



An
Bord
Pleanála

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

Inspector's Report ABP-307656-20

Strategic Housing Development

725 apartments, crèche, café,
foodstore and associated site works.

Location

Rathborne Avenue, Pelletstown,
Ashtown, Dublin 15.
(www.rathborneshd.com)

Planning Authority

Dublin City Council.

Applicant

Ruirside Development Limited.

Prescribed Bodies

Irish Water
Transport Infrastructure Ireland
National Transport Authority
Waterways Ireland
Department of Culture, Heritage and
the Gaeltacht

Coras Iompair Eireann
Commission for Railway Regulation
Relevant Childcare Committee

Observer(s)

1. Adrian Rutledge
2. Anna Kubiak and Alvita Reklaiyte
3. Anna Wang
4. Bernice Cornyn
5. Brid Horan
6. Cllr Declan Meenagh
7. David Garvey
8. Deirdre Finnegan
9. Diarmaid Finnerty
10. Elaine Coffey
11. Gertie and Paddy Murphy
12. Gillian Kinsella
13. Graeme Sullivan
14. Greg Ellerker
15. Henry Mooney
16. Jill Browne
17. Joanne O'Grady
18. Joseph O'Connor
19. Kate Bradley
20. Keith and Ann Lynn
21. Kempton Residents Association
22. Leisha McDonald
23. Maria Atanackovic and Dagoberto Vaquedano

24. Michael Connolly
25. Michelle and Cathy Martin
26. Natalie Kaye
27. Navan Road Community
Council
28. Neasa Halpin
29. Niamh Holly and Joseph
Browne
30. Oleg Fillppov
31. Paul Fay
32. Paul Flanagan
33. Przemyslaw M. Kaczmarczyk
34. Raluca Gaitan
35. Roisin Burnside
36. Roseanne Ceonly
37. Rosemary Corri
38. Royal Canal Park Community
Association
39. Sarah McCartney
40. Shane Flanagan
41. Siobhan Keating
42. Stan Sliepen and Camila
Ignacio
43. Victoria and Paul Martin
44. Yang Zhou and Qiqi Tang
45. Anita White
46. Catherine Magoye
47. Dennis O'Doherty
48. Edel Sexton and Derk Ossel

- 49. Gabriel McDermott
- 50. John Joseph McDermott
- 51. William D. Kelly

Date of Site Inspection 14 October 2020.

Inspector Stephen Rhys Thomas.

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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. The application was made by Ruirside Development Limited and received by the Board on 22 July 2020.

2.0 Site Location and Description

- 2.1. The site is located in Pelletstown, Ashtown, approximately 5.5 kilometres north-west of Dublin City Centre. Pelletstown is a new outer-city mixed-use neighbourhood located between the Royal Canal and Tolka Valley Park. The area is characterised by residential and commercial development, with apartment and duplex development forming the dominant character for the area. To the south, the site bounds the Royal Canal, with playing fields located on the opposite side of the canal, beyond a railway line. To the west of the site is a six storey apartment block and the commercial centre of Ashtown with blocks up to eight storeys. Ashtown Rail Station is situated to the south of this commercial centre. To the east, apartment blocks range in height between four and six/seven storeys in height, with five storeys focused on the canal edge. To the north of the site there are three and four / five storey duplex and apartment blocks on Rathborne Avenue.
- 2.2. The overall site is 5.26 ha and is formed out of a large undeveloped site fronting directly onto the Royal Canal. Part of the site comprises a permitted housing development, the portion that relates to this SHD application amounts to 3.07 ha. The site is formed of two sections that are subject to a comprehensive extant planning permission for redevelopment (DCC Reg. Ref. 366/15, ABP Ref. PL29N.246373). The northern component of the site will provide for 92 houses and features two small shed structures associated with previous construction works. The southern component of the site delivers a significant change of scale to that already permitted for the lands.
- 2.3. The site slopes upwards from north to south creating a level change that equates to approximately a storey difference in height, with Rathborne Avenue being at the lowest point and the Royal Canal towpath being at the upper level. A significant length of mature hedge runs the length of the southern boundary of the site with the

Royal Canal. Beyond the canal lies the Dublin to Sligo railway line, a dense amount of vegetation divides the rail line from the canal.

3.0 Proposed Strategic Housing Development

3.1. The combined 5.26 ha site has an extant planning permission for 296 residential units in blocks ranging in height between 2-6 storeys, DCC Reg. Ref. 3666/15 (ABP Ref. PL29N.246376) refers. The current application seeks permission for a revised proposal for the southern portion of the site and the central north-south and east-west central boulevard public open spaces over the comprehensive site area. The 92 houses permitted on the northern portion of the site remain unaffected. A concurrent application for amendments to the permitted 92 houses in the northern portion of the site is currently with Dublin City Council for consideration, DCC Reg. Ref. 2596/20 refers (further details in section 4 below).

3.2. The proposed development of the southern 3.07 ha portion of the subject site (the development area) will consist of 725 apartment units in six blocks up to 14 storeys in height, a crèche, café and foodstore, the detail is as follows:

- 6 apartment buildings sitting over undercroft parking with Blocks 1-3 separated from Blocks 4-6 by a central public open space. The site gently slopes, the ground floor on the southern elevation, is one floor higher than the ground floor on the northern elevation;
- Buildings range in height from 2 to 14 storeys (which read as 1 to 13 storeys from the Canal side of the site);
- 725 apartments, comprising 107 studios, 226 one bedroom units, 376 two bedroom units and 16 three bedroom units;
- Ancillary resident's amenity rooms and facilities (394sqm);
- Retail floorspace (2,549sqm gross);
- Café (199sqm);
- Childcare facility (724sqm) with associated play space;
- Central public open space (2,881sq.m). This provides a link between the proposed public open space to the north permitted under DCC Reg. Ref. DCC

3666/15, ABP Ref. PL29N.246373 and the Royal Canal Greenway to form a combined central open space of 3,979sqm. A further 2,912sqm of public open space is provided along the canal edge;

- Resident’s communal open space in the form of 4 separate courtyards between the blocks and also at roof level of Block 1;
- 419 car parking spaces provided at basement / undercroft level and on-street;
- 811 bicycle parking spaces provided at basement / undercroft level and at street level, including 10 cargo bike spaces;
- 13 motorbike spaces provided at basement / undercroft level.

An Environmental Impact Assessment Report has been submitted with the application and considers development of the comprehensive site (both northern and southern portions).

Key Figures

Site Area	5.26 ha red line boundary; 3.07 ha development site area (comprising southern portion of the site).
No. of units	725 apartments.
Density	236 units/ha (based on 3.07 ha site).
Plot Ratio	2.19 (based on 3.07 ha site).
Site Coverage	35% (based on 3.07 ha site).
Height	Between 2 and 14 storeys over basement; Block 1: 2-7 storeys; Block 2: 6-12 storeys; Block 3: 6-14 storeys; Block 4: 6-14 storeys; Block 5: 6-12 storeys;

	Block 6: 6 storeys.
Dual Aspect	56%
Commercial Floorspace	199 sqm café 2,549 sqm retail / foodstore (3,472 sqm total).
Communal Amenity Space	5,480 sqm internal courtyards.
Part V	73 units (10%).
Vehicular Access	From Royal Canal Way to the east, Rathborne Avenue to the west and via internal road network from the north under an extant permission.
Car Parking	419 (0.41 spaces per unit).
Bicycle Parking	811.
Creche	724 sqm. 129 child spaces.

Unit Mix					
Apartment Type	Studio	1 bed	2 bed	3 bed	Total
No. of Apartments	107	226	376	16	725
As % of Total	14.75%	31.17%	51.86%	2.20%	100%

4.0 Planning History

4.1. Subject site:

DCC Reg. Ref. 2596/20 refers to a concurrent application with Dublin City Council for amendments to the development permitted under DCC Reg. Ref. 3666/15 (ABP

Ref PL29N.246373) and concerning the northern portion of the site, comprising changes to house types to 92 dwellings as follows: 25no. 2 storey, 3 bedroom house type units each of c. 105.3sq.m (Types HAL, HA, HALM, HAM and HAR) to replace 25no. house type C units (2 storey, 3 bedroom); 17no. 3 storey, 4 bedroom house type units of c. 150.8sq.m (Types HB and HBM) to replace 12no. house type F units (3 storey, 4 bedroom) and 5no. 2 storey, 3 bedroom house type D units; 22no. 3 storey, 4 bedroom house type units each of c. 153.2sq.m (Types HCL, HC, HCM and HCR) to replace 22no. house type E units (3 storey, 4 bedroom); 10no. 3 storey, 4 bedroom house type units of c. 167.5sq.m (Types HDL and HDR) to replace 6no. house type K units (3storey, 4 bedroom), 1no. house type B unit (2 storey, 3 bedroom) and 3no. house type A units (2 storey, 3 bedroom); 18no. 2 storey, 3 bedroom house type units each of c. 102.8sq.m (type HEL, HELM, HERM and HER) to replace 6no.house type K units (3 storey, 4 bedroom) and 12no. house type A units (2 storey, 3 bedroom). A new substation (c. 11.5sqm) is also proposed with associated drop kerb access. All houses will include solar panels on the roofs, as previously permitted. Some minor changes to the arrangement of car parking spaces associated with the amendments to the 92 houses are also proposed. The amendments will not impact on the permitted street layout or overall number of houses permitted under DCC Reg. Ref. 3666/15 (ABP PL29N.246373). The Planning Authority has issued a notice to grant permission (dated 2 October 2020).

DCC Reg. Ref. 3666/15, ABP Ref. PL29N.246373 refers to an application over the comprehensive site area for 318no. dwellings comprising 176no. apartments (including duplex units) in 3 no. buildings ranging in height from 5 to 6 storeys comprising 16 no. 1 bed apartments, 132 no. 2 bed apartments and 28 no. 3 bed apartments each served by a balcony / terrace and solar panels on the roof; 142 no. houses comprising 55 no. 3 bed houses and 87 no. 4 bed houses in the form of terraced, semi-detached and detached houses, ranging in height from 2-3 storeys; all house in the form of terraced, semi-detached and detached houses, ranging in height from 2-3 storeys; all houses with private gardens and solar panels at roof level; a creche facility (c.397sqm) and associated play space (c.138sqm).

Planning permission was GRANTED on 29 July 2016 by An Bord Pleanála, subject to 19 conditions, including a reduction to the overall number of residential units to 296. No works have commenced in relation to this permission.

DCC Reg. Ref. 5392/08 refers to a Masterplan for the comprehensive subject site area, showing the site arranged in a series of blocks, ranging from 4-6 storeys (low rise), 7-9 storeys (mid rise-low level) and 10-12 storeys (mid rise-high level). Phase 1 included a landmark building stepping from 6 to 11 storeys with wind turbines on the roof. A total of 1,030 dwellings were proposed on the masterplan lands. A detailed planning application was made in respect to the north-east quadrant of the masterplan lands for 260 dwellings. Dublin City Council GRANTED planning permission on 25 January 2010 for a scheme reduced in size to 9 storeys due to concerns regarding inadequate daylight, visual impact and exceedance of permitted heights. That planning permission was never implemented and has now expired.

4.2. Adjacent lands:

Temporary School – DCC Reg. Ref. 2657/15 Planning permission granted for temporary conversion of former Castlethorn Construction Marketing Suite, Rathborne, River Road, Ashtown, Dublin 15, to a temporary Primary School for the Department of Education and Skills (12 August 2015). DCC Reg. Ref. 2353/19 - Permission extended / retention granted on 27 May 2019 for a further temporary period.

New Pelletstown School – DCC Reg. Ref. 2056/19 Planning permission granted for 3 storey split level school building comprising 16 no. classrooms and ancillary works (3 July 2019).

Pelletstown Train Station – DCC Reg. Ref. 2109/13, ABP Ref. PL29N.242713 Planning permission granted for a new railway station at Pelletstown, Royal Canal Avenue (7 October 2014). DCC Reg. Ref. 2109/13/x1 application for extension of duration of permission granted on 24 October 2019 until 2 January 2025. Construction commenced in February 2020.

Part VIII – Royal Canal Greenway (Sheriff Street Upper to Ashtown) – Submitted in May 2015 and approved by Dublin City Council.

Ormond – ABP Ref. SHD 306167 Planning permission granted for 435 no. apartments, a primary care centre, café, office floorspace, retail floorspace and fitness centre (13 May 2020). Development not yet commenced.

5.0 Section 5 Pre Application Consultation

5.1. A pre-application consultation with representatives from An Bord Pleanála, the applicants and the planning authority took place on 12 February 2020 in respect of a proposed development of 730 apartments, retail, café/restaurant and crèche floorspace. A Notice of Pre-Application Consultation Opinion issued within the required period, reference number ABP-306211-19. An Bord Pleanála issued notification that, it was of the opinion, the documents submitted with the request to enter into consultations, required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. The following is a brief synopsis of the issues noted in the Opinion that needed to be addressed:

1. Design and Layout;
 - a. scale and massing, impact on the amenities of existing and future residents, sunlight-daylight analysis, overshadowing within the development as well as on existing buildings and wind microclimate analysis;
 - b. Interface with the Royal Canal;
 - c. Quality of the central public open space; and
 - d. Dual aspect design of apartments.

5.2. The prospective applicant was advised that the following specific information was required with any application for permission:

1. Proposed materials and finishes;
2. Drawings, cross-sections, elevations, CGIs;
3. Schedule of accommodation;
4. Building life cycle report;
5. Daylight / sunlight analysis;
6. Microclimate wind study;
7. Community audit, childcare demand analysis;
8. Response to Transportation and Engineering Division;

9. Response to DCC Parks and Landscape Services;

10. Consideration of Material Contravention and associated requirements.

5.3. Finally, a list of authorities that should be notified in the event of the making of an application were advised to the applicant and included:

1. Irish Water

2. Transport Infrastructure Ireland

3. National Transport Authority

4. Waterways Ireland

5. Department of Culture, Heritage and the Gaeltacht

6. Coras Iompair Éireann

7. Commission for Railway Regulation

8. Relevant Childcare Committee

5.4. **Applicant's Statement**

5.4.1. Under section 6(7) of the Act of 2016, the Board issued a notice to the prospective applicant of its opinion that the documents enclosed with the request for pre-application consultations required further consideration and amendment in order to constitute a reasonable basis for an application for permission, the application includes a statement of response to the pre-application consultation (Response to An Bord Pleanála Opinion), as provided for under section 8(1)(iv) of the Act of 2016, that may be summarised as follows:

5.5. Further consideration - In relation to Urban Design and Layout, the applicant has responded as follows: Amendments to scale and massing of the proposed blocks, with some blocks decreased in height and some blocks increased in height, amounting to an overall reduction in 5 units. Introduction of mitigation measures / design changes to improve daylight and sunlight results. Relocation of tenant amenity space away from Canal frontage. Further detail of proposed public open space. Redesign to increase the number of dual aspect units comprised of units with a window on more than one elevation.

5.6. Specific Information:

Proposed materials and finishes - Submission of Architectural Design Statement describing building materials and landscape details, finishes and boundary treatments in submitted Landscape Report and drawings.

Drawings, cross-sections, elevations, CGIs - Submission of architectural drawings and CGIs.

