naturally from its surroundings and does not respect the form of buildings and landscape at the site edges and therefore is contrary to the Urban Design Manual.

- 7.8.3. The Observer notes the ABP refusal of permission for an 11 storey office/residential building at the junction of Eglinton Road and Donnybrook Road, ref. PL29S.305777, for reasons relating to overdevelopment of the site by reason of height, scale and massing and unacceptable negative visual impact at a prominent site within a Conservation Area, also injury to residential amenity of adjoining properties in terms of overbearing impact and potential for overlooking from the terraces on the upper levels.
- 7.8.4. It is submitted that the development will have adverse impacts on the settings of the protected structures at nos. 77-91 Ailesbury Road due to the excessive height of Blocks 1-4 and their proximity to the shared boundary. The development will adversely affect views from these properties and have an adverse visual impact on the protected structures. The Observer agrees with the EIAR assessment of impacts on neighbouring properties that negative effects on visual amenities could only be excluded completely by a substantial reduction in scale of several of the proposed buildings and suggests that the elevation of Blocks nos. 2, 3 and 4 along the northern boundary be substantially reduced so as to preserve the views and visual amenity of neighbouring protected structures at Ailesbury Road and Seaview Terrace, also public amenity and views of the Residential Conservation Area. The Observer notes that the development avoids impacts on views of the Mount Errol House protected structure, it is unfortunate that similar efforts have not been made in respect of other adjacent protected structures which deserve the same if not greater consideration given their status as residential properties. The Observer also disagrees with the EIAR assessment that the development is not unsightly or overbearing. Efforts to ameliorate overlooking of properties on Ailesbury Road by reducing the number of windows in the northern elevations of Blocks 1-4 results in facades that have large areas of brick with limited articulation. There is concern about the long term viability of the proposed green wall at this location and the

potential ultimate visual impact at this location if the green wall fails, also similar concerns in relation to proposed boundary vegetation.

7.8.5. The Observer states similar concerns about traffic impacts and related impacts on Ailesbury Close to those summarised elsewhere in relation to other submissions. It is also submitted that the TIA underestimates traffic impacts associated with the development at local road junctions and underestimates the cumulative impacts of the development in association with that proposed at Eglinton Road under PL29S.306091, also several major existing developments on Ailesbury Road and Shrewsbury Road. It is also submitted that the mobility management proposals are little more than aspirational and are unlikely to mitigate traffic impacts.

7.8.6. The Observer states concern about flood risk impacts associated with the construction of a large basement on lower ground at this location. The submission refers to previous floods when the Dodder burst its banks in 1986 and 2011, also potential impacts on the Nutley Stream c. 150m north of the development site, which runs openly to the rear of houses on lower parts of Ailesbury Road and Ailesbury Woods. It is submitted that the Flood Risk Assessment pays little attention to potential increase flood risk at neighbouring residential areas. Also concern about potential impacts on ground water levels at neighbouring homes on lower grounds.

7.9. Individual Local Residents / Property Owners

7.9.1. There are submissions from the following individual local residents / property owners:

- Sharon Mullin, Stillorgan Road.
- Tom and Ann Roche, Ailesbury Road.
- Hilary Nevin, Nutley Road.
- Orla and Brian Murphy, Stillorgan Road.
- Nuala Johnson, Ailesbury Road.
- Dr John Donohoe, Ailesbury Road
- Ann Governy, Belville
- Mark Gallagher, Ailesbury Road

- Vincent Slattery, Belville
- Joseph Stapleton, Belville

7.9.2. The submissions generally state support in principle for residential development at the subject site but state concerns in relation to the following matters:

- The scheme represents overdevelopment of the site with excessive mass, height, density and scale and related issues of overlooking and significant sunlight / daylight impacts on the surrounding area.
- The development is out of character with the surrounding area, which is predominantly suburban with 3-4 floors or detached / semi-detached housing.
- The development will have an overbearing impact on properties on Ailesbury Road, due to its height and proximity to site boundaries.
- Incongruous architectural design and layout, out of character with the surrounding area and similar to outdated structures in other countries.
- Development is a stark contrast to the high quality design of the Cairn Homes development at Donnybrook Gardens nearby.
- The development should be reworked to ensure that it provides good quality and appropriately designed housing units.
- Recommendation that trees are planted in the space in the middle of the N11 opposite the development site, in order to create a boulevard / avenue effect into Donnybrook village.
- Development will add to existing traffic congestion in the area and queuing at adjacent road junctions. The proposed car parking provision is at odds with a vision for creating less vehicular traffic in the area and inconsistent with policies to serve residential development with public transport.
- Ailesbury Close is not suited for use as access to the development due to its narrow width and to existing traffic at this location.
- Adverse impacts on residential amenities during construction relating to excavation works, noise, traffic and pollution. Particular concerns about construction traffic at Ailesbury Close. Several observers raise issues similar to those summarised above in relation to potential traffic hazard at Ailesbury Close.

8.0 Planning Authority Chief Executive Report

8.1. Dublin City Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises Observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the South East Area Committee, as expressed at a meeting of members held on 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. The submission includes several technical reports from relevant departments of Dublin City Council, comprising the Drainage Division (undated), Transportation Planning (8th July 2020) and Housing Development (28th May 2020), which are incorporated into the following summary.

8.1.1. PA Comment on Zoning

- The proposed residential use is permissible under the Z2 and Z12 zoning objectives. The proposed residents' facilities, café and creche use in Block 5 are compliant with the Z12 zoning.
- The application includes a Masterplan, which is not statutory.
- The proposed demolition is considered acceptable as the site has been sold by RTÉ and so they no longer use these facilities.
- The proposed plot ratio and site coverage are within the requirements for the relevant zoning objectives.
- The submitted Community and Social Infrastructure Audit is noted.

8.1.2. PA Comment on Material Contravention, Height and Design

- As has been identified by the applicant the development contravenes the development plan in respect of height, block configuration and unit mix. The PA notes the submitted Material Contravention Statement.
- The proposed height of c. 34.5m exceeds the development plan height limit of 16m for this outer city zone. The PA accepts the rationale submitted by the applicant regarding national policy on building height, the location of the site in close proximity to Dublin city centre, public transport services and major employment centres and the delivery of high residential density in a serviced city

location. The PA also notes the precedents for taller buildings along the Stillorgan Road, also the width of the road at this location.

- The PA is cognisant of the neighbouring properties to the north of the site and the implications of the development in relation to the heights proposed. It was considered that the additional height proposed over 4 stories should be set back to reduce their overall visual dominance. The set-backs along the northern boundary are therefore at upper levels over 25m. The proposed green wall at Blocks 1-4 is noted. The PA is cognisant that this will be difficult to achieve and therefore has concerns over the long-term viability of the green wall but, if successful, it will help to alleviate the visual dominance of the development.
- The PA raised issues at pre-application stage regarding the façade treatment of the blocks facing the Stillorgan Road given their overall prominence. Other issues raised were in relation to the balconies and terraces, which appeared overly cluttered and dominant. It was stated, that the solid to void ratio appeared lost in the repetition of the balcony/terraces and the upper floors appeared disjointed from the main bulk of the building. Efforts have been made, since the pre application submissions, to simplify the external façade, and to better integrate the upper floors to the bulk of the buildings.
- The PA notes that the development is visually highly prominent along the Stillorgan Road due to its scale but also notes that other buildings of height have been located all along this road much further out from the city centre. The proposed development differs from others along the Stillorgan Road in relation to the repetitive scale and massing of the buildings facing the road frontage. The PA has concerns in relation to this aspect of the development.
- The PA is satisfied with the quality of the materials and finishes of the façades to the Stillorgan Road but has concerns about the repetition of the materials which adds little variety. It notes that the design tries to differentiate the façades of the external 'crust' from those facing the 'core' but, given the scale of the development, this is not considered sufficient.

8.1.3. PA Comment on Quality of Residential Development

- The submitted Housing Quality Assessment, Wind Microclimate Study, Operational Waste Management Report, Internal Daylight and Sunlight Analysis,

Building Service Appraisal, Energy Statement Report, Building Lifecycle Report, Landscape Design Rationale and Arborist Report are all noted.

- The proposed townhouses are considered to be acceptable and comply with development plan requirements for new housing.
- The PA notes that all apartments have access to private balconies / terraces / sunroom / winter garden. The submitted Microclimate Report notes that the terraces/balconies will be comfortable and useable except in adverse weather conditions. All balconies/terraces are accessed off the main living spaces, which previously was not the case.
- The scheme appears to have about 57% of the units as dual aspect which exceeds the minimum requirement. There are no single aspect north facing apartments and all comply with the minimum sizes as laid out by the architect.
- The mix of units complies with SPPR 1 of the Apartment Guidelines.
- The separation distances between opposing windows within the scheme are generally very good although there is some concern regarding Blocks 7, 8 and 9 where they are reduced to 7m in parts. This then has implications for sunlight/daylight but it is has been noted by the applicant that the development is compliant with BRE Guidelines.
- The Landscape Strategy centres on a clear distinction between public, semi-private, and private open space. A total of 6,044sq.m is provided for communal open space throughout the development.
- The applicant has laid out that they require 6,219sq.m of public open space, which consists of 796sq.m at 10% for the Z2 lands and 5423sq.m for the 20% of the Z12 lands. The site will accommodate a total of 12,265sq.m between the Central Park, Mount Errol Park and the Civic Space.

8.1.4. PA Comment on Conservation Issues

- The submitted Conservation Report regarding potential impacts on Mount Erroll House is noted. The proposed residential buildings sit well outside of the views of Mount Errol House. The existing buildings should be carefully refurbished, in a manner sympathetic to the original fabric of the building. A condition should be

attached requiring consultation with DCC Conservation on the details of the works.

8.1.5. PA Comment on Impacts on Visual and Residential Amenities

- The submitted Outline Construction & Demolition Management Plan and Basement Impact Assessment are noted.
- The PA has concerns regarding the long term viability of the green wall at the northern site boundary but is cognisant that if successful it will help to alleviate the visual dominance from the properties on the northern boundary. Boundary screening will also be important in providing privacy to the development itself and to the neighbouring properties.
- The PA notes the submitted CGIs and photomontages. These show that the development is visible along much of the Stillorgan Road, due to its scale and the slope of the Stillorgan Road towards the city centre. The width of the Stillorgan Road can cater for the proposed height. The development is visually very dominant in views from Seaview Terrace.

8.1.6. PA Comment on Traffic and Transportation Issues

- Notes that condition 7 of the previous permission Reg. Ref 4057/09 PL29S.236717 precluded the use of the Ailesbury Close entrance during the construction period, for reasons of potential impact on residential amenity. DCC Transportation Planning Division retains concerns in relation to these matters and requests a condition limiting the access use during construction.
- DCC Transportation Planning Division is generally satisfied with the general scope, content and conclusions of TIA. It notes EIAR Chapter 10 Material Assets Transportation and mitigation measures outlined in section 10.7 for construction and operational phases. The Transportation Planning Division recommends conditions requiring these measures.
- The site is bound by the Stillorgan Road QBC. A review of the current Bus Connects, Bray to City Centre Core Bus Corridor (CBC), Emerging Preferred Route No. 13, indicates there is a possible land acquisition along the Stillorgan Road boundary. The applicant has engaged with the NTA on the Bus Connects proposals and the NTA has accepted the development is fully compatible with the

Bus Connects proposal for CBC 13, as confirmed in NTA correspondence within Appendix D of the TIA.

- The site is located in Area 3 of development plan Map J in relation to car parking standards. Table 16.1 sets out the maximum car parking standards for residential units in this area as 1.5 per unit. The proposed car and electric vehicle parking provision and car parking management plan are noted. DCC Transportation Planning Division notes that the TIA contains a number of anomalies regarding the calculation of the proposed car parking ratio, however it is broadly satisfied with the rationale and quantum of car parking proposed, having regard to the location of the site and to the nature of the development. Recommends a condition requiring implementation of the Car Parking Management Plan.
- The cycle parking provision equates to a ratio of 1.3 spaces per unit, which exceeds development plan standards. The basement cycle parking is spread across the site at locations easily accessible to each stair/ lift core, and surface cycle parking is close to building entrances for visitors and adjacent to the crèche and café uses.
- The proposed Residential Travel Plan and Car Club are noted. A condition requiring implementation of same should be imposed if permission is granted.
- The submitted Operational Waste Management Plan is noted.
- DCC Transportation Planning Division is generally satisfied with the Outline Construction Management Plan, with a detailed plan to be agreed as a condition of permission. The Transportation Planning Division considers that construction access from Ailesbury Close should not be permitted.

8.1.7. PA Comment on Surface Water Drainage Issues and Flood Risk

- No objection subject to requirements including compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0; surface water discharge to the River Dodder via the existing public surface water system; attenuated to greenfield run off rates in accordance with the Greater Dublin Strategic Drainage Study; development to incorporate SuDS measures;

implementation of the proposed surface water management strategy and flood risk mitigation measures.

8.1.8. PA Conclusion

- The submitted EIAR and AA Screening Report are noted.
- The development is considered consistent with the relevant provisions of the Dublin City Development Plan 2016-2022 and the PA recommends that ABP consider a grant of permission subject to conditions.
- Recommended condition no. 22 requires that Ailesbury Close shall not be used for construction traffic. The remaining conditions do not involve any significant amendments to the proposed scheme.

9.0 **Prescribed Bodies**

9.1. **Dept. of Culture, Heritage and the Gaeltacht**

9.1.1. Nature Conservation

Having considered the documentation submitted in support of this application, particularly the AA Screening and Natura Impact Assessment, the Dept. notes that the construction and operation of the development could, without mitigation, result in detrimental impacts on four Dublin Bay Natura 2000 Sites related to surface water discharges from the development site.

It is proposed that surface water will be discharged from the development site by means of a surface water drainage system close to the Ailesbury Close side of the site, which will empty into the Dodder River 180 m to the northwest. The Dodder enters the River Liffey estuary 3.2 km downstream, which in turn opens into Dublin Bay. Sediments and other pollutants from the development site could therefore reach the South Dublin Bay Special Area of Conservation, the North Dublin Bay SAC, South Dublin Bay and Tolka River Special Protection Area and Bull Island SPA by this hydrological pathway. Various measures are set out in the NIS and the Outline Construction Management Plan (OCMP) to prevent pollutants being transported off site during construction, including specific measures to avoid the release of hydrocarbons, other materials stored on site, silt and to control contaminated water.

In the OCMP it is proposed that full details of these mitigation measures to protect water quality will be included in a Construction Environmental Management Plan to be submitted for approval to the planning authority before development commences. SuDS measures to be installed on the site should similarly prevent the transport of water borne pollutants from the development when it is operational.

The NIS concludes that the full implementation of the mitigation measures to protect water quality set out in it and the OCMP should prevent any negative effects on European Sites resulting from the proposed development. The Dept. accepts this conclusion.

The Dept. notes the findings of bat surveys of the development as summarised in the EIAR. In the EIAR and OCMP a number of measures are set out to mitigate the impact of the construction of the proposed development on bat species and badgers. In the OCMP it is proposed that these measures will be detailed in the CEMP to be submitted for the agreement of the planning authority.

A majority of the existing trees on the development site are to be removed to facilitate construction of the development. These trees were planted for ornament and are predominantly of non-native species. Their loss therefore cannot be considered significant from a nature conservation perspective. Bird surveys identified 14 bird species potentially breeding on the development site, all of which utilise trees and shrubs for nesting. The bird species recorded are common suburban species, and again therefore impacts on their local populations cannot be considered of significance. It would however be desirable to avoid any direct mortality to birds resulting from vegetation clearance.

The Dept. recommends conditions relating to (1) Outline Construction Management Plan and (2) any clearance of vegetation from the development site to only take place outside the main bird breeding season.

9.1.2. Archaeology

The Dept. has examined the archaeological component of the EIAR. On the basis of the information in the report and the proposed archaeological mitigation (section 17.7), it is recommended that a planning condition pertaining to Archaeological Monitoring of ground disturbance and topsoil removal at construction stages be included in any grant of planning permission that may issue.

9.2. Inland Fisheries Ireland

- The development is within the catchment of the River Dodder, an important salmonid system. The Dodder is exceptional among most urban rivers in the area in supporting resident Atlantic salmon and Sea trout in addition to resident Brown trout populations. This highlights the underlying ecological sensitivity of this particular watercourse and the Dodder catchment in general.
- If permission is granted, all works will be completed in line with the Construction Management Plan (CMP) which ensures that good construction practices are adopted throughout the works period and contains mitigation measures to deal with potential adverse impacts identified in advance of the scheme.
- There can be no direct pumping of contaminated water from the works to the River Dodder or Nutley Stream at any time; any dewatering must be treated by either infiltration over land or to a suitably sized and sited settlement pond.
- Any topsoil or demolition material which is to be stored on site must have mitigations in place to prevent any deleterious material entering the river. Drainage from the topsoil storage area may need to be directed to a settlement area for treatment.
- There are high groundwater levels at this site. Any dewatering of ground water during excavation of basement area must be pumped over land or into an attenuation area before being discharged to watercourse.
- Precautions must be taken to ensure there is no entry of solids, during the connection of pipework to the surface water system.
- Mitigation measures such as silt traps and oil interceptors should be regularly maintained during the construction and operational phase. If permission is granted, IFI suggest a condition to require the owner to enter into an annual maintenance contract in respect of the efficient operation of the petrol/oil interceptor.
- It is noted that Ringsend WWTP is currently working at or beyond its design capacity and will not be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water

generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

- All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

9.3. National Transport Authority

9.3.1. In principle, the NTA supports the regeneration of the subject site as a means of consolidating development close to the city centre and in a site accessible to a range of existing and proposed public transport services. The NTA recommends that, in assessing the proposed development, ABP carefully consider the following:

1. Bus Connects The NTA confirms that the development facilitates the Core Bus Corridor 13 Bray to City Centre project. The development, as submitted, will not impact on the delivery of this scheme or on future land acquisition required to facilitate same. The road layout as set out in drawing TSK-010-01 satisfies the NTA's requirements in this regard.
2. Access arrangements The NTA welcomes the provision of dedicated pedestrian and cyclist accesses from the Stillorgan Road. It is noted that vehicular access is proposed from both the Stillorgan Road and Ailesbury Close, with the latter limited to 136 spaces. The NTA welcomes this arrangement as it may reduce the level of development traffic using the R138 Stillorgan Road access junction. This comment should be taken in the context of point no. 3 below in relation to car parking.
3. Car Parking The NTA notes the proposed car parking provision. While this quantum would fall within the development plan standard of a maximum 1.5 per unit, the NTA requests that ABP consider the appropriateness of providing such a number, in particular in the context of section 4.19 of the Apartment Guidelines. Given the location close to the city centre along one of the highest frequency bus corridors in the region, and the associated low level of demand for car use anticipated, it would be more appropriate that a more restrictive provision is applied.

9.4. **Transport Infrastructure Ireland**

9.4.1. The submission states that TII have no observations to make on the proposed development.

9.5. **Irish Water**

9.5.1. In respect of Water:

A new connection to the existing network is feasible subject to a network extension. Approximately 300m of network extension will be required, from the existing connections into RTÉ lands, north-westwards to the boundary of the proposed site. Irish Water currently does not have any plans to extend or commence upgrade works to its network in this area. The developer will be required to fund the extension as part of a connection offer and the works will be delivered by Irish Water.

9.5.2. In respect of Wastewater:

A new connection to the existing network is feasible subject to upgrading of approximately 90m of the existing network from 150mm to 225mm along Ailesbury Court. Irish Water currently does not have any plans to extend or commence upgrade works to its network in this area. The developer will be required to fund the extension as part of a connection offer and the works will be delivered by Irish Water.

