



An
Bord
Pleanála

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

Inspector's Report ABP-308827-20

Strategic Housing Development

Demolition of all structures on site and construction of mixed use development which includes for 702 no. Build-to-Rent residential units, commercial/retail/crèche/cultural buildings and associated site works.

Location

Lands at Castleforbes Business Park, Sheriff Street Upper and East Road, Dublin 1

Planning Authority

Dublin City Council

Applicant

Glenveagh Living Ltd

Prescribed Bodies

Irish Water
Dublin City Council Childcare Committee
National Transport Authority

Transport Infrastructure Ireland
Irish Aviation Authority
Irish Rail
Commission for Railway Regulation

Observer(s)

Ian Lumley
An Taisce
Councillor Cieran Perry
Councillor Niall Ring
Inland Fisheries Ireland
Irish Aviation Authority
Irish Rail
Irish Water
National Transport Authority
Councillor Joe Costello
Neasa Hourigan TD

Date of Site Inspection

11th March, 2021

Inspector

Lorraine Dockery

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject site is located at the junction of Sheriff Street Upper and East Road, Dublin 1. The site accommodates part of the Castleforbes Business Park and comprises a number of industrial buildings, some of which are disused and redundant. It has a poor visual appearance to the street. Main access to the site is currently from Sheriff Street Upper.
- 2.2. To the north of the site are Irish Rail sidings and train yards as well as further industrial lands. Permission has recently been granted, under SHD process, to the north of the rail lands for a comprehensive residential scheme on a site known as Marshall Yards, under application reference PL29N.304710 (under same ownership). To the north-west, is an existing sewage pumping station. To the west is low density suburban housing focussed around Church Street East and the surrounding streets. There is a large apartment block located on the western side of East Road that ranges in height from three to eleven storeys. To the south of the site, is an extensive brownfield site that is under development for residential use. Lands immediately to the south of the site are located within the North Lotts and Grand Canal Dock Strategic Development Zone (SDZ). The SDZ lands are subject to a number of significant commercial and residential applications, with a number of schemes under construction.
- 2.3. The site is within walking distance of the city centre and also in close proximity to the Luas and Docklands Rail Station. A proposed BusConnects route - the N4- runs along East Road.
- 2.4. In the interests of clarity, the application site boundary is stated to be 2.44 ha which includes an extended red line to capture proposed alterations to Sheriff Street Upper and East Road. The development site area is stated to be 2.02 ha which includes the temporary park on the western corner of the site (discussed below in Masterplan

section) and as such the residential development area has a stated site area of 1.86 ha.

3.0 Proposed Strategic Housing Development

3.1. The proposal, as per the submitted public notices, comprises the demolition of all structures on site and the construction of a mixed-used residential and commercial redevelopment of a brownfield site, which includes for the construction of 702 no. build-to-rent apartments, 3 x, retail/café/restaurant units, cultural/community building, residential tenant amenity space (1264 m²) in addition to a stand-alone childcare facility. The following tables set out some of the key elements of the proposed scheme:

Table 1: Key Figures

Site Area	2.44 hectares(gross)/1.86 ha (nett)
No. of residential units	702 apartments
Other Uses	Retail/Restaurant/Café Space-1154.2m ² Cultural/Community- 2859.5 m ² Crèche- 469.6 m ²
Demolition Works	15,125m ²
Density	377 units/ha
Height	1-18 storeys (over podium and GFL 0)
Dual Aspect	35% (stated)
Part V	71 units- 10 x studio; 41 x one-bed; 14 x two-bed; 6 x three-bed
Parking	179 car spaces; 1392 bicycle spaces
Access	2 no. vehicular access via Sheriff Street Upper Pedestrian accesses at Sheriff Street Upper and East Road

Table 2: Unit Mix

	Studio	1 bed	2 bed	3 bed	Total
Apartments	101	407	179	15	702
As % of total	14.39%	57.98%	25.5%	2.14%	100%

Table 3: Summary of Blocks

Block	Proposed Max Height in Metres (stated)	Height/No. of Units
Block A1	30.3	1-9 storeys (including podium and GFL 0) Residential Tenant Amenity Space 82 apartments
Block A2	30.4	1-9 storeys (including podium and GFL 0) 136 apartments
Block B3	28.35	7-8 storeys (including podium and GFL 0) Residential Tenant Amenity Space 94 apartments
Block B4	28.35	7-8 storeys (including podium and GFL 0) 49 apartments
Block C1	39.4	6-12 storeys 107 apartments
Block C2	60.7	1-18 storeys Residential Tenant Amenity Space 98 apartments
Block C3	49.7	15 storeys (including podium and GFL 0) 74 apartments
Block C4	43.4	13 storeys (including podium and GFL 0) 62 apartments
Cultural Building	25.2	6 storeys
Childcare Building	13.3	2 storeys

*Building height as stated within Material Contravention Statement which states that heights indicated as the actual building heights which relates to the building height from ground level (which varies across the site).

- 3.2. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that the proposed connections can be facilitated, subject to conditions. In addition, a Design Submission was included with the application, in which Irish Water state that they have no objections to the proposal.
- 3.3. A Flood Risk Assessment was submitted with the application which concludes that the development passes the Justification Test in accordance with Box 5.1 of the Guidelines and the proposed development is deemed appropriate to be located within Flood Zone A, on the basis that the mitigation measures stipulated within the justification test are met. The proposed development site is within Flood Zone A for tidal flooding according to the ICPSS, however, the site is located in an area that benefits from flood defence measures. Therefore, the SSFRA has assessed the residual risks associated with breach of these defences. Mitigation measures are proposed.
- 3.4. An estimated site programme of 30 months depending on construction phasing is envisaged.
- 3.5. It is stated that the applicant will execute a Deed of Covenant or enter into a legal agreement, further to which appropriate planning conditions may be attached to any grant of planning permission to ensure that the development remains as BTR. It states that the agreement shall provide that: (i) the development shall be operated by institutional entities that invest in the development as long term commercial rental undertakings for a minimum period of 15 years following completion; (ii) that during the 15-year period referred to above, no individual residential units will be sold or rented separately; and (iii) the undertaking shall abide by all conditions attached to any grant of planning permission issued by An Bord Pleanála.
- 3.6. An Appropriate Assessment Screening Report and an EIAR have been submitted with the application.

4.0 Planning History

There have been a number of permissions previously granted on the overall Castleforbes Business Park site, the most relevant of which are summarised below:

2143/20

Permission GRANTED for the demolition of all existing structures on the site and the construction of a 219 bedroom hotel ranging in height from 6 to 9 storeys (maximum height of c.33.95m) with total gross floor area of c.9,241sq.m (incl. basement). (August 2020).

3433/19

Permission GRANTED for the demolition and partial demolition of all existing structures and the construction of a commercial office building and a 270 bedroom hotel. The commercial office building ranges in height from 6 to 9 storeys plus plant zone (maximum height of c.40m) with a total gross floor area of c. 10,265sq.m. The hotel contains 270 bedrooms and ranges in height from 7 to 10 storeys (maximum height of c.35.21m) with total gross floor area of c. 9,644 sq.m. (Jan 2020).

3197/20

Permission GRANTED for amendments to the permitted hotel and office, permitted under 3433/19, to the east of the SHD application site to include minor alterations to the permitted buildings including minor reconfiguration of the permitted building footprints resulting in an overall increase in office floor space of 670 sq.m and hotel floor space of 393 sq.m (Nov 2020).

3412/08

Permission GRANTED in September 2008 for a commercial development consisting of buildings ranging in height from 8 to 10 storeys incorporating 4 levels of basement car parking to accommodate 314 spaces and ancillary areas. The development included restaurant/café use at ground floor and office accommodation above with

an overall gross floor area of 22,523 sq. metres. The maximum height of the development was c. 47m (Dec 2008).

3412/08/x1

Permission REFUSED for extension of duration of Reg. Ref. 3412/08 in October 2013 due to the fact that the building height was materially in excess of the maximum heights permitted under the Dublin City Development Plan.

Nearby sites

Applications of note include the following:

ABP-304710-20 (SHD application)

Permission GRANTED for demolition of all existing structures on site and the construction of a mixed use development set out in 9 no. blocks ranging in height from 3 to 15 storeys to accommodate 554 no. apartments, enterprise space, retail units, food hub/cafe/exhibition space, residential amenity, crèche and men's shed. The site will accommodate car parking spaces, bicycle parking, (241 no. car parking spaces, 810 no. bicycle parking spaces), storage, services and plant areas. Landscaping will include a new central public space and residential podium courtyards at 1-4 East Rd, Dublin 3 (October 2019).

ABP-305219-19

Permission GRANTED for alterations to a previously permitted development to provide for both a residential and shared accommodation scheme on a site at City Block 2, Spencer Dock, Dublin 2. The height of the development ranged from 3 to 13 storeys (Dec 2019).

ABP-305676-19 (SHD Application)

Permission GRANTED for a development comprising 741 no. build to rent residential units in 8 no. apartment blocks ranging in height from 4 storeys to 23 storeys on a

site located to the rear of Connolly Station, Sheriff Street Upper, Dublin 1. (Decision to grant is currently subject to court proceedings).

5.0 Section 5 Pre Application Consultation

5.1 A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 7th February 2020 (ABP-306163-19). Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted required **further consideration and amendment** to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála (ABP-306163-19).

1. Height

Further consideration and/or justification of the documents as they relate to:

The height strategy and design approach, particularly the scale, architecture and massing of the 20 storey building and the need to ensure that the design of this element of the scheme and other buildings are exemplar and provide the optimal architectural solution for this site. The application should be accompanied by an architectural and urban design report, drawings, photomontages and CGI's that fully assesses the visual impact of the development and which outlines the design rationale for the proposed building height and scale, having regard to inter alia, National and Local planning policy, the site's context and locational attributes. The report should outline the height design rationale in light of the publication of 'Urban Development and Building Height Guidelines' 2018 and specifically with reference to Chapter 3 Building Height and the Development Management Process, of the guidelines as well as section 16.7 of the Dublin City Development Plan. Full justification for a building of this scale should be provided having regard to its likely prominence at a city scale as well as the rationale for the development of a landmark building at this location. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

2. Development Strategy

Further consideration and/or justification of the documents as they relate to:

- The treatment, aesthetic design, articulation and animation of the façades.
- Design and treatment of public open spaces to ensure that they are appropriate to the future residential community and have sufficient animation.
- Disposition and proximity of blocks to minimise opportunities for overlooking and overshadowing within the proposed development.
- Interface of the development with the surrounding streets and treatment of the public realm, particularly at key entrances.
- Potential interface with pumping station to the north and bridge connection to Marshall Yard development if feasible.
- Function and use of the tenant amenity space.

The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

Furthermore, the prospective applicant was advised that the following specific information should be submitted with any application for permission:

1. A report that specifically addresses the proposed materials and finishes of the proposed structures including specific detailing of finishes and frontages including the maintenance of same, shopfronts and commercial units, the treatment of landscaped areas, pathways, entrances and boundary treatment/s. The treatment/screening of exposed areas of basement ramps/service areas should also be addressed. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the overall development. The documents should also have regard to the long-term management and maintenance of the proposed development.
2. A comprehensive daylight and sunlight analysis addressing existing residential units in proximity to the site and proposed units and open spaces

within the development. A comprehensive justification is required for any proposed north facing single aspect units.

3. A Housing Quality Assessment which provides the details regarding the proposed apartments set out in the schedule of accommodation, as well as the calculations and tables required to demonstrate the compliance of those details with the various requirements of the 2018 Guidelines on Design Standards for New Apartments including its specific planning policy requirements.
4. Photomontages, cross sections, axiometric views of the scheme and CGIs. The application should include full and complete drawings including levels and cross sections showing the relationship between the development and adjacent streets.
5. Childcare demand analysis and likely demand for childcare places resulting from the proposed development.
6. A detailed Phasing Plan and Taking in Charge drawing.
7. Relevant consents to carry out works on lands which are included within the red-line boundary that are not in the applicant's control.
8. A detailed Quality Audit to include Road Safety Audit, Access Audit, Cycle Audit and Walking Audit.
9. A Mobility Management Plan, car parking management strategy and details of proposed servicing arrangements.
10. Outline Construction Management Plan.

Applicant's Statement

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement attempts to address the points raised above.

A Material Contravention Statement was submitted with the application in relation to height, unit mix and floor area.

6.0 Relevant Planning Policy

National Planning Policy

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

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

Other policy documents of note:

- National Planning Framework

Objective 13:

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

Objective 35

Increase residential density in settlement, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development

schemes, area or site-based regeneration and increased building heights.

- Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly

Local Planning Policy

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

Zoning:

‘Objective Z14’ which aims ‘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’

‘Objective Z6’ seeks ‘to provide for the creation and protection of enterprise and facilitate opportunities for employment creation’.

A wide range of uses are permissible under the Z14 zoning objective including residential, office, restaurant, cultural/recreational and shop (neighbourhood) uses.

The Plan notes that these are areas where proposals for comprehensive development or redevelopment have been, or are in the process of being, prepared and that such areas have the capacity for a substantial amount of development in developing areas of the inner city and outer city. It is stated that Z14 areas are capable of accommodating significant mixed used development and the required physical and social infrastructure to support this should be included in development proposals.

Chapter 15 Strategic Development and Regeneration Areas

The site is located in SDRA 6 Docklands (SDZ and Poolbeg West), within the Docklands Area of the SDRA. Section 15.1.1.7 of the operative City Development Plan applies. The following guiding principles of same are noted in relation to residential development:

- Holistic approach to housing that will achieve successful integration of residents, neighbours and the wider community.
- Promote the expansion of the Docklands’ residential population, cater for life-

cycle requirements of the existing population and provide recreational facilities for children across a range of ages.

- Provide for residential choice with schemes conducive to family living, long-term rental and home-ownership
- Achieve successful interaction between the SDZ scheme and surrounding streets and public realm to retain and foster a strong sense of neighbourhood within communities
- Ensure that residential developments optimise the unique Docklands character in terms of visual context, maritime location, heritage assets and community identity
- Provide physical, social and amenity infrastructure in tandem with new housing
- Safeguard residential amenity and ensure appropriate transition in scale. Design of new development to have regard to the context, setting and amenity of existing housing within the SDZ and wider Docklands area
- Provision of Part V and use of the voluntary and co-operative model to achieve mixed tenure communities, also provision of support housing in conjunction with housing agencies.
- Encourage 'own front doors' and defensible open space as far as practicable

Chapter 5 Quality Housing

Section 4.5.4 of the operative City Development Plan deals with taller buildings and states that '*Clustering of taller buildings of the type needed to promote significant densities of commercial and residential space are likely to be achieved in a limited number of areas only. Taller buildings (over 50m) are acceptable at locations such as at major public transport hubs, and some SDRAs. For example, the North Lotts and Grand Canal Dock SDZ planning scheme provides for a limited number of tall buildings at Boland's Mills, the Point, Spencer Dock Square and Britain Quay.*

There are also a few areas where there are good transport links and sites of sufficient size to create their own character, such that a limited number of mid-rise (up to 50m) buildings will help provide a new urban identity. These areas of the city are the subject of a local area plan, strategic development zone or within a designated SDRA".

Section 16.5 and 16.6 relate to indicative standards for plot ratio and site coverage. Standards identified for Z14 lands are:

- Plot Ratio- 1.0-3.0
- Site Coverage- 50%

Policies SC17 and SC18:

To protect and enhance the skyline of the inner city, and to ensure that all proposals for midrise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in Chapter 15 (Guiding Principles) and Chapter 16 (development standards). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

To promote a co-ordinated approach to the provision of tall buildings through local area plans, strategic development zones and the strategic development and regeneration areas principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline. It is stated in the Plan that it is policy to provide for taller buildings in those limited locations identified in the 'Building Height in Dublin Map' in order to promote investment, vitality and identity. Of the 14 specific areas identified for midrise (up to 50m) and taller (above 50m) buildings, 4 locations are identified as a location for high rise 50m+ (refer to Fig. 39 of the Plan).

Section 16.7 Building Height in a Sustainable City

- The subject site is in an 'Inner City' location suitable for low-rise buildings whereby for residential development, up to 24m in height is permitted and for commercial development, up to 28m in height is permitted.

The Plan continues by stating: "In all cases, proposals for taller buildings must respect their context and address the assessment criteria set out in the development standards section, to ensure that taller buildings achieve high standards in relation to design, sustainability, amenity, impacts on the receiving environment, and the protection or framing of important views".

Section 16.7.2 Assessment Criteria for Higher Buildings

All proposals for mid-rise and taller buildings must have regard to the assessment criteria for high buildings as set out below:

- Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas
- Effect on the historic environment at a city-wide and local level
- Relationship to transport infrastructure, particularly public transport provision
- Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for
- Contribution to public spaces and facilities, including the mix of uses
- Effect on the local environment, including micro-climate and general amenity considerations
- Contribution to permeability and legibility of the site and wider area
- Sufficient accompanying material to enable a proper assessment, including urban design study/masterplan, a 360 degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies
- Adoption of best practice guidance related to the sustainable design and construction of tall buildings
- Evaluation of providing a similar level of density in an alternative urban form.

Policy SC7 seeks to 'protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence'.

Policy SC25 seeks to 'promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate'.

7 Third Party Submissions

7.1 In total, 11 submissions were received. A number of submissions have been received from elected representatives. It is noted that many of the submissions welcome the appropriate redevelopment of the site but express concerns in relation to the current proposal. The submissions received may be broadly summarised as follows, with more pertinent issues expanded upon within the main assessment:

- Build-to-Rent nature of the development:- proposal makes no allowance for home ownership; inappropriate and unwelcome at this location; overdevelopment of transient housing; family homes more appropriate at this location; concerns regarding integration with local community; proposal will result in creation of unsustainable communities
- Mixed use scheme would be more appropriate at this location
- Height- constitutes material contravention of City Development Plan; negative impacts on landscape and residential amenity
- Height, bulk, density and scale constitute overdevelopment of the site; piecemeal nature of development within the area; dwarf existing properties; out of character with existing properties
- Unit Mix- extent of one bed units; does not cater for lifecycle requirements, not conducive to family living; material contravention of City Development Plan
- Impacts on existing residents- change in outlook; out of character with traditional dwellings that were historically constructed; impacts on social fabric
- Setting of precedent for other similar type developments
- Open space- inadequate green space; quality of spaces; creation of gated community
- Increased traffic; car usage
- Lack of details in relation to operation of cultural centre for community; access for local community; conditions recommended
- Consultation- Lack of consultation with local residents; concerns regarding Covid-19 and working from home

- Other Matters: Employment generation during operational phase queried; Additional green space required; No archaeological assessment submitted; construction plan should be agreed in advance of construction works if permission is granted; liaison officers should be appointed between developer and local residents; cost of Part V units
- Legal Matters relating to file access, SHD legislation status, lack of public participation; AA Screening; material contravention of City Development Plan; general concerns regarding appropriate development of the city and implementation of EU law in relation to EIA and sustainable development

8 Planning Authority Submission

8.1 In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dublin City Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 09th February 2021. The report may be summarised as follows:

Information Submitted by the Planning Authority

Details were submitted in relation to the site description, proposed development, planning history, observations, pre-application consultations, Central Area Committee meeting, interdepartmental reports, policy context, Development Plan guidance, appropriate assessment, EIA and planning assessment. A summary of representations received was outlined.