Schedule of accommodation - Submission of Housing Quality Assessment.

Building life cycle report - Submission of Building Life Cycle Report.

Daylight / sunlight analysis - Submission of Sunlight / Daylight Report in Chapter 10 of EIAR.

Microclimate wind study - Submitted Wind Assessment.

Community audit - Submitted Community and Social Infrastructure Audit and Childcare Needs Assessment.

Response to Transportation and Engineering Division - Planning Report and Statement of Consistency provides a response to comments from DCC's Transport Division and Drainage Division.

Response to DCC Parks and Landscape Services - Planning Report and Statement of Consistency provides a response to comments from DCC's Parks and Landscape Services.

Consideration of Material Contravention and associated requirements - A Material Contravention Statement has been submitted with the application.

6.0 Relevant Planning Policy

6.1. National Policy

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').

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

Other relevant national guidelines include:

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

6.2. **Project Ireland 2040 - National Planning Framework**

The National Planning Framework includes a specific Chapter, No. 6, entitled ‘People Homes and Communities’. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-base regeneration and increased building heights.

6.3. **Regional Policy**

Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES) 2019-2031

The RSES including the Dublin Metropolitan Area Strategic Plan (MASP) was adopted on the 3 of May 2019. Pelletstown is located within the area covered by the MASP. Pelletstown is located within two 'Strategic Development Areas and Corridors' as identified within the MASP, they are: the 'City Centre Within the M50' and the 'North-West Corridor'. The 'Ashtown-Pelletstown' area is specifically mentioned as a residential strategic development area in the MASP (within the 'City Centre within the M50' area).

Broadly, Regional Policy Objective (RPO) 5.4 which sets out that: - "Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments' Guidelines, and 'Urban Development and Building Heights Guidelines for Planning Authorities'".

6.4. Local Policy

6.4.1. Dublin City Development Plan 2016-2022

6.4.2. The Dublin City Development Plan 2016-2022 is the operative Development Plan.

6.4.3. The land-use zoning objective is Objective Z14- Strategic Development and Regeneration Area which seeks 'the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and 'Z6' would be the predominant uses'. Residential, live-work units, buildings for the health, safety and welfare of the public, offices, restaurant/café, cultural/recreational building, open space and shop (neighbourhood) are permissible under this zoning objective.

6.4.4. The subject site is located with 'SDRA 3: Ashtown-Pelletstown' (Strategic Development and Regeneration Area) of the operative City Development Plan- areas identified as being 'capable of delivering significant mixed-use development'.

6.4.5. Part of the site extends into Objective Z9 - To preserve, provide and improve recreational amenity and open space and green networks.

6.4.6. The policy chapters, include Chapters 5 – Quality Housing, and 12 – Sustainable Communities and Neighbourhoods, detailing the policies and objectives for residential development, making good neighbourhoods and standards respectively, should be consulted to inform any proposed residential development (Chapter 16

deals with Development Standards: Design, Layout, Mix of Uses and Sustainable Design. Section 16.7.2 deals with Height Limits and Areas for Low-rise, Mid-Rise and Taller Development, Section 16.10 – Standards for Residential Accommodation).

6.4.7. Ashtown-Pelletstown LAP 2014 (extended to December 2023).

6.4.8. The Ashtown-Pelletstown LAP 2014 (extended to December 2023) provides guiding principles for the development of the Ashtown-Pelletstown area in section 3.2. Map 4.1 identifies the application site for residential use. Section 4.5.4 details the height strategy and principles in relation to building design are described in section 4.5.6. Objectives are also described that relate to the application site, including UD02 concerning completion of the linear park on the Royal Canal towpath, with a minimum width of 10m from the Canal edge to park railing; UDO6 concerning completion of two secondary north south routes for pedestrians and cyclists linking the Canal to the Tolka Valley Park; UDO8 describing locations for increased height at (i) the village centres at the eastern and western edge of the LAP; (ii) facing the canal towpath park; and (iii) the Crescent; CHO3 relating to the protection and enhancement of the character and historic fabric of the Royal Canal and Tolka Valley conservation areas; and GIO1 relating to the completion of the linear park along the Royal Canal in tandem with new development, enhancing biodiversity and ecological value and improving amenity value for those using the towpath.

6.4.9. Map 4.12 sets out the height strategy for the LAP, 3 to 6 storeys along the canal and up to six in the main area of the site.

6.5. Applicant's Statement of Consistency

6.5.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of National Planning Framework, Section 28 Guidelines and the City Development Plan and I have had regard to same. The following points are noted:

- Substantially reduced car parking is proposed with a ratio of 0.41 spaces per a unit.
- The number of units exceed the Core Strategy provision for the LAP area and this matter is addressed in the submitted Material Contravention Statement.

- The proposal is consistent with the building height policy in the Development Plan, however the Local Area Plan specifies heights lower than this. A Material Contravention Statement is submitted in this regard.

6.6. Applicants Material Contravention Statement

- 6.6.1. The applicant sets out that the proposed development may materially contravene the City Development Plan 2016-2022 or the Ashtown-Pelletstown Local Area Plan 2014 (as extended) specifically relating to:

Core Strategy - Dublin City Development Plan 2016-2022 - The number of dwellings being proposed, when taken together with the adjoining developments (remaining 92 units under Reg. Ref. 3666/15 and Rathborne Phase 3) and the other plots yet to be developed (such as the site of the temporary primary school and the 435 units recently permitted on the site of the former Ormond print works (ABP Ref. 306167-19) exceeds the Core Strategy provision for the LAP area. Taken together with permitted and planned development, total number of units would result in the provision of 4,038 dwellings in the overall LAP area, at a density of approximately 105 units per Ha. This would exceed planned 3,100 units across the LAP lands. The LAP lands are situated in the area designated by the RSES as 'City Centre within the M50' where higher densities and more compact urban form is required in order to meet the objectives of the MASP for Dublin, the RSES generally and, by extension, the National Planning Framework.

Residential Density & Housing Allocation - Ashtown-Pelletstown LAP 2014 – When combined with the exceedance of the core strategy described above and household formation, proposed residential density increases from the planned range of 54-74 dwelling units per hectare to 236 units per hectare. The proposed scheme provides a sustainable solution for the city's growing population, by providing a high-density development on a vacant sites which is in proximity to high capacity, high frequency public transport services.

Building Height – Ashtown-Pelletstown LAP 2014 - Section 16.7.2 of the Development Plan states that "mid-rise" heights of up to 50m are acceptable at Pelletstown, a maximum height which the proposed development falls considerably below; being 14 storeys at its highest (Block 04), or approximately 47.2m. As such, the heights are compliant with the City Development Plan provisions with regard to

height. With reference to the LAP, the proposed SHD development exceeds the maximum heights specified for this area in Section 4.5.4 of the LAP (8 storeys with 1 no. 10 storey building) with the inclusion of buildings up to 14 storeys. The LAP also calls for heights along the canal edge of between 3 – 6 storeys (area in green shown in Figure 6 of the LAP). The areas north of the canal are seen as being lower in height. The Design Statement, prepared by O'Mahony Pike Architects provides further comprehensive assessment regarding the acceptability of the planned building height in the context of the Height Guidelines. In addition, the EIAR assesses the environmental impact of the proposals across a wide range of topics and puts forward any mitigation measures that are necessary to address any potential impacts arising. This includes a Landscape and Visual Impact Assessment of the proposals.

Dwelling Mix - Dublin City Development Plan 2016-2022 and Ashtown-Pelletstown LAP 2014 - Section 16.10.1 of the Dublin City Development Plan 2016 – 2022 sets out the requirements in relation the mix of dwellings provided as part of new apartment developments, which are as follows: maximum of 25-30% one-bedroom units and a minimum of 15% three- or more bedroom units. Similar standards are set out in the LAP. The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (March 2018) contains a "Specific Planning Policy Requirement" in relation to dwelling mix requirements (SPPR 1), which takes precedence over any conflicting policies and objectives of Development Plans. Specifically, those SPPR's indicate that not more than 50% of apartments should be 1 bedroom (including studio's – which in turn can be 20-25%). The current proposals above are compliant with these SPPR's. The applicant presents a table to illustrate housing mix and states that a sustainable housing mix across the LAP lands will be achieved.

Apartment Floor Areas - Dublin City Development Plan 2016-2022 - The proposed development complies with the requirement under the 2018 Apartment Guidelines for a majority of all apartments (excluding studio's) to exceed the minimum floor areas standard by a minimum of 10%. Furthermore, storage requirements are met within each apartment. A detailed Housing Quality Assessment has been prepared by OMP Architects demonstrating compliance with the required residential design standards for apartments.

7.0 Observer Submissions

7.1. The Board received 51 observer submissions, the observers are listed on the cover page of this report. There is a significant degree of overlap and reiteration of issues raised throughout the submissions. I therefore propose to provide a summary by way of theme or issue, as follows:

General/Principle/Nature of Development

- Existing retail units in the area are empty and there is no need to introduce more.
- SHD process is flawed, delays housing delivery and is unconstitutional (currently being challenged in the courts).

Infrastructure

- School capacity is not accurately reflected in the submission. Only the Educate Together School is walking distance from the site and this is temporary and at capacity.
- Use of the 2016 census data does not accurately reflect capacity in the area as it omits population associated with recently completed development in the area and children born since 2016.
- The development will place additional pressure on creches, launderettes and Garda resources.
- The submitted Community and Social Infrastructure Audit contains discrepancies and omissions.
- Inadequate GP services in the area currently.
- Lack of community space in the area and there is a need for sports pitches.
- The application does not include an Educational Needs Assessment.
- Estimate that this development will generate need for between 299 and 546 school places.

Residential Amenity

- The development will block natural light for many people, their homes, the public parks, roads and walkways.

- Loss of privacy, daylight and sunlight to the Tallow building.
- Potential noise nuisance to residents of the Tallow building.
- Adverse impact on the privacy of existing residents.
- Overlooking of the surrounding area.
- Impact from overshadowing has not been considered by the developer.
- The proposed development will adversely impact the character of adjacent green spaces and the canal.
- Anti-social behaviour in the area has increased and will be made worse.

Transport

- Already heavy congestion in the area and this development will add to this.
- Transport assessment does not take into account other developments and does not provide real information.
- Upgrades to River Road have not yet taken place.
- Reference is made to the unbuilt Pelletstown Train Station and there is uncertainty around when it will be complete.
- The train line is at capacity.
- Pedestrian links to the Luas are not fit for purposes.
- The development does not include cycle route improvements that are needed in the area.
- The transportation assessment has diagrams that does not include the newer houses constructed in the area.
- There is a shortage of visitor parking for current residents and this will be made worse by the development.
- The development will cause overspill parking.
- The entrance along the greenway will conflict with use of the greenway by runners and cyclists.

- The Road Safety Audit concludes that they do not have the required information to complete the audit.
- Bus services in the area are at capacity.
- Road infrastructure in the area is in an unsatisfactory condition.
- The applicant owns road areas that require upgrade in the area.
- Works to create improved transport infrastructure (Bus / Rail) is in the future and uncertain.
- Work has not yet started on improvements to the towpath (lighting / footpath works).
- Congestion is a problem at the Ashtown rail crossing, automation of the crossing should be secured prior to granting planning consent.
- The road layout at the western end of Rathborne Avenue is dangerous.
- The development should incorporate measures to prevent poor parking practices.
- The National Roads Authority previously objected to an application for development on the site due to adverse impact on the Ashtown roundabout. This has still not been upgraded.
- All car parking spaces should be Electric Vehicle spaces.

Height / Density / Design

- The scale of the development is not in keeping with the area.
- Adverse impact on the skyline of the area.
- The development is out of character with the existing Rathborne Village setting.
- Very little public space and landscaping proposed as part of the development.
- The proposed density is twice the LAP envisaged range.
- The proposed height, density and unit number are in breach of both the Development Plan and Local Area Plan.
- The proposed 14 storey block is inappropriate and incongruous to the area.
- The proposed development will overwhelm the entire neighbourhood and ruin the character of the area.

- The proposal is overdevelopment of the site.
- The visual impact of the proposed development is out of context with the aesthetic qualities of nearby heritage sites – the Tolka Valley and the Royal Canal.
- The height of the development should be reduced to better relate to adjacent buildings.
- Blank inactive use at ground floor facing the Tallow Building.
- Advertising ‘curtain walls’ will create unpleasant views.
- Poor quality materials.
- Play areas should be included in the development.
- The proposal is akin to the Ballymun towers.

Property Value

- The resale value of the area will be adversely affected.

Mix

- 50% of the proposed development consists of studio and one bed apartments, which can’t accommodate families.
- The large number of small units will increase the transient population in the area.

Ecology

- A family of foxes live on the site.
- The site should be checked for nests prior to redevelopment.
- The development had potential to impact wildlife.
- Adverse impact on the biodiversity of the Canal.
- Potential contamination of the Canal.
- There is a family of swans, a heron, a mandarin duck that live on the canal, and 2 otters that haven’t been spotted in a while.
- Mature trees and hedgerows on the southern perimeter of the site along the Royal Canal towpath should be retained and incorporated into estate landscaping as they form a wildlife corridor along the canal.

Other

- With the recent pandemic it has become apparent that housing should be suitable, separate spaces for living and sleeping and access to outdoor space.
- The application states up to 4 people can share a studio apartment.
- The development will not create housing that is affordable to families.
- Wind report should take into account that the corner roof of the Royal Canal Court building has blown off on two occasions.
- The submitted material contravention statement does not consider impacts on existing residents.
- The build to rent model is problematic.
- Another supermarket is not needed.
- Adverse impacts during construction from noise pollution, dust, dirt, heavy machinery traffic in the area and air pollution.
- Part V units are all located in one block which does not follow best practice.
- Query advertisement of the application in the newspaper.
- Outdoor seating should be provided as part of the café.
- Flood risk is a concern.
- Inadequate security taken account for in the development.
- Fire risk as Dublin Fire Brigade do not have ladders capable of reaching the proposed heights.

Submitted attachments include: Observation letter from Royal Canal Community Association in relation to previous application 2596/20 on the site; Navan Road Community Council No.8 Tolka Valley Park photo.

8.0 Planning Authority Submission

- 8.1. The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 15 September 2020. The report states the nature of the proposed development, the site location and

description, submissions received and details the relevant Development Plan policies and objectives. A summary of the views of elected members as expressed at the Central Area Committee Meeting on Tuesday 8 September is appended to the Chief Executive's Report and summarised below.

Particular concern about the height of the proposed development which is more than double that allowed for in City and Local Area Plans. The development will impact on traffic and public transport, biodiversity, local amenities and the community. Members were also unhappy with the design and appearance of the development which was stated to be unsatisfactory for a quality site such as this. Criticism of the SHD process was expressed and clarifications about the planning history of the site were sought.

- 8.2. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) is summarised as follows.

General/Principle - The proposed uses comply with the zoning objective, and the planning authority is satisfied with the proposed largely residential use on this site.

