



An
Bord
Pleanála

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

**Inspector's Report
ABP-307444-20**

Strategic Housing Development

Construction of 657 no. apartments,
creche and associated site works.

Location

Lands east of St. Paul's College, Sybill
Hill Road, Raheny, Dublin 5.
(www.stpaulsshd2.ie)

Planning Authority

Dublin City Council North

Applicant

Crekav Trading GP Ltd.

Prescribed Bodies

An Taisce.
Transport Infrastructure Ireland.
Department of Culture, Heritage and
the Gaeltacht.
Irish Water.
Department of Education.

Observer(s) See Appendix 1

Date of Site Inspection 29th July 2020

Inspector Ciara Kellett

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.
- 1.2. This Inspector's Report is as a result of a High Court Order to remit the file (ABP Ref. 305680-19) back to the Board.

2.0 Site Location and Description

- 2.1. The subject site (c. 6.7ha) is located approximately 5km from Dublin city centre, in the established neighbourhood of Raheny, Dublin 5. The site is roughly rectangular in shape, aside from a narrow strip that runs westward to provide for access onto Sybil Hill Road (R808). The site forms part of lands previously associated with St. Paul's College, a secondary school for boys, and the college structures are located to the west of the site. An existing residential development, known as 'The Meadows' is located to the west of the site, as is Sybil Hill House, a Protected Structure. The site is bound to the east, south and north by St. Anne's Park. The site was previously used as playing fields although it has been left unused for a period of time.
- 2.2. The northern part of the boundary of the site includes the remaining part of the walled garden of Maryville House, now demolished. The site slopes from a high point of 27.66m OD at the north-eastern boundary to a level of 21.43m OD at the south-eastern boundary. There are a number of mature trees on site and it is well screened on all sides. A high wall forms the boundary between it and 'The Meadows' and a line of deciduous trees are located near this boundary. Along all three sides between the park and the application site is a belt of mature trees.
- 2.3. The site is well served by public transport with the DART station Harmonstown being within c.500m of the site to the north and Killester being within c.1km to the west. The Howth Road which runs to the north of St. Anne's Park is served by regular and frequent buses.
- 2.4. Appendix A includes maps and photos.

3.0 Proposed Strategic Housing Development

3.1. This proposed development will comprise of 657 no. apartments within 9 blocks, ranging in height from 5 to 9 storeys and ancillary facilities. The main changes from the previously refused permission include the removal of 104 houses and an increase of apartments by 121. The following tables set out some of the key elements of the proposed scheme:

Table 3.1: Development Standards

	Subject proposal	Previous refusal (302225)
Unit no's.	657	536
Density	103 units per ha	88 units per ha
Plot Ratio	1	0.88
Indicative Site Coverage	16.5%	34%
Crèche	115 space	37 space

Table 3.2: Unit Mix (all apartments)

Block	1 bed	2 bed	3 bed	Total
1	48	92	3	143
2	15	39	9	63
3	17	44	10	71
4	15	39	9	63
5	17	44	10	71
6	83	41		124
7	9	23	4	36
8	10	28	5	43
9	10	28	5	43
TOTAL	224	378	55	657
	34%	58%	8%	100%

Table 3.3: Building Height

Block	Storeys	Parapet Height (metres)
1	5-8	16.63-25.15
2	8	25.05
3	9	27.95
4	8	25.05
5	9	27.95
6	7	22.4
7	5-6	19.25
8	5-6	19.25
9	5-6	19.25

Table 3.4: Unit Sizes

Apartment	Range sq.m
1 bed	50.7 - 56.2
2 bed	77.7 - 83.2
3 bed	99.4 - 104.8

Table 3.5: Open Space

	Communal sq.m	Private sq.m
Required	4,261	4,261
Provided	25,782 (40.18 % of site area)	5,582
25% of site area	6.4ha	

Table 3.6: Part V Provision

Requirement: 67 units	
Block 1: 18 units	6 no. 1 bed & 12 no. 2 bed
Block 3: 25 units	6 no. 1 bed & 15 no. 2 bed & 4 no. 3 bed
Block 5: 23 units	5 no. 1 bed & 14 no. 2 bed & 4 no. 3 bed

Table 3.7: Car Parking (include disabled and GO Car)

Basement: 0.7 per apartment	465
Surface: visitor	34
Total	499

Table 3.8: Bicycle Parking

Basement: 2 per apartment	1,314
Surface: visitor 0.5 per apartment	332
Total	1,646

Table 3.9: Main tenant amenity areas

Basement – Block 1	Stated Areas (sq.m)
Meeting Room	25.91
Games Room	30.85
Cinema (basement)	45.82
Office	12.1
Store	41.43
Store	36.54
Ground Floor- Block 1- Gross Amenity Area	268
Ground Floor- Block 1	
Entrance lobby/ concierge/ office	129.5
Wi-fi Zone	47.5
Hot Desk Area	61.5
Lounge	49.5
Meeting room	43.5
kitchen	16
Dining	37
Terrace	179
Total Ground Floor-Block 1	451

Ground Floor-Block 6	
Lobby/ gym breakout	68.5
Gym	62
Relaxation terrace	100
Changing area	16
Total Ground Floor-Block 6	162
TOTAL internal tenant amenity area	881
Total external tenant amenity area	279

4.0 Planning History

4.1. Subject Site

- **ABP Ref. 302225-18 SHD application**

Permission refused in September 2018 for reasons of inadequate information in the submitted NIS to enable the Board to undertake a conclusive assessment of the impact on the qualifying interests of European sites. This was a reactivated assessment of a previous decision (**ABP Ref. 300559-18**) to grant permission in April 2018 which was quashed by High Court Order and remitted back to the Board. I note the original application (**ABP Ref. 300559-18**) was lodged with the Board in December 2017.

- **Reg. Ref. DCC 2381/01**

Permission granted for floodlighting, changing room, upgrade works and ancillary site works.

- **Reg. Ref. DCC 2948/01**

Permission granted for new railings at St. Paul's College, including sides of sports fields.

4.2. Adjoining Lands

- **ABP- 301482-18 (Reg. Ref. DCC 3777/17)**

The Board refused permission in February 2020 following a decision to refuse permission by DCC in March 2018 for the demolition of three pre-fabricated buildings

and construction of a new Sports Hall and all-weather pitches at St. Paul's College for the following reason:

Notwithstanding that the grass pitch on the appeal site and adjoining former pitches were recorded in the Natura Impact Statement submitted to the planning authority on the 4th day of September, 2017 as being one of the most important ex-situ feeding grounds for Light Bellied Brent Geese in Dublin, and having regard to the recent changed characteristics of the former pitches resulting in a possible reduction in the overall availability of grasslands for feeding purposes due to increased sward height, together with the absence of any up-to-date survey information present with the planning application relating to the current usage of the site itself and immediately adjoining lands by Light Bellied Brent Geese as a feeding resource, or by any other Special Conservation Interest species for any other purpose, the Board is not satisfied that the usage of the site by any such species can be accurately determined at this time. The Board, therefore, cannot establish, beyond all reasonable scientific doubt, that the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of the North Bull Island Special Protection Area (Site Code: 004006), the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), the Baldoyle Bay Special Protection Area (Site Code: 004016), the Malahide Estuary Special Protection Area (Site Code: 004025), and the Rogerstown Estuary Special Protection Area (Site Code: 004015), or any other European Site in view of these sites' conservation objectives.

I note that this application was submitted to the Council in September 2017.

• **PL29N.246250 (Reg. Ref. 4245/15)**

The Board granted permission in July 2016 for the development of 76 residential units and ancillary works at Sybil Hill Road (west of The Meadows and the subject site). This development has been built and appears to be occupied.

5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application consultation took place at the offices of An Bord Pleanála on the 28th of June 2019. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted constituted a reasonable basis for an application for strategic housing development.

5.2. The prospective applicant was advised that specific information should be submitted with any application for permission as summarised below:

- **Item 1: Natura Impact Statement (NIS)** to assess potential effects on relevant designated sites with regard to their conservation objectives with particular attention to the reasons for refusal issued in relation to ABP-302225-18, relevant points raised by statutory consultees and the planning authority, all in order to prepare a comprehensive and suitably robust NIS. All relevant research and field survey results should be attached as appendices.
- **Item 2: A planning report** that includes:
 - a) Detailed chronology of all relevant planning **applications** on or adjacent to the site, including **legal challenges or judgements** as appropriate,
 - b) An up to date planning report should also include all references to relevant **guidelines and regulations** published since the previous application was lodged,
 - c) A report and/or drawings that clearly show **any changes** between that previously applied for and that which it is now intended to apply for.
- **Item 3: A layout drawing** that shows all relevant open space areas, roads and pedestrian linkages to St. Anne's Park proposed to be taken in charge by the planning authority.

5.3. Applicant's Statement

5.3.1. Subsequent to the consultation under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board's opinion was that the

documentation submitted would constitute a reasonable basis for an application for strategic housing development. Therefore, a statement in accordance with article 297(3) of the Planning and Development (Strategic Housing Development) Regulations 2017, is not required.

5.4. Response to Pre application Consultation

5.4.1. Response to item 1:

A Natura Impact Statement (NIS) was prepared which assesses the potential impacts of the proposed development on the relevant designated European sites and includes an assessment of any potential effects on specific species that may use the subject site for winter feeding (known as ex-situ feeding).

- In relation to Light-bellied Brent Goose (*Branta bernicla hrota*), the loss of an ex-situ feeding site will not adversely impact the conservation objectives for this species.
- In relation to other SCI species (i.e. Curlew, Oystercatcher, Black-tailed Godwit and Black-headed Gull), results of wintering bird surveys at the site have demonstrated that this site is not of importance for any of these species.

5.4.2. Response to Item 2

- Section 3.1 of the Planning Report provides an assessment of all relevant planning history and legal challenges.
- Statement of Consistency references all the relevant guidelines and regulations.
- Drawings and accompanying text outlining the changes between the previous application (ABP Ref.: PL29N.300559 and PL29N.302225) is included in Section 4 of the Architects Design Statement (pages 12-14).

5.4.3. Response to Item 3

A Taking in Charge Drawing identifies that the Public Open Space, which represents 25% of the development site area and which is proposed as part of this application in the south east portion of the site is proposed to be taken in charge by Dublin City Council, previously agreed.

5.5. Statement of Material Contravention

- 5.5.1. A Statement of Material Contravention has been submitted and the application has been advertised as a contravention of the Development Plan having regard to the proposed heights (range from 16.63m to 27.95m) which is in excess of the Development Plan standards (range from 16m to 24m).

6.0 Relevant Planning Policy

6.1 National Planning Policy

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

- National Planning Framework (NPF): Ireland 2040,
- National Biodiversity Action Plan 2017 – 2021,
- Climate Action Plan 2019 To Tackle Climate Breakdown (Government of Ireland, 2019),
- Eastern & Midland Regional Assembly (EMRA). Regional Spatial & Economic Strategy (RSES) 2019-2031 (2019),
- 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
- Urban Development and Building Heights - Guidelines for Planning Authorities, 2018
- Design Manual for Urban Roads and Streets,
- The Planning System and Flood Risk Management,
- Childcare Facilities – Guidelines for Planning Authorities,
- Architectural Heritage Protection - Guidelines for Planning Authorities,
- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (DEHLG).

6.2. Dublin City Development Plan 2016-2022

6.2.1. The site is located on lands zoned as Z15, Institutional & Community, where it is an objective to *'protect and provide for institutional and community uses and to ensure that existing amenities are protected'*.

- Residential development is 'open for consideration' under this zoning

The Development Plan states *'Where there is an existing institutional and/or community use, any proposed development for 'open for consideration' uses on part of the landholding, shall be required to demonstrate to the planning authority how the proposal is in accordance with and assists in securing the aims of the zoning objective....'*

It is further stated that a masterplan may assist in demonstrating how the proposal is in accordance with and assists in securing the aims of the zoning objective. The masterplan shall set out a clear vision to provide for the identification of 25% of the lands for open space and/or community facilities, in lieu of the 10-20% of public open space normally provided for in Development Plan standards. This requirement does not apply if the footprint of the existing buildings >50% of the total site area of the institutional lands.

The following standards also apply within Z15:

- Plot ratio 0.5 – 2.5
- Indicative site coverage 50%

6.2.2. Height

Section 16.7 Building Height

- Low Rise/Outer City- Maximum Height 16m/5 storeys for residential
- Within 500m of a DART station - Maximum height 24m/8 storeys for residential

The north-western portion of the site is c. 500 metres from Harmonstown DART Station.

6.2.3. Transport

Map J - Strategic Transport and Parking Areas

- Zone 2 - the development is in close proximity to good public transport links. Car parking provision is restricted in Zone 2 on grounds of good public transport links
- Residential car parking standard of 1 space /dwelling. No standard for childcare facility. Cycle parking 1 per unit for all zones.

6.2.4. Built Heritage

- Sybil Hill House is designated as a Protected Structure (Ref. 7910) in the 'Record of Protected Structures'
- St Anne's Park is designated as a Conservation Area
- Dublin City Parks Strategy 2017 - highlights St. Anne's Park as a historic Flagship Park
- Dublin Bay has recently been awarded a UNESCO Biosphere designation, which aims to promote biodiversity management at ecosystem level
- It is stated by the applicant that the gardens of Sybil Hill House (DU-50-O-203374) and St. Anne's (DU-50-O-217373) are listed in the National Inventory of Architectural Heritage (NIAH) - this element of the Inventory is unpublished as yet.

6.3. Designated Sites

The site is located within the vicinity of the following European Designated sites:

- c. 1.2km to the west of North Bull Island SPA (site code 004006)
- c. 1.2km to the west of North Dublin Bay SAC (site code 000206)
- c. 1.2km to the north of South Dublin Bay and River Tolka Estuary SPA (site code 004024)
- c. 3.5km to the north of South Dublin Bay SAC (site code 000210)
- c. 5km to the south-west of Baldoyle Bay SPA (site code 004016)
- c. 5km to the south-west of Baldoyle Bay SAC (site code 000199)
- c. 6.5km to the west of Rockabill to Dalkey Island SAC (site code 003000)
- c. 6km to the west of Howth Head SAC (site code 000202)

- c. 9km to the west of Howth Head Coast SPA (site code 004113)
- c. 9km to the south-west of Irelands Eye (side code 004117)
- c. 9km to the south of Malahide Estuary SPA (site code 004025)
- c. 8km to the south of Malahide Estuary SAC (site code 000205)
- c. 12km to the north-west of Dalkey Islands SPA (site code 004172)
- c. 14km to the south of Rogerstown Estuary SPA (site code 004015)
- c. 14km to the south of Rogerstown Estuary SAC (site code 000208)

6.4. Statement of Consistency

6.4.1. Section 8(1)(iv) of the Act provides that the applicant is to submit a statement setting out how the proposal will be consistent with the objectives of the relevant development plan or local area plan and, where the proposed development materially contravenes the said plan other than in relation to the zoning of land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.

6.4.2. The applicant's statement in summary:

National Policy:

- The proposal is consistent with Pillar 3 and Pillar 4 of the Rebuilding Ireland Action Plan
- Consistent with the National Planning Framework Objectives as homes are located in a place that can support sustainable development including being accessible to a range of local services, can encourage use of public transport, walking and cycling, and help tackle climate change
- Enables the consolidation of a strategically located site within the urban envelope of north east of Dublin City Centre in accordance with the Regional Spatial & Economic Strategy
- Responds to each of the 12 criteria listed in Urban Design Manual – A Best Practice Guide 2009 (included within the Statement of Consistency prepared by the Architects)

- Meets criteria of Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) because the site is well served by public transport with high capacity, and is sensitively designed as set out in the Planning Report
- Fully accords with Sustainable Urban Housing: Design Standards for New Apartments (2018) as it is a highly accessible site, is within reasonable walking distance of high capacity urban public transport stops, meets or exceeds SPPR3 and SPPR4, provides 0.7 car parking spaces per unit and is in accordance with cycle parking standards
- Outlines measures for sustainable and smarter travel
- Proposal accords with Childcare Guidelines
- Consistent with the objectives of the GDA Transport Strategy, Flooding Guidelines, EIA Directive and Birds and Habitats Directive.

Local Policy:

- Core Strategy of the Dublin City Development Plan includes Z15 lands for achieving sufficient zoned lands to cater for targeted population growth – lands have been included in the residential core strategy as ‘available suitable land for housing development’
- Complies with Objective SC13, SC14, SC15 relating to the shape and structure of the city
- Complies with policies for residential development including QH7, QH8, QH18, QH19, and QH20
- Complies with policies relating to Movement and Transport, and roads are designed in accordance with DMURS
- Green infrastructure: Landscape strategy and Landscape Design Rationale Report provided, complies with Objective GI13 and GI23
- Submits that the rationale for increased height above Development Plan standards should be considered in the context of the wider height policies of the Plan, Government policy and the site context
- Ensures an appropriate mix and location of Part V units

- Appendix 1 of the Report includes a table which assesses the proposal against all the Development Plan objectives.

6.4.3. Material Contravention

In summary, the Material Contravention Statement includes:

- Notes section 16.7.2 of the Development Plan identifies building heights for the city and a height cap of 16m for residential development for the majority of the site with some falling into the 24m height cap due to its proximity to Harmonstown DART station (within 500m). The proposed development includes buildings that range from 16.63m to 27.95m.
- Submits that the Urban Development and Building Heights Guidelines 2018 has resulted in lack of clarity as to whether the guidelines supersede policies within the Development Plan and until such time as clarity is forthcoming a material contravention is considered to have occurred.
- Notes the SHD Act allows the Board to materially contravene a development plan other than in relation to zoning with regard to the requirements of S.37(2)(b) of the Act and considers there is sufficient justification for the Board to grant permission.
- Submits that the NPF recognises that new approaches to urban planning and development are required and that '*significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward*'. Submits that the subject site is an example of the type of site anticipated in the Guidelines that can achieve increased building height and resulting increased density due to its scale and context.
- Submits site is able to accommodate increased heights and subsequent densities as the area is 6.4Ha in a centrally located and well connected suburb, located in proximity to high quality public transport and existing local infrastructure facilitating compact development in line with the NPF.
- Submits that the exceedance in height can be justified under Section 37(2)(b)(ii) and (iii) of the P&D Act.

7.0 Third Party Submissions

7.1. A total of 659 no. submissions were received in relation to the proposal of which 5 no. of these are prescribed bodies, further detailed below in Section 9.0. The remaining submissions are from residents of properties in the vicinity, residents' associations, sports clubs, environmental groups, and local politicians and the issues raised are similar in nature. They have been summarised into common themes below and expanded upon in Appendix 2.

- Principle of Development
- Height and Density of the Proposal
- Material Contravention of Z15 zoning
- Appropriate Assessment/Impact on shore birds
- UNESCO Biosphere buffer zone & biodiversity
- Traffic & Transport
- Flooding, Wastewater & River
- Impact on St. Anne's Park
- Impact on Social Infrastructure
- Impact on surrounding area visual and residential amenities
- Impact on Cultural Heritage

8.0 Planning Authority Submission

8.1. Introduction

The submission from the Chief Executive submission, received by An Bord Pleanála on 10th of December 2019, includes a breakdown of the submissions, the interdepartmental reports and the views of the elected members. The planning authority consider the overall development should be refused permission having regard to the significant biodiversity issues and the absence of sufficient information in the NIS. The information in the Chief Executive Report is summarised below.

8.2. Summary of Views of Elected Members

A synopsis of the comments/views in respect of the proposed development is set out as follows:

- The use of the SHD process with respect to the Z15 zoning is queried.
- The proposal is opposed, and the Board is requested not to grant permission.
- The green spaces in Dublin should be retained.
- The institutional use was never intended for use as residential.
- There is sufficient zoned and serviced lands available to provide housing.
- The proposal will cause traffic congestion, the traffic management plan does not address increased traffic volumes and the proposed access route for construction traffic is queried.
- The loss of community playing pitches will have a significant impact on the community in the vicinity and no alternative areas have been provided.
- The development on these lands must set a precedence for similar.
- The CPO process can be used to take these lands back.
- The proposal will have a negative impact on the residential and visual amenity of the surrounding area.
- Drainage issues in the vicinity will worsen if the proposal goes ahead.
- The modelling of the trees is questioned, appropriateness at the location.
- The integrity of St Anne's Park will be negatively affected.
- The enhancement of the biosphere is questioned and the tax payers input.
- The impact on migratory birds and displacement is of concern.

8.3. Planning Assessment

Institutional Zoning Objective

- The application site is zoned for Z15 Institutional Use.
- Residential development is open for consideration where it can comply with a list of criteria.
- A masterplan may assist in demonstrating how the zoning objective

requirements may be met. The masterplan shall set out a clear vision for 25% of lands provided for open space and/or community facilities.

- An upgrade of the sports and community facilities at St Pauls College is currently with the Board under ABP-301482-18, and is not linked to the proposal and within separate ownership.
- The proposal is consistent with the Z15 zoning objective.

School Capacity

- Figures indicate there is a substantial need for an additional primary school in the area on identified lands, including the subject site.
- The Department have not commented on the submitted schools demand and capacity assessment.
- The Department have requested an assessment of the impact of the proposal although have confirmed there is sufficient capacity to accommodate the proposal.
- There appears to be sufficient capacity in the school area to accommodate the proposal.

Design and Impact on Amenities

- The heights of Blocks 3 & 5 have been increased from 5 to 9 storeys (previous permission), Block 6 from 5 to 7 and three blocks (7, 8 & 9) are 5 to 6 storeys.
- The photomontages do not illustrate the impact from St Anne's North and the overall proposal should be reduced in height to ensure it is in keeping with the surrounding area.
- The design and layout of the apartments is acceptable.
- The use of the atrium to provide light for apartments increases the number of dual aspect units above 50%, this form of light is not acceptable.
- A number of units will have negative amenity impact from noise and disturbance: Block 1 (Apt 18), Block 6 (Apt 427), Block 8 (Apt 577 & 578), Block 9 (Apt 615 & 616).

- Access into the park should be restricted to two points and gate access should align with the park opening hours.

Traffic & Parking

- The provision of 0.7 spaces per unit is broadly in line with the transport section requirements and spaces should be allocated on a permit basis.
- Conditions are recommended to address the deficiencies in the TTA and the Stage 1 Road Safety Audit.

Biodiversity

- It is recommended that the proposal is refused having regard to the absence of sufficient information in the submitted NIS to indicate the proposed development would have no impact on the populations of the Brent goose, black-tailed godwit or curlew of Dublin Bay.

8.4. Summary of Inter-Departmental Reports

- **Drainage Division:** No objections, subject to conditions.
- **Roads and Traffic Planning Division:** No objections, subject to conditions.
- **Parks and Landscape Services:** Two reports submitted. Significant concerns raised; Precautionary Principle recommended. Recommends refusal.
- **City Archaeologist Report:** No objection, subject to conditions.
- **Air Quality Monitoring & Noise Control Unit:** No objection subject to conditions.

8.5. Parks and Landscape Services (5th December 2019 Report)

Having regard to the report submitted by the Parks Department, the recommendation to refuse permission which consequently resulted in the Council's recommendation to refuse permission, and having regard to the requirement for the Board to carry out an Environmental Impact Assessment and Appropriate Assessment, further detail of this report is summarised below. In summary it includes:

EIAR:

- Notes omission in EIAR of reference to policies on Biodiversity

- Reference to Agnew et al 2016 report – not new information and is evidence of the need to manage development around Dublin Bay as its fragile ecosystem needs protection.
- Assessment of 'do nothing' fails to state that it would be positive on Biodiversity.
- Habitats should be listed in Table 5-7 as of County Importance.
- Reference to trees planted in Phoenix Park from St. Anne's Park and the Holm Oak trees are directly genetically related to those of St. Anne's and should be appropriately considered.
- Recommend further badger surveys. Unclear how bat population will be affected. Bat survey is incomplete.
- Breeding sites for birds are interconnected with tree cover in St. Anne's.

NIS:

- There is important data that has not informed the planning submission including the EIS for Ringsend WWTP (2010 – 2011), environmental baseline data on Dublin Bay collected by Dublin Port Company, and Ecological studies of Dublin Bay under the Dublin Bay UNESCO Biosphere Conservation and Research Strategy.
- Findings of NIS are questionable as there are elements of sampling methods which introduce possible bias and there is no statistical analysis which considers this in the reporting of results.
- Surveys in current NIS did not include all day recording whereas the 2017 NIS did.
- Cessation of grass cutting means site is not the same in sampling terms and comparison of results is not scientifically sound.
- Study describes mainly long-term trends of Brent Geese which are largely positive but the short term declines are only given a brief mention and no analysis in relation to Dublin Bay.
- Study includes very little detail on assessment of impacts on other species of conservation interest, notably the black-tailed godwit and curlew.

- Several years of data post-treatment and several types of other datasets would be needed to assess impacts on populations of removal of sites from feeding.
- There are a range of factors that drive site preferences for usage by geese.
- Analysis should be done using most recent IWeBs data but this is not publicly available and the developer did not include it in the NIS – thus the assessment is incomplete and a determination on impacts cannot be made.
- Detail on Curlews, Oystercatcher, Black-tailed godwit and Black-headed gull included.
- Refer to Chief State Solicitors office letter accompanying Planning Report. Consider that the wetlands habitats at North Bull Island SPA may not provide adequate feeding resources.
- Landscape master plan shows very few trees retained and new continuous footpath replacing most of the existing habitats which is unacceptable. Design rationale does not include any ecological considerations.

8.6. Conditions recommended in the event the Board decides to grant permission

In the event the Board are minded to grant permission, 26 no. conditions are recommended:

C 1- Alteration to the height of Blocks 1 - 6 removing in the most part one floor from each block with detailed amendment to Block 6.

C 2- Internal alterations to apartments in Block 1/6/8 & 9 to reduce the impact from noise, odour and disturbance.

C 3- Additional landscaping plan details and restriction on the access points into St Anne's Park.

C 4- Agreement for external finishes.

C 5- Codes of Practice.

C 6- Trees security bond

C 7- Protection of trees.

C 8- Agreement of alignment of surface water pipe in relation to tree roots.

C 9- Agreement for works for the demolition and construction of a proposed drainage pipe outfall at the Naniken River.

C 10- Landscaping

C 11- Landscaping

C 12- Open Space

C 13- C&D

C 14- Part V compliance.