The applicant has engaged with Irish Water and submitted designs for the development proposal for which Irish Water has issued a Statement of Design Acceptance. Therefore, Irish Water respectfully requests conditions in respect of the provision of public water and wastewater infrastructure as follows:

- The applicant is required to sign a connection agreement with Irish Water prior to any works commencing and connecting to our network. All development is to be carried out in compliance with Irish Water Standards codes and practices.

10.0 Assessment

10.1. The following are the principal issues to be considered in this case:

- Principle of Development
- Z12 Zoning Objective
- Z2 Zoning Objective
- Building Height
- Block Configuration
- Housing Mix
- Residential Density
- Design and Layout
- Quality of Residential Accommodation
- Impacts on Visual and Residential Amenities
- Archaeology and Cultural Heritage Impacts
- Traffic and Transport
- Drainage, Flood Risk and Site Services
- Other Matters

These matters may be considered separately as follows.

10.2. Principle of Development

10.2.1. The lands are zoned Z12 and Z2, and the issue of compliance with zoning objectives for these lands is dealt with hereunder. However, at the outset it should be noted for the purposes of satisfying the definition of Strategic Housing Development in section 3 of the 2016 Act, lands must be zoned for residential or a mixture of residential and other uses. Both the Z12 and Z2 zoning include 'residential' as a use which is permissible, and further include crèche, community facilities, cultural/recreational and restaurant uses as open for consideration (outlined in detail as applicable below). In addition, the Z12 and Z2 residential potential to contribute towards housing requirements has been taken into account as part of the core strategy,

noting that Z2 lands are zoned residential and Z12 are zoned for a mix of residential and other uses. I am accordingly satisfied that the SHD legislation is the appropriate mechanism for this planning application.

10.2.2. I am further satisfied that the institutional (RTÉ) uses are being protected and provided for, along with the environmental amenities on the Z12 zoned land in accordance with the zoning objective, with the inclusion of in excess of 20% public open space being provided with the subject residential development, et alia. The Z2 lands which are Residential Neighbourhoods (Conservation areas) is accepted as being sensitive to development, but that development of the nature proposed is not de facto precluded, and that in the detailed assessment the issue as to how the proposed development protects and/or improves the amenities of the residential conservation areas is elaborate. Therefore, I am satisfied that the principle of development is acceptable.

10.3. **Z12 Zoning: Institutional Land (Future Development Potential)**

To ensure existing environmental amenities are protected in the predominantly residential future use of these lands

10.3.1. Proposed Land Uses

The proposed land uses are permissible under the Z12 objective, which states:

“The predominant land use on lands to be re-developed will be residential, and this will be actively encouraged.”

The uses ‘childcare’ and ‘restaurant’ are also permissible under the Z12 objective.

10.3.2. Masterplan Requirement

The applicant has submitted a Masterplan, which considers the proposed development at the subject site with regard to the detailed requirements of the Z12 objective. Several Observers contend that the submitted Masterplan is deficient in that it deals with the subject site only and does not consider the entire Z12 lands at this location. The current development plan was adopted in 2016, prior to the sale of the development site in 2017 and the Z12 objective relates to the most of the original RTÉ campus at this location including most of the development site, apart from the Z2 area around Mount Errol House.

The Z12 objective states:

“... Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire landholding.”

This objective requires the preparation of a masterplan, setting out a ‘clear vision’ for the overall land holding. To this end, it should be noted, that there is not a requirement for multiple masterplans for the overall land holding to be newly drawn up and submitted with each and every application, but rather one masterplan which would identify an overall strategy to achieve all other objectives relating to the lands, such as 20% open space associated with any residential development, and creation of an integrated network of public open spaces and green infrastructure/network.

As referenced in the application documentation (specifically in the submitted Masterplan for subject lands), an Outline Masterplan for the entire RTÉ lands, including the subject site, was submitted with Reg. Ref. 3094/16 (see details in section 4.5.1 above). The applicant submits that the current Masterplan is compatible with the 2016 Outline Masterplan for the entire landholding and does not conflict with it. This point is accepted. I am satisfied that the Z12 objective requiring a masterplan for the overall landholding to be prepared and submitted outlining the overall strategy for the lands is accordingly met in circumstances where an outline masterplan for the entire land holding was submitted in 2016 and the current submitted masterplan is a subset of this masterplan, merely providing further elaboration for the site, but retaining and adhering to the overall strategy for the lands in particular in respect of open space and connectivity of the green network. I therefore consider that the requirements of this aspect of the Z12 objective relating to the Masterplan have been met. I also note that the current Masterplan also includes lands outside the ownership of the applicant, to allow for drainage upgrade works and a Right of Way to the Stillorgan Road across lands not owned by the applicant.

Some Observers submit that the Masterplan for the development site should be subject to SEA. I note that the Masterplan is not a statutory document. In this instance, the Board is being asked to make a determination on a planning application, which includes the submitted EIAR. The proposed development is therefore subject to the EIA process and is a project subject to the EIA Directive rather than a plan or programme subject to the SEA Directive. I also note in this

regard that the development site has been zoned under the Dublin City Development Plan 2012-2016, which was itself subject to the SEA process.

10.3.3. Z12 Objective 'to ensure existing environmental amenities are protected'

A number of observers have raised concerns that the proposed development is in breach of the Z12 objective which they highlight as including 'to ensure existing environmental amenities are protected'. However, it should be noted that this is only one half of the zoning objective, with the other reading 'in the predominantly residential future use of the lands'. Therefore, it must be presumed that the protection of existing environmental amenities is to occur in the context of future residential development of these lands. Development of the lands for residential purposes of the nature and scale proposed is not de facto contrary to the protection of environmental amenities and I am satisfied that this issue is adequately addressed in the EIAR submitted and my EIA consideration below and that it is through the planning and environmental assessment of the scheme outlined hereunder, that this issue can be fully resolved.

10.3.4. Z12 Objective and Quantum of Public Open Space

The current Masterplan sets out the quantum of public open space to be provided, as summarised in section 6.5 above. This indicates that the proposed quantum of public open space exceeds the required 20% provision for Z12 lands and the 10% provision for Z2 lands, with the total provision well in excess of the quantitative requirement.

10.3.5. Z12 Requirements in Relation to Landscaping, Open Space and Retention of the Open Character of the Site

I note the concerns of Observers that the development does not meet Z12 requirements that the development (i) incorporates existing landscape features and the essential open character of the site; (ii) provides a high-quality public open space linked to the green network or other lands where possible and (iii) that the 20% public open space area shall not be split into sections and shall be comprised of soft landscape suitable for relaxation and children's play.

In relation to the retention of landscape features and the open character of the site, the Tree Survey and Arborist Report detail existing trees at the site and the extent of proposed tree removal. The majority of the trees on site are located along the

northern and western boundaries with a large group located in a belt towards the southern end of the site, extending eastwards into the site area and creating a break in the overall landscape. The trees are in various age categories and include a broad range of species. The woodland at the northern end of the site comprises mature deciduous trees of good to fair physical condition. These are to be retained and enhanced with groundcover planting to provide a setting for Mount Errol House. The formal landscape to the south of Mount Errol House will also enhance the setting of the protected structure and retain views from the Stillorgan Road. Some existing trees are to be removed in front of Mount Errol House; however they are almost all Category C (low quality/ value). While the northern end of the development will retain existing trees and views of Mount Errol House, the southern part of the scheme will present an urban edge to the Stillorgan Road with intermittent views of the central public open space. The Tree Survey states that the existing trees along the Stillorgan Road frontage have little value as individual specimens. A group of higher quality (Category B) trees are incorporated within one of the semi-private courtyards and at the pedestrian entrance adjacent to Block 9. Some of the existing trees along the north eastern site boundary will be removed to facilitate the realignment of existing foul and stormwater sewers at this location. These are predominantly Category C. It is submitted that there is no other viable route for realigning these services as to run a wayleave. The extent of the proposed basement has been modified to ensure the retention of the trees identified. The development also involves the removal of a substantial alignment of predominantly Monterrey Cypress and Sycamores at the centre of the site, which are generally Category B quality. The Landscaping Strategy states that these trees have grown up as a cohesive group and would not lend themselves to retention as parkland specimen trees, also it is not feasible to retain the alignment as group as this would visually divide the development. I note that the removal of trees at the site is to be mitigated by the new landscaping which includes a total of 496 no. trees as well as other planting. The proposed tree removal is considered acceptable on this basis. I consider that the development will enhance the setting of Mount Errol House and provide intermittent visibility of the central public open space from the Stillorgan Road. I consider overall that the development achieves a satisfactory balance between the efficient use of zoned land at this location, given that the Z12 objective expressly provides for residential development, and the requirement to incorporate existing landscape

features and to retain the essential open character of the site at Z12 lands. It should also be noted in this regard that the development site is currently partially occupied by car parking, was formerly largely occupied by buildings, and does not function as publicly accessible parkland at present.

The Design Statement indicates that the main public open spaces, i.e. the public plaza, the central public open space and the formal landscaped area in front of Mount Errol House, are all linked by a clearly defined spine route, which also connects to pedestrian/cycle accesses from the Stillorgan Road, and to an intermediary landscaped space (described as the 'Central Plaza'). The layout integrates pedestrian and cycle connections through the public open spaces and provides new pedestrian and cycle connections between the Stillorgan Road, the RTÉ campus and Ailesbury Close. It will therefore improve permeability in the wider area, in accordance with the principles of DMURS. In addition, the layout meets the Z12 requirement that the minimum 20% public open space is not split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play and that public open space shall be linked to the green network and /or other lands where possible. The development will provide a high standard of public realm in the form of a series of attractive and interlinked public spaces. The combined spaces have a total stated area of 10,348 sq.m., which exceeds the Z12 requirement for 20% of the site area as public open space. There are two play areas within the scheme, i.e. a natural play area within the wooded area at the northern end of the site (5-12 years) and play equipment for younger children at the central public open space (0-5 years). I am satisfied overall that the quantum, layout, design and functionality of the public open spaces within the development are generally in accordance with the Z12 zoning objective. I also note the submitted assessment of daylight, sunlight, shadow and light effluence effects, as per EIAR Chapter 14 and summarised below, such that 75.9% of the public open space analysed would receive at least two hours of sunlight on 21st March, well in excess of the 50% recommended in BRE guidance. In addition, the EIAR Microclimate Assessment states that the development has been designed with landscaping and screening at open spaces to reduce windiness, such that residual wind conditions are generally within acceptable criteria, except for severe weather events. I am satisfied overall that the development will provide a high standard of public realm that will contribute

to the amenities of the area and is in accordance with the requirements of the Z12 objective.

10.3.6. Z12 Objective and Building Height

The Z12 objective states:

“... In addition, development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development.”

This matter is raised in the Observer submissions in relation to the height of Blocks nos. 1-4 in proximity to the north eastern site boundary. These blocks range in height between 4-8 storeys with Blocks nos. 1-4 presenting 5 storey elevations towards residential properties to the north and east of the site. The adjacent properties at Seaview Terrace and Ailesbury Road are generally 2-3 storey (over semi-basement in some cases) with some single storey elements, such as at The Mews to the side of no. 3 Seaview Terrace. The issue of height is further considered in section 10.4 below, which concludes that the proposed heights are acceptable in principle having regard to the guidance and safeguarding criteria contained in the Building Height Guidelines and consistent with national planning policy. Furthermore, the assessment of impacts on visual and residential amenities below concludes that the development would not have any significant adverse impacts on visual amenities or on residential amenities by way of overlooking or overshadowing, with regard to the detailed design of the scheme and to the submitted shadow analysis and EIAR assessment of daylight and sunlight impacts. It is also considered that the development would not have any significant adverse impact on the setting of the adjacent protected structures at Ailesbury Road. On balance, having regard to the fact that Blocks 1-4 are tapered down at the north eastern site boundary and that the elevations have been designed to protect the amenities of adjacent residential properties and the settings of protected structures, I consider that the development addresses this aspect of the Z12 objective (see also section 10.8.1 and 10.10.2 below).

10.3.7. Z12 Part V Requirement

With regard to the Z12 10% social and affordable housing requirement, I note that the application includes a Part V report. It is intended to provide 61 no. apartment

units for the purposes of complying with Part V comprising 37 one-bed and 24 two-bed apartments, all of which are located in Block 9, which generally meets this requirement. The submission of Dublin City Council states no objection to this proposal.

10.3.8. Z12 Conclusion

Having regard to all of the above, I consider that the development is generally in compliance with the Z12 zoning objective at the development site.

10.4. **Z2 Zoning Objective**

10.4.1. The remainder of the site, around the Mount Errol protected structure, has the Z2 zoning objective and is a Residential Conservation Area. This provides for residential development at this location and the uses 'community facility', 'cultural/recreational building', and 'restaurant' are open for consideration. Section 10.8 below considers impacts on adjacent protected structures and on the Z2 Residential Conservation Area and concludes that, with regard to the proposed design and layout and mitigation measures including landscaping, the development will not have significant adverse impacts on the Z2 Residential Conservation Area or on the settings of the protected structures Mount Errol House at the development site or on other adjacent protected structures. The development is therefore considered to be compatible with the Z2 objective at this location. In addition, given that the Z2 zoned area would be the more sensitive zone, the development is considered to be compatible with policy on transitional zone areas as set out in development plan section 14.7.

10.5. **Building Height**

10.5.1. I note that Observer submissions raise serious concerns in relation to the proposed building height and contravention of development plan policy on this matter. (This section of my report considers height in the context of policy, the related issues of impacts on visual and residential amenities and on the settings of protected structures are considered elsewhere in the assessment.)

10.5.2. Consideration of Applicant's Rationale for Proposed Building Height

Development plan section 16.7.2 sets out building height limits for different areas within the city, such that the site is in the 'outer city' area where a maximum height of 16m applies. The development ranges from 4 storeys (c.13.5m) to 10 storeys (c.

34.5m) and therefore materially contravenes development plan policy on building height. The applicant's Material Contravention Statement notes that the development plan was adopted in 2016, prior to the adoption of the Building Height Guidelines in 2018. It submits that the development is in accordance with national and regional planning policy objectives in relation to securing compact and sustainable urban growth as it facilitates well designed, high density residential development c. 3 km from the city centre, on a public transport corridor and close to the Dart and to significant employment centres, as well as numerous existing services and amenities nearby. It also submits that the development plan application of a blanket height restriction of 16m for residential development in most of Dublin city to protect its low-rise character is inconsistent with national planning policy. The Material Contravention Statement notes that SPPR 1 of the Building Height Guidelines supports increased building heights and densities in locations with good public transport accessibility and that SPPR 3 of the Guidelines states that a PA may grant permission for building heights that exceed the development plan standard, where the applicant demonstrates compliance with the criteria set out in Section 3.2 the Guidelines. The applicant presents a case for compliance under the criteria in Section 3.2, as summarised in section 6.4.2 above, and notes several precedents for taller buildings at other locations along the Stillorgan Road.

I note that the development previously permitted on the RTÉ lands under Reg. Ref. 4057/09 PL29S.236717 ranged in height from 10.7m to 36m, however this was granted in 2010 under a previous development plan. With regard to the current development, I note that Dublin City Council accepts the applicant's rationale for the proposed building height, noting also the precedents for taller buildings along the Stillorgan Road and the width of the road at this location, as well as relevant national planning policy, and is therefore generally supportive of the proposed height at this location. While height is raised as an issue in Observer submissions, I am satisfied, having regard to the guidance and safeguarding criteria contained in the Building Height Guidelines, that the proposed building heights are acceptable and appropriate at this inner suburban location and consistent with national planning policy, which supersedes the relevant development plan. I accept the rationale put forward by the applicant in relation to the criteria set out in section 3.2 and SPPR 3 of the Building Height Guidelines, as summarised above and these matters are considered further

in detail in the following assessment. The provisions of Project Ireland 2040 National Planning Framework, including objective 13 concerning performance criteria for building height and objective 35 concerning increased residential density in settlements are noted in particular in this regard. The precedent of other large scale residential developments along the Stillorgan Road is also noted. I consider on this basis that the proposed building height is acceptable in principle at this location.

10.5.3. Material Contravention of Development Plan Policy on Building Height

Given that the proposed material contravention does not relate to the zoning of the land, the board may grant permission if it considers that it would do so if section 37(2)(b) of the 2000 Act were applied. In this instance and with regard to the above matters, I consider that section 37(2)(b)(i) applies as the proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016. I also consider that section 37(2)(b)(iii) applies in relation to the proposed building height, i.e. permission for the development should be granted having regard to section 28 guidelines, specifically the Urban Development and Building Heights Guidelines for Planning Authorities and in particular section 3.2 and SPPR 3 of same. The provisions of section 9(3) of the SHD Act are also noted in this regard.

10.6. **Block Configuration**

10.6.1. Consideration of Proposed Block Configuration

Observers raise concerns that the proposed block configurations contravene development plan policy on residential development. Section 16.10 of the development plan sets out that there shall be a maximum of 8 units per core per floor subject to compliance with dual aspect ratios. SPPR 6 of the Apartment Guidelines provides for up to 12 units per core. Blocks nos. 1, 2, 3, 4, 6, 7 and 8 all have 12 units or less per core, in accordance with SPPR 6. Block 5 has 16 units per floor. There are two stairwells at either end of the floorplan and a pair of lift shafts at the centre of the block. The block has an angled configuration avoiding a long corridor.

Given that there are two stairwells and two lift shafts, I am satisfied that Block 5 meets the requirements of SPPR 6. Similarly, Block 9 has 13 units per floor, with two separate stairwells and a pair of lift shafts in the centre. The block plan for Block 9 has an L configuration, which also avoids a long corridor and creates units with various aspects. I am also satisfied that Block 9 meets the requirements of SPPR 6.

I note that the Planning Authority states no objection to the proposed block configurations. Given that the block layouts are in accordance with SPPR 6, they are therefore considered acceptable notwithstanding Observer concerns. I note Observer concerns in relation to the proposed layout in the context of the current Covid 19 pandemic, however that matter is currently outside the scope of current national or local planning policy on apartment developments.

10.6.2. Material Contravention of Development Plan Policy on Block Configuration

The proposed block configuration exceeds the development plan requirement for 8 units per core in several instances. The applicant submits that SPPR 6 of the Apartment Guidelines, which provides for a maximum of 12 units per core per floor, supersedes the development plan. As discussed above, I consider that section 37(2)(b)(i) applies as the proposed development is considered to be of strategic and national importance. I also consider that section 37(2)(b)(iii) applies in this instance in relation to block configuration. Having regard to the above assessment, I am satisfied that the development is in accordance with SPPR 6 of the Apartment Guidelines and I consider that permission for the development should be granted having regard to section 28 guidelines, specifically the Design Standards for New Apartments Guidelines for Planning Authorities, which were adopted in 2018 subsequent to the current City Development Plan. The provisions of section 9(3) of the SHD Act are also noted.

10.7. **Housing Mix**

10.7.1. Consideration of Proposed Housing Mix

Observers submit that the proposed apartment development is out of character with the surrounding, predominantly suburban area and note that the housing mix contravenes development plan policy. With regard to housing mix, the development plan states that apartment developments shall contain a maximum of 25-30% one bed units and a minimum of 15% 3 + bed units. The proposed scheme includes 187

no. 1 bed units (30%) and 63 no. 3 bed units (c. 10%) and therefore materially contravenes the development plan in terms of residential unit mix. SPPR 1 of the Apartment Guidelines states:

Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

It is submitted that the development is consistent with SPPR 1 in relation to the provision of one and 3 bed units. This point is accepted. I am satisfied overall that the proposed housing mix will add to the range of housing typologies available in this established and highly accessible residential area, in view of changing demographic trends and national and local planning policies to provide a wider diversity of housing typologies. The proposed housing mix is acceptable in principle on this basis.