Summary of Inter-Departmental Reports

Drainage Division: No objections, subject to conditions

Transportation Planning Division: Concerns expressed regarding unit mix; conditions recommended

Parks, Biodiversity and Landscape Services: No objections, subject to conditions

City Archaeologist: Condition recommended

Environmental Health Officer: Condition recommended

Planning & Property Development Department: Brady Shipman Martin on behalf of their client Glenveagh Living Limited has previously engaged with the Housing

Department in relation to the above development and are aware of the Part V obligations pertaining to this site if permission is granted.

8.2 A thorough and comprehensive assessment of the proposal has been undertaken by the planning authority and reference is made to same within the main body of my report. The assessment concludes as follows:

- The proposed redevelopment of the site for residential use, with active uses at street level, is welcome in principle and is in keeping with the zoning objective, subject to the balance of the site being redeveloped for non-residential uses in accordance with the masterplan for the site. It is considered however that there are number of outstanding issues in relation to building heights and materiality which could be addressed by way of a planning condition.

8.3 The report includes a summary of the views of Elected Members, as expressed at the Central Area Committee meeting held on 13/01/2021 (via Zoom) and are broadly summarised below:

- Height of proposal and impact on established community
- High cost of Part V
- Build-to-rent model- some expressed concerns regarding lack of availability for home ownership while others had no objections as proposal provides additional units for those in rental sector
- Height/density/design- overdevelopment of site; established area being dwarfed by this and other high rise developments
- Height is material contravention of CDP
- Greater consultation and buy-in with locals required
- Overlooking
- Principle of SHD concept
- Traffic and parking concerns; adequacy of cycle parking provision
- Landscape, open spaces and amenities- queried level of access for surrounding residents; ownership of cultural building; use of crèche

- Impacts on local community- some welcome development of the site
- Heritage and archaeology- archaeological significance of the area; condition should be attached to any grant of permission in this regard
- Planning history

9 Prescribed Bodies

9.1 The applicant was required to notify the following prescribed bodies prior to making the application:

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. Dublin City Childcare Committee
5. Commission for Railway Regulation
6. Irish Rail
7. Irish Aviation Authority

In total, six bodies have responded and the following is a brief summary of the points raised. A submission was also received from Inland Fisheries Ireland and An Taisce. Reference to more pertinent issues is made within the main assessment.

Irish Rail

Notes that the distance from the face of the nearest building to their boundary is 3.475m, would prefer that this distance is increased to 4m. Conditions attached.

Irish Aviation Authority

Applicant should engage with DAA and IAA to review potential impact of proposed development on instrument flight procedures and the communications, navigation and surveillance equipment at Dublin Airport.

Condition attached in relation to agreement for a permanent obstacle warning light scheme for the structures and also provide at least 30 days notice of any proposed crane operations to Dublin Airport and the IAA.

Irish Water:

The applicant has engaged with Irish Water in respect of design proposal for which they have been issued a Statement of Design Acceptance for the development.

Wastewater:

New connection of foul water to the existing combine sewer network is feasible without upgrade. There are storm and combined sewers in Sheriff Street Upper adjacent to the site. Separate storm and foul water connection services should be provided for the development. Storm water connection arrangement should be agreed with Dublin City County Council Drainage Division. It is noted that a diversion of existing Irish Water Infrastructure within the site is required. The applicant has engaged with Irish Water in this regard however, feasibility of the proposed diversion is subject to the provision of revised drawings. To date, Irish Water has not received these drawings hence a Diversion Agreement has not been issued to the applicant. Therefore, a Diversion Agreement must be agreed with IW and in place prior to the commencement of any construction.

Water

New connection to existing water network is feasible without upgrade.

The development with reduced peak hour demand of 15.9 l/s can be supplied from the existing 400 mm ID ductile iron main in Sheriff Street. Therefore, adequate on-site balancing storage tank is required to ensure that the peak hour flow is not exceeded. 24 hour water onsite storage tanks, for both domestic and non-domestic units, are required. The connection should include installation of a bulk meter with associated telemetry system and control valve.

Conditions attached

Inland Fisheries Ireland

Proposed development located within catchment of the Liffey system. The Liffey supports a regionally significant population of Atlantic salmon, a species listed under Annex II and V of the EU Habitats Directive in addition to Brown trout, lamprey, eel and many other sensitive species. Noted that Ringsend WWTP is currently working at or beyond its design capacity and won't be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul

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

An Taisce

Proposal fails to establish a mix of sizes in accordance with Department of Housing and Dublin City Development Plan policy.

Notes contents of Dublin Housing Strategy which provides that the building of residential space in the city contributes to balanced and sustainable development and the aims of the Living City Initiative tax incentive scheme in Dublin which seeks repopulation of the centre.

National Transport Authority

It is not evident that the proposed development would meet cited transport and land use objectives related to diversity of tenure, a wider demographic profile, or social inclusivity. Failure to achieve these may undermine the strategic transport aim to establish high-density consolidated development as an attractive and enduring urban format. As a consequence of this, Government investment in strategic and local transport, which is planned to complement a more consolidated form of urban development, may be compromised.

Recommends that in assessing the details of the proposed development, permission is only granted once the Bord is fully satisfied that the combined and complementary objectives set out above have been addressed to their satisfaction.

10 Assessment

10.0.1 I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Dublin City Development Plan 2016; relevant section 28 Ministerial guidelines; National Planning Framework; Dublin Metropolitan Area Strategic Plans; provisions of the Planning Acts, as amended and associated Regulations and the nearby designated sites. I have visited the site and its environs. In my mind, the main issues relating to this application are:

- Principle and Quantum of Proposed Build-to-Rent Development
- Design Approach/Plot Ratio and Site Coverage/Open Space and Public Realm/Aspect
- Building Height/Material Contravention
- Unit Mix/Floor Areas and Material Contravention
- Visual Amenity
- Residential Amenity
- Traffic and Transportation
- Drainage and Flood Risk
- Other Matters
- Environmental Impact Assessment
- Appropriate Assessment Screening

The attention of the Bord is drawn to the fact that a Material Contravention Statement has been submitted with the application. It deals with the matters of height, unit mix and floor area. I shall deal with each of the matters contained therein separately below.

10.1 Principle and Quantum of Proposed Build-to Rent Development

Definition of SHD

10.1.1 Having regard to the nature and scale of development proposed, namely an application for 702 residential units, together with other mixed uses including

commercial/retail uses (stated 9.1% of overall development), all located on lands on which such development is permissible under the zoning objective, Objective Z14, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Policy Guidance

10.1.2 The proposal accords with national policy/guidance which seeks to secure compact growth in urban areas and deliver higher densities at appropriate locations. This is considered to be one such appropriate location, proximate to Dublin city centre and close to excellent public transport facilities. The proposal will facilitate the redevelopment of an existing brownfield, underutilised site. I note the Z14 zoning objective for the site and the fact that it is located within Strategic Development and Regeneration Area 6 (SDRA6). Guiding principles for this SDRA have been outlined within the operative City Development Plan (see section 15.1.1.6) and I consider that the proposal generally accords with these guiding principles- further assessment will be undertaken below. The proposed uses are listed as being “permitted in principle” on lands zoned ‘Objective Z14’. The principle of a mixed-use development on this site is acceptable. I do not concur with the submission received that a mixed-use scheme is not being provided in this instance and that an inadequate mix of uses is proposed and I draw the attention of the Bord to the extent of non-residential uses being proposed in this instance, together with the mixed uses permitted within the overall landholding of the masterplan area, as discussed below.

Masterplan

10.1.3 The Castleforbes Business Park site has an overall site area in excess of 2ha with frontage of approximately 340m onto Sheriff Street. A ‘Site Wide Masterplan’ has been submitted with the application documentation, showing the lands within the applicant’s control. The matter of the masterplan has also been addressed within the submitted Design Statement. It sets out the site development strategy for the entire extent of the Business Park lands. It is stated that the strategy for the delivery of the entire site masterplan was through a combination of section 34 planning permissions from the planning authority and this current SHD application. The aim of

this strategy was to ensure that the Z14 zoning objectives are met, through the delivery of significant commercial office space, hotels, and now through the intent to deliver significant housing, cultural, and community facilities in this current application. Permission has previously been granted on the masterplan lands for a hotel and office development (Reg. Ref. 3433/19)(maximum height 10 storeys) and a hotel development (Reg. Ref. 2143/20)(maximum height 9 storeys). This current application is stated to be the final piece of the application process for the overall site, and proposes the most substantial element given the extent of residential development proposed. It is stated in the documentation that the masterplan seeks to deliver circa 35% commercial development and 65% residential development on the overall masterplan lands. The planning authority state that while the residential element of the proposed scheme is the predominant use, it is considered the quantum of other uses, which include significant cultural/community building, employment, retail/restaurant uses etc. is both appropriate to the site and represents a significant mixed use element to the scheme. This in tandem with the wider site (which is subject to separate planning permissions) for two hotels and an office building. Together, they are considered to represent compliance with the mixed use zoning objectives for the site.

10.1.4 I note the submission received which contends that given the other permissions on the wider site, that this proposal represents piecemeal development. I would not concur but I agree with the planning authority when they state that this mix of residential and employment uses will ensure that the site (and the overall land holding) operates on a truly mixed-use basis. I am of the opinion that the proposal will provide opportunities for residents to work on site and will allow for integration into the established and emerging community through the proposed cultural/community building and new public spaces and connections. The planning authority supports the masterplan approach for the full extent of the site and I would also be in support of this comprehensive form of redevelopment of the lands.

10.1.5 As an aside, the attention of the Bord to draw to the fact that the area to the west of the proposed development (at the junction of East Road and Sheriff Street Upper), where the hotel development has been permitted under Reg. Ref. 2143/20 is included within the site area, as outlined in red, of this current application. The area,

which has the benefit of this grant of permission, has however been marked as a temporary green space in this current application, referred to as an interim pocket park within the public notices, to be provided as a temporary park prior to the delivery of the permitted hotel on this part of the site. The documentation further states that the temporary park outlined in the application is provided on an interim basis in the event that the development of the permitted hotel on the western corner of the site is delayed. This will ensure that the site residential development is implemented in an appropriate manner and that this corner of the site isn't left unfinished or appearing incomplete. I am satisfied in this regard.

Demolition of existing structures

10.1.6 The proposal comprises the demolition of a number of existing industrial/warehouse buildings on site to accommodate the development proposed. I would concur with the planning authority when they state that there is no objection in principle to their demolition in order to facilitate the proposed redevelopment. Drawings of the buildings proposed for demolition have been submitted with the application and a history of the site and its environs has been outlined in both the EIAR (section 13) and also within the Architectural Design Statement. The principle of the redevelopment of this underutilised brownfield site is welcomed. I note that the matter of demolition of existing buildings on site has not been raised in third party submissions. There are no special designations pertaining to the site in terms of architectural heritage. None of the buildings are designated as Protected Structures, as set out in the operative City Development Plan and none are considered to be of architectural importance, worthy of retention. I am satisfied in this regard.

Build-to-Rent

10.1.7 The attention of the Bord is drawn to the fact that this is a Build to Rent Scheme. Most of the third party submissions received, including those from Elected Members, raise concerns regarding the build-to-rent nature of the proposed development, with the main concerns relating to matters which include that the proposal does not allow for home ownership, will attract a transient population into the area and many express the opinion that family homes should be provided on site. The third party

submissions also state that the proposal should comprise a mix of build-to-rent and build-to-sell units. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 provides guidance on Build-to-Rent (BTR) sector. The guidelines define BTR as “purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord”. These schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity. In this instance, a Property Management Strategy Report and draft covenant details have been submitted with the application. Having regard to the location of the site close to the city centre, beside excellent public transport facilities, I am satisfied that a Built to Rent scheme is suitable and justifiable at this location. I have considered the concerns raised in the submissions received, however I am of the opinion that the proposal will provide a viable housing solution to households where home-ownership may not be a priority. The residential type and tenure provides a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland and I am satisfied in this regard. It will not necessarily attract a transient population. The established nature of the surrounding area, in particular around East Wall, is such that I consider that the home ownership market is presently well catered for in the existing area.

10.1.8 I refer the Bord to the provisions of Specific Planning Policy Requirement 7 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) which provides that:

BTR development must be:

- (a) Described in the public notices associated with a planning application specifically as a ‘Build-to-Rent’ housing development that unambiguously categorises the project (or part thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for

a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period:

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

(i) Residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Residential Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

10.1.9 The public notices refer to the scheme as ‘Build-to-Rent’ and details included in the deed of covenant indicate that the applicant is willing to accept a condition requiring that the development shall be operated by institutional entities that invest in the development as a long term commercial rental undertaking for a minimum period of 15 years following completion; that during the 15-year period referred to above, no individual residential units will be sold or rented separately; and that the undertaking shall abide by all conditions attached to any grant of planning permission issued by An Bord Pleanála. I am generally satisfied in this regard and consider that the matter of the covenant can be adequately dealt with by means of condition.

10.1.10 In terms of resident support facilities and resident services and amenities, I note that a stated 1264m² of such services and facilities are proposed, located within Blocks A1, B3 and C2. Proposed uses include a resident’s gym and resident’s lounge/work hub. More details in relation to the proposed uses envisaged within the amenity space located at Level 00 of Block B3C3 would be helpful, however this matter could be adequately dealt with by means of condition. The planning authority are generally satisfied with the level of resident support facilities proposed. I am also satisfied in this regard, subject to condition.

10.1.11 SPPR 8 sets out proposals that qualify as specific BTR development in accordance with SPPR 7. In this regard, no restrictions on dwelling mix apply. In this regard, the

applicants have submitted a Material Contravention Statement as this element of the proposal does not accord with the provisions of the operative City Development Plan in terms of unit mix and floor area. It is noted that the planning authority, the NTA and some of third party submissions received all raise concerns in relation to the proposed unit mix and lack of family friendly units. The matter will be dealt with further below.

10.1.12 Under SPPR 8, flexibility also applies in relation to the provision of a proportion of the storage and private amenity spaces associated with individual units and in relation to the provision of communal amenity space (as set out in Appendix 1 of aforementioned Apartment Guidelines), on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. The proposal in this instance seeks minimal relaxations in terms of residential standards and complies with relevant SPPR's, (including floor areas, floor to ceiling heights and number of units per core) with the exception of private open space provision. I have addressed this matter of private open space provision below and in summary, am satisfied with the proposed provision given the level of compensatory residential amenity space being provided in this instance.

Density

10.1.12 A number of the third party submissions received, including those of the Elected Members, raise concern with regards the density proposed and consider that the proposal represents overdevelopment of the site in terms of density, scale, bulk and height. The NTA states that that the long-term sustainability and attractiveness of high-density residential development in central areas such as this, is of critical importance. However, in this instance they have expressed reservations in relation to the proposal with regards diversity of tenure, social inclusivity and questions whether, based on unit mix, whether the proposal is catering to a wider demographic profile. Density at approximately 377 units/ha is proposed, which I consider to be appropriate for this urban location and in compliance with relevant section 28 ministerial guidelines. I consider the location of the site suitable for higher densities in accordance with the aforementioned 'Guidelines on Sustainable Residential Development in Urban Areas'. Section 4.5.3 of the Dublin City Development Plan promotes intensive mixed-use development on well-located urban sites and higher densities within SDRA's and in the catchment of high capacity public transport. The

planning authority have not raised issue with the density proposed, however their concerns in relation to the height strategy are noted and are dealt with below. Concerns raised in relation to units mix are dealt with below also. I am of the opinion that the provision of high-density residential development on this site is in accordance with the zoning objectives pertaining to the site and also in accordance with national policy guidance. I am satisfied in this regard.

SDRA Requirement for 5% 'Social, Cultural, Creative and Artistic' Space

10.1.13 It is noted that one of the guiding principles for this SDRA advocates that all new developments in the docklands area provide for a minimum of 5% allocation of space in the development to be used for social, cultural, creative and artistic purposes. In this regard a community/cultural building of approximately 2859 square metres, centrally located over six floors is proposed. It fronts onto a new public square and proposes flexible multi-use spaces including exhibition, workshop/class space, artists and market spaces to ensure a variety of activity during both daytime and night-time hours. The use/management of the proposed cultural building was queried in some of the submissions received. It is stated in the application documentation that the building will be managed and curated by a single entity ensuring access to space and diversity of uses. The planning authority states that the building's central location, opening onto the square will allow it to spill out into the new public space and provide a focus and destination for the North Lotts area. I would concur with this opinion. It is also their opinion that this offering, in addition to the proposed childcare facility, represents the 5% social, cultural, artistic, creative space required under the Docklands SDRA. I note that one of the guiding strands of the SDRA 6 designation states that fostering community integration between existing and emerging communities is also a key aspect to social sustainability in Docklands. While this issue of integration between existing communities and new residents has been raised in many of the submissions received, I am of the opinion that the extent of community facilities proposed in this current application will aid in this integration and I consider that this element of the scheme will be a real planning gain for the wider area, for both new and existing residents alike. However, in order to alleviate concerns of the community in relation to its use, I recommend that a condition be attached to any grant of permission that the cultural building be made available for

use by the residents of the development and the wider community. Any proposed change of use from cultural building should be subject of a separate application for planning permission. Further details relating to the management of the proposed building could be adequately dealt with by means of condition.

Conclusion

10.1.14 I am of the opinion that given its zoning, the delivery of residential and commercial development on this prime, underutilised site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of current Government policy. The site is considered to be located in a central and accessible location, proximate to excellent public transport.

Notwithstanding concerns expressed below in relation to unit mix, I consider that the proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various needs of the community. I therefore consider the proposal to be acceptable in principle.