Height, Scale and Design - The applicant's assertion that part of the site is located in a village centre designation, and that the height context (8 storeys, with one 10 storey building) that should prevail, is not credible, given the very small area (4%) of the site that falls into that area. The proposal for heights of up to 13 storeys (42.8 metres high) would materially contravene the Dublin City Development Plan 2016-22, and the Ashtown-Pelletstown Local Area Plan (January 2014, extended to 2023). The applicant's material contravention statement is noted. The visual impacts would be most significant from the canal bank, and from the permitted housing and existing apartments to the north. The CGIs show the blocks appear as one clustered mass when seen along the canal, whereas the taller part of each block is seen as a separate element when viewed from the apartment complex to the north. The impacts are somewhat incongruous and the development does not successfully integrate into or enhance the character and public realm of the area. It does not adequately respond to the scale of the adjoining permitted development. However, the proposal is not monolithic, given the broken form and slab blocks. The length of elevations is significant along the side of the public park and the boulevard.

The Daylight and Sunlight analysis shows that impacts would be largely acceptable on neighbouring permitted and existing developments. The palette of materials is considered broadly acceptable, although there are some concerns regarding the cladding to the top floors on Rathborne Boulevard, and the durability of the proposed render. The poor daylight to a number of the ground and first floor units appears to be directly attributable to the excess height of the opposite block.

Density, Site Coverage and Plot Ratio - While the site is not central, it is an accessible site, and while it would not be considered an inner suburban location, its context in the wider Greater Dublin Area is noted. The proposal is for 35% site coverage, below the quantitative standard in the Development Plan. The proposal has a plot ratio of 2.3, higher than the upper end of the Development Plan standard. It has not been demonstrated that the density is appropriate for the site.

Residential Quality Standards - The development complies with SPPR 1 of the apartment guidelines in relation to unit mix. The site is not central, although it is accessible. While the accessible nature of the site makes it appropriate for higher density development, there are no design constraints that would curtail the delivery of dual aspect units. The proposed development has a stated 57% quantum of dual and triple aspect apartments. This includes north-facing units with pop-out windows. The number of units designated as dual aspect is unacceptable. The actual figure is some 10% lower than stated when discounting inadequate units. Rooms facing onto the courtyard perform poorly in relation to daylight and sunlight, with the rooms located in the corners of the courtyard falling below minimum standards on the ground floor.

Pedestrian and Cycle Permeability - The development proposes to complete the required public open space and pedestrian cycle route in the north-south direction through the site, in compliance with the LAP, as well as providing access directly to the Royal Canal for residents of the development.

Private Communal and Public Open Space - Concern regarding privacy to ground floor units and the amenity of balconies and terraces to single-aspect north-facing units. The proposed development does not incorporate the existing ecological corridors and stepping stones and will necessitate their removal. The public amenity space proposed is broadly of similar depth, width and landscape design as was

approved under 3665/15. A condition is recommended to enhance the biodiversity value of landscaping and in relation to maximising retention of hedgerow and the protection of hedgerow and trees. Noted that the hedgerow was not proposed to be retained under the extant permission for the site and a similar landscaping plan was permitted. Concern regarding the large areas given over to ventilation voids in communal amenity space areas, particularly between blocks A and B, and the microclimate of these spaces which indicates large areas inappropriate for long term sitting.

Resident Facilities - A condition is requested to ensure resident facilities are available to residents and not occupied as separate commercial facilities. Concern regarding the location of resident facilities and conflict with adjacent residential units.

Part V - The applicant has previously engaged in relation to the development and is aware of obligations under Part V. It is proposed to provide 73 units.

Childcare Facility - The increased crèche size would seem appropriate for the increased demand generated by c.200 additional two and three bed apartments. However, the subterranean level of the outdoor space would lead to insufficient sun lighting.

Social Audit and School Capacity Assessment - Unclear whether the proposed development will positively respond to community infrastructure deficiencies in the area.

Transportation - An updated Mobility Management Plan and Car Parking Management Strategy should be submitted to the Planning Authority for agreement prior to occupation of the development. Management of commercial car parking spaces should be factored into the overall strategy for the development. Revised drawings of the proposed cycle storage are requested by condition. There is concern about vehicular/pedestrian conflict at the entrance to the integrated loading bay and conditions are requested in this regard. The setback from the canal is considered acceptable.

Built and Natural Heritage - The canal bridge is a protected structure (RPS no.907). The south part of the site is designated as a red-hatched conservation area associated with the Royal Canal, as such policies under Chapter 11 apply. The submitted EIAR does not note the location of the conservation area. The NPWS

recommends retention of the hedgerow. The site does not contain any and is not adjacent to any National Monuments, or any archaeological sites or zones.

Conclusion

- The Planning Authority considers the development fails to accord with a number of key criterion under the building height guidelines.
- The development fails to successfully integrate into this emerging residential area and fails to make a positive contribution to the neighbourhood or streetscape.
- Concerns regarding its impact on the Green Infrastructure and wildlife corridor along the Royal Canal.
- Concern regarding the quality of daylight and sunlight to a number of units, the single aspect north-facing units, the quality, practical usability, and the wind microclimate of the proposed communal open spaces, the poor quality of daylight and sunlight to the residential amenity facilities, and the conflicts between these and adjoining residential units, due to their location; the subterranean creche play area, and the dearth of three-bedroom units contrary to the LAP.

Recommendation

The Planning Authority recommend permission be refused for the following reason:

- The proposed development by reason of its excessive height and overall massing represents a significant and incongruent transition from the scale of the permitted two and three storey residential development to the north and the height of the towers in particular. The proposal fails to successfully integrate into this emerging residential area and to make a positive contribution to the neighbourhood or the visually sensitive canal-side location which is a designated conservation area under the Dublin City Development Plan 2016-2022. The excess of height would lead to wind impacts that would impact the quality and usability of the communal courtyards, and it has not been demonstrated that the proposed woodland landscaping to mitigate the wind effects on the public open space would be sufficient to address this issue. Additionally, a number of ground and first floor units would have

insufficient daylight and insufficient sunlight, as a direct result of the proposed quantum of development. The proposed development would therefore be seriously injurious to the character and visual and residential amenities of the area, would provide a substandard level of residential amenity for the future occupant of the scheme and would be contrary to the requirements of the Urban Development and Building Heights Guidelines for Planning Authorities, Design Standards for New Apartments Guidelines for Planning Authorities, Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

In the event that planning permission is granted, 26 conditions are recommended, most are standard and technical in nature, the following condition is of note:

- Condition 3 – reductions in storeys heights as follows – Block 2 by 3 floors, maximum height of 26.5m; Block 3 by 3 floors, maximum height of 32.6m; Block 4 by 3 floors, maximum height of 32.6m; and block 5 by 3 floors, maximum height of 26.5m.

8.3. Departmental Reports (City Council)

DCC Parks & Landscape Services

- First report recommends refusal of the application.
- Second report confirms no objection subject to conditions.

Transportation Planning Division

- A detailed Traffic Impact Assessment has been submitted. An in-depth analysis has been completed of the traffic/pedestrian movements associated with the subject site and the cumulative impact of the surrounding developments. Junction analysis indicates that all junctions will operate well within capacity, with the exception of 7-Ratoath Road / Ballyboggan Road which reaches its PM capacity irrespective of the development site.
- Concern regarding the quantum of car parking spaces proposed. Request condition requiring submission of revised Mobility Management Plan and Car Parking Strategy to manage this.

- No objection subject to conditions.

DCC Drainage

- No objection subject to conditions.

Housing & Community Services

- The applicant has previously engaged and is aware of Part V obligations.

9.0 Prescribed Bodies

9.1. The list of prescribed bodies, which the applicant is required to notify prior to making the SHD application to ABP, issued with the section 6(7) Opinion and included the following:

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. Waterways Ireland
5. Department of Culture, Heritage and the Gaeltacht
6. Coras Iompair Eireann
7. Commission for Railway Regulation
8. Relevant Childcare Committee

9.2. The applicant notified the relevant prescribed bodies listed in the Board's section 6(7) opinion. The letters were sent on the 22 July 2020. A summary of those prescribed bodies that made a submission are included as follows:

- **Transport Infrastructure Ireland (TII)** - Condition recommended: The proposed development shall be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and Road Safety Audit submitted. Any recommendations arising should be incorporated as Conditions in the Permission, if granted. The developer should be advised that any additional works required as a result of the Transport Assessment and Road Safety Audits should be funded by the developer.

- **Irish Water** - The applicant has been issued a confirmation of feasibility in respect of 889 residential units for connection(s) to the Irish Water network(s). At connection application stage, the existing pressure reducing valve at the inlet to the District Meter Area has to be assessed and upgraded if required. Request a condition in respect of the provision of public water and wastewater infrastructure, in relation to obtaining a connection agreement.
- **Department of Cultural, Heritage and the Gaeltacht – Archaeology** - Query ambiguous text in relation to archaeology. It is recommended that archaeological mitigation measures are clarified.

Nature Conservation – The National Parks and Wildlife Service (NPWS) show concern at the proposed removal of the boundary hedgerow and detrimental impact on breeding birds, foraging and commuting bats, and also in relation to the overall contribution to the functioning of the Royal Canal pNHA as a wildlife corridor. Otters have in recent years been reported from parts of the Royal Canal both upstream and downstream of the development site and therefore must at times almost certainly transverse the stretch of canal adjacent to the site. The otter along with the bat species is a species afforded a regime of strict protection under the Habitats Directive. Recommend that the hedgerow is retained. While access routes may be provided through it from the development area onto the canal towpath, the existing hedgerow could be thickened up by the planting of native trees such as ash and oak, so as to reinforce its value as a screen mitigating the impacts of disturbance and light spill from the proposed development on the pNHA. Such a screen would be beneficial to wildlife. If the construction of the proposed greenway necessitates the removal of the boundary hedgerow, recommend that a condition be included for a continuous hedgerow to be established instead of the planting proposed by the applicant. The proposed planting along the boundary with the canal consists of single trees which do not provide an effective screen.

10.0 Assessment

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on national policy and the relevant section 28 guidelines. I examine the proposed development in the context of the statutory development plan and the local area plan. In addition, the assessment considers and addresses issues raised by the observations on file, the contents of the Chief Executives Report received from the planning authority and the submissions made by the statutory consultees, under relevant headings. The assessment is therefore arranged as follows:

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

10.2. Principle of Development

10.2.1. Land Use Zoning - The application site is primarily zoned Z14 'Strategic Development and Regeneration Areas' (SDRA 3 Ashtown/Pelletstown) under the Dublin City Development Plan 2016-2022. The land use objective in Z14 is to "To seek the social, economic and physical development and / or rejuvenation of an area with mixed use of which residential and 'Z6' would be the predominant uses." Residential is a permissible use in this land use zoning. To the south, the submitted site location plan shows the red line boundary extending up to, and abutting, the canal towpath. The lands located adjacent and to the north of the towpath, form a buffer strip to the canal and are zoned Z9. This area is also zoned a conservation area under the Development Plan and forms part of the Royal Canal Conservation Area. Zoning objective Z9 relates to 'Amenity/Open Space Lands/Green Network'

under the Dublin City Development Plan 2016-2022, with the objective “To preserve, provide and improve recreational amenity and open space and green networks”. Permissible uses in Z9 include cemetery, club house and associated facilities, municipal golf course, open space, and public service installation which would not be detrimental to the amenity of Z9 zoned lands. Residential use is not a permissible or open for consideration use in this land use zoning under the Dublin City Development Plan 2016-2022. The applicant has not acknowledged in the application submission the extension of the red line boundary into lands zoned Z9 and the conservation area. The applicant’s Statement of Consistency includes a red line boundary diagram (figure 22 page 65) that incorrectly shows the site to be adjacent to, but outside of this zone. The applicant has not provided an overlay of the proposed site plan as it would appear in the context of land use zoning.

10.2.2. I note that the planning authority support the principle of residential development across the subject site and do not identify any land use zoning conflict. In addition, I note that all plans and maps within the LAP for the lands concerned support and promote development up to the canal bank subject to a minimum set back of 10 metres from the towpath in order to form part of a linear park. Though most observers strongly oppose the development in relation to height, scale, and density, none refer to any zoning conflicts. Finally, there is planning permission on the site (PA ref. 3666/15, ABP Ref. PL29N.246373) for a development with a similar 10 metre buffer building set back from the canal as demonstrated by the proposed development. The extant planning permission on the site extended into the zoned Z9 open space area to the same degree and with a similar level of built form as the current application and existing development to the west. However, under the 2011-2017 Development Plan maps, slightly different graphics were used and it could have been argued that no conflict arose in that case. In addition, I note that existing development to the east, specifically Royal Canal Court, aligns with the extent of the Z9 zoned lands as it is illustrated on current Development Plan maps.

10.2.3. Consequently, I have carried out an examination of this matter such as; comparing the proposed building line to the location of adjacent structures in the area, comparing the location of proposed buildings to The Tallow access road as appears in the Z9 area, and measuring the proposed building set back from the towpath. From carrying out these checks, and in the absence of any overlay plan or other

evidence to the contrary, I have concluded that the proposed residential blocks extend into the zoned Z9 area. The frontage for all 6 blocks extend into the Z9 zoned area 'Amenity/Open Space Lands/Green Network' under the Dublin City Development Plan 2016-2022. I have reached this conclusion with reference to Zoning Map Set A in Volume 3 of the Development Plan and through the use of GIS software incorporating a land use zoning overlay.

- 10.2.4. As already mentioned the planning authority have not identified the extension of the site red line into the Z9 or conservation area and indicate in their Chief Executive Report that the site is located *adjacent* to this Z9 and conservation area strip. The applicant has submitted a diagram in their Statement of Consistency and has failed to provide acknowledgement in this regard. It is clear from the submitted site plan that the red line boundary does extend into the zoned Z9 open space area. I am not satisfied that the documentation submitted by the applicant categorically confirms that no development will occur in this Z9 zoned strip, and that my own examination indicates that the development proposal extends significantly into this Z9 zoned area.
- 10.2.5. I have reviewed the Ashtown-Pelletstown Local Area Plan and the Dublin City Development Plan (past and present) in relation to the significance of the Z9 zoning at this location to assist in determining the materiality of any extension of residential structures into this zone. The LAP identifies this stretch of land adjacent to the Royal Canal and within the application site in a number of diagrams, including Map 4.18 'Existing Green Spaces' – as an Existing Green Corridor, and Map 4.19 'Green Infrastructure Opportunities' – as a Habitat of Higher Biodiversity Value / Enhancement Opportunities. Both diagrams include the full depth of the Z9 zoning as it extends into the site. Map 4.20 'GI Strategy' identifies this area as an Existing / Proposed Canalside Linear Park, and indicates it as following the southernmost line of The Tallow access road and therefore set further south of the site than the aforementioned diagrams. Leading me to conclude that a definitive boundary for the Z9 zoning at this location cannot be ascertained.
- 10.2.6. The LAP states in section 4.9.4 'Existing Green Infrastructure at Local Level' point (iii) that *"The Royal Canal – running along the southern boundary of the plan lands and linking into the areas along the canal further west and east. This is a designated proposed Natural Heritage Area (pNHA), considered to be of National-level*

ecological importance and is a designated conservation area as provided for under the city development plan. Schemes built to date within the plan area have contributed towards the development of the linear park which increases the biodiversity, attractiveness and functionality of the improved towpath.” The LAP goes onto state in relation to ‘Existing Green Spaces’ on page 48 that *“Hedgerows and tree-lines are illustrated as ‘existing green corridors.’ Such ‘Green Corridors’ are distinguished from other links by the fact that they encourage wildlife, they can also incorporate links for people, such as walking routes and cycle lanes.”* Table 4.11 of the LAP shows the diversity of habitats and the range of life they support. The LAP states that *“Many of these habitats perform important buffer functions protecting waterbodies from pollution for example, or preventing excessive surface water runoff.”* For the walkway and park parallel to the Royal Canal, the table identifies bird species, bat species and otter as relevant habitats, with a buffer function to the Royal Canal. Undoubtedly, the importance of the Royal Canal, as an amenity and ecological corridor cannot be disputed.