10.7.2. Material Contravention of Development Plan Policy on Housing Mix

As discussed above, I consider that section 37(2)(b)(i) applies as the proposed development is considered to be of strategic and national importance. I also consider that section 37(2)(b)(iii) applies in this instance in relation to housing mix. Having regard to the above assessment, I am satisfied that the development is in accordance with SPPR 1 of the Apartment Guidelines and that permission for the development should be granted having regard to section 28 guidelines, specifically the Design Standards for New Apartments Guidelines for Planning Authorities, which were adopted in 2018 subsequent to the current City Development Plan. The provisions of section 9(3) of the SHD Act are also noted.

10.8. Residential Density

10.8.1. Several of the Observers consider that the scheme will result in an excessive residential density at the site, given the lower density of the adjoining residential areas and apartment developments. Development plan section 16.4 refers to the Sustainable Residential Development in Urban Areas Guidelines, which promote increased densities within 500m of a bus stop or 1km of a light rail station and

recommend a minimum density of 50 units/ha at public transport corridors subject to appropriate design and amenity standards. In addition, the site is at a 'Central and/or Accessible Urban Location' as per section 2.4 of the Apartment Guidelines, due to its location on a QBC and proposed Bus Connects route, which is suitable for small to large scale higher density development with no maximum density set. This is an infill site close to the centre of Donnybrook and highly accessible to the city centre and to several significant employment centres, in an area with a very high level of services and amenities. I consider that the delivery of residential development on this prime, underutilised, serviced site, in a compact form with higher density, would be consistent with policies and intended outcomes of current Government policy, specifically the NPF, the RSES and the Apartment Guidelines, which all look to secure more compact and sustainable urban development in the Dublin Metropolitan Area. I note that the provision of high density residential development is generally supported by the planning authority at the development site. I also note that the proposed plot ratio and site coverage are below the development plan indicative plot ratio and site coverage standards for Z2 and Z12 zoned lands. I consider that the proposed residential density of c. 175 units/ha is acceptable in principle at this location with regard to these matters, subject to design and amenity standards, which are discussed in detail in other sections of this report.

10.9. Design and Layout

- 10.9.1. Observer submissions state concerns in relation to visual impacts and that the proposed development is out of character with the area. The design strategy, as described in the Design Statement, is focused on creating a strong frontage to the Stillorgan Road, on providing an appropriate setting for the Mount Errol House protected structure and on achieving a satisfactory interaction with the residential properties and protected structures to the north and west of the site. Existing trees at the northern end of the site are to be retained and enhanced with new planting with a formal landscaped area and lawn to the front of Mount Errol House, to provide an appropriate setting for the protected structure. The 3 no. townhouses are also located in this part of the site, at the entrance from Ailesbury Close. They have a 3 storey gable fronted contemporary design and are finished in brick, with individual rear gardens. The 9 no. apartment blocks are concentrated in the eastern side of the site, where they are grouped around a central public open space, which includes a

lawn or 'kick about area'. There are landscaped semi-private courtyards between the apartment blocks. The remaining existing trees along the Stillorgan Road site boundary will mostly be removed and Blocks 6, 7, 8 and 9 will present 6–9 storey elevations close to the road frontage, interspersed with the semi-private courtyards to give intermittent views into the central landscaped public open space. The existing stone wall along the road frontage will be replaced by a low railing and hedge planting to provide greater visual permeability. The elevations of Blocks 6-9 along the Stillorgan Road have brick and stone finishes to provide a strong response to this location with solid forms and materials, described in the Design Statement as the 'outer crust', while the elevations facing the semi-private courtyards and central public open space are scaled and proportioned to respond to the interior public realm with more lightweight, framed structures with a greater proportion of glazing and lightweight materials, described as the 'inner core'. The interface with the RTÉ campus at the eastern side of the site is to be defined by a public plaza / shared surface, flanked by 6-9 storey Block 9 and 8-10 storey Block 5. The eastern elevations of Blocks 5 and 9 are designed to be complementary to existing buildings within the RTÉ campus. Blocks 2, 3 and 4 along the northern site boundary have 8 storey elevations facing the central public open space and are tapered down to 5 storeys facing the residential properties / protected structures to the northeast of the site. Block 1, that closest to Mount Errol House, is 5 storeys tapering down to 4 storeys facing the protected structure. The southern elevations of Blocks 1-4 face the public open space and have architectural treatments to match Blocks 6-9 on the other side of the space. The northern elevations of Blocks 1–4 are tapered down to 5 storeys and have minimal glazing with 'green walls' on the blank facades to improve their appearance.

- 10.9.2. There are two vehicular accesses, i.e. the main pedestrian / cycle / vehicular access from the Stillorgan Road via the RTÉ campus and a secondary access via Ailesbury Close, which serves Mount Errol House, the townhouses and 136 no. spaces in the basement car park. All car parking is provided at basement level, except for 6 no. spaces at the townhouses, 5 no. spaces at the crèche and 1 no. accessible space at the Ailesbury Close entrance. The Landscape Statement describes five landscape character areas throughout the site, including the woodland and formal landscape at Mount Errol House, an intermediary plaza/open space, the central public open space

and an entrance plaza at the interface with the RTÉ campus at the south eastern corner of the site. These spaces are linked by a pedestrian 'spine route', which is defined by hard and soft landscaping, which also links to the pedestrian connections to the Stillorgan Road and the main site accesses. The ground floor land uses are consistent with the overall design strategy. There are communal facilities/amenities adjacent to the public plaza at the southern end of the site with a café, childcare facility and residential amenity area on the ground floor of Block 5 and a concierge / management suite and parcel collection facility on the ground floor of Block 9. There is also a pedestrian/cycle entrance from the Stillorgan Road adjacent to Block 9 and a further pedestrian entrance between Blocks 7 and 8. At the northern end of the site, Mount Errol House is to be converted and extended for use as residents' gym and members club and the associated stables converted into a café. There is also a pedestrian /cycle access from the Stillorgan Road at the approximate location of the historic entrance to Mount Errol House.

10.9.3. I consider that the design and layout of the development are of a high quality with regard to national and development plan guidance for residential development and that the public open spaces within the development meet the detailed criteria set out for the Z12 zoning objective, as discussed above. The development will provide a satisfactory contribution to the public realm at this location, will present a strong frontage to the Stillorgan Road at this prominent site and will provide an enhanced setting for Mount Errol House.

10.10. **Quality of Residential Accommodation**

10.10.1. The application includes a Housing Quality Assessment. The apartments are designed to meet or exceed the requirements of the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, including the minimum floor areas for apartment units and the quantitative floor area requirements set out in Appendix 1 of the Guidelines. The vast majority of the apartment units will be well in excess of the minimum apartment floor areas, exceeding the requirements of SPPR 3 and section 3.8 of the Apartment Guidelines. Approximately 57% of the apartments are dual or triple aspect, which is well in excess of the minimum 33% requirement for central and accessible urban locations as stated in SPPR 4 of the Guidelines. The blocks are generally orientated in an east/west direction and there are no single aspect units facing directly north. All

ground floor units have a floor to ceiling height in excess of the minimum 2.7m specified in SPPR 5. Compliance with SPPR 6 is considered in section 10.5 above.

10.10.2. The layout has been designed to achieve separation distances of 7.5m between blocks. This standard is generally achieved except for a 7.45m distance between Blocks 7, 8 and 9. The opposing elevations are designed with staggered windows to prevent overlooking, this is considered acceptable. The internal Daylight and Sunlight Analysis Report indicates that 99% of bedrooms and 100% of living rooms in the development exceed the BRE Average Daylight Factor (ADF) recommendation. The Sunlight analysis demonstrates that some single aspect east and west facing units on the lower floors of the apartment blocks have low values for Annual Probable Sunlight Hours (APSH) relative to those recommended in BRE guidance, however I note that the relevant units look onto semi-private courtyards or public open spaces and that most of the common rooms in Blocks 1 to 9 meet or exceed the BRE recommendations for (APSH). The development is considered acceptable overall on this basis.

10.10.3. There are potential noise impacts on residential amenities within the development associated with traffic on the Stillorgan Road. EIAR Appendix 13.3 comprises an Inward Noise Impact Assessment. This is based on a noise survey at the development site, which found that while average measured daytime noise levels along the southwestern boundary are below the threshold for undesirably high external noise levels as defined in the Dublin Agglomeration Environmental Noise Action Plan, the average measured night time noise levels at this location are above the threshold of 55 dBA as defined in the Noise Action Plan. An assessment of the expected internal noise levels within the development was carried out with respect to the guidance contained in British Standard BS 8233. It concludes that internal noise levels within the development will achieve the recommended noise criteria with the inclusion of an enhanced glazing and ventilation specification for habitable rooms along the southwestern boundary of the site. Noise impacts from the Stillorgan Road can be therefore be controlled to within acceptable limits. This is acceptable.

10.10.4. All apartments have private open spaces in the form of balconies and terraces, which exceed the minimum dimensions set out in Appendix 1 of the Apartment Guidelines and the minimum width of 1.5m. The Inward Noise Impact Assessment states that balconies on the Stillorgan Road frontage will experience

noise levels above those recommended in BS 8233. The report suggests options for protecting the amenity of balcony spaces including the use glazed screen and/or winter gardens, which could be required by condition. The apartment and duplex blocks have communal amenity spaces in the form the semi-private courtyards between the apartment blocks. The application presents an aggregate figure of c. 6,044 sq.m. of communal amenity space which, it is submitted, well exceeds the minimum of c. 4,029 sq.m. required to meet the minimum communal areas set out in Appendix 1 of the Apartment Guidelines. Having regard to the detailed design and layout, to the submitted landscaping scheme and to the overall provision of public open space within the scheme, I am satisfied that the proposed apartments all have access to high quality public and communal spaces.

- 10.10.5. Communal waste storage areas are provided at basement level. The Operational Waste Management Plan details projected waste streams from the residential and commercial aspects of the development. This is acceptable with regard to the guidance provided in sections 4.8 and 4.9 of the Apartment Guidelines. The application includes a Building Lifecycle Report, as required by the Apartment Guidelines, which states that a property management company will be established in accordance with the Multi-Unit Developments Act 2011.
- 10.10.6. The proposed townhouses exceed the minimum floor area requirements set out in the document Quality Housing for Sustainable Communities. I am satisfied that the houses and associated private open spaces provide a high quality of residential accommodation.
- 10.10.7. To conclude, I consider that the quality of residential accommodation of the development is generally satisfactory with regard to national and development plan guidance for residential development and that there will be a high standard of residential accommodation for future residents of the scheme. I also note that the planning authority states no concerns in terms of the standard of proposed residential accommodation.

10.11. Impacts on Visual and Residential Amenities

- 10.11.1. The Observer submissions raise serious concerns about adverse impacts on the residential amenities of adjacent properties by way of overlooking, overshadowing and visual obtrusion. The site is currently predominantly open space

and car parking, aside from the former RTÉ Sports and Social Club building and the former Fair City set, which have minimal impacts on visual or residential amenities. However, a 1995 aerial photograph indicates that much of the open space at the site was previously occupied by buildings that have since been demolished. In addition, the development granted at the site under Reg. Ref. 4057/09 PL29S.236717 included substantial development at the current development site and ranged in height from 10.7m to 36m over a double basement. The immediate context of the site is mixed including the Stillorgan Road, which is 30m wide at this location, the RTÉ campus and areas of low density housing including Ailesbury Road and Nutley Road, with many large houses and gardens and some protected structures and/or zoned as residential conservation areas. The following residential areas immediately adjoin the development site:

- Danesfield House (the German Ambassador's Residence) and nos. 1-6 Seaview Terrace / Nutley Road to the north east of the site.
- Nos 77-91 Ailesbury Road, protected structures also within the Z2 Residential Conservation Area, including the Austrian Embassy at no. 91 Ailesbury Road.
- Belville Apartments and Ailesbury Court to the north of the site, accessed from Ailesbury Close off Ailesbury Road.
- Belville House, Belville Lodge, 4 The Mews and 4a The Mews, all located between the Stillorgan Road and the north western site boundary.

I note that submissions have been received from several residential properties at Ailesbury Road, Ailesbury Close, Seaview Terrace, Nutley Road and Stillorgan Road. However, no observations were received from the German Ambassador's Residence at Danesfield House or from the immediately adjoining properties on the Stillorgan Road. All of the submissions from adjacent residential properties are summarised in detail above and have been fully considered in this assessment. Potential impacts on visual and residential amenities may be assessed at each of the above locations separately as follows.

10.11.2. Impacts on Properties at Ailesbury Road, Seaview Terrace and Nutley Road

The north eastern site boundary immediately adjoins the rear of no. 89 Ailesbury Road, with nos. 77-91 Ailesbury Road nearby to the north east of the development.

Danesfield House, a detached house with a large rear garden, immediately adjoins the north eastern site boundary, also nos. 1-2 Seaview Terrace. 'The Mews' to the site of. No. 3 Seaview Terrace adjoins the north eastern corner of the development. Nos. 3-6 Seaview Terrace and properties on Nutley Road are further to the north and east of the development.

The proposed apartment Blocks 1-4 are positioned along the north eastern site boundary and are the closest part of the development to these residential properties. Blocks 1-4 are c. 11m from the existing boundary wall, which is to be retained. While some trees are to be removed to facilitate the realignment of site services, the Landscaping Strategy states that a dense alignment of semi-mature trees is proposed inside the boundary to act as a visual buffer to adjacent residential properties. Blocks nos. 1-4 are tapered down to present 5 storey northern elevations to the adjacent residential properties, however they present 8 storey frontages to the central public open space and incorporate an intermediary 7 storey volume. The north eastern elevations of Blocks 1-4 facing residential areas have minimal glazed areas above ground and first floors, to prevent/reduce potential overlooking and are to be planted with green walls to mitigate visual impacts. The Landscaping Strategy details that the walls are formed by climbing plants grown in planters integrated within the façade and trained along stainless steel wires. I accept that the northern elevations of Blocks 1-4 have been designed to obviate overlooking to the north and east of the development. However, I also note Observer comments regarding potential overlooking from projecting balconies in the side elevations of Blocks 1-4. This issue may be addressed by a condition requiring screening of balconies. I also note the submission of residents of the Mews at no. 3 Seaview Terrace, which states concerns about overshadowing from the proposed landscaping at the site boundary. I consider that the landscaping at this location will generally enhance the proposed development and assist in the creation of a buffer to adjoining residential properties.

Photomontages nos. 20 and 21 indicate visual impacts from Seaview Terrace and view no. C3 from the rear of The Mews is considered representative of views from the private open spaces to the side/rear of adjacent properties at this location. The EIAR LVIA assesses potential impacts at Danesfield House and at nos. 1,2,3,5 and 6 Seaview Terrace as 'high', while impacts on 'The Mews' are assessed as 'medium'. I consider that the development will have the greatest visual impact at this

location, which is within the Residential Conservation Area, as the rear elevations of Blocks nos. 3 and 4 will be clearly visible in the streetscape. I note that several Observers have stated particular concerns about this view, and I agree that the development will undoubtedly completely change the existing outlook, however I also note that there is no submission from Danesfield House, which shares the longest boundary with the development site. As discussed below, I consider that the LVIA underestimates the significance of impacts on views from Seaview Terrace, i.e. viewpoint no. 21, which is assessed as 'moderate negative' and that the EIAR is deficient in this respect. However, this view is not specifically protected under the current development plan. I also note that (i) there were previously buildings at the development site that would have been visible from these properties, albeit less visually obtrusive and that (ii) development was previously permitted in this part of the site under Reg. Ref. 4057/09 PL29S.236717, which would also have substantially changed their outlook. In addition, while I note that the Observers and the planning authority state concerns about the long term viability of green walls, such features have proven successful at some locations. The ongoing viability of the green walls will depend on successful maintenance, as is the case for all of the proposed landscaping within the development.

Having regard to the detailed shadow analysis as presented in EIAR Chapter 14, the loss of daylight is assessed as 'negligible / negligible–minor' at Danesfield. The EIAR assessment of sunlight impacts on open spaces at Seaview Terrace and The Mews finds that, while some areas along the southern boundaries of these properties will not meet BRE targets, the gardens as a whole would meet the BRE targets. The impact on sunlight to neighbouring gardens is therefore assessed as negligible.

In the light of all of these issues, I am satisfied overall that, while the development will change the outlook from properties at Danesfield and Seaview Terrace, the visual and overshadowing impacts overall are not so severe at this location as to warrant a refusal of permission. I also note that there are no specific objectives in the development plan to protect views at this location.

Having regard to the submitted elevations, photomontages and shadow analysis, I do not consider that the development would have significant adverse impacts on residential properties further from the development site on Nutley Road, given the intervening distance and the presence of existing / proposed trees and landscaping.

Potential visual impacts are assessed as 'low', no. 91 Ailesbury Road, 'medium' at no. 89 Ailesbury Road and nos. 81-87 Ailesbury Road and 'negligible' at nos. 77 and 79 Ailesbury Road. Photomontage no. 19 indicates views from Ailesbury Road and photomontages C1 and G1 indicate existing and proposed views from the rear gardens of nos. 81 and 83 Ailesbury Road. I note observer comments that more comprehensive photomontages should have been prepared for this location, however I consider that those submitted comprise a reasonably representative assessment of potential impacts on views at Ailesbury Road including private open spaces. As is the case at Seaview Terrace, I accept that the development will change the outlook from rear gardens, albeit at a slightly greater distance. Similar points apply in relation to the previous permission at the development site, to the zoned and serviced status of the site and to the lack of views specifically protected under the development plan. The daylight, sunlight, shadow, and light effluent analysis does not indicate any significant adverse impacts at this location. In addition, no overlooking issues will arise given the intervening distances. With regard to impacts on the Ailesbury Road Residential Conservation Area, I note that the LVIA assesses impacts on views from Ailesbury Close and Ailesbury Road (viewpoints nos. 17-19) as neutral or 'moderate positive'. I consider that, while the development will change the outlook from this location, views will be intermittent and, even in winter, partially screened by vegetation. I therefore accept the assessment of the LVIA and consider that there will not be significant adverse visual impacts at this location, notwithstanding its designation as a Residential Conservation Area. I also note that the applicant referred the application to the Dept. of Culture, Heritage and the Gaeltacht, to the Heritage Council and to An Taisce, and that none of these bodies has raised any concerns in relation to adverse impacts on the Residential Conservation Area. In addition, Dublin City Council has not raised any concerns in relation to this issue. I also note that any development of these zoned and serviced lands would have some visual impact and, having regard to the high quality of design and finish of the development, I consider that the overall visual impact is satisfactory in the context of a changing urban environment at this location c. 3 km from the city centre.

10.11.3. Ailesbury Court, Belville Apartments and Ailesbury Close

The northern site boundary immediately adjoins the grounds of the Ailesbury Court and Belville apartment complexes, which are accessed via Ailesbury Close, off Ailesbury Road. I note that many of the concerns stated in Observer submissions from this area relate to traffic issues associated with the development access, which are considered separately below. The other main element of the development at this location is the 3 no. townhouses, which are adjacent to the site access and to the immediate south of Ailesbury Court. The remainder of the northern side of the site features the renovation and extension of Mount Errol House with a substantial amount of the existing trees in this part of the site to be retained and enhanced with additional planting. As discussed above, I consider that the development will enhance the setting of Mount Errol House and will include additional landscaping in this part of the site, which will also benefit adjacent properties at Ailesbury Close. Having regard to the detailed design of the townhouses, to photomontages nos. 17 and 18 and to the shadow analysis and landscaping proposals, I do not consider that there will be any significant adverse impacts on residential impacts at this location by way of overlooking, overshadowing or visual obtrusion. I note Observer comments regarding potential issues associated with the laneway to the rear of the townhouses, a condition requiring a gate at this location may be imposed. In addition, as detailed in the assessment of traffic impacts below, a condition is recommended requiring amendments to the proposed vehicular access from Ailesbury Close, which will also reduce impacts on residential amenities at this location.