C 15- Compliance with the light pollution guidance.

C 16- Traffic requirements.

C 17- Drainage requirements.

C 18 – Development Contribution Scheme

C 19 – Bond condition

C 20 – Street/Estate Name

C 21- Lighting

C 22- Waste management

C 23- Above roof plant

C 24 - C26- Construction works

9.0 Prescribed Bodies

There were five submissions from Prescribed Bodies summarised below:

9.1. An Taisce

- The Board should ensure that the previous reasons for refusal have been adequately addressed in the subject NIS, particularly in the analysis of the data gathered in the wintering bird season of 2018/2019.
- Loss of significant amount of green space; would set an undesirable precedent for further curtailment of open space in the area.

- Worrying trends in obesity; the shape of the built environment can strongly influence everyday lifestyle choices that impact on human health and the urban environment needs to be shaped in a way to actively encourage recreation.
- Submit that the Board should have regard to the importance of maintaining urban open space when evaluating the subject application.

9.2. Department of Education

- Department has identified the emerging need for a new primary school in the area.
- New school was part of Ministerial announcement in 2018.
- Officials working to identify and acquire a site.
- Impact on school places to be assessed from this and future residential developments.

9.3. Department of Culture, Heritage and the Gaeltacht

- Notes Architecture, Archaeology and Cultural Heritage Chapter of EIAR – no objections subject to conditions.
- Nature Conservation: Main nature conservation concern is the potential for ex-situ impacts on Light-bellied Brent Geese a listed species for SCI for a number of SPAs. Notes loss of land has potential to reduce quantity and quality of feeding resources for Brent Geese – over last 30 years Brent Geese have begun to feed on amenity grasslands and agricultural fields with the population now reliant to a large degree on the availability of suitable grass feeding resources within the Dublin area outside the SPA network.
- It is noted that there is a temporal and spatial variation in such usage.
- It is necessary to demonstrate that the loss of feeding resources as a result of the proposed development will not reduce the quantity and quality of such resources in the network of land available to Brent Geese.
- Note the analysis undertaken and the mitigation measures proposed.

- Notes that the Board as the competent authority must ensure the assessment has no lacunae, has complete, precise and definitive findings and conclusions and will not adversely impact on the integrity of European sites either alone or in combination with other plans and projects.

9.4. **Irish Water:** No objection

9.5. **Transport Infrastructure Ireland (TII):** No objection

10.0 Oral Hearing Request

10.1. An Oral Hearing Request was submitted by Thomas P. Broughan TD. The issues raised are summarised as follows:

- Loss of amenity space,
- Z15 zoning and principle of residential use,
- Height, Design & Density,
- Traffic Impact Assessment & Mobility Management Plan,
- Drainage, Construction, Waste Management & Impact on residential amenity,
- Public Consultation.

10.2. Section 18 of the Act provides that, before deciding if an oral hearing for a strategic housing development application 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.

10.3. In this instance, it was decided there were no exceptional circumstances and therefore the request for an oral hearing was refused.

11.0 Assessment

- 11.1. Having regard to the requirements of the Planning and Development Act, 2000 as amended, this assessment is divided into a Planning Assessment, an Environmental Impact Assessment and an Appropriate Assessment. In each assessment, where necessary, I refer to the issues raised by Prescribed Bodies and observers in submissions to the Board in response to the application.
- 11.2. There is an inevitable overlap between the assessments, for example, with matters raised falling within both the planning assessment and the environmental impact assessment. In the interest of brevity, matters are not repeated but such overlaps are indicated in subsequent sections of the report.

Decision Quashed

12.0 Planning Assessment

12.1. I have had regard to all the documentation before me, including, *inter alia*: the application documents; the submissions received; the provisions of the Dublin City Development Plan 2016 - 2022; relevant section 28 Ministerial guidelines; and, provisions of the Planning Acts, as amended and associated Regulations. I have visited the site and its environs. I consider the main issues relating to this application are:

- Principle of development - zoning and SHD legislation
- Material Contravention – building height
- Design and Layout
- Residential and Visual amenity
- Traffic and transportation
- Social/Green Infrastructure
- Drainage
- Other matters

12.2. Principle of Development

12.2.1. At the outset, it needs to be clarified that these lands are not part of St. Anne's Park. Many objectors raised concerns and were of the opinion that this site was integral to the park and would set a precedent for development on green spaces. Information provided by the applicant details the history of St. Anne's Park as well as the Maryville lands. The land ownership sales and swaps are detailed. St. Paul's school was opened in 1952 and the subject site was part of the college grounds. This is clearly demarcated in various maps and also with respect to the zoning of the lands. The park is zoned Z9 and the subject lands are zoned Z15. The boundaries between the sites are well defined by belts of trees that run along all three sides adjacent to the park. While the two areas (subject site and park) lie side by side, they are clearly two distinct areas. St. Anne's Park is in public ownership, the subject site is a privately owned landholding. This application is therefore not the privatisation of a publicly owned asset as has been stated in many of the submissions received as it has always been privately owned.

12.2.2. The site is zoned **Z15** Institutional & Community, where it is the objective to 'protect and provide for institutional and community uses and to ensure that existing amenities are protected'. Almost every objector referred to the zoning and considered that the proposed residential development was not in accordance with the zoning of the site.

12.2.3. Residential development is *open for consideration* within a Z15 zoning. Childcare facilities are a 'permissible use'. The Development Plan states the following with respect to 'open for consideration':

An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be a use compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area.

Of note, the Development Plan states that uses NOT LISTED under the 'permissible' or 'open for consideration' will be deemed NOT to be permissible uses in principle in certain zones including Z15. As residential development is clearly listed as open for consideration under Z15 zoning, it is clearly an acceptable land use. If the Council deemed that residential development was not acceptable, it would not have been included in the list. Therefore, subject to various caveats in the Development Plan, which I will address further below, the principle of residential development is an acceptable land use in this zoning. Furthermore, I note that the Planning Authority, in their submission agreed that the development is consistent with the Z15 zoning objective.

12.2.4. Section 14.8.14 of the Development Plan provides further guidance for development in the Z15 zone. The Plan states:

With any development proposal on these lands, consideration should be given to their potential to contribute to the development of a strategic green network (see also Chapter 10 – Green Infrastructure, Open Space and Recreation), and to the delivery of housing in the city. (My emphasis)

In addition, it states that where there is an existing community use any proposed development which is 'open for consideration' shall be required to demonstrate how the proposal assists in securing the aims of the zoning objective. It is stated that a

masterplan may assist in demonstrating how this may be satisfied. A masterplan was submitted by the applicant.

- 12.2.5. With respect to an **existing community use**, I note that these lands were sold by the religious order to the applicant and are no longer available for a community use. A number of observers question the legality of that sale. This is not a matter for the Board and I refer the Board to section 34(13) of the Planning and Development Act, 2000 as amended (P&D Act). Of importance with respect to the P&D Act and Regulations is the fact that the applicant is the current owner of the lands and has the legal interest to justify making the application.
- 12.2.6. Having regard to the overall Z15 zoning, I am satisfied that with the continued **institutional use** of Sybil Hill house and St. Paul's school, as well as the potential for future development of sports facilities, the overall institutional and community use is being maintained in accordance with the Z15 zoning objective.
- 12.2.7. I further note that part of the subject application includes 1.6Ha for open space which it is stated, will be offered to the Council to be taken-in-charge. This will contribute to the provision of and further enhance the **community uses**.
- 12.2.8. Numerous observers expressed concern about the fact that the loss of the lands would restrict any future development of the school. The documentation indicates that the school has sufficient capacity. I further note that while the proposal for sports pitches was refused by the Board earlier this year, the information contained within it, did not have the benefit of up to date bird surveys etc. These lands are still available for future sports facilities, albeit they are completely separate to the subject site, under different ownership and neither site is in any way inter-dependent on the development of the other.
- 12.2.9. The Development Plan places emphasis on the requirements of an applicant to demonstrate how the proposal is in accordance with securing the aims of the zoning objective, where there is no longer a need for the institutional use. While this 'need' is considered to exist by a large number of observers, as stated above the lands have been sold and are therefore no longer available for community use.
- 12.2.10. The applicants submitted a masterplan with the application and it is stated that *'The Institutional Owners are happy to confirm that the main institutional and*

community uses on the lands, including space for any necessary expansion of such uses will be maintained and improved in the future by Orsigny/The Vincentian Order'.

In terms of achieving the zoning objective I note that:

- Public open space of c.1.6Ha to the south of the site and adjoining the park has been provided. The applicant states that this c.1.6Ha will be offered to the Council to take it in charge to manage and operate it for future uses.
- The open space is presented as one parcel and I consider that a condition of permission should include a requirement for the applicant to agree a final landscaping design in accordance with the Council. The use for community purposes can be agreed with the Council.
- The 25% public open space is not split up and is presented as a single open space. I note that the development also includes semi-private space with linkages to St. Anne's park. This will assist in the permeability of the site and access for non-residents albeit that there is a request that the linkages are gated and only open in accordance with the park opening hours which I consider acceptable.
- The development contributes to, and create linkages with, the strategic green network - as noted above the development proposes linkages with St. Anne's park and as required in section 14.8.14 of the Plan will contribute to the development of a strategic green network.

12.2.11. I have also had regard to the Council's **Core Strategy** with respect to housing. I note that some observers consider that the subject lands are not required for the purposes of residential development and that there are sufficient lands more appropriately zoned, such as Z1 and Z2 lands. The core strategy states that the policies and objectives of the Plan promote intensification and consolidation of the city which will be achieved in a variety of ways including the encouragement of development at higher densities especially in public transport catchments. It is further noted that the policies underpin the creation of a compact city with mixed-use environments, sustainable neighbourhoods and green infrastructure. I am of the opinion that the subject development provides for the delivery of 657 units underpinning the development of a compact city, with good public transport options and with amenities and quality of life facilities such as the park on its doorstep.

12.2.12. Table C of Chapter 2 of the Development Plan identifies the Core Strategy Figures for residential use or a mix of residential and other uses for each zoning. It is noted that the previous 2011 – 2017 Development Plan identified 2043 Hectares outside of the Z1 and Z2 zonings (i.e. including the Z15 zoning). It is stated that rezoned areas incorporating residential uses including Z15 in the current Development Plan (2016 – 2022) provide an additional 21 Hectares. The Development Plan estimates that 230 hectares of the 2043 hectares (from Table C) remain to be developed, which will give a yield c.18,000 units. I am fully satisfied that Z15 lands are required and have been included in assessments to meet the core strategy requirements for housing in the metropolitan area into the future.

12.2.13. Observers queried the use of the **SHD legislation**¹ for development on Z15 zoned lands. The 2016 Act states that “strategic housing development” means²:

the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses

Lands must be zoned for residential or a mixture of residential and other uses to avail of the SHD legislation. As highlighted above the Z15 land uses include residential development. The Council include Z15 lands as being appropriate for residential development and indeed, as I have outlined in the previous section, include the potential for residential development on these lands to contribute towards the delivery of homes for the increasing population of the city and as part of their core strategy. I am satisfied that the SHD legislation is the appropriate mechanism for this planning application.

12.2.14. Observers query the **Part V** proposal. The applicant states that there is an appropriate mix and location of Part V units. It is noted that this has been discussed with the Council and agreed as an acceptable proposal. I am satisfied that this is acceptable and can be subject to an appropriate condition should the Board be of a mind to grant.

12.2.15. Other observers refer to this proposal as being “**Build to Rent**” or “higher end” properties. The development has not been described in the public notices as Build to Rent and no information has been provided to indicate that this is the case.

¹ Planning and Development (housing) and Residential Tenancies Act 2016

² Section 3 Definitions (Chapter 1)

The market price of the units is not a matter for the Board. As stated above, the applicant intends to comply with Part V of the P&D Act.

12.2.16. In conclusion, I am satisfied that the Z15 zoning includes 'residential' as a use which is open for consideration, the Z15 residential potential to contribute towards housing requirements has been taken into account as part of the core strategy, and the SHD Act is applicable for lands zoned Z15. I am further satisfied that the institutional and community uses are being protected and provided for on the Z15 zoned land in accordance with the zoning objective with the inclusion of 25% public open space within a single area. Therefore, I am satisfied that the principle of development is acceptable.

12.3. Material Contravention

12.3.1. The applicant has submitted a Material Contravention Statement with respect to the heights proposed and the application has been described in the public notices as a material contravention of the Development Plan. While it could be argued that although the increased height is a contravention, it is not a 'material' contravention. However, the development exceeds the height explicitly stated in the Plan for such areas and I will address it as a material contravention. This material contravention is objected to in many submissions.

12.3.2. Section 16.7 of the Development Plan refers to Building Heights and section 16.7.2 specifically refers to height limits for low-rise, mid-rise and taller development. It states that rail hubs are within 500m of existing DART stations which is of relevance to the subject site. The table "Building Heights in Dublin" state that rail hubs have a maximum height of 24m and the outer city has a maximum of 16m. The application proposes heights of 16.63m to 27.95m which is in excess of the blanket restriction of 16m/24m.

12.3.3. I note that a number of observers queried the 'rail hub' reference to height whereby a development within 500m of a rail hub was permitted to rise to 24m. I am satisfied that part of the development site is within a 500m radius of Harmonstown DART station.

12.3.4. The applicant refers to the *Urban Development and Building Heights – Guidelines for Planning Authorities 2018*, and considers that this has resulted in a lack of clarity as to whether the guidelines supersede policies within statutory Development Plans. It

is further stated that “until such time as clarity is forthcoming or a Development Plan is varied to align with the requirements of the Guidelines, a material contravention is considered to have occurred”. I note that the SHD Act confirms that the Board can grant permission for a development which materially contravenes the Plan, other than in relation to the zoning, if section 37(2)(b) of the Planning and Development Act 2000 as amended (P&D Act) applies.

12.3.5. Having regard to the applicant’s submission, I am satisfied that the Board should determine the proposal in terms of a material contravention of the Development Plan. As such section 37(2)(b) of the P&D Act must be addressed to determine if the Board can grant permission. I note that a substantial number of objectors were of the opinion that the conditions required in section 37(2)(b) of the P&D Act were not met and the Board was precluded from granting permission. For the convenience of the Board, that section of the Act is repeated here:

Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

or

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

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

- 12.3.6. The applicant is of the opinion that the material contravention of the Plan can be justified under section 37(2)(b)(ii) and (iii). I intend to address each of points (i) to (iv) below.
- 12.3.7. In this first instance this development is not of strategic or national importance as per section 37(2)(b)(i). The proposal is of importance to the city with respect to contributing towards the goals set out in terms of housing and the core strategy, but this cannot be deemed to be of strategic or national importance. Secondly, I do not agree with the applicant that there are conflicting objectives in the Development Plan. The Development Plan is clear in terms of how high and where heights can be increased or lowered. Thus, I consider that neither section 37(2)(b)(i) or section 37(2)(b)(ii) applies.
- 12.3.8. I do however, consider that section 37(2)(b)(iii) applies. Of relevance is the *Urban Development and Building Heights – Guidelines for Planning Authorities 2018*, (Height Guidelines). This is of relevance and importance having been published under Section 28 of the P&D Act and notably subsequent to the Development Plan.
- 12.3.9. The Height Guidelines are intended “to set out the national planning policy guidelines on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in *Project Ireland 2040* and the *National Planning Framework*”³. It is further noted that statutory development plans have set generic maximum heights across their functional areas and if inflexibly or unreasonably applied “can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the *National Planning Framework* and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area”⁴. Section 2 refers to Building Heights and the Development Plan. It states that implementation of the *National Planning Framework* requires increased density, scale and height and requires more focus on reusing brownfield sites and building up urban infill sites, and of relevance those which may not have been built on before.

³ Section 1.1 of the Height Guidelines

⁴ Section 1.4 of the Height Guidelines

12.3.10. The applicant's Material Contravention Statement states that this site is an example of the type of sites anticipated in the Height Guidelines including:

locations with the potential for comprehensive urban development or redevelopment (e.g. brownfield former industrial districts, dockland locations, etc) should be identified Such areas, particularly those in excess of 2 ha (approx. 5 acres) in area.

12.3.11. I note **SPPR 1** of the Height Guidelines. It states (my emphasis):

In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

12.3.12. I am of the opinion that this particular area can accommodate the increased height proposed and should not be subject to a 'blanket numerical limitation'. The design proposed has taken full account of its setting with the taller units located towards the centre of the site. The number of units proposed will assist in achieving national policy objectives for significantly increased housing delivery in an urban area with substantial amenities including locations with good public transport accessibility.

12.3.13. Furthermore, having regard to the size and configuration of the site at 6.4Ha and its setting, it is considered to be able to accommodate increased heights and densities over those prescribed in the Development Plan.

12.3.14. Section 3 of the Height Guidelines refers to the Development Management Process. It is noted that '*building heights must be generally increased in appropriate urban locations*'. In this respect the continuation of low-rise development is not an option in this location, simply because the prevailing heights are two – five storeys.

The Height Guidelines present three broad principles which Planning Authorities MUST apply in considering proposals for buildings taller than the prevailing heights⁵ (note my response is under each question):

1. *Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?*

My Response: Yes – as noted and explained throughout this report by focussing development in key urban centres and supporting national strategic objectives to deliver compact growth in urban centres.

2. *Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?*

My Response: No - due to the blanket height limits applied in the Development Plan which predates the Guidelines and therefore has not taken clear account of the requirements set out in the Guidelines.

3. *Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?*

My response: No - it cannot be demonstrated that implementation of the policies, which predate the Guidelines support the objectives and policies of the NPF.

12.3.15. This section 3 of the Height Guidelines continues to describe information that the applicant should submit to the Planning Authority to demonstrate that it satisfies certain criteria at the scale of the relevant city/town, at the scale of district/neighbourhood/street, and at the scale of the site/building. Taking each point in turn as detailed in this section 3.2 of the Guidelines with reference to the bullet points therein, I conclude:

⁵ Section 3.1 of the Height Guidelines

Scale of Relevant city/town:

- Site is well served by public transport
- Landscape and Visual assessment have been carried out and are further addressed in section 13 of this Report. I am satisfied that there will not be an unacceptable impact.
- Proposal makes a positive contribution to place-making by virtue of new streets and public spaces within the 6.4Ha site, using massing and height to achieve required densities but with sufficient variety and height as has been done with the range of block heights and it responds to the scale of adjoining developments, with respect to the taller buildings being located towards the centre.

Scale of district/neighbourhood/street:

- Design has responded to its overall natural and built environment and makes a positive contribution with the placement of parking in the basement and the provision of significant open space reflecting its adjacency to St. Anne's Park.
- It is not monolithic – it is 7 blocks of varying heights.
- It enhances a sense of scale and enclosure having regard to the passive surveillance as a result of the design.
- Enhances legibility with public access through the site being made available.
- It positively contributes to the mix of uses – the non-residential uses will be available to the wider community and there is a sufficient mix of typology - 1, 2 and 3 bedroom units.

Scale of site/building:

- Microclimate reports submitted demonstrate access to natural daylight, ventilation and views and minimise overshadowing and loss of light and has taken account of BRE documents.

12.3.16. The *Specific Assessments* required to support the proposal referred to in section 3.2 of the Guidelines include micro-climatic assessment, interaction with birds and bat flight lines and/or collisions, telecommunications, air navigation, urban design statement, and relevant environmental assessments. These assessments

have been carried out in the reports submitted by the applicant as required by SPPR 3 below.

- 12.3.17. **SPPR 3** of the Guidelines states (of note 3A is of relevance in this instance):
- It is a specific planning policy requirement that where; (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.*
- 12.3.18. Having regard to my assessment in 12.3.15 and 12.3.16 above which takes account of the documents submitted by the applicant, I am satisfied that the applicant has set out how the development proposal complies with the criteria SPPR 3(A)(1) and having regard to SPPR 3(A)(2) with respect to wider strategic and national policy parameters as referenced throughout this report, I am satisfied that the criteria have been complied with.
- 12.3.19. Having regard to the Height Guidelines and the setting of this site with respect to public transport, its size, and in particular the local infrastructure I am satisfied that it is a suitable site for increased height without giving rise to any significant adverse impacts in terms of daylight, sunlight, overlooking or visual impact. I am satisfied that, having regard to the fact that the Development Plan predates the Guidelines by c. 2 years and that this proposal is in accordance with the National Planning Framework objectives to deliver compact growth in urban areas, that it is open to the Board to grant permission for the development as a material contravention of the Development Plan.
- 12.3.20. Thus, I am satisfied that the proposal can be granted with respect to section 37(b)(2)(iii) of the P&D Act, having regard to the Height Guidelines published under Section 28 of the P&D Act.
- 12.3.21. For comprehensiveness, with respect to section 37(2)(b)(iv) I note that the recently constructed Ardilaun Court has buildings up to five storeys and the Little Sisters of the Poor across the road is four storeys, but I do not consider that this

could be deemed to be indicative of overall 'pattern of development' of the area and therefore do not consider that section 37(2)(b)(iv) applies.

12.3.22. In conclusion, should the Board wish to grant permission, I am satisfied that the Board is not precluded from granting permission in this instance with regard to the provisions of section 37(2)(b)(iii) which states that *permission for the proposed development should be granted having regard toguidelines under section 28.*

12.4. Density, Design & Layout

12.4.1. The density proposed is 103 units per hectare which I consider reasonable. A number of objectors considered this density to be excessive. I have previously referred to the National Planning Framework and the need to increase densities in suitable locations. Having regard to its location adjacent to good public transport and having regard to the National Planning Framework and the Height Guidelines referred to above, I consider this density to be reasonable.

12.4.2. With respect to design and layout, a substantial number of documents accompany the application including the Architect's Design Statement, photomontages as well as the detailed drawings for each block and each floor within the blocks. The Architect's Design Statement details the alternatives considered, the concept design and the approach to the overall layout of the proposal.

12.4.3. I consider that the palette mix and materials including the brickwork and glass balconies will result in a high-quality development which will complement the surroundings.

12.4.4. A Housing Quality Assessment provides details about the individual apartments. This HQA provides details on every single unit in terms of area, dimensions of rooms, private amenity space and dual aspect etc. I consider that the development will provide for a suitable mix of units and I note that all apartments exceed the minimum floor areas and greater than 50% of units have dual aspect (albeit I will return to this point below).

12.4.5. I also note that car parking is mainly within the basement providing a pedestrian friendly and safe area. In addition, the amenity areas and the crèche will provide necessary social infrastructure. I draw the Board's attention to the computer

generated images included within the Architect's Design Statement which provide for more detail of the development from the perspective of new residents of the proposal, in particular Figures 25, 26, 32 – 35.

- 12.4.6. While I have addressed height in terms of the material contravention above, with respect to the detail of the height, I note the location of the taller blocks within the centre of the site has taken account of the constraints of the existing residential areas and the park setting. I do not consider that the apartments will be overly dominant having regard to the intervening land uses and the screening that the existing trees will provide when viewed at close distance. Clearly the blocks will be seen at greater distances further away from the development and will read as a change to the skyline. However, I do not consider this to be a significant impact – without doubt it will be a change to the skyline and a changed view and this visual impact is addressed further in the EIA section below. I note that the Council request a reduction in the height of Blocks 1,3,5 and 6. However I do not consider this is necessary as I am of the opinion that there will not be a significant impact on the landscape or visual amenities as detailed further below.
- 12.4.7. The Council raised concerns with a number of units specifically in relation to noise and the use of the atrium for light with respect to the provision of 'dual aspect' units. The issue of the numbers of dual aspect units was raised in many submissions also. I note that there are no north facing single aspect units and the orientation of the blocks on a north-south axis. Blocks 1 and 6 are the blocks which include windows on to the atrium. Omitting these units as part of the calculation for dual aspect units, will reduce the overall number to less than 50%, however having regard to the *Design Standards for New Apartments, 2018 (Apartment Guidelines)*, this reduction is acceptable.
- 12.4.8. The Council raise concerns about noise for certain units within the development. I agree with the Council with respect to unit 427 in Block 6 which has its front entrance opening onto the gym breakout area and consider that this could be addressed by way of condition. I note their concerns with unit 18 in Block 1 but consider that this can also be dealt with by way of condition in terms of additional boundary treatment. I agree with the Council that apartment number's 577 and 578 in Block 8 and apartment number's 615 and 616 in Block 9 would be subject to unacceptable noise and potential odours from the location of the bin store. I am satisfied that the bin

store can be relocated and this can be subject to a condition should the Board be of a mind to grant permission.

12.4.9. In conclusion, I am satisfied that the proposal complies with the requirements of the Apartment Guidelines subject to conditions as discussed above. I note that the Planning Authority consider that subject to conditions the proposed height, mass and scale are also acceptable.

12.5. Residential and Visual Amenities

12.5.1. Numerous concerns were raised about the impact of the proposal on the residential amenities of the nearby properties and the amenities of users of the park. Taking the residential amenities first, I have had regard to the Daylight and Sunlight Assessment that has accompanied the application.

12.5.2. With respect to the future residents of the development, I am satisfied that acceptable levels of daylight and sunlight are achieved and most meet the recommendations outlined within the BRE Guidelines "Site Layout Planning for Daylight and Sunlight". I note that a small number of apartments fall below the BRE guidelines for daylight, but this is based on a worst case scenario and many of these rooms are bedrooms with an external balcony space. This is considered acceptable in this instance. It is noted that the selection of materials for the facades of the development have been chosen to promote a sense of brightness and light ensuring light is reflected throughout the development. I further note that glazing widths have been maximised throughout.

12.5.3. Of particular importance, the assessments consider the existing surrounding developments. Sybil Hill house and the school are also considered in the assessment. Section 7.4 of the Daylight and Sunlight Assessment provided by the applicant considers the overshadowing impact on the surrounding properties. A series of images on the expected shadowing is provided. I draw the Board's attention to the figures therein which indicate the expected overshadowing. The Meadows residential development is the closest and I am satisfied that there will not be an unacceptable impact caused by overshadowing despite the height of Block 1 to the east of The Meadows.

12.5.4. The amenities of the park users are also referred to in many submissions. As noted above and throughout this report, the lands are no longer available for use by the

community due to the sale to the applicant. As stated above, the lands were not part of St. Anne's Park but part of St. Paul's College. The information submitted indicates that the use of the pitches was permitted by the school outside of school hours. They were never publicly owned facilities and the current owner wishes to develop them. Therefore, they are no longer available to the community.