10.2.7. The Dublin City Development Plan 2016-2022 states in Chapter 14 that *“In relation to developing the city’s green infrastructure (G.I.), the co-operation of owners/occupiers of lands zoned Z6, Z9, Z12, Z14 and Z15 is sought towards progressing the GI network.... This shall include, as part of any re-development of the site, setting back of boundaries and/or adequate provision for greenways in accordance with routes illustrated and any local area plan content.”* From my examination of the proposed development, this is the case, the scheme respects and enhances the canal corridor.

10.2.8. In section 14.8.9 of the Development Plan, it states in relation to the Land-Use Zoning Objective Z9 that *“Specifically, residential development shall not be permitted on public or privately owned open space unless exceptional circumstances are demonstrated. In certain specific circumstances where it has been demonstrated to the satisfaction of the planning authority that there is a need for ancillary development to take place in order to consolidate or retain the sporting and amenity nature of Z9 lands or an existing facility in a local area, some limited degree of (residential/retail) development may be permitted on a once-off basis and subject to the primary use of the site being retained for sporting or amenity uses. In all cases height shall relate to the prevailing height in the vicinity.”* No set of exceptional circumstances have been advanced by the applicant, even though I would consider

that the proposed development will achieve the planning objectives sought for the area with respect to the canal and the provision of well supervised and safe amenity space.

10.2.9. I note that there is planning permission on the site (PA ref. 3666/15, ABP Ref. PL29N.246373) for a development with the same 10 metre building set back from the canal towpath as demonstrated by the proposed development. The extant planning permission on the site extended into the zoned Z9 open space area to the same degree and with a similar level of built form, to the current application.

10.2.10. When considering the principles behind SHD and specifically Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 that states subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. However, paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'. As I have outlined above and to summarise, this is not such a clear cut case and I consider that the proposed development would not materially contravene the development plan for the area concerned with respect land zoning because:

- Section 14.8.9 of the Development Plan states that in exceptional circumstances residential development can take place on land zoned Z9 if it has been demonstrated to the satisfaction of the planning authority that there is a need for ancillary development to take place in order to consolidate or retain the amenity. This is such an exceptional circumstance; the design of the proposed development will ensure a safe and pleasant environment for amenity space along the canal. I am satisfied that the development could be permitted on a once-off basis as a demonstrably exceptional circumstance.
- The proposed development will maintain a 10 metre buffer from the northern edge of the Royal Canal towpath, as required by the Development Plan

objectives for the city's green infrastructure and the general design principles contained in the LAP, thus in compliance with both plans.

- The applicant has acknowledged that the proposed development will materially contravene the Development Plan with respect to the core strategy, residential density, building height, dwelling mix and apartment floor areas. But has not suggested that any other aspect of the Development Plan or LAP has been breached. In addition, I note that the planning authority do not raise it as an issue and nor do any observers see a contravention of the development plan with respect to land use zoning alone. This is of note because recent case law suggests that one of the tests for determining whether a contravention is material can be linked to the likelihood of exciting local opposition. This is not so, in relation to the matter of the land use zoning objective, no one has objected on those grounds.

Given the foregoing, I am of the opinion that the proposed development cannot be considered to materially contravene the Development Plan in relation to the zoning of the land.

10.3. **Material Contravention**

10.3.1. The location of the site is noted, so too are the policies and objectives of the operative City Development Plan and Local Area Plan, together with national guidelines, which apply in this instance. Specifically, the following policies and objectives are highlighted:

1. The Core Strategy of the Development Plan that identifies 1000 units for Ashtown-Pelletstown, and the local LAP that identifies 270-370 units for the Rathborne SHD lands and 1,022-1,075 units for the entire LAP lands undeveloped at the time the LAP was adopted (2014).
2. Residential Density is in excess of that planned for in the Ashtown-Pelletstown LAP 2014, 236 units per hectare as opposed to the planned 54-74 units per hectare in the LAP.
3. Building height - Section 16.7.2 of the Development Plan states that "mid-rise" heights of up to 50 metres are acceptable at Pelletstown, the proposed development falls considerably below; being 14 storeys at its highest (Block

04), or approximately 47.2m. The proposed building height exceeds the maximum heights specified for this area in Section 4.5.4 of the LAP (8 storeys with one 10 storey building) by the inclusion of buildings up to 14 storeys. The LAP also calls for heights along the canal edge of between 3 – 6 storeys.

4. Dwelling Mix - Dublin City Development Plan 2016-2022 and Ashtown-Pelletstown LAP 2014 - Section 16.10.1 of the Dublin City Development Plan 2016 – 2022 sets out the requirements in relation the mix of dwellings provided as part of new apartment developments, which are as follows: maximum of 25-30% one-bedroom units and a minimum of 15% three- or more bedroom units. Similar standards are set in the LAP. The proposed dwelling mix provides for 46% (one bed or studio), 52% (two bed) and 2% (three bed).
5. Apartment Floor Areas - Dublin City Development Plan 2016-2022 - The proposed development complies with the requirement under the 2018 Apartment Guidelines for a majority of all apartments (excluding studio's) to exceed the minimum floor areas standard by a minimum of 10%, despite differing requirements contained within section 16.10.1 *Residential Quality Standards – Apartments* in the development plan.

I note that the applicant has submitted a material contravention statement in relation to the matters outlined 1-5 above, and in all cases the reasons put forward relate to the relevant section 28 guidelines issued by the minister, regional guidelines or national frameworks. The applicant has advertised that a material contravention statement has been submitted as part of the application, within their newspaper notice, as required under the legislation.

- 10.3.2. Under the Planning and Development Act 2000, the Board is precluded from granting permission for development that is considered to be a material contravention of the Development Plan, except in four circumstances. These circumstances, as outlined in Section 37(2)(b) of the 2000 Act, are strategic or national importance; conflicting objectives in the development plan or the objectives are not clearly stated; regard to the RSES for the area, section 28 guidelines, ministerial policy objectives 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 minister; and the pattern of development and permissions in the vicinity since the making of the development plan. The current application has been lodged under the strategic housing legislation and the proposal is considered to be of strategic importance. I note the policies and objectives within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 which fully support and reinforce the need for increased residential density in settlements such as that proposed on infill development sites, National Policy Objective 35 of the NPF refers. I consider this to be one such site. Ultimately higher densities, result in greater numbers of people living at the right location, as well as taller buildings that should all be delivered with greater unit mix and higher quality accommodation.

10.3.3. The applicant has successfully demonstrated all of these factors in the documentation submitted. I have addressed all of these points in the body of my report set out below. To avoid needless repetition, I direct the Board to the relevant sections of my report where greater detail is provided and as they correspond to each material contravention statement made by the applicant, as follows:

10.3.4. **Core Strategy** – Taken together with permitted and planned development, the total number of units would result in the provision of 4,038 dwellings in the overall LAP area, at a density of approximately 105 units per Ha. This would exceed planned 3,100 units across the LAP lands. The LAP lands are situated in the area designated by the RSES as ‘City Centre within the M50’ where higher densities and more compact urban form is required in order to meet the objectives of the MASP for Dublin, RSES Regional Policy Objective (RPO) 5.4 sets out that: - Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for New Apartments’ Guidelines, and ‘Urban Development and Building Heights Guidelines for Planning Authorities’. This is achieved by the proposed development in accordance with these guidelines. In addition, National Planning Framework objectives are also met in relation to Objective 27 that seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical

activity facilities for all ages. Objective 33 that seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. And Objective 35 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-base regeneration and increased building heights. The proposed development achieves all of these national policy outcomes.

- 10.3.5. **Density** – The proposed development accords with advice on increasing residential densities in the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2009, the National Planning Framework - Ireland 2040 and Regional Economic and Spatial Strategies for the Eastern & Midlands and other ministerial guidelines, such as the Apartment Guidelines and the Building Height Guidelines, note section 10.4 of my report.
- 10.3.6. **Building Height** – the proposed development meets the development management criteria set out by section 3.2 of the Urban Development and Building Height Guidelines as required by SPPR 3, note section 10.4 of my report.
- 10.3.7. **Dwelling Mix** – the proposal meets the requirements set out in SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, note section 10.6 of my report.
- 10.3.8. **Apartment Floor Areas** - the proposal meets the requirements set out in SPPR 3 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, note section 10.6 of my report.
- 10.3.9. I am of the opinion that given its zoning, the delivery of residential development on this well located and serviced site, in a compact form comprising well-designed, taller, high density apartment units would be consistent with policies and intended outcomes of current Government policy. The site is considered to be located in a highly accessible location; it is within easy walking distance of public transport and in an existing serviced area. The proposal seeks to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community. The principle of a greater population, higher residential densities, taller buildings are all considered acceptable. I consider that the proposal does not represent over-development of the site and is acceptable in principle on

these lands. As it can be seen, the proposed development meets or exceeds the advice issue by the 'Urban Development and Building Heights Guidelines for Planning Authorities', 'Sustainable Urban Housing: Design Standards for New Apartments' and the 'Sustainable Residential Development in Urban Areas Guidelines'.

10.3.10. Finally, I consider that the greater residential densities and taller buildings proposed have been accompanied by high qualitative standards of design and layout and these are addressed in the remainder of my planning assessment. I therefore consider that the development is in accordance with the provisions of the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) as is required by the Height Guidelines and permission could be granted by the Board.

10.4. **Height, Design and Density**

10.4.1. Concerns have been raised regarding the height, scale and design of the proposed development in many of the observations on the application. Concerns centralise on the height and scale of the development in comparison to adjacent buildings and the resultant impacts upon residential and visual amenity in the area. The Planning Authority have recommended that the application be refused because the excessive height and overall massing is an incongruous transition from the scale of the permitted two and three storey residential development to the north of the site. In addition, the planning authority are not satisfied that residential amenities for future occupants is guaranteed because of the massing, scale and height of the proposed development. Through my assessment set out in the sections below, I draw the Board to the specific concerns raised by the planning authority with reference to their single reason for refusal.

10.4.2. Height and Design - Firstly, I appraise the acceptability of the proposed height and design in relation to relevant planning policy and in light of concerns raised by local observers and the planning authority. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) provides clear criteria to be applied when assessing applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where

established heights in the area are lower in comparison. In this regard, SPPRs contained in these section 28 guidelines and specifically the Development Management Criteria under section 3.2 of the height guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards. Including national policy in Project Ireland 2040 National Planning Framework, and particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements.

10.4.3. SPPR 3 states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. In this case, the development plan indicates a maximum height of 50 metres in mid-rise areas which specifically includes Pelletstown. However, the Ashtown-Pelletstown Local Area Plan (LAP) 2014, states that building heights should be a maximum of 6 storeys in general, with heights above this focused in 'village' locations, with one building acceptable at 10 storeys. The proposed development has a maximum height of approximately 42 metres on the canal side or 45 metres on the road side (appearing as 13 storeys from the canal and 14 storeys from the road). Development of the site was previously approved on appeal at 5-6 storeys in height, under the former Dublin City Development Plan 2011-2017. The applicant has highlighted the potential for a material contravention of the development plan, this is explored in the context of the Building Height Guidelines.

10.4.4. The first criterion relates to the accessibility of the site by public transport. The site is located in very close proximity to Ashtown Rail Station, with distances varying given the size of the site. From the corner of the site on The Tallow road and the canal, the site is approximately 200 metres or a 3 minute walk to the station. From the corner of Rathborne Avenue and The Tallow the site is approximately 300 metres or a 4 minute walk to the station. From the Royal Canal Way, the site is approximately 900 metres or an 11 minute walk to the station, however the proposed development works to create linkages through the site that would shorten this distance. In any case, it is clear that the subject site is proximate to the station. While I note a number of representations indicating that the rail service here is poor due to capacity

concerns, from a planning policy perspective the rail line is considered a high capacity, frequent public transport service, with links to other modes of public transport. Which satisfies this criterion under section 3.2 of the Building Height Guidelines. I also note that there are no concerns raised in relation to capacity of the line by Transport Infrastructure Ireland and there was no response from the National Transport Authority on the application.

10.4.5. The site is also a short walk, less than 5 minutes, to a bus stop serving the 120 bus route that goes directly into the city centre and approximately a 25 minute walk (6 minute cycle) along the canal to Broombridge Luas station. I note that the application site is proximate to future transport upgrades, including a new rail station at Pelletstown (currently under construction) and the upgrade to the rail service to DART status. Notwithstanding future transport proposals, it is clear to me that the site has excellent existing public transport accessibility to high frequency rail services and good access to the wider network via bus, and further afield via Luas services.

10.4.6. The second criterion relates to the character of the area in which the development is located. The site is located in a designated regeneration area which has experienced significant redevelopment in recent years and the establishment of a new local centre (The Village) with a variety of commercial uses located along Ashtown Road to the north of Ashtown Station and west of the subject site. The character of the immediate areas surrounding the site is predominately residential, with a strong influence upon this character from the green and waterway edge abutting the site to the south along the Royal Canal and its towpath. The site itself extends into this landscape buffer strip adjacent to the canal zoned Z9 'Amenity/Open Space Lands/Green Network' and a conservation area. Additional lands designated open space and conservation areas are location to the north and east of the site. The planning authority attach a significant amount of importance to the amenity value of the canal and the mature hedge that runs along the towpath. On the one hand the planning authority are keen to see its retention but also wish to improve the amenity of the canal, the Royal Canal Greenway is an indication of this. It is not possible to retain the entirety of the hedgerow and upgrade and improve the amenity of the canal. For this reason, I am satisfied that any requirements to retain the hedgerow recommended by the planning authority are unnecessary and counterproductive to the achievement of better and safer urban environments. A site of archaeological

interest is also indicated further to the north of the site and outside of the strategic regeneration area.