10.11.4. Stillorgan Road

There is no development proposed in the immediate vicinity of the residential properties at the Stillorgan Road site frontage and existing trees adjoining the shared boundary are to be retained and enhanced with additional planting, including around Mount Errol House. I note that no submission has been received from the adjoining properties on Stillorgan Road and I am satisfied that no significant potential for adverse impacts on residential amenities arises at this location. As discussed above, Blocks nos. 6-9 are designed to present a strong frontage to the Stillorgan Road. While I note the comments of Dublin City Council regarding the repetitive nature of the facades, I consider that the development has a high quality of design and finish

and provides a satisfactory architectural composition at this prominent location. The Stillorgan Road frontage is considered in detail above and I am generally satisfied that the development will achieve a balance between achieving a strong architectural presence and the Z12 requirement to retain the open character of the lands. I note that the LVIA does not consider cumulative impacts associated with the development permitted at Eglinton Road under PL29S.303708 and is considered deficient in this respect, however I am generally satisfied with visual impacts at this location.

10.11.5. Impacts on Visual and Residential Amenities Conclusion

To conclude, having regard to the above assessment, I am satisfied that the development will not have any significant adverse impact on visual or residential amenities such as would warrant a refusal of permission. I also consider that the development has a high quality of design and finish that will make a substantial contribution to the overall public realm at this location.

10.12. **Archaeology and Cultural Heritage Impacts**

10.12.1. Potential impacts on the archaeological resource, on the setting of the protected structure Mount Errol House and on the adjacent protected structures at Ailesbury Road and the Residential Conservation Area at Ailesbury Road and Seaview Terrace / Nutley Road may be considered separately as follows. I note that Observers state concerns about impacts on the settings of the adjacent protected structures, particularly those on Ailesbury Road.

10.12.2. Archaeology

I refer the Board to EIAR section 17 Archaeological and Cultural Heritage, which is summarised below, also to the report received from the Dept. of Heritage, Culture, and the Gaeltacht, which is summarised above. I note that no significant adverse impacts are identified, and that the Dept. recommends archaeological monitoring, which may be required by condition.

10.12.3. Mount Errol House

10.12.4. Mount Errol, (RPS Ref. 7846) is an early 19th century suburban villa. The Conservation Report notes that the architectural significance of Mount Errol House lies in its external façade arrangements and its parkland setting. The original setting has been substantially altered. The formal gardens have been lost and the original

gated entrance and associated gate lodge were removed with the widening of the Stillorgan Road. Much of the original internal historic fabric has been removed and therefore there is little architectural merit to the interior. It is also stated that the stable block to the north has no historic, cultural, or social significance of note. The development involves the conversion of Mount Errol House into a resident members club with a café in the associated stable building. With regard to the setting of the protected structure, Blocks nos. 1 and 6 in the vicinity of Mount Errol House step down towards the building and the townhouses in the northern part of the site are staggered to maintain views of the Mount Errol buildings from Ailesbury Close. The Landscaping Plan indicates that existing trees to the north west of the house are to be retained. The Design Strategy states that a pedestrian route through the development will provide an axial view of the front façade of Mount Errol, providing a robust connection through the site. In addition, views of Mount Errol from the Stillorgan Road are to be retained. I note that the Conservation Report and the EIAR assessment of impacts on architectural heritage do not identify any adverse impacts on the setting of Mount Errol House. I consider that the proposed new uses of the house and stables are appropriate, and I note that the renovation and extension are designed by a conservation architect. Having regard to the EIAR assessment and to the Conservation Report, I am satisfied that the development will not have significant adverse impacts on the remaining buildings at Mount Errol House and stables or on the setting of the protected structure. Given that the development will open new views of Mount Errol House from the Stillorgan Road and provide a new, high quality, landscaped context, I consider that it will enhance the setting of the protected structure. I also consider that, having regard to the above matters, the development is in accordance with national planning policy on protecting the setting of protected structures as set out in the section 28 Architectural Heritage Protection Guidelines for Planning Authorities.

10.12.5. Protected Structures at Ailesbury Road and Z2 Residential Conservation Area

There are protected structures at nos. 73, 75, 77, 79, 81, 83, 85, 87, 89 and 91 Ailesbury Road to the north east of the development site. Aside from no. 89 Ailesbury Road, none of the protected structures on Ailesbury Road directly adjoin the development site. Blocks nos. 1-4 are the closest part of the development to the adjacent protected structures on Ailesbury Road. The north western elevation of

Block 1 is at least 25m from the shared boundary to the rear of no. 89 Ailesbury Road. The remaining protected structures on Ailesbury Road are set back at least 75m from the Blocks 2-4, the nearest blocks within the proposed development.

As per the above discussion, the development is not considered to have any adverse impacts on residential amenities to the north west by way of overlooking and overshadowing. I consider that the only potential adverse impact on the protected structures at Ailesbury Road is by way of visual impacts, as the outlook from these properties will be changed by the development, with consequent potential impacts on the settings of the protected structures. I note that Observer submissions consider that the Conservation Report underestimates visual impacts at these locations, since it is based on the LVIA, which has limitations that are considered elsewhere in this report. While I agree that impacts on views from Ailesbury Road and Seaview Terrace have greater significance than those assessed in the LVIA, I am satisfied overall that the development will not have significant adverse impacts on the views at these locations such as would warrant a refusal of permission. Any development of these zoned and serviced lands will change the outlook from these protected structures and I note that development has previously been permitted at the subject site under Reg. Ref. 4057/09 PL29S.236717. Furthermore, I am satisfied that the proposed development will not adversely impact on the character or settings of the protected structures or the Residential Conservation Area when viewing them from various vantage points in the surrounding areas. I consider that the development has a high standard of design and finish and therefore will present a satisfactory appearance to the surrounding area, including to the rear of the protected structures on Ailesbury Road. I also note that the proposed development was referred to the Dept. of Culture, Heritage and the Gaeltacht, to the Heritage Council and to An Taisce, none of which raised any concerns in relation to adverse impacts on the Residential Conservation Area or on the settings of the adjacent protected structures. In addition, Dublin City Council did not raise any concerns in relation to these matters. I also consider that the development is in accordance with guidance provided on conservation areas and on the settings of protected structures in the section 28 Architectural Heritage Protection Guidelines for Planning Authorities. The proposed impacts on the Residential Conservation Area and on the settings of the

protected structures at nos. 73, 75, 77, 79, 81, 83, 85, 87, 89 and 91 Ailesbury Road are therefore considered acceptable on this basis.

10.12.6. Other Adjacent Protected Structures

There are two other protected structures in the vicinity of the development site. Montrose House (RPS: 7847) is located within the RTÉ campus to the south east of the development site. The Sacred Heart Catholic Church (RPS: 7845) is located to the north west of the site adjacent to Donnybrook Village. The proposed development will be visible from these protected structures. However, having regard to the intervening distances and to the presence of other buildings in the vicinity of these protected structures, I am satisfied that the proposed development will not have any significant adverse impacts on their settings.

10.13. **Traffic and Transport**

10.13.1. Existing and Proposed Roads and Transport Infrastructure

The primary access to the development is from the Stillorgan Road Airfield junction which lies outside the applicant's landholding but where a Right of Way exists across the RTÉ site. This access leads straight to the basement car park, such that vehicular access to the main part of the development will be limited to emergency access, deliveries such as furniture and will be controlled by the Management Company. The basement contains a total of 528 no. car parking spaces. There is a secondary vehicular access from Ailesbury Close, which is to serve the 3 no. townhouses (6 no. car parking spaces), Mount Errol House (including 1 no. accessible parking space) and 136 no. basement car parking spaces. The movement of vehicles through the basement is to be controlled using internal barriers to ensure restricted access to Ailesbury Close. The site layout also includes an area north of the main entrance, which has a drop off area for the crèche with 5 no. short term / set down bays. Access to this area is to be controlled by retractable bollards.

The proposed layout is generally considered acceptable in terms of traffic safety and convenience. As discussed above, I am satisfied that the development will enhance pedestrian and cycle permeability in the area, in accordance with the principles of DMURS.

I note that many Observers state concerns in relation to the proposed vehicular, pedestrian and cycle access via Ailesbury Close. It is submitted that the existing road and pedestrian infrastructure is inadequate to cater for the access and that the additional traffic will cause a hazard and adverse impacts on residential amenities. I note that DCC Transportation Planning Division states concerns about construction traffic at this location but not about the operational stage of the development. I note that the NTA welcomes the Ailesbury Close access as it will reduce the level of development traffic using the Stillorgan Road access. While there is an existing access to the RTÉ campus from Ailesbury Close, I consider that the proposed level of usage would result in significantly greater traffic movements at this location than was previously the case given that the RTÉ access only served a limited amount of car parking. On balance, I consider that the traffic associated with the c. 143 no. basement car parking spaces would have less impact at the Stillorgan Road access than at Ailesbury Close. I therefore recommend that the Ailesbury Close access be limited to pedestrian and cycle traffic with the only vehicular access being the 3 no. townhouses, Mount Errol House, emergency access and services such as waste collection and deliveries, with no vehicular access to the basement car park at this location. This amendment would also address Observer concerns about the impact of the basement access to the rear of properties on Ailesbury Road.

I also note the submitted Road Safety Audit and consider that its recommendations should be required by condition. Having regard to pedestrian and cycle movements at Ailesbury Close, I note that there are limited pedestrian and no cycle facilities at this location at present and that the development does not intend to provide same. Several Observer submissions raise concerns about this matter. DCC Traffic and Transportation Division is silent on the issue. I note that section 3.23 of the Road Safety Audit recommends improved pedestrian facilities at Ailesbury Close and the RTÉ campus. The applicant will be required to make a development contribution in accordance with the current section 48 Development Contribution Scheme, i.e. the Dublin City Council Development Contribution Scheme 2016 – 2020, which includes provisions for roads infrastructure and facilities.

I note Observer submissions regarding cycle safety within the development. A condition requiring compliance with the National Cycle Manual may be imposed if

permission is granted. I also note that the Road Safety Audit includes several recommendations relating to cyclist safety, which may be required by condition.

The proposed layout has been designed in consultation with the NTA regarding the proposed Core Bus Corridor 13 Bray to City Centre and the interaction of same with the Stillorgan Road frontage of the development. TIA Appendix D comprises correspondence from the NTA, which confirms same. I also note that the NTA submission on file states that the development facilitates CBC 13. I consider that the applicant addresses this issue satisfactorily.

10.13.2. Traffic Impacts

The TIA and EIAR chapter 10 assess traffic impacts. I note Observer comments that the TIA underestimates trip generation, however the rates set out in EIAR Table 10.1 are considered reasonable given that the site is highly accessible, located on a public transport corridor and cycle route and is within walking distance of many services and amenities. The TIA is based on traffic counts carried out on Tuesday 11th February 2020. I note Observer concerns about the limited nature of this data; however I consider that a count carried out on a weekday during school term time would provide reasonably accurate information about existing local traffic conditions. While I accept that there are 'occasional' events in the area that generate high volumes of traffic, e.g. at the RDS and the Aviva stadium, these are limited in duration, have a 'one off' nature and are managed on a case by case basis. I also note that the TIA considers permitted developments in the vicinity of the site. The TIA analysis finds junctions in the area will be operating at or above capacity both with and without the development for the design year of 2020 and the horizon year of 2039. In all instances apart from the RTÉ access junction, the % increase will be < 5%, i.e. below the threshold for detailed assessment provided in the TII Traffic and Transport Assessment Guidelines (2014). The RTÉ access junction currently operates close to capacity at AM and PM peak hours. It will exceed capacity (DoS > 85%) both with and without the development in the 2024 opening year and 2039 horizon year.

The TIA finds that operational traffic from the development would cause little increase in the levels of queuing on the public road network, and as such the impact of the proposed development is considered to be minor. While I note the concerns of

Observers regarding traffic impacts, I accept the TIA conclusion given the accessible location of the development site and the limited amount of car parking provided in the proposed development.

10.14. Parking Provision

I note Observer concerns that the development will generate additional parking demand in the area. There are currently c. 167 no. existing car parking spaces at the development site, serving the RTÉ campus, which will be removed to facilitate the development. The development provides 528 no. basement car parking spaces for the apartment units, including 27 no. accessible spaces, which equates to 0.88 spaces per unit. This provision is below the development plan maximum parking provision of 1.5 spaces per unit. The applicant submits a rationale for the proposed car parking provision based on (i) local public transport services and (ii) census information on car ownership data in the area. It is submitted that the car parking provision will facilitate car storage for trips taken by residents which cannot be typically, or easily, be undertaken by walking, cycling or public transport. This point is considered reasonable. I note section 4.19 on the Apartment Guidelines, which provides that, in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. I note that DCC Transportation Planning Division is generally satisfied with the proposed car parking provision, subject to the implementation of a car parking management plan. The submission of the NTA requests that ABP consider that a reduced car parking provision would be appropriate at this location with regard to the Apartment Guidelines and to the accessible location of the development site. I consider that the proposed provision is reasonable on balance, given that traffic impacts associated with the development are acceptable as assessed above. The submitted Car Parking Management Strategy and Mobility Management Plan, which includes an on-site car club and electric vehicle charging facilities, are also noted in this regard. While I note Observer concerns that the mobility management proposals are unrealistic, I consider that the site is well serviced by public transport and by pedestrian and cycle facilities and that there is scope to implement mobility management proposals such

as a car club, given that the development will be run by a private Management Company.

The development provides 792 no. basement cycle parking spaces, equating to 1.3 cycle spaces per apartment, with a further 90 visitor spaces at ground level. This exceeds the development plan parking standard of one space per unit but does not meet the requirement of one space per bedroom as per section 4.17 of the Apartment Guidelines. I note that the cycle parking provision is well distributed between several basement locations and I consider that it is generally acceptable subject to conditions.

10.14.1. Construction Traffic

The TIA and EIAR assess construction traffic at the development based on estimated material quantities and construction programme across all activities on the site. Construction traffic impacts are lower than operational traffic and will be managed subject to an agreed Construction Traffic Management Plan. I note that Dublin City Council Transportation Planning Division recommends a condition precluding the use of Ailesbury Close by construction traffic, similar to that imposed on Reg. Ref. 4057/09 PL29S.236717. I note the concerns of Observers in relation to this issue and concur with the PA recommendation. Aside from this requirement, I am satisfied overall that the development will not have any significant adverse construction traffic impacts.

10.14.2. Traffic and Transport Conclusion

Having regard to the above, while Observer concerns in relation to traffic and transport impacts are noted, I am satisfied that the proposed roads, pedestrian and cycle layouts and car/cycle parking provision are acceptable subject to conditions and that the development will not result in undue adverse traffic impacts in the vicinity such as would warrant a refusal of permission. I also note in this regard that the submissions of Dublin City Council, the NTA and TII do not state significant concerns in relation to traffic and transport impacts or related matters.

10.15. **Drainage, Flood Risk and Site Services**

10.15.1. I note that Observers state concerns about potential flood risks associated with the development and refer to historic instances when the River Dodder burst its banks in 1986 and 2011, also potential impacts on the Nutley Stream c. 150m north

of the development site. There are also concerns about potential impacts on ground water levels including at adjacent residential properties.

10.15.2. The development is to connect to the existing foul and surface water drainage systems. The proposed surface water drainage design includes SuDS measures that will improve water quality, reduce the quantity of water discharging and provide biodiversity and amenity value. The proposed SuDS measures are designed to suit the high groundwater levels and poor infiltration / ground conditions present at the site. It is proposed that the surface water from the site will discharge through an existing outfall at the Ailesbury Road side of the site. A 'Class 1 Oil Separator' will be provided at the surface/rainwater exit point from the basement area to treat run-off from service roadways within the site. The scheme provides for the harvesting of rainwater, that will be recycled as 'grey' water to be used primarily for landscape irrigation within the development. All surface water calculations allow for 20% climate change. I note that Dublin City Council Drainage Division states no objection to these proposals. The comments of RTÉ regarding the proposed surface water drainage design are noted, permission should be subject to a final surface water drainage design to be agreed with the planning authority.

10.15.3. Foul drainage is to drain by gravity to the sewerage system at Ailesbury Close. The apartment blocks to the north of the site drain to the RTÉ foul drain diversion along the northern boundary. The apartment blocks to the south of the site drain to the foul drain along the N11 boundary prior to discharge to the sewerage system on Ailesbury Close. Two apartment blocks to the south-east of the site drain to a pumping chamber within the basement area from where it shall be pumped via a rising main to the gravity foul drain connected to the RTÉ foul drain diversion along the northern boundary. The Irish Water submission confirms that it has issued a Statement of Design Acceptance subject to an extension to the existing network, which is to be funded by the developer.

10.15.4. The submitted site specific Flood Risk Assessment (FRA) is noted. OPW flood maps indicate a historic flood event dating to 1989 at the Nutley Stream to the northeast of the site. Details of historic flood levels are provided, such that there was no flooding at the development site. The site is in Flood Zone C with no identified risk of fluvial, tidal, or pluvial flooding. There is an identified area of pluvial flood risk to

the immediate south east, however this is outside the development site boundary. The FRA recommends that FFLs are at least 150mm above the surrounding ground level to direct any overland flows away from proposed/existing buildings and this measure has been incorporated in most of the areas of the proposed development. In areas where this is not feasible, due to the natural slope of the site, the risk of pluvial flooding is to be mitigated by sloping the ground away from the building through landscaping proposals. The risk of pluvial flooding is also to be mitigated by the proposed SuDS measures, which have been designed with regard to the ground conditions at the site. Groundwater levels were monitored as part of the 2008 and 2018 site investigations, which determined that there is a low likelihood of groundwater flooding at the site. These conclusions are accepted. I am satisfied that the potential risks have been adequately considered and addressed in accordance with the requirements of the Flood Risk Management Guidelines.

10.15.5. There are two 27" main trunk water mains along Stillorgan Road fronting the site with a pair of 150mm connections entering the RTÉ lands to the east of the development. Arrangements for the separation of the RTÉ and proposed development supply are already in place and include a 300mm extension of the existing incoming 180mm mains. The Irish Water submission states that the connection is feasible subject to an extension to the existing network, which is to be funded by the developer.

10.15.6. The proposed foul drainage and water supply arrangements are satisfactory subject to conditions. While Observer concerns in relation to the matter are noted, I am also satisfied that the development is not at any significant risk of flooding and will not add to flood risk in the area. The submission of Inland Fisheries Ireland is also noted in this regard.

10.16. **Other Matters**

10.16.1. Legal Issues

I note that the submission by Ken Kennedy Solicitors on behalf of Chris Comerford, Pat Desmond and John Gleeson raises legal issues in relation to *inter alia* the jurisdiction of the Board to deal with the current application on foot of the section 5 pre-application consultation and various considerations in respect of the pre-application consultation including matters relating to the Inspector's Report of 2nd

October 2019. The Board is referred to section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended), which provides:

(9) Neither—

(a) the holding of a consultation under this section, nor

(b) the forming of an opinion under this section,

shall prejudice the performance by the Board, or the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016, or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

This report and my recommendations to the Board are based on the plans and particulars submitted with this application and relate solely to the proposed development as laid out in this application submitted under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

10.16.2. Ownership

In so far as it is suggested that inadequate consideration has been given to the question of ownership of the site in the context of the current application, I am satisfied that the applicant has demonstrated sufficient legal interest in the lands to make an application and has submitted the necessary documentation for the purposes of article 297 including the necessary letters of consent from Dublin City Council and RTE. In any event, it should be further noted that section 10(6) of the Planning & Development (Housing & Residential Tenancies) Act, 2016 provides that: 'A person shall not be entitled solely by reason of a permission under section 9 to carry out any development'.