10.2 Design Approach/Plot Ratio and Site Coverage/Open Space and Public Realm/Aspect

Design Approach

10.2.1 The proposal involves the construction of a mixed-use development, which includes for 702 residential apartments, the provision of café/restaurant/retail uses, together with community/cultural facility and tenant amenity facilities for future residents in eight no. blocks at the junction of East Road and Sheriff Street Upper, Dublin 1. The subject site has frontage in excess of 300 metres along Sheriff Street Upper and a coherent design strategy is proposed to deal with this extent of street frontage. The width of the entrance from Sheriff Street Upper which leads through to the central public square, the cultural building and childcare facility is such that it will draw people into this area. In terms of building height, the majority of the proposal ranges from 25-30 metres, however there are four taller elements with heights ranging from 39.4 metres to 60.7 metres in height. Concerns raised in submissions received, including the Opinion of the planning authority in relation to building height are dealt with below. The form and massing of the project is such that the tallest blocks are located along the railway line to the north, with subsequent blocks stepping down to the south to form the new streetscape of Sheriff Street Upper and East Road. The

residential buildings are arranged around a central open space (at ground level) and raised residential courtyards at upper ground level over part basement level. Four no. live/work units are proposed and I would concur with the applicants that these would be sought after spaces, given the current climate. Ground floor uses located onto Sheriff Street Upper and into the central open space include a cultural/community building, 3 no. retail/restaurant/cafe units, own door residential units and live/work office space and an animated area is envisaged. The percentage of non-residential uses is stated to be 9.1% of the overall development.

10.2.2 As stated above, the site is located within SDRA 6 of the operative City Development Plan, the vision for which is to 'provide for the continued physical and social regeneration of this part of the city, consolidating the area as a vibrant economic, cultural and amenity quarter of the city, whilst also nurturing sustainable neighbourhoods and communities'. I am satisfied that the proposal before me can achieve this vision through the design approach put forward. I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. I welcome the mixed use nature of the development, which provides for associated services and facilities to accommodate a population of the scale envisaged within this proposed development. It is my opinion that an element of the success of the overall scheme will depend on the take-up rate of the commercial units, together with the uses proposed therein. Proposed uses should be agreed with the planning authority, prior to occupation and this matter could be adequately dealt with by means of condition, if the Bord is disposed towards a grant of permission. The proposal will bring a new population into the area. It will provide a number of different retail/commercial offerings; will provide public open space, together with community/cultural use offerings, all of which will be a positive for the local community. I consider the proposal to be generally in compliance with the guiding principles of SDRA 6.

Plot Ratio and Site Coverage

10.2.3 The matter of plot ratio and site coverage has not been explicitly raised in the third party submissions received, although the matter of over-development of the site has been raised as a concern. The planning authority in their Opinion state that considering the location of the subject site, the proposed plot ratio and site coverage may be acceptable in principle, subject to high quality design and appropriate levels

of residential amenity. As stated above, sections 16.5 and 16.6 of the Dublin City Development Plan relate to indicative standards for plot ratio and site coverage. The operative City Development Plan sets an indicative plot ratio standard of 1.0 – 3.0 for Z14 lands and the proposed scheme has a plot ratio of 3.38. The Development Plan sets an indicative site coverage standard of 50% for Z14 lands and the proposed scheme has a site coverage of 65% (excluding the area of temporary park). The planning authority acknowledges that, as set out in the operative City Development Plan, a higher plot ratio may be permitted in certain circumstances, which include inter alia adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed; to facilitate comprehensive re-development of areas in need of urban renewal and to maintain existing streetscape profiles. The site's location would satisfy many of these criteria. Current national guidance acknowledges that land is a scarce resource which should be used as efficiently as possible and advocates the need to develop underutilised brownfield sites at sustainable levels. This is recognised by the planning authority in their Opinion. They state that considering the location of the site within the inner city, the proposed plot coverage and site coverage may be acceptable in principle, subject to a high quality design and appropriate levels of residential amenity. I would concur and I do not have issue with the plot ratio or site coverage proposed, in this instance. I consider that the proposal does not represent a material contravention of the operative City Development Plan in this regard. The matter has not been dealt with in the submitted Material Contravention Statement nor have the planning authority considered it as such. I note the figure outlined in the operative City Development Plan for both site coverage and plot ratio is indicative only. The site is located in an inner city location, close to major public transport facilities. The proposal will facilitate the comprehensive re-development of this site, in an area that would benefit from urban renewal. The proposal will enhance the streetscape at this location. Having regard to this, I note the planning history in the wider area and levels of development permitted. Therefore, the plot ratio and site coverage are both considered acceptable in this instance and I consider that they meet the requirements set out in section 16.5 and 16.6 of the operative City Development Plan.

Open Space and Public Realm

10.2.4 Some of the submissions received have raised concerns with regards the quantity/quality of public open space proposed and its availability to the wider public. A Landscaping Plan has been submitted with the application documentation which identifies areas of public, communal and private open space within the proposed development. The site, as existing, is generally brownfield in nature with no landscape features of importance. The site lies adjacent to the CIE marshalling yards, which are of poor visual quality. Public open space/ public realm is provided by means of a main central square with links north and south to connect into the broader urban area around the site. The proposals include the widespread use of green roofs for recreation and SUDs /biodiversity.

10.2.5 One of the third party submissions stated that inadequate public open space is proposed and questions the quality of that proposed. I would not concur and note that public open space provision is stated to amount to 10.4% (1,957m²) of the total site area, which exceeds Development Plan requirements. This figure excludes the temporary park associated with the permitted hotel development and improved public realm on Sheriff Street Upper. The open space proposed is of a high quality and will be an attractive place in which to spend time. The Parks Division of the planning authority states that the proposed scheme is generally well developed in this regard. The quantum of public open space is welcomed by the planning authority and they consider this element of the proposal to provide a good quality, active space, which in conjunction with the community spaces is considered to represent a significant planning gain. I would concur with this assertion. One of the third party submissions received states that this will be a gated development and some submissions raise concerns regarding access to the public spaces. It is incorrect to state that this is a gated development, the public open space shall be available to all. In this regard, I note that the public realm open space provision will not be taken in charge and the planning authority recommends that appropriate conditions be attached to any grant of permission to safeguard public access/use of such spaces as well as their future maintenance and management. This is considered reasonable and the matter could be adequately dealt with by means of condition. This should alleviate any third party concerns in this regard. Additionally, I note that street tree planting to East Road and Sheriff Street Upper is proposed and

welcomed and will provide a planning gain to the wider public at this location, improving the visual amenity of the area.

10.2.6 Private open space is proposed to all 1, 2 and 3 bed units by way of terraces and balconies, many in the form of winter gardens. Private open space is not provided to studio units, of which there are 100 units. Given that this is a build-to-rent scheme, I draw the attention of the Bord to SPPR 8(ii) of the aforementioned Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020), which allows for flexibility in this regard on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. In this regard, I note that all studio apartments are above the minimum floor area standard of 37m², with 25 of the units having a floor area of 40m² or larger. It is also noted that 4,890m² of communal open space is proposed within the scheme, which is in excess of the 3,827m² required, based on unit mix. This communal open space is in the form of podium/roof top terraces and courtyards and is generally of a high standard. The planning authority have raised no objection to this element of the proposal and I am also satisfied in this regard.

10.2.7 Pedestrian permeability is good and it is noted that the proposal seeks to link into existing east-west and north-south connections linking the proposed development site to the North Lotts SDZ. This permeability is welcomed and will be a planning gain to both residents of the proposed scheme and the wider public. The planning authority is also satisfied in this regard. Permeability to the north is currently not possible as the site is bound by CIE lands, with the boundary defined by a 4 metre high wall with no access points. While this poses a constraint at the current time, they may be an opportunity for connectivity into the future if these lands are developed. I am generally satisfied in this regard.

Aspect

10.2.7 SPPR 4 of the aforementioned Sustainable Urban Housing Guidelines (2020) deals with the minimum number of dual aspect apartments that may be provided within any single apartment scheme and states that a minimum of 33% dual aspect units will be required in more central and accessible urban locations. I would consider this one such area, within an inner city location close to good public transport links and employment bases. The proposed development provides for 35% dual aspect units

(stated), with no north facing single aspect apartments proposed. This is welcomed by the planning authority. None of the third party submissions received explicitly raised this issue. I am satisfied in this instance given the locational context and the quality design response to the site which includes for good street frontage.

10.3 Building Height/Material Contravention

Building Height

10.3.1 I have considered the third party submissions received, almost all of which raise concerns with regards the height of the proposed development and its impacts at this location. The Elected Members, as contained in the Chief Executive Report, also raised concerns with regards a justification for the height proposed. Many of the submissions received state that the proposed height is such that it would dominate existing buildings in the locality and many raise concerns regarding, what is seen as a barrage of new higher buildings being constructed in the wider area, which are replacing old industrial buildings. The height of the proposed structures over and above Development Plan thresholds also raises concerns in the many of the submissions received. I also note the concerns raised by the planning authority, as expressed within the Chief Executive Report and I refer the Bord to same. In summary, the planning authority accept that the subject site is located within the city centre and is therefore suitable for a higher density of development in accordance with the principles established in the NPF. The planning authority further accepts that this is an under-utilised site, which is suitable for comprehensive redevelopment that is of scale substantially more intensive than the existing site condition. They state that the proposed height strategy along Sheriff Street Upper would be commensurate with the established developments to the south of the site and do not raise concerns in relation to this element of the proposal. However, they have expressed concerns regarding the provision of a cluster of tall buildings located to the rear of the site, ranging in height, 12, 13, 15 and 18 storeys. The planning authority is of the opinion that the applicant has not demonstrated that the subject application site is suitable for this element of the proposed height strategy and have expressed serious concerns regarding the location of this tall building cluster. It is their opinion that the applicant has not submitted a strong urban design rationale for such a cluster, which would be located at a transitional point in height scales in the

city between the low rise East Wall area and the higher and more urban North Lotts. Furthermore, the planning authority is of the opinion that such a cluster would not make a positive contribution to either place making or urban legibility given the backland location of the higher buildings on site, limited extent of public uses and levels of public permeability through the site. In the event of planning permission being granted for the proposed development, the planning authority recommends that the higher building (Block C2) be capped at 15 storeys to match the height of the previously approved higher building opposite on East Road (SHD application) and that the heights of Blocks C1, C3 and C4 be reduced proportionally.

10.3.2 In terms of building height, I would refer the Bord to further assessment under section 13 of the submitted EIAR, Landscape (Townscape) and Visual, together with the following section relating to material contravention. I note that there is some discrepancy in terms of stated height of the proposed taller building. I am assessing the height based on the height stated within the Material Contravention Statement, namely 60.7m (stated as the proposed actual building height which relates to the building height from ground level). It is noted that an Architectural Design Statement and a Tall Building Statement have been submitted with the documentation, together with a number of photomontages. The conclusion of the Tall Building Statement is that the approach to height and design of the proposed tall buildings is well considered and fully justified. The proposal seeks to introduce a cluster of tall and mid-rise buildings into an area where varying buildings heights exist, from the predominately low rise setting of East Wall to the more urban and higher North Lotts area. The maximum height proposed is 18 storeys (Block C2) at 60.7 metres and is classified as a tall building under the definition of Dublin City Development Plan (defined as buildings over 50m in height). This tall building is located alongside 3 no. mid-rise buildings ranging in heights of 12, 13 and 15 storeys.

10.3.3 Section 16.7 of the operative Dublin City Development Plan deals with the issue of building height and acknowledges the intrinsic quality of Dublin as a low-rise city. Buildings height for residential development in the inner city has been set at up to 24m. All proposed residential blocks would exceed this limit. A Material Contravention Statement has been submitted in this regard. I consider the proposed building heights to be a material contravention of the operative City Development Plan and this matter is dealt with below. Section 16.7.2 of the operative City

Development Plan identifies building heights for the city and it is noted that certain specific areas of the city, including the docklands area, have been identified as being appropriate for heights in excess of 50 metres. These areas include those close to major transport hubs and certain SDRAs. While the subject site is located within SDRA 6, the attention of the Bord is drawn to the fact that this SDRA is not explicitly identified as being suitable for a taller building. The Building Height in Dublin Context Map (Chapter 16, Fig. 39) identifies four locations across the city suitable for buildings of 50m+, including the Docklands Cluster. While the site is located within the Docklands Area of SDRA 6, it is located outside the identified Docklands Cluster for high rise developments (50m+). It is recognised by both the applicants and the planning authority that the site is outside of this identified Docklands Cluster and that a maximum cap of 24m for residential development applies to the site.

10.3.4 The operative City Development Plan states that in all cases, proposals for taller buildings must respect their context and address the assessment criteria set out in section 16.7 of the Plan. I have had regard to section 16.7 of the operative City Development Plan in assessing this proposal. I am also cognisant of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) which sets out the requirements for considering increased building height in various locations but principally, inter alia, in urban and city centre locations and suburban and wider town locations. It recognises the need for our cities and towns to grow upwards, not just outwards.

10.3.5 I have had particular regard to the development management criteria, as set out in section 3.2 of these aforementioned Urban Development and Building Heights, Guidelines for Planning Authorities (2018) in assessing this proposal. In this regard, I note that at the scale of city/town, the site is well served by public transport with the nearest LUAS stop (Spencer Dock and Point LUAS terminus) within 400m of the site. The proximity of the site to the Docklands Rail Station is also noted. The Spencer Dock Luas stop is also the proposed location of the Docklands DART Underground Station. Given the location of the site, the proposal will not negatively impact on protected views within the city to such an extent as to warrant a refusal of permission. In addition, I am satisfied that the development proposal successfully integrates into and enhances the character of the area. I am satisfied that the proposed development makes a positive contribution to place-making and I note the

public realm improvements in this regard. At the scale of district/neighbourhood and street, I consider that proposal responds well to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape at this location. The mix of uses proposed will contribute to the vitality of the area and while I have expressed reservations in relation to the proposed residential mix, I do note the build-to-rent nature of the development and the established typologies in the wider area, many of which cater for those looking for a larger unit type. The urban design rationale and elevational treatment is such that the proposal will positively contribute to the streetscape at this location. The proposal will become a positive addition to the skyline of Dublin. Permeability through the site, albeit currently restricted by the marshall yard to its rear, is acceptable and the public realm improvements will be a positive for the wider community. At the scale of site/building, I am satisfied that the design of the proposal seeks to maximise access to natural daylight, ventilation and views. The main shadow of the development will be over the rail tracks. Adequate separation distances are proposed between buildings. Matters of overshadowing and loss of light are not so great as to warrant a refusal of permission. Some degree of loss of light/overshadowing is to be expected in such an inner urban area. The proposal will aid in the regeneration of this area and will provide a good urban design solution for the site. Site specific impact assessments, included with the application, have been referred to throughout my report and I am generally satisfied in this regard.

10.3.6 This is an under-utilised site, which is suitable for comprehensive redevelopment that is of scale substantially more intensive than the existing site condition. I note the concerns expressed by the third parties in relation to increased heights within the wider area, in recent times. I would however consider that, while there is a change to the city skyline at this location and that there is a change in outlook for existing, established residents, the area is suitable for developments of the height and scale permitted in recent times. The site is located within the Strategic Development and Regeneration Area (SDRA) 6, an area designated as being appropriate for intensification of development. I would concur with the applicants that the docklands area has been the focus of tall building development in Dublin over the last two decades and note that buildings in excess of 70 metres have been previously permitted in the wider area. The applicants contend that the proposed development

at the Castleforbes site together with the approved taller buildings at Marshall's Yard establish a new "East Road Cluster" of larger and taller buildings at the edge of the North Docks area and the East Wall neighbourhood. They contend that whilst the development appears tall locally, especially in the context of East Wall, only one building on the Castleforbes site falls firmly within the definition of a tall building by the City Development Plan. Overall this cluster is of a lesser scale than any of the other three existing and emerging tall building clusters in Dublin City Centre Cluster focussed around Tara St (88m), Grand Canal Dock Cluster (67m) and Docklands Cluster (73m).

10.3.7 I am of the opinion that the city is ever-changing, an evolving entity and each period adds its own additions to this skyline reflecting this evolution. Existing tall structures visible on the skyline, which include church spires, Guinness industrial buildings, the Poolbeg towers and the Spire- all reflect defined periods within the changing city in which we live. It has been acknowledged in both the operative City Development Plan and within section 28 guidelines, that although low rise in nature, certain areas of the city have the capacity to accommodate buildings of greater height. I consider that given its locational context, the subject site has the capacity to accommodate a taller building without undue detriment to the character or setting of the city skyline. A taller building will, without doubt, be visible from various vantage points within the city, both within the near distance and from further afield. This is not necessarily a negative. A successful city is one which evolves and adapts over time to cater for the needs of its citizens, whilst respecting what has gone before. Modern interventions can be successfully integrated into our city streetscape and skyline and there are many examples where this has been successfully achieved in Dublin.

10.3.8 The principle of a taller element surrounded by blocks of a lower height, albeit mid-rise in height, is considered acceptable in principle at this location and similar typologies have been permitted within the area, including the aforementioned East Road SHD development to the north (maximum 15 storeys in height as opposed to 18 storeys proposed in this current application). I acknowledge the concerns expressed by the planning authority and third parties in this regard. I consider that adequate justification has been given for the height strategy proposed. I note the Tall Building Statement submitted with the application and acknowledge that much of it is quite generic in nature. However, notwithstanding this, an adequate justification

for the height strategy has been put forward and I am generally satisfied in this regard. As stated above, the planning authority are satisfied with the height strategy fronting onto Sheriff Street Upper, their main concern relates to the 18 storey taller building and the three mid-rise buildings of 12,13 and 15 storeys. The height strategy is such that the lower elements front onto Sheriff Street Upper with the taller elements setback behind, closer to the taller buildings permitted on East Road under ABP-304710-19. Together they will form a new cluster of tall buildings at this location. I am generally satisfied with the height strategy for the site and the fact that the proposed taller element will become a local landmark on the skyline at this location- a positive, identifiable addition to the skyline. A good transition in scale is proposed. The proposed taller elements are also well setback from existing dwellings in East Wall. I note the concerns expressed by the planning authority in relation to the backland location of the taller buildings and the appropriateness of this site for a cluster of tall buildings. However, I note that a 15 storey building has been permitted on the adjoining site to the north in the same ownership and it may be argued that the current proposal is a continuation of that height strategy- the formation of a new cluster at this location. I don't have issue with the height strategy proposed at this location and I consider that the area has the capacity to accommodate a development of the nature and scale proposed. The site is located on brownfield lands in the industrial area of the site, close to the docklands. It is close to good public transport links and removed from sensitive receptors such as conservation areas and protected views/prospects. The fact that the taller elements of the proposal are located against the rail yard could be considered a positive. This element of the site currently has no street frontage, however as the site is developed and opened up, it will become a newly accessible urban quarter. Of particular importance to me is that a quality development is proposed that will become a positive intervention at this location. The concerns of the planning authority in relation to the extent of public uses in the proposed taller elements are noted but I consider that it is reasonable and justifiable to examine the extent of public uses in terms of the entirety of the overall site, including the previous phases permitted by the planning authority which included office accommodation and hotels rather than looking at these taller buildings in isolation. The overall site, when completed will read as a new urban block at this location- a mix of uses that the planning authority have stated they are generally satisfied with.