- 12.5.5. I do not accept that there will be a loss of light on the park itself as claimed by other observers. Having regard to the scale of development, separation distances, and existing screening, I do not consider that this will be a negative impact.
- 12.5.6. As detailed in the EIA section 13 below there will be significant changes to the view east from the nearby dwellings, but this has to be seen in the context of an urban environment which is constantly evolving. The landscaping strategy will never completely screen the views of the upper floors of the blocks from The Meadows. The drawings illustrate that there is a 50m distance between the dwellings and the closest block, which is acceptable in terms of overlooking.
- 12.5.7. I am also satisfied having regard to the distances involved that there will not be a significant impact on the protected structure of Sybil Hill House from a visual perspective. I note that the development of the modern St. Paul's in the 1950s is an established feature within the setting of the protected structure. There are many examples of modern development in close proximity to protected structures and I am satisfied that there will not be an unacceptable impact on the visual amenities of Sybil Hill House.
- 12.5.8. Visual amenities from the park are considered. There will be a change to the skyline and there will be views of the upper floors from long distances within the park. At close ranges, such as from the Avenue, there will only be glimpses of the development where tree cover is reduced or from certain vantage points. As noted in the EIA section below, there will be a change to the landscape from playing fields to a residential development, but this has to be seen in the context of the zoned lands within a city environment. The 1.6Ha open space is closest to the Avenue also. The Planning Authority refers to examples of developments successfully located close to established public parks such as Herbert Park. I am satisfied that while the proposed development will be visible from various points within the park it is not necessarily a negative given the location of the park within an urban area.

12.5.9. I note that the Parks Department request that only two accesses to the Park are permitted rather than the four proposed. I am of the view that three accesses are adequate, and I agree with the Planning Authority that they should not be restricted to resident-only accesses to promote permeability. It is appropriate to condition that each access is gated, and the opening hours aligned with the park opening hours. The access in the north-west corner would appear to lead to fields and should be omitted.

12.5.10. In terms of landscaping and boundary treatment, I note that paladin fencing is to be retained. This is unacceptable for a residential development given its industrial appearance and should be replaced with alternative boundary treatment. I am of the opinion that the remaining wall of Maryville to the north of the site should be integrated into the boundary treatment and a suitable condition should be appended to require this.

12.5.11. In conclusion, I am satisfied that the proposal would not be visually obtrusive or detract from the amenities of adjacent properties (including the school and Sybil Hill House) in terms of overlooking, overshadowing or overbearing having regard to the separation distances, the daylight and sunlight assessment, and the landscaping. I am satisfied that the development provides acceptable amenities for future residents subject to minor changes which I consider can be dealt with by condition.

12.6. Traffic and Transportation

12.6.1. The proposed development includes 499 no. car parking spaces, 465 no. basement parking spaces and 34 no. surface level spaces (visitor and crèche drop off) as well as 1,646 cycle spaces (1,314 no. at basement and 332 no. at surface level). Works also include widening of the access onto Sybil Hill Road as well as modifications to the vehicular access between the school and Sybil Hill House. A new pedestrian crossing is proposed at the entrance as well as cycle lanes and footpaths. I note that the majority of the bicycle spaces are in the basement thereby providing secure and weatherproof parking.

12.6.2. I am satisfied that car parking at a rate of 0.7 spaces per unit is acceptable and a condition requiring that they are not sold separate to the units or leased should be appended. Many observers considered there were too many or too few parking spaces. Concerns about overspill parking into existing estates were raised. Having

regard to the distance from the other estates via the entrance road, I do not accept that this will be an issue causing significant impact on existing housing estates. I am of the view that the proposal is in line with the Development Plan requirements and is appropriate for the location of the site adjacent to a DART station and a QBC.

12.6.3. Concerns were raised about traffic and congestion around the local roads. The application is accompanied with a Traffic and Transport Assessment which concludes that there is adequate capacity for the additional vehicles. This is further addressed in section 13 below.

12.6.4. Safety concerns were raised due to the access through the school. The proposed access is *not* through the school and the entrance road has been designed to accommodate this new development with appropriate boundary treatment between the school grounds, Sybil Hill House and the road.

12.6.5. I am satisfied that the proposal is acceptable in terms of numbers of spaces for car parking and bicycle parking, as well as the modifications to the entrance.

12.7. Social & Green Infrastructure

12.7.1. Concerns were raised about schools, the loss of pitches and the impact on St. Anne's Park and other amenities. The proposal includes for the development of on-site amenities including a gym, cinema, workspace, games room and meeting rooms as well as private and semi-private and public open space. In addition, a crèche to cater for 115 children is proposed on the ground floor of Block 7. Parking spaces are provided to allow for drop-off. I note that the Department of Education do not object to the proposed development and note that they are actively searching for a site for a new school.

12.7.2. A Community Infrastructure and School Demand report accompanies the application. It considers schools, transport, community support, public space, sports, faith and healthcare. The Report includes correspondence from the Department confirming that the subject site has been included in terms of its demographic exercise in assessing the need for primary and secondary schools in the area.

12.7.3. The community clubs and societies are detailed in section 4.3.2 of the Infrastructure report. I note that a substantial number of sports clubs objected to the development due to the loss of the lands for playing purposes. Many state that they have no

permanent home and there is over subscription on the remaining pitches. Figure 8 of the report indicates the remaining pitches outside of the subject site. I note that there are plans to develop pitches on the school site. I accept that the loss of pitches is a negative impact, but the facts are that this site has been purchased for private development and is unlikely to be made available to existing clubs regardless of the outcome of this proposal. The site is zoned for development. I note the elected members suggested that it be the subject of a CPO. That is a matter for the Council and is not before the Board.

12.7.4. I note that the masterplan document, which was submitted with the application, indicates that the school is satisfied that it can accommodate any expansion plans on the remaining lands. It is also stated that *'It is the intention of the Vincentians and the school to offer the excess capacity of the facilities to a greater variety of other sporting and community groups on a licensed/pay to use basis'*. While some observers correctly state that the applicant has no ability to ensure that this development does take place, I note that the owners of the school pitches have submitted an application for development, albeit unsuccessful for reasons relating to AA reasons.

12.7.5. Other objectors referred to the impact on the Park. Concerns were raised about the site being an integral part of the park and that the park is part of the 'green infrastructure'. Addressing the issue about the integrity of the park, I note that the park is already segmented and the subject site is not considered part of the park, when viewing maps in the Development Plan (Figure 14 Strategic Green Network of the Development Plan). This has also been addressed elsewhere in my report under the EIA section 13 as well as the visual amenities impact above. In terms of policy, I note that the Development Plan includes many policies to support green infrastructure and indeed as noted in section 12.2.4 of my report above, Z15 zoning requires any development on such zoned lands to consider the potential to *'contribute to the development of a strategic green network'* as well as the delivery of housing.

12.7.6. The design provides for a substantial open space of c.1.6Ha which will be offered to be taken-in-charge by the Council. The details of how this is to be developed should be subject to a condition if the Board are minded to grant permission. This will provide a planning gain for the public that is not currently available. Furthermore, as

noted above, the development provides for permeability through the developed part of the site with connections into the Park (subject to condition). I am satisfied that this is in compliance with a number of policies and objectives and contributes to the development of a strategic green network as detailed in the Development Plan. Some observers considered the access into the park to be unprecedented – however this is not for private use by the residents only and will be accessible for use by the public subject to the same opening and closing hours as the existing accesses into the park.

12.7.7. Another objection raised concerns that the new residents would object to the events that St. Anne's is now hosting stating that they will consider their residential amenities will be impacted. In my opinion as all events are subject to various licencing that is not a reason to recommend refusal of permission.

12.8. Drainage

12.8.1. Drainage and surface water were raised by many observers. Concerns about flooding were stated. I have dealt with this in the section 13 EIA of my report. The site currently drains to the Naniken stream. The proposal includes SuDS measures and it is intended to ensure that the run off remains at the greenfield rate. The Council state that the surface water drainage on Sybil Hill Road is over capacity and could not take the site's drainage. They have accepted this proposal subject to conditions. With the measures proposed I am satisfied that there will not be an unacceptable impact on flooding or drainage to the stream.

12.8.2. With respect to issues raised about pollution of the stream, I note that there are hydro brakes and oil interceptors proposed which is acceptable.

12.8.3. A Site-Specific Flood Risk Assessment accompanies the application. The development is located in Flood Zone C with a low probability of flooding from fluvial or tidal sources.

12.8.4. Having regard to the above, I consider the site can be serviced adequately and the proposed development will have no adverse effects on the surrounding area.

12.9. Other matters

12.9.1. I note the applicant's request for permission to develop over **10 years**. I do not consider that this is acceptable having regard to the purpose of the SHD legislation

and the information provided which indicates that construction will be carried out in a shorter timeframe and therefore 5 years is considered an appropriate duration. For clarity I consider that a condition to this effect is included in the permission should the Board consider granting permission.

12.9.2. I note the **ownership** of the lands is queried. As referred to above, the applicant has demonstrated sufficient legal interest in the lands and has stated on the application form that they own the lands. Letters of consent for works on lands owned by the Vincentian Community and DCC are provided. The historical sale of lands is not a matter for the Board, nor why the lands were sold, nor if the original owners made significant profit from the sale.

12.9.3. Other objectors referred to **project splitting** or 'salami slicing'. I am satisfied that there is no intent to avoid the production of an EIAR which is normally why 'project splitting' is raised as an issue. As noted above, St. Paul's is now separately owned and both landowners are entitled to seek permission independently. Cumulative impacts are addressed throughout the EIAR.

12.9.4. I am satisfied that **consultation** has been carried out in accordance with the legislation and I note the number of observations, the number of people who have signed the petition and the Facebook page.

12.9.5. **Documentation** and adequacy of the Site Notice has been queried. I am satisfied that the documentation including maps, drawings, and reports submitted has enabled the Board to carry out a complete assessment and as noted above, based on the numbers objecting, the documentation has adequately described and addressed the impacts.

12.9.6. Other objectors query the website accuracy. I am satisfied that there is ample opportunity for access to the data from the Board's website, the standalone website supplied by the applicant as well as the EIA portal housed by the Department.

12.10. Conclusion

12.10.1. In conclusion to the Planning Assessment, I am satisfied that the proposed development is acceptable in principle, is proposed on suitably zoned lands, will contribute towards the housing need identified in the Development Plan, will not negatively impact on the visual or residential amenities of surrounding dwellings, will

not impact on the amenities of park users, will not set a precedent for development in green spaces in the city, and is in accordance with the proper planning and sustainable development of the area.

Decision Quashed

13.0 Environmental Impact Assessment

13.1. Statutory Provisions

- 13.1.1. 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.
- 13.1.2. The application was 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, (PDA) and Schedule 5 of the Planning and Development Regulations 2001, as amended, (PDR).
- 13.1.3. Item 10(b) of Part 2 of Schedule 5 of the PDR provides that an EIA is required for infrastructure developments comprising of urban development which would exceed 500 dwellings.
- 13.1.4. The subject proposal is for a development of 657 dwellings on a site of c.6.7Ha and is accompanied by an EIAR.
- 13.1.5. The EIAR is laid out as follows:
- Volume 1 of the EIAR provides a non-technical summary of its content.
 - Volume 2 includes the Written Statement of the EIAR (Chapter 1 – 15), and
 - Volume 3 includes the Technical Appendices (e.g. Bat Survey, ground investigation reports, borehole records, and soakaway records, water sampling results, conservation impact assessment, Traffic & transport assessment and mobility management plan, energy sustainability report).
 - Table 1.2 describes the methodology employed within the assessment of each chapter and Table 1.3 describes the expertise of those involved in the preparation of the report.
 - Mitigation measures described throughout the report are summarised in Chapter 15.

- 13.1.6. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. Chapter 14 considers the interaction between the factors referred to in points (a) to (d). Chapter 15 is a summary of the Mitigation Measures. Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 13.1.7. With respect to Article 3(2), Chapter 13 of the EIAR refers to Risk Management. It sets out the vulnerability of the proposed development to the risks of major accidents and/or disasters. It is considered that the development has been designed in accordance with best practice and can be safely constructed without risk to health and the environment. Table 13-5 lists the potential major accidents, the likelihood of same occurring in the subject site, and where each potential impact is addressed in the EIAR. Mitigation measures are described in Table 13-6 and management plans are described. It concludes that the design has taken into account the potential for flooding, road accidents, spreading of invasive species, building failure and fire risk and the vulnerability of the development to major accidents and/or disasters is not considered significant.
- 13.1.8. 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 observers and prescribed bodies has been set out at Section 7, 8 and 9 of this report and in detail in Appendix 2 and include matters relevant to the EIA. The relevant issues raised are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation including conditions.
- 13.1.9. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer is up to date, adequately identifies and describes the direct and indirect effects of the proposed development

on the environment, and complies with article 94 of the Planning and Development Regulations 2000, as amended.

13.2. Alternatives

13.2.1. Chapter 2 addresses the alternatives considered. Article 5(1)(d) of the 2014 EIA Directive requires:

(d) 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;

Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

13.2.2. The EIAR sets out that having regard to the Z15 zoning objective of the lands in question, in which residential development is 'open for consideration' it was not considered necessary to consider alternative sites for the proposed development. The do-nothing scenario was not considered as a reasonable alternative. In terms of alternative designs, it is set out that the proposals were the subject of detailed discussions with all the relevant authorities prior to the finalised scheme as summarised below:

- Spread of houses across the site without allowance for 25% open space,
- Lower density than submitted and a split of 25% open space across the site,
- Apartment blocks over nine blocks and a single area with 25% open space.

13.2.3. The consideration of alternatives is an information requirement of Annex IV of the EIA Directive, and the single most effective means of avoiding significant environmental effects. Having regard to this requirement and its purpose (i.e.

avoidance of significant environmental effect) I am satisfied that the consideration of alternatives is adequate.

13.3. Consultations

13.3.1. Details of the consultations carried out by the applicant as part of the preparation of the application and EIAR are set out in the documentation submitted and are considered adequate. 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.

13.4. Likely Significant Direct and Indirect Effects

13.4.1. The likely significant direct and indirect effects of the development are considered under the following headings, after those set out in Article 3 of the EIA Directive 2014/52/EU:

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape;
- (e) the interaction between the factors referred to in points (a) to (d).

13.4.2. My assessment is based on the information provided by the applicant, including the EIAR, in addition to the submissions made in the course of the application, as well as my site visit.

13.5. Population and Human Health

13.5.1. Chapter 4 of the EIAR considers Population and Human Health. The study methodology is detailed identifying the sources of the desk-based studies. The characteristics of the development are described as well as the existing receiving environment. Demographic information is provided for the Clontarf Local Electoral Area. Socio-economic information for the area is also provided. Community facilities and amenities are detailed as well as nearby pitches - Figure 4-4 indicates the sports facilities in St. Anne's. Of importance having regard to its location adjacent to St. Anne's is landscape and visual which are described. The recently constructed

Ardilaun Court and The Meadows housing estates are identified. Human Health status is detailed.

- 13.5.2. Potential impacts are described. It is noted that the changing demographic profile during the operational phase is likely to ensure a balanced age profile in the area. Landscape and Visual effects are detailed in a separate chapter, but it is considered that there is limited cumulative impacts. It is stated that during the construction stage there will be an element of noise, mobility of heavy vehicles, dust etc, which will be negative, short-term, significant and localised. During operation there will be a positive impact in terms of the changing age profile and the development will create a modern living environment close to a wide range of amenities. Cumulative impacts are described. The issue of the potential for Light-bellied Brent Geese (LBBG) to impact on human health is described. The Do-Nothing scenario is addressed.
- 13.5.3. During construction a Construction Environmental Management Plan (CEMP) will be in place. No likely significant impacts are identified during operation and therefore no mitigation measures are required.
- 13.5.4. It is considered that residual impacts will be overall long-term, positive. Interactions are considered with biodiversity, air quality, noise and material assets.

Assessment

- 13.5.5. Many submissions raised concerns about population increase and the lack of schools etc. In addition, many sports clubs submitted objections to the loss of the playing pitches. Based on the data presented and as noted in the Planning Assessment in section 12 above, I consider that the proposed development will provide much needed accommodation in an established area. There are many schools in the wider area, and I note the Department of Education have not objected to the proposal. There will be some nuisance issues for the existing residents during construction, but with the mitigation measures proposed in the Construction Environmental Management Plan (CEMP), these will be reduced and will not result in a seriously negative impact. Furthermore, they are temporary in duration.
- 13.5.6. The loss of playing fields is a negative impact, however, there are numerous alternatives as detailed in Figure 4-4 of the EIAR and as detailed in the Planning Assessment section 12 above. Furthermore, these lands are now unavailable to the

community and are unlikely to revert to community use in a Do-Nothing scenario. I also note that the school has plans for upgrades to the remaining pitches.

13.5.7. With respect to health, I note the applicant's reference to studies about impacts of Light-bellied Brent Goose (LBBG) on human health. I further note that this has been questioned by many objectors. I do not consider that this is a reason to either recommend a grant or refusal of permission as this is not specifically an issue related to this particular site. It is further addressed in Biodiversity below.

13.5.8. I have considered all of the written submissions made in relation to population and human health. Having regard to the development of residential accommodation on zoned and serviced lands, and having regard to the need for residential development for the increasing population, I am satisfied that potential effects 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, indirect or cumulative effects on population and human health.

13.6. Biodiversity

13.6.1. Biodiversity is addressed in Chapter 5 of the EIAR. The study methodology is detailed with reference to the desk studies, field surveys (undertaken for the subject application & reference is made to the 2017 data which is also considered), including habitat surveying and mapping, bat surveys, breeding bird surveys, wintering bird surveys, mammal surveys and other fauna. The existing receiving environment is described including reference to the Naniken stream as well as the designated sites, both European and national. The proposed development is not located in a designated site. The habitats are described. The site is now categorised as GS2 – Dry Meadows and Grassy Verges. Trees and woodlands on the site are defined as having local importance. No rare or protected mammal species were directly recorded during site surveys undertaken between 2015 and 2019. Bat species recorded within the site and immediate surrounds are detailed with the majority recorded around the boundaries with St. Anne's Park. No nests of breeding birds were located on the site. Five Species of Conservation Interest (SCI) were recorded at the site.

- 13.6.2. The potential impacts during construction and operation are described including on the conservation objectives of the designated sites. It is noted that a Natura Impact Statement (NIS) has been submitted. It is stated that there will be no loss of habitats such as treelines (WL2) but they may be susceptible to indirect damage. Removal of vegetation considered suitable for bats to forage would result in a negative, slight and permanent duration effect. Potential impact on birds is described during construction and operation. Potential cumulative impacts are detailed including the impact of loss of an ex-situ site for wintering birds (as further detailed in the AA Section 14 of this report). A Do-Nothing scenario is addressed – there will be no additional impacts in such a scenario.
- 13.6.3. Mitigation measures are detailed with reference to felling of trees, lighting proposals, surface water run-off, SuDS, and during operation with respect to bats. Table 5-13 of the EIAR provides a summary of residual impacts for the identified Key Ecological Receptors (KER). It is concluded that provided all mitigation measures are implemented in full, no significant residual impacts on local ecology or on any designated conservation site are expected.
- 13.6.4. Monitoring is described during construction and operation. Interactions identified are between hydrology and water and biodiversity with respect to the potential impact of water pollution on protected areas.

Assessment

- 13.6.5. Biodiversity concerns were raised by almost every objector in particular with respect to the wintering birds including LBBG and the other SCIs of the European sites in terms of the loss of an ex-situ terrestrial site. This is dealt with in detail in the AA section 14 below and I refer the Board to that section of my report.
- 13.6.6. Other biodiversity concerns raised included the omission of reference to certain policy documents in the EIAR. I have had regard to those documents in my assessment throughout this report.
- 13.6.7. Concerns were raised with the impact of sediment being released to the Naniken stream during construction and the resulting impact on biodiversity. I am satisfied that with the correct implementation of mitigation measures proposed in the CEMP submitted by the applicant and the proposed monitoring it will ensure that there is no significant impact on the water quality as a result of the construction of the proposed

development. As there will be no significant impact on the water quality or quantity in the stream, it can be concluded that there will not be an impact on the biodiversity of the stream including the aquatic species noted by third parties to be present in the stream. SuDS measures are being incorporated during operation phase. This is further addressed below under hydrology.

13.6.8. With respect to mammals, many concerns were raised about bats and badgers. No badger setts were found on the site.

13.6.9. I note the Parks Department query the surveys for bats and state that it is unclear how the development will affect the bat population of St. Anne's. The documents state that the majority of trees are to be retained. However, I note that vegetation across the site was considered suitable for bats to forage and commute along. The removal of any trees and other vegetation would result in a negative, slight and permanent duration effect on bat species but having regard to the limited number of trees to be felled (see next section for details) and the fact that works will not occur in St. Anne's Park (with the exception of the outfall) I am satisfied that the bat population within St. Anne's will not be significantly impacted. I note that the mitigation measures include a survey for bat roosts prior to demolition of structures or felling of trees. I am satisfied that there will not be a seriously negative impact on bats within the development site or surrounds.

13.6.10. During operational phase, the proposed buildings and associated lighting are likely to result in some localised impacts to bats commuting through or feeding on the site. It is likely that they will still be able to pass through the site albeit via different routes to those currently used. Details of proposed tree removal have been included with the application. An Arboriculture Report accompanied the application and states that the tree loss includes 7 no. category U trees, 10 no. category B and 4 no. category C. Mature trees along the boundaries of the site are to be protected during the construction phase. Temporary lighting required during construction is also identified as a potential impact. A Site Lighting Analysis Report accompanied the EIAR and predicts light levels. Lighting proposed during the operational phase will be narrow spectrum lighting wherever possible with a low UV component which will comply with national guidance for bat conservation. Submissions note the absence of the location of proposed bat boxes. I note the commitment in the EIAR to erect three bat boxes as a mitigation measure.

- 13.6.11. With respect to breeding birds, the majority of hedgerows and mature trees are to be retained. No vegetation is to be removed during the nesting season. There will however be a slight negative impact due to the loss of some hedgerow.
- 13.6.12. As noted above, I have addressed the designated sites in the AA section 14 of this report. The EIAR references scientific evidence linking the presence of LBBG as a transmitter of antimicrobial resistant bacteria. A number of observations and the report of the Parks and Landscape Services make reference to these findings and note the removal of geese is not an option to deal with treating bacteria, therefore this report is not applicable which I concur with.
- 13.6.13. The loss of the pitches is raised by many observers as well as the loss of flora and fauna with reference to the designation of St Anne's Park as a UNESCO Biosphere designation for Dublin Bay. I note the scale of the development, location of the site which is zoned for development in the Development Plan, the previous use as a recreational facility for a school site and the proposal to integrate ecological features, designated open space and landscaping and as a result I do not consider the proposal will have a significant negative long term impact on the biodiversity of the site or the adjoining St Anne's Park or any designation for Dublin Bay.
- 13.6.14. The submission from the Parks Department states that the applicant should say that the Do-Nothing scenario would have positive impacts on Biodiversity. In my opinion there will be no change to the current situation. The same submission considers that certain habitats listed in table 5-7 should be of County Importance. As stated above having regard to the scale of the proposal and its adjacency to St. Anne's, I am satisfied that it will not have a significant long-term impact on flora and fauna. There is much detail in the Parks Department submission regarding the history and connection between St. Anne's Park and the trees of the Phoenix Park. The landscape strategy details the trees and losses. The reference to the objective to protect the heritage of the Phoenix Park is noted with respect to the trees. As noted above, an Arboriculture Report has been submitted which details what trees are to be felled and I note the protection measures during construction for the remaining trees. I am satisfied having regard to the minimum number of trees to be felled, the substantial number of trees to be planted as part of the landscape strategy, and the protection measures proposed, that there will not be an

unacceptable impact on the trees and as a result the development will not be contrary to the relevant policies and objectives of the Development Plan.

13.6.15. The issue of bird collisions was raised by some objectors due to the presence of the tall buildings. As noted in the AA Screening section 14 below, in general, the literature suggests that it is smaller passerine birds and nocturnal migrating passerines in particular (migrating in large flocks), that are more susceptible to collision with buildings with extensive glass facades or very high buildings with extensive lighting⁶. While large birds such as swans and geese are known to be potentially at risk from collision with less visible structures such as overhead wires, particularly if they are located between feeding and roost sites, there is little evidence to suggest that buildings could pose a significant risk to these species in the context of the proposed development. There are much higher buildings in and around Dublin bay that are crossed daily by birds moving out of the coastal area to inland feeding sites without incident. The supporting documents for the conservation objectives and the Natura 2000 data forms for the SPAs do not refer to any collision risks. Therefore, I am satisfied that there will not be a significant impact as a result of bird collision with the taller buildings.

13.6.16. I have considered all of the written submissions made in relation to Biodiversity. I am satisfied that potential effects 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, indirect or cumulative effects on Biodiversity.

Lands, Soils, Water, Air and Climate are addressed in Chapters 6 – 9 of the EIAR and are considered in that order below.

13.7. Land, Soils & Geology

13.7.1. Land, soils and geology are addressed in Chapter 6 of the EIAR. This chapter provides an overview of the approach taken to address these topics. Desk studies and surveys carried out are described. The activities associated with the proposed

⁶ Nichols KS, Homayoun T, Eckles J, Blair RB (2018) Bird-building collision risk: An assessment of the collision risk of birds with buildings by phylogeny and behavior using two citizen-science datasets. PLoS ONE 13(8): e0201558. <https://doi.org/10.1371/journal.pone.0201558>

development which have potential for impact are listed in table 6-1 of the EIAR for both construction and operational phases. It is stated that the construction phase holds the highest number of activities which could potentially impact on the geological conditions at the site. These activities primarily pertain to the excavation and infilling activities required to construct the basement car park and raise site levels.