10.16.3. Oral Hearing Request

I note that the following submissions request an Oral Hearing:

- Submission by Ken Kennedy Solicitors on behalf of Chris Comerford, Pat Desmond and John Gleeson

- Submission by Kieran O'Malley & Co. Ltd. planning consultants on behalf of Ailesbury Apartments Management Company Ltd.

The grounds of the requests are summarised in section 7.0 above.

Section 18 of the Planning and Development (Housing) and Residential Tenancies Act 2016 amends Section 134 of the Act of 2000 for the specified period as follows:

(1)(a) The Board may in its absolute discretion, hold an oral hearing of an appeal, a referral under section 5, an application under section 37E or, subject to paragraph (b), an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

(b) Before deciding if an oral hearing for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016 should be held, the Board—

(i) shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and

(ii) shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

I do not consider that there is a compelling case for an oral hearing in this instance. There is sufficient information on file for the Board to make a fully informed decision on the application. In addition, none of the submissions on file of Dublin City Council, the Dept. of Culture, Heritage and the Gaeltacht, Inland Fisheries Ireland, the National Transport Authority, Transport Infrastructure Ireland and Irish Water, raise significant technical issues which would need to be addressed by way of an Oral Hearing. I also note that the subject application was referred to the Heritage Council, An Taisce and the Dublin City Council Childcare Committee, none of which made a submission that raised significant technical issues that would warrant an Oral Hearing. Having regard to these matters and to the remainder of this assessment, I am therefore satisfied that an Oral Hearing is not warranted in this instance and I recommend that the Board does not invoke section 18(1) of the 2016 Act.

10.16.4. Childcare Provision

The development includes a crèche that provides for c. 100 childcare spaces. It would be required to provide a childcare facility catering for c. 163 children to meet

the standard rate of 20 childcare places per 75 units as per the Childcare Guidelines. The applicant submits that the development includes 187 no. 1 bed apartments, which would not be expected to require childcare services as per section 4.7 of the Apartment Guidelines. When 1 bed units are removed from calculating the standard rate of childcare spaces required, c. 115 no. childcare spaces would be needed. Section 6.5 of the submitted Community and Social Infrastructure Audit states that there are c. 25 no. childcare facilities located in the vicinity of the subject site and lists childcare facilities in the surrounding area. It considers demographic information for the area based on census information, noting that, if the surrounding rate of pre-school age children is applied to the population of the proposed scheme, it would generate a demand for c. 58 no. childcare spaces. The proposed childcare provision is considered acceptable on this basis. I also note that the submission of Dublin City Council does not raise any concerns in relation to childcare matters and that the application was referred to the Dublin City Childcare Committee, which did not make a submission in relation to the proposed development.

10.16.5. Hours of Construction

I note that the submission on behalf of the Republic of Austria requests that it be consulted regarding any changes to the hours of construction. Section 3.3 of the submitted Outline Construction Management Plan outlines proposals for liaison with adjacent residents / property owners during construction works. A standard condition regarding hours of construction may be imposed if permission is granted. This requires prior written approval from the planning authority in the event of any exceptional deviation from these times.

10.17. **Planning Assessment Conclusion**

- 10.17.1. Having regard to the above assessment, I conclude that permission should be granted for the proposed development subject to the conditions set out below.

11.0 **Environmental Impact Assessment**

11.1. **Introduction**

- 11.1.1. This application was submitted to the Board after 1st September 2018 and therefore after the commencement of the European Union (Planning and Development)

(Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

11.1.2. The application is accompanied by an Environmental Impact Assessment Report (EIAR), which is mandatory for the development in accordance with the provisions of Part X of the Planning and Development Act 2000 (as amended) and Schedule 5 of the Planning and Development Regulations 2001-2015. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 and section 172(1)(a) of the Planning and Development Act 2000 (as amended) provide that an EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings
- an area of 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

The development proposes 614 no. residential units and has a stated area of c. 4.155 ha. EIAR section 1.2 notes that the development exceeds the 500 unit threshold and therefore requires EIA.

11.1.3. The EIAR contains three volumes:

- Volume 1: Written Statement
- Volume 2: Appendices
- Non-Technical Summary

Chapters 1 - 4 inclusive set out an introduction to the development, background to proposed development, description of the development, alternatives considered, and methodology used. The likely significant direct and indirect effects of the development are considered in the remaining chapters which collectively address the following headings, as set out in Article 3 of the EIA Directive 2014/52/EU:

- Population & Human Health
- Biodiversity
- Land, Soils - Geology and Hydrogeology
- Water – Hydrology

- Material Assets – Built Services
- Material Assets – Traffic and Transportation
- Material Assets – Waste Management
- Air Quality and Climate
- Noise and Vibration
- Sunlight, Daylight, Shadow, and Light Effluence
- Microclimate – Wind
- Landscape and Visual Impact Assessment
- Cultural Heritage – Architectural Heritage
- Risk Management
- Interactions and Cumulative Impacts

11.1.4. EIAR Table 1.2 sets out the relevant experts involved in the preparation of each chapter of the EIAR. No specific difficulties are stated to have been encountered in compiling the required information or in carrying out the assessment. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended, and the provisions of Article 5 of the EIA Directive 2014.

11.1.5. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the Planning Authority and prescribed bodies, has been set out at Sections 8 and 9 of this report. This EIA has had regard to the application documentation, including the EIAR, the observations received, and the planning assessment completed in section 10 above. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

11.2. **Vulnerability of Project to Major Accidents and/or Disaster**

11.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that

are relevant to the project concerned. EIAR Chapter 19 provides an assessment of the potential significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters in accordance with Article 3(2) of the EIA Directive. It is noted that the development site is not prone to natural disasters. The nearest Seveso site is located c. 2.75km away while several other Seveso sites are also located the Dublin Port area. EIAR section 19.6 outlines potential risks and hazards during the construction and operational stages of the development, including flood risk. Mitigation measures primarily relate to construction and fire risk. With regard to predicted impacts, a risk register sets out the main hazards relevant to the proposed development. Extreme weather events and building collapse are the only hazards with a moderate risk rating. Subject to the implementation of all the mitigation measures as described in this EIAR and the Outline Construction Management Plan (OCMP), the risk of major accidents and/or disasters from the proposed development and the vulnerability of the development from major accidents and/or disasters is considered to be insignificant. This conclusion is accepted.

11.3. Alternatives

11.3.1. Article 5(1)(d) of the 2014 EIA Directive requires a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment. Chapter 4 of the EIAR deals with alternatives and sets out a rationale for the development. Having regard to the fact that the zoning of the subject site expressly provides for residential development, it was not considered necessary to consider alternative locations in detail. With regard to alternative uses of the site, the Z12 zoning objective allows for a very limited range of possible uses appropriate to the subject site, with the exception of residential, while the Development Plan specifically notes in relation to Z12 lands that the predominant land-use on lands to be re-developed will be residential, and this will be actively encouraged. While it is noted that the development permitted under Reg. Ref. 4057/09 involved commercial development at the subject site as part of the overall RTÉ masterplan, the applicant decided to pursue a residential development with regard to the zoning provisions of the site and the current high demand for residential accommodation in Dublin. The site was

considered the most suitable to accommodate a high density landmark residential scheme. This rationale is accepted. A 'do nothing' scenario and details of alternative development options considered during the design process are provided. I consider that the matter of the examination of alternatives has been satisfactorily addressed.

11.4. Likely Significant Direct and Indirect Effects

11.4.1. Population & Human Health

The assessment sets out demographic, health status and socio-economic information for the 'Montrose Catchment', i.e. within 1 km of the development site, in the context of general housing and population trends as per ESRI data and national and local planning policy, along with a summary of community and social infrastructure (as detailed in the Community and Social Infrastructure Audit).

Potential impacts are considered under the headings Land Use; Demographics; Socio Economic and Employment; Social Infrastructure and Human Health. Potential impacts at the construction stage generally relate to employment generation and human health with impacts on noise, air quality, dust, and traffic, along with relevant mitigation measures, which are considered in detail in other sections of the EIAR. Operational impacts relate to changes in land use; changing demographic profile; employment generation; increased population; provision of new social infrastructure, noise, air quality, travel, and commuting. No mitigation measures are proposed for the operational phase. No significant adverse residual impacts are identified. There are potential cumulative impacts associated with a number of extant permissions and live applications for development in close proximity to the development site, which are set out in EIAR Table 5.13. In a worst case scenario, where all, or a significant portion of these developments are under construction at the same time, there could be a cumulative impact on Population and Human Health resulting from increased levels of dust, noise, and construction traffic. Subject to the implementation of the mitigation measures in the OCMP, the impacts of the development in relation to dust and noise are expected to be slight, neutral, and localised in scale.

I have considered all of the written submissions made in relation to population and human health. I am satisfied that no significant adverse direct, indirect, or cumulative effects on population and human health are likely to arise.

11.4.2. Biodiversity

EIAR Chapter 6 evaluates impacts on habitats, flora and fauna on a study area comprising the development site, including the proposed surface and foul water drainage network drains to Ringsend WWTP and therefore, the hydrological Zone of Influence extends downstream to Dublin Bay. It is based on the following surveys:

- Habitat surveys conducted on 30th August 2018 and 1st October 2019.
- Wildlife monitoring cameras on identified burrow entrances between 1st and 9th October 2019 on one burrow entrance, and 9th and 17th October 2019 on a separate burrow entrance.
- 5 no. bat activity surveys within the development site on 7th, 12th and 14th June 2018 and 24th and 31st July 2019, with 3 dusk emergence and post-dusk activity surveys and 2 pre-dawn emergence surveys. External inspections of the former RTE sports club and Mount Errol House on 28th May 2018. No internal inspections of these buildings were carried out as they are flat roofed and have no accessible roof space. Internal and external inspections of the remaining buildings within the site on 28th May 2018. A number of trees located across the development site were examined from ground level on 1st October 2019 for potential to support roosting bats.
- 3 breeding bird surveys within the site on 10th May 28th May, and 21st June 2018 between 06:30 and 08:00. 2 wintering bird surveys within the site on 7th and 13th February 2020.

The proposed Natural Heritage Areas (pNHAs) within the potential zone of influence of the development are South Dublin Bay pNHA [000210], Booterstown Marsh pNHA [0001205], North Dublin Bay pNHA [000206] and Dolphins, Dublin Docks pNHA [000201]. These are within the downstream receiving environment within Dublin Bay Coastal Waterbody10, to which the surface and foul waters from the lands ultimately discharge via the surface and foul water sewer networks and Ringsend WWTP. The only likely significant risks to the pNHAs arise from construction and/or operation related surface/foul water discharges from the development site and the potential for these effects to reach the downstream environment. Surface water run-off during construction could potentially carry silt, oils or other contaminants into the local surface water network which discharges to the river Dodder. While such potential

risks would be avoided through normal best practise construction operations, there is also a potential risk that surface waters may be contaminated as a consequence of groundwater dewatering during construction, as some localised contaminated land was identified. EIAR section 6.7.1 sets out measures to protect surface water quality during construction, as detailed in the OCMP. Proposed SuDS measures are set out in EIAR section 6.7.1.2. The EIAR concludes that, subject to the implementation of these measures, none of the potential direct or indirect impacts associated with the development will affect the conservation objectives of any of the qualifying interest habitats or species of the aforementioned designated sites. No significant residual impacts on pNHAs are predicted. The submission of Inland Fisheries Ireland is also noted in this regard.

Of the 9 no. habitat types recorded at the site, 5 were considered to be of lower (local) ecological value due to their built structure, low diversity, or managed nature. The dry meadows and grassy verges habitat occur in 2 areas of the site, along the northern boundary and in the centre of the site where a previously managed vegetable garden has become overgrown. This habitat type provides a foraging resource for local insects, pollinators, birds, and bats and has been classified as local (higher) for its role in supporting the local biodiversity of the site. Broadleaved woodland and mixed broadleaved/conifer woodland occur along the western and northern site boundaries and there is a stretch of mature hedgerow which contains a mix of ornamental shrub and native tree species. The woodland and hedgerows within the site provide a valuable resource for the ecological connectivity of the lands to the surrounding wider area and for breeding birds, refuge for terrestrial mammals, and foraging and commuting habitat for bats and have been valued as local (higher) ecological importance. The development will result in the permanent loss of sections of these habitats. There is potential for damage to retained areas of woodland and hedgerows during construction. This would be a significant impact were it to occur, however mitigation is proposed and would be achievable. The retention of existing areas of woodland along the periphery of the site and the proposed landscape planting will reduce the long-term effect of habitat loss arising from the development and the inclusion of suitably mature trees will likely reduce habitat loss impacts to medium-term. Mitigation measures are proposed to minimise the risk of accidental damage to trees during construction. Several invasive species were recorded during

habitat and flora surveys, however none of them are listed on the Third Schedule of the Habitats Regulations S.I. 477 of 2011, i.e. are subject to restrictions under Regulations 49 and 50 which prohibits the introduction and dispersal, and the dealing and keeping of listed species. The EIAR concludes that the development is not likely to result in long-term effects on habitats and will not result in a likely predicted impact on habitats.

The fauna survey detected signs of usage by mammals including mammal paths, feeding signs and 3 burrow entrances within periphery woodland habitat along the western and northern site boundaries. Badgers were recorded foraging and commuting during surveys in July 2019 and 2 of the burrow entrances, one located at the northwest corner of the site and the second located along the northern boundary, were assessed as having potential to be badger sett entrances. These potential setts were monitored for 9 days each. The camera footage at both locations revealed badgers commuting/foraging through the site, however no evidence of badgers actively using the burrow systems was recorded and the burrow entrances are not considered to be active badger setts. The site has therefore been valued as being of local (higher) ecological importance for the local badger population. The development will result in the permanent loss of badger foraging habitat within the site. There is alternative suitable foraging habitat at the periphery woodland to be retained on the site, within the surrounding residential gardens and within the proposed landscaping. It is predicted that this loss of foraging habitat is unlikely to affect the conservation status of the local badger population and will not result in a likely significant negative effect. The removal of burrows at the site is not considered to have a significant negative effect on the local badger population as they were not deemed to be active badger setts. There are potential disturbance or displacement effects associated with construction works and artificial light during construction activity and at the completed development. However, given the urban nature of the surrounding environment and the presence of artificial lighting within the immediate vicinity, the local badger population would be expected to be habituated to artificial light spill. The retention of woodland along the southern and south western site boundaries would act as a visual buffer between these areas of the site and works area during construction and will provide a level of screening from residential dwellings and artificial light spill, which will reduce the levels of disturbance to

foraging badgers. The proposed lighting plan states that light levels will be kept to below 1lux along the boundaries and no operational lighting is proposed for the areas of woodland to be retained in the south and south-west of the site. It is therefore predicted that increased human presence and artificial light spill are unlikely to affect the conservation status of the local badger population and will not result in a likely significant negative effect. No significant residual impacts on badgers are predicted.

At least 4 no. bat species were recorded at the site during the bat activity surveys in 2018 and 2019: common pipistrelle, soprano pipistrelle, a single unknown bat species of the genus Myotis and Leisler's bats. The survey results illustrate the use of areas of the site by local bat populations for foraging and commuting, in particular the vegetation located in the north east of the site around Mount Errol House, the large hedgerow/treeline which runs into the middle of the site, and the remaining vegetation located in the north western corner of the site. The site is assessed as being of low suitability for commuting/foraging bats, due to the presence of isolated, suitable linear features within the site. The bat building inspections classified 5 no. buildings as having low suitability and 2 no. buildings as having no suitable features for roosting bats. The bat tree inspections found that the majority of the trees within the site were immature and unsuitable for roosting bats with one tree, a beech along the southwest site boundary, which had features with suitability to host roosting bats. The site has been valued as being of local (higher) ecological importance for bats. There is the potential for bats roosting in these structures to be injured or killed during demolition, renovation or site clearance works. Mitigation measures are proposed to ensure that demolition works do not result in bats being accidentally killed or injured during construction, also the introduction of bat boxes at the completed development. The development will result in the permanent loss of foraging habitat for bat species within site. However, there is alternative suitable foraging habitat located along the River Dodder, 200m to the north-west of the subject lands, within the surrounding residential gardens and within the areas of woodland to be retained at the site boundaries, all of which are likely to be sufficient to maintain the local population in the long-term. It is therefore predicted that, despite any temporary effects, the loss of foraging/commuting habitat associated with the development is unlikely to affect the conservation status of the local bat population

and will not result in a likely significant negative effect, especially considering that the most frequently recorded species are known to have a widespread distribution across the region and in Ireland and that these species are showing an increase in their population trend. Disturbance/displacement effects may also arise from artificial lighting during construction and in the completed development. Given the urban nature of the surrounding environment and the presence of artificial lighting within the immediate vicinity of the development, the local bat population would be expected to be habituated to artificial light spill, especially as the most common species recorded within the subject lands are some of the least sensitive species to artificial light spill. In addition, the proposed lighting plan has been designed to prevent significant impacts on foraging/commuting bats in the surrounding environment. It is therefore predicted that disturbance from artificial lighting associated with the development is unlikely to affect the conservation status of the local bat population.

One Amber-listed bird species, Robin, was considered to breed within the site. The remainder of the birds recorded to breed within the site are BoCCI Green-listed. No Red-listed species were recorded within or immediately adjacent to the site during the breeding bird surveys. Due to the activity recorded and the suitability of habitats within the site for breeding birds, its value for breeding birds has been valued as local (high) ecological importance. Two Herring gull were recorded foraging at the site during winter bird surveys. Breeding Herring gull are an SCI species of Ireland's Eye SPA (c. 13.3km northeast of the development site). No other SCI bird species were observed or noted to be using the habitats within the site. Due to the low numbers of recorded Herring gull and lack of evidence of usage by other SCI species, amenity grassland with the site is not considered to support important numbers of SCI species and thus the value of the site for wintering birds has been valued as local (low) ecological importance. The development will result in the permanent loss of foraging/breeding habitat for local bird species within the site. However, there is alternative suitable foraging/breeding habitat located in the vicinity of the site including within Elm Park Golf Club, located c. 350m south east, within the surrounding residential gardens to the immediate north of the site and within the areas of woodland to be retained along the south western and northern boundaries, all of which are likely to be sufficient to maintain the local population in the long-term.

It is therefore predicted that, despite any temporary effects, the loss of foraging/breeding habitat associated with the development is unlikely to affect the conservation status of the local bird population. There is potential for bird mortality associated with site clearance works during the bird breeding season, this will result in a likely significant local temporary negative effect. However, in the medium to long-term this would be unlikely to affect the long-term viability of the local breeding bird populations. There is potential for disturbance and displacement of breeding bird species during construction, including up to several hundred metres around the development. Given the nature of the surrounding environment, the existing level of noise and disturbance in the immediate vicinity of the proposed works and given that the bird species recorded on the development site, and likely to breed there, are common urban species disturbance or displacement effects are not likely to affect the conservation status of the local breeding bird populations. The proposed landscaping may provide additional nesting and foraging opportunities; thus no operational phase impacts are predicted with regard loss of habitat for breeding birds. Overall, the development is not likely to result in long-term effects on local breeding bird populations and will not result in a likely significant negative effect, at any geographic scale. Compensatory and enhancement mitigation are recommended to provide additional nesting opportunities for breeding birds. No significant residual impacts on birds are predicted.

The EIAR does not identify any significant cumulative impacts on biodiversity.