10.3.9 I note that some of the submissions received consider that the proposal represents over-development of the site, in terms of scale, height and bulk. I do not concur and I am satisfied with the scale and bulk proposed- I consider that it is an appropriate form of development at this location. I concur with the applicants that the proposed development can help support urban intensification and deliver wider regeneration benefits for the area. This is considered to be a strategic site- its location proximate to the city centre; its location close to transport facilities; relatively removed from historically sensitive parts of the city; close to the mouth of the Liffey in an area where taller buildings have previously been permitted -are all strong indicators to me that the site is suitable for a taller building. The docklands area has previously been accepted as an area that may, in principle be suitable for taller buildings. This site is located in close proximity to the docklands area.

10.3.10 With regards the issue of precedent for the taller element, I am aware that a grant of permission for this higher element may be cited as precedent for developments of similar height within the wider area. I am however cognisant of the policy with the operative City Development Plan with regards to appropriate locations for taller buildings, together with national guidance in this regard. While I consider that this subject site may have capacity for a higher element at the location proposed, given its locational and site context, I am of the opinion that every site within the city area does not have such capacity and that a grant of permission on this subject site does not set precedent for taller buildings on other sites in the vicinity. Every application is assessed on its own merits and the Urban Development and Building Height Guidelines (2018) give detailed guidance as to what sites may be considered as being appropriate for such higher elements.

Material Contravention in relation to Building Height

10.3.11 The attention of the Bord id drawn to the fact that a Material Contravention Statement has been submitted with the application and the applicants have advertised same within their public notices, as required under the legislation. This Statement deals with the issue of height. As outlined above, the City Development Plan Height Strategy identifies a building height cap of 24m for residential development. The maximum building height proposed in this current application is in excess of 60m and all proposed residential blocks exceed this 24m cap. The applicants refer to The Urban Development & Building Height Guidelines (2018) in

support of their argument in this instance and note SPPR1 of these guidelines which states, inter alia, that planning authorities shall not provide for blanket numerical limitations on building height. I acknowledge that the operative City Development Plan was published prior to the publication of these Guidelines. The applicants state, inter alia, that their rationale for increased residential height is due to the site's excellent accessibility and proximity to the city's major business district, in addition to excellent public transport links, and to the specific location and boundary opportunities presented by the site. They also note that the site is located within a SDRA, as designated by the Development Plan, which is an area identified for intensification and growth but is restricted currently in relation to height.

10.3.12 Under the Planning and Development Act 2000, it is open to the Bord to grant permission for development that is considered to be a material contravention in four circumstances. These circumstances, outlined in Section 37(2)(b), are in the (i) national, strategic interest; (ii) conflicting objectives in the development plan or objectives are not clearly stated (iii) conflict with national/regional policy and section 28 guidelines; and (iv) the pattern of development and permissions granted in the vicinity since the adoption of the development plan.

10.3.13 I am of the opinion that a grant of permission that would materially contravene section 16.7.2 of the Dublin City Development Plan 2016-2022, which applies to the site, would be justified in accordance with sections 37(2)(b)(i), (iii) and (iv) of the Planning and Development Act 2000, as amended, on the following basis.

10.3.14 In terms of section 37(2)(b)(i), I note that the current application, which is for 702 build-to-rent residential units in a mixed use development, has been lodged under the strategic housing legislation and is considered to be strategic in nature. I also note that the subject site is located within SDRA 6 of the operative City Development Plan, an identified strategic development and regeneration area that has substantial development capacity. I also note the potential of the proposal to contribute to the achievement of the Government policy to increase the 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 location close to public transport and centres of employment. I am of the opinion that the strategic importance of the delivery of housing units to address housing shortages in the

principal urban areas is established in the national, regional and local planning policy context.

10.3.15 In relation to section 37(2)(b)(iii), I note the Building Heights Guidelines for Planning Authorities (December 2018), which provides a policy basis for increased building heights at appropriate locations. Specific Planning Policy Requirement SPPR 1 of the Guidelines provide that planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development... and shall not provide for blanket numerical limitations on building height. I note one of the submissions received states that the proposal is not consistent with SPPR1 as the City Development Plan does not impose a blanket numerical limitation on building height and clearly makes adequate and reasoned provision for various building heights throughout the city. While I note the height limits set out in section 16.7.2 of the operative City Development Plan, I am of the opinion that it could be argued that a blanket numerical limitation of 24m for residential development and 28m for commercial development applies to the area within the Dublin city administrative boundary, with certain, very limited areas identified for buildings of greater height. Policy set out in the operative City Development Plan acknowledges the intrinsic quality of Dublin as a low-rise city, which should predominantly remain so. Specific Planning Policy Requirement SPPR 3A of the Guidelines provide that permission can be granted where the height of a proposed development is not consistent with a statutory development plan in circumstances where the planning authority is satisfied that the performance criteria specified in the Guidelines are met. I have had regard to the aforementioned performance criteria (see above) and am satisfied that they are substantially being met in this instance. The National Planning Framework – Ireland 2040 fully supports the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I note Objectives 13 and 35 of the NPF in this regard. Objective 13 states that 'In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public

safety is not compromised and the environment is suitably protected'. Objective 35 promotes an 'Increase residential density in settlement, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights'. I consider this to be one such suitable site.

10.3.16 I consider that having regard to the above, there is sufficient justification for the Bord to invoke their material contravention powers and grant the height as proposed in this current application. However, additionally, I also draw the attention of the Bord to section 37(2)(b)(iv), I note the permitted pattern of development within the wider area, which is urban and dense in nature. The site is located immediately adjacent to the North Lotts SDZ, but is not subject to the same restrictions. Recently permitted development on East Road (maximum 15 storeys in height) immediately to the north is also noted.

10.3.17 Having regard to all of the above, I am satisfied in this regard and consider that it is open to the Bord to grant permission in this instance.

10.4 Unit Mix/Floor Areas and Material Contravention

Unit Mix

10.4.1 Some of the third party submissions received have raised concerns with regard to the proposed mix of units, the lack of larger units within the proposed scheme and the resulting lack of a balanced and sustainable development. This has also been highlighted by the planning authority, An Taisce and the NTA. The Transportation Planning Division of the planning authority raises concerns regarding the significantly higher concentration of studio and 1 bed units as opposed to a more balanced mix of residential types. These unit types make up 72% of the residential mix. In light of this, the Transportation Planning Division raises concern with regard this proposal, together with concerns regarding the cumulative impact of such developments in the city. They state that strategic transport aims and objectives are based on the principles to create sustainable and attractive high density developments, of creating balanced mixed tenure developments that contribute to the attractiveness of city living. Developments of this nature should be considered both from a planning and also the long term strategic transport perspective. These concerns are also noted in the submission by the National Transport Authority (NTA) which raises issue in

relation to diversity of tenure, the proposal not catering to a wider demographic profile and the matter of social inclusivity.

10.4.2 The mix of units is 101 x studio (14.39%), 407 x 1 bed (57.98%), 179 x 2 bed (25.5%) and 15 x 3 bed (2.14%). I note that over 72% of the proposed units are studio or 1 bed units, with just over 2% being three-bed units. I would concur with the planning authority, the NTA and the third party submissions when they state that the provision of a greater percentage of three-bed units would have been welcomed in the proposed scheme. This is especially pertinent given that on the East Road SHD site to the north (under the same ownership), recently permitted under ABP-304710-19, over 91% of units were studio, 1 and 2 bed units. Overall between the two sites, of the 1256 apartments (proposed + permitted), approximately 90% of these units are studio, 1 or 2 bed units. I acknowledge that the current proposal is catering to a certain cohort of the population in an urban location. I also note the quantum of dwellings in the wider area. Importantly, I note that as this is a build-to-rent scheme, in particular the provisions of SPPR 8(i) of the aforementioned Apartment Guidelines (2020) which states that no restrictions on dwelling mix shall apply to such schemes. I highlight to the Bord that these updated Guidelines are recently published. Therefore, the proposal is considered to be in accordance with these aforementioned guidelines, which take precedence over the operative Development Plan.

10.4.3 However, I would not disagree with the opinion of the planning authority, the NTA and the third party submissions when they consider that a more balanced mix of residential types would have been welcomed on this site. I too would raise some concerns with the level of studio/1 bed units proposed and that as proposed, the number of smaller units has the potential to undermine the delivery of balanced and mixed tenure developments that contribute to the attractiveness of city living for a range of household types, including families. This is particularly pertinent given the extent of smaller units permitted on the East Road site to the north (SHD application within the same ownership)(ABP-304710-19). If the Bord is so minded, they may address this highlighted issue by omitting Block C3 from the current proposal, with the applicants reapplying in a subsequent application for a greater mix of units within this block. As proposed, this block contains 74 units, of which 60 are 1 bed units and the remainder two-bed units. The units in this block could be largely replaced with

three bed units whilst maintaining the height and footprint as currently proposed. This change may have implications for the core and elevational arrangement and could therefore be dealt with by means of a new application. As no other uses are proposed within this block, including no tenant amenity spaces, it would be an appropriate block to alter, one which would have least impact on the overall layout of the scheme. However, notwithstanding the concerns raised above, the attention of the Bord is drawn to the fact that the proposal is in compliance with SPPR 8(i) of the recently updated Apartment Guidelines (December 2020) in relation to unit mix within a build-to-rent scheme. On balance, I am satisfied with regards the proposed unit mix given the locational context of the site; within the established area traditionally well served with larger units; in an area where owner occupancy appears high in terms of the established residential properties. I am therefore recommending that the Bord invoke their material contravention powers and grant the residential unit mix as proposed.

Floor Areas

10.4.4 The submitted Material Contravention Statement also deals with the issue of floor areas and notes that the operative City Development Plan sets out minimum floorspace standards for apartments. In the case of studio apartments, the City Development Plan specifies a minimum floor area of 40 square metres while the aforementioned Apartment Guidelines set the minimum floor area for studio apartments at 37 square metres. There is a corresponding difference also in relation to minimum room width standards. The floor area of some of the studio units proposed do not meet this 40 square metre requirement of the City Development Plan. Again, the nature of the BTR scheme and the provisions of SPPR8 in this regard are noted, which give precedence over any conflicting policies and objectives of Development Plans. I am generally satisfied with the floor areas proposed.

Material Contravention

10.4.5 The attention of the Bord is drawn to the fact that a Material Contravention Statement has been submitted with the application and the applicants have advertised same within their public notices, as required under the legislation. This Statement deals with the issue of unit mix and floor area.

10.4.6 With regard to unit mix, the Statement refers to section 16.10.1 of the Dublin City Council Development Plan 2016 – 2022, which sets out the requirements in relation to the mix of dwellings provided as part of new apartment developments, which provides for a maximum of 25-30% one-bedroom units and a minimum of 15% three- or more bedroom units. The submitted Statement notes that ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (March 2018) contains “Specific Planning Policy Requirement” in relation to dwelling mix requirements (SPPR 1) and (SPPR 8(i)), which takes precedence over any conflicting policies and objectives of Development Plans. I note these Guidelines have been updated since the submission of the application and that this provision is also contained within the updated Guidelines, dated December 2020. There is no alteration to this figure in the updated Guidelines.

10.4.7 With regard to floor areas, section 16.10.1 of the Dublin City Council Development Plan 2016 – 2022, sets out the requirements in relation to floor areas, stating that minimum overall apartment floor area for studio-type units is 40 square metres. The submitted Statement notes that ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (March 2018) in SPPR 3, sets the minimum floor area for studio apartments at 37 square metres. Again, I note these Guidelines have been updated since the submission of the application and that this provision is also contained within the updated Guidelines, dated December 2020. There is no alteration to this figure in the updated Guidelines.

10.4.8 I would concur with the applicants that the operative Dublin City Development Plan standards with regards to unit mix and floorspace is at variance with the aforementioned Guidelines. The planning authority have not addressed this matter of variance in their report but cite the standards of the Apartment Guidelines in their assessment.

10.4.9 Under the Planning and Development Act 2000, it is open to the Bord to grant permission for development in the following four circumstances. These circumstances, outlined in Section 37(2)(b), are in the (i) national, strategic interest; (ii) conflicting objectives in the development plan or objectives are not clearly stated (iii) conflict with national/regional policy and section 28 guidelines; and (iv) the pattern of permissions in the vicinity since the adoption of the development plan.

10.4.10 I am of the opinion that a grant of permission that would materially contravene section 16.10.1 of the Dublin City Development Plan 2016-2022, which applies to the site, would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, on the following basis.

10.4.11 In terms of section 37(2)(b)(i), I note that the current application, which provides for 702 residential units, has been lodged under the strategic housing legislation and is considered to be strategic in nature. I note that the subject site is located within SDRA 6 of the operative City Development Plan, an identified strategic development and regeneration area that has substantial development capacity. I also note the potential of the proposal to contribute to the achievement of the Government policy to increase the 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 location close to public transport and centres of employment. I consider that the proposal will aid in addressing housing shortages in the principal urban areas, which has been highlighted in the national, regional and local planning policy context.

10.4.12 In terms of section 37(2)(b)(iii), I note the policies and objectives of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (updated December 2020) and the Specific Planning Policy Requirement (SPPRs) contained therein. In particular, I note that SPPR 8 of these Guidelines states that no restrictions on dwelling mix shall apply to declared 'Build to Rent' residential development. SPPR 8 further states that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor areas standards by a minimum of 10% shall not apply to BTR schemes, due to the requirement to provide compensatory communal facilities and amenities for use by residents. In terms of floor areas, SPPR 3 allows for a minimum size of 37 square metres for studio units. The operative City Development Plan conflicts with these guidelines. I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality

public transport routes and within existing urban areas. I consider this to be one such site.

10.4.13 Having regard to all of the above, I am satisfied in this regard and consider that it is open to the Bord to grant permission in this instance.

10.5 Visual Amenity

Visual Amenity

10.5.1 I refer the Bord to section 13 of the submitted EIAR which deals with 'Landscape (Townscape) and Visual' where further assessment of this matter is undertaken. The submissions of third parties and the planning authority are noted in this regard. Third party submissions raise concerns in relation to change in outlook; the proposal being incongruous/out of character with traditional dwellings that were historically constructed in the area and the impacts of the height on the skyline. Elected Members raised concerns in relation to visual impacts of the proposed development. The planning authority has addressed the matters within the EIA element Landscape/Townscape and Visual Impact section of their report. In this they state while they strongly support the comprehensive redevelopment of the subject site, they consider that the proposed design approach of introducing a cluster of taller buildings, including an 18 storey building is not supported. Accordingly, they do not accept the conclusions of the submitted EIAR in this regard.

10.5.2 As previously stated, the site is located on the northern side of Sheriff Street Upper, and is currently is use as a light industrial and business park, comprising a range of mostly one and two storey industrial buildings set within an extensive concrete yard. I would concur with the applicants that although the site is immediately outside of the recognised North Lotts SDZ boundary, it is nonetheless perceived as being part of the north docklands area. The southern side of Sheriff Street Upper has been substantially redeveloped as it is within the defined North Lotts SDZ, however the northern side retains much of the light industrial and railway character of the original docklands street. I note the area of finer grain associated with the East Wall residential area to the west/north of the site as opposed to the larger scale industrial and port related buildings associated with the North Docks. East Road could be argued to historically form the transition between the two areas, with the site located

to the east of this, just within the more industrial area. Today, it is acknowledged that areas to the south, east and north of East Wall have seen extensive changes in the built environment, characterised by significant areas of redevelopment, with taller buildings now forming part of the urban landscape. I would concur with the applicants when they state that Sheriff Street Upper is located within a diverse and continually changing urban context and is at the interface of a number of distinct character areas. Planning permissions have been granted along Sheriff Street for buildings up to 11 storeys in height. I consider that the current proposal would integrate well with previously permitted developments, both within the masterplan lands and in the wider area.

10.5.3 Photomontages have been submitted with the application documentation (36 views) and a landscape and visual assessment was undertaken. The views examined have been categorised into groups as follows:

Views	Area	Landscape & Visual Effects
01-04	Sheriff St Upper & North Docklands	Moderate and Positive
05-12	East Wall	Slight/Moderate and Moderate & Neutral/ Positive
13-17	East Road Area	Slight/Moderate and Positive/Neutral
18-23	River Liffey Corridor	Imperceptible/slight/moderate and positive/neutral
24-29	South City	Moderate and Positive
30-31	North City Centre	Slight and Positive
32-36	Fairview and Clontarf	Slight and Positive

10.5.4 I have examined all the documentation before me and I acknowledge that the proposal will result in a change in outlook as the site changes from low rise, brownfield, underutilised lands to a site accommodating development of the nature and scale proposed. The applicants acknowledge that the site is significant in terms of its location within the wider Docklands, and also for its interface with a diverse range of land uses, building types and scales that characterise the north Docklands

and East Wall areas. The site itself has no landscape features, trees or other vegetation of any significance. Without doubt, there will be significant long term impacts on the visual landscape context of the area. This is inevitable when dealing with taller buildings and is not necessarily a negative. The proposed development, in particular the taller elements will become features on the skyline visible at the wider city scale. However, the skyline is an ever evolving entity within a thriving, ever evolving city. What is of primary importance to me is that these new interventions provide a quality addition to the skyline of the city. This will be dealt with below. The proposed development, in particular when taken in conjunction with other permitted developments in the vicinity, will further intensify the appearance of the emerging new contemporary urban quarter at this location as a modern extension of the traditional low rise residential streetscapes and I do not have issue with this in principle.

10.5.5 I have inspected the site and viewed it from a variety of locations across the north and south city area. I have also reviewed all the documentation on the file. I am generally satisfied that the proposed development, if permitted would not negatively impact on key views within the city to such an extent as to warrant a refusal of permission. Key views and prospects are presented in Figure 4 of the Dublin City Development Plan and I note that none pertain to the site or its surrounds. Additional views and prospects have been identified within the area of the North Lotts SDZ and the location of the site is such that, development on this site will not have impacts on these. In any event, views are often fleeting and will change as they are seen in a different context. In terms of long-range and medium range views, I am of the opinion that while undoubtedly visible, the proposal would not have such a detrimental impact on the character and setting of key landmarks and views within the city, as to warrant a refusal of permission. There is greater potential for visual impacts at a more local level. I consider the transition in scale between the proposed development and existing/permitted development in the vicinity to be acceptable in this instance having regard to the mixed and evolving character of the area. I am satisfied that the proposed development will not impact on the character or setting of historic structures; will add visual interest; will make a positive contribution to the skyline and will improve legibility within this city area and that its height, scale, bulk and massing is acceptable in townscape and visual terms. I

consider the proposal to be generally in compliance with Policy SC17 of the operative City Development Plan and I consider that it will make a positive contribution to the urban character of this area and will enhance the city skyline. It is my opinion that the proposed development will contribute to the physical and social regeneration of the area and any negative impacts will be far outweighed by the positives it has to offer.