- 13.7.2. The existing receiving environment is detailed in terms of superficial and solid geology. It is noted that the geology of Dublin is well studied. It is stated that the site topography is generally c.24.5mOD in the north-west to c.21.5mOD in the south-east corner. The local soils and geology are described. It is stated that the site is not considered to be particularly sensitive from a geological perspective.
- 13.7.3. Potential impacts are detailed and as noted the construction phase is when potential impacts are most likely to occur from excavation, accidental leaks or spills and imported fill. During the operational phase there will be very limited to no potential impact on the geological environment.
- 13.7.4. Mitigation measures are detailed during the construction phase. It is noted that the appointed contractor will update the CEMP as required. Residual impacts are detailed in Table 6-6 of the EIAR. It is stated that the primary residual impacts from the construction phase will be the change of use and removal of soil to facilitate the basement. These impacts are unavoidable. There is very limited to no residual impact during the operational phase. The cumulative impact is addressed and is not considered to be significant.

Assessment

- 13.7.5. I have considered all of the written submissions made in relation to Land, Soils & Geology. I am satisfied that potential effects 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, indirect or cumulative effects on Land, Soils & Geology.

13.8. Hydrology, Water & Hydrogeology

- 13.8.1. Hydrology, Water & Hydrogeology are addressed in Chapter 7 of the EIAR. This chapter includes reference to a Site-Specific Flood Risk Assessment (SSFRA) and an Engineering Service Report. This chapter provides an overview of the approach taken to address these topics. The site investigations undertaken are described including installation of 9 no. groundwater monitoring wells. Surface water sampling was also undertaken upstream and downstream of the surface water outfall in the Naniken stream.
- 13.8.2. The existing environment and the characteristics of the proposed development are detailed including the laying of the foul sewer in Sybil Hill Road and the routing of surface water discharge from the site via St. Anne's Park to the Naniken stream. The study area is located within the Eastern River Basin District. The sub-catchment areas, the Groundwater vulnerability, status and recharge are detailed. It is noted that there are two recorded wells located 1.5km north of the site, both of which are monitoring wells in an industrial area. There are no recorded abstractions/users within the study area. All water users in the vicinity are serviced by mains water supply and the proposed development will also rely on water mains. The closest Ground Water Dependent Terrestrial Ecosystem (GWDTE) is the North Bull Island SPA.
- 13.8.3. The Naniken Stream is located in the sub-catchment of the Santry River River Water Basin (RWB). With respect to surface water it is stated that the site currently naturally infiltrates to ground and drains into the Naniken stream.
- 13.8.4. The Site-Specific Flood Risk Assessment (SSFRA) demonstrates the site is located in Flood Zone C which indicates a low probability of flooding from fluvial or tidal sources. The Naniken stream can flood due to fluvial or fluvial plus high tides. All surface water is proposed to discharge to the Naniken Stream and not to the public sewer as directed by the Council. The local hydrogeology is described.
- 13.8.5. Potential impacts are described with reference to the source-pathway-receptor model. A Conceptual Site Model (CSM) describes the potential sources of contamination, the pathways and the receptors. This is detailed in Table 7-1 in the EIAR. The table identifies the potential sources and where required, the proposed mitigation measures with reference to the CEMP and other protective measures. The cumulative impacts are addressed as well as the Do-Nothing impact.

13.8.6. Mitigation measures during construction are presented in section 7.6. Filtering, silt traps and the CEMP are referred. Following the adoption of mitigation measures it is considered that the impact will be imperceptible. It is noted that during the operation phase, the design incorporates measures in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and the SSFRA as well as SuDS thereby ensuring run-off rates are maintained below the greenfield run-off rate of 2.0l/s/ha. There will be no adverse increase in the discharge rates to the receiving water bodies and there will be an improvement in the water quality.

Assessment

13.8.7. Many submissions referred to surface water and flooding and stated that the Naniken stream was already susceptible to flooding. Some observers submitted photos of the flooding. As noted in the EIAR chapter 7, the site is located in Flood Zone C and having regard to the mitigation measures proposed, I am satisfied that there will not be a negative impact on flooding as a result of the proposed development. Many observers queried the discharge of surface water to the stream – however this is already how the site drains. There will not be an increase in water quantity or quality discharged to the stream having regard to the numerous mitigation measures proposed including SuDS, attenuation tanks, hydrobrakes, oil interceptors etc. The finished floor level of the development has also been designed accordingly.

13.8.8. I have considered all of the written submissions made in relation to Hydrology, Water and Hydrogeology. I am satisfied that potential effects 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, indirect or cumulative effects on Hydrology, Water and Hydrogeology.

13.9. Microclimate, Air Quality & Climate

13.9.1. This is dealt with in Chapter 8 of the EIAR. A Wind Microclimate Modelling Study is included in this chapter. It has assessed 18 different wind scenarios and directions and assessed the suitability of the development to create and maintain a suitable and comfortable environment for different activities. Mitigation measures include landscaping.

- 13.9.2. The microclimate with respect to daylight and sunlight are also addressed in this chapter. The analysis assesses the impact of the development internally and externally. This is addressed in the Planning Assessment section 12 above also in terms of the impact on future and existing residential amenities with respect to overshadowing and daylight. It is stated that the primary purpose of a daylight, sunlight and overshadowing assessment is to determine the likely loss of light to adjacent buildings. Properties at The Meadows, Sybil Hill House and St, Paul's college are considered to be the sensitive receptors. The analysis indicates that excellent levels of daylight will still be achieved with an imperceptible impact.
- 13.9.3. In addition, the impact on the apartments within the proposed development are considered. It is stated that 97% of the rooms in the proposed development comply with BRE Guide requirements.
- 13.9.4. With respect to sunlight, overshadowing analysis has been carried out. The shadow analysis confirms no overshadowing is likely to arise for any of the adjacent properties.
- 13.9.5. Air quality and climate are also detailed within this chapter. It is noted that the greatest potential impact on air quality during the construction phase is from construction dust emissions. During operation, sources of air and climatic emissions are deemed long term and involve increased traffic flows in the area associated with the development.
- 13.9.6. Each construction activity is assessed, e.g. demolition, earthworks etc. as well as the potential emissions from traffic related air emissions. It is noted that sensitive receptors in the vicinity are the school and a housing estate. Six no. sensitive receptors were chosen for modelling. Relative to the baseline some imperceptible increases in pollutant levels are predicted. The overall magnitude of changes in climate during construction are imperceptible and short term. Impact on human health will be imperceptible.
- 13.9.7. The operation phase is modelled with six no. sensitive receptors with respect to traffic related air emissions. The impacts are described as likely, localised, imperceptible and long term and therefore not significant. Impact on climate is also assessed and considered to be insignificant. Therefore, no mitigation measures are required.

13.9.8. When the dust mitigation measures are implemented fugitive emissions from the site will be short-term, localised not significant and pose no nuisance at nearby receptors. During the operational phase impacts on air quality and climate are predicted to be imperceptible. Cumulative assessment is provided, and it is noted that other developments have been included in the traffic assessments already modelled. It is noted that the interactions are with Human Beings and Air Quality. Mitigation measures will ensure that the impact complies with all ambient air quality legislative limits. Interactions with air quality and traffic are also addressed and considered not significant. Impacts on flora and fauna and water are also considered to be neutral.

Assessment

- 13.9.9. Observers raised concerns with the impacts of dust and traffic during construction. The issue of the construction site next to the school was also raised. With respect to dust emissions, the school was considered in the modelling. Each particular construction activity is detailed, and the impact assessed, e.g. during earthworks and demolition. A series of mitigation measures associated with a medium risk of dust soiling and human health impacts have been prepared in the form of a Dust Minimisation Plan. Following mitigation measures, impacts are considered to be imperceptible and not significant with respect to dust from the site posing no nuisance at nearby receptors.
- 13.9.10. In terms of the traffic emissions to atmosphere (including HGVs numbers), the school and nearby residents are modelled. The data indicates that the impact is imperceptible, short term and not significant.
- 13.9.11. I have addressed concerns raised about daylight and sunlight in the Planning Assessment above. I am satisfied that there will be no significant impact on nearby properties and am satisfied that the design results in sufficient daylight and sunlight for future residents.
- 13.9.12. I further note that a Building Sustainability Report has been submitted with respect to climate during operation phase.
- 13.9.13. I have considered all of the written submissions made in relation to Microclimate, Air Quality and Climate. I am satisfied that potential effects 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, indirect or cumulative effects on Microclimate, Air Quality and Climate.

13.10. Noise and Vibration

- 13.10.1. Noise and vibration are considered in Chapter 9 of the EIAR. The methodology is detailed including the fact that baseline monitoring has been undertaken. The greatest potential noise and vibration impacts are during the construction; however, this is a short-term impact. It is noted that the main potential source of operational noise impact is associated with additional traffic flows – other noises are typical of a residential area. There are no expected sources of vibration associated with the operational phase.
- 13.10.2. The baseline surveys find the area to be typical of a suburban environment. Construction noise sources will be vehicular movements to and from the site, as well as demolition of the prefab buildings and site clearance works. It is noted that during normal school term there is potential for significant impacts of short-term, intermittent and negative effect during the enabling works without mitigation. The potential vibration impact during the construction phase is imperceptible. Cumulative noise impacts are addressed as well as the Do-Nothing scenario.
- 13.10.3. Mitigation measures are detailed including best practice noise and vibration control measures during construction in order to avoid significant impacts. The CEMP sets out key control measures for noise and vibration. A dedicated Noise Liaison officer is proposed.
- 13.10.4. Residual impacts are detailed. It is stated that there is potential for some minor to moderate impacts on nearby noise sensitive properties. These will be of short-term minor to moderate impact. Additional traffic during operation will be of insignificant impact.

Assessment

- 13.10.5. In terms of noise and vibration, I consider that there may be nuisance with noise during the construction phase. Mitigation measures have been detailed as part of the CEMP. As with Air Quality above, concerns were raised about the impact of construction noise on the school children in particular. This is addressed in this

chapter with respect to noise during term time, as well as impacts on nearby properties and I am satisfied that with appropriate mitigation measure this will be managed. It is acknowledged that there may be some minor to moderate impacts, but this will be short-term and of limited duration depending on stages of construction. The appointment of a Noise Liaison Officer is noted.

13.10.6. Other observers expressed concern with the potential impact of noise from future residents particularly from balconies. I draw the Board's attention to the drawings submitted and in particular the sections which include The Meadows, Drawing no. 1627-OMP-00-XX-M2-A-XX-30010. As noted in the Planning Assessment above, I am satisfied having regard to distances and intervening trees, that there will not be a significant impact on the existing residents' amenities.

13.10.7. I have considered all of the written submissions made in relation to Noise and Vibration. I am satisfied that potential effects 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, indirect or cumulative effects on Noise and Vibration.

Material Assets, Landscape, and Cultural Heritage are addressed in Chapters 10 – 14.

13.11. Landscape and Visual Assessment

13.11.1. This topic is addressed in chapter 10 of the EIAR. The study methodology is described. Photomontages are included as an Appendix to the EIAR. Thirteen locations were selected as being representative of the views in the surrounding area. Reference is made to the various policies in the Dublin City Development Plan pertaining to landscape, conservation area of St. Anne's, zoning of the lands, green infrastructure, parks and open space and sports, recreation and play. It is noted that while views of St. Anne's Park are of significance there are no specifically identified protected views or scenic views pertaining to the site. It is noted that views to and from the site are restricted by boundary planting within St. Anne's Park and by buildings.

13.11.2. Potential impacts are described including impacts associated with construction and the effects of a new residential development. It is noted that the

application is accompanied by a Tree Constraints Plan, a Tree Impacts Assessment Plan, a Tree Protection Plan and an Arboricultural Assessment Report, Landscape Masterplan as well as the photomontages. The potential impact on St. Anne's Park and Avenue, Sybil Hill House, St. Paul's College, The Meadows and Sybil Hill Road during construction and operation are described. The site is well-screened by mature planting within the Park and overlooked by a limited number of properties. It is stated that where views are available the existing open character will be replaced. The overall landscape and visual impact will be significant with permanent effects on the existing landscape character of the site and in the visual character of views of the site. There is limited potential for cumulative impacts. In the Do-Nothing scenario the site would continue with no impact.

13.11.3. Mitigation by design has driven the architectural and landscape layout of the proposal. It is stated that 4.2Ha has been allocated for public and communal open space. The design includes for a significant number of new trees, hedgerows and shrub planting. A Project Arborist and Landscape Architect will be retained for the duration of the construction phase to ensure mitigation proposals are put into effect as well as for 12 months afterwards during the operation phase.

13.11.4. Residual impacts are described, and reference is made to the photomontages. It is considered that there will be no likely significant impacts on St. Anne's Park. The key impact on Sybil Hill House, St. Paul's College and The Meadows arises from the considerable change from an open character to a built residential development. This impact is unavoidable.

13.11.5. The impact on landscape planning policies are considered. It is stated that a specific requirement of the Z15 zoning is that 25% of the area be allocated to public open space which has been complied with. The public open space will be offered to DCC for taking-in-charge. St. Anne's Park itself is zoned Z9 and the design has taken account of the conservation area as well as providing connectivity in accordance with green infrastructure policies. It is considered that the overall residual impact on landscape and visual planning aspects will be significant with likely positive and permanent effects. Interactions with biodiversity, water and cultural heritage are described.

Assessment

- 13.11.6. Many observers commented on the landscape impacts and noted that the applicant considered them to be significant. Many also queried the selection of photomontage viewpoints – I am satisfied that the photomontages provide a fair assessment of the development from different locations.
- 13.11.7. It is acknowledged that a significant alteration to the landscape character will occur at the site, as the site is currently open grasslands and will change permanently to residential development. However, I am satisfied that the 'significant' visual impact will be for certain viewers only and not for the majority of the park users. There will most certainly be changed views from nearby residences such as The Meadows and other locations including at the entrance onto Sybil Hill Road, but having regard to the photomontages as well as the design approach, including the location of taller buildings at the centre of the site with a step down to the west, south and east, I consider that these impacts are acceptable for development on zoned land within the metropolitan area.
- 13.11.8. The site is a relatively flat site, surrounded by trees and mature hedging, separating it from the rest of St Anne's Park to the north, east and south. I am satisfied that the impact on views from St. Anne's Park itself will not be significant having regard to these intervening trees as well as the topography, with the exception of limited glimpses where the tree cover is reduced. It is acknowledged that where views are available the existing open character will be replaced, and this will be a permanent significant impact on the landscape. However as noted these views are limited and for most users of the park, I consider the impact to be acceptable. Therefore, I do not agree with observers who state that the impact on the views from the park will be unacceptable – the trees and intervening topography mitigate most views as illustrated in the photomontages. Furthermore the views which will occur are of a residential development which is not unexpected within an urban environment. As noted in the Architectural section of the EIAR, while views of the upper floors of the apartments may be visible, it will be from the pitches and not the sensitive parklands or Rose Garden.
- 13.11.9. As stated above in section 12 Planning Assessment, the proposal aligns with current policies and objectives within the Development Plan.

13.11.10. I have considered all of the written submissions made in relation to landscape and visual impacts, undertaken a detailed assessment of the matter in the main assessment above, and I am satisfied that all the issues have been addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative impacts on the landscape or visual amenity of the area are likely to arise.

13.12. Archaeology, Architecture & Cultural Heritage

13.12.1. These areas are considered in Chapter 11 of the EIAR. Architectural heritage is dealt with separately to Archaeology & Cultural Heritage. A Conservation Impact Assessment accompanied the application.

13.12.2. With respect to architectural heritage, a history of the site is provided and it is stated that the site formed part of an estate known as Maryville. It is noted that Sybil Hill House is a Protected Structure (Ref. 7910) in the Dublin City Record of Protected Structures and St. Anne's Park is a conservation area (DU-50-O-217373) and it is clarified that it is not an Architectural Conservation Area. It is stated that from a Built Heritage perspective there are two issues that need to be examined – the potential impact on Sybil Hill House and the conservation area within St. Anne's Park. It is considered that the principal issue relates to the operational element of the development. It is not considered that there will be any specific impact on built heritage during the construction phase.

13.12.3. It is submitted that there will be no impact on Sybil Hill House arising from the construction – it is set in its own grounds, separated from St. Paul's College by a driveway, a parking area, lawn and a grove of trees. A Ha-Ha forms a definite demarcation between the grounds of the house and the college. The proposed access road runs between the Ha-Ha and the college building. The widening and realignment of the existing access will have a slight impact on the character of Sybil Hill House. It is noted that the gateway is of mid-century origin and is not of heritage significance and its removal to provide a wider access would not be a conservation issue.

13.12.4. With respect to the potential impact on the conservation area of St. Anne's Park, it is noted that the 1.6Ha open space is located adjacent to the Avenue. The semi-private open space to the east will provide c.60m separation. It is considered

that the upper parts of the apartments will be visible from the playing pitches and while all parts of the park are used for walking, the pitches are not as sensitive as the parkland or the Rose Garden and as such it is not considered that the proposed development would have a significant impact on the character of the park.

- 13.12.5. Archaeology and Cultural Heritage is assessed in this chapter also. There are no national monuments or RMP sites located within or near the development site. The gardens of Sybil Hill House and St. Anne's Park are listed in the NIAH. Much detail is provided on Maryville House which was located within the site boundaries. No surface trace of Maryville House and garden was evident, with the exception of one length of wall, which is just outside the boundary. It is noted that a geophysical survey was conducted in 2015. Recommendations for archaeological monitoring are included.
- 13.12.6. It is stated that four no. heritage sites, three no. Architectural Heritage (AH) and one no. area of archaeological potential were identified within and in close proximity to the site. The construction phase will potentially impact two architectural heritage sites: site of Maryville (AH1) and Sybil Hill House garden and grounds (AH2), and will potentially impact on one area of Archaeological Potential (AP), the townland and civil parish boundary between Raheny civil parish and Clontarf civil parish. The operational phase will potentially impact three no. AH sites.
- 13.12.7. Mitigation measures are proposed including test trenching conducted by a suitably qualified archaeologist. During construction archaeological monitoring of all groundworks is recommended. It is suggested to retain 'Maryville' or a component thereof in naming the proposed development. Residual impacts are detailed on table 11-4.

Assessment

- 13.12.8. A number of objectors referred to the conservation area of St. Anne's Park. Based on the information contained within the EIAR (including the Conservation Impact Assessment) and from my site visit, as well as having regard to the Landscape and Visual assessment, I am satisfied that there will not be an impact on the conservation area of St. Anne's Park and in particular from the Avenue due to the intervening trees and vegetation.

13.12.9. The impact on Maryville (AH1) will be a significant direct impact due to the potential to impact on sub surface materials, however, the opportunity to retrieve information on the demolished Maryville House and to preserve the derelict elements of its demesne landscape in situ is considered a positive impact. When mitigation measures are taken into consideration, the level of impact reduces to moderate. I consider that an appropriate condition to incorporate the remaining wall of Maryville to the north of the site should be included should the Board consider granting permission.

13.12.10. There will be no direct impacts on the built heritage of Sybil Hill House (AH2) and no cumulative impacts, with slight effects on its setting. The Conservation Impact Assessment notes the proposed access road would have little impact on the character and setting. The design of Block 1 and the decrease in height takes into consideration the setting of the protected structure.

13.12.11. I have considered all of the written submissions made in relation to this topic and 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 and I consider the proposed development would not have unacceptable direct, indirect or cumulative impacts in terms of cultural, archaeological and architectural heritage.

13.13. Traffic

13.13.1. Traffic is addressed in section 12.1 of the EIAR. A Traffic and Transport Assessment and Mobility Management Plan accompanies the application. The methodology is described including the surveys undertaken of traffic, pedestrians and cyclists. The TRICS database and Picady modelling informed the assessment.

13.13.2. It is noted that the basement will accommodate car parking and bicycle parking. A description of access to and from the school and Sybil Hill is described. It is noted that three⁷ pedestrian links are proposed with the park and following consultations with DCC it is noted that the links will have to be gated and will have to have opening times consistent with the park. The existing environment is detailed in

⁷ I note the drawings illustrate four links

terms of surrounding roads. The DART station and the QBC as well as the frequency of services are described.

13.13.3. The potential impact during construction and operation are detailed. The number of HGV movements for different stages of construction are described. It is stated that the projected HGV movements per day are 300 during the bulk earthworks stage which is predicted to last for 6 months. 50 cars/light vehicle movements are expected during this stage also. Other phases of work are expected to have lower traffic volumes overall. This is expected to be lower than the volumes projected for the operational phase. It is considered that the most onerous scenario is the operational phase. The projected peak traffic counts during operation are provided. It is considered that the proposed development will not give rise to any likely significant long-term negative traffic impacts. The proposed pedestrian links will give rise to significant long-term positive impacts. Cumulative impacts are addressed as well as the Do-Nothing scenario.

13.13.4. Mitigation measures are described for both the construction and operation phase. It is considered that the road network can accommodate the additional traffic. Monitoring is proposed including the development of a final CEMP which will include the Construction and Demolition Waste Management Plan. A site liaison officer will also be appointed.

Assessment

13.13.5. Many observations raised concerns with additional traffic onto what were perceived as being already congested roads. The EIAR concludes that there will not be a significant impact during the operation phase. I note that in line with DCC Development Plan and Smarter Travel policies, there is a reduced number of car parking spaces provided at a rate of 0.7 spaces per unit. The site is well served by public transport, including several buses and the Harmonstown DART station. The layout and the proposed pedestrian gates will further encourage use of alternative modes of travel to the private car.

13.13.6. I note observers referred to public transport being at capacity, however the facts are that the site is extremely well served with both trains and buses. Secure and safe bicycle parking spaces are provided, and the site is within a 10 minute walk of public transport (I note a number of objectors queried this).

- 13.13.7. Having regard to the distance from Sybil Hill Road, I am satisfied that there will not be car parking overspill onto Sybil Hill Road. I further note that the internal layout car and bicycle parking provision and Mobility Management Plan initiatives proposed will promote greater use of more sustainable travel modes. In addition to providing adequate parking for the needs of the new residents, Go Car, electric car parking points and disabled access spaces are also to be provided. The Mobility Management Plan includes the appointment of a Mobility Manager by the Management Company who will promote sustainable travel patterns.
- 13.13.8. Other objectors raised concerns with sightlines entering and exiting the site as well as the fact that the entrance is going through a school. In the first instance the entrance is being widened to accommodate the additional two-way traffic and provides for acceptable sightlines. A new pedestrian crossing is proposed onto Sybil Hill and a 2m high rendered block/brick wall with railings is being placed along the new boundary with the school. I am satisfied that the proposal will not present any more safety issues than can be found at any urban based school either during construction or operation. In addition, the proposed construction phasing and traffic management plan will minimise impact on local residents, schools, care facilities and businesses and ensure that Sybil Hill Road and the adjoining road network remains operational at all times.
- 13.13.9. During construction there will be slight short-term negative impacts on the adjoining road network, but these will be short-term and temporary. Air emissions from traffic have been addressed under Air Quality above.
- 13.13.10. A Mobility Management Plan and Travel Plan have been incorporated into the Traffic & Transport Assessment.
- 13.13.11. I have considered all of the written submissions made in relation to Traffic and Transport. I am satisfied that potential effects 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, indirect or cumulative effects on Traffic and Transport.

13.14. Waste & Utilities

13.14.1. Waste is addressed in Section 12.2 of the EIAR. The characteristics of the proposed development are described. An assessment is made of the expected waste arising during the construction phase and details are provided as to how this waste will be managed. A Construction & Demolition Waste Management Plan accompanies the application. During the operational phase, the waste will be disposed of in accordance with the Operational Waste Management Plan also prepared.

13.14.2. Utilities are addressed in section 12.3 of the EIAR. A new water network will be required along the new road from the existing watermain on Sybil Hill Road. The existing foul network will be retained and a foul water connection will be made downstream of an identified 650mm constraint in the 1350mm wastewater main. As noted elsewhere the surface water will discharge to the Naniken stream. Gas and Electricity are detailed.

Assessment

13.14.3. Some observers queried the capacity of the water and wastewater treatment systems to accommodate the proposal. I note that Irish Water have confirmed that there is capacity for the proposed development subject to the necessary agreements.

13.14.4. I have considered all of the written submissions made in relation to these topics. I am satisfied that potential effects 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, indirect or cumulative effects on water and waste services.

13.15. Interactions between Impacts on Different Factors

13.15.1. Chapter 14 of the EIAR details the interaction of the above factors. Interactions are described throughout each chapter of the report. Table 14.1 provides a matrix of potential interaction and the subsequent text details the interactions between topics. I consider this approach to be satisfactory and that adequate consideration has been given to the interactions.

13.15.2. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable when considered on an individual basis.

13.15.3. In my assessment of each environmental topic, I have considered the likelihood of significant effects arising as a consequence of interrelationships between factors. Most interactions e.g. the impact of noise and air quality on the population and human health are addressed under individual topic headings. Given the generally modest impacts which are predicted to occur having regard to the nature of the proposed development, mitigation measures, or as a consequence of proposed conditions, I do not foresee any likelihood of any of these interrelationships giving rise to significant effects on the environment.

13.15.4. In conclusion, I am satisfied that there are no such effects and, therefore, nothing to prevent the granting of permission on the grounds of interaction between factors.

13.16. Reasoned Conclusion on Significant Effects

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

- **Population and Human Health:** There will be a slight to moderate nuisance impact during construction which will be mitigated by measures described in the Construction Environmental Management Plan. During operation the development of additional housing will result in a positive impact.
- **Biodiversity:** Impacts on the site will be short term negative and will be mitigated by construction management measures, measures for water protection, the significant provision of active and passive open space, lighting proposed, protection of trees to be retained, landscaping, and measures to avoid disturbance to bats and nesting birds. Impacts on the European sites will be avoided by the proposed mitigation measures.

- **Traffic and Transport:** Potential traffic impacts during both the construction and operational phase will largely be mitigated through the implementation of a Construction Environmental Management Plan as well as a Mobility Management Plan which includes appointment of a Mobility Manager to promote sustainable travel patterns by residents during the operation phase.
- **Visual Impact:** The development will present as a new development in the landscape. There will also be changed views for some viewers in nearby residences and nearby locations. A significant alteration in landscape character will occur at the site. The potential impact will be mitigated by the design and landscape strategy and screening already provided by the existing trees along the boundaries.
- **Cultural Heritage:** There will be no significant impacts on the architectural heritage of either the conservation area of St. Arne's Park or the protected structure of Sybil Hill House. Impacts on archaeological heritage will be mitigated by the pre-construction surveys and site investigations.