I have considered all of the written submissions made in relation to biodiversity. I am satisfied that the identified impacts on biodiversity would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed EIAR biodiversity mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity. The submissions on file of the Dept. of Culture, Heritage and the Gaeltacht and Inland Fisheries Ireland, which do not raise any significant concerns in relation to these matters subject to conditions, are also noted in this regard.

11.4.3. Land, Soils – Geology and Hydrogeology

The study area for the soils, geology and hydrogeology assessment extends to areas within 2km of the development. A geotechnical ground investigation was carried out in 2018 and a previous ground investigation was carried out on the development site and the RTÉ campus in 2008. EIAR sections 7.4.3 and 7.4.4 outline regional soils and geology and hydrogeology. EIAR Table 3 summarises ground conditions at the site and EIAR Table 4 summarises groundwater levels.

Approx. 135,000m³ of soils will be excavated to facilitate the development. The excavation will not extend to the bedrock level. The subsoils will be disposed from site either as waste or as a by-product under Article 27 for reuse elsewhere. While the excavation is not expected to encounter the bedrock at any point, it may be necessary, but unlikely that dewatering of the aquifer will be required where there is a risk of uplift of the remaining till. If so, the estimated abstraction rate will be approximately 320m³/day. It is likely that any abstracted groundwater will be re-injected back into the limestone aquifer elsewhere on the site or, where this is not feasible, the water will be discharged under licence to the local sewer following appropriate treatment. It will also be necessary to pump water from the excavation to manage small seepages from the till and to remove pooling surface water which will accumulate after rainfall, this will be managed as surface water and discharged to the local surface water drain which outfalls to the River Dodder or to storm/sewer drainage network depending on the level of treatment required. Localised areas of soil contamination are present in shallow made ground. The majority of these soils will be removed during the excavation of the basement or will be removed during the construction of buildings around the site.

The overall effects on topsoil are considered at worst case to be small adverse and temporary and no mitigation is proposed other than those proposed as part of the construction methodology. The removal of made ground soils with low levels of contamination will have a permanent minor beneficial effect and the significance of the effect is likely to be imperceptible and no mitigation is required. The limestone bedrock (limestone aquifer) will not be directly impacted as the excavation is not expected to encounter the bedrock at any point. Any dewatering will have a temporary negligible effect on water quantity in the limestone leading to a significance rating of imperceptible. There is slight potential that dewatering could

have a temporary moderate adverse effect on 8 abstraction wells within 2 km of this site, however, the significance of the effect of will be slight as alternative water supplies could be provided if required. Such dewatering could also result in a small reduction in the overall baseflow from the aquifer to the River Dodder which will comprise a negligible effect on the River Dodder. Consequently, assuming a worst-case situation, the dewatering will only have a temporary small/negligible adverse effect on the River Dodder.

There is a potential risk of localised contamination of soils and groundwater due to accidental spillages, leaks, and poor management of silts from surface run-off during demolition and construction works. There are risks to protected structures from settlement caused by dewatering of the quaternary deposits or undermining during the excavation of the basement. These risks are to be mitigated by construction management measures outlined by the applicant in the EIAR and the overall significance of the effects will be imperceptible.

The basement could act as a permanent partial barrier to groundwater flow. However, as excavation is within till the magnitude of groundwater flow is very small due to their low permeability. In addition, the 'wedge' of space between the excavated soil slopes and vertical basement wall can be back-filled with more permeable soils if needed, to allow whatever groundwater flow might arise to go around the basement. This will be confirmed during the detailed design stage. Hence the effect on the groundwater flow will be negligible leading to an imperceptible permanent effect. Monitoring of groundwater is proposed during construction and for a minimum of 1 year afterwards.

No significant residual or cumulative impacts are predicted.

I have considered all of the written submissions made in relation to land, soils, geology and hydrogeology. I am satisfied that no significant adverse direct, indirect, or cumulative effects on land, soils, geology and hydrogeology are likely to arise, subject to the outlined mitigation measures which are considered to be best practice and normal construction methods. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land, soils, geology and hydrogeology.

11.4.4. Water – Hydrology

The development includes surface water drainage works in the vicinity of the River Dodder (c. 175m to the northwest) and the Nutley Stream (c. 150m northeast). A hydraulic model has been prepared for the development area to assess the impact of the proposed surface water drainage network on the baseline hydrology. The hydraulic model was run to simulate a 1 in 100-year rainfall event with an allowance for climate change. A Stage 1 Flood Risk Assessment has considered the effects of flood risk on the proposed development, as outlined in section 10.11.4 above.

EIAR section 8.6.1 summarises potential impacts on water quality during the construction phase, which are to be mitigated by construction management measures as per the OCMP. The drainage design of the completed development will replicate the natural drainage characteristics of the site and the surface water runoff to the River Dodder will not increase when compared to the current scenario. The development is predicted to have an overall neutral long-term impact on the hydrology within the study area. No significant residual or cumulative impacts on hydrology, drainage characteristics of the site or water quality are predicted.

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

11.4.5. Material Assets: Built Services (Electricity, Gas, Water Services & Others)

EIAR Chapter 9 assesses impacts of the proposed utilities on the existing utility network including water, drainage, electricity, natural gas, and telecoms infrastructure. There is an extensive network of utilities in the ownership of DCC and a variety of utility companies across the surrounding area, which are described in EIAR section 9.4. The development will have separate drainage services, potable watermain, gas telecoms and electricity networks installed on site. Surface water run-off from the site will be restricted on site, discharge at a restricted rate through the existing 450mm drain in Ailesbury Close via a proprietary treatment system. Water supply will be taken from the 150mm connection installed at the South east

corner of the site as part of Irish Water requested enabling works. Natural gas will be provided to site to serve heating plant. Site wide LV ducting will be provided for site lighting and provide power to any security or access control equipment. Metered electrical feeds will be provided to all residences.

The Contractor will put measures in place to ensure that there are minimal or no interruptions to existing services during construction. Construction impacts on utilities are generally assessed as slight, negative, and short term / temporary. Operational impacts are assessed as slight, negative, and long term. No significant residual or cumulative impacts are predicted.

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

11.4.6. Material Assets – Traffic and Transportation

EIAR chapter 10 considers impacts related to traffic and transportation. The Board is referred to section 10.9.2 above in respect of traffic and transportation. The above assessment concludes that the development would not have such a significant adverse impact on traffic and transport in the area as would warrant a refusal of permission. The submitted mobility management and car parking management proposals are also noted in this regard.

I have considered all of the written submissions made in relation to traffic and transportation. I am satisfied that the identified impacts would be avoided, managed, and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transportation. The submissions of Dublin City Council (including the comments of Dublin City Council Transportation Planning Division), the National Transport Authority and Transport Infrastructure Ireland are also noted in this regard.

11.4.7. Material Assets – Waste Management

An Outline Construction and Demolition Waste Management Plan is submitted. EIAR section 11.5.1 summarises C & D waste generated by the development including demolition works. The EIAR outlines measures to facilitate and maximize recovery of materials and components from demolition of buildings for beneficial reuse and recycling. Any asbestos waste present on site will be removed from site by specialist contractors and holders of the appropriate waste collection permit. Where feasible naturally occurring excavation waste from site will be reused in construction. Topsoil, soil, rock and naturally occurring material excavated will be reused in construction within the development where feasible. An estimated 263,000 tonnes of naturally occurring material, predominantly boulder clay, will be excavated. This material is likely to be used as a by-product in construction, provided the material itself and its proposed end use comply with the provisions of Article 27 of the European Communities (Waste Directive) Regulations, 2011. An estimated 34,000 tonnes non-hazardous made ground will be generated during excavation. This will be delivered to a non-hazardous waste facility authorised under the Waste Management Act, 1996 as amended. An estimated 10,945 tonnes of general construction waste (hazardous and non-hazardous) could be generated during construction. The contractor will ensure that waste generation on site is minimised and that waste removed from site for recovery or disposal is reduced where feasible. Waste from demolition, excavation and construction will be transported by authorised waste collectors or delivered to authorised waste facilities. EIAR section 11.5.3 provides an estimate of residential waste generation, storage, and management from the proposed development. Commercial and residential waste will be stored in segregated bins and collected on a weekly basis. An Operational Waste Management Plan is submitted. No significant residual or cumulative impacts are predicted.

I have considered all of the written submissions made in relation to waste management. I am satisfied that no significant adverse direct, indirect, or cumulative effects in relation to waste are likely to arise.

11.4.8. Air Quality and Climate

A local air quality assessment was carried out in accordance with EPA guidance and using a phased approach as recommended by the UK DEFRA. Metrological data from Dublin Airport was used to establish prevailing wind conditions for the area. Information on baseline air quality is drawn from EPA monitoring data.

There are high sensitivity receptors at the residential properties directly to the north, south and west of the site, and the RTÉ campus to the east of the site. Receptors opposite the site, across the N11 including the Teresian school also have the potential to be impacted by dust emissions from site activities as some are less than 50m from the site boundary.

Potential air quality impacts during construction primarily relate to fugitive dust emissions. A dust minimisation plan is to be implemented. Residual impacts are assessed as not significant. There are potential climate impacts due to emissions from construction vehicles and machinery. Potential long term impacts are associated with emissions from changed traffic flows in the area. Climate impacts are assessed as imperceptible in the short and long term.

Potential vehicular emissions from the completed development are modelled using projected traffic flows from the TIA, with cumulative impacts assessed using the methodology of the UK DEFRA. The results for all potential traffic-derived pollutants were within limit values. Impacts are assessed as negligible and imperceptible. No significant cumulative impacts are identified.

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

11.4.9. Noise and Vibration

An environmental noise survey was carried out at 4 no. locations around the site between 24th and 28th May 2018. The noise environment is generally dominated by road traffic noise from the surrounding road network. The EIAR identifies the nearest Noise Sensitive Locations (NSL's) as residential properties at Ailesbury Court;

ancillary dwelling to the rear of No.89 Ailesbury Road; Belville Apartments and Stillorgan Road; residential property at Danesfield and amenity spaces of houses along Nutley Road and Ailesbury Road. 4 no specific NSL are identified as representative assessment locations, i.e. NSL1 Danesfield House, NSL2 Caretaker's Lodge at Danesfield, NSL3 Apartments at Ailesbury Court and NSL4 Residential Properties on Stillorgan Road.

Potential noise impacts generally relate to construction works at the development site (including construction traffic), as well as traffic associated with the development. EIAR Table 13.13 sets out the worst case predicted construction noise level at NSL1 Danesfield, the nearest and most exposed NSL to the development site. Predicted cumulative construction noise levels for each phase are between 62-69 LAeq (dB) and are below the maximum allowable construction noise levels at dwellings as per British Standard BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites – Noise. EIAR Table 13.14 presents worst case predicted construction noise levels at NSL 3 Ailesbury Close, resulting from the construction of the townhouses in the nearest part of the development site, with cumulative predicted construction noise levels below the above criteria. The assessment notes that while likely construction noise levels will be below the threshold of significant impact there is still a potential for short term impacts of moderate significance at the nearest NSLs. To minimise potential impacts during the construction phase best practice mitigation measures set out in EIAR Section 13.7 shall be adopted by the contractor in accordance with a Noise and Vibration Management Plan (NVMP).

No significant noise impacts associated with construction traffic are predicted.

No significant vibration impacts are anticipated. The contractor will ensure that construction works do not give rise to offsite levels of vibration that will exceed the criteria specified in British Standard BS 5228-2:2009+A1:2014 Code of practice for vibration control on construction and open sites – Vibration, as per the NVMP.

Potential operational traffic noise is primarily associated with traffic noise. Projected traffic data used for the assessment includes committed and planned developments in the vicinity of the site. The impact from the increase in traffic from the development is assessed for the opening year of 2024 and the design year of 2039 relative to the

'Do Nothing' scenario. The predicted increase in traffic flows associated with the development in the years 2024 and 2039 will result in an increase of less than 1dB along all roads receiving traffic from the proposed development and will have a negligible impact. No significant noise impact is predicted in relation to building services or the crèche play area. A noise monitoring programme will be undertaken on site during the construction works. No significant residual or cumulative noise impacts are predicted.

The submission of RTÉ in relation to potential noise/vibration impacts on the adjacent Radio Centre during construction and in relation to certain aspects of the finished development, e.g. the crèche, is noted. A condition requiring appropriate mitigation measures may be imposed,

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

11.4.10. Sunlight, Daylight, Shadow, and Light Effluence

EIAR Chapter 14 considers daylight, sunlight, overshadowing, and light effluence impacts to surrounding properties as a result of the development, also sunlight provision to proposed open spaces within the scheme. The analysis of impacts is based on the BRE Report 'Site layout planning for daylight and sunlight: a guide to good practice'.

There are no significant impacts associated with the construction phase, aside from possible light effluence to surrounding properties at certain times, which is to be managed by mitigation measures.

The assessment of the loss of daylight and sunlight to surrounding windows due to the development was undertaken in line with the methodologies in the above BRE guidance. The results show negligible adverse impact to:

- Main buildings to Ailesbury Road
- Seaview Terrace

- Donnybrook Castle
- Rear block of Belville Lodge

Detailed calculations have been undertaken where the obstruction angle is greater than 25°, based on survey data or drawings (where available), site visit observations and overhead photography. Obstruction angle tests indicate that the main buildings of the development would not impact the daylight and sunlight at Belville, Ailesbury Court and the ancillary dwelling to the rear of 89 Ailesbury Road. EIAR Table 14.2 indicates that all windows would meet the BRE Vertical Sky Component (VSC) as they would receive more than 27% with the proposed development in place. The daylighting impact is assessed as negligible for these properties. EIAR Table 14.3 indicates that all windows at these properties would meet the BRE Annual Probable Sunlight Hours (APSH) guidelines since they receive well in excess of 25% annually, including more than 5% in the winter months. The loss of sunlight impact is assessed as negligible.

EIAR Table 14.4 presents VSC results for windows in Danesfield facing the development site. The results show that all windows, except the southerly facing window to the summer house would meet the BRE guidelines since they would receive 27%, or greater, VSC with the development in place. The loss of daylight is assessed as negligible / negligible – minor at the Danesfield main building and ancillary structures. Table 14.5 presents APSH results for Danesfield such that all windows would meet the BRE VSC guidelines.

EIAR Table 14.6 presents VSC results for windows in nos. 7-11 Stillorgan Road. The results show that all windows would meet the BRE VSC guidelines. The loss of daylight is assessed as negligible at these properties. The VSC analysis of properties at nos. 3-4 Stillorgan Road as per EIAR Table 14.7 indicates that the example windows would meet the BRE VSC guidelines. The window to “The Cottage” facing Stillorgan Road and the development would just meet the guideline target of 27%. The window facing the site to the property on the corner of Stillorgan Road and Donnybrook Castle would be below the VSC targets. However, an adjacent window facing Donnybrook Castle would meet the BRE guidelines. If they lit the same room, daylight as a whole would not be expected to be significantly impacted. The daylighting impact is assessed as minor at this location

EIAR Table 14.8 presents VSC results for 4(A) and 4(Belville Mews) Stillorgan Road and Belville Lodge. The windows analysed meet the BRE VSC guidelines and the daylight impact is assessed as negligible. Table 14.9 presents APSP analysis for southerly facing windows in these properties such that all windows analysed meet the BRE guidelines for loss of sunlight and the sunlight impact is assessed as negligible.

EIAR section 14.6.2.3 considers sunlight impacts on open spaces at adjacent properties, with regard to BRE guidance that that at least half of the area should be able to receive two, or more, hours of sunlight on 21st March. The properties considered are Danesfield, nos. 1-2 Seaview Terrace and The Mews at no. 3 Seaview Terrace. The results, as illustrated, indicate that some areas along the southern boundaries of these properties will not meet the BRE target, however these areas do not currently meet the target. The EIAR considers the gardens as a whole and concludes that all garden areas would meet the BRE guidelines by either receiving at least two hours of sunlight on 21st March over more than half their areas, or having an area able to receive at least two hours of sun with the development in place greater than 0.8 times the values before. A small area of 2 Seaview Terrace and The Mews could have an increase in sunlight due to the removal of the "Fair City" set, close to the boundary. The impact on sunlight to neighbouring gardens is assessed as negligible.

EIAR Figure 14.8 illustrates sunlight on 21st March at the development, such that 75.9% of the entire area analysed would be able to receive at least two hours of sunlight on 21st March. The shadow analysis of impacts on adjacent properties is illustrated in EIAR appendix 14.1, which indicates overshadowing on 21st March (also equivalent to September 21st), 21st June and 21st December at 8.00, 10.00, 12.00, 14.00, 16.00 (also 18.00 for June only). There would be some additional shading of neighbouring gardens to the north in the afternoon of March 21st but this is confined to spaces close to the boundary. There is little or no overshadowing on June 21st. There is additional overshadowing of areas to the north on December 21st.

The EIAR consideration of solar glare does not identify any significant adverse impacts.

The lighting plan for the development is to be designed to prevent light effluence and no significant adverse associated impacts are identified.

No significant cumulative impacts or interactions are predicted.

I note that the submission of the Republic of Austria, which is located on Ailesbury Road to the north of the development site, considers that the shadow study does not given an accurate or comprehensive representation of overshadowing associated with the development. I note that the shadow analysis, as presented in EIAR Appendix 1 (i) is based on BRE guidance, (ii) is carried out by competent experts and (iii) presents comprehensive analysis of at 2 hourly intervals at both equinoxes, summer, and winter. I am therefore satisfied that the analysis is comprehensive and accurate.

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

11.4.11. Microclimate – Wind

EIAR Chapter 15 considers wind conditions affecting activities in areas within and surrounding the development. The assessment was carried out using computational fluid dynamics (CFD) and based on at least 10 years of historical weather data from Dublin Airport. It considers wind impacts at public spaces, entrances, pedestrian / cycle routes and balconies and the following specific locations within the development, where high wind speeds are expected to occur:

- The gaps between Blocks 6, 7, 8 and 9;
- The walkway between Blocks 5 and 9;
- The corners of Block 7 and 9;
- The Open Lawn near Block 4 and 5;
- The public space to the east of Block 5;
- Balconies facing into prevailing winds;

- Corner balconies exposed to the wind.

The results are assessed using the 'Lawson Criteria', which are widely used to describe acceptability for particular activities in terms of 'comfort' and 'distress' (or safety). The potential impacts exclusively relate to the completed development.

EIAR section 15.7.2 outlines mitigation measures that have been incorporated into the scheme, including landscaping and outdoor screens to reduce windiness; a pergola at the southwest façade of the Block 5 to disrupt downdraft; alignment of walkways away from areas where windiness is expected to occur, also balcony design and screening. The residual wind conditions are generally within acceptable criteria, except for severe weather events. No significant residual or cumulative impacts or interactions are identified.

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

11.4.12. Landscape and Visual Impact Assessment

The LVIA identifies the following 'key townscape receptors' in the vicinity of the development site: Stillorgan Road; residential areas to the south west of the Stillorgan Road; Donnybrook junction cluster and Anglesea Bridge; RTÉ campus and residential areas north and east of the site. Some of the elements and areas surrounding the site are individually of heritage and/or townscape and visual value (e.g. Donnybrook church, Ailesbury Road and Seaview Terrace) and may be sensitive to change in their setting. However, overall there is (a) significant diversity in land use, plot and building typology, scale and architecture, which results in a mixed or indistinct townscape character, and (b) a lack of coherence in the townscape (due largely to the severing effect of Stillorgan Road, which is the dominant element). These characteristics suggest there is capacity for change, although this may affect some sensitivities. Considered as a whole, the townscape sensitivity to change is medium.

Potential visual impacts during the construction phase are identified as 'significant' and negative but temporary.