Materials Strategy

10.5.6 The matter of materials has been dealt with in section 5 of the Architectural Design Statement. The primary material for the scheme is brick, of varying tones, with the courtyards lined with white render. In general, I am satisfied with the approach taken, however I would have severe reservations regarding the use of extensive amounts of render, given their proximity to the sea and in the Irish climate- these concerns relate to weathering into the future. Recent developments in the wider area which have used a render external finish have tended to weather poorly and this severely detracts from the visual amenity of the area. The proposed landmark tower is finished in a distinct red precast concrete, while the cultural building and childcare facility differentiate themselves through their metal and timber facade treatments. This is a development of significant scale and the appropriate selection of materials, in terms of colour, tone, texture and durability is therefore crucial. The planning authority have raised some concerns regarding the materiality and selected colours, in particular of the proposed higher elements. The planning authority considers that that a similar palette and colour tone be adopted on this site to that permitted on the East Road site. I don't necessarily agree in this instance and am of the opinion that the colour palette proposed is acceptable. In principle, I do not have issue with the proposed scheme varying in tone/colour palette/materials from that permitted on the adjoining East Road scheme and consider that the proposed materials, excluding the render elements, would add to the streetscape at this location and add to the vitality of the area. Insufficient information has been submitted in relation to this matter- but could be adequately dealt with by means of condition.

10.6 Residential Amenity

Existing Residents

- 10.6.1 Concerns have been raised in some of the submissions received with regards to, change in outlook, proposal being out of character with surrounding, established development and impacts on the social fabric of the area, together with concerns regarding overlooking. The matter of change in outlook and impacts on the character of the area have been dealt with above, as too has impacts on the social fabric of the area. Having regard to the orientation and location of the site, the separation distances involved and the design of the proposed units, I do not have undue concerns with regards the impacts on amenity of properties in the vicinity. I am generally satisfied that the proposal will not impact on the amenities of the area, including with regards to matters of overlooking, overshadowing or loss of light to such an extent as to warrant a refusal of permission.
- 10.6.2 In terms of impacts on daylight/sunlight, I note that a Sunlight and Daylight Access Analysis Report was submitted with the application and it contains a scientific and robust analysis, with which I am generally satisfied. It has been prepared in accordance with the BRE BR209 “Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice” (2011). The submitted report has accounted for worst-case impacts through the assessment of the impact on closest residential units within the immediate vicinity of the site. This is considered reasonable. Table 2.1 of the submitted assessment sets out the potential impact of the proposed development on daylight access to sample windows in existing buildings in proximity to the application site, while Table 2.2 sets out the cumulative impact of the proposed development in combination with the existing commercial development previously permitted. Similarly, Table 3.1 sets out potential impacts of the proposed development on sunlight access to sample windows in existing buildings in proximity to the application site while Table 3.2 sets out potential cumulative impacts.
- 10.6.3 The Bord is referred to section 15 Microclimate-Daylight/Sunlight of the submitted EIAR for additional assessment of this matter. I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). The latter

document is referenced in the Dublin City Development Plan, in addition to reference to same in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines and the Dublin City Development Plan. I have also carried out an inspection of the site and its environs. I note that while many of the submissions received refer to the scale of the proposed development, none explicitly raise concerns in relation to impacts on daylight/sunlight or overshadowing. At the outset, I would concur with the applicants when they state that given the underutilised character of the site and relatively large areas of low density development surrounding the site, the shadow environment of the existing site and its immediate surroundings is inconsistent with what would normally be expected in the urban core or industrial docklands area of a city. The analysis states that the impact of the proposed development on existing buildings in proximity to the application site may be considered to be consistent with an emerging pattern of medium to high density development in the area and, therefore, "moderate" in extent. This is considered reasonable. It is acknowledged by the applicants that the impact of the proposed development on daylight access within existing buildings is likely to be most significant in the case of existing buildings at close proximity with windows directly opposing the application site. The assessment continues by stating that given that the potential for development to result in impacts on daylight access diminishes with distance, it is the finding of the submitted analysis that the proposed development will have no undue adverse impact on daylight access within buildings in the wider area surrounding the application site. This is considered reasonable.

10.6.4 The applicant has provided a sample assessment of the impact of the proposed development on windows associated with the following adjacent developments:

- Canon Hall
- City Block 3
- Castleforbes Square

- Northbank Apartment
- Front-facing windows associated with dwelling houses located along Church Road East and Irvine Court

10.6.5 In terms of daylight impacts on Canon Hall, the applicant has assessed the associated loss of daylight (through an assessment of reduction of VSC) to units located between Floor 00 to Floor 09 of this development and confirms all assessed windows would retain a VSC level above 80% of the previous value. In terms of cumulative impact, the submitted assessment states that the proposal, when taken in combination with previously permitted development, would impact the assessed windows and would result in a reduction to the level of daylight received. The planning authority notes however that as part of the consented application (Ref. 2143/20) the planning authority accepted the associated impact on the neighbouring Canon Hall, and therefore the planning authority considers that the level of impact on the daylight levels received is acceptable. Given the locational context of the site, I am also satisfied in this regard. In terms of sunlight impacts on Canon Hall, I note that the applicant has assessed the associated loss of sunlight to Cannon Hall both individually by the proposed development and cumulatively with the consented development. The submitted report demonstrates the proposed development would generally not significantly exacerbate the impacts over and above that previously permitted. No objections are raised by the planning authority in this regard and I am also satisfied.

10.6.6 In terms of daylight impacts to units located within City Block 3 (permitted under Ref. 2143/20 and currently under construction), the impacts are stated to range from “imperceptible” to “significant”. The assessment indicates that the consented windows in City Block 3 (as part of a worst-case cumulative development), would have post-development VSC levels of between 14.2% and 24.6%. The planning authority is of the opinion that while the level of impact would exceed BRE guidance, it is not considered to result in an unacceptable level of impact and is deemed to be acceptable, particularly within an inner-city location. I would concur with this opinion. In terms of potential cumulative impacts of the proposed development on sunlight access to City Block 3, this also ranges from “slight” to “significant”. I am of the

opinion that any development on this site may have greater impacts on lower windows in City Block 3. Having regard to the scale of development permitted or constructed in the wider area and to planning policy for densification of the urban area, I am of the opinion that the impact is consistent with emerging trends for development in the area, particularly having regard to the scale of development already permitted. I am satisfied in this regard.

10.6.7 In terms of daylight impacts to units located within Castleforbes Square, I note that the impacts associated with the proposed development are stated to be “slight” to moderate” with all tested windows retaining VSC levels of between 15.9%-26.6%. In terms of cumulative impacts, it is noted that post-development VSC levels of between 8.9%-17.5% are recorded, however this impact is largely associated with previously permitted development. In terms of potential impacts of the proposal on sunlight, the assessment states that these impacts would be “imperceptible” to “slight” and notes that north-facing rooms in existing buildings to the south, such as those at Castleforbes Square receive little sunlight at present and would not have a reasonable expectation within the meaning of the BRE Guide. The planning authority consider the analysis provided to be acceptable given the inner-city location of the site and I would concur.

10.6.8 In terms of impacts on daylight to units located within Northbank Apartments, I note that the submitted assessment details that the most significant impact of the proposed development, in terms of daylight, would be experienced by the existing Northbank Apartments, located to the south of the application site. While the majority of the windows within the Northbank scheme would retain VSC levels of between 18%- 21.5%, Table 2.1 of the submitted assessment details that three windows on ground and first-floor level would experience a reduction from between 12.10%- 13.8% to between 2.4%- 3.3%. This is considered to represent a significant negative impact. However, it is noted that the submitted assessment puts forward that the worst impacted windows are recessed and already have impaired daylight access in the pre-development scenario. A similar situation arises, albeit not to the same extent, with regards impacts on sunlight. The planning authority is of the view that while the impact is significant, it is noted that the proposed development is located on a site identified for redevelopment within the City Development Plan and therefore it is anticipated that any development would likely have a significant impact on the

windows of the Northbank Apartments. Furthermore, the planning authority note that the proposed building heights on the Sheriff Street elevation would range in height between 7 and 9 storeys, which is commensurate with the existing developments on Sheriff Street (Northbank Apartments). Accordingly, it is the opinion of the planning authority that that the proposed impact, in the context of the inner city redevelopment site is deemed to be acceptable. I would concur with the opinion of the planning authority in this regard. I also note that most windows within this complex fronting onto the street at ground floor level are not in residential use.

10.6.9 In terms of impacts on daylight to front-facing windows associated with dwellings located along Church Street East and Irvine Court, I note that while a significant number of the adjacent windows would see a reduction in the VSC level below 27% and below 80% of the former value, all windows would retain a VSC level of above 22%. I would concur with the opinion of the planning authority that in the context of an inner city development, these figures would be acceptable in this instance. With regards loss of sunlight, overall these dwellings would largely maintain compliance with the BRE recommendations, with some limited exceptions in terms of the Winter Probable Sunlight Hours. The planning authority notes however that affected windows are located behind front-facing projections which would impact the adjoining windows. Considering that the affected windows serve terrace houses that have rear-facing windows and associated rear gardens, the impact upon these properties is considered acceptable. I would concur.

10.6.10 To conclude this matter, having regard to the recommended standards and guidance material laid out in the referenced daylighting standards (BRE 209 and BS 2008), I am satisfied that the applicants have carried out sufficient analysis in respect of this matter. The planning authority accepts the findings of the submitted assessment and while they note that there will be significant impacts on a small number of windows, that on balance, the associated impacts, both individually and cumulatively are considered to be acceptable. I would concur with this opinion. This is an urban location and a certain degree of overlooking, overshadowing, impacts on privacy and loss of light is to be anticipated at such a location. This is currently a brownfield site that adds little to the visual or residential amenity of the area. The proposed development would improve the streetscape at this location; would increase the facilities/services on offer in the area; would provide quality open space and

improved public realm, together with a community use that would benefit both existing and future residents alike. I have no information before me to believe that the proposal, if permitted would lead to devaluation of property in the vicinity. The scale of the development proposed is in line with policy guidance pertaining to densification of urban areas and reflects the changing character of the area. I am generally satisfied that this proposal will make a positive contribution to this locality.

10.6.11 In terms of noise impacts, I acknowledge that there will be some disruption during the course of construction works. This matter has not been explicitly raised in the third party submissions received. Such disturbance is anticipated to be relatively short-lived in nature. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed. This matter has been addressed within the submitted EIAR. I note the report of the Environmental Health Officer's Division of the planning authority which states that the documentation submitted is compliant with their requirements, provided monitoring of noise, vibration and dust is carried out at all times during the construction phase. This matter could be adequately dealt with by means of condition. A final Construction and Demolition Management Plan should be submitted and agreed with the Planning Authority prior to the commencement of any works on site.

Future Occupants

10.6.12 The level of amenity being afforded to future occupants is considered acceptable. I am generally satisfied in terms of possible issues of overshadowing or overlooking. As before, I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). The latter document is referenced in the Dublin City Development Plan, in addition to reference to same in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines

and the Dublin City Development Plan. The submitted Daylight and Sunlight Access Analysis demonstrates that adequate levels of daylight would be received in most units. The proposed public and communal open spaces would benefit from good levels of daylight and would provide a high level of amenity.

10.6.13 In terms of microclimate-wind, the submitted report demonstrates that public spaces would experience low levels of distress and following the introduction of mitigation measures, residents using communal open spaces would experience distress very infrequently, namely during adverse weather conditions. It is unlikely that these communal spaces would be used during high wind events. I am satisfied in this regard. The planning authority are also satisfied in relation to this matter.

10.6.14 Having regard to all of the above, I am satisfied that the level of amenity being afforded to future occupiers of the proposed scheme is acceptable and the proposal if permitted would be an attractive place in which to reside. I am also satisfied that impacts on existing residential amenity would not be so great as to warrant a refusal of permission.

10.7 Traffic and Transportation

Context

10.7.1 One of the third party submissions received raised concerns with regard to increased traffic in the general area as a result of the proposed development. Concerns were also raised in terms of car use and car dependency. Three vehicular accesses from Sheriff Street Upper will serve the proposed development (one of which is service/delivery access only), together with three pedestrian accesses (two from Sheriff Street Upper and one from East Road). In total, 179 no. car parking spaces and 1040 bicycle parking spaces are being provided. A review of trip generation factors was undertaken using the TRICS database. The local road network's area wide AM and PM peak hour flows have been identified as occurring between 08:00 to 09:00 and 17:15 to 18:15 respectively. Using worst-case scenario, it is anticipated that the proposed development would generate be a total of 135 trips during AM peak hour and 167 during PM peak hour.

10.7.2 I refer the Bord to section 17 Traffic and Transportation of the submitted EIAR where further assessment of this matter is undertaken. It is noted that a Traffic and Transport Assessment, Mobility Management Plan, Parking Strategy, Infrastructure

Design Report and DMURS Compliance Statement were submitted with the application.

Works to Public Realm

- 10.7.3 The applicant is proposing substantial works along Sheriff Street Upper, mainly the removal of a number of on street pay and display car parking spaces, improvements to the public footpath and the creation of two new vehicular accesses. Additionally, works are proposed at the junction of Castleforbes Road and Sheriff Street Upper. The Transportation Planning Division of the planning authority are generally satisfied in relation to these upgrade works, subject to condition. I am also satisfied in this regard.

Unit Mix

- 10.7.4 The Transportation Planning Division of the planning authority raises concerns regarding a significantly higher concentration of studio and 1 bed units as opposed to a more balanced mix of residential types. This is also noted in the submission from the National Transport Authority (NTA). I note these concerns and have dealt with the matter above. To avoid repetition, I will refer the Bord to the assessment above (see section 10.4).

Car Parking

- 10.7.5 The subject site is located within Area 2 of Map J of the operative City Development Plan (on the boundary with Area 1), with Table 16.1 detailing the maximum car parking standards permissible for a variety of uses. A maximum of 718 car parking spaces are required by the operative City Development Plan. A total of 179 car parking spaces are proposed (equates to a ratio of 0.25 spaces per unit), together with 1392 bicycle parking spaces. A Car Parking Strategy has been submitted which states that all car parking will be for residential use only. A Mobility Management Plan has also been submitted. Car parking will be managed and allocated by the property management company working on a first come first served basis. This approach is considered acceptable to the planning authority and they consider that any matters raised can be dealt with by way of condition in the event of a grant of permission by An Bord Pleanála. I am also satisfied in this regard.

Cycle Parking

- 10.7.6 Some of the Elected Members have raised concerns regarding the quantum of cycling parking proposed. As stated above, 1392 bicycle parking spaces are proposed, of which 1040 of long-term spaces. All long-term spaces are located at basement level with short-term parking located at various points within the development at ground level. This figure is considered acceptable to the planning authority and I concur.

Taking in Charge

- 10.7.7 Proposals for taking in charge are considered acceptable and the planning authority have raised no issue in this regard.

Construction Management

- 10.7.8 Some of the submissions received raise concerns with regards to construction management and suggest a liaison committee to work with local residents to minimise negative effects, if permission is granted. A Preliminary Construction Management Plan was submitted with the application documentation. It is estimated that the full programme of works will take approximately 30 months. The contents of this plan appear reasonable and the planning authority state that they are broadly acceptable, subject to condition. I recommend that if the Bord is disposed towards a grant of permissions that a condition be attached to any such grant stipulating that a Construction Environmental Management Plan (CEMP) be submitted to the planning authority for written agreement. The CEMP should have regard to the construction principles and measures outlined in the Construction Management Plan and should provide details of matters such as intended demolition and construction practice for the development, construction phasing and programme including a detailed construction Traffic Management Plan, hours of working, noise and dust management measures and offsite disposal of construction/demolition waste. Mobility management measures for the demolition and construction phases should be provided. This plan should also be cognisant of adjoining developments under construction and address the cumulative impacts of same. These matters could be adequately dealt with by means of condition.

Conclusions

- 10.7.9 I note the concerns of the Transportation Division of the planning authority and the NTA expressed above in relation to unit mix. The matter of unit mix has also been raised in some of the third party submissions received. I have dealt with that matter above. However, overall the planning authority are broadly satisfied with the proposal in this regard, subject to details being agreed into such matters as works to lands within the planning authority's ownership and area proposed to be taken in charge. These matters could be adequately dealt with by means of condition.
- 10.7.10 While I note the concerns raised by third parties in relation to traffic matters, namely increased traffic, car usage and dependency, I am of the opinion that the subject site is strategically located close to the city centre, where there a number of high quality intercity and commuter links, as well as employment opportunities within walking distance. The increase in traffic as a result of the proposed development would not be so great as to warrant a refusal of permission. A Mobility Management Plan has been submitted. The level of car parking being provided is considered acceptable at this location and the provision is such that it would not lead to a substantial number of trips on a daily basis. A Preliminary Construction Management Plan has been submitted with the application and I am generally satisfied with its contents. A number of mitigation measures are proposed. It deals with matters such as hours of operation, wheel wash facilities, dust minimisation, noise and the like. The matter could be adequately dealt with my means of condition. Given the location of the site within an urban area on zoned lands, I do not have undue concerns in relation to traffic or transportation issues. I am of the opinion that the matters raised could be adequately dealt with by means of condition. The planning authority are generally satisfied in this regard. I acknowledge that there will be some increased vehicular traffic, primarily during construction phase of development, however there is a good road infrastructure in the vicinity of the site and good management procedures are proposed. While the greatest increase will be in terms of pedestrian traffic at operational stage, I am of the opinion that given its location such traffic is to be anticipated. In general, there are excellent pedestrian and cycle facilities in the wider area. Having regard to all of the above, I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

10.8 Drainage and Flood Risk

Drainage

10.8.1 I refer the Bord to section 10 of the submitted EIAR, 'Hydrology-Surface Water' where further assessment of this matter is undertaken. In term of site services, new water supply and wastewater connections are proposed. Surface water disposal is to the public drain. An Irish Water CoF was submitted with the application, as required. The applicant has been issued a Statement of Design Acceptance for the development from Irish Water. A submission received from Irish Water in response to this current application states that new connections to the existing network are feasible without upgrade. Irish Water have not expressed objections to the proposal, subject to conditions. This is considered acceptable. The matter was not raised in third party submissions received.

An Infrastructure Design Report and a Site Specific Flood Risk Assessment were submitted with the application. The information contained within these documents appears reasonable and robust. The report of the Drainage Division of the planning authority, as contained in the Chief Executive Report, states that there is no objection to the proposal, subject to proposed conditions. I am satisfied in this regard and consider that the proposed arrangements are acceptable, subject to conditions.