13.17. The submitted EIAR has been considered with regard to the guidance provided in the EPA documents 'Guidelines on the Information to be Contained in Environmental Impact Assessment Reports' (draft August 2017) and 'Advice Notes for Preparing Environmental Impact Statements' (draft September 2015). The assessments provided in the individual EIAR chapters are considered satisfactory. The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not require or justify refusing permission for the proposed development or require substantial amendments.

14.0 Appropriate Assessment

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

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate Assessment of implications of the proposed development on the integrity each European site

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

14.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

14.2.2. The applicant has submitted a Screening Report for Appropriate Assessment and a Natura Impact Statement (NIS) as part of the planning application. They have been prepared by Enviroguide Consulting. The **Stage 1 AA Screening Report** provides a description of the proposed development and identifies European Sites within a possible zone of influence (in this case 15km radius) of the development. The AA screening report concludes that "...the possibility of significant effects from the proposed development on the following Natura 2000 sites cannot be ruled out:

- *North Dublin Bay SAC [000206]*

- *South Dublin Bay SAC [000210]*
- *North Bull Island SPA [004006]*
- *South Dublin Bay and River Tolka Estuary SPA [004024]*
- *Baldoye Bay SPA [004016]*
- *Malahide Estuary SPA [004025]*
- *Rogerstown Estuary SPA [004015]"*

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

14.3. Screening for Appropriate Assessment - Test of likely significant effects

14.3.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

14.3.2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

14.4. Brief Description of the Development

14.4.1. The applicant provides a description of the project in Section 3.2 of the Screening Report. The development is also described in the EIAR and is summarised in Section 3 of this Report.

14.4.2. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

Construction Phase (estimated duration: 48 months)

- Surface water run-off containing silt, sediments and/or other pollutants into the Naniken river;
- Increased noise, dust and/or vibrations as a result of construction activity;

- Increased dust and air emissions from construction traffic;
- Increased lighting in the vicinity as a result of construction activity;
- Increased human presence in the vicinity as a result of construction activity;
- Habitat loss within the proposed development site as a result of the construction of the proposed development;
- Potential for the spread of invasive species during construction activity, and,
- Demolition of existing site structures.

Operational Phase (estimated duration: indefinite)

- Surface water run-off containing silt, sediments and/or other pollutants into the Naniken river;
- Surface water drainage from proposed development site;
- Increased noise during the operational phase,
- Dust and air emissions from increased traffic volumes;
- Increased lighting in the vicinity emitted from the proposed development;
- Increased human presence in the vicinity as a result proposed residential development; and,
- Increased wastewater being sent to Ringsend Wastewater Treatment Plant during the operational phase of the proposed development.

14.5. Submissions and Observations

14.5.1. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 7, 8 and 9 as well as in Appendix 2 of this Report. A significant number of objections referred to ecological and AA concerns.

14.5.2. Expert submissions were received from the Dublin City Council Parks Department, which is summarised in Section 8 above, having regard to the fact that the Council recommended refusal of permission on the basis of the Parks Department submission. BirdWatch Ireland made a submission and it is appropriate to summarise that submission herein.

14.5.3. In summary the BWI submission includes:

- Regrettable that the applicant has ceased to cut the grass.
- The 2017 NIS identified lands at St. Pauls as being of 'major' importance relative to other grassland feeding sites used by Brent Geese. In the interim other foraging sites have disappeared and others are under threat.
- No management plan has been put in place by various authorities to safeguard ex-situ feeding sites of LBBG and other conservation interests of the SPA.
- The 2019 NIS conclusions do not provide the precise and definitive findings to show that LBBG and other conservation interests will not be impacted by the loss of the site or from significantly increased disturbance at the adjacent playing pitches.
- Sufficient analysis, evaluation and definitive conclusions regarding the 'integrity test' are not available in the information before the Board.
- Wadenzee, Galway Bypass, and Kelly judgements referred.
- Central argument that data indicating no LBBG have been recorded on the site (since the grass has not been maintained) and have been recorded using alternative sites is an overly simplistic assessment erroneously assuming that LBBG turning up in significant numbers on other sites equates to having no significant effect on their populations.
- Results confirm nothing more than the fact that large numbers of birds were recorded on sites other than St. Pauls from which they have been displaced.
- Analysis does not go further than to demonstrate how this is evidence for a lack of population level effects on Brent Geese – it applies binary logic to a complex multi-factorial situation.
- The 2019 NIS statement that St. Pauls is not significant is contrary to the finding of the 2017 NIS and to the 2019 NIS which identifies the site as Priority 1.
- High site fidelity by LBBG.
- Query survey effort of 2018/2019 compared to previous years. Possible number of LBBG using site is understated in 2019 survey.

- Loss of favoured or optimal selected feeding areas may have particular negative consequences which has not been addressed.
- Geese use of inland feeding sites changes seasonally with time of day and with the tidal cycle.
- None of the data provided (network survey or site survey, ring code reading) prove St. Pauls is not an important site nor that other available sites can replace this major site and nor does it prove that there is 'no impact' on the species. Factors influencing LBBG use of a site have not been investigated
- The NIS does not answer the concerns raised in 2018 decision; it is not demonstrated that the geese are not site-faithful nor that the site is used on a random basis.
- IWeBs survey only covers the coast and does not take into account inland feeding sites. Information presented does not support view that there is less reliance on ex-situ sites as previously thought.
- Landowner has failed to establish that the Geese will not be impacted in the long term by the loss of this feeding ground. It is possible that St. Pauls is a superior feeding site. Such statistics would take several years.
- NIS lacks consideration of the cumulative loss of a number of similar sites across the Dublin area.
- Query the data on the number of hectares available to LBBG. Clarification is required as this information is provided to support the view that there is ample space for the geese to forage without any assessment of quality either.
- The reference to a report by Austin Agnew et al that suggests goose droppings pose a serious threat to human health is a remarkable report to reference at this juncture and is concerning given its lack of context or reference to contrary opinion – its conclusion could be described as disingenuous and demonstrates landowners lack of concern for status of these birds.
- References other Special Conservation Interest species (SCI) - This site is frequently used by waterbirds for feeding and it is unclear how the NIS can

conclude that the loss of this site is not significant. Reference to tracking survey carried out by Birdwatch Ireland on 3 no. Curlews, 5 no. Redshanks and 6 no. Oystercatchers. Results showed extensive use of grasslands by Curlew and Oystercatchers.

- Climate change as well as recreational disturbance, habitat modification and loss, aquaculture and renewable energy developments have the potential to lower survival rates and numbers of wintering waterbirds.

14.6. European Sites

14.6.1. The development site is not located in a European site. While the proposed development site is not located adjacent to a European site, St. Anne's Park is immediately adjacent to the North Bull Island SPA. The closest European sites are North Bull Island SPA [Site Code 004006] within 1.13km, North Dublin Bay SAC [Site Code 000206] within 1.15km, and South Dublin Bay and River Tolka Estuary SPA [Site Code 004024] within 1.36km of the proposed development.

14.6.2. A summary of European Sites that occur within 15km of the proposed development is presented in the table below.

Table 14.1: Summary Table of European Sites within a possible zone of influence of the proposed development

European Site (code)	List of Qualifying interest (QI) /Special Conservation Interest (SCI)	Distance from proposed development (Km)
North Dublin Bay SAC [000206]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Calicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalwort <i>Petalophyllum ralfsii</i> [1395]	1.15km
South Dublin Bay SAC [000210]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210]	3.51km

	Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	
Baldoyle Bay SAC [000199]	Tidal Mudflats and Sandflats [1140] Salicornia Mud [1310] Atlantic Salt Meadows [1330] Mediterranean Salt Meadows [1410]	4.62km
Howth Head SAC [000202]	Dry Heath [4030]	5.92km
Rockabill to Dalkey Island SAC [003000]	Reefs [1170] Harbour porpoise <i>Phocoena phocoena</i> [1351]	6.57km
Malahide Estuary SAC [000205]	Tidal Mudflats and Sandflats [1140] Salicornia Mud [1310] Atlantic Salt Meadows [1330] Mediterranean Salt Meadows [1410] Marram Dunes (White Dunes) [2120] Fixed Dunes (Grey Dunes)* [2130]	7.78km
Ireland's Eye SAC [002193]	Perennial Vegetation of Stony Banks [1220] Vegetated Sea Cliffs [1230]	8.54km
Rogerstown Estuary SAC [000208]	Estuaries [1130] Tidal Mudflats and Sandflats [1140] Salicornia Mud [1310] Atlantic Salt Meadows [1330] Mediterranean Salt Meadows [1410] Marram Dunes (White Dunes) [2120] Fixed Dunes (Grey Dunes)* [2130]	19.48km
North Bull Island SPA [004006]	Light-bellied brent goose [A046] Shelduck <i>Tadorna tadorna</i> [A048] Teal <i>Anas crecca</i> [A054] Pintail <i>Anas acuta</i> [A054] Shoveler <i>Anas clypeata</i> [A056] Oystercatcher [A130] Golden plover <i>Pluvialis apricaria</i> [A140] Grey plover [A141] Knot [A143] Sanderling [A144] Dunlin [A149] Black-tailed godwit <i>Limosa limosa</i> [A156] Bar-tailed godwit [A157] Curlew <i>Numenius arquata</i> [A160] Redshank [A162] Turnstone <i>Arenaria totanus</i> [A169] Black-headed gull [A179] Wetland and waterbirds [A999]	1.13km
South Dublin Bay and River Tolka Estuary SPA [004024]	Light-bellied brent goose <i>Branta bernicla hrota</i> [A046] Oystercatcher <i>Haematopus ostralegus</i> [A130] Ringed plover <i>Charadrius hiaticula</i> [A137] Grey plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina</i> [A149] Bar-tailed godwit <i>Limosa lapponica</i> [A157] Redshank <i>Tringa totanus</i> [A162]	1.36km

	Black-headed gull <i>Chroicocephalus ridibundus</i> [A179] Roseate tern [A193] Arctic tern [A194] Wetland and waterbirds [A999]	
Baldoyle Bay SPA [004016]	[A046] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [wintering] [A048] Shelduck (<i>Tadorna tadorna</i>) [wintering] [A137] Ringed Plover (<i>Charadrius hiaticula</i>) [wintering] [A140] Golden Plover (<i>Pluvialis apricaria</i>) [wintering] [A141] Grey Plover (<i>Pluvialis squatarola</i>) [wintering] [A157] Bar-tailed Godwit (<i>Limosa lapponica</i>) [wintering] [A999] Wetland and Waterbirds	4.75km
Ireland's Eye SPA [004117]	[A017] Cormorant (<i>Phalacrocorax carbo</i>) [breeding] [A184] Herring Gull (<i>Larus argentatus</i>) [breeding] [A188] Kittiwake (<i>Rissa tridactyla</i>) [breeding] [A199] Guillemot (<i>Uria aalge</i>) [breeding] [A200] Razorbill (<i>Alca torda</i>) [breeding]	8.37km
Malahide Estuary SPA [004025]	[A005] Great Crested Grebe (<i>Podiceps cristatus</i>) [wintering] [A046] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [wintering] [A048] Shelduck (<i>Tadorna tadorna</i>) [wintering] [A054] Pintail (<i>Anas acuta</i>) [wintering] [A067] Goldeneye (<i>Bucephala clangula</i>) [wintering] [A069] Red-breasted Merganser (<i>Mergus serrator</i>) [wintering] [A130] Oystercatcher (<i>Haematopus ostralegus</i>) [wintering] [A140] Golden Plover (<i>Pluvialis apricaria</i>) [wintering] [A141] Grey Plover (<i>Pluvialis squatarola</i>) [wintering] [A143] Knot (<i>Calidris canutus</i>) [wintering] [A149] Dunlin (<i>Calidris alpina</i>) [wintering] [A156] Black-tailed Godwit (<i>Limosa limosa</i>) [wintering] [A157] Bar-tailed Godwit (<i>Limosa lapponica</i>) [wintering] [A162] Redshank (<i>Tringa totanus</i>) [wintering] [A999] Wetland and Waterbirds	8.76km
Howth Head Coast SPA [004113]	[A188] Kittiwake (<i>Rissa tridactyla</i>) [breeding]	8.82km
Dalkey Islands SPA [004172]	[A192] Roseate Tern (<i>Sterna dougallii</i>) [passage] [breeding] [A193] Common Tern (<i>Sterna hirundo</i>) [passage] [breeding] [A194] Arctic Tern (<i>Sterna paradisaea</i>) [passage] [breeding]	12.02km
Rogerstown Estuary SPA [004015]	[A043] Greylag Goose (<i>Anser anser</i>) [wintering] [A046] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [wintering]	13.7km

	[A048] Shelduck (<i>Tadorna tadorna</i>) [wintering] [breeding] [A056] Shoveler (<i>Anas clypeata</i>) [wintering] [A130] Oystercatcher (<i>Haematopus ostralegus</i>) [wintering] [A137] Ringed Plover (<i>Charadrius hiaticula</i>) [wintering] [A141] Grey Plover (<i>Pluvialis squatarola</i>) [wintering] [A143] Knot (<i>Calidris canutus</i>) [wintering] [A149] Dunlin (<i>Calidris alpina</i>) [wintering] [A156] Black-tailed Godwit (<i>Limosa limosa</i>) [wintering] [passage] [A162] Redshank (<i>Tringa totanus</i>) [wintering] [A999] Wetland and Waterbirds	
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14.6.3. Table 2 within the applicant's Screening Assessment lists the *Identification and Assessment of Likely Significant Effects on Natura 2000 Sites within the Precautionary Zone of Influence of the Proposed Development*. The features of the proposed development that have the potential to directly or indirectly impact on the qualifying interests and/or conservation objectives of the 8 SACs and 8 SPAs that are located within the precautionary zone of influence are detailed. The table below summarises the findings of Table 2 of the Screening Report with respect to the sites and the features of the development that have potential for likely significant effect and for which I concur with.

Table 14.2: Potential for Likely Significant Effect

Site	Potential for likely significant effect due to:	Further Assessment Required
North Dublin Bay SAC	Possible discharge/run-off of surface waters containing sediment, silt, oils and/or other pollutants during the construction phase of the proposed development into the Naniken river.	Yes
	Insignificant increase in loading at Ringsend WWTP	No
South Dublin Bay SAC	Possible discharge/run-off of surface waters containing sediment, silt, oils and/or other pollutants during the construction phase of the proposed development into the Naniken river.	Yes
	Insignificant increase in loading at Ringsend WWTP	No
Baldoye Bay SAC	Intervening distance of c.4.7km	No
	Distance and marine buffer/dilution factor	No
Howth Head SAC	Intervening distance of c.5.9km	No
	Lack of hydrological connections	No

Rockabill to Dalkey Islands SAC	Intervening distance of c.6.6km	No
	Distance and marine buffer/dilution	No
	Insignificant increase in loading at Ringsend WWTP	No
Malahide Estuary SAC	Intervening distance of c.7.9km	No
	Distance and marine buffer/dilution	No
	Insignificant increase in loading at Ringsend WWTP	No
Ireland's Eye SAC	Intervening distance of c.8.6km	No
	Lack of hydrological connection	No
Rogerstown Estuary SAC	Intervening distance of c.13.6km	No
	Distance and marine buffer/dilution	No
	Insignificant increase in loading at Ringsend WWTP	No
North Bull Island SPA	Possibility of disturbance and/or displacement of QI during the construction and operational phases of the proposed development, which encompasses a known ex-situ feeding site for QI of this SPA (Benson, 2009; NPWS, 2014a & Scott Cawley Ltd., 2017a).	Yes
	Possible discharge/run-off of surface waters containing sediment, silt, oils and/or other pollutants during the construction phase of the proposed development into the Naniken river	Yes
South Dublin Bay & River Tolka Estuary SPA	Possibility of disturbance and/or displacement of QI during the construction and operational phases of the proposed development, which encompasses a known ex-situ feeding site for QI of this SPA (Benson, 2009; NPWS, 2014a & Scott Cawley Ltd., 2017a).	Yes
	Possible discharge/run-off of surface waters containing sediment, silt, oils and/or other pollutants during the construction phase of the proposed development into the Naniken river	Yes
Baldoye Bay SPA	Possibility of disturbance and/or displacement of QI during the construction and operational phases of the proposed development, which encompasses a known ex-situ feeding site for qualifying interests of this SPA (Benson, 2009; NPWS, 2014a & Scott Cawley Ltd., 2017a).	Yes
Ireland's Eye SPA	Intervening distance of c.8.4km	No
	Distance and marine buffer/dilution	No
	Insignificant increase in loading at Ringsend WWTP	No
	Lack of suitable habitat for QI	No
Malahide Estuary SPA	Possibility of disturbance and/or displacement of qualifying interests during the construction and operational phases of the proposed development, which encompasses a known ex-situ feeding site for qualifying interests of this SPA (Benson, 2009; NPWS, 2014a & Scott Cawley Ltd., 2017a).	Yes
Howth Head Coast SPA	Intervening distance of c.8.4km	No
	Distance and marine buffer/dilution	No
	Insignificant increase in loading at Ringsend WWTP	No

	Lack of suitable habitat for QI	No
Dalkey Islands SPA	Intervening distance of c.12km	No
	Distance and marine buffer/dilution	No
	Insignificant increase in loading at Ringsend WWTP	No
	Lack of suitable habitat for QI	No
Rogerstown Estuary SPA	Possibility of disturbance and/or displacement of qualifying interests during the construction and operational phases of the proposed development, which encompasses a known ex-situ feeding site for qualifying interests of this SPA (Benson, 2009; NPWS, 2014a & Scott Cawley Ltd., 2017a).	Yes

14.6.4. As listed above, sites have been screened out from further assessment based on a combination of factors including the intervening minimum distances, the marine buffer/dilution factor, the insignificant increase in the loading at Ringsend Wastewater Treatment Plant, the lack of suitable habitat for a number of qualifying interests of SPAs within or within close proximity to the proposed development (as applicable) and the lack of hydrological connections. I am satisfied and concur that there is no potential for likely significant effects on these screened out sites as detailed in Table 2 of the Screening Report and concur that further assessment is required on the remaining sites including:

- North Dublin Bay SAC [000206]
- South Dublin Bay SAC [000210]
- North Bull Island SPA [004006]
- South Dublin Bay and River Tolka Estuary SPA [004024]
- Baldoyle Bay SPA [004016]
- Malahide Estuary SPA [004025]
- Rogerstown Estuary SPA [004015]

14.6.5. Thus, the impacts identified in the Screening Report which could result in likely significant effects, and which I concur with, relate to:

- *The possibility of discharge/run-off of surface waters containing sediment, silt, oils and/or other pollutants during the construction phase of the proposed development into the Naniken river, which subsequently discharges into North*

Bull Island's South Lagoon, and which has the potential to impact relevant qualifying interests; and

- *The loss of a known ex-situ inland feeding site for Light-bellied Brent Goose, Curlew, Oystercatcher, Black-tailed Godwit and Black-headed Gull (Benson, 2009; NPWS, 2014a & Scott Cawley Ltd., 2017a) as a result of the construction and operation of the proposed development, which has the potential to impact relevant qualifying interests.*

14.6.6. I note that some observers queried the potential for bird collisions with the new buildings on account of the height proposed. The possibility that the introduction of high buildings at the site could constitute a collision risk to birds moving between the North Bull Island roosting site and other inland feeding sites was not considered in the NIS or in the NIS prepared by Scott Cawley (NIS, 2017). As it was not documented, it's unclear if this was due to the fact that the authors did not consider it to be a significant risk to the SCI species in and around Dublin Bay or that it was an omission.

14.6.7. In general, literature suggests that it is smaller passerine birds and nocturnal migrating passerines in particular (migrating in large flocks), that are more susceptible to collision with buildings with extensive glass facades or very high buildings with extensive lighting. While large birds such as swans and geese are known to be potentially at risk from collision with less visible structures such as overhead wires, particularly if they are located between feeding and roost sites, there is little evidence to suggest that buildings could pose a significant risk to these species in the context of the proposed development. There are much higher buildings in and around Dublin Bay that are crossed daily by birds moving out of the coastal area to inland feeding sites without incident. The supporting documents for the conservation objectives and the Natura 2000 data forms for the SPAs do not refer to any collision risks. Therefore, I consider it reasonable to screen out the potential that bird collisions with new apartment buildings could be likely significant effect in view of the conservation objectives of the SPA sites.

14.6.8. The possibility for in-combination effects has been considered in the Screening Report with a list of permitted, or in progress developments within the vicinity of the proposed development. As the potential for likely significant effects has been

identified arising from the project alone, in combination effects are considered in more detail in the Appropriate Assessment.

14.7. Screening Determination

14.7.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on 7 European Sites within Dublin Bay in view of the Conservation Objectives of those sites, and Appropriate Assessment is therefore required for the following:

- North Dublin Bay SAC [000206]
- South Dublin Bay SAC [000210]
- North Bull Island SPA [004006]
- South Dublin Bay and River Tolka Estuary SPA [004024]
- Baldoyle Bay SPA [004016]
- Malahide Estuary SPA [004025]
- Rogerstown Estuary SPA [004015]

14.7.2. The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment.

- Baldoyle Bay SAC [000199]
- Howth Head SAC [000202]
- Rockabill to Dalkey Island SAC [003000]
- Malahide Estuary SAC [000205]
- Ireland's Eye SAC [002193]
- Rogerstown Estuary SAC [000208]
- Ireland's Eye SPA [004117]
- Howth Head Coast SPA [004113]

- Dalkey Islands SPA [004172]

14.7.3. Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process.

14.8. The Natura Impact Statement

14.8.1. The application included a NIS for the proposed Strategic Housing Development at St. Paul's College dated October 2019 which examines and assesses potential adverse effects of the proposed development on the following European Sites

- North Dublin Bay SAC [000206]
- South Dublin Bay SAC [000210]
- North Bull Island SPA [004006]
- South Dublin Bay and River Tolka Estuary SPA [004024]
- Baldoyle Bay SPA [004016]
- Malahide Estuary SPA [004025]
- Rogerstown Estuary SPA [004015]

It included information on the studies, surveys and consultations undertaken as well as the limitations. It includes the 2017 Scott Cawley NIS for the earlier application as an Appendix and data from this report and associated surveys and analysis is relied upon.

14.8.2. The NIS provides a description of the project and the existing environment. It details the desk studies undertaken, the wintering bird surveys undertaken by Enviroguide Consulting as well as the wintering bird surveys carried out for the previous NIS prepared by Scott Cawley in 2017 (from here on referred to as the 2017 NIS). The wintering bird surveys were the subject of numerous observations and will be dealt with in detail below.

14.8.3. A summary of each of the relevant European designated sites is provided and Table 1 of the NIS lists the qualifying interests and their conservation objectives for each site.

14.8.4. The proposed development site has been previously identified as one of a network of ex-situ feeding sites for a number of bird species that are Special Conservation

Interests for the SPA sites within Dublin Bay. Significant numbers of Light Bellied Brent Geese (LBBG) have been recorded and the surveys of the Dublin network of ex-situ inland feeding sites for LBBG are described in the NIS. It is stated that the number of ex-situ inland feeding sites for which records of LBBG presence exists is considered to be 139. A total of 110 no. ex-situ sites were surveyed in 2018/2019. The sites were split into Priority 1, 2 and 3 sites where priority 1 sites had records of LBBG in 3 or more seasons and /or occurring in internationally important numbers. Evidence of LBBG presence was recorded at a total of 70 no. sites during the 2018/2019 surveys. Tables are provided within the NIS indicating the information at each ex-situ site over the years of data, and population estimates over various time periods.

- 14.8.5. An assessment of the impacts on the European sites is provided with respect to the loss of ex-situ inland feeding habitat for both LBBG and other SCI species recorded at the proposed development site (Curlew, Black tailed Godwit, Oystercatcher, and Black headed Gull), and construction related surface water discharges as detailed in section 14.6.5 above.
- 14.8.6. The NIS notes that the conservation objectives for LBBG are based on the attributes of 'population trend' and 'distribution'. An appraisal of the impact on each of these conservation objective attributes is given. With respect to ex-situ inland feeding habitat, the NIS states based on survey and re-sighting of ringed birds, that the LBBG are not site loyal to individual ex-situ sites, are capable of relocating to different sites, calculate that in the wider Dublin bay area based on other green field availability that there is available capacity for a minimum of c.2,200 additional LBBG. No LBBG were recorded within the proposed Development Lands during the 2018/2019 survey (albeit there were land management changes due to lack of mowing grass), and the adjacent St. Paul's school pitch was not among the top 10 most important ex-situ sites in the wider area in 2018/2019. It concludes that there will be no adverse impact on the conservation objectives of the SPA sites for which the LBBG is designated.
- 14.8.7. With respect to the other SCI species, it is noted that the conservation objectives are based on the attributes of 'population trend' and 'distribution'. It is considered that the loss of ex-situ foraging habitat as a result of the proposed development does not have the capacity to impact adversely on the conservation objectives having regard

to numbers and frequency of the birds occurring at the site. It is stated that this site is not considered to be of high or major importance for any of these species. It is considered that there will be no adverse impact on the conservation objectives of any of the SCI species recorded at the development site, i.e. Curlew, Oystercatcher, Black-tailed Godwit and Black-headed Gull.