- 10.4.7. As would be expected of a strategic regeneration area, the character of built form in the area is variable and has capacity to accommodate new higher density development. However, this site does have a more sensitive relationship to the south along the Royal Canal, which is a designated conservation area and special development zone under the Development Plan. The position of the site adjacent to the Royal Canal does provide opportunity to enclose this edge and contribute to the setting of this important waterway amenity. The locating of taller built elements along this edge also provides a marker for this key linear open space. I therefore agree with the principle of locating higher density and taller buildings on the site. However, in determining whether the proposed height at 13/14 storeys is acceptable, it is necessary to consider the visual impact of the proposed buildings upon the area and the relationship of the proposed blocks to the canal edge.
- 10.4.8. Currently the tallest building in the area is located adjacent to the station and is 8 storeys in height when viewed from the canal. This building provides a distinct form here, characterised by a material palette that differs to other blocks in the area and large projecting glazed balconies define the corner of the block. The materials appear to have weathered well and this existing building creates a good quality marker for the station and the entrance to the village. I note that the LAP indicates that the 'village' is the location where heights above 6 storeys would be expected and one building at 10 storeys might be considered acceptable. This is a logical approach in my view, creating a legible urban environment, with the tallest elements marking the most active parts of the village, and this is the function that the aforementioned existing 8 storey building performs closest to the station. However, the LAP specifically describes this strategy as supporting the principles of the previous Development Plan, which had a much lower rise view of future development in Pelletstown than the current 2016 Development Plan.
- 10.4.9. The proposal would become the most visible and prominent development in the area at 13/14 storeys, with heights significantly exceeding the existing tallest buildings in the area, such as the 8 storey building closest to the station. This could impact the urban legibility of the area and affect the placemaking envisaged under the LAP. However, I do not consider that the taller buildings in the current proposal would be a

negative impact. The subject site has a frontage on the canal and therefore a location suited to increased height and enclosure of this linear edge condition. The proposed development also includes a significant new public open space, that will form a useful public amenity hinged at right angles to the canal and its linear park. The tallest elements proposed are situated either side of this open space and therefore provide suitable bookends to mark this new public space. I am satisfied that both the urban design approach and the scale and massing of the proposed development will positively contribute to the surrounding area underpinning its importance as an emerging urban 'village'.

10.4.10. The third criterion relates to the contribution of larger redevelopment sites to place-making, incorporating new streets and public spaces. As indicated above, I consider that the proposed development would make a positive contribution to place-making by redefining the urban character of the townscape and emphasising the location of a new public open space for the village. I have also reviewed the submitted photomontages to assist in my assessment. VVM 5, 8, 9 and 16 show the proposed development as it would appear in views along the canal edge. It is my view that VVM 5, 8 and 9 demonstrate sufficient variety in the mass of blocks. The mass is modulated through elevational treatment that incorporates balconies and variation in materials, with heights to blocks varying between 11 and 13 storeys on the canal side of the site. While there is a merging of built form in some views, this is not harmful in my view. Overall, I consider the proposed height, scale and mass of the blocks to be acceptable for the area.

10.4.11. I note the following criterion under section 3.2 *'at the scale of the district / neighbourhood / street'* that *'the proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure...'*. It is my view that this is a key criterion in the assessment of the proposed development and the analysis I set out above directly responds to this. It is my view that the proposed development will enhance the sense of scale and enclosure to the waterway and provides sufficient contribution to the area through the creation of a new public open space with north-south link to the canal, as well as a linear route alongside the canal. The development will also increase passive surveillance of the canal area, which would

be to the benefit to all users. This allows increased height upon the site to be viewed favourably in my view.

- 10.4.12. The remaining pertinent criteria under section 3.2 of the Building Height Guidelines relate to the following: contribution to the streetscape; the avoidance of uninterrupted walls; improvement of legibility; contribution to mix / typologies in the area; and daylight performance against BRE criteria as well consideration of overshadowing / ventilation / views. Specific assessments are also required depending on the scale of the building proposed.
- 10.4.13. As outlined above, I consider that the proposed development contributes positively to the streetscape, specifically with the incorporation of new public spaces, but also through the use of a consistent refined material palette. The use of brick, render, metal cladding and glazed balconies is in keeping with the established material character of the area. The submitted Design Statement provides specific information on the acrylic render proposed, examples of its use and measures to ensure that it weathers well in the long term. Elevational treatment in the proposed development ensures large expanses of uninterrupted walls are generally avoided. There are some areas at ground floor adjacent to vehicular access points, where there is less activity in the facade, as might be expected of such locations. However, this factor is not unduly harmful in terms of impact upon the streetscape.
- 10.4.14. The proposed development would create a series of distinctive landmark buildings next to the canal and a new public open space. This will contribute positively to legibility in the area. The proposal is formed of a mix of a mix of apartment units and will contribute to the overall mix of housing on the wider site, which includes self-contained dwelling houses as approved under the extant permission on the overall site. Given the foregoing, I disagree with the planning authority's assertion that the proposal fails to successfully integrate into this emerging residential area and to make a positive contribution to the neighbourhood or the visually sensitive canal-side location. I find that the design solution for the site is well mastered and devised in the context of the requirements of the Urban Development and Building Heights Guidelines and the Design Standards for New Apartments Guidelines. I note the planning authority's difference of opinion in relation to the scale and massing of the proposed development and their recommendation to attach a condition that removes floors and substantially alter the appearance of the overall development. However,

given the forgoing, I hold a different view and I am satisfied that the development is acceptable without amendment of any type.

10.4.15. In relation to specific assessments, the submitted EIAR contains chapters on Daylight and Sunlight, Landscape and Visual Impact with associated verified views, Cultural Heritage and Biodiversity. The submitted Wind Analysis and Pedestrian Comfort Report demonstrates that the majority of public open space area and communal courtyards will be suitable for long term sitting. In relation to private balcony areas, as would be expected, lower level balconies have a more comfortable wind environment than upper level balconies. However, these spaces are still usable and in light of the large extent of ground / podium level communal and public open space available to residents, I consider this to be acceptable. I therefore find that the proposed development satisfies the criteria described in section 3.2 and therefore SPPR 3 of the Building Height Guidelines.

10.4.16. Density - Objections have been raised by numerous observers in relation to the proposed density of the development. The planning authority are also not satisfied that the proposed density is acceptable at this location, given the requirements of the LAP and already permitted development. The proposed density is 236 units per hectare based upon a site area of 3.07 hectares where the apartment blocks are located. This is increased from the approved development on the site which has a density of 62 units per hectare. However, the approved development proposal covers the wider site area that incorporates the 92 conventional dwelling houses in the northern portion of the application site. Taking this wider site area of 5.26 hectares and incorporating the 92 houses, a density of 155 units per hectare is calculated.

10.4.17. Policy at national, regional and local level encourages higher densities in appropriate locations. Project Ireland 2040: National Planning Framework (NPF) promotes the principle of 'compact growth'. Of relevance, objectives 27, 33 and 35 of the NPF which prioritise the provision of new homes at locations that can support sustainable development encouraging increased densities in settlements where appropriate. Section 28 guidance, including the Building Heights Guidelines, the Sustainable Residential Development Guidelines and the Apartment Guidelines, assist in determining those locations most appropriate for increased densities. The Apartment Guidelines define the types of location in cities and towns that may be suitable for

increased densities, with a focus of the accessibility of the site by public transport and proximity to city/town/local centres or employment locations.

10.4.18. The Apartment Guidelines define central and/or accessible urban locations as including sites within a reasonable walking distance (up to 10 minutes) to/from high capacity urban public transport stops (such as DART or Luas). Such locations are identified as suitable for higher density development. The application site is a short walk (less than 5 minutes) to Ashtown Station, an existing high capacity rail line. As such, I consider that the site can be described as a central / accessible location as defined under the Apartment Guidelines and can sustainably support the increased density level proposed. However, the overall acceptability of this density is subject to appropriate design and amenity standards, which are considered in the relevant sections below.

10.5. **Neighbouring Residential Amenity**

10.5.1. A number of submissions have been received from observers relating to the potential impact of the proposed development upon surrounding residential property and the amenity they currently enjoy. The planning authority list concerns that relate to the proposed development and its impacts upon neighbouring property in relation to overshadowing, daylighting and overlooking. I note these concerns and I consider that the properties that are most affected by the proposed development will be The Tallow Building to the west and two apartment blocks in the Royal Canal Court development to the east. The applicant has prepared a variety of reports and documentation to illustrate the appropriateness of their development and they include: Verified Views and CGIs, Wind Analysis and Pedestrian Comfort, Architectural Design Statement (Vol 1, 2 and 3) that includes a sunlight/daylight study. I am satisfied that the applicant has prepared a suitable volume of detailed documentation to allow a thorough assessment of any residential amenity impacts.

10.5.2. Overlooking - With regards to the existing homes at The Tallow Building to the west. Separation distances range between 16m and 18m, from the front face of Block 1 to the front face of The Tallow Building. The western elevational treatment of Block 1 comprises a one/two storey façade with a combination of selected brick, brick panels and curtain wall/advertising retail finishes. These curtain wall openings light the staff facilities room, bakery and retail shop floor. The opportunities for overlooking can be

eliminated by the use of opaque glazing. At second floor, apartment unit B01.0215, overlooks The Tallow, the separation distance between opposing windows is greater than 25 metres. The principle concern from neighbouring residents is the potential for overlooking from the second floor podium amenity space. The separation space between this amenity space and neighbouring property will be in excess of 16 metres and set behind a glazed wall up to 1.1 metres in height. In order to preserve residential amenity for neighbouring property this glazed wall could be raised in height, an appropriate condition will suffice. I anticipate no other issues of overlooking and loss of privacy to result from Block 1 to The Tallow Building. To the north the apartment blocks are set back over 90m from the red line boundary, with distances varying between 18m and 26m to the approved dwelling houses in the northern section of the site.

- 10.5.3. To the east, the proposed development is situated approximately 10m from the boundary with the adjacent site at its closest point and about 12 metres from the side elevation of Royal Canal Court. Windows within the proposed creche at ground floor and the proposed residential apartments above, are situated 12 metres away from the façade of the existing building to the east. It is not immediately apparent if these windows will overlook property to the east because of the level differences involved and the degree of landscaping planned for the boundary between sites. However, proposed planting and suitable screen fencing will ensure that the ground floor apartments of Royal Canal Court are not unduly affected. On upper floors within Block 6, bedrooms in the proposed development closest to Royal Canal Court, have oblique windows, within a chamfered façade design, to protect privacy. Windows to living rooms and balconies are not angled away from this boundary but in my view do not directly overlook units contained in the Royal Canal Court development.
- 10.5.4. The proposed development retains similar separation distances to that demonstrated in the permitted planning application for the site (PA ref. 3666/15, ABP Ref. PL29N.246373). Adequate separation distances are demonstrated to all surrounding residential properties and as a result, I am satisfied that the proposed development does not result in unacceptable overlooking of adjacent properties.
- 10.5.5. Overshadowing - Viewing the site from the west I can see Block 1 that comprises a two storey podium element lies across the street (Tallow Road) and further eastwards the main structure of Block 1 rises to six storeys or seven storeys, as

viewed from the north. Given the orientation of Block 1, a north/south axis, any impact from overshadowing will only be experienced by The Tallow Building during the morning hours. In addition, given the separation distances involved with regard to the main bulk and height of the building, between 25 and 30 metres, limits the degree of impact significantly. To the east, the side elevations of the southernmost apartment block of Royal Canal Court will be located within 12 metres or so from Block 6. Royal Canal Court rises to six storeys and matches in height Block 6. As before in relation to Block 1, given the orientation of Block 6, the effects of overshadowing to existing apartments will be for only part of the day. To the north and with respect to development (permitted and planned), I note that Blocks 1 to 6 step down in height (5 storeys with a 6th storey set back) and the separation distance across the street is mostly more than 20 metres. The side elevations of permitted and planned housing along this central main street will experience a degree of overshadowing for various portions of the day. However, I am satisfied that a suitably long duration of direct sunlight will ensure that excessive overshadowing will not be problematic.

10.5.6. Impacts During Construction - Observers note the potential for noise and dust as a result of construction works on the site. An Outline Construction Management Plan has been submitted with the application. Measures for the management of noise and suppression of dust are described and a condition is recommended to secure these arrangements. With the application of these mitigation measures, there are no concerns regarding construction impacts (or construction transport impacts) resulting from the proposed development.

10.5.7. Noise and Lighting - Potential noise during the operation of the proposed development is described in the submitted EIAR. Plant noise levels are designed to accord with relevant standards and there are no predicted adverse impacts in relation to noise during occupation of the proposed development. An Outdoor Lighting Report has been submitted with the application. This describes the lighting specification for the proposed development, with details of the proposed lighting fixtures and associated luminaire level. Lighting levels associated with the proposed development will be typical for a residential development and are all within acceptable limits with appropriate spill ranges.

10.5.8. Anti-Social Behaviour and Relationship with the Royal Canal - I note observers concerns regarding existing anti-social behaviour in the area and concern that the proposed development will exacerbate this. The proposed development will provide passive surveillance along a significant extent of the canal where currently there is no overlooking. This will benefit all users of the canal in terms of providing passive surveillance that will be a deterrent to anti-social behaviour. There is nothing specific about the proposed development that would in my view compound existing anti-social behaviour problems in the area, and indeed, I have concluded that the proposed development will be beneficial in this regard.

10.6. **Proposed Residential Standards**

10.6.1. The proposed development comprises 725 apartments and as such the Sustainable Urban Housing: Design Standards for New Apartments 2018 has a bearing on design and minimum floor areas associated with the apartments. In this context, the guidelines set out Specific Planning Policy Requirements (SPPRs) that must be complied with. The apartments are arranged in 6 distinct blocks, albeit sitting on three plinths as viewed the canal or new street to the north. The building heights range between 2 and 13/14 storeys in height, most buildings are 5/6 storeys with four tower features between 11 and 13 storeys. Apartment units of differing sizes are uniformly distributed throughout the site and are provided with adequately scaled public or semi-private open space.

10.6.2. Sections 7 and 8 of the Planning Report and Statement of Consistency deals briefly with apartment design and compliance with the relevant standards. The Architect's Design Statement and Schedule of Accommodation shows in detail that apartment units are a combination of dual/triple aspect (410 units - 57%) and single aspect (315 units - 43%). The planning authority disagree with these figures and suggest that the actual dual aspect ratio is 10% less than that advanced by the applicant. Specifically, the planning authority state that a number of the units designated as dual aspect are predominantly north-facing, and that the apartments located at the internal corner of each courtyard will not be sufficiently lit, part of a reason the planning authority want to refuse permission. I disagree, the dual aspect units referred to are located on the northern floorplates of each block and provide bedroom units with north light and sitting rooms with southerly aspects over communal open space, these are all acceptable to me. Corner units at the hinge of each block and at lower levels will of

course receive less light, but I am satisfied that a satisfactory dual aspect design has been achieved. Some triple aspect units feature a projection of over two metres, with balcony and windows facing east, west and north. This design feature provides an extended living room area of a suitable dimension to render the space meaningful, I consider that these triple aspect units are acceptable. Single aspect apartments generally have favourable orientations (east or west), with none receiving north light alone, with some receiving favourable south light in limited circumstances. The planning authority raise some concerns about the ground floor units and the interface with communal open spaces. The lack of a suitable privacy strip is highlighted. However, I am satisfied that with an appropriate boundary treatment has been planned for and the residential amenity of ground floor units can be preserved.

10.6.3. The proposed development provides 107 (14.8%) studio units and 226 (31%) one bedroom units, which is less than the upward amount of 50% allowed for in the guidelines, with less than 20-25% of the total proposed development as studios. Specific Planning Policy Requirement 1 is therefore met. Ground floor, floor to ceiling heights are 2.65 metres as viewed from the southern elevation (Royal Canal) and range between 2.65 and 2.95 at upper floor levels, a condition to amend the height of ground floor ceiling heights to 2.7 metres could be considered if necessary. No more than 10 units are served per lift and stair core. Specific Planning Policy Requirements (SPPRs) 1, 4, 5 and 6 are therefore met.