Flooding

10.8.2 The contents of the submitted Site Specific Flood Risk Assessment appear reasonable and robust. It is noted that the proposed development site is within an area protected by flood defence works on the Royal Canal at Spencer Dock and along the Tolka. No known groundwater flooding has occurred in the vicinity of the site. The proposed development site is within Flood Zone A for tidal flooding, as defined by the Guidelines and indicated by the Irish Coastal Protection Strategy Study. However, as stated above the site is located in an area that benefits from flood defence measures, therefore the SSFRA has assessed the residual risks associated with breach of these defences. The proposed drainage system has been designed in accordance with the GDSDA. The drainage design includes for a 20% climate change allowance. Both pluvial and groundwater have been assessed as being low and no further assessment is deemed necessary. A Justification Test was

undertaken in accordance with Box 5.1 of the Guidelines and the proposed development is deemed appropriate to be located within Flood Zone A on the basis that the mitigation measures stipulated within the justification test are met. Mitigation measures are outlined which include that all 'highly vulnerable' finished floor levels are located above the 0.1% AEP flood level, in addition to a climate change allowance and a conservative freeboard, giving a minimum FFL for this type of development of 4.08m. All highly vulnerable development (apartment units) will be located at a minimum of 4.10m AOD.

10.8.3 I note that this is a serviced, appropriately zoned site at an urban location. The planning authority have not expressed objections to the proposal in this regard but note that as the site is located within a defended high risk flood zone, more detail of flood risk is required. They request some additional details in relation to the requirements set out in the Strategic Flood Risk Assessment (Vol. 7) that forms part of the Dublin City Development Plan. At least two of the details required are already on file, the remainder of the matters can be adequately dealt with by condition. I note that the Drainage Division state that they have no objections to the development, subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works (Version 6). I too am satisfied and consider that there is sufficient detail on file to carry out a full assessment. Based on the information before me, I consider that the proposed development will not result in an adverse impact by reason of flood risk, whether on existing or future residents.

10.9 Other Matters

Childcare

10.9.1 One of the third party submissions received raises concerns with regards how the proposal will make a contribution to social infrastructure in order to create sustainable neighbourhoods and contends that it is not clear if the local community will have access to amenities within the development. The matter of public use of the cultural building has been dealt with above. In terms of childcare provision, a Childcare Facilities and Schools Demand Assessment has been submitted with the application, which sets out that the proposed development will generate an anticipated demand of 52 no. childcare spaces. A crèche facility is proposed of

472m², which would cater for 60 children. I am satisfied in this regard and have no information before me to believe it will not be available for use by the wider public. The planning authority have also raised no issue in this regard.

10.9.2 In terms of school places, I note that the proposed development is likely to generate demand for 37.2 no. primary school places, which is stated to represent c.1% of the potential capacity of the schools within a 2km catchment. The applicants contend that the projected population of school-going age generated by the proposed development represents a small proportion of existing capacity and I would concur. In terms of post-primary education, it is stated in the documentation that the proposed development is likely to generate demand for 24.8 no places, which represents c.1% of the potential capacity of the post primary schools in the area. In summary, there are a large number and type of post-primary schools in the Docklands and North Inner City Dublin area and it is the applicants contention that there is no need for additional school capacity to be provided in the subject site. I have no information to contradict this and am satisfied in this regard.

Legal Matters

10.9.3 A submission received states that on inspection of the public copy of the application in the offices of An Bord Pleanála, the pre-application Opinion (ABP-306163-20) was not attached to the public copy. Additionally, as the hard copy of the Opinion was in storage, it would not be available to view in the offices within the statutory period for the making of submissions. The attention of the Bord is drawn to this matter. I do note however, that the Notice of Pre-Application Consultation Opinion, Direction, Record of Pre-Application Meeting and Inspector's Report associated with ABP-306163-20 are all available to view online at www.pleanala.ie.

SHD Process

10.9.4 Some of the third parties have raised concerns with regards to the strategic housing development process. In particular, some submissions highlight the matter of lack of public participation with one party stating that lack of public participation at pre-planning stage is a breach of the EIA Directive. My response to this is that An Bord Pleanála are obliged to implement the provisions of planning law, including the SHD process laid down in the Planning and Development (Housing) and Residential Tenancies Act 2016. They are also obliged under section 9 of that Act to have regard

to the policies of the Government and the Minister, including guidelines issued to planning authorities and to the provisions of Development Plans. Section 6(5)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 clearly sets out the attendees at such pre-application consultation meetings and An Bord Pleanála is obliged to implement these provisions. In addition, no EIA is undertaken at pre-planning stage. An EIAR has been submitted with the application and I have prepared an EIA at application stage for the Bord to consider, which takes full cognisance of all public submissions, and the Bord will carry out an EIA.

10.9.5 I note a third party submission received which states that it is impermissible for the Bord to grant permission in derogation from the Development Plan, without a new or updated SEA being undertaken. In this regard, I note that this proposal is not plan making, it is an application for development in which an environmental impact assessment has been undertaken. The application includes for a material contravention of the operative City Development Plan and a statement to this effect is submitted with the application and advertised in the public notices, as required. An EIAR has been submitted with the application and I am making a recommendation in relation to EIA. I draw the attention of the Bord to this matter.

10.9.6 I note the submissions received in relation of a lack of pre-application consultation with local residents. 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. I agree with the opinion of one of the submissions, that in the event of planning permission being granted for the proposed development, the appointment of a liaison officer as a point of contact for local residents/general public may be beneficial.

Community and Social Infrastructure Audit

10.9.7 One of the third party submissions received raises concerns with regards how the proposal will make a contribution to social infrastructure in order to create sustainable neighbourhoods and contend that it is not clear if the local community will have access to amenities within the development. The proposed residential support facilities/tenant amenity facilities, together with private and communal open spaces will be for use solely for residents of the proposed development. This is considered reasonable. The proposed mix of uses will contribute towards the social infrastructure of the area, helping to create sustainable neighbourhoods. These

uses, such as public open space, childcare facility and commercial/retail/café units will be available for use by the wider community. This is considered acceptable.

10.9.8 It is noted that a Community and Social Infrastructure Audit was submitted, as per Development Plan requirements. The information contained therein is considered acceptable. I am satisfied, based on the information contained therein that the wider area and the proposed development are well serviced in respect of social/recreational/retail infrastructure. The planning authority have raised no issue in this regard.

Part V

10.9.9 I note the Part V details submitted, together with the report of the Housing Section of the planning authority submitted with the application in this regard. In total, 71 Part V units are proposed. The planning authority have not expressed concerns in this regard and I have no issue with same. Concerns have been raised by some Elected Members in relation to the cost of the Part V units. This is considered to be a matter for agreement with the planning authority.

Plant/Machinery at Roof Level

10.9.9 If the Bord is disposed towards a grant of permission, I recommend that a condition should be attached to any such grant stipulating that that plant/machinery at roof level be the subject of a separate application.

Typographical Errors

10.9.10 I note some typographical errors throughout the documentation. I can comprehensively assess the proposal before me, irrespective of these relatively minor errors.

Sustainability

10.9.11 I note a Building Lifecycle Report and a Sustainability & Energy Statement have been submitted with the application documentation. I am generally satisfied with the contents of these reports. I do note that the Building Lifecycle Report does not

provide detailed specifications of building fabric, including specific details of green roof system. Such matters should be dealt with by means of condition.

Public Health

10.9.12 Some of the submissions received refer to the presence of Covid-19 and the ability of the proposed development to operate safely in such circumstances. The management of the proposed facility in such circumstances, or similar circumstances, will be a matter for the applicants to address, in light of public health advice pertaining at that time. In terms of the concerns raised in relation to working from home, I note that some of the residential amenity spaces may be used for such purposes. In addition, I note the provision of four no. live-work units within the proposal. I have no information before me to believe that the proposed individual residential units would not be suitable for purposes such as working from home.

11 Environmental Impact Assessment

11.1 Statutory Provisions

11.1.1 This application was submitted to the Bord after 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

11.1.2 The application was accompanied by an Environmental Impact Assessment Report (EIAR), which is mandatory for the development in accordance with the provisions of Part X of the Planning and Development Act 2000 (as amended) and Schedule 5 of the Planning and Development Regulations 2001-2015.

11.1.3 Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 and section 172(1)(a) of the Planning and Development Act 2000 (as amended) provides that an EIA is required for infrastructure developments comprising of urban development which would exceed:

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

The development proposes 702 residential units and has a stated area of 2.44 ha (gross) and 2.02 ha (nett). The site is considered to be located within the business district. It therefore exceeds the above thresholds and requires mandatory EIA.

11.1.4 The EIAR contains three volumes, which includes for a Non-Technical Summary. Chapters 1-6 inclusive set out an introduction to the development, background to proposed development, methodology used, description of the proposed development, construction strategy and consultation undertaken. The strategic need for the development is outlined in the context of the zoning of the site and national and local planning policy.

11.1.5 The likely significant direct and indirect effects of the proposed development are considered in the remaining chapters which collectively address the following headings, as set out in Article 3 of the EIA Directive 2014/52/EU:

- Population and Human Health
- Biodiversity (Flora and Fauna)
- Land, Soils, Geology and Hydrogeology
- Hydrology- Surface Water
- Air Quality and Climate
- Noise and Vibration
- Landscape and Visual
- Cultural Heritage, Archaeology and Architectural
- Microclimate-Daylight/Sunlight
- Microclimate-Wind
- Traffic and Transportation
- Material Assets- Waste
- Material Assets-Services
- Interactions
- Cumulative Impacts
- Schedule of Environmental Commitments/Mitigation Measures

11.1.6 I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and

describes the direct and indirect effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations 2000, as amended.

11.1.7 I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the planning authority, prescribed bodies and observers has been set out above.

11.1.8 This EIA has had regard to the application documentation, including the EIAR, the observations received and the planning assessment completed above.

11.2 Alternatives

11.2.1 Article 5(1)(d) of the 2014 EIA Directive requires the following:

“a description of the reasonable alternatives studied by the developer, which are relevant to the development and its specific characteristics, and an indication of the main reasons for selecting the chosen option, taking into account the effects of the development on the environment.”

11.2.2 Section 4 of the submitted EIAR deals with alternatives and sets out alternative layouts and designs considered, on the basis of its underutilised, dockland location, in an area which benefits from a range of transport connections. It is considered that the issue of alternatives has been adequately addressed in the application documentation. The planning authority also states that they accept the findings within this chapter of the submitted EIAR.

11.3 Assessment of Likely Significant Direct and Indirect Effects

Population and Human Health

Section 7 of the EIAR is entitled population and human health. The site is within walking and cycling distance of the north and south dockland employment hubs, the IFSC and the city centre. It is located approximately 1.4km north-east of Dublin city centre. It is concluded that the proposed development will provide mixed-use accommodation, which will be a positive effect for the local area and will have positive effect on the overall economy of the locality. Mitigation measures have been outlined that will ensure no negative impacts/effects on human health or population.

I have considered all of the written submissions made in relation to population and human health. One submission questions the level of employment to be generated by the proposal. I am satisfied that the proposal will lead to employment generation at both construction and operational phases of development. The planning authority states that they accept the findings within this chapter of the submitted EIAR. I am also satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on population and human health are likely to arise.

Biodiversity (Flora and Fauna)

Section 8 of the EIAR refers to biodiversity (flora and fauna). The site is urban in nature and no rare habitats or habitats of high ecological value are present at the site. There are no known records of rare or protected plant species within the immediate vicinity. There is no evidence of any use of the site by roosting bats and it is concluded that there are no features suitable for use by roosting bats within the site. Similarly, there is no evidence of nesting birds, with the exception of feral pigeons occupying the internal areas of a number of open warehouse-type buildings. There are no watercourses on, or connected to the site. The nearest such features are the River Liffey, 360m to the south, which discharges to Dublin Bay to the east. The Screening for Appropriate Assessment (AA) concluded that there will be no risk of significant negative effects on any European site as a result of the proposed project, either alone or in-combination with other plans or projects. No designated conservation areas will be impacted in any way by the proposed project and no mitigation measures are required in this regard.

No evidence of badgers, otters, amphibians or reptiles has been recorded on the site. It is not considered likely that these or other protected species utilise the site, even on an occasional basis. The bird fauna recorded on the site was very limited, and there is no habitat on the site suitable for use, even on a very occasional basis, by any overwintering birds. Overall, the site is considered to be of no ecological importance.

The proposal will result in no long-term residual impacts on any ecological receptors, either within or in the vicinity of the site, or associated with any site designated for

nature conservation. The landscape planting that is proposed will ensure that there will be an overall increase in biodiversity on the site.

I have considered all of the written submissions made in relation to biodiversity including the submission received from Inland Fisheries Ireland. The planning authority states that the current application has been reviewed by the Parks, Biodiversity and Landscape Services and no objection has been raised to the proposed development, subject to conditions being imposed. The planning authority accepts the findings within this chapter of the submitted EIAR. I am also satisfied that biodiversity matters have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on biodiversity (flora and fauna) are likely to arise.

Lands, Soils, Geology and Hydrogeology

Section 9 of the EIAR deals with land, soils, geology and hydrogeology. The profile onsite comprises thin hardstand overlying > 1.5m of made ground comprising mostly of sandy gravelly clay with fragments of redbrick. The importance of the bedrock and soil features at this site is rated as low importance with medium quality value on a local scale, using NRA criteria. The site is currently and was previously used for commercial/industrial purposes and there is confirmed contamination to varying degrees. Analysis confirmed that soil can be disposed of at non-hazardous landfill. A locally important bedrock aquifer is below the site. It is not used for public water supply or widely used for potable use and is well protected (low vulnerability). Mitigation measures have been proposed for construction stage, which address potential impacts of soil removal and compaction; fuel and chemical handling; transport and storage. Surface water management will ensure there is no risk to the underlying aquifer. Temporary storage of soil will be carefully managed to prevent any potential negative impact on the receiving environment. All excavated material will be removed offsite. It will be visually assessed for signs of possible contamination such as staining or strong odours. As it has already been determined that the soil material underlying the site is contaminated, this will be segregated, classified and appropriately disposed of by a suitably permitted/licensed waste disposal contractor.

I have considered all of the written submissions made in relation to lands, soils, geology and hydrogeology. The planning authority states that they accept the findings contained within this chapter of the EIAR. I am also 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 lands, soils, geology and hydrogeology.

Hydrology- Surface Water

Section 10 of the submitted EIAR deals with hydrology- surface water. The River Liffey is located circa 360m to the south of the subject site, while the Tolka Estuary is located 1km to its north. There are no surface water courses recorded at or bordering the site and it is not hydraulically linked to the estuarine waters to the north and south. The site is serviced by an existing combined surface sewer on Sheriff Street Upper. The proposed drainage system has been designed in accordance with Greater Dublin Strategic Design System (GDSDS) specifications. The drainage system will employ a number of attenuation methods. Surface water run-off will not be discharged directly to local watercourses. A SSFRA was submitted with the application, which identifies existing flood zones and sets out mitigation measures to ensure there is no likely flooding of the proposed site or surrounding lands as a result of the proposed development. The proposed project passes the Justification Test in accordance with The Planning System and Flood Risk Guidelines (2009) and the proposal is deemed appropriate to be located within Flood Zone A on the basis that the mitigation measures stipulated within justification are met. As part of the proposals all highly vulnerable development (apartment units) will be located at a minimum of 4.10mAOD. Potential impacts of construction and mitigation measures proposed have been identified.

I have considered all of the written submissions made in relation to hydrology- surface water. The planning authority states that the application has been reviewed by the Drainage Division of Dublin City Council, which does not raise any objections, subject to conditions being imposed. The planning authority accepts the findings within this chapter of the submitted EIAR. 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 hydrology- surface water.

Air Quality and Climate

Section 11 of the submitted EIAR deals with air quality and climate. Baseline data for the existing air quality environment, together with data available from similar environments indicates that levels of nitrogen dioxide, carbon monoxide, particulate matter less than 10 microns and less than 2.5 microns and benzene are generally well below the national and European Union ambient air quality standards. The greatest potential impact on air quality during the construction phase is from construction dust emissions. In order to minimise dust emissions during construction, a series of mitigation measures have been prepared, which include a Dust Minimisation Plan. When the dust minimisation measures set out in the Plan are implemented, fugitive emissions of dust from the site are considered to be short-term, negative and imperceptible and pose no nuisance at nearby sensitive receptors. Potential impacts to air quality and climate during the operational phase of the proposed project are as a result of increased traffic volumes on the local road network. However, impacts to air quality and climate as a result of increased traffic volumes during the operational phase of the proposed project were determined to be localised, negative, imperceptible and long-term.

I have considered all of the written submissions made in relation to air quality and climate. The planning authority states that the current application has been reviewed by their Environmental Health Officer and no objections have been raised to the proposed development, should the application be approved. 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.

Noise and Vibration

Section 12 of the submitted EIAR deals with noise and vibration. Prevailing noise levels in the locality are primarily due to local road traffic. A noise impact assessment

was undertaken which focused on the potential outward impacts associated with the construction and operational phases of the proposed development on its surrounding environment. The assessment determined that construction noise criteria can be complied with at the nearest sensitive properties. There is potential for elevated levels of noise at some adjacent properties during demolition works of buildings within the site. Mitigation measures have been outlined, to ensure any noise and vibration impacts during this phase will not exceed the recommended limit values. The impact assessment has concluded that during operational phase additional traffic from the proposed development will have an insignificant impact on the surrounding noise environment and that plant items will be designed to ensure any noise and vibration impacts will not exceed the recommended limit values. The resulting impact is of neutral, long-term and not significant.

I have considered all of the written submissions made in relation to noise and vibration. The planning authority states that they accept the findings within this chapter of the submitted EIAR. 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 note the report of the Environmental Health Officer's Division of the planning authority which states that the documentation submitted is compliant with their requirements, provided monitoring of noise, vibration and dust is carried out at all times during the construction phase. This matter could be adequately dealt with by means of condition. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise or vibration.

Landscape and Visual

Section 13 of the submitted EIAR deals with landscape and visual. A significant amount of photomontages were submitted in this regard. I refer the Bord to section 10.5 entitled 'Visual Amenity' where this matter has been comprehensively assessed and to avoid repetition, I will not reiterate points made above. This section should be read in conjunction with the above assessment, in terms of addressing third party concerns. In terms of design rationale, the form and massing of the project is such that the tallest blocks will be located along the railway line to the north, and subsequent blocks stepping down to the south to form the new streetscape of Sheriff

Street Upper and East Road. During construction, the proposed development will give rise to both landscape and visual effects at the scale of the wider city, the docklands and the local context, primarily in the form of site clearance, excavation and ground works, structural and general construction works. Construction will include construction traffic, erection and operation of tower cranes, movement of machinery and personnel, and the gradual emergence of the various elements of the development. It is anticipated that landscape and visual effects will generally be more slight and neutral at the wider city scale, and becoming more moderate and significant closer to the site. Construction effects however will be temporary and short term by their nature.