- 14.8.8. During construction the potential for impact on four of the European sites was identified due to the possibility of discharge/run-off of surface waters containing sediment, silt, oils etc. flowing into the Naniken River. It is stated that the Construction Environmental Management Plan (CEMP) includes mitigation measures which are considered to ensure no adverse effects on the Natura 2000 sites.
- 14.8.9. In-combination effects are addressed in the NIS. Table 9 lists planning applications on ex-situ sites and it is noted where those grants/decision pending involves a change to grassland pitches. It is stated that the combined loss of these sites is not significant in respect of the overall network and even with these losses there is adequate growth potential for the goose population. In combination effects on water quality are also addressed.
- 14.8.10. The applicant's NIS concludes that:
"Enviroguide Consulting has determined that the proposed development will not adversely affect the integrity of the Natura 2000 sites either alone or in combination with other plans and projects, taking into account the conservation objectives of the Natura 2000 sites"
- 14.9. Having reviewed the documents, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the following European sites alone, or in combination with other plans and projects:
- North Dublin Bay SAC [000206]
 - South Dublin Bay SAC [000210]
 - North Bull Island SPA [004006]
 - South Dublin Bay and River Tolka Estuary SPA [004024]

- Baldoyle Bay SPA [004016]
- Malahide Estuary SPA [004025]
- Rogerstown Estuary SPA [004015]

14.10. Appropriate Assessment of implications of the proposed development on each European Site

14.10.1. The following is a summary of the detailed scientific assessment of the implications of the project on the qualifying interest features of the European sites. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

14.10.2. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

14.10.3. A description of the sites and their Conservation Objectives for all Qualifying Interests (QI) /Special Conservation Interests (SCI), including any relevant attributes and targets for these sites, are set out in the NIS in Table 1 and summarised in the tables below of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie). As noted above the main aspects of the proposed development that could affect European sites include:

- The possibility of discharge/run-off of surface waters containing sediment, silt, oils and/or other pollutants during the construction phase of the proposed development into the Naniken river, which subsequently discharges into North

Bull Island's South Lagoon, and which has the potential to impact relevant qualifying interests of adjacent SAC sites and the wetland habitat component of the South Dublin Bay and River Tolka Estuary SPA; and

- The loss of a known ex-situ inland feeding site for Light-bellied Brent Goose, and other SCI bird species that have been recorded on the site including Curlew, Oystercatcher, Black-tailed Godwit and Black-headed Gull (Benson, 2009; NPWS, 2014a & Scott Cawley Ltd., 2017a) as a result of the construction and operation of the proposed development, which has the potential to affect the achievement of the conservation objectives of those species.

I have summarised the submissions in section 7, 8, 9 and Appendix 2 of this Report as well as the expert submission from BirdWatch Ireland and Dublin City Council Parks Department above and will address issues raised herein.

14.11. Special Areas of Conservation

- 14.11.1. There will be no direct impacts on any SAC site as a result of the proposed development as the development is located wholly outside of any European Site. The Naniken River flows c.100m to the north of the site, west to east. The watercourse flows for c.1.7km from where it exits the culvert under the Clontarf Road, to where it enters the South Lagoon at North Bull Island entering Dublin Bay. The North Dublin Bay SAC (000206) and South Dublin Bay SAC (000210) are located to the east of the site and include coastal habitats which may be susceptible to indirect impacts from any deterioration of the water quality. The conservation objectives of the Qualifying Interest habitats and species of these SAC sites are listed below. The Naniken River provides a hydrological connection between the subject site and both SACs. The proposed development includes a discharge of surface water to the Naniken River and connection of the foul to Ringsend Wastewater Treatment Plant⁸. I am satisfied that the other identified aspects of the development, i.e. potential bird collision and loss of ex-situ lands will not result in adverse effects on the Qualifying Interests or Conservation Objectives and the integrity of the SACs.

⁸ As noted in Screening above, I am satisfied that the treatment plant has capacity to accommodate the proposed development and this has been confirmed by Irish Water

Table 14.3 Conservation Objectives for relevant SACs

European Designated site	Qualifying Interest (QI) (QIs in Bold which may be susceptible to water quality impacts).	Conservation Objective (favourable status)
North Dublin Bay SAC (000206)	Tidal Mudflats and Sandflats Annual Vegetation of Drift Lines Salicornia Mud Atlantic Salt Meadows Mediterranean Salt Meadows Embryonic Shifting Dunes Marram Dunes (White Dunes) Fixed Dunes (Grey Dunes)* Humid Dune Slacks Petalwort (Petalophyllum ralfsii)	Maintain Restore Restore Maintain Maintain Restore Restore Restore Restore Restore Maintain
South Dublin Bay SAC (000210)	Tidal Mudflats and Sandflats Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand Embryonic shifting dunes	Maintain Restore Restore Restore

Many observers raised concerns about the possibility of discharge/run-off of surface waters containing sediment etc. during the construction phase. If this were to happen, the Qualifying Interests identified in Table 8 of the NIS could be at risk from potential construction related surface water discharges should the discharges be of sufficient quantity and/or duration to affect water quality within the sites. The habitats that could be affected by decreased water quality are highlighted in Table 14.3 above. The wetland habitats that comprise the North Bull SPA and South Dublin Bay and Tolka Estuary SPA are contiguous with the SACs and therefore it is appropriate to consider any impacts on the quality of the wetland habitats alongside those of the SAC sites. The NIS does not detail the implications on the targets and attributes of all the relevant conservation objectives beyond a general assessment. However, it is clear that there will be no direct impacts on habitat area, distribution, physical structure, vegetation zonation or structure. There will be no obstruction to the circulation of sediments upon which many of these lagoonal and estuarine habitats are dependant. The application of mitigation measures aimed at preventing any potential harmful construction related emissions to the aquatic environment will ensure that the invertebrate community structure of these sediment habitats will be unaffected.

14.11.2. **Mitigation measures** relevant to the protection of surface waters and connected wetland habitats are detailed in Section 8.2.1 of the NIS. These are based on industry standard guidance (e.g. CIRIA and Inland Fisheries Ireland Guidance 2016) and standard siltation and pollution prevention and control measures. A

detailed Construction Environmental Management Plan (CEMP) has been compiled which will facilitate the effective application of all mitigation measures for the proposed development. The main mitigation measures are detailed in the CEMP. The CEMP, which is submitted as a separate document with this application, covers all potentially polluting activities and includes mitigation measures for critical elements such as storage and handling of harmful materials. Having regard to the measures outlined as well as the application of best practice construction methods, I am satisfied that there will be no adverse effects on the North Dublin Bay SAC or the South Dublin Bay SAC in view of their conservation objectives as a result of the proposed development. Similarly, no adverse effects will occur to the 'Wetlands and waterbird' SCI of the North Bull SPA or the South Dublin and River Tolka Estuary SPA in view of the conservation objectives for this particular attribute.

14.11.3. In terms of **in-combination effects** the NIS refers to the Ringsend WWTP and potential cumulative impacts. As noted above, the treatment plant can accommodate the proposed development. Given the above determination and given that any water entering Dublin Bay as a result of the proposed development at St Paul's either via the WWTP or via surface water sources, will become rapidly mixed and diluted to such a low level that it becomes indistinguishable from the rest of the bay water I am satisfied that there will be no in-combination effects.

14.11.4. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of the North Dublin Bay SAC or South Dublin Bay SAC in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

14.12. **Special Protection Areas (SPAs)**

14.12.1. The proposed development site at St. Paul's, is wholly located outside of European sites and as outlined for the SAC sites above, there will be no direct impacts on any SPA sites in terms of the permanent area of wetland habitat as defined in conservation objectives of those sites. The North Bull Island SPA is located adjacent to Saint Anne's Park and within c.1.2 kms of the proposed development site. Four other SPA sites including Baldoyle Bay, South Dublin Bay

and the Tolka Estuary, Rogerstown Estuary SPA and Malahide Estuary SPA have also been screened in for potential significant effects of common SCI species linked to the proposed development site.

14.12.2. While direct effects on the SPA sites can be ruled out with confidence, the possibility of indirect effects on wintering waterbird species that comprise the SCI of those sites cannot be discounted. These SPA sites are designated for highly mobile bird species which utilise a range of resources throughout the SPA network of sites in Dublin Bay. The interactions between the populations of birds across this network of sites is poorly understood, but there are likely movements between sites. This is particularly the case for wintering waterbirds and waders which use a range of feeding and roosting sites throughout the winter period.

14.12.3. The key species of concern are those which are included as SCI for the SPA sites and have been recorded at the proposed development site namely, Light Bellied Brent Goose (LBBG), Bar tailed Godwit, Black Headed Gull, Oystercatcher and Curlew. The NIS submitted focuses on these species in particular. For the avoidance of any doubt, other wintering bird species for which the SPA sites are designated are not reliant on ex-situ /inland sites and have been scoped out of the detailed assessment. Similarly, there is no risk of any impacts on breeding Tern species for which the South Dublin Bay and Tolka Estuary are designated in view of the conservation objectives of that site.

14.12.4. The majority of the submissions from third parties, including Birdwatch Ireland, as well as the Parks Department of the Local Authority, raised serious concerns with the loss of this ex-situ inland feeding site for SCI including LBBG in particular and Bar tailed Godwit, Black Headed Gull, Oystercatcher and Curlew which have been recorded on the site. The table below lists the Conservation Objectives for the SPAs and more detail on the targets and attributes supporting achievement of Conservation Objectives is provided in Table 14. 5.

Table 14.4 Summary of Special Conservation Interest Species and Conservation Objectives for SPAs considered in the Appropriate Assessment

European Designated Site	Special Conservation Interest Species (SCIS) Species in Bold are those considered in the detailed assessment of impacts	Conservation Objective (favourable status)
North Bull Island SPA (004006)	<p>A046] Light-bellied Brent Goose (Branta berniclahrota) [wintering]</p> <p>[A048] Shelduck (Tadorna tadorna) [wintering]</p> <p>[A052] Teal (Anas crecca) [wintering]</p> <p>[A054] Pintail (Anas acuta) [wintering]</p> <p>[A056] Shoveler (Anas clypeata) [wintering]</p> <p>[A130] Oystercatcher (Haematopus ostralegus)[wintering]</p> <p>[A1 0] Golden Plover (Pluvialis apricaria) [wintering]</p> <p>[A141] Grey Plover (Pluvialis squatarola) [wintering]</p> <p>[A143] Knot (Calidris canutus) [wintering]</p> <p>[A144] Sanderling (Calidris alba) [wintering]</p> <p>[A149] Dunlin (Calidris alpina) [wintering]</p> <p>[A156] Black-tailed Godwit (Limosa limosa) [wintering]</p> <p>[A157] Bar-tailed Godwit (Limosa lapponica) [wintering]</p> <p>[A160] Curlew (Numenius arquata) [wintering]</p> <p>[A162] Redshank (Tringa totanus) [wintering]</p> <p>[A169] Turnstone (Arenaria interpres) [wintering]</p> <p>[A179] Black-headed Gull (Chroicocephalus ridibundus)[wintering]</p> <p>[A999] Wetland and Waterbirds</p>	To maintain the favourable conservation status of all species listed
Baldoye Bay SPA (004016)	<p>[A046] Light-bellied Brent Goose (Branta berniclahrota) [wintering]</p> <p>[A048] Shelduck (Tadorna tadorna) [wintering]</p> <p>[A137] Ringed Plover (Charadrius hiaticula) [wintering]</p> <p>[A140] Golden Plover (Pluvialis apricaria) [wintering]</p> <p>[A141] Grey Plover (Pluvialis squatarola) [wintering]</p> <p>[A157] Bar-tailed Godwit (Limosa lapponica) [wintering]</p> <p>[A999] Wetland and Waterbirds</p>	To maintain the favourable conservation status of all species.
South Dublin Bay and River Tolka Estuary SPA (004024)	<p>[A046] Light-bellied Brent Goose (Branta berniclahrota) [wintering]</p> <p>[A130] Oystercatcher (Haematopus ostralegus) [wintering]</p> <p>[A137] Ringed Plover (Charadrius hiaticula) [wintering]</p> <p>[A141] Grey Plover (Pluvialis squatarola) [wintering]</p> <p>[A143] Knot (Calidris canutus) [wintering]</p> <p>[A144] Sanderling (Calidris alba) [wintering]</p> <p>[A149] Dunlin (Calidris alpina) [wintering]</p>	To maintain the favourable conservation status of all species. Grey Plover to be removed.

	<p>[A157] Bar-tailed Godwit (<i>Limosa lapponica</i>) [wintering]</p> <p>[A162] Redshank (<i>Tringa totanus</i>) [wintering]</p> <p>[A179] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [wintering]</p> <p>[A192] Roseate Tern (<i>Sterna dougallii</i>) [passage]</p> <p>[A193] Common Tern (<i>Sterna hirundo</i>) [breeding] [passage]</p> <p>[A194] Arctic Tern (<i>Sterna paradisaea</i>) [breeding] [passage]</p> <p>[A999] Wetland and Waterbirds</p>	
<p>Rogerstown Estuary SPA (004015)</p>	<p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</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>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>	<p>To maintain the favourable conservation status of all species.</p>
<p>Malahide Estuary SPA (004025)</p>	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</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> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>	<p>To maintain the favourable conservation status of all species.</p>

Table 14.5 Summary of Conservation Objectives for Wintering Waterbirds for SPA sites considered in the Appropriate Assessment. Factors of significance to the assessment are highlighted in bold.

Objective 1: To maintain the favourable conservation condition of the waterbird Special Conservation Interest species including Light-bellied Brent Goose, Curlew, Black-tailed Godwit, Oystercatcher and Black-headed Gull listed for: North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA, Baldoyle Bay SPA, Rogerstown Estuary SPA and Malahide Estuary SPA which is defined by the following list of attributes and targets: (NPWS)			
Parameter	Attribute	Measure	Target
Population	Population trend	% change as population trend assessment using waterbird count data collected through Irish Wetland Bird Surveys and other surveys	Long term population trend stable or increasing
Waterbird populations are deemed unfavourable when they have declined by 25% or more as assessed by the most recent population trend analysis			
Range	Distribution	Range timing or intensity of use by waterbirds as determined by regular low tide and other waterbird surveys	There should be no significant decrease in the range, timing or intensity of use of areas by the waterbird species of Special Conservation Interest other than that occurring from natural patterns of variation.
Factors that can adversely affect the achievement of Conservation Objectives			
Habitat modification: activities that modify discreet areas or the overall habitat(s) within the SPA in terms of how one or more of the listed species use the site (e.g. as a feeding resource) could result in the displacement of these species from areas within the SPA and/or a reduction in their numbers			
Disturbance: anthropogenic disturbance that occurs in or near the site and is either singular or cumulative in nature could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and/or a reduction in their numbers			
Ex-situ factors: several of the listed waterbird species may at times use habitats situated within the immediate hinterland of the SPA or in areas ecologically connected to it. The reliance on			

these habitats will vary from species to species and from site to site. Significant habitat change or increased levels of disturbance within these areas could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and/or a reduction in their numbers

14.12.5. A significant amount of data on the usage of this ex-situ site has been supplied by the applicant. However, this data has been questioned by most third parties and in greater detail by Birdwatch Ireland and the Parks Department of the Council. It is stated in some observations that sufficient analysis, evaluation and definitive conclusions regarding the 'integrity test' are not available in the information before the Board to provide conclusions capable of removing all scientific doubt about the lack of effects on integrity.

14.12.6. At the outset, to fully address all the issues raised, I consider it appropriate to summarise the **bird surveys**. Chapter 5 of the 2019 NIS details the approach and methodology applied to the most recent survey season 2018/2019 by Enviroguide Consulting. Winter bird surveys (and detailed analysis) undertaken in previous years 2015/16 and 2016/17 by Scott Cawley also comprise a crucial component of the data relied upon. The survey and analysis undertaken by Scott Cawley for the 2017 NIS set the framework for the most recent analysis. The approach and methodology for that assessment was founded in addressing the specific issue regarding the significance of the St. Paul's site in the context of the wider network of ex-situ foraging sites for LBBG. It should be noted that the 2017 NIS also utilised data on LBBG use of ex-situ sites over a longer period dating back to 2012/13.

The 2018/19 surveys undertaken for this application were, like the previous surveys, focused on (a) the Dublin network of known ex-situ sites, and (b) the St. Paul's site. The stated purpose of the Dublin Network Winter Bird Survey (WBS) was to obtain information on changes in the usage of the network of ex-situ inland feeding sites by SCI species in 2018/19, compared with previous seasons. The Dublin Network WBS was undertaken between November 2018 and April 2019 and consisted of nine full-day surveys (sunrise to sunset) by a team of five ornithologists. This approach was broadly similar to the methodology employed in the previous surveys (2017 NIS) but it is not clear if surveyors were present at the North Bull Island to monitor birds as

they moved out from the roost. St Anne's Park was included in this survey with four sub-sites considered.

14.12.7. The St Paul's site specific wintering bird survey was undertaken from January to April 2019. This survey was designed to determine the usage of St Paul's by wintering SCI species. The Board should note that the approach to survey did not replicate the previous application. It is not clear how the surveys related to time of day (dawn/ dusk) or the tidal cycle. Surveys comprised of once weekly 2 hour visits to the site by one surveyor over 14 dates.

14.12.8. Chapter 7 of the 2019 NIS details the results of the wintering bird surveys. It notes that the area defined as 'St. Paul's' in the 2017 NIS was divided in the winter 2018/2019 surveys into two distinct sub-sites, namely, *St. Paul's School pitch* – the playing pitch used by the school being c.1.4Ha, and *Development Lands* – area of grassland occupying fenced-off area being c.6.4Ha. It is noted that during previous wintering bird surveys the *Development Lands* remained as amenity grasslands with regular mowing analogous to the *St. Paul's school pitch*. In the 2018/2019 season there was no mowing carried out from August 2018. The two areas were therefore considered to be sufficiently distinct to warrant evaluation as separate sites for the 2018/2019 season. It is also explained that no surveys were carried out in 2017/2018 season as a proposal was submitted to the Board in December 2017. Table 2 of the NIS provides a summary of the results of usage of St. Paul's sites by LBBG over the surveys. The data clearly indicates that no geese were recorded on the Development Lands over the course of surveys 2018/2019 which is considered to be due to the change in management of the site (i.e. no mowing). It is noted that the data from the earlier surveys does not distinguish where the LBBG located, i.e. whether on the St. Paul's school pitch or the Development Lands.

14.12.9. It is further noted that a total of 4 other SCI species have also been recorded at the St. Paul sites over the three years of surveying, i.e. Curlew, Oystercatcher, Black-tailed Godwit and Black-headed Gull. In terms of ecology, the Board should note that these species are not dependant on grass/vegetable matter as a feeding resource. On grassland sites they feed on invertebrates such as earthworms and insects. In addition, they may use inland sites as additional roost sites to the SPA area. Table 3 of the NIS provides a summary of the usage of St. Paul's sites by these species over the 3 winter periods. It is stated that all counts were below the

respective 1% national, or 1% international population estimates and on only one occasion the numbers of Black-tailed Godwit exceeded the 1% national population estimate. Of note, Curlew was recorded on 3 occasions on the Development Lands sub-site and Black-tailed Godwits recorded once from the 23 site visits in the 2018/2019 surveys. There was no record of Oystercatcher or Black-headed Gull within the sub-site during the site surveys of the 2018/2019 winter season.

Detailed Consideration of factors that could affect the conservation objectives of the SPA sites

14.12.10. My assessment of implications of the proposed development on the site integrity of the SPA sites with regard to potentially affected species will focus on the factors that could affect the conservation objectives of the sites as outlined in Table 14.4 above and with reference to submissions made by BirdWatch Ireland and Dublin City Council Parks Department in particular.

Firstly I will consider the target that *there should be no significant decrease in the range, timing or intensity of use of areas by the waterbird species of Special Conservation Interest other than that occurring from natural patterns of variation* in order to maintain the favourable conservation condition of the relevant wintering waterbirds.

In terms of the factors that could affect the conservation objectives, there will be **no modification of habitats within the SPA** that result in the displacement of these species from areas within the SPA and the assessment is focused on ex-situ factors.

The BirdWatch Ireland submission refers to **disturbance**. In terms of the conservation objectives, anthropogenic disturbance that occurs in or near the site and is either singular or cumulative in nature could result in the displacement of one or more of the listed waterbird species from areas **within the SPA**, and/or a reduction in their numbers.

14.12.11. I do not accept the Birdwatch Ireland submission that the NIS does not provide precise and definitive findings required to show that Brent Geese population and other conservation interests will not be impacted "*from the significantly increased disturbance at the adjacent St. Paul's School playing pitch or other sites*".

With respect to **disturbance** this statement contradicts the arguments put forward to leave the lands as they are, i.e. as playing pitches. There has always been use of the numerous pitches in and around St. Paul's and St. Anne's Park by the public. Indeed, the other ex-situ sites described and listed in various documents are generally playing pitches, golf clubs, public parks and other sites that the public visit in high numbers.

The implications for the ex-situ factors involving the reliance on inland habitats outside of the SPAs is considered for LBBG and other SCI species recorded at the proposed applicant site. Significant habitat change or increased levels of disturbance within these areas could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and/or a reduction in their numbers.

Light Bellied Brent Goose (LBBG)

14.12.12. Some observers including Birdwatch Ireland consider that the applicant's NIS has taken 'an overly simplistic' assessment with respect to the central argument put forward by the applicant that while no LBBG have been recorded on the development site (since the applicant stopped mowing the grass) that they have been recorded using alternative sites. It is considered that LBBG turning up in significant numbers on other sites equating to having no significant effect on their population is overly simplistic and that this is applying binary logic to a complex multi-factorial situation. This is considered further below.

14.12.13. The **survey effort** is queried by observers and it is considered that one winter survey is insufficient to conclusively state that there is no impact due to the loss of the Development Lands. As noted above, no LGGB were recorded over winter 2018/2019 and this is clearly due to the fact that the applicant did not maintain the site (i.e. no mowing). I draw the Board's attention to Table 4 of the NIS which details peak counts of LBBG recorded at all surveyed ex-situ sites for the three seasons of surveying. Of note, is the different numbers of LBBG recorded for each season at all the ex-situ sites, as well as the fact that they have returned to the sites. The numbers recorded vary widely each season, notwithstanding that these are surveys carried out at certain times and are 'snapshots'. An example is St. Vincent's GAA which has peak numbers recorded of 540, 293, and 760 for the seasons 2018/19, 2016/17 and 2015/16 respectively. Another example is Marino Institute at 600, 180 and 625 for

the same respective seasons. The applicant highlights Lein Park in particular with 1205 in 2018/19 and 19 in 2016/17 respectively. As noted in the NIS this data indicates that while the flock numbers and number of sites being used remained consistent, the actual sites being used varied between years and within individual years. Based on this data, I am satisfied that no additional surveys are needed to draw conclusions – the data indicates that the sites used are consistent but the use of the site varies from year to year and between years. Indeed, this is acknowledged in the Birdwatch Ireland submission whereby it is stated that “*we know the geese use of inland feeding sites changes seasonally, with time of day and with the tidal cycle*”. More surveys are unlikely to indicate anything else – therefore I do not accept that the survey data is inadequate to enable the Board to carry out an assessment.

14.12.14. The Parks Department of the Council also query the survey findings and consider that there are elements in sampling methods which introduce possible bias and that there is no statistical analysis. They further query the ‘all day surveys’ carried out by the 2017 NIS not carried out in 2019.

14.12.15. As noted above the surveys are a snapshot and I have taken account of the differing approaches to survey methodology. There is further reference to the fact that the cessation of grass cutting on the Development Lands is a treatment and would change the LBBG behaviour. I have had regard to this fact and have not drawn any conclusions on the change in numbers in 2018/19 surveys for this very reason – they are not comparable. Instead I have had regard to the wider information on use of ex-situ sites throughout the NIS (including the 2017 NIS). I am satisfied based on the data that LBBG use different sites, in different numbers over different years. This is based on both the survey numbers and the Darvic rings which clearly indicate movement of LBBG between ex-situ sites.

14.12.16. The Parks Department query the ‘Priority’ approach to sampling which they state meant that sampling frequency was reduced for some sites influencing the survey efforts and results. I do not consider that this was the intent and the decision to categorise sites was based on previous years surveying which had established the significance of the various ex-situ sites and in order to survey all 139 sites some measure of priority had to be applied.

14.12.17. The Parks Department refer to the studies by Birdwatch Ireland for Dublin Port Company and consider that the use of GPS tracking provides more objective and thorough sampling. This is undoubtedly the case but the use of such an approach would have to be proportionate to the proposed development or plan. Dublin Port has an interest in determining bird movements across and within the SPA sites and within the wider Dublin Port area in order to allow for sustainable development of its activities. Dublin Port directly adjoins the European site and is a vastly different industrial use to that proposed. I do not consider that the scale of this proposed development warrants such an approach notwithstanding the consideration of the wider use of ex-situ sites that is required to put the 6.4ha site in context. The analysis of re-sighting of ringed birds, particularly from the 2017 NIS adequately addresses the movements of birds between SPA sites and between ex-situ sites as relevant to the proposed development.

14.12.18. **Site Fidelity** is another issue raised with regard to the use of ex-situ sites used by LBBG across the network of inland sites. The Birdwatch Ireland submission made reference to the high site fidelity of LBBG. They state that the LBBG undertake return migrations of c.5,000km to repeatedly return to the Irish Coast. The wider Dublin Bay area is of great importance for this species with high site fidelity to various areas throughout the SPA network of sites within the wider area. While the submission from Birdwatch Ireland state that the wider range of sites are utilised out of necessity rather than choice, and certain sites may carry disadvantages, based on the population data submitted in the NIS the overall trend of LBBG in Ireland is given as “increasing”, thus indicating that the need to forage on wider range of sites is not causing a population decline. The point made in their submission about the quality of the sites at a given time in terms of foraging and freedom from disturbance is noted. I agree that it cannot be said that existing suitable sites can be considered to be optimal at all times and the survey data would support this.

14.12.19. The NIS further addresses inland feeding site fidelity and refers to the long-term study carried out by the Irish Brent Goose Research Group (IBGRG) who are credited as being involved with the submission from Birdwatch Ireland. Research into LBBG movements have been undertaken by capturing and ringing LBBG with large plastic colour rings (Darvic rings). Survey data of ringed birds is also presented in the NIS which supports the conclusions that LBBG used a variety of ex-situ inland

feeding sites during the 2018/19 season and were not solely loyal to any one individual inland site. Reference is also made to the surveys of ringed birds in the 2017 NIS which demonstrates that the LBBG populations were dispersing widely to other inland feeding sites and were not exclusively site faithful to the St. Paul's pitches. I am satisfied based on this data that LBBG are not dependent on St. Paul's solely for winter feeding but were using and will continue to use a wide selection of other ex-situ feeding sites around Dublin.