EIAR Table 16.6 presents an Assessment of Risk on Townscape Receptors. Potential construction impacts are generally assessed as 'not significant' or 'moderate' and 'neutral' or 'negative'. The potential impacts of the completed development are assessed as 'slight positive' or 'moderate positive' for land use pattern; urban grain and movement patterns; plot & building typologies, scale & architecture; landscape / green infrastructure. Potential impacts at townscape character areas are assessed as 'moderate positive' for the Stillorgan Road Corridor and the RTÉ campus; 'significant positive' for the residential areas south west of the Stillorgan Road; 'slight positive' for the Donnybrook Junction cluster and 'moderate neutral' for the residential areas north and east of the site.

The LVIA considers visual impacts at 31 viewpoints adjacent to the site and in the wider area. I am satisfied that the viewpoints chosen allow for a comprehensive consideration of overall visual impacts. Photomontages are provided. Impacts in the wider area at viewpoints nos. 11 -16 and 29-31 are assessed as 'no effect', 'imperceptible neutral', 'not significant neutral' and 'slight neutral'. Impacts in the vicinity of the site at viewpoints nos. 1-10 at Donnybrook junction and the Stillorgan Road, viewpoint no. 24 Nutley Lane, and viewpoints nos. 25-28 within the RTÉ campus are assessed as 'imperceptible neutral', 'not significant, positive', 'slight positive', 'moderate positive', 'slight positive' or 'significant positive'. Impacts at viewpoints nos. 17-23 represent the sensitive residential neighbourhood/character areas to the north and east of the site and are assessed as follows:

- 17. Junction of Ailesbury Rd & Ailesbury Close 'slight neutral'
- 18. Ailesbury Close 'moderate positive'
- 19. Ailesbury Road 'moderate neutral'
- 20. Nutley Rd north of the site 'slight negative'
- 21. Nutley Rd at Seaview Terrace north east of the site 'moderate negative'
- 22. Nutley Ave 'slight neutral'
- 23a & 23b. Nutley Rd east of the site 'no effect'.

EIAR section 16.7.2 outlines mitigation measures, i.e. features of the development that have been incorporated to reduce / ameliorate visual impacts including retention of existing trees, landscaping, quality of design and finishes of buildings and open spaces, building setbacks and tapering of building heights at the north eastern site boundary. Residual impacts are the same as those identified in the LVIA. No significant cumulative impacts are identified.

EIAR Appendix 16.2 comprises a LVIA of impacts on neighbouring properties, which provides further detailed information on potential impacts at nos. 1-6 Seaview Terrace / Nutley road, Danesfield House, nos. 77-91 Ailesbury Road, Ailesbury Court, Belville Apartments, Belville House and houses on the Stillorgan Road. This includes views towards the development site from within adjoining properties. Potential visual impacts are assessed as 'low' at Ailesbury Court Apartments, no. 91 Ailesbury Road (the Austrian Embassy), 'medium' at no. 89 Ailesbury Road and nos. 81-87 Ailesbury Road and 'negligible' at nos. 77 and 79 Ailesbury Road. The assessment includes photomontages from the rear gardens of nos. 81 and 83 Ailesbury Road (photomontages nos. C1 and G1). Impacts on Danesfield House are assessed as 'high'. Impacts at nos. 1,2,3,5 and 6 Seaview Terrace are assessed as 'high'. Impacts on 'The Mews' are assessed as 'medium'. Impacts on the Nutley Court apartments are assessed as 'low'. Impacts at Belville House, 4 Belville Mews, 4a Belville Mews, Belville Lodge are all assessed as 'low' and impacts on Belville Apartments are assessed as 'medium'.

Observer submissions comment that the LVIA underestimates the potential visual impacts of the development and that the photomontages do not accurately demonstrate visual impacts on the area. I note that the viewpoints include both summer and winter vegetation and I consider that they are generally satisfactory. I consider that views at the Stillorgan Road and Donnybrook Junction areas may be slightly greater than assessed in the LVIA given that the development will involve the removal of vegetation along the road frontage, which is not indicated in some of the relevant photomontages, however I accept that some new planting is proposed at this location. With regard to visual impacts on the residential areas and Residential Conservation Area at Ailesbury Road, Seaview Terrace and Nutley Road, I consider that the photomontages nos. 17-23 are an accurate depiction of likely views but that the development will have a somewhat greater impact than the 'slight' and 'neutral'

assessment in the LVIA. I note in particular viewpoint no. 21 Nutley Rd at Seaview Terrace, which is assessed as 'moderate negative', given that the proposed development will significantly change views at this location. Further assessment of potential visual impacts at this location is provided in Appendix 16.2, which includes views from within neighbouring properties. I also note that the LVIA does not include permitted developments in the area, e.g. PL29S.303708 at Eglinton Road. However, given that the photomontages are considered to be comprehensive and accurate overall, I consider that the LVIA is acceptable notwithstanding these shortcomings. Having inspected the site and viewed it from a variety of locations in the vicinity, I generally concur with the assessment.

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

11.4.13. Archaeological and Cultural Heritage

EIAR Chapter 17 outlines the archaeological and historical background of the development site. There are no Recorded Monuments within the proposed development area, however the zone of notification relating to the site of a burial mound (DU022-084) is located c. 40m north of the site. This mound was excavated in 1877 and was levelled in the last decade of the 19th century. The development site is c. 170m southeast of the zone of archaeological potential for the historic settlement at Donnybrook (DU018-060/ DU022-082). There are several demesne landscapes in the vicinity of the development site on early 19th century mapping. Montrose House (RPS 7847) is shown c. 250m south of the proposed development area on Roque's map of 1757. A small house, known as 'Donnybrook Lodge' (and latterly 'Bel Ville') is illustrated within the current site, fronting onto the Stillorgan Road in 1816. By the time of the first edition OS map Mount Errol House has been constructed within the northern limit of the development site. Ailesbury Road was constructed in the late 19th century. Seaview Terrace dates to the early 19th century.

Archaeological test trenching was carried out at the site in 2010, a summary of same is provided. No evidence for *in situ* archaeological remains was noted. While the site has clearly been subject to modern disturbance there is some potential for previously unrecorded isolated archaeological deposits or artefacts to survive within the site. It is possible that ground disturbances associated with the development may have a direct, negative impact on previously unknown archaeological features or deposits that have the potential to remain below the current ground surface. Archaeological monitoring will be carried out during the removal of topsoil and overburden from the development area during construction. No significant residual or cumulative impacts upon the archaeological and cultural heritage resource are predicted. The submission of the Dept. of Culture, Heritage and the Gaeltacht is noted in this regard.

I have considered all of the written submissions made in relation to archaeology and cultural heritage. I note that no significant impacts are identified. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of archaeology and cultural heritage. The submission of the Dept. of Culture, Heritage and the Gaeltacht is also noted in this regard.

11.4.14. Cultural Heritage (Architectural Heritage)

EIAR Chapter 18 assesses impacts on architectural heritage. There is one protected structure, Mount Errol (RPS: 7846), located within the site boundary. The curtilage of Mount Errol House protected structure was established in consultation with Dublin City Council. There are a number of other protected structures in the immediate vicinity, at nos. 73, 75, 77, 79, 81, 83, 85, 87, 89 and 91 Ailesbury Road, which is also zoned 'Z2 – a residential conservation area' under the current City Development Plan. Montrose House (RPS: 7847) is located within the RTÉ campus to the south east of the development site. The Sacred Heart Catholic Church (RPS: 7845) is located to the north west of the site adjacent to Donnybrook Village. The EIAR also considers impacts on other historic buildings in the vicinity, i.e. Bellville Lodge and ancillary buildings to the north west; Victoria Lodge and Albert Lodge on the Stillorgan Road; Danesfield House and Seaview Terrace.

The attention of the Board is drawn to section 10.11 above, which provides a detailed assessment of potential impacts on the settings of adjacent protected

structures and on the Z2 Residential Conservation Area, with regard to EIAR Chapter 18 as well as the Conservation Report and other particulars on file.

The architectural significance of Mount Errol Lodge lies in the neo-classical composition of the external facades, which are good examples of the architectural style of this period. Mount Errol does not appear to have any particular cultural, social, or historic significance. The stable block, constructed at the same time as Mount Errol, is also architecturally significant and the front façade facing back towards the house in particular, should be retained. The open forecourt area and park to the front of Mount Errol are significant and should be retained. It is also important that at least one view of the front façade is maintained from the Stillorgan Road and there are several mature trees, standing within the wider site that should be retained. The combination of house, purpose-built stables and natural-style landscaped setting to the south make Mount Errol a house of regional architectural significance. Impacts associated with the refurbishment and reuse of Mount Errol are assessed as primarily positive.

Potential construction impacts are primarily related to Mount Errol and will be mitigated by construction management measures, summarised in EIAR Table 18.3.

Potential impacts associated with the completed development relate to the altered visual nature of the site, due to the large residential development, and the change of use of Mount Errol and the stable block, both to be fully refurbished under the development. The change of use of Mount Errol and the stable block will have a potential impact on the character of both buildings, however the proposed use is considered appropriate and suitable. The development has been designed to minimise impacts on views of Mount Errol House with significant sight lines retained in views from the Stillorgan Road. The proposed reuse and design of Mount Errol and the stables have been designed by a RIAI Grade I conservation architect and are appropriate to the scale, type, and history of the buildings. The proposals are inherently reversible. The impacts on Mount Errol House are assessed as significant and moderate overall.

The EIAR does not identify any significant adverse impacts on the settings of adjacent protected structures, including Danesfield, Seaview Terrace, Ailesbury

Road, Montrose House and the Sacred Heart Catholic Church. These matters are considered in detail in section 10.11 above.

I have considered all of the written submissions made in relation to architectural heritage. I note that no significant impacts are identified. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of architectural heritage. I also note in this regard that the proposed development was referred to the Dept. of Culture, Heritage and the Gaeltacht, to the Heritage Council and to An Taisce, none of which raised any concerns in relation to adverse impacts on the Residential Conservation Area or on the settings of the adjacent protected structures. In addition, Dublin City Council did not raise any concerns in relation to these matters.

11.4.15. Interactions and Cumulative Impacts

EIAR Chapter 20 provides a summary of principal interactions and inter-relationships and cumulative impacts associated with other proposed/permitted developments in the area, as summarised in EIAR Table 20.2, which have been discussed in the preceding chapters. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. In conclusion, I am generally satisfied that effects arising can be avoided, managed, and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. I am also satisfied that no significant cumulative impacts will arise in associated with other permitted or proposed developments.

11.5. **Reasoned Conclusion on the Significant Effects**

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

- Traffic and transportation impacts, which will be mitigated by construction traffic management, a Mobility Management Plan and by the provision of pedestrian and cycle facilities.

- Water impacts, which will be mitigated by construction management measures, SuDS measures, surface water management and monitoring.
- Landscape and visual impacts, which will be mitigated by construction management measures and by the retention and enhancement of existing trees and hedgerows and new landscaping and by the overall quality of the design and finish of the proposed development.
- Biodiversity impacts, which will be mitigated by tree and root protection during construction, bat mitigation measures; inspection and monitoring of potential bat roosts during construction; landscaping or replacement of trees and hedgerows; measures to avoid disturbance to animals during construction; lighting control measures and post construction monitoring.
- Land and soils impacts, to be mitigated by reuse of material in the development and by construction management measures and waste management.
- Cultural heritage impacts relating to impacts on the settings of adjacent protected structures and on the Z2 Residential Conservation Area, which will be mitigated by the retention and enhancement of existing trees and hedgerows and new landscaping and by the overall quality of the design and finish of the proposed development.

11.5.2. Having regard to the above, it is my view that the environmental effects arising as a consequence of the proposed development have been satisfactorily identified and assessed. I consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

12.0 Appropriate Assessment

12.1. AA Introduction

12.1.1. This assessment has had regard to the submitted "AA Screening Report and Natura Impact Statement". It is submitted that the report contains information required for the Board to undertake both Stage 1 Screening for AA and Stage 2 Appropriate Assessment (if considered necessary) in respect of the development. I have had regard to the contents of same. The report concludes that the possibility of any

significant effects on any European Sites arising from the proposed development are not likely to arise, whether considered on its own, or in combination with the effects of other plans or projects.

12.1.2. The applicant has carried out field surveys including bat surveys, breeding bird surveys, habitat surveys, mammal surveys and winter bird surveys, which were undertaken over the following dates: 2nd 10th and 28th May 2018; 7th, 12th, 14th and 21st June 2018; 30th August 2018; 24th and 31st July 2019; 1st October 2019; and, 7th and 13th February 2020. Of these, two wintering bird surveys were carried out within the development site on 7th February and 13th February 2020. I am satisfied that adequate information is available in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used.

12.2. The Project and Its Characteristics

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

12.3. The Development Site and Receiving Environment

12.3.1. There are no designated sites within or immediately adjacent to the development.

The development site lies within an urban area and land uses in the vicinity comprise the RTÉ campus and residential properties.

12.3.2. No Annex I habitats for which European Sites within 15 km have been designated were recorded within the development site. No Annex II plant species were recorded during the field surveys. No non-native invasive species listed on the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011 were recorded within the development site. Two Herring gull were recorded foraging on amenity grassland during winter bird surveys undertaken within the development site. Breeding Herring gull are an SCI species of Ireland's Eye SPA located c. 13.3km northeast of the development site. Although, amenity grassland is known to be suitable for some wintering SCI bird species associated with Dublin Bay European Sites, no evidence of usage by these species was recorded during surveys e.g. Brent goose, Oystercatcher, Black-headed gull. Due to the low numbers of recorded Herring gull, which equate to <1% of the breeding SPA population, and lack of evidence of usage by other SCI species, amenity grassland with the development site is not considered to support important numbers of SCI species

associated with Dublin Bay or other European Sites. No other SCI or QI species for which European Sites within 15 km are designated were recorded during field surveys. Winter bird surveys within the development site did not record any evidence of usage by wintering SCI bird species which are known to use inland feeding sites. There are no features present within the development site that would provide suitable habitat for otter.

12.3.3. There are no surface water features within the development site. The nearest watercourses are the River Dodder located c. 180m northwest and the Nutley Stream c. 150m north of the development. The River Dodder outfalls to the River Liffey c. 3.2km downstream of the proposed development site at Grand Canal Docks and ultimately discharges to Dublin Bay. The Nutley Stream flows west to east c. 150m north of the development and discharges to Dublin Bay c. 1.5 km east of the development site. Groundwater under the west of the development site flows in a north-westerly direction towards the River Dodder and is likely to discharge into the river. However, the River Dodder is not considered to have any significant connection to the site due to low permeability of the tills. The groundwater flow direction under the east of the site is in a north-easterly direction towards the Irish Sea. However, there is not considered to be a significant connection due to the till under the site and the distance between the site and the coast.

12.4. Stage I Appropriate Assessment

12.4.1. In determining the zone of influence I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the development site to a European Site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie).

12.4.2. The following designated sites are located within 15 km of the development:

| Designated Site (Site Code) | Distance to Development | Qualifying Interests/ Conservation Objectives |
|----------------------------------|----------------------------|---|
| South Dublin Bay SAC (000210) | c. 1.4 km | The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets: |

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| | | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p> |
| North Dublin Bay SAC (000206) | c. 5.8 km | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p> |
| Rockabill to Dalkey Island SAC (0003000) | c. 9.1 km | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Reefs [1170]</p> <p><i>Phocoena phocoena</i> (Harbour Porpoise) [1351]</p> |

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| <p>Wicklow Mountains SAC (002122)</p> | <p>c. 9.7 km</p> | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> |
| <p>Howth Head SAC (000202)</p> | <p>c. 10.4 km</p> | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p> |

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| Baldoyle Bay SAC (000199) | c. 11 km | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> |
| Glenasmole Valley SAC (001209) | c. 11.5 km | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> |
| Knocksink Wood SAC (0725) | c. 11.8 km | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> |
| Ballyman Glen SAC (000713) | c. 12.9 km | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats:</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Alkaline fens [7230]</p> |
| Ireland's Eye SAC (0002193) | c. 14.3 km | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> |
| Malahide Estuary SAC (000205) | c. 14.6 km | <p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> |

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| | | <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Spartina swards (<i>Spartinion maritimae</i>) [1320]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> |
| South Dublin Bay and River Tolka Estuary SPA (004024) | c. 1.4 km | <p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p> |
| North Bull Island SPA (004006) | c. 3.5 km | <p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> |

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| | | <p>Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]</p> |
| Baldoyle Bay SPA (0004016) | c. 10.5 km | <p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999]</p> |
| Malahide Estuary SPA (004025) | c. 10.5 km | <p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162]</p> |

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| | | Wetland and Waterbirds [A999] |
| Dalkey Islands SPA (004172) | c. 6.7 km | The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] |
| Wicklow Mountains SPA (004040) | c. 10.1 km | The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Merlin (<i>Falco columbarius</i>) [A098] Peregrine (<i>Falco peregrinus</i>) [A103] |
| Howth Head Coast SPA (004113) | c. 11.5 km | The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Kittiwake (<i>Rissa tridactyla</i>) [A188] |
| Ireland's Eye SPA (004117) | c. 13.3 km | The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Cormorant (<i>Phalacrocorax carbo</i>) [A017] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] |

12.4.10. I do not consider that any other European Sites fall within the zone of influence of the project, having regard to the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

12.4.11. I consider that there is no possibility of significant effects on the following designated sites within 15 km, with regard to their conservation objectives, due to intervening distances, to the nature of the intervening land uses and to the absence of a hydrological or any other linkage between the development and the European Site, and/or due to the presence of a substantial marine water buffer between the surface water discharge point and/or the WWTP outfall pipe at Ringsend and the European site and potential for pollution to be dissipated in the drainage network:

- Rockabill to Dalkey Island SAC (0003000)
- Wicklow Mountains SAC (002122)
- Howth Head SAC (000202)

- Baldoyle Bay SAC (000199)
- Glenasmole Valley SAC (001209)
- Knocksink Wood SAC (0725)
- Ballyman Glen SAC (000713)
- Ireland's Eye SAC (0002193)
- Malahide Estuary SAC (000205)
- Baldoyle Bay SPA (004016)
- Malahide Estuary SPA (004025)
- Dalkey Islands SPA (004172)
- Wicklow Mountains SPA (004040)
- Howth Head Coast SPA (004113)
- Ireland's Eye SPA (004117)

12.5. Potential Effects on Designated Sites

12.5.1. As outlined in the submitted screening report and NIS (prepared by Scott Cawley on behalf of the applicant), I accept their assessment that the possible risks to any European Site relate to :

- Habitat loss and fragmentation;
- Habitat degradation as a result of hydrological impacts, whether as a result of foul or surface water;
- Disturbance and displacement impacts; and
- Habitat degradation as a result of introducing/spreading non-native invasive species.

I further accept the analysis of European sites within the vicinity of the proposed development (as outlined in Table 2, pages 16-27, of the submitted Screening Report and NIS), which assess the potential for significant impacts from the proposed development on the European sites. I am satisfied that those European sites where a relevant source-pathway-receptor link exists have been accurately identified.

12.5.2. To this end, I consider there are potential indirect hydrological connections between the development and the following European Sites in Dublin Bay via the surface water sewer network and the foul sewer network:

- South Dublin Bay SAC (000210)
- North Dublin Bay SAC (000206)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- North Bull Island SPA (004006)

The development site ultimately drains to Dublin Bay via the River Dodder and the River Liffey at the Lower Liffey Estuary, c. 3.2 km downstream of the proposed development, and from there to the Dublin Bay European Sites. There is a risk arising from potential construction and/or operation related surface water discharges from the development site, including the potential release of contaminated dewatered groundwater into the local surface water network during construction, and the potential for these effects to reach the downstream European Sites and potentially effect the conservation objective attributes and targets supporting the conservation condition of the qualifying interests of the four European Sites due to habitat degradation as a result of hydrological impacts. There is no proposal for a surface water outfall to the Nutley Stream.