Once completed, and in operation, the proposal will represent a comprehensive regeneration and transformation of these currently underutilised, light industrial lands to a high density mixed use urban development, part of a new urban quarter of the city. Landscape and visual effects will range from slight to significant. They are likely to be perceived initially as negative by virtue of the change and the larger scale, however these will become more acceptable over time as the buildings are occupied and the development provides a new destination and facilities to the locality.

I have considered all of the written submissions made in relation to landscape and visual. I have considered the concerns raised by third parties in relation to the opinions that the proposal is incongruent/out of character with existing development in the area and to avoid repetition, I refer the Bord to those sections above. The planning authority states that it strongly supports the comprehensive redevelopment of the subject site, however, they consider that any proposed design approach of introducing a cluster of taller buildings including an 18 storey building is not supported. Accordingly, the planning authority does not accept the conclusions within the submitted EIAR in relation to Landscape/Townscape and Visual Impact. The concerns expressed by the planning authority relate to planning matters as opposed to environmental matters. I am generally satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on landscape and visual are likely to arise.

Cultural Heritage, Archaeology and Architectural

Section 14 of the submitted EIAR deals with cultural heritage, archaeology and architectural. I note that one of the submissions received stated that an archaeological assessment was not submitted with the application. This is incorrect and a detailed desktop assessment is included within section 14 of this EIAR. I am of the opinion that the matter of archaeology has been comprehensively addressed within the documentation submitted. The Archaeology Section of the planning authority has not expressed objections to the proposal in this regard, subject to conditions. The proposal is located on a brownfield site, in a predominantly industrial area of the docklands. By the mid-19th century, when much of the area was still relatively undeveloped, there was a large residence named Castle Forbes located within the site, which was later demolished in the early 20th century. During the late 19th century and into the mid-20th century the site was in use as a timber yard, bottle works and soap works with a railway access line running across its north-eastern boundary.

There are no recorded archaeological sites within the proposed development site or in the immediate area. The site is located outside the zone of archaeological potential for historic Dublin. There are no architectural heritage sites in proximity to the development site. The closest is a two-storey Victorian house, 300m to the south. Two undesignated sites of industrial heritage are located in the environs of the proposed development- late 19th century bridge carrying East Road across the railway line (DCIHR Ref. 18-08-047) c. 30m to the north and an early 20th century pumping station (just outside the site to the north-west, DCIHR Ref. 18-08-086) and the late 19th century bridge carrying East Road across the railway line (DCIHR Ref. 18-08-047) c. 30m to the north. Neither of these sites will be affected and it is concluded that the proposed development on an otherwise unattractive urban plot would have a positive impact on the environs of the site. Mitigation measures have been outlined in relation to archaeological heritage, which include archaeological monitoring.

It is noted that some of the Elected Members raised concerns regarding impacts of the proposal on the archaeology of the area. It is also noted that a report has been received from the Archaeology Section of the Planning Authority. This report acknowledges that the site is one of archaeological potential due to the proximity of

the River Liffey and the estuarine levels (now reclaimed) that underlie the site, which will be impacted upon by the basement level of the proposed development. It acknowledges that an in depth archaeological and historical background of the subject site is provided by Chapter 14 of the submitted EIAR. The report concludes that should development be considered at the site, it is recommended that the subject site be subject to archaeological monitoring and conditions have been attached in this regard. This is considered reasonable.

I have considered all of the written submissions made in relation to cultural heritage, archaeology and architectural, including the matters raised in the third party submissions received. The planning authority states that the application has been reviewed by their Archaeology Section and no objections have been raised to the proposed development, subject to condition. They continue by stating that they accept the findings within this chapter of the submitted EIAR. I am satisfied that there is sufficient information on file to assess this matter and that mitigation by condition would be appropriate if any material is found during construction works. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on cultural heritage, archaeology and architectural are likely to arise.

Microclimate-Daylight/Sunlight

Section 15 of the submitted EIAR deals with the topic of microclimate-daylight/sunlight. A Sunlight and Daylight Access Analysis was undertaken as part of the application and a three dimensional model was submitted. The Bord is referred to my assessment above for further assessment on this topic (see section 10.6 above). This section should be read in conjunction with the above assessment, in terms of addressing third party concerns.

In terms of daylight, it is acknowledged that given the locational context of this underdeveloped site, it is to be expected that the construction of any new development on these lands has the potential to result in a considerable change to the daylight environment within existing buildings, particularly given the extent of development envisaged for lands to the south under the North Lotts and Grand Canal Dock SDZ Planning Scheme. The analysis undertaken concludes that the

effect of the proposed project on daylight access within existing buildings is likely to be most significant in the case of existing buildings with windows directly opposing the site at close proximity to proposed new structures. In particular, impacts on buildings to the south on Sheriff Street Upper in proximity to the site is predicted to range from “slight” to “significant”, with a potential for some “moderate” to “very significant” impacts to occur in the case of a limited number of recessed windows at Northbank Apartments. However, it is argued that the impact of the proposed development on existing buildings in proximity to the site may be considered to be consistent with an emerging pattern of medium to high density development in the area and, therefore, “moderate” in extent. There is also a potential for the proposed project to result in “imperceptible” to “slight” impacts on daylight access within existing buildings at East Road, Church Street East, Irvine Court and Irvine Terrace while potential cumulative impacts on daylight access within more distant existing buildings, such as houses to the north-west at Church Road or to the north/north-east at Merchant’s Square are likely to range from none to “imperceptible” to “moderate”. Having regard to the pattern of development in the area and to statutory planning policy for densification for the urban area, under a worst-case scenario, the impact of the proposed development on existing buildings in proximity to the site is predicted to be “moderate” in extent. The proposed development is unlikely to have adverse impact on daylight access within buildings in the wider surrounding area. In terms of sunlight, it is noted by the applicants that the existing shadow environment of the site and of its immediate surroundings is inconsistent with what would normally be expected in the urban core of a city and it is inevitable that the construction of new development on such underutilised lands will result in a change to the existing shadow environment. Shadows cast by the proposed development are likely to be “imperceptible” to “moderate” in the main, with the exception being the potential impact of the proposed development on sunlight access to lands to the northeast, which is likely to range from “imperceptible” to “significant”, although it is noted that these lands are in railway use serving Dublin Port. Shadows cast by the proposed project on future windows at Sheriff Street Upper in development constructed on the remainder of the City Block 3 lands have the potential to result in “imperceptible” to “significant” changes in sunlight access to these windows during the early mornings and the late evenings of the summer months. North-facing rooms in existing buildings at Castleforbes Square and the Northbank Apartments, receive

little sunlight at present and would not have a reasonable expectation within the meaning of the BRE Guide. However, having regard to the scale of development permitted/constructed in the wider area and to local, regional and national planning policy for densification of the urban area, some may consider the impact to be consistent with emerging trends for development in the area or “moderate” in extent, particularly having regard to the scale of development already permitted outside the Strategic Development Zone area. Cumulative impacts have been examined, generally considered to be “moderate” in extent.

I have considered all of the written submissions made in relation to microclimate-daylight/sunlight. The planning authority state that having reviewed the submitted assessment regarding impacts on daylight and sunlight access, they consider that the proposed development would have no undue adverse impact on daylight access within buildings in the wider area surrounding the site of the proposed project. 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 microclimate-daylight/sunlight impacts.

Microclimate-Wind

Section 16 of the submitted EIAR deals with microclimate-wind. A Wind Microclimate Study was submitted with the application documentation. An appraisal of the likely impact of the proposed development on the wind conditions affecting pedestrian activities in areas within and surrounding the development was undertaken. Given the location of the site, the most common winds are stated to be from the southwest and west, while it is likely that easterly winds can occur due to the proximity of the site to Dublin Bay. It is stated that the proposed project is likely to provide a comfortable and attractive environment for pedestrians and occupants for the majority of wind conditions. However, it is anticipated that there will be areas within the proposed project where high-speed winds will occur- (i) thoroughfare in the vicinity of the south-eastern corner of Block A2 due to easterly winds funnelling down Sheriff Street (ii) the northern end of the eastern podium due strong easterly wind

directions (iii) the roof terraces are more exposed to the wind and are expected to be windy as a consequence (iv) high level and corner balconies. The analysis shows that in general, it is anticipated that the wind speeds will be suitable in most areas for 'sitting' and 'standing' activities. In general, the wind microclimate within the proposed project is considered suitable for all intended purposes. Mitigation measures have been incorporated into the scheme in order to improve the wind conditions at the site. Overall, the proposed development is likely to provide a comfortable and attractive environment for pedestrians and occupants.

I have considered all of the written submissions made in relation to microclimate-wind. The planning authority state that in general, the wind microclimate within the proposed development is considered suitable for all intended purposes. They continue by stating that in certain areas of the development, it is anticipated that the proposed mitigation measures will help alleviate distress where it may be encountered on occasion. Overall, the proposed development contains many high-quality public spaces that pedestrians and occupants undertaking a wide variety of activities will find comfortable and attractive. Having regard to all of the above, 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 microclimate-wind.

Traffic and Transportation

Section 17 of the submitted EIAR deals with traffic and transportation. The issue of traffic and transport has also been dealt with in my assessment above and I refer the Bord to same. This section should be read in conjunction with the above assessment, in terms of third party concerns. A Traffic and Transport Report was submitted with the application documentation, together with a DMURS Compliance Statement. It is noted that the site benefits from excellent public transport accessibility levels including Dublin Bus and Go Ahead operated services while The Point Luas stop is located approximately 400m distant. Two site access (priority) junctions are being provided to serve the proposed project onto Sheriff Street Upper.

The proposal also includes for three dedicated pedestrian and cyclist accesses- two accesses will be located on Sheriff Street Upper and one will be located on East Road. A total of 179 no. car parking spaces are proposed on-site divided between two basement car parks (0.25 space/residential unit). In addition, a total of 1,392 no. cycle parking spaces are provided for both residents and visitors to the development.

An operational assessment of the potential level of impact that may be generated by the subject proposals has been investigated at the site access junctions with Sheriff Street Upper, together with seven key offsite junctions in the surrounding road network. The analysis demonstrated that the new site access junctions will operate well within capacity in the adopted 2037 design year peak hour scenario and that key offsite junctions would not result in a percentage increase in motorised traffic level above the 10% threshold. A number of initiatives have been put forward including controlled access to undercroft parking areas, implementation of Mobility Management Plan and car-share programme. It is concluded that through the implementation of the proposed mitigation measures and the rollout/uptake of the Mobility Management Plan and parking strategy initiatives, the proposed development will not result in a material deterioration of road traffic conditions.

I have considered all of the written submissions made in relation to traffic and transportation. The planning authority states that a report has been received from their Transportation Planning Division and conditions are recommended. They note the concerns raised by the Transportation Planning Division in relation to the proposed unit mix. I have dealt with this matter earlier in my assessment. I consider the unit mix to be acceptable. The TIA is based on the unit mix, as proposed. I consider there is sufficient information on file to assess this aspect of the proposed development. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transportation.

Material Assets-Waste

Section 18 of the EIAR deals with Material Assets-Waste. An assessment of waste management during both the construction and operational phase of the development

was undertaken. It is stated that adherence to the site-specific Construction and Demolition Waste Management Plan during the construction phase will ensure that the effect on the environment will be short-term, neutral and imperceptible. An Operational Waste Management Plan has been prepared which provides a strategy for segregation at source, storage and collection of wastes generated within the development during the operational phase. Mitigation measures have been outlined and the predicted effect of the operational phase on the environment is stated as being long-term, neutral and imperceptible.

I have considered all of the written submissions made in relation to material assets-waste. The planning authority states that they accept the findings within this chapter of the submitted EIAR. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets-waste.

Material Assets-Services

Section 19 of the EIAR deals with Material Assets-Services. Potential impacts associated with the proposed development, if any, are assessed with regards to a number of built services including wastewater services; water supply; gas supply; electricity and telecommunication. Existing services are described, together with predicted impacts and mitigation measures. It is concluded within this section that the proposed development will have a positive impact on the existing urban environment by creating a high quality mixed-use development which will respond to current housing need and cater to the needs of a growing population.

I have considered all of the written submissions made in relation to material assets-services. The planning authority states that they accept the findings within this chapter of the submitted EIAR. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets-services.

Interactions

Section 20 of the submitted EIAR provides a summary of principal interactions and inter-relationships, which have been discussed in the preceding chapters.

I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. In conclusion, I am generally satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions.

Cumulative and Interactive Effects

Section 21 of the submitted EIAR provides a summary of principal cumulative effects, which have been discussed in the preceding chapters.

As stated above, I have considered the cumulative and interactive effects of the proposed development and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. In conclusion, I am generally satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions.

Schedule of Environmental Commitments

Section 22 of the submitted EIAR provides a summary of the environmental commitments/mitigation measures identified in the specialist chapters of the EIAR.

Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and 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:

- Biodiversity impacts mitigated by proposed landscaping strategy which will use a mix of appropriate species that will attract feeding invertebrates; will ensure no invasive species are introduced.
- Land, soils, geology and hydrogeology impacts to be mitigated by construction management measures including minimal removal of soil, reuse of excess material within the site; proposals for identification and removal of any possible contamination; management and maintenance of plant and machinery.
- Hydrology impacts to be mitigated by management of surface water run-off during construction; adherence to Construction Management Plan; to attenuate surface water flow and avoid uncontrolled discharge of sediment; diversion of run-off. Operational impacts are to be mitigated by surface water attenuation to prevent flooding.
- Landscape and visual impacts which will be mitigated by the establishment of solid perimeter fencing to restrict views and minimise sense of visual disruption into site during construction works; quality landscaping proposals, together with maintenance regime
- Archaeological impacts which will be mitigated by archaeological monitoring of ground disturbance works.
- Air quality and climate impacts which will be mitigated by dust minimisation plan; locating construction compounds and storage piles downwind (to the east) of sensitive receptors
- Traffic and transportation impacts which will be mitigated by the management of construction traffic; mobility management plan; upgrading of site access junction.
- Noise and vibration impacts which will be mitigated by adherence to requirements of relevant code of practice; location of noisy plant away from noise sensitive locations; noise control techniques; quality site hoarding to act as noise barrier
- Microclimate-wind impacts which will be mitigated by use of landscaping; provision of wind screens

- Material Assets-Services impacts which will be mitigated by consultation with relevant service providers; adherence to relevant codes of practice and guidelines; service disruptions kept to a minimum
- Material Assets-Waste impacts which will be mitigated by preparation of site specific C&DWMP

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

12 Appropriate Assessment Screening

- 12.1.1 A Screening Report was submitted with the application. I also refer the Bord to section 8 Biodiversity and section 10 Hydrology-Surface Water of the submitted EIAR. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified and sound scientific information and knowledge was used. The AA Screening Report concludes that in view of best scientific knowledge, the proposed development at Castleforbes Business Park, individually or in combination with another plan or project, will not have a significant effect on any European sites. This assessment was reached without considering or taking into account mitigation measures or measures intended to avoid or reduce any impact on European sites. The information contained within the submitted reports is considered sufficient to allow me undertake an Appropriate Assessment of the proposed development.
- 12.1.2 I note the submissions received including the contents of the submission received from Inland Fisheries Ireland. I also note a third party submission received which states that the AA Screening report does not identify best scientific knowledge in relation to the characteristics of the European Sites within the zone of influence, their

current status and related dynamics. It continues by stating that best scientific knowledge in relation to potential effects have not been characterised or quantified. In this regard, I note that the AA Screening is a preliminary examination for likely significant effects, not a detailed assessment. If significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have likely significant effect and appropriate assessment carried out. Section 177U of the Planning and Development (Amendment) Act 2010 refers to screening for appropriate assessment and the use of best scientific knowledge. In terms of best scientific knowledge as it should apply to screening, I note that the submitted AA screening document was prepared by a competent and experienced Ecologist, in line with best practice guidance. The site is described adequately and potential impacts arising are also described. In this case, Table 1 lists the European Sites, qualifying interests, the most up to date conservation objectives, together with the source pathway receptor link. Having regard to the information before me, I am satisfied that the best scientific knowledge for purpose of a screening test has been forward in this instance.

12.1.3 The subject site is not located within any designated European site and contains no features of any ecological significance. This is a brownfield site with no direct ecological connections to the River Liffey or European Sites. There are no watercourses present on the site. The nearest such features are the River Liffey, 360m to the south, the Royal Canal, approximately 550m to the west, and the River Tolka, 760m to the north. These watercourses discharge to Dublin Bay to the east.

12.1.4 There are 17 European Sites located within a 15km radius of the proposed development and following Natura 2000 sites are located within the potential zone of impact:

Site Name and Code	Site Code	Approx. Distance from Dev Site	Conservation Objectives
Baldoyle Bay SAC	000199	8.6km to NE	Generic objective
North Dublin Bay SAC	000206	3.4km to NE	Generic objective
South Dublin Bay SAC	000210	2.0km to SE	Generic objective

Howth Head SAC	000202	9.2km to NE	Generic objective
Rockabill to Dalkey Island SAC	003000	9.4km to E	Generic objective
Malahide Estuary SAC	000205	11.7km to N	Generic objective
Wicklow Mountains SAC	002122	12.9km to S	Generic objective
Glenasmole Valley SAC	001209	13.7km to SW	Generic objective
Ireland's Eye SAC	002193	12.4km to NE	Generic objective
Wicklow Mountains SPA	004040	13.2km to S	Generic objective
Howth Head Coast SPA	004113	11.8km to NE	Generic objective
Dalkey Island SPA	004172	12km to SE	Generic objective
North Bull Island SPA	004006	3.4km to E	Generic objective
South Dublin Bay and River Tolka Estuary SPA	004024	950m to N and 2.1km to SE	Generic objective
Baldoyle Bay SPA	004016	8.7km to NE	Generic objectives
Malahide Estuary SPA	004025	12.0km to N	Generic objective
Ireland's Eye SPA	004117	12.2km to NE	Generic objective

Qualifying Interests/Features of Interest

- 12.1.5 Qualifying Interests/Special Conservation Interests for which each European Site have been designated are outlined in Table 1 of the AA Screening Report (pages 10-18 inclusive).

Conservation Objectives

- 12.1.6 The Conservation Objectives for the above sites are to maintain or restore the favourable conservation condition of each qualifying species/habitat for which the site has been selected.