14.12.20. The issue about the **importance of the ex-situ St. Paul's site** (including the Development Lands) in the context of the network of inland ex-situ sites is raised in almost every submission. It is considered to be one of eight major sites in the 2017 NIS based on data collected over a number of years. The BirdWatch Ireland submission considers that the NIS undervalues the site with an underlying assumption that all sites within the network are of equal importance. The Dublin City Council Parks Department raise a relevant point related to scientific evidence that highlights the importance of maintaining alternative feeding sites as close as possible to night-time roosting sites. St. Anne's Park and the St. Paul's site are the closest ex-situ sites to the main night roost at Bull Island. The data collected during the surveys for this proposed development and other studies within Dublin Bay show that the average distances travelled to inland feeding sites are greater than that recorded in the study referred to (in Essex). Notwithstanding this important point, other sites within the network of inland feeding areas also play host to similar numbers of LBBG (see NIS 2017) and this was also the case demonstrated in 2018/19 when the St. Paul's site was not available to the wintering birds.

14.12.21. The submission states that effects of displacement may not be apparent in a single year and urge caution regarding the interpretation of the availability of alternative suitable inland feeding. There is also reference to cumulative losses across the Dublin area. I agree that basing any assessment on a single year's data is not appropriate and this assessment is not reliant on such an approach. The combined survey data spanning the two applications clearly show the dynamic and varied use of over 139 sites and a demonstrated likely additional capacity taking cumulative losses into account.

14.12.22. However, with respect to the potential for additional capacity of over 2000 additional Brent Geese to the current population as calculated by Enviroguide in the

NIS, I am not satisfied that this is based on sound science and is an overly simplistic approach based on the availability of grassland habitat and takes no account of other factors that might affect LBBG use of particular site. Therefore, I have not had regard to this. However as noted in 14.12.21 above, the survey data clearly shows the dynamic use of over 139 sites and demonstrates the likely additional capacity taking cumulative losses into account.

- 14.12.23. To maintain the favourable conservation condition of the LBBG populations of the SPA sites, **the long term population trend** should be stable or increasing. The Parks Department also state that the short term decline in population is given only a brief mention with no analysis in relation to Dublin Bay. Population trends of LBBG is referenced in section 7.3 of the NIS and national trends and international trends both long term (increasing) and short term (decreasing) but not assessed in any detail in terms of the context of the proposed development site. IWeBS counts for Dublin Bay for 2012/13 to 2017/18 are provided in the appendices.
- 14.12.24. Population trend can be affected by a significant change in wintering foraging resources availability. Waterbird populations are deemed unfavourable when they have declined by 25% or more as assessed by the most recent population trend analysis. Given the evidence provided in the NIS and 2017 NIS, I do not consider that the loss of the 6.4ha ex-situ site could have such an effect on the population level of the SPA sites. However, the ex-situ factors are significant in the consideration of distribution as outlined above and the displacement of birds and reduction in numbers in the context of this attribute are considered.
- 14.12.25. Section 8.1 of the NIS specifically addresses the potential impact on the conservation objectives of *population trend* and *distribution*. It is stated that the target for the conservation objective attribute of *population trend* for each of the 5 SPAs is defined as "*long term population trend stable or increasing*". The target for the conservation objective of distribution for each of the 5 SPAs is defined as "*no significant decrease in the range, timing, and intensity of use of areas by light-bellied Brent goose, other than that occurring from natural patterns of variation*". The NIS states that the results of the surveys contained in the report has determined that:
- Individual LBBG are not solely loyal to any one ex-situ inland feeding site,

- LBBG are capable of relocating to different inland feeding sites following loss or alteration of an existing site,
- LBBG in Dublin currently only use a proportion of the total available network of ex-situ inland feeding sites,
- There is current available capacity of inland habitat for a minimum of 2,200 additional LBBG based on foraging requirements,
- No LBBG were recorded within the Development Lands sub-site during surveys 2018/19, and
- St. Paul's school pitch sub-site was not among the top ten most important ex-situ inland feeding sites in 2018/19,

14.12.26. Birdwatch Ireland query the use of the **IWeBs data** and state that the data is only for birds recorded at the coast and not for birds on the terrestrial areas during the survey. It is stated that the population is likely to be significantly higher however the context for it being over 7,000 is not presented. Notwithstanding this, the appropriate assessment is based on the stated conservation objectives which is directly related to the IWeBs counts and other survey data. I accept the BirdWatch Ireland point that the NIS misinterprets the data in terms of the view expressed on there being less reliance on ex-situ sites and have not relied on this statement in the overall assessment.

14.12.27. The Dublin City Council Parks Department refer to other studies that they are of the opinion should have informed the NIS. The NIS prepared by Enviroguide is structured around answering the specific issues raised by the Board in the refusal of the previous application.

14.12.28. In particular they refer to research being undertaken by Handby as part of a PhD thesis and wider study of geese movements in Dublin Bay which is indicating that the geese are spending their days on both land and water with a decreasing portion of time spent at marine sites. In addition, they state that the interim results indicate that the geese are traveling greater distances from their overnight roosts. Notwithstanding the lack of reference to these studies, the various surveys detailed in the NIS confirm this. I note that the submission also states that terrestrial grazing has increased recently "*likely as a result of the overall increasing numbers...*". This

supports the information presented in the NIS that the numbers of geese are increasing in line with the conservation objectives.

14.12.29. Having regard to the survey information, as well as the detailed analysis provided above with respect to LBBG, I am satisfied that the loss of the ex-situ habitat will have no adverse impact on the conservation objective attributes of “distribution” and “population trend” of the LBBG recorded at the proposed development site.

Other SCI

14.12.30. While much of the attention by observers is paid to the LBBG, analysis of the other SCIs of the 5 SPAs is provided in the NIS. The NIS states that a potential impact on Curlew, Oystercatcher, Black-tailed Godwit and Black-headed Gull which are qualifying interests for a cumulative 4 of the SPAs was identified due to the loss of a known ex-situ inland feeding site. The 2017 Scott Cawley NIS screened out the likelihood of significant effects on these species on the basis that the season peak counts recorded over the two winter periods were below the threshold of international importance for each of the species concerned. They concluded based upon this information that *‘There is no possibility of significant effects on these four SCI species at the level of the European site as a consequence of the proposed development due to the infrequency of their use of the lands and the low numbers involved’*.

14.12.31. The conservation objectives and the targets are similar for LBBG as referred to above and detailed in Table 14.5. Enviroguide made record of these species during the surveys of the St. Paul’s site. Table 3 of the NIS details more information on the numbers of birds recorded on the proposed development site from data collected 2015/16, 2016/17 and 2018/19 including the frequency of their occurrence at the site. In common with the Scott Cawley analysis, the NIS notes that the surveys did not exceed 1% of the national or international population estimates for Curlew, Oystercatcher or Black-headed Gull and recordings exceeding the 1% national population estimate of Black-tailed Godwit was recorded on one occasion. The NIS concludes that the loss of the site does not have the capacity to impact on the conservation objectives. It is considered that the proposed development is not of

high or major importance for those species based on the low numbers recorded and the frequency of their occurrence at the site.

14.12.32. Birdwatch Ireland query how the NIS can conclude that the loss of this site is not significant when there is no benchmark to measure this against. Birdwatch Ireland refer to a small study they carried out which highlights the importance of inland terrestrial green field sites to individuals at certain stages of the tidal cycle. It is stated that additional research needs to be done to understand how these species use the grasslands. The Dublin City Council Parks Department also questioned the analysis of these species in the NIS with specific reference to the Curlew being particularly threatened.

14.12.33. I am of the opinion that the surveys carried out as part of the two NISs do provide information on the importance of grasslands. This site is used by these SCIs but is not of scale. I am satisfied that the loss of the foraging habitat as a result of the proposed development does not have the *capacity* to impact on the conservation objective attributes of "Distribution" and "Population Trend" of any of the listed SCI species recorded on the site. As noted above there is no possibility of significant effects on these four SCI species at the level of the European site as a consequence of the proposed development due to the infrequency of their use of the lands and the low numbers involved. Having regard to the survey information, as well as the detailed analysis provided above with respect to overall wintering birds, I am satisfied that the loss of the ex-situ habitat will have no adverse affect on the conservation objective attributes of "distribution" and "population trend" of the SCI species recorded at the proposed development site, i.e. Curlew, Oystercatcher, Black-tailed Godwit, Black-headed Gull.

In combination effects

14.12.34. The NIS lists the planning status of the other ex-situ sites. It is noted that while there are changes proposed for some of the sites, a number of these do not involve a change to the grasslands. It is stated that the number of sites that have grants/pending applications that involve a change to grassland/pitches is 6. Table 9 of the NIS provides full in-depth detail of all the applications/grants on the sites. The NIS concludes that the proposed development in combination with these listed sites will have no impact on the QI/SCI of the European sites because:

- The number of sites which could result in the loss of grassland is 6 (7 including the proposed development) and the birds are using just over 50% of the available network in any given winter.
- There is additional population capacity within the ex-situ network.
- It has been demonstrated that the birds visit the sites on a fluid basis so that the loss of any individual site will result in the birds relocating to another without duress.
- Only 3 of the 6 sites had peak counts of national importance.

14.12.35. I have had regard to the decision that is due ABP Ref. 306872 which has been submitted since the NIS was published.

14.12.36. I am satisfied that there will not be an in-combination effect due to the loss of St. Paul's with other developments as listed in the NIS and subsequent to its publication. I concur with the applicant, as has been addressed in my assessment above, birds are not using every site available in the network in any given winter, and they are fluid and dynamic with the birds visiting sites at various times during any cycle. I have already addressed the issue of how much extra capacity there is in the network above, and concur with the expert submissions that quality of sites is important, however I am satisfied that there is sufficient capacity within the network to accommodate an increasing number of wintering birds based on the data before me.

14.12.37. With respect to the in-combination effects on water quality, the NIS addresses the general issue of potential cumulative impacts with Ringsend Wastewater Treatment Plant arising from the operational phase of the development including other future developments. The NIS details the capacity of the WWTP to accommodate this development and future other developments. I am satisfied based on the submission from Irish Water that the plant has the capacity to deal with the proposed development. I further note that the Board has recently granted permission for the Greater Dublin Drainage project (ABP Ref. 301908). I am satisfied that the project would have an imperceptible impact on the conservation objectives of the relevant European sites and I am satisfied that the in-combination effects of the Ringsend WTP and the proposed project will not have an effect individually or together with other plans and projects.

14.13. Conclusion

14.13.1. The proposed strategic housing development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it would be likely to have a significant effect on:

- North Dublin Bay SAC (000206)
- South Dublin Bay SAC (000210)
- North Bull Island SPA (004006)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Baldoyle Bay SPA (004016)
- Malahide Estuary SPA (004025)
- Rogerstown Estuary SPA (004015).

14.13.2. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the 7 no. European sites listed above, or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

15.0 Overall Conclusion

15.1. In conclusion, I am satisfied that the principle of development is acceptable on the Z15 zoned lands. I am of the opinion that this is an appropriately zoned, serviceable site within an established built-up, urban area where a wide range of services and facilities exist. I note the Chief Executive Report of the Planning Authority recommends refusal on grounds relating to Appropriate Assessment, but I note that the Planning Authority accept the principle of residential development with respect to the zoning of the site. I am satisfied that the Board are not precluded from granting

permission with respect to the heights proposed which contravene the Development Plan having regard to Section 37(2)(b) of the Planning and Development Act. I am of the view that the development is acceptable in terms of scale and density as well as design and is in accordance with the proper planning and sustainable development of the area. Furthermore, I am satisfied that it will not have an unacceptable impact on the environment or an adverse affect on the integrity of European sites.

16.0 Recommendation

16.1. Section 9(4) of the Act provides that the Board may decide to:

- a) grant permission for the proposed development,
- b) grant permission for the proposed development subject to such modifications to the proposed development as it specifies in its decision,
- c) grant permission, in part only, for the proposed development, with or without any other modifications as it may specify in its decision, or
- d) refuse to grant permission for the proposed development,

and may attach to a permission under paragraph a), b) or c) such conditions as it considers appropriate.

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

17.0 Reasons and Considerations

Having regard to the:

- a) The site's location on lands with a zoning objective which includes residential development being 'open for consideration', its location close to Dublin city centre within an established built-up area and the policies and objectives of the Dublin City Council Development Plan 2016 – 2022 and its various appendices;
- b) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),

- c) To the National Planning Framework which identifies the importance of compact growth;
- d) Nature, scale and design of the proposed development and the availability in the area of a wide range of social infrastructure;
- e) Pattern of existing and permitted development in the wider area;
- f) The Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- g) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- h) 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;
- i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- j) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- k) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;
- l) Submissions and observations received including the Chief Executive Report of the Planning Authority; and
- m) The Report of the Inspector.

17.1. Appropriate Assessment

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

- North Dublin Bay SAC (000206)

- South Dublin Bay SAC (000210)
- North Bull Island SPA (004006)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Baldoyle Bay SPA (004016)
- Malahide Estuary SPA (004025)
- Rogerstown Estuary SPA (004015).

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 and the potential displacement of Light Bellied Brent Geese, Oystercatcher, Black headed Gull and Black tailed Godwit and Curlew,
- 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 Special Protection Areas (SPA) would be on the loss of ex-situ sites for Specific Species of Interest. It is a conservation objective of the, North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), Rogerstown Estuary SPA (004015) to maintain the favourable conservation condition of these species. Foraging habitats are considered to be significant to this objective. Having regard to the scientific information set out in the NIS in respect of the number of Light Bellied Brent Geese, Oystercatcher, Black-headed Gull and Black tailed Godwit and Curlew using the site and the network of other sites within an acceptable range the Board concluded that the proposed development would not adversely affect the Population or Distribution of the Light Bellied Brent Geese, Oystercatcher, Black-headed Gull and Black tailed Godwit and Curlew because of the species foraging habitats and the capacity of ex-situ sites to accommodate increasing numbers of these species.

The Board identified that the main likely impact arising from the proposed development on the Special Areas of Conservation (SAC) would be on the water quality and impact on coastal habitats. It is a conservation objective of the, North Dublin Bay SAC (000206) and South Dublin Bay SAC (000210) to maintain and/or restore the favourable conservation condition of the habitats. The wetland habitats that comprise the North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA (004024) are contiguous with the SACs. Having regard to the mitigation measures to prevent any impact on the Naniken River, c. 100m to the north of the site, the Board concluded that the proposed development 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.

17.2. Environmental Impact Assessment

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

- The nature, scale and extent of the proposed development,

- The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- The submissions from the planning authority, the observers and prescribed bodies in the course of the application,
- The Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIA Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and 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 application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects:

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan

(CEMP) is the overarching general mitigation relevant to the project design and delivery for the construction stage.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- **Population and Human Health:** There will be a slight to moderate nuisance impact during construction which will be mitigated by measures described in the Construction Environmental Management Plan. During operation the development of additional housing will result in a positive impact.
- **Biodiversity:** Impacts on the site will be short term negative and will be mitigated by construction management measures, measures for water protection, the significant provision of active and passive open space, lighting proposed, protection of trees to be retained, landscaping, and measures to avoid disturbance to bats and nesting birds. Impacts on the European sites will be avoided by the proposed mitigation measures.
- **Traffic and Transport:** Potential traffic impacts during both the construction and operational phase will largely be mitigated through the implementation of a Construction Environmental Management Plan as well as a Mobility Management Plan which includes appointment of a Mobility Manager to promote sustainable travel patterns by residents during the operation phase.
- **Visual Impact:** The development will present as a new development in the landscape. There will also be changed views for some viewers in nearby residences and nearby locations. A significant alteration in landscape character will occur at the site. The potential impact will be mitigated by the design and landscape strategy and screening already provided by the existing trees along the boundaries.
- **Cultural Heritage:** There will be no significant impacts on the architectural heritage of either the conservation area of St. Anne's Park or the protected structure of Sybil Hill House. Impacts on archaeological heritage will be mitigated by the pre-construction surveys and site investigations.

17.3. Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not detract from the existing character and setting of St. Anne's Park or the nearby Protected Structure Sybil Hill House, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

18.0 Conditions

1.	<p>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.</p> <p>In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.</p> <p>Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement.</p>

	<p>Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.</p>
3.	<p>The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.</p> <p>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.</p>
4.	<p>The period during which the development hereby permitted may be carried out shall be 5 years from the date of this Order.</p> <p>Reason: In the interests of proper planning and sustainable development.</p>
5.	<p>Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:</p> <ul style="list-style-type: none"> a) Modify entrance to unit 427 of Block 6 to avoid gym/breakout area b) Modify boundary treatment of unit 18 of Block 1. c) Amend location of bin stores for Blocks 8 and 9. <p>Reason: In the interests of proper planning and sustainable development and to safeguard the amenities of the occupants.</p>
6.	<ul style="list-style-type: none"> a) The development shall be carried out on a phased basis as detailed in the application, and shall include the development of the crèche building in Phase 1 and those associated works which accompany same. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. b) Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be submitted to, and agreed in writing with, the planning authority. <p>Reason: To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed dwellings.</p>

7.	<p>Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:</p> <ul style="list-style-type: none"> a) Removal of the access to St. Anne's Park to the north-west of the site. b) Details of three no. gates to be erected on remaining accesses between the development site and St. Anne's Park. c) Details regarding the opening hours of the remaining three access points between the development site and St. Anne's Park, which reflect the opening hours of St. Anne's Park. d) Details regarding availability/opening hours of the proposed community uses within Block 1 and Block 6 to the wider public. e) Details of protection and repair measures for the remaining section of the walled garden along the northern site boundary. This wall shall be retained and repaired, where possible and any demolition deemed necessary shall not be undertaken without the prior agreement of the planning authority. f) Full details of the 2m high railing along the north of Blocks 1, 2, 4 & 6 adjoining the public open space and integrating the red bricked wall (see above e) g) Details of the boundary treatment to be erected to replace the paladin fencing. <p>Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability</p>
8.	<p>The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:</p> <ul style="list-style-type: none"> a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of

	<p>the Planning Authority for such works and shall be carried out at the developer's expense.</p> <p>b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;</p> <p>c) Pedestrian crossing facilities shall be provided at all junctions;</p> <p>d) 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, and</p> <p>e) A detailed construction traffic management plan, including a mobility 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.</p> <p>Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity</p>
9.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.</p> <p>Reason: In the interests of amenity and public safety.</p>
10.	<p>The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points shall be submitted to,</p>

	<p>and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: in the interests of sustainable transportation</p>
11.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services. In particular:</p> <ul style="list-style-type: none"> a) The surface water outfall pipe and headwall details to the Naniken River shall be agreed in writing with the planning authority prior to any works commencing on site. Additional details in relation to the scouring of the river channel or river banks shall be submitted for the written agreement of the planning authority b) Development shall not commence until the finalised alignment and details of surface water pipe are agreed in writing with the planning authority. The design and construction of the pipe will minimise impact on existing tree root zones and will include on-site supervision by a qualified Arboriculturist employed by the developer and reporting to the planning authority. Following construction the alignment will be landscaped in accordance with the requirements of the planning authority c) Development shall not commence until requirements for demolition and reconstruction of the bridge with the proposed drainage outfall at the Naniken River are agreed with the Planning Authority <p>Reason: In the interest of public health and to ensure a satisfactory standard of development.</p>
12.	<p>The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
13.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts</p>

	<p>or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
14.	<p>Details of the materials, colours and textures of all the external finishes to the proposed blocks shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
15.	<p>Each apartment shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.</p> <p>Reason: In the interests of sustainable development and proper planning.</p>
16.	<p>All the proposed car parking spaces shall be for occupants of the development and shall be sold off with the relevant units and not sold separately or let independently from the residential development.</p> <p>Reason: In the interest of orderly development.</p>
17.	<p>Proposals for the development name and dwelling numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
18.	<p>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</p>

	<p>provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
19.	<p>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 -</p> <p>(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</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(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.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>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.</p>
20.	<p>The site (including the c.1.6 Hectare open space) shall be landscaped in accordance with a landscape scheme, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.</p> <p>Reason: In the interest of residential and visual amenity.</p>

21. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the in the submitted Tree Survey Report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

22. A security bond to the value of €150,000 (one hundred and fifty thousand euro) shall be lodged with the planning authority, prior to the commencement of development, as security to ensure the appropriate protection and preservation of trees on the development site and St. Anne's Park. The form of the security bond shall be agreed between the planning authority and the developer or, in default of agreement, shall be agreed to An Bord Pleanála for determination.

	Reason: In the interest of amenity, ecology and sustainable development.
23.	<p>The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
24.	<p>The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>
25.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge (including the c.1.6 Hectare open space). Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To ensure the satisfactory completion and maintenance of this development.</p>
26.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000,</p>

	<p>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.</p> <p>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.</p>
27.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
28.	<p>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</p>

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.

Ciara Kellett
Inspectorate
31st July 2020

Decision Quashed

19.0 Appendix 1 – List of Objectors

Sub - A R Barragry
Sub - Abina O'Connell
Sub - Adele Gannon
Sub - Adrienne Lonergan
Sub - Aidan & Brideen Hickey
Sub - Aidan Masterson
Sub - Aideen Leonard
Sub - Aideen McDonnell
Sub - Aideen Roche
Sub - Ailbhe Gaskin
Sub - Aine O'Keeffe
Sub - Alan Bothwell
Sub - Alan O'Dowd
Sub - Alicia Doyle
Sub - Allison O'Hara
Sub - Amanda Hanlon
Sub - Amy Savage
Sub - An Taisce
Sub - Andrew Croughan
Sub - Andrew Dunne
Sub - Andrew Wood
Sub - Andy & Catherine Day
Sub - Angela Leahy
Sub - Angela O'Doherty
Sub - Angela Ruttledge & Daragh O'Shea
Sub - Ann & David Charles
Sub - Ann & Liam Quigley
Sub - Ann Louise Mulhall
Sub - Anna Moore
Sub - Annalea O'Halloran
Sub - Anne & Brendan Ryan
Sub - Anne Goll
Sub - Anne Cronin
Sub - Anne Kelly
Sub - Anne Marie Dolan
Sub - Annette Morgan
Sub - Annette Murphy
Sub - Anthony & Brenda Cerasi
Sub - Anthony & Margaret Daly
Sub - Antoinette Kelly
Sub - Aodhan O'Riordain
Sub - Aoife Coffey & Ciaran Weafer
Sub - Aoife Collins
Sub - Aoife Herbert

Sub - Aoife McDermott
Sub - Aoife Ni Dhuthaigh
Sub - Art McGann
Sub - Austin Peavoy
Sub - Bairbre Fennelly
Sub - Barbara & Denis Murphy
Sub - Barbara Buchanan
Sub - Barbara Cahill
Sub - Barbara Kelly
Sub - Barbara Monahan
Sub - Barbara Page
Sub - Barry Long
Sub - Belinda Griffin
Sub - Belmayne Educate Together NS
Sub - Bernadette Clarke
Sub - Bernie Fleming
Sub - Bill Kinlay
Sub - Birdwatch Ireland
Sub - Birgit Kretschmann
Sub - Brenda O'Brien
Sub - Brendan & Eileen Walsh
Sub - Brendan Fagan
Sub - Brendan Nelson
Sub - Brendan Rankin
Sub - Brendan Smyth
Sub - Brian & Carmel Beck
Sub - Brian & Vanda Cummins
Sub - Brian Cunningham
Sub - Brian Heapes
Sub - Brian Keane
Sub - Brian McGuinness
Sub - Bríd Ní Chonain & Dave Kirwan
Sub - Bridget Ryan
Sub - Bridget Walsh
Sub - Brigid Smyth
Sub - Cairneach MacEoin
Sub - Caitlin & Michael Carr
Sub - Caoimhe Houlihan and Edwin Fusco
Sub - Caoimhe McDermott
Sub - Caoimhe Ní Nuallaín
Sub - Carmel Grehan
Sub - Carol Buchanan
Sub - Carol Leonard
Sub - Caroline & Derek O'Beirne
Sub - Cathal O'Sullivan
Sub - Catherine Bennett

Sub - Catherine Brodie
Sub - Catherine Lonergan
Sub - Catherine Moore
Sub - Cathy Maguire
Sub - Cathy Smith
Sub - Ceire Sadlier
Sub - Charles & Mary Lathrop
Sub - Charles Dolan
Sub - Charlie Fox
Sub - Charlotte Canavan
Sub - Chizuru Ryan
Sub - Christine & David Kenny
Sub - Christine Farrell
Sub - Cian Burgess
Sub - Ciara Lonergan
Sub - Ciara Mullarkey
Sub - Ciara Ryan
Sub - Ciaran Close
Sub - Ciaran Gannon
Sub - Ciaran Harris
Sub - Ciaran MacCearra
Sub - Claire & Mark Culleton
Sub - Claire Brady
Sub - Claire Davis
Sub - Claire Quinn
Sub - Clare Daly
Sub - Clare Kelly
Sub - Claudine Butler
Sub - Cliodhna Guinness
Sub - Clodagh Maguire
Sub - Clonres Limited
Sub - Clontarf FC
Sub - Clontarf Football Club
Sub - Clontarf GAA Club
Sub - Clontarf Residents' Association
Sub - Colette Moreau
Sub - Colette O'Reilly
Sub - Colin Day
Sub - Colm O'Grady
Sub - Colm O'Keeffe
Sub - Conor Murphy
Sub - Daithi Brugha
Sub - Damian Long
Sub - Danny Skehan
Sub - Dara MacDonaill
Sub - Daragh & Lisa Persse

Sub - Darragh Pelly
Sub - Dave Bruen & Jane O'Connor
Sub - David & Johanna Croughan
Sub - David & Orla Farrell
Sub - David Behan
Sub - David Branigan
Sub - David Clarke
Sub - David Moreau
Sub - David O'Neill
Sub - David Wall
Sub - David, Tara, Senna & Hugh Manigo
Sub - De O'Connor
Sub - Deborah Byrne
Sub - Deborah Maguire
Sub - Declan & Catherine Ward
Sub - Deirdre Costello
Sub - Deirdre Devine
Sub - Deirdre Dooley
Sub - Deirdre Heeney
Sub - Deirdre Nichol
Sub - Deirdre Nolan
Sub - Deirdre, Conor & Stephen O'Shea
Sub - Denis & Leny White
Sub - Denise Keville
Sub - Denise Mitchell
Sub - Department of Education
Sub - Derek & Anja Byrne
Sub - Derek Bauer
Sub - Derek Cunningham
Sub - Derick Mitchell
Sub - Dervil Jordan
Sub - Dervila McGuire
Sub - Development Applications Unit
Sub - Dominic White
Sub - Donal Hampson
Sub - Donna Cooney
Sub - Donna Street
Sub - Dunluce Road Residents Association
Sub - Eadaoin Geoghegan
Sub - Edel & James Foley
Sub - Edel Leahy
Sub - Edward Byrne
Sub - Eibhlinn Mangan McCabe
Sub - Eileen & Declan O'Grady
Sub - Eileen O'Connor
Sub - Eilish Gillen