12.5.3. The development does not have a direct hydrological connection to the designated sites at Dublin Bay. The nearest watercourses are the River Dodder c. 180m to the northwest and the Nutley Stream c. 150m to the north of the development site. The River Dodder outfalls to the River Liffey c. 3.2km downstream of the development and ultimately discharges to Dublin Bay. The Nutley Stream flows west to east c. 150m north of the development and discharges to Dublin Bay c. 1.5 km east of the development site. Both watercourses are separated from the development site by roads and built development. While groundwater under the west of the development site flows in a north-westerly direction towards the River Dodder and is likely to discharge into the river, the River Dodder is not considered to have any significant connection to the site due to low permeability of the tills. The groundwater flow direction under the east of the site is in a north-easterly direction towards the Irish Sea but there is not considered to be a significant connection due to the till under the site and the distance between the site and the coast.

Foul Water

12.5.4. Foul waters generated during construction and operation will be treated at Ringsend WWTP and following treatment will be discharged into Dublin Bay. While there are capacity issues associated with the Ringsend WWTP, the first phase of WWTP upgrade works will facilitate a 400,000 population equivalent extension and is expected to be completed in 2020. Further upgrade works will enable the WWTP to treat wastewater for up to 2.4 million population equivalent and are expected to be complete in 2025. In addition, Irish Water was granted permission for the Greater Dublin Drainage Project by ABP on 11th November 2019, which will help alleviate capacity issues at Ringsend WWTP. Furthermore, having regard to the scale of development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend Wastewater Treatment Plant, which would in any event be subject to Irish Water consent, and would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached.

Invasive Species

- 12.5.5. There is no potential for escape of non-native invasive plant materials, seeds or seedlings during construction or operation of the development, therefore there is no risk of any plant material reaching the receiving downstream water environment and European Sites and no significant associated effects are predicted. There is no risk of noise or other disturbance impacts to SCI bird species given the distance between the development site and the European Sites. Additionally, none of the Conservation Interest Species for which the European Sites have been designated were noted to utilise the habitats within the subject lands as ex-situ habitats.
- 12.5.6. With the exception of surface water, I am therefore satisfied that there are no other potential impacts on the above four European Sites. I am satisfied that surface water discharge indirectly via the River Dodder presents the only likely source of pollutants arising from the proposed development either during construction or operation that could reach the European Sites such as may have likely significant effects on them, in view of their qualifying interests and conservation objectives.

12.6. Stage 2 Appropriate Assessment

- 12.6.1. In the case of the four European sites listed above (12.5.2), for which the possibility of significant impacts cannot be excluded, I accept the conclusions of the submitted NIS, *'that the only likely significant risks to the European sites (in the absence of mitigation) arise from potential construction and/or operation related to surface water discharges from the proposed development site (this includes the potential release of contaminated dewatered groundwater in to the local surface water network during construction) and the potential for these effects to reach the downstream European sites'*. I found no evidence to the contrary in my assessment or in the contents of the submissions received.
- 12.6.2. In 'screening in' the above sites, and considering the possibility of significant impacts associated with proposed development, the applicant has excluded what would often be described as standard operational or construction procedures to control the possibility of potential pollutants exiting the site during construction and operation (in respect of SUDs). These measures are also detailed in the Outline Construction Management Plan and include surface water management, material storage, waste management and other environmental management measures. The pumping of groundwater may be required during the deeper phases of excavation when the confining properties of the glacial till are overcome by groundwater pressures, with the proposed locations of pump wells selected so as to minimise the volume of pumping. The water will be pumped under a fully-enclosed system and will be reinjected back into the limestone elsewhere on site. Where reinjection of all the groundwater back into the limestone aquifer is not feasible, any small volumes of water will be managed as surface water and discharged under licence to the local foul sewer or the local surface water drain which outfalls to the River Dodder, in compliance with relevant water standards which will require onsite treatment prior to discharge by standard measures such as siltation lagoons and oil interceptors. These measures are described as "mitigation measures" in the submitted documents.
- 12.6.3. While these works/measures (described in the submitted EIAR and NIS as 'mitigation measures') could be described as a standard approach for construction works in an urban area, and it should be noted that their implementation would be necessary for a residential development on any site in order to protect the

surrounding environs regardless of proximity or connections to any European Site or any intention to protect a European Site, I consider that in this instance because of the existence of localised contamination of the lands, and the potential indirect hydrological connection to a European site via the River Dodder, that they should be considered by the Board as 'mitigation measures' in the context of AA.

- 12.6.4. To this end, and in accepting the analysis and identification of the potential impacts on the conservation objectives of North Dublin SAC, South Dublin Bay SAC, North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA, as detailed in Table 4 (page 34-51) of the applicant's NIS, I am satisfied that the mitigation measures proposed in Section 5.1.7 of the applicant's NIS, adequately address and mitigate any potential likely significant effect. Furthermore, I am satisfied that the mitigation works outlined are typical and well proven construction methods, and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. I am satisfied that with the inclusion of these construction practices, all potential impacts associated with the construction of the development would be appropriately mitigated and avoided. Furthermore, I would accept the assessment and conclusions as they relate to proposed SUDs mitigation during the operational phase of the development, as outlined in the submitted NIS, page 52, and conclude that the inclusion of the proposed SUDs practices, will ensure that all potential impacts associated with the operation of the development would be appropriately mitigated and avoided.
- 12.6.5. Separately, I acknowledge the submission of Inland Fisheries Ireland which notes the sensitivity of the River Dodder as a salmonid system and recommends general construction processes to prevent pollution of the River Dodder and the Nutley Stream, which are not sought with the intention of mitigating impacts on Natura 2000 sites. The recommended measures are generally provided for in the Outline Construction Management Plan and are standard construction management measures. I also note the submission of the Dept. of Culture, Heritage and the Gaeltacht, which does not raise any significant concern in relation to potential effects on designated sites and recommends permission subject to conditions including the implementation of the Outline Construction Management Plan.
- 12.6.6. On the basis of the findings above, the information submitted with the application and the temporary nature of the construction works or operation of the development,

including mitigation measures, I consider that, subject to the mitigation measures identified in section 5.1.7 of the submitted NIS being deployed, there is no likelihood of loss or disturbance of important habitats or important species associated with the features of interest of the SPAs or qualifying interests of the SACs as a result of construction works on the site, including the pumping of groundwater or operation of the development, including SUDs.

12.7. In Combination Assessment

12.7.1. The project is taking place within the context of greater levels of built development and associated increased in residential density in the Dublin area. There is potential for cumulative impacts associated with permissions for residential and other developments in the vicinity of the development site, some of which may be under construction at the same time as the development. The following points are noted in this regard:

- There is no portion of any European Site within the development site. The habitats within the development site are not indirectly connected with any habitats within European Sites (e.g. by groundwater). No mobile fauna species for which European sites are designated are known to use the development site. There is therefore no potential for direct in combination effects arising from habitat loss at the development site.
- None of the potential impacts associated with the development will result in any perceptible residual effect on the receiving environment or on the qualifying interests/special conservation interests of the North Dublin Bay SAC, South Dublin Bay SAC, North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA. Therefore, there will not be any residual impacts associated with the development that will adversely affect the conservation objectives supporting the conservation condition of the qualifying interests/special conservation interests of those European Sites, and the proposed development in isolation will not adversely affect the integrity of those European Sites.
- There is the potential for other pollution sources within the River Dodder catchment, and any other catchments that also drain to Dublin Bay (e.g. the Liffey and the Tolka catchments) to cumulatively affect water quality in the receiving estuarine and marine environments. Any existing/proposed plan or project that

could potentially affect the European Sites in Dublin Bay, in combination with the proposed development, must adhere to overarching environmental protective policies and objectives within the functional areas of the relevant development plans. These policies and objectives will ensure the protection of the European Site within the zone of influence of the proposed development, and include the requirement for any future plans or projects to undergo Screening for AA and/or AA to examine and assess their effects on European Sites, alone and in combination with other plans and projects.

- As the development itself will not have any effects on the conservation objectives of any European Sites, and considering the protective environmental policies and objectives in the Dublin City Development Plan 2016-2022, the Dún Laoghaire-Rathdown County Development Plan 2016-2022, the Fingal Development Plan 2017-2023, South Dublin County Council Development Plan 2016-2022 and more widely across all of the other land use plans that seek to protect surface water quality in the catchments that drain to Dublin Bay, there is no potential for any other plan or project to adversely affect the integrity of any European Sites in combination with the proposed development

12.7.2. Having regard to these matters, I am satisfied that there are no projects or plans which can act in combination with the proposed development that could give rise to any significant effect to any European Site or adversely affect the integrity of any European Site.

12.8. **Appropriate Assessment Conclusion**

12.8.1. The NIS submitted by the applicant, and which I consider to be acceptable, has examined and analysed, in light of the best scientific knowledge, with respect to those European sites within the Zone of Influence of the proposed development, the potential impact sources and pathways, how these could impact on the sites' qualifying interest habitats and qualifying interest/special conservation interest species and whether the predicted impacts would adversely affect the integrity of the European sites.

12.8.2. It has been objectively concluded by Scott Cawley Ltd., following an examination, analysis and evaluation of the relevant information, including in particular the nature of the predicted impacts from the proposed development and with the

implementation of the mitigation measures proposed, that the proposed development will not adversely affect (either directly or indirectly) the integrity of any European site, either alone or in combination with other plans or projects, and there is no reasonable scientific doubt in relation to this conclusion. Having considered all the written submissions on file, and having regard to my own screening, and analysis, I am satisfied the conclusions of Scott Cawley Ltd. are well supported and sufficiently comprehensive, and that mitigation measures have been adequately identified, and can be reasonably and successfully implemented.

- 12.8.3. Avoidance, design requirements and mitigation measures are set out within this report and they ensure that any impacts on the conservation objectives of European sites will be avoided during the construction and operation of the proposed development such that there will be no adverse effects on the integrity of these European sites.

13.0 Conclusion and Recommendation

- 13.1. The development is considered to be compatible with the Z2 and Z12 zoning objectives that apply at the subject site. It will deliver a high quality residential development at a serviced site that is located at a central/accessible location on a public transport corridor. While the increased height contrasts with the surrounding residential and institutional developments, it represents a reasonable response to its context and is stepped down at site boundaries to reduce impacts on adjacent properties and protected structures. The overall layout includes good quality public amenity space and provides opportunities for enhanced vehicular, pedestrian and cycle permeability for the wider area. The development is a satisfactory response to the conservation issues that arise in relation to the site context at Ailesbury Road and Seaview Terrace and the presence of Mount Errol House at the site and other protected structures in the immediate vicinity. The proposed removal of trees at the site is acceptable in the context of the landscaping measures to be carried out as part of the development. I am satisfied that the development will not result in significant adverse impacts on residential amenities such as would warrant a refusal of permission. The design and quality of residential accommodation provided is of a high standard and is satisfactory. I am satisfied that the development will not result in a traffic hazard or in undue adverse traffic impacts. Drainage, access and parking

arrangements are acceptable subject to conditions. I am satisfied that the development will not be at risk of flooding and will not increase the risk of flooding elsewhere.

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

14.0 Recommended Order

Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Application for permission under section 4 of the Planning and Development (Housing) and residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 27th day of May 2020 by Cairn Homes Properties Limited care of Avison young, 2-4 Merrion Row, Dublin 2.

Proposed Development:

A planning permission for a strategic housing development at the former RTÉ lands at RTÉ Campus Montrose, Stillorgan Road and Ailesbury Close, Donnybrook, Dublin 4.

The proposed development will consist of:

- Demolition of existing buildings at the site including the former RTÉ Sports and Social club and the former Fair City set; 1 no. security hut; extensions to Mount Errol and Stable building and associated infrastructure to facilitate site clearance;
- Construction of 611 no. apartment units across 9 no. perimeter blocks ranging in height from 4 no. storeys to 10 no. storeys with a maximum height of 34.5m;
- Construction of 3 no. townhouses;

- Provision of landscaped public open space including primary and secondary circulation routes and 2 no. play areas;
- Provision of communal amenities and facilities including 1 no. childcare facility, 2 no. cafés and a residential facilities area;
- Change of use of Mount Errol House (A Protected Structure, RPS Ref. 7846) from commercial offices to residential amenity and the refurbishment of the associated stables building to provide a café;
- Vehicular and pedestrian access via the Stillorgan Road (R138) Airfield junction, to be the main entrance to the scheme, with limited vehicular, pedestrian and cycle access from Ailesbury Close (c. 143 no. cars maximum), also additional pedestrian / cycle accesses from the Stillorgan Road (R138);
- Amendments and upgrades to the shared access road from the Stillorgan Road (R138) Airfield junction to the development site;
- 528 no. basement car parking spaces, 6 no. car parking spaces at the 3 townhouses, 5 no. set down spaces at the crèche and 1 no. accessible space at Mount Errol House; 792 no. cycle parking spaces at basement level and 90 no. visitor cycle parking spaces at surface level;
- 5 no. substations;
- All enabling and site development works, landscaping, lighting services and connections, waste management, the removal of all existing car parking on site (c. 167 no. spaces) and all other ancillary works.

Decision

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

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was

required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

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

- (a) the location of the site in the established urban area of Dublin City in an area zoned for Z12 'To ensure existing environmental amenities are protected in the predominantly residential future use of these lands' and Z2 'Protect and/or improve the amenities of residential conservation areas';
- (b) the policies and objectives of the Dublin City Development Plan 2016-2022;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018 and particularly Specific Planning Policy Requirement 7 and 8;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- (i) 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;
- (j) The pattern of existing and permitted development in the area;
- (k) The planning history of the site and within the area;
- (l) The submissions and observations received;
- (m) The Chief Executive Report from the Planning Authority; and

(n) The report of the Inspector,

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the;

- South Dublin Bay SAC (000210)
- North Dublin Bay SAC (000206)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- North Bull Island SPA (004006)

are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the above sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following;

- Site Specific Conservation Objectives for these European Sites,
- Current conservation status, threats and pressures of the qualifying interest features, likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,

- view of the Department of Arts, Heritage and the Gaeltacht,
- submissions from observers including expert submissions,
- mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites.

The Board identified that the main likely impact arising from the proposed development on the European Sites would arise from potential construction and/or operation related to surface water discharges from the proposed development site (this includes the potential release of contaminated dewatered groundwater in to the local surface water network during construction) and the potential for these effects to reach the downstream European Sites.

Having regard to the avoidance, design requirements and mitigation measures as set out in the Natura Impact Statement, the Board concluded that the proposed development, subject to the identified mitigation measures, would not adversely affect any of the habitats within the relevant European sites.

In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European sites in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

Environmental Impact Assessment

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

- (a) The nature, scale and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted in support of the planning application;

- (c) The submissions from the planning authority, the observers and the prescribed bodies in the course of the application; and
- (d) The Inspector's report.

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

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

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

- Traffic and transportation impacts, which will be mitigated by construction traffic management, a Mobility Management Plan and by the provision of pedestrian and cycle facilities.
- Water impacts, which will be mitigated by construction management measures, SuDS measures, surface water management and monitoring.
- Landscape and visual impacts, which will be mitigated by construction management measures and by the retention and enhancement of existing trees and hedgerows and new landscaping.
- Biodiversity impacts, which will be mitigated by tree and root protection during construction, bat mitigation measures; inspection and monitoring of potential bat roosts during construction; landscaping or replacement of trees and hedgerows; measures to avoid disturbance to animals during construction; lighting control measures and post construction monitoring.
- Land and soils impacts, to be mitigated by reuse of material in the development

and by construction management measures and waste management.

- Cultural heritage impacts relating to impacts on the settings of adjacent protected structures and on the Z2 Residential Conservation Area, which will be mitigated by the retention and enhancement of existing trees and hedgerows and new landscaping and by the overall quality of the design and finish of the proposed development.

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

Conclusions on Proper Planning and Sustainable Development

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

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plan for the area, a grant of permission could materially contravene Dublin City Development Plan 2016-2022 in relation to building height, block configuration and housing mix. The Board considers that, having regard to the provisions of

section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the City Development Plan would be justified for the following reasons and consideration.

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

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

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

Permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically:

- In relation to the matter of building height, SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines.
- In relation to the matter of block configuration, SPPR 6 of the Design Standards for New Apartments Guidelines for Planning Authorities. An assessment of the proposed development was carried out to determine that the proposed development conforms with the requirements of SPPR 6.

- In relation to the matter of housing mix, SPPR 1 of the Design Standards for New Apartments Guidelines for Planning Authorities. An assessment of the proposed development was carried out to determine that the proposed development conforms with the requirements of SPPR 1.

Conditions

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

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the environmental impact assessment report, submitted with this

application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

3. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

4. The proposed development shall be amended as follows:
 - (a) The access from Ailesbury Close shall not serve the basement car park and shall be limited to the following:
 - Pedestrian and cycle access to the development
 - Emergency access
 - The 3 no. townhouses adjacent to Ailesbury Close
 - Services and deliveries to Mount Errol House including the accessible car parking space
 - (b) The access from Ailesbury Close shall not be used for construction traffic.
 - (c) A gate shall be provided at the laneway to the rear of the townhouses.
 - (d) Screening shall be provided to balconies in the side elevations of Blocks 1, 2, 3 and 4 where potential overlooking issues arise in relation to adjacent residential properties.
 - (e) Glazed screens or winter gardens shall be provided to balconies facing the Stillorgan Road, in order to mitigate noise impacts from road traffic, to the satisfaction of the planning authority.

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

commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety, in order to prevent adverse impacts on residential amenities and in order to provide a satisfactory standard of residential accommodation.

5. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

- (a) The roads and traffic arrangements serving the site, including signage, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (b) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (c) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority.
- (d) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.
- (e) Cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.
- (f) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (g) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity

6. 792 no. bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise 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.

7. The Mobility Management Strategy submitted with the application shall implemented by the management company for all units within the development.

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

8. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have 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.

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The 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.

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

10. 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.

11. Prior to commencement of development, a drawing illustrating compatibility with the implementation of the BusConnects project with final footpath details on the Stillorgan Road, shall be submitted to the planning authority, for approval.

Reason: In the interest of traffic safety and to prevent the development of this area prior to its use for future road improvements.

12. Details of any alterations to the road and pedestrian network serving the proposed development, including loading areas, footpaths, kerbs and access road to the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design

standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

13. The boundary planting and areas of communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

14. (a) Prior to commencement of development, all trees which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.
- (c) Excavations in preparation for foundations and drainage, shall be carried out

under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained adjacent to the site unless otherwise agreed with the Planning Authority.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

15. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation. The schedule shall include specific provision for the green walls on Blocks 1, 2, 3, and 4.

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

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

Reason: In the interest of visual amenity.

17. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Strategy, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/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.

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

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

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

Reason: In the interest of public health.

20. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

21. 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.

22. Proposals for a development name, commercial/retail unit identification, and block 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.

23. Construction and demolition waste shall be managed in accordance with a final 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.

24. 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.

25. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

26. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive and 0800 to 1400 Saturdays, 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

27. 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 compound(s) including area(s) identified for the storage of construction refuse,

(b) Location of areas for construction site offices and staff facilities,

(c) Details of site security fencing and hoardings,

(d) Details of on-site car parking facilities for site workers during the course of construction,

(e) Details of 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,

(f) Measures to obviate queuing of construction traffic on the adjoining road network,

- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,
- (l) 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.
- (m) The Construction Management Plan shall include specific provisions to address potential noise/vibration impacts on the adjacent RTÉ Radio Centre during construction.

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

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

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

29. 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.

Sarah Moran
Senior Planning Inspector
4th September 2020

Decision Quashed