10.6.4. Under the Guidelines the minimum GFA for a studio apartment (1 person) is 37 sq.m, 1 bedroom apartment is 45 sq.m, the standard for 2 bedroom apartment (3-person) is 63 sq.m and the standard for a 2 bedroom (four-person) apartment is 73 sq.m. The guidelines state that majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%). The accommodation schedule shows that this has been exceeded by more than the minimum 10% in 413 units (20 of them studio apartments) and works out as 54% of all units once studios have been discarded. The majority of the proposed apartments are in excess of the minimum floor area standards (SPPR 3), with few close to the minimum requirements. Given, that all apartments comprise floor areas in excess of the minimum, I am satisfied that the

necessary standards have been achieved and exceeded. In broad terms, I am satisfied that the location and internal layout of the apartments are satisfactory from a residential amenity perspective.

10.6.5. I note that Apartment Guidelines, require the preparation of a building lifecycle report regarding the long-term management and maintenance of apartments. Such a report has been supplied with the planning application. In addition, the guidelines remind developers of their obligations under the Multi-Unit Developments Act 2011, with reference to the ongoing costs that concern maintenance and management of apartments. A condition requiring the constitution of an owners' management company should be attached to any grant of permission.

10.6.6. According to the Architectural Design Statement, the apartment buildings have a combination of selected brick, metal cladding, colour render will provide a quality finish while requiring little maintenance. Specifically:

- Brick is used in a variety of grey and red tones, this hard wearing material is use on street, canal and public open space frontages (black lines).
- Internal elevations to the communal open space will be predominantly finished in acrylic through colour render (blue lines). This will provide contrasting texture and colour, adding variety and a more domestic scale to the smaller blocks.
- Penthouse levels will be finished in dark metal cladding to add contrast and definition to the skyline.
- Glass and metal balconies will provide a clean sharp contrast to brick and render facades.
- The majority of the roofs will be green roofs.
- Panels of contrasting coloured and textured materials are used throughout to add interest and breakup the facades.

10.6.7. A full schedule of materials and finishes is detailed in the Architect's Design Statement and all elevation drawings. The majority of the finishes proposed are durable, attractive and suitable for the area in terms of visual amenity. In addition to external amenity space comprising podium/ground floor courtyard areas 5,480 sqm, a central dividing public open space of 2,881 sqm and greenway of 2,912 sqm has

been provided. The applicant suggests that the increased height of the apartment blocks will not adversely affect the comfort levels of people at ground level and on balconies. The planning authority disagree with the applicant's analysis and their contrary view forms the basis for elements of their single reason to refuse the proposed development. The planning authority are not satisfied that the proposed landscape plan will ameliorate all the impacts of wind on the open spaces. A Wind Analysis and Pedestrian Comfort study has been submitted. The combination of a favourable southerly aspect to all the open spaces and the sheltering impact of each fringelike block projection, will provide well lit spaces. Wind analysis shows that, according to the Lawson Scale, short term sitting and standing can be sustained without planting, with planting long term sitting will be entirely possible. With respect to apartment balconies, impacts at upper levels will be felt, however with mitigation or wintergarden adaptation, these spaces will be functional and usable. I am satisfied that the findings of the wind analysis/pedestrian comfort report have informed the open space landscaping plans and a satisfactory level of comfort is afforded to make these spaces pleasant spaces to be.

10.6.8. The proposed development also includes resident's facilities (communal meeting, dining, kitchen, lounge, concierge, gym, hot desks and an exercise studio) foodstore, café/restaurant, a childcare facility and all blocks have large foyer/lobby areas at ground floor level. In light of all these on-site facilities, included under this application, I am satisfied that a comprehensive suite of facilities and services will accompany this conventional residential apartment development and enhance this site, close to existing commercial and community services and a railway station.

10.6.9. Overall, I am satisfied that the internal standards have been met by the applicant and each apartment unit, on its own, is of a high quality. The separation distances between each block are satisfactory and the intervening amenity spaces are enough to ensure a high quality living environment for all apartment units, including those that rely on single aspect outlook and therefore the principle objectives of the Apartment Guidelines are met.

10.7. **Traffic and Transport**

10.7.1. A large proportion of observations made by local residents are critical of the scale of development proposed and the resultant impact on the local traffic and car parking

situation. Criticism is levelled at the lack of improvements to the local road and footpath networks and that the proposed development will make matters worse. Public transport, both train and bus services, are criticised and considered by observers to be oversubscribed and not adequate to cope with the level of population envisaged. The planning authority are not opposed to the proposed development from a traffic and transport perspective. However, an updated Mobility Management Plan and Car Parking Management Strategy should be submitted and the management of commercial car parking spaces should be factored into the overall strategy for the development. Revised drawings of the proposed cycle storage and entrance to the integrated loading bay are requested in this regard. Finally, the planning authority are satisfied that the proposed building line 10 metres back from the edge of the canal towpath is acceptable and allows the planned Greenway to progress unhindered.

- 10.7.2. I note that a large volume of observations have underlined the issue of traffic congestion as one of the major concerns for the area. I do not doubt that most if not all local roads are congested at peak times. From an environmental point of view, I note that the EIAR found that residential impact from noise due to additional traffic on public roads and noise due to car parking on site will not be significant. From a convenience and amenity point of view, the issue of traffic is a real one for local residents. The applicant has prepared a TIA that clears the way for the development proposed and demonstrates that there are alternatives such as walking/cycling and heavy rail and bus opportunities in the area; observers disagree.
- 10.7.3. It is inevitable that the development at the scale proposed will impact upon local traffic volumes. It is also inevitable that if the scheme already permitted on this site were constructed, it too would add to traffic congestion in the area. I am satisfied that the applicant's TIA is reliable, and the planning authority agree. The current traffic situation in the area may be problematic, but this is more symptomatic of the unsustainable traffic patterns already in place and practiced by local residents and visitors alike.
- 10.7.4. In terms of car parking, I note the local policy advice with regard to car parking standards and I also note the concerns of local residents that car parking management and control systems will not be put in place. A genuine concern but to concentrate on national guidance, car parking has been given particular prominence.

In this respect, the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria. At central or highly accessible locations, significant reductions in car parking or complete elimination is recommended. The subject site is situated in such a location and a reduced number of car parking spaces are proposed – 419 spaces in total or approximately 0.5 per unit. The planning authority have no particular issue with this amount, however, local residents foresee problems because of undersupply. The management of the car parking spaces to be provided will be key to addressing any problems that arise and the planning authority have recommended the production of an updated Mobility Management Strategy together with a Car Parking Management Strategy, I agree.

10.7.5. Observers are concerned that the effectiveness of the Royal Canal greenway will be eroded by conflicting pedestrian movements to the southern elevation of the apartment blocks. The apartment blocks are located at least 10 metres back from the edge of the existing towpath and the landscape design incorporates a barrier free pedestrian realm with associated tree planting. Rather than erode the usefulness and safety of the future greenway, I anticipate that the proposed development will enhance the amenity value of the canal towpath. The planning authority are satisfied with the set back proposed and anticipate the construction of Phase 4 of the Royal Canal Greenway to commence in 2021 unhindered by this development.

10.7.6. High quality public transport is located close by, the walk to Ashtown Train Station is no more than a comfortable five minute walk, local bus services are also available and pedestrian/cycle permeability and networks will be enhanced. A wide range of community and commercial services are located nearby. All of these factors lead to my conclusion that car parking, cycle parking and sustainable transport options have all been adequately provided for in this scheme. There are no other traffic or transport related issues to address in this application.

10.8. **Other Matters**

10.8.1. Local engagement - I note the submissions received in relation to a lack of pre-application consultation with local residents and the SHD process. While I acknowledge that this may have been beneficial to both sides, there is no

requirement in the legislation for such consultation to take place. Consultation has been undertaken at application stage in compliance with SHD legislation.

- 10.8.2. Community/commercial Facilities - In terms of community and commercial facilities, I note the location of the site close to all the commercial facilities at The Village to the west, the proximity of schools, playing fields and childcare facilities too, all within walking distance of the site. I am satisfied that there are sufficient community and commercial facilities in the vicinity to sustain the development and vice versa.
- 10.8.3. Archaeology – I note the submission made by the DAU and its comments in relation to mitigation measures outlined in the EIAR. If the Board are minded to grant permission, I would recommend that a condition is attached requiring standard archaeological monitoring during construction, taking into account the proximity to the Royal Canal. A suitable condition can address this matter.
- 10.8.4. Flood Risk – The applicant has prepared a Flood Risk Assessment (FRA), that I have examined in detail and discuss within my EIA of the project. Some observers have concerns about flood risk and the proximity of the development to the Royal Canal. The FRA concludes that there is no significant risk of flooding to the site, the planning authority agree subject to the taking into account of climate change, a matter I consider in detail in my EIA below. I note standard and technical conditions are required by the planning authority with regard to surface water management and these can be dealt with by condition.
- 10.8.5. I am satisfied that there are no other aspects to the proposed development that present any conflicts or issues to be clarified, the documentation submitted by the applicant is sufficiently detailed. The site can be facilitated by water services infrastructure and the planning authority and Irish Water have confirmed this. The site is located close to train and bus services and there are no extraordinary traffic or transportation issues that cannot be dealt with by condition as necessary. The planning authority wish to refuse permission for a single reason but have also recommended a number of conditions that should be attached in the event of a grant of permission. Some of these conditions seek to amend the proposed development in a significant way and other conditions are of a technical nature or refer to development contributions. For the most part, I agree with the planning authority's recommended attachment of conditions where relevant.

10.9. Planning Authority's Reason for Refusal

- 10.9.1. The planning authority are not satisfied that the proposed development is suitable at this location for a variety of reasons. These reasons have been collected in to a single reason for refusal and include matters such as height and massing as unsympathetic to the surroundings, the impacts of wind and suboptimal sunlight/daylight would lead to poor residential amenities, all of which go against the objectives of the current development plan and section 28 guidelines. I disagree and have set out my reasons why I think that this is an appropriate form of development at a scale that maximises zoned and serviced land.
- 10.9.2. Taking a broad view, this is an ideal location for the scale of development proposed and section 10.2 Principle of Development and section 10.3 Material Contravention, set out in my report confirm this. Specifically and in relation to the matters raised by the planning authority and articulated in their reasoning to refuse permission, I am satisfied that the proposed development accords with all relevant section 28 guidelines and sections 10.4 Height, Design and Density, 10.5 Neighbouring Residential Amenity and 10.6 Proposed Residential Standards, of my report confirm this. Though the planning authority's analysis is detailed and thoughtfully set out, I have examined the City Development Plan and Local Area Plan, their policies and objectives in the context of ministerial guidelines and consider that the proposed development achieves and exceeds the standards and advice as set out in the Urban Development and Building Heights guidelines, Design Standards for New Apartments guidelines and the Sustainable Residential Developments in Urban Areas guidelines.

11.0 Environmental Impact Assessment

11.1. Environmental Impact Assessment Report

11.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for 725 residential units, a foodstore, café/restaurant and a crèche on a site area of 3.07 ha. The site is located within the area of Dublin City Council. A number of the topics and issues raised by observers that concern environmentally related matters have already been addressed in the planning assessment above, however, where relevant I have cross-referenced between sections to avoid unnecessary repetition.

11.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

i) Construction of more than 500 dwelling units

iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

11.1.3. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district. It is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and the submission of an environmental impact assessment report is mandatory because the scale of the proposed development exceeds 500 dwellings. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 17 of the main volume provides a summary of the mitigation measures described throughout the EIAR. Table 1.2 and the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.

11.1.4. 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. It also considers the interaction between the factors referred to in points (a) to (d). 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.

11.1.5. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

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

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

11.2.2. The EIAR addresses this issue in chapter 16 Risk Management (Major Accidents and Disasters) of Volume I of the EIAR. I note that the development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO and so there is no potential for impacts from this source. There are no significant sources of pollution in the development with the potential to cause environmental or health effects. Chapter 8: Water and Chapter 7: Land and Soil and Geology of the EIAR address the issue of flooding. The site is not at risk of flooding because the proposed development will not have an impact on floodplain storage and conveyance. The likelihood of flooding is further minimised with adequate sizing of the on-site surface network and SuDS measures. Finished floor levels of the residential units are also raised 2.18m above the relative Top Water Level. With regard to the nearby Ashtown Railway Station, an incident such as explosion from terrorist attack is considered to be very and/or extremely unlikely. I am satisfied that the proposed use,

i.e. residential, is unlikely to be a risk of itself. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

11.3. Alternatives

11.3.1. 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.

11.3.2. Chapter 4 of volume I of the EIAR provides a description of the main alternatives (3 alternate layouts in total) studied by the applicant and the reasons for their choice. The permissible uses on the site are prescribed by its zoning under the development plan. The alternatives that were considered were therefore largely restricted to variations in layout and building design and processes. In the prevailing circumstances this approach was reasonable, and the requirements of the directive in this regard have been met.

11.4. Consultations

11.4.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

11.5. Likely Significant Direct and Indirect Effects

11.5.1. The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;
- material assets, cultural heritage and the landscape; and
- the interaction between those factors

11.6. Population and human health

- 11.6.1. Population and Human Health is addressed in Chapter 5 of the EIAR. The methodology for assessment is described as well as the receiving environment. Recent economic and demographic trends are examined. The principle findings are that human population and job opportunities will increase as a result of the proposal. In terms of human health, the most likely impact will be the construction phase of the development and observers have concerns around construction phase traffic.
- 11.6.2. Other aspects of the development such as soil and land, water, air quality, noise/vibration, transportation and waste may lead to effects on local people. In terms of noise/vibration, the occupation of the development would not give rise to any noise or vibration that would be likely to have a significant effect on human health or the population, as it would be a residential scheme that formed part of the built-up area of the city. The impact of additional traffic on the noise levels and character of the surrounding road network would be insignificant having regard to the existing traffic levels on roads in the vicinity and the marginal increase that would occur as a result of the proposed development. This is demonstrated by the Car Parking Rationale and Mobility Management Strategy, Transportation Assessment and Mobility Management Plan devised for the scheme.
- 11.6.3. The use of heavy vehicles and machinery during a prolonged construction period would have the potential to give rise to effects due to noise and vibration. However given the phased duration of the works and the control of activity on site by the developer at that time, these can be avoided through the use of management measures as set out in the EIAR and in the draft construction management plan submitted with the application, and the imposition of limits by conditions on any grant of permission. Subject to these measures the main significant direct and indirect

effects of the proposed development on the environment are addressed, it is concluded that the proposed development would not be likely to have significant adverse effects on human health.

11.6.4. Observers have raised issues about the lack of community facilities. However, the increased population, provision of new open spaces and the demand for such facilities may lead to a further increase in provision. This would further increase the positive effects of new facilities in the area for existing and new residents. In addition, new services give the potential for more people to come together and this will further contribute to building the sense of place and community.

11.6.5. 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.

11.7. Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC

11.7.1. Chapter 6 of the EIAR addresses biodiversity. The biodiversity chapter details the methodology of the ecological assessment. It is noted that an Appropriate Assessment Screening Report and Natura Impact Statement was prepared as a standalone document. As assessed in section 12 of my report, the proposed development was considered in the context of any site designated under Directive 92/43/EEC or Directive 2009/147/EC.