Sub - Eimear Finnegan
Sub - Eimear Kenny
Sub - Eimer Harding
Sub - Eithne Cullinan
Sub - Elaine Egan
Sub - Elaine Fitzmaurice
Sub - Elaine Mahon
Sub - Elaine Minogue
Sub - Elaine Nixon
Sub - Elina Cipane
Sub - Elizabeth & Jim Giuney
Sub - Elizabeth Krzyzanowski
Sub - Elizabeth Maguire
Sub - Elizabeth Rogan
Sub - Elizabeth Sullivan
Sub - Ellen Dolan
Sub - Elva Stapleton
Sub - Eimer & Patrick Cooke
Sub - Emma & Colm McAtamney
Sub - Emma & Patrick Haslett
Sub - Emma & Paul Colgan
Sub - Emma Bruce
Sub - Emma Harrington
Sub - Enda Kelly
Sub - Eoghan Hannigan
Sub - Eoghan Smyth
Sub - Eoin Caulfield
Sub - Eoin Connolly & Laura Monks
Sub - Eoin Fallon
Sub - Eoin O'Leary
Sub - Esther McGuinness
Sub - Evans Dexter
Sub - Eve Horgan
Sub - Evelyn & Patricia Parr
Sub - F R Brennan
Sub - Faye McGillicuddy
Sub - Feargal O'Neill
Sub - Fergal Smyth
Sub - Finian McGrath & Damian O'Farrell
Sub - Fiona Cosgrave
Sub - Fiona Coyle
Sub - Fiona Dunne
Sub - Fiona Gilligan
Sub - Fiona Hayes
Sub - Fiona Kirwan
Sub - Fiona Riley & Mark Donnelly

Sub - Fiona Ring and Mark Donnelly
Sub - Fiona Sneyd
Sub - Fionnuala & Patrick Healy
Sub - Fionnuala Coffey
Sub - Fionnuala McDonnell
Sub - Foroige Raheny
Sub - Fran & Yvonne Cadogan
Sub - Frances Gorman
Sub - Frances Kinsella
Sub - Frances Nolan
Sub - Frances Taaffe
Sub - Frank Chambers
Sub - Frank Keane
Sub - Frank O'Regan
Sub - Geraldine Concagh
Sub - Garard O'Rourke
Sub - Garret Rossi
Sub - Garrett & Mary MacNamara
Sub - Gearoid & Roisin Murtagh
Sub - George Gaskin
Sub - Geraldine Clements
Sub - Geraldine Kenny
Sub - Gerard Egan
Sub - Gerry Barrett
Sub - Gil O'Sullivan
Sub - Gordan & Alison Mahon
Sub - Gordon Manning
Sub - Graham Fallon
Sub - H O'Daly
Sub - Hannah Buckley & Simon Murphy
Sub - Hans J & Mary P Romstedt
Sub - Hazel Weldon-Mack
Sub - Heather Connolly
Sub - Helen Codd
Sub - Helen Delaney
Sub - Helen Gormley
Sub - Helen Hannigan
Sub - Helen Regan
Sub - Helen Stanley
Sub - Helene Rice
Sub - Holly Brennan
Sub - I Love St.Anne's
Sub - Ian & Clodhna Guinness
Sub - Ian Flood
Sub - Ian Reid
Sub - Imelda Swords

Sub - Ingrid O'Dowd
Sub - Iris O'Donovan
Sub - Irish Water
Sub - Isobel Doherty & Karl Duffy
Sub - Ita O'Driscoll
Sub - Jacinta Heslin & Micheal O'Scanaill
Sub - Jacinta Nixon
Sub - Jacqueline & Gerard Byrne
Sub - Jaime O'Doherty
Sub - James Lorigan
Sub - James O'Hara
Sub - Janice Leonard
Sub - Jane & Brendan Langley
Sub - Jane Charles
Sub - Jane Clarke & Dan Wallace
Sub - Janet Branigan
Sub - Janet Byrne
Sub - Janet Day
Sub - Janet O'Dowd
Sub - Janet Ryan
Sub - Jean & Conor McKeating
Sub - Jean Lawless
Sub - Jean Owens
Sub - Jennifer Byrne
Sub - Jennifer LeVert
Sub - Jennifer Roche
Sub - Jenny & Paul Colbert
Sub - Jenny & Paul Lanigan
Sub - Jessica Hopkins
Sub - Ji Hyun Kim
Sub - Jim McArdle
Sub - Jimmy Cahill
Sub - Joan & Larry Brayden
Sub - Joan Doyle & Family
Sub - Joan Sayers
Sub - Joanna Caffrey
Sub - Joanne Clancy
Sub - Joanne Kenny
Sub - Joe & Liz Nolan
Sub - Joe Brennan
Sub - John Logan
Sub - John & Carmel Mulcahy
Sub - John & Marie O'Moore
Sub - John & Mary Tynan
Sub - John & Maureen Lambe
Sub - John & Olive Caulfield

Sub - John Brady
Sub - John Byrne
Sub - John Conway
Sub - John Cronin
Sub - John Dunleavy
Sub - John Hamill & Grainne Ni Ghuidhir
Sub - John Leonard
Sub - John Leslie
Sub - John Lyons
Sub - John McNamara
Sub - John Murphy
Sub - John O'Connell
Sub - John O'Sullivan
Sub - John Ryan
Sub - John Wallace
Sub - Joseph & Noreen Kenny
Sub - Joseph Galvin
Sub - Joseph Hoey
Sub - Joseph Nolan
Sub - Joyce O'Neill
Sub - JP Greene
Sub - Judith McMahon
Sub - Judy Evans
Sub - Junius Horne & Sally Ann Lynch
Sub - Karen Mulvaney
Sub - Kate Bielinski
Sub - Kate Lorigan
Sub - Katherine Morgan & Stephen Sommerville
Sub - Kathleen Cussen
Sub - Katie Timmins & Michael Lee
Sub - Kay & Joseph Lonergan
Sub - Keith Comiskey
Sub - Keith Fleming
Sub - Kellie O'Rourke
Sub - Ken Darcy
Sub - Kenneth Johnson
Sub - Kevin Devine
Sub - Kieran Carroll
Sub - Kieran Kenny
Sub - Kieran McDonald
Sub - Kieran McNally
Sub - Kristen Herbert
Sub - Larry & Celia Stanley
Sub - Laura & Conor Ferguson
Sub - Laura Brayden
Sub - Laura Clarke

Decision Quashed

Sub - Laura Dowdall
Sub - Laura Kavanagh
Sub - Laura McNally
Sub - Laura Thornton
Sub - Laurence Dunne
Sub - Leonard Dexter
Sub - Leontia Quigley
Sub - Li Huss & Ruairi Galavan
Sub - Liam Regan
Sub - Liam Whelan & Mary Haughey
Sub - Linda Kingston
Sub - Lisa Kenny (26 Carndonagh Park)
Sub - Lisa Kenny (8 Brookwood Glen)
Sub - Lorraine Curran
Sub - Louise Coulter & Fintan Fitzsimons
Sub - Louise Hogan
Sub - Louise Morgan on behalf of Annette Morgan
Sub - Louise Nic an tSionnaigh
Sub - Louth Environmental Group
Sub - Lucy O'Dea
Sub - Luke Stein
Sub - Luke Smyth & Ella Wilcox
Sub - Lynn Hunter
Sub - Madeline Coffey
Sub - Maeve Lyons
Sub - Maire Ni Uaiteir
Sub - Mairead Doyle
Sub - Mairead Garry
Sub - Maressa O'Brien-Raleigh
Sub - Margaret Byrne
Sub - Margaret Forde
Sub - Margaret Kennis
Sub - Margaret Maxwell
Sub - Margaret McLoughlin
Sub - Margaret Mohan
Sub - Margot Gordon
Sub - Marguerite Kirwan
Sub - Marguerite O'Brien
Sub - Maria Brennan
Sub - Maria Cherry
Sub - Maria Curtis Ui Chinneide & Sean O'Cinneide
Sub - Maria Digan
Sub - Maria Moore
Sub - Maria Mullen
Sub - Maria Mulvany
Sub - Maria Murphy

Sub - Marie Clarke
Sub - Marie Cleary
Sub - Marie Herbert
Sub - Marie McLaughlin
Sub - Marion Doherty-Hayden
Sub - Marius Herbert
Sub - Mark Crossan
Sub - Mark Gannon
Sub - Mark Stringer
Sub - Martin Forde
Sub - Martin Stapleton
Sub - Martina Beck
Sub - Martina Bishop
Sub - Mary Alagna
Sub - Mary Bray
Sub - Mary Caprani
Sub - Mary Griffin
Sub - Mary Kenny
Sub - Mary Kinsella
Sub - Mary Manning
Sub - Mary McCarthy
Sub - Mary O'Connell
Sub - Matthew Jameson & Susan Collins
Sub - Maura Ryan
Sub - Maureen Bergin
Sub - Maurice & Maureen McGirr
Sub - Maurice Finey
Sub - Max Krzyzanowski
Sub - Melissa O'Callaghan
Sub - Michael & Eileen Ryan
Sub - Michael & Regina Harnett
Sub - Michael Balding
Sub - Michael Byrne
Sub - Michael Connolly & Lorraine Stevens
Sub - Michael Devine
Sub - Michael Dunne
Sub - Michael Kenny
Sub - Michael MacCearra
Sub - Michael McGlinchey & Grainne Ryan
Sub - Michael McNamara
Sub - Michael Mohan
Sub - Michael O'Brien
Sub - Michael Roche
Sub - Michael Synnott
Sub - Michael Walsh & Lisa McGirr
Sub - Michael Walsh

Sub - Michelle & Derek Skehan
Sub - Michelle King
Sub - Michelle Whittaker
Sub - Mike O'Brien
Sub - Miranda Coughlan
Sub - Mona Nolan
Sub - Mona O'Leary
Sub - Monica Dolan
Sub - Muireann Roche & John McLoughlin
Sub - Naoise O'Muirí
Sub - Naomi Keatley
Sub - Niall Geaney & Karen Holland
Sub - Niall Kenny & Annmarie Lynch
Sub - Niamh Caprani
Sub - Niamh Fitzpatrick
Sub - Niamh Hynes
Sub - Niamh Murphy
Sub - Nicholas Vajda
Sub - Nicola Delaney Foxe & Family
Sub - Noel & Gina Joy
Sub - Noel, Deirdre, Aoide, Conor and Orla Kelly
Sub - Nora Hamill
Sub - Norman Ludgate
Sub - Odran & Leona Dowdall
Sub - Oisín Brennan
Sub - Olive Fitzpatrick
Sub - Olive Fitzsimons
Sub - Olwyn Puirseil
Sub - Oonagh Plunkett
Sub - Orla Clarke & Eoghan Manscier
Sub - Orla Fleming
Sub - Orla Gilhooly & Family
Sub - Orla Kenny
Sub - Orlaith O'Daly & Cian O'Conghaile
Sub - Owen O'Mahony
Sub - Paddy McCarney
Sub - Paddy Monahan
Sub - Padraig & Jutta Breatnach
Sub - Pamela O'Mahony
Sub - Pat & Maure Devine
Sub - Pat Farnan
Sub - Patrice Clancy
Sub - Patricia Bruce
Sub - Patricia Hamill
Sub - Patricia Lorigan
Sub - Patricia Muldoon

Sub - Patricia Wiggins
Sub - Patrick & Anne Synnott
Sub - Patrick & Fiona Walsh
Sub - Patrick Costello
Sub - Patrick Delaney
Sub - Patrick Gilmour
Sub - Patrick Hamill
Sub - Patrick Kenny
Sub - Patrick Larragy & Sheila Fleming
Sub - Patrick O'Hara
Sub - Patrick Robinson
Sub - Patrick Whyte
Sub - Paul & Niamh Coffey
Sub - Paul & Rosaru Moran
Sub - Paul Bernard
Sub - Paul Farrelly
Sub - Paul Kenny
Sub - Paul Leonard
Sub - Paul Nolan
Sub - Paul O'Kane
Sub - Paul Thornton (2)
Sub - Paul Thornton
Sub - Paula Colavita
Sub - Pauline Burke
Sub - Pauline O'Connor
Sub - Peter & Laura Cummins
Sub - Peter Brazel
Sub - Peter Byrne
Sub - Peter Fennelly
Sub - Peter Maxwell (18 Vernon Gardens)
Sub - Peter Maxwell (8 Binn Eadair View)
Sub - Peter O'Daly
Sub - Peter O'Toole
Sub - Peter Smyth
Sub - Philip Brennan
Sub - Philip Green
Sub - Philip, Nessa, Conor & Cean Wilson
Sub - Rachel & Pat Caulfield
Sub - Rachel Dalton
Sub - Rachel McGaughey
Sub - Rachel O'Toole
Sub - Raheny Heritage Society
Sub - Raheny United Football Club
Sub - Ralph Kemmis
Sub - Ralph Lonergan
Sub - Ray Byrne

Sub - Rebecca Brickley
Sub - Rebecca Kelly
Sub - Rebecca Owens
Sub - Regina Hughes
Sub - Richard & Kathleen Brady
Sub - Richard O'Connor
Sub - Richard Watson & Maria O'Brien
Sub - Richelle Manning
Sub - Rita Harris
Sub - Robert Walsh
Sub - Roderick & Betty Maguire
Sub - Roderick Maguire
Sub - Rodney Birch
Sub - Roisin Timmins
Sub - Roisin Treanor
Sub - Ronan McDonnell
Sub - Ronnie & Brid Persse
Sub - Rosaleen Cahill
Sub - Rosaleen Lundy
Sub - Rosemary Ryan
Sub - Ross Bolger
Sub - Ruth Kirwan
Sub - Ruth Walsh
Sub - Sabrina Joyce-Kemper
Sub - Sam Manning
Sub - Sandra Hughes
Sub - Sarah Burke
Sub - Sarah Costello
Sub - Sarah Delaney
Sub - Sarah Doyle
Sub - Sarah Lowry
Sub - Sarah Rawe & Mike Southern
Sub - Sarah Smith
Sub - Sarnat Bennett
Sub - Scoil Ui Chonail GAA Club
Sub - Seafield Strollers
Sub - Seamus Horan
Sub - Sean Collins
Sub - Sean D'Art
Sub - Sean Dunne
Sub - Sean Haughey
Sub - Sean Kelly
Sub - Sean Tynan
Sub - Shane Brodie
Sub - Shane O'Donoghue
Sub - Sharon & Damian O'Hara

Sub - Sharon Carrabin
Sub - Shaun Moran & Antoinette Keaveney
Sub - Sheelagh Fowler
Sub - Sile Doran
Sub - Sine Vasquez
Sub - Sinead & Bernard Mullen
Sub - Sinead & Declan O'Boyle
Sub - Sinead & Gareth Clancy
Sub - Sinead Caprani
Sub - Sinéad Carty
Sub - Sinead Dillon
Sub - Sinead Sullivan
Sub - Siobhan Coffey
Sub - Siobhan Smyth
Sub - Siobhan Walsh
Sub - Siobhán Weldon
Sub - Sonja Krzyzanowski
Sub - Sonya Henaghan
Sub - Sophie Spalding
Sub - Stella McConnan
Sub - Stephanie Geoghegan
Sub - Stephen & Geraldine Moreau
Sub - Stephen Burrows
Sub - Stephen Byrne
Sub - Stephen Collins
Sub - Stephen Devine
Sub - Stephen O'Brien
Sub - Suzanne & Ross Young
Sub - Svetlana Gatova & Vladimiro Gkatidis
Sub - Tara Clements
Sub - Tara Dempsey
Sub - Tara Kelly
Sub - Terence Magee
Sub - Terese, Adrienne & Paula McGrane
Sub - The Meadows Residents Association
Sub - Theresa Burton
Sub - Thomas Cronin
Sub - Thomas Delaney
Sub - Thomas Fitzsimons
Sub - Thomas Foxe
Sub - Thomas P. Broughan
Sub - Thomas Vickers
Sub - Tim & Martha Holmes
Sub - Tony Mirolo
Sub - Tori & Ed Pearson
Sub - Tracey Byrne

Sub - Tracey O'Shea
Sub - Transport Infrastructure Ireland
Sub - Treise Fairman
Sub - Trevor Lonergan
Sub - Triona Kenna
Sub - Una Brennan
Sub - Ursula McMahon
Sub - Ursula Morrissey
Sub - Verona Hanlon & Richard Ryan
Sub - Veronica Callinan
Sub - Vincent McGowne
Sub - Vivienne Gaynor
Sub - Warren & Denise Bolger
Sub - Yvonne Dunne
Sub - Yvonne Scanlon
Sub - Zandra Ball
Sub - Zara Rogers & Paul Conroy

Decision Quashed

20.0 Appendix 2 – Submissions summarised:

The submissions under the headings listed in Section 7 above are expanded upon herein. A large number of the submissions are identical. I also note that some of the identical submissions include personal additions and these have also been read and taken into account. There are also a substantial number of standalone submissions which I have also read and summarised below. All submissions have been taken into account in my assessment.

20.1. Principle of Development

- This development does not meet the criteria of Strategic Housing Development.
- There is a housing crisis but this development combining a 10 year permission with higher end units will not solve the problem.
- Playing fields are not core strategy areas.
- Build to Rent housing will perpetuate homelessness.
- Abuse of planning process – attempt to ‘upzone’ the lands without going through due public process.
- Development ignores the core strategy that is characterised by a precisely articulated development hierarchy for the city.
- Decision to grant permission could find no basis in government policy.
- Contravenes national, regional and local policy.

20.2. Contravention of Z15 zoning

- Proposal does not achieve objective of Z15 zoning.
- Development runs completely contrary to the objectives for the Z15 zoning due to loss of 5 pitches rather than securing the retention of existing open spaces.
- Several sports clubs were evicted and there are ongoing struggles to secure replacement pitches and there is a cumulative impact across the city.

- Replacement pitches are now spread across the city and parents are forced into their cars to drive children to alternative locations.
- Masterplan is not capable of implementation by the applicant. The Vincentian Order has adopted a 'salami' approach to the disposal of community facilities.
- Site is not surplus to requirements.

20.3. Height, Design and Density of the Proposal

- Scale and density are excessive and out of character with the receiving environment particularly St. Anne's Park.
- The nine storey blocks are not compatible with the existing two storey dwellings of The Meadows.
- Development is a 'gated community'.
- Scale is inappropriate for the Z15 zoning.
- Application is a Z1 style development.
- Only part of the site is within 500m of Harmonstown DART.
- Location of Part V units.
- Contravenes DCC height strategy.
- More 3-bed units should be proposed.

20.4. Appropriate Assessment/Impact on Shore Birds/Bull Island and other SPAs

- EIAR and NIS prepared by the developer are as such biased and do not represent adequate assessments.
- Reason for refusal by the Board of the previous application due to the loss of one of the most important ex-situ feeding sites remains valid. Data presented is insufficient to safely conclude that the Brent Geese population will not be negatively impacted to a significant degree. Lamentable that grass growing on the site has been suspended.
- The 2017 NIS identified lands at St. Pauls as being of 'major' importance relative to other grassland feeding sites used by Brent Geese. In the interim other foraging sites have disappeared and others are under threat.

- The 2019 NIS statement that St. Pauls is not significant is contrary to the finding of the 2017 NIS and to the 2019 NIS which identifies the site as Priority 1.
- Query survey effort of 2018/2019 compared to previous years.
- Query data on numbers of hectares of land available to the geese.
- Loss of favoured or optimal selected feeding areas may have particular negative consequences which has not been addressed. Geese use of inland feeding sites changes seasonally with time of day and with the tidal cycle.
- An AA must be complete, precise and draw definitive conclusions which are capable of informing the 'integrity test'. The 2019 NIS conclusions do not provide precise and definitive findings required to show that the Brent Geese population and other conservation interests will not be impacted by the loss of the development site and the significantly increased disturbance at the adjacent St. Pauls School playing pitch or other sites.
- Case Law referred – Waddenzee, Galway Bypass, Kelly Judgement.
- Central argument put forward in the 2019 NIS is that data indicating that while no Brent Geese have been recorded on the development site, they have been recorded using alternative sites available to them – this is an overly simplistic assessment.
- None of the data provided prove St. Pauls is not an important site nor that other available sites can replace this major site and nor does to prove that there is 'no impact' on the species.
- IWeBs survey only covers the coast and does not take into account inland feeding sites.
- Landowner has failed to establish that the Geese will not be impacted in the long term by the loss of this feeding ground. Such statistics would take several years. The geese are site loyal.
- The reference to a report by Austin Agnew et al that suggests goose droppings pose a serious threat to human health is a remarkable report to reference at this juncture and is concerning given its lack of context or

reference to contrary opinion – its conclusion could be described as disingenuous and demonstrates landowners lack of concern for status of these birds.

- Application ABP Ref. 303325-18 was refused because of Brent Geese.
- This site is frequently used by waterbirds for feeding and it is unclear how the NIS can conclude that the loss of this site is not significant. Reference to tracking survey carried out by Birdwatch Ireland on 3 no. Curlews, 5 no. Redshanks and 6 no. Oystercatchers. Results showed extensive use of grasslands by Curlew and Oystercatchers.
- Previous NIS admits that this site is the most densely used site for Brent Geese.
- Lands should be designated as SPA.

20.5. UNESCO Biosphere buffer zone & biodiversity

- St. Anne's Park forms part of the buffer zone for the UNESCO biosphere at Bull Island. The playing fields would be deemed 'projects situated outside SPAs but having significant effect inside them'. The pitches are not designated as a buffer zone, but they are undeniably integral to it.
- Impact of surface water quality on biodiversity (suspended solids and gross solids).
- Disturbance to badger habitats.
- Disturbance to bats – query number of surveys – detail of surveys – query bat detectors used.
- Impact on bats with lighting.
- Wanton destruction of trees.
- Site should be a SPA.

20.6. Traffic and Transport

- At peak times the local road and rail network are already highly congested and this development would exacerbate this further.

- Road into development will go straight through the school causing a traffic hazard and air pollution.
- Sybil Hill Road already has overcrowding problems with Hospital/Home, St. Paul's secondary school, St. Brigid's Boy's school and the new apartment block exiting onto this road.
- Cars and bicycles exiting will prove a very dangerous hazard.
- Too many car parking spaces are being provided.
- Too few car parking spaces are being provided.
- The site is landlocked with only a single access point through a school onto an already busy road.
- Any additional traffic will impact on Vernon Avenue and other local roads.
- Scale of development will lead to overflow parking on surrounding roads.
- The site is not within 500m of the DART station.
- Bicycle storage is accessed from a ramp which does not comply with guidance.

20.7. Flooding, Wastewater & River

- Capacity of the Naniken River to carry diverted surface water is highly questionable in the light of serious flooding events at the outfall at James Larkin Road in recent years and the likelihood of more frequent weather extremes.
- Surface water discharge outlets from Naniken river and from St. Anne's are tidal which gives rise to increased risk of flooding – there is no consideration in the design to cater for events such as high tide and a rainfall event.
 - Has the receiving treatment plant the capacity to treat the wastewater?
 - Anecdotal evidence that the drainage system is already at full capacity.
 - Improve drainage within the site and mitigate excess grey water.

20.8. Impact on St. Anne's Park

- St. Anne's Park is a Green Flag award winning park.

- The playing fields are integral to the park itself.
- Any building on St. Pauls will impact on St. Anne's flora and fauna and impacts have not been properly assessed.
- 7,000 people support the I Love St. Anne's Facebook campaign and 10,000 + signed a petition opposing the development.
- The sale of the lands is a violation of the trust reflected in transactions.
- It is vital that green lungs like the park are protected and preserved.
- City-dwelling children need spaces like St. Anne's for their development and well-being.
- Access into the public park.
- St. Anne's has a non-cycling bye-law.
- The development divides the park into sections and would permanently disfigure the park.
- St. Anne's is now hosting a variety of events – new residents will object to these events as they will say they impact on their amenities.
- The northside of Dublin is increasingly losing green spaces.
- Photomontages were highly selective.
- Damage to the symmetry of St. Anne's Park.
- Impact of loss of sunlight in the park.
- Impact on Avenue.

20.9. Impact on Social Infrastructure

- Building on these lands will impact on the students of St. Pauls college constricting their school to its current limited capacity.
- The school will lose its playing fields with a corresponding impact on health and well-being of students.
- Height of development will remove light and sunshine from nearby football pitches in time making them useless.

- Not appropriate to remove pitches.
- Community impact due to loss of sports amenities.
- Council has been challenged to provide alternative pitches to the football and rugby clubs.
- No replacement facilities proposed.
- In combination effect on of all new developments in the area on schools and services.

20.10. Impact on surrounding area; visual and residential amenities

- During the building phase the students will be subjected to noise and air pollution.
- During construction children's lives will be in danger - there could be close to 2,000 children on the road.
- These apartments will be out of reach of those struggling to get accommodation and are designed to maximise profit.
- Visual impact of development. Assessment inadequate and misleading.
- Park users will be overlooked by residents.
- Unprecedented rights of way into park.
- Impact of light and noise on the area.
- Out of scale on village of Raheny.
- Dual aspect ratio overstated.
- Overbearing, overshadowing, overlooking of adjacent dwellings and other properties.

20.11. Cultural Heritage

- Are there conservation orders on the pedestrian bridges?
- St. Anne's Park is a conservation area and there will be an impact.
- Impact on Sybil Hill house.

20.12. Other Issues

- CEMP is inadequate.
- Landownership – cuts across DCC lands.
- Query accuracy of maps and ownership /land swap.
- The college should not be allowed to profit from this donated land.
- Project splitting.
- Application is premature and prejudicial to a live JR.
- Privatisation of a public asset.
- Developer failed to send a copy to the OPW for review (Section 50 consent)
- Lack of public consultation.
- A 10 year permission is requested – this is contrary to the reason for the SHD legislation – to fast track housing development
- Long standing access to the pitches and rights of way.
- Site notice is inadequate.
- Query if all documents on website are the same as those before the Board – the Board should host the website.
- Widespread opposition cannot be ignored.

Decision Quashed