Potential Direct/Indirect Effects

- 12.1.7 One of the third party submissions received raises concerns with regards to potential effects and states that effects raised are generic and not based on scientific analysis.

Particular concern is raised in relation to surface water contamination. I note that potential impacts are identified in the AA Screening Report and these are then applied to a zone of influence- European Sites within that zone are examined. A much wider zone of 15km was examined and this was then refined down to those sites closest to the proposed development, namely those within Dublin Bay. This is considered reasonable and scientifically robust.

12.1.8 The site of the proposed development is separated from the nearest European sites by a distance of approximately 950m. It can be concluded with certainty that there could be no direct impacts, such as loss of habitat or physical disturbance of habitats/species by the development on any European designated site. As stated above, this is a brownfield site with no direct ecological connections to the River Liffey or European Sites. This has been established by the ecologist in the AA Screening Report and in this regard I also draw the attention of the Bord to the information contained within section 10 Hydrology-Surface Water of the submitted EIAR. As there is no pathway, there can be no significant effect.

11.1.1 In terms of indirect impacts, there is a potential surface water pathway from the site of the proposed development to Dublin Bay either via the River Liffey or local surface water drainage network during the construction phase. There is also a potential groundwater pathway between the proposed development site and the European sites should indirect discharges (i.e. spillages to ground) occur, or should any contamination on the site enter the ground water. There will be indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant during the operational phase.

Construction Phase

11.1.2 Despite the presence of these theoretical indirect pathways, I note that these would be in common with all extant development in the area. The examination of the unlikely scenario of some construction related pollutants escaping the site via ground water or surface water is identified and addressed in the Screening Report. The risk of contamination of any watercourses or groundwater is extremely low. I note the distance to the European sites and the fact that there is no direct pathway between the development site and these European sites. I note that a significant level of dilution and mixing of surface and sea water would occur in any event. Upon

reaching Dublin Bay, any pollutants would be even further diluted and dissipated by the waters in Dublin Bay.

- 11.1.3 To reiterate, despite the presence of these theoretical indirect pathways, the risk of contamination of any watercourses or groundwater is extremely low, and even in the event of a pollution incident significant enough to impact upon surface water quality on the proposed development site, this would not be perceptible in any European sites due to the distance involved, dilution impacts, together with the nature and scale of the development proposed. I am of the opinion that this matter does not require further in-depth scientific examination.

Operational Phase

- 11.1.4 At operational stage, the site is serviced by an existing surface water sewer. The management of surface water for the proposed development has been designed to comply with the policies and guidelines outlined in the Greater Dublin Strategic Drainage Study (GSDSDS) and with the requirements of planning authority. The proposed development is designed in accordance with the principles of Sustainable Urban Drainage Systems (SuDS). The AA Screening addresses the fact that no mitigation specific to European sites is proposed and that surface water management is in line with GSDSDS with SuDS measures to be implemented. I am of the opinion that this is not mitigation as defined by the People Over Wind case.
- 11.1.5 I note the concerns raised by a third party in relation to mitigation measures contained within the EIAR to avoid surface water contamination during construction. I am of the opinion that while surface water measures may be specified in the Environmental Impact Assessment Report in line with GSDSDS, they are not specific nor are they intended to avoid or reduce impacts on the SAC and SPA sites downstream in Dublin Bay. The same may be said for mitigation measures referred to in other documents included with the application such as, inter alia, Preliminary Construction Management Plan and Construction & Demolition Waste Management Plan. In my mind they are not mitigation measures but constitute a standard established approach to construction works on brownfield lands. Their implementation would be necessary for a housing development on any similar site regardless of the proximity or 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 such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission.

11.1.6 In terms of indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant waste, I note the submission received from Inland Fisheries Ireland regarding capacity of Ringsend WWTP. I note the approved upgrade to the treatment plant and consider that it has been established beyond a reasonable scientific doubt, by reference to the best scientific evidence available, that effluent discharged from proposed strategic housing development via the Ringsend Wastewater Treatment Plant would not have significant effects on the Natura 2000 sites. This has been raised as a concern in one of the third party submissions received. The Ringsend WWTP operates under licence from the EPA (Licence no. D0034-01) and received planning permission in 2019 for upgrade works, which are expected to be completed within five years. This will increase the plant capacity from 1.65m PE (population equivalent) to 2.4m PE. Regardless of the status of the WWTP upgrade works, the peak discharge from the proposed development is not significant in the context of the existing capacity available at Ringsend. Notwithstanding the increased flow through the Ringsend WWTP in the future, the future upgrade will compensate for this increase in flow. I am satisfied that notwithstanding the increase the flow of foul water to the Ringsend WWTP, the proposal would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects. I am of the opinion that this matter does not require further in-depth scientific examination.

Conclusion

11.1.7 The AA Screening Report states that

- The proposed development lies outside the boundaries of the Natura sites identified above and therefore there will be no reduction in habitat or loss of species nor will there be any fragmentation, disruption, disturbance or change to any element of any designated site. There will be no direct impacts.
- No watercourses are present within or connected to the site proposed for development.
- There is no potential for cumulative effects of habitat loss or fragmentation to occur.

- The proposed development site is not under any wildlife or conservation designation and there are no rare, threatened or legally protected species known to occur within the site.
- The site has no key ecological receptors
- No invasive species were identified on site
- No evidence of any habitats or species with links to European sites was recorded during any surveys/studies and no 'reservoir' type habitats (habitats which have the potential to support Qualifying Interest/Special Conservation Interest species in any European site) are present
- No direct impacts on the Dublin Bay European sites are predicted,
- Pollution control/best practice construction practices have been outlined for both construction and operational phases of development.
- Effluent discharged from the proposed strategic housing development via the Ringsend Wastewater Treatment Plant would not have significant effects on the Natura 2000 sites
- No significant impacts on water quality are predicted during the construction phase.
- It is concluded within the submitted assessment there will be no likelihood of significant effects on any European sites during the construction or operation of the proposed development, in combination with other plans or projects.
- It is noted that water quality is not listed as a conservation objective for these designated sites within Dublin Bay.
- Significant effects are not likely to arise, either alone or in combination with other plans or developments that would result in significant effects on the integrity of the Natura 2000 network.

12.1.12 Given all of the information outlined above, it appears evident to me from the information available in this case that the proposed development would not be likely to have a significant effect on any Natura 2000 site, whether directly or indirectly or individually or in combination with any other plan or project. It is therefore concluded

that, on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not required.

12 Recommendation

- 12.1 Having regard to the above assessment, I recommend that permission be GRANTED for the development, as proposed, in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Recommended Draft Bord Order

Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 04th day of December 2020 by Glenveagh Living Limited care of Brady Shipman Martin, Dublin 6.

Proposed Development:

Permission for a strategic housing development on lands at Castleforbes Business Park, Sheriff Street Upper and East Road, Dublin 1.

The proposed development will consist of:

1. Demolition of all structures on the site (combined gross floor area of c.15,125 sq.m) and the construction of a mixed use residential scheme set out in 9 no. blocks, ranging in height from 1 to 18 storeys, above part basement/upper

ground level, containing 702 no. Build to Rent (BTR) residential units, with associated mixed uses including, 3 no. retail/café/restaurant units, cultural/community building, residential tenant amenity, in addition to a standalone three storey childcare facility, all with a total cumulative gross floor area of c.63,025 sq.m (excluding below podium parking and plant areas). The site will accommodate 179 no. car parking spaces, 1,392 total no. bicycle parking spaces, storage, services and plant areas. Landscaping will include a new central public space, residential podium courtyards and upgraded public realm on Sheriff Street Upper and East Road.

2. The 8 no. residential blocks range in height from 1 storey to 18 storeys, (including podium and ground floor uses) accommodating 702 no. Build to Rent residential units comprising 100 studios, 406 no. 1 bed units, 8 no. 2 bed duplex units, 169 no. 2 bed units, 15 no. 3 bed units, and 4 no. live-work duplex units. The residential buildings are arranged around a central public plaza (at ground level) and raised residential courtyards at podium level over part basement level car-parking and other uses. Balconies and terraces to be provided on all elevations at all levels for each block. The breakdown of residential accommodation is as follows:

- Block A1 is a 1 to 9 storey building (including podium and ground floor Level 0), including setbacks and balconies, accommodating 82 no. units;
- Block A2 is a 1 to 9 storey building (including podium and ground floor Level 0), including setbacks and balconies, accommodating 136 no. units;
- Block B3 is a 7 to 8 storey building (including podium and ground floor Level 0), including setbacks and balconies, accommodating 94 no. units;
- Block B4 is a 7 to 8 storey building (including podium and ground floor Level 0), including setbacks and balconies, accommodating 49 no. units;
- Block C1 is a 6 to 12 storey building (including podium and ground floor Level 0), including setbacks and balconies, accommodating 107 no. units;
- Block C2 is a 1 to 18 storey building (including podium and ground floor Level 0), including setbacks and balconies, accommodating 98 no. units;
- Block C3 is a 15 storey building (including podium and ground floor Level 0), including setbacks and balconies, accommodating 74 no. units;

- Block C4 is a 13 storey building (including podium and ground floor Level 0), including setbacks and balconies, accommodating 62 no. units;
 - Residential tenant amenity space is provided in Blocks A1, B3, & C2 to include a total floorspace of c. c.1,263.9 sq.m.
3. The residential buildings sit above a part basement and ground level which contains residential car-parking, cycle parking, plant areas and ground floor uses. These ground floor uses located onto Sheriff Street and into the central open space include a 6 storey (incl. plant floor) cultural/community building of c. 2,859.5 sq.m and 3 no. retail/restaurant/cafe units with a total floor area of c.1,154.2 sq.m. The proposed development also includes a standalone three storey (incl. external play area at second floor level) childcare building of c.469.6 sq.m. Total gross floor area of proposed other uses is c.4,483.3.m.
 4. Two vehicular access points are proposed along Sheriff Street, and the part basement car parking is split into two areas accordingly, accommodating 1,040 residential bicycle parking spaces, 179 car parking spaces, plant, storage areas and other associated facilities. The main pedestrian access is located centrally along Sheriff Street with an additional access point from East Rd across the western podium. The proposed development also includes for upgrades to existing junctions and existing road layout including alterations to existing street parking along Sheriff St Upper.
 5. The development also includes for a new landscaped central open space opening onto Sheriff Street Upper. External residential amenity space is provided in two podium courtyards and external roof terraces throughout the scheme. The application also includes for an interim pocket park on the corner of Sheriff Street and East Rd to be provided as a temporary park prior to the delivery of the permitted hotel on this part of the site.
 6. The proposed application includes all site landscaping works, green roofs, boundary treatments, lighting, servicing, signage, and associated and ancillary works, including site development works above and below ground.

Decision

GRANT permission for the 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 Bord 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 Bord had regard to the following:

- (a) the site's location close to Dublin city centre, within an established built-up area on lands with zoning objective Z14, which is 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' in the Dublin City Development Plan 2016-2022,
- (b) the policies set out in the Dublin City Development Plan 2016-2022,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 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
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (g) the Planning System and Flood Risk Management (including the associated

Technical Appendices), 2009

- (h) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (i) Chief Executive Opinion and associated appendices
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a wide range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history within the area, and
- (n) the report of the Inspector and the submissions and observations received,

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

Appropriate Assessment Screening

The Bord completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for Screening for Appropriate Assessment document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Bord 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 Bord completed an environmental impact assessment of the proposed development, taking into account:

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

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

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

The Bord 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:

- Biodiversity impacts mitigated by proposed landscaping strategy which will use mix of appropriate species that will attract feeding invertebrates; will ensure no invasive species introduced.

- Land, soils, geology and hydrogeology impacts to be mitigated by construction management measures including minimal removal of soil, reuse of excess material within the site; proposals for identification and removal of any possible contamination; management and maintenance of plant and machinery.
- Hydrology impacts to be mitigated by management of surface water run-off during construction; adherence to Construction Management Plan; to attenuate surface water flow and avoid uncontrolled discharge of sediment; diversion of run-off. Operational impacts are to be mitigated by surface water attenuation to prevent flooding.
- Landscape and visual impacts which will be mitigated by the establishment of solid perimeter fencing to restrict views and minimise sense of visual disruption into site during construction works; quality landscaping proposals, together with maintenance regime
- Archaeological impacts which will be mitigated by archaeological monitoring of ground disturbance works.
- Air quality and climate impacts which will be mitigated by dust minimisation plan; locating construction compounds and storage piles downwind (to the east) of sensitive receptors
- Traffic and transportation impacts which will be mitigated by the management of construction traffic; mobility management plan; upgrading of site access junction.
- Noise and vibration impacts which will be mitigated by adherence to requirements of relevant code of practice; location of noisy plant away from noise sensitive locations; noise control techniques; quality site hoarding to act as noise barrier
- Microclimate-wind impacts which will be mitigated by use of landscaping; provision of wind screens
- Material Assets-Services impacts which will be mitigated by consultation with relevant service providers; adherence to relevant codes of practice and guidelines; service disruptions kept to a minimum
- Material Assets-Waste impacts which will be mitigated by preparation of site specific C&DWMP

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

Conclusions on Proper Planning and Sustainable Development

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

The Bord considered that a grant of permission that would materially contravene section 16.10.1 of the Dublin City Development Plan 2016-2022, which applies to the site, would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

- (a) SPPR 3 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, issued in December 2020 which sets minimum apartment floor area of 37 square metres for studio units and
- (b) SPPR 8 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued in December 2020 which states no restriction on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise and that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes; with which the proposed development would comply.

The Bord considered that a grant of permission that could materially contravene section 16.7.2 of the Dublin City Development Plan 2016-2022 in terms of height would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

(a) The proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase delivery of housing set out in the Rebuilding Ireland Action Plan for Housing and Homelessness 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. The location of the subject site within SDRA 6 of the operative City Development Plan, an identified strategic development and regeneration area that has substantial development capacity is also noted.

(b) It is considered that permission for the proposed development should be granted having regard to Government Policies as set out in the Project Ireland 2040 National Planning Framework in particular objectives 13 and 35 and the Urban Development and Building Height Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 in particular Specific Planning Policy Requirement 1 and Specific Planning Policy Requirement 3.

In accordance with section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Bord considered that the criteria in section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended was satisfied for the reasons and considerations set out in the decision.

Conditions

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

Reason: In the interest of clarity.

2. 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 22 of the EIAR 'Schedule of Environmental Commitments', 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 number of residential units hereby permitted by this grant of permission is 702 no.

Reason: In the interests of clarity

4. The following details shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development:
 - (i) Further details in relation to the use of the amenity space located at Level 00 of Block B3C3
 - (ii) Details of greening of flat or gently sloping roofs
 - (iii) Details relating to management of the proposed cultural building

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability

5. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority in relation to the proposed cultural building, which shall be made available for use by the residents of the development and the wider community. Any proposed change of use from cultural building shall be subject of a separate application for planning permission.

Reason: In the interest of ensuring adequate provision of community space

6. The development hereby permitted shall be for build to rent units which shall operate

in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

7. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

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

Reason: In the interests of orderly development and clarity.

9. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed dwellings.

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

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

11. The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

12. Prior to the occupation of the development, a schedule of proposed uses for the proposed ground floor retail and commercial units shall be submitted for written agreement of the planning authority. In addition, prior to the occupation of these units, details of openings, signage, shopfronts and layout/window treatment of the subject unit shall be agreed in writing with the planning authority.

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

13. (a) The applicant shall make available a single document of the mitigation measures/recommendations relating to biodiversity that are outlined in the various documents that form part of the application, for the written agreement of the planning authority. This document shall include a programme for the implementation of the mitigation measures including any monitoring requirements by a suitably qualified ecologist shall accompany this document for written agreement at least 5 weeks in advance of site clearance works

(b) All demolition works shall take place outside of the bird nesting season (March 1st to August 31st)

(c) Prior to commencement of development, details of the locations of two appropriately placed, bat boxes shall be agreed with the planning authority. Their installation and maintenance plan shall be confirmed in writing with photographic evidence of same to the planning authority.

(d) Revised planting plan shall be submitted for the written agreement of the planning authority, to provide foraging sites for bats as part of the planting scheme

(e) Prior to commencement of development, details of locations of swift bricks or swift boxes shall be agreed with the planning authority prior to the commencement of any development on site. Their installation and maintenance plan shall be confirmed in writing with photographic evidence of same to the planning authority.

Reason: in the interests of protection of biodiversity

14. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. In particular, the following information shall be submitted to the planning authority for their written approval, prior to the commencement of any works on site:

(a) Final Mobility Management Plan

(b) Details of works to the public road to facilitate the proposed development. All works to the public roads / footpaths shall be completed to taking in charge standards and shall be to the satisfaction of the planning authority.

(c) Pedestrian crossing facilities shall be provided at all junctions.

(d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

(e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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

15. All of the communal parking areas serving the apartments shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

16. (a) Pedestrian access to the public open space areas shall be permanent, open 24 hours a day, with no gates, security barrier or security hut at the entrance to the development or within the development in a manner which would prevent pedestrian access between the areas identified above.

(b) Prior to the occupation of any residential unit, the developer shall ensure that the cultural building, public realm areas and new routes, as outlined in the site layout plan and landscape drawings shall be fully completed and open to the public.

Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.

17. The landscaping scheme as submitted to An Bord Pleanála shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The developer's Landscape Architect shall certify to the planning authority by letter his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

Reason: In the interests of residential and visual amenity.

18. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. In addition, details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of the planning authority, prior to the commencement of any works on site. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. Render shall not be used as an external finish.

Reason: In the interest of visual amenity and durability.

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

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

20. 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.

21. Prior to the commencement of the development the applicant shall agree in writing with the planning authority, details in relation to all crane operations, with a minimum of 30 days prior notification of their erection. Details of a suitable marking and lighting scheme shall also be agreed, together with additional information regarding crane type (tower, mobile), elevation of the highest point of crane, dimensions of

crane, ground elevation and location co-ordinates. The planning authority may consult, as required, with the Irish Aviation Authority.

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

22. (a). Commercial units shall not be amalgamated or subdivided, unless authorised by a further grant of planning permission.

(b) No external security shutters shall be erected for any of the commercial premises (other than at services access points) unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of clarity.

23. 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.

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

Reason: In the interest of urban legibility.

25. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be

allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

26. 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.

Reason: In the interests of visual and residential amenity.

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. 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.

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

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

30. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

31. 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.

Reason: In the interest of sustainable waste management.

32. Prior to the commencement of any works on site, the applicant shall agree in writing with the planning authority the exact location of all structures on site, so as to ensure the appropriate safeguarding of Iarnród Éireann infrastructure.

Reason: In the interest of safety and to ensure an orderly form of development.

33. 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.

34. 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.

Lorraine Dockery

Senior Planning Inspector

March 19th 2020