11.7.2. A desk study was undertaken and included review of available ecological data. A habitat and flora survey were carried on the 12 June 2019, all habitats were classified using the *Guide to Habitats in Ireland*, recording dominant species, indicator species and/or species of conservation interest; with the Fossitt category codes given in parentheses. A fauna survey was carried out on the 12 June 2019 and 28 January 2020, and included the detection of field signs such as tracks, markings, feeding signs, and droppings, as well as by direct observation. Trees on the proposed development site were inspected externally for potential roost features and specialist bat activity surveys were undertaken on 13 June 2019 and 1 July 2019.

- 11.7.3. The site consists of post-construction waste ground currently vacant and with remnant hedgerows, which do not contribute to biodiversity to any substantial extent. The southern portion of the site is characterised by the Royal Canal, towpath and a significant length of mature hedgerow. The proposed development would result in the loss of this habitat, and its replacement with new landscaping for amenity purposes. There are no examples of habitats listed on Annex I of the Habitats Directive or records of rare or protected plants. Hedgerows and individual mature trees provide habitat for a wide range of common plants and animals including breeding birds and commuting bats although no bat roosts are present. The presence of Otter was not detected even with the presence of suitable feeding and resting habitat, the Royal Canal pNHA is however designated for otter.
- 11.7.4. Some local observers raise ecological matters to some degree but specifically the National Parks and Wildlife Service (NPWS) are concerned about the loss of about 270 metres of hedgerow. The hedgerow provides a dark corridor for commuting bats and it is noted that the EIAR assesses the loss of the boundary hedgerow adjacent to the canal to be a significant effect at a local level. Contributing to this evaluation is the recognition that removal of the boundary will remove connectivity for bats along this stretch of the canal. The NPWS are concerned at the impact on the hedge removal and its impact on the overall effectiveness of the canal as a wildlife corridor in a broader context. The hedgerow should be retained, but if it cannot because of Part 8 works to complete the Royal Canal Greenway, a new continuous hedgerow should be planted along the canal, with minimal access points. The comments made by the NPWS are noted and I address them in detail in the main assessment of my report, however, I am satisfied that the proposed development, in the context of the receiving environment would not have a significant effect on the environment.
- 11.7.5. Section 6.6 of the EIAR describes measures to minimise the impact of the development on habitats and biodiversity that includes the preparation of a Construction Management Plan, for the construction phase of development. I recommend the production of an ongoing biodiversity management plan for the management of the amenity areas, trees and grasslands throughout the site. These and other measures are standard and would represent good construction and ongoing maintenance practice. Subject to their implementation, it can be concluded that the proposed development would not be likely to have significant adverse effects

on biodiversity. The proposed development would introduce areas of new planting, and the landscaping and planting proposals submitted with the proposed application are satisfactory in that context. Having regard to the foregoing, including the concerns raised by the NPWS, it is not likely that the proposed development would have significant effects on biodiversity.

11.7.6. I have considered all of the written submissions made in relation to biodiversity. I am generally satisfied with regards the level of information before me in relation to biodiversity. Though a significant adverse direct effect on biodiversity, I am satisfied that the removal of a significant length of mature hedgerow and its replacement with amenity planting provides greater benefits in terms of human health. I draw the Boards attention to the AA section of my report (section 12) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

11.8. **Land, Soil and Geology**

11.8.1. Chapter 7 of the EIAR deals with land, soil and geology and includes the findings of site investigations that included:

- 6 No. boreholes,
- 8 No. Trial Pits,
- 4 No. Rotary Core Drilling in Rock,
- 6 No. CBR tests,
- 2 No. BRE Digest 365 Percolation tests
- geotechnical and environmental laboratory testing.

11.8.2. The proposed development would result in the loss of just over 3.07 Hectares of urban brownfield land, zoned for residential and amenity purposes (5.26 Hectares when planned development to the north is included). Given the character and extent of such land that would remain available in the overall region, this is not considered to be a significant effect. The proposed development would not require substantial changes in the levels of site as the gradient slopes gently downwards from the canal in the southern portion of the site. The proposed development would require some changes in the levels of site. Excavation of existing fill, topsoil, subsoil and bedrock

will be required for site levelling and for the installation of drainage and services (wastewater, water supply, electricity, etc.) infrastructure. All excess material will be used for reinstatement and landscaping works around the site during and at the end of the construction phase. Storage and handling of hydrocarbons/chemicals will be carried out using best practice methods which will break potential pathways to ground. Measures to prevent subsoil erosion during excavation and reinstatement will be undertaken to prevent water quality impacts. It is therefore unlikely that the proposed development would have significant effects with respect to soil and land.

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

11.9. **Water**

Surface Water and Flood Risk Assessment

Foul drainage

11.9.1. The proposed on-site foul sewers will discharge by gravity into the existing drainage system via the proposed drainage to be constructed under the Phase 1 portion of the development as part of Planning Permission Reg. Ref. PL29N.246373. It then drains through the LAP Lands, outfalling to the Pelletstown pumping station which is located adjacent to River Road to the east of Pelletstown House. Irish Water have confirmed the feasibility of such a proposal. The proposed effluent generated by the scheme combined with the separation and attenuation of storm flows is predicted to have a minimal impact on the receiving drainage infrastructure.

Surface Water and Flood Risk Assessment

11.9.2. Surface water from the development will be drained by gravity pipes connecting into the existing drainage via approved surface water pipe system which will be constructed under Planning Permission Reg. Ref. PL29N.246373 for the 92 unit housing development to the north of the proposed development. As required by Dublin City Council policy, GDSDS and Pelletstown LAP 2014, the subject site will

be attenuated within its own boundaries and discharged to the existing surface water network at a controlled rate of 2 l/s/ha. The site is located in Zone B and discharges to an attenuation tank that was constructed as part of the early development. This tank is located within Zone C and has a capacity of 2,150m³ and overflow basin facility of 1,850m³.

- 11.9.3. It is proposed to provide a sustainable urban drainage solutions to the surface water drainage for the site in the form of permeable paving, green roofs, bioretention and an underground attenuation tank, to discharge surface water generated by the development at greenfield run off rates to existing infrastructure.
- 11.9.4. A site specific Flood Risk Assessment (FRA) for the development has been completed and is included with this application as a standalone report. The FRA assesses in detail the site setting and its potential flood risk and concludes that there is no flood risk on the site. I note that a number of observers, raised flood risk as an issue. The planning authority require revised surface water calculations and note that a revised flood risk assessment for the proposed development should address the impact of 20% Climate Change as per the “Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment” advice and seek revised surface water calculations to take account of climate change. I note that Chapter 9 of the EIAR assesses climate change and states that increased or altered rainfall leading to increased flooding risk can result. A site-specific Flood Risk Assessment was undertaken and measures have been incorporated into the design of the proposed development to account for potential flooding impacts as a result of climate change. In my view a revised SFRA is not warranted however, revised surface water calculations can inform surface water management measures as required. Table 8.1 of the EIAR sets out a summary of flood risk from a variety of sources and concludes either no risk or low risk in all cases. In addition, the FRA assesses the possibility of overflow from the Royal Canal as extremely unlikely.
- 11.9.5. A potential for an effect to arise during the construction of the proposed development from the emission of sediments or hydrocarbons to surface water is described in section 8.12 of the EIAR. The potential for such effects arises in projects that involve building on suburban infill sites. It is therefore commonplace. There are standard measures that are used to avoid such effects which are described in section 8.12 of the EIAR. The efficacy of such measures is established in practice. Subject to the

implementation of those measures, the construction of the proposed development would be unlikely to have significant effects on the quality of water.

Water Supply

- 11.9.6. The water supply for the proposed development would be from a new connection from the public network which Irish Water advises is feasible.
- 11.9.7. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on water. With regard to cumulative impacts, no significant cumulative impacts on the water environment are anticipated.
- 11.9.8. I have considered all of the written submissions made in relation to water and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted, however, having regard to the submission received from Irish Water in relation to minor network upgrades, I am satisfied that this issue has been satisfactorily addressed in the application and that the waste water infrastructure required to service the entire site is already in place.

11.10. Climate (air quality and climate change)

- 11.10.1. Air Quality and Climate Change area outlined in chapter 9 of the EIAR. The proposed apartment units and open spaces would not accommodate activities that would cause emissions that would be likely to have significant effects on air quality. There is a potential for dust emissions to occur during construction, but standard means are proposed to mitigate this potential as set out in section 17.2 of the EIAR. They are likely to be effective. It is therefore concluded that the proposed development is unlikely to have significant effects on air.
- 11.10.2. The EIAR also includes chapter 10 Climate (sunlight and daylight) and chapter 11 (noise and vibration). Observers have raised issues in relation to the impact of the development on sunlight and daylight, I have assessed these matters under the planning assessment of my report. This EIAR states that the proposed development would have no effect on the on the level of sunlight, in the playground of Pelletstown Educate Together and almost none in the rear gardens of Rathborne View. However there would be moderate levels of impact to Royal Canal Court and

the Tallow Building. The EIAR concludes that impacts to existing properties in relation to sunlight/daylight are acceptable.

11.10.3. In terms of noise and vibration, a number of observers raised issues with the construction phase of development and the likelihood of noise and nuisance from this phase of activity. Impacts to the receiving environment during the construction phase will be mitigated by standard practices and it is not anticipated that the operational phase will result in any noise or vibration issues.

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

11.11. The landscape and visual impact

11.11.1. Chapter 12 outlines landscape and the visual impacts that would arise from the development. The environmental impacts from the proposed development are detailed in the EIAR, to avoid repetition and to be clear, I have assessed in detail the impact of the scale and height of the proposed development on the urban environs of the site from an urban design and planning context in the planning assessment of my report.

11.11.2. The lands are not recorded as a high value landscape but have elevated portions along the southern boundary beside the Royal Canal a conservation area. Observers have highlighted concerns about the visual impact of the development. The EIAR highlights the construction impacts on the visual amenity of the area and positive impacts of the completed development on the urban expansion of the city. The construction phase is considered short-term. The layout of the site and positioning higher buildings at the canal together with landscaping proposals and objectives to maximise the canal side amenity aim to minimise the visual impact of the development.

11.11.3. The proposed development would change the site from an urban brown field site to a high density apartment scheme with tall buildings. This would significantly alter its character. The site provides unused urban infill lands of low visual quality to

what is otherwise lower density urban housing. The context is already urban. The changes that would arise from the proposed development would not, therefore, have a negative effect on the landscape, such as it is.

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

11.12. Material assets (transportation)

11.12.1. The material assets chapter of the EIAR primarily addresses the impact of the development on the local road network and public transport. Observers have raised concerns in relation to the probable increase in traffic, car parking problems and the existing public transport networks that appear to be at capacity now. From an environmental perspective the EIAR addresses these issues individually and I have addressed similar issues under the Traffic and Transport section of my report. The proposed development would not impact upon the operational capacity of road junctions, however, the construction phase would bring additional traffic into the area, this can be managed. Occupiers of the development would place additional demands on public transport and road infrastructure. But this should lead to increased investment in improvement and further provision. Provided that the mitigation measures proposed are implemented and the infrastructure upgrades proposed and included in the Ashtown - Pelletstown LAP are implemented when required by traffic demand, the impact of the increased traffic volumes that will be generated in the area following the construction of the development is not expected to lead to significant congestion. No significant impacts are anticipated.

11.12.2. Cumulative impacts have been considered, including proposed development in the vicinity of the site. The result is stated to be a long term imperceptible negative cumulative impact on local traffic. I am satisfied that while some cumulative effects may arise from the proposed development together with existing and permitted developments, these would be avoided, managed and mitigated by the measures which form part of the proposed development and through suitable conditions.

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

11.13. Cultural heritage (Archaeological and Architectural Heritage)

11.13.1. Archaeological monitoring within the subject site and in the adjacent lands identified no features or finds of archaeological significance, with the exception of three unenclosed early medieval burials excavated over 800m east/northeast of the subject site (DU014-095). The monitoring also identified land improvement measures undertaken in the post-medieval period across this area, while the major engineering works of the canal and railway was shown to have involved the levelling of land along the southern boundary. The DAU have made a submission and acknowledge that the archaeological potential of the site is limited and no further mitigation measures are required.

11.13.2. There are no recorded archaeological monuments or protected structures within the proposed development area. The site has been previously disturbed by the construction activity from the adjacent and neighbouring developments. The nearest feature of architectural heritage interest is the Royal Canal, which lies to the immediate south of the subject site; the canal towpath forms the southern boundary of the site. While the canal itself is not a protected structure, elements associated with it are listed on the Record of Protected Structures, including Longford Bridge which crosses the canal c. 120m west/southwest of the subject site (FCC RPS No. 693 & DCC RPS No. 907). The adjacent 10th Lock is listed in the NIAH (Ref. 50060121). During the construction phase these features will not be impacted upon and access to canal is seen as a positive impact for the wider community. In terms of cumulative impacts and residual impacts, none are identified.

11.13.3. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable

conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts on archaeology, architectural or cultural heritage.

11.14. The interaction between the above factors

11.14.1. The potential impact of the development on land, soil, water and biodiversity interact, due to the need to avoid the emissions of sediments to the existing combined public sewer system in order to protect water quality and the aquatic habitats there. The potential impact on land and soil interacts with that on air due to the need to control dust emissions during ground works and construction. The potential impact of the development on material assets interacts with that on the population due to the provision of a substantial amount of housing for the area. The various interactions were properly described in the EIAR, table 19.1 provides a matrix of interactions and section 19.2 properly describes the interactions and have been considered in the course of this EIA.

11.15. Cumulative Impacts

11.15.1. The proposed development could occur in tandem with the development of other sites that are zoned in the area, including several permitted housing developments in the vicinity. Such development would be unlikely to differ from that envisaged under the city development and local area plans which have been subject to Strategic Environment Assessment. Its scale may be limited by the provisions of those plans and its form and character would be broadly similar to the development proposed in this application, though admittedly at a quantum in excess of that planned for. The actual nature and scale of the proposed development is in keeping with the zoning of the site and the other provisions of the relevant plans. The proposed development is not likely to give rise to environmental effects that were not envisaged in the plans that were subject to SEA. It is therefore concluded that the cumulation of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

11.15.2. I am generally satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation

measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of cumulative effects.

11.16. Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, 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:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of brownfield land to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.

- A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed. They would not require or justify refusing permission for the proposed development or the making of substantial alterations to it.

12.0 Appropriate Assessment

12.1. Introduction

- 12.1.1. The applicant has submitted an 'Appropriate Assessment Screening Report' and a 'Natura Impact Statement'.

12.2. AA Screening

- 12.2.1. The subject site is not located within any Designated European site. The nearest Natura 2000 site is c. 6 km to the east of the application site. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site. There are no non-native invasive plant species on the site. There are no surface water features located within the site. However, surface and foul waters from the proposed development will ultimately drain to Dublin Bay, which contains the following European sites: North Dublin Bay SAC, North Bull Island SPA, South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, Rockabill to Dalkey Island SAC, Dalkey Island SPA, Howth Head Coast SPA and Howth Head SAC. The Stage One screening conclusions note that applying a precautionary principle, it is not possible to exclude these sites. Other sites within 15km of the lands can be excluded because there are no other hydrological connections to other sites in the vicinity, note Figure 1 *European sites in the vicinity of the proposed development*, contained within the applicant's Appropriate Assessment Screening Report.
- 12.2.2. In terms of zone of interest the following Natura 2000 sites are within 15 km of the application site: Glenasmole Valley SAC/Rye Water Valley/Carton SAC/Malahide Estuary SAC/Malahide Estuary SPA/Baldoyle Bay SAC/Baldoyle Bay SPA/Howth Head SAC/Howth Head Coast SPA/North Dublin Bay SAC/North Bull Island SPA/South Dublin Bay SAC/South Dublin Bay and River Tolka Estuary SPA.
- 12.2.3. In applying the 'source-pathway-receptor' model to all Natura 2000 sites within 15 km of the application site I consider that the following sites could potentially be affected due to connections via surface water drainage: North Dublin Bay SAC/South Dublin Bay SAC/North Bull Island SPA/South Dublin Bay and River Tolka Estuary SPA. I am satisfied that the potential for impacts on the other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed

development, the degree of separation and the absence of ecological and hydrological pathways.

12.2.4. The Qualifying Interests (QIs) and Special Conservation Interests (SCIs) of the European sites in the vicinity of the proposed development site are detailed at Appendix 1 of the AA Screening Assessment and those that cannot be excluded are listed below:

South Dublin Bay SAC [000210]	North Dublin Bay SAC [000206]
<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] Salicornia and other annuals colonising mud and sand</p> <p>[2110] Embryonic shifting dunes</p>	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] Salicornia and other annuals colonising mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>)</p> <p>[1395] Petalwort <i>Petalophyllum ralfsii</i></p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2110] Embryonic shifting dunes</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>[2190] Humid dune slacks</p>

South Dublin Bay and River Tolka Estuary SPA [004024]	North Bull Island SPA [004006]
<p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p>	<p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A048] Shelduck <i>Tadorna tadorna</i></p>

[A137] Ringed Plover <i>Charadrius hiaticula</i>	[A052] Teal <i>Anas crecca</i>
[A141] Grey Plover <i>Pluvialis squatarola</i>	[A054] Pintail <i>Anas acuta</i>
[A143] Knot <i>Calidris canutus</i>	[A056] Shoveler <i>Anas clypeata</i>
[A144] Sanderling <i>Calidris alba</i>	[A130] Oystercatcher <i>Haematopus ostralegus</i>
[A149] Dunlin <i>Calidris alpina</i>	[A140] Golden Plover <i>Pluvialis apricaria</i>
[A157] Bar-tailed Godwit <i>Limosa lapponica</i>	[A141] Grey Plover <i>Pluvialis squatarola</i>
[A162] Redshank <i>Tringa totanus</i>	[A143] Knot <i>Calidris canutus</i>
[A179] Black-headed Gull <i>Croicocephalus ridibundus</i>	[A144] Sanderling <i>Calidris alba</i>
[A192] Roseate Tern <i>Sterna dougallii</i>	[A149] Dunlin <i>Calidris alpina</i>
[A193] Common Tern <i>Sterna hirundo</i>	[A156] Black-tailed Godwit <i>Limosa limosa</i>
[A194] Arctic Tern <i>Sterna paradisaea</i>	[A157] Bar-tailed Godwit <i>Limosa lapponica</i>
[A999] Wetland and Waterbirds	[A160] Curlew <i>Numenius arquata</i>
	[A162] Redshank <i>Tringa totanus</i>
	[A169] Turnstone <i>Arenaria interpres</i>
	[A179] Black-headed Gull <i>Croicocephalus ridibundus</i>
	[A999] Wetlands & Waterbirds

12.2.5. The Conservation Objectives for the sites are to maintain or restore the favourable conservation condition of each qualifying species/habitat. I note the submission made by the National Parks and Wildlife Service (NPWS) with respect to ecological matters in general and their comment in passing related to the likelihood of Otter in the area; a species afforded a regime of strict protection under the Habitats Directive (92/43/EEC). Otter is not identified as a Qualifying Interests in any of the designated sites listed above.

12.2.6. The potential effects on the above sites arise from the hydrological connection between the development site and those Natura 2000 sites in the form of surface

water drainage connection. There is a possibility of contaminated surface water runoff, or an accidental pollution event during construction or operation, that could lead to habitat degradation. Surface waters from the proposed development will drain via existing infrastructure to the River Tolka that is located c. 450 metres to the north of the site. The River Tolka flows easterly and enters Dublin Bay via the Tolka Estuary c. 6 km from of the application site.

- 12.2.7. Surface water from the proposed development will pass through a range of SuDS including green roofs, permeable paving, swales and bio-retention systems. Waters from green roofs and permeable paving and all other surface water will be attenuated in an underground attenuation tank. All surface waters will pass through a hydrocarbon interceptor before discharge to the surface water network (See 'Engineering Assessment Report' and drawings by Waterman Moylan Consulting Engineers and for construction stage see 'Outline Construction Management Plan'.).
- 12.2.8. These waters will ultimately drain to Dublin Bay via the Tolka River. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission.
- 12.2.9. The good construction practices are required irrespective of the site's hydrological connection via the urban surface water drainage system to those Natura 2000 sites. There is nothing unique, particularly challenging or innovative about this urban development on a brownfield urban site, either at construction phase or operational phase. It is therefore evident from the information before the Board that the proposed construction on the applicant's landholding would be not be likely to have a significant effect on the North Dublin Bay SAC/South Dublin Bay SAC/North Bull Island SPA/South Dublin Bay and River Tolka Estuary SPA. Stage II AA is not required.

12.2.10. I note the applicant submitted a Natura Impact Statement. In deciding to prepare and submit a NIS the applicant states that the precautionary principle was being applied. I am of the opinion that the application of the precautionary principle in this instance represents an over-abundance of precaution and is unwarranted.

12.2.11. AA Screening Conclusion:

12.2.12. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on North Dublin Bay SAC [000209], South Dublin Bay SAC [000210], North Bull Island SPA [004006] and South Dublin Bay and River Tolka Estuary SPA [004024] or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

13.0 Recommendation

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

14.0 Reasons and Considerations

Having regard to the:

- (a) The site's location on lands with a zoning objective for residential development;
- (b) The policies and objectives in the Dublin City Development Plan 2016-2022 and Ashtown-Pelletstown LAP 2014;
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013 (2019);
- (e) 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;
- (f) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (g) 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government in March 2018;
- (h) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (i) the nature, scale and design of the proposed development;

(j) the availability in the area of a wide range of educational, social, community and transport infrastructure,

(k) the pattern of existing and permitted development in the area,

(l) The Report of the Chief Executive of Dublin City Council received from the planning authority;

(m) the submissions and observations received;

(n) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area 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.

15.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2019

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars lodged with An Bord Pleanála on the 22nd day of July 2020 by Ruirside Development Limited care of Stephen Little and Associates, 26/27 Pembroke Street Upper, Dublin 2.

Proposed Development

A planning permission for a strategic housing development on lands at Rathborne Avenue, Pelletstown, Ashtown, Dublin 15.

The proposed development of the southern 3.07 ha portion of the subject site (the development area) and comprises the construction of 725 apartment units in six blocks up to 14 storeys in height, a crèche, café and foodstore, the detail is as follows:

- 6 apartment buildings sitting over undercroft parking with Blocks 1-3 separated from Blocks 4-6 by a central public open space. The site gently slopes, the ground floor on the southern elevation, is one floor higher than the ground floor on the northern elevation;
- Buildings range in height from 2 to 14 storeys (which read as 1 to 13 storeys from the Canal side of the site);
- 725 apartments, comprising 107 studios, 226 one bedroom units, 376 two bedroom units and 16 three bedroom units;
- Ancillary resident's amenity rooms and facilities (394sqm);
- Retail floorspace (2,549sqm gross);
- Café (199sqm);
- Childcare facility (724sqm) with associated play space;
- Central public open space (2,881sq.m). This provides a link between the proposed public open space to the north permitted under DCC Reg. Ref. DCC 3666/15, ABP Ref. PL29N.246373 and the Royal Canal Greenway to form a combined central open space of 3,979sqm. A further 2,912sqm of public open space is provided along the canal edge;
- Resident's communal open space in the form of 4 separate courtyards between the blocks and also at roof level of Block 1;
- 419 car parking spaces provided at basement / undercroft level and on-street;
- 811 bicycle parking spaces provided at basement / undercroft level and at street level, including 10 cargo bike spaces;
- 13 motorbike spaces provided at basement / undercroft level.

An Environmental Impact Assessment Report has been submitted with the application and considers development of the comprehensive site (both northern and southern portions).

Key Figures

Site Area	5.26 ha red line boundary; 3.07 ha development site area (comprising southern portion of the site).
No. of units	725 apartments.
Density	236 units/ha (based on 3.07 ha site).
Plot Ratio	2.19 (based on 3.07 ha site).
Site Coverage	35% (based on 3.07 ha site).
Height	Between 2 and 14 storeys over basement; Block 1: 2-7 storeys; Block 2: 6-12 storeys; Block 3: 6-14 storeys; Block 4: 6-14 storeys; Block 5: 6-12 storeys; Block 6: 6 storeys.
Dual Aspect	56%
Commercial Floorspace	199 sqm café 2,549 sqm retail / foodstore (3,472 sqm total).
Communal Amenity Space	5,480 sqm internal courtyards.
Part V	73 units (10%).
Vehicular Access	From Royal Canal Way to the east, Rathborne Avenue to the west and via

	internal road network from the north under an extant permission.
Car Parking	419 (0.41 spaces per unit).
Bicycle Parking	811.
Creche	724 sqm. 129 child spaces.

Unit Mix					
Apartment Type	Studio	1 bed	2 bed	3 bed	Total
No. of Apartments	107	226	376	16	725
As % of Total	14.75%	31.17%	51.86%	2.20%	100%

Decision

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

Matters considered

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

Reasons and Considerations

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

- (a) The site's location on lands with a zoning objective for residential development;

- (b) The policies and objectives in the Dublin City Development Plan 2016-2022 and Ashtown-Pelletstown LAP 2014;
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013 (2019);
- (e) 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;
- (f) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (g) ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ prepared by the Department of Housing, Planning and Local Government in March 2018;
- (h) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (i) the nature, scale and design of the proposed development;
- (j) the availability in the area of a wide range of educational, social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) The Report of the Chief Executive of Dublin City Council received from the planning authority;
- (m) the submissions and observations received;
- (n) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area 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.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated Natura 2000 Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed in compliance with Section 172 of the Planning and Development Act 2000, an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the environmental impact assessment report and associated documentation submitted with the application,
- (c) the submissions from the planning authority, the prescribed bodies and the public in the course of the application, and
- (d) the Inspector's report.

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

The Board completed an environmental impact assessment in relation to the proposed development and, in doing so, agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report, associated documentation submitted by the applicant, and submissions made in the course of the planning application, and adopted the Inspector's assessment in this regard.

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

- a) Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.

- b) A significant direct effect on land by the change in the use and appearance of a relatively large area of brownfield land to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- c) Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- d) Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- e) Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- f) Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- g) A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The likely significant environmental effects arising as a consequence of the proposed development have, therefore, been satisfactorily identified, described and assessed.

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

Conclusion on Proper Planning and Sustainable Development

The Board considered that, notwithstanding the recommendation of the planning authority to refuse permission for reasons of height, massing and residential amenity, and having considered the planning authority report at length the proposed development does not warrant a refusal of permission, the development could be granted subject to compliance with the conditions set out below and that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Ashtown-Pelletstown Local Area Plan in relation to building height, residential density and dwelling unit mix and the Dublin City Development Plan 2016-2022 in relation to core strategy unit allocation for SDRA 3, dwelling unit mix and floor area standards. The Board considers that, having regard to the provisions of section 37(2)(b)(i),(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Local Area Plan and City Development Plan would be justified for the following reasons and considerations:

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

The proposed development is considered to be of strategic and national importance having regard to: the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); its location within the 'Ashtown-Pelletstown' area identified as a strategic development area in the Dublin Metropolitan Area Strategic Plan (part of the Eastern & Midland Regional Assembly RSES 2019-2031); its location within an area designated as a Strategic Development and Regeneration Area (SDRA 3 –

Ashtown-Pelletstown) in the Dublin City Development Plan 2016-2022, and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

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

The conflicting objectives between the Dublin City Development Plan 2016-2022 and the Ashtown-Pelletstown Local Area Plan in relation to building height objectives for the application site.

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

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 27, 33 and 35), the 'Dublin Metropolitan Area Strategic Plan' (in particular the provisions relating to 'Ashtown-Pelletstown'), the 'Urban Development and Building Height Guidelines' (in particular section 3.2, Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4), 'Sustainable Urban Housing: Design Standards for New Apartments' (in particular section 2.16 - 2.22 and Specific Planning Policy Requirement 1 and 2) and the 'Guidelines for Sustainable Residential Developments in Urban Areas' issued 2009 (in particular section 5.8).

16.0 Conditions

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

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 17 of the Environmental Impact Assessment Report 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

3. The proposed development shall be amended as follows:

(a) Block 1 first floor, western elevation, opaque glazing or similar shall be used for the curtain wall/advertising retail panels that light the shopfloor, staff facilities and bakery.

(b) Block 1 second floor amenity space, the 1.1 metre glazed balustrade on the western elevation shall be increased to 1.5 metres and fitted with opaque glazing.

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

Reason: In the interests of visual and residential amenity.

4. Bat roosts shall be incorporated into the site after the conclusion of an appropriately detailed survey to the written satisfaction of the planning authority and in accordance with the details submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority

Reason: To ensure the protection of the natural heritage on the site.

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

Reason: In the interest of visual amenity.

6. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

7. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

8. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and unit

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).

Reason: In the interest of legibility and to ensure the use of locally appropriate place names for new residential areas.

9. 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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

11. The internal road and cycle network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

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

b) The Mobility Management Strategy shall incorporate a Car Parking Management Strategy for the overall development, which shall address the management and assignment of car spaces to residents and uses over time and shall include a strategy for the crèche, retail and car-share parking. Car parking spaces shall not be sold with units but shall be assigned and managed in a separate capacity via leasing or permit arrangements.

Reason: In the interest of encouraging the use of sustainable modes of transport, traffic and pedestrian safety.

13. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

14. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement revised surface water storage calculations to account for 20% Climate Change as per the “Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment”, a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

15. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

16. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

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

17. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less

than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) and hedges and identified as 'to be retained' on landscape drawings, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees and hedging which are to be retained on the site.

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

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

authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

19. (a) All windows and roof lights shall be double-glazed and tightly fitting.

(b) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

Reason: In the interest of sustainable waste management.

21. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

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

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

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

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

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

and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

25. 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. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To ensure the satisfactory completion and maintenance of this development.

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

Reason: In the interest of public health.

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

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

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

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

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

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

29. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the 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.

Reason: To ensure the satisfactory completion of the development.

Stephen Rhys Thomas
Senior Planning Inspector

27 October 2020