



An  
Bord  
Pleanála

## Inspector's Report ABP-308836-20

<b>Development</b>	Demolish light industrial / warehouse buildings and construct a three to seven-storey shared accommodation building containing 150 units
<b>Location</b>	38-42 Hill Street & 36a North Great George's Street, Dublin 1
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3061/20
<b>Applicant(s)</b>	Hill Street Limited Partnership
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	1. Raphael J.E. Kelly; 2. Irish Georgian Society; 3. Eamon Connolly; 4. Headfort Court Management Company
<b>Observer(s)</b>	1. James Joyce Cultural Centre; 2. Tom & Adelaide McKeown; 3. North

Great George's Street Preservation  
Society; 4. Anthony M.Collins &  
Muireann Noonan; 5. Desiree Shortt;  
6. An Taisce

**Date of Site Inspections**

12<sup>th</sup> May 2020

**Inspector**

Colm McLoughlin

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	7
4.0 Planning History.....	10
5.0 Policy & Context .....	11
6.0 Screening for EIA.....	15
7.0 The Appeal .....	17
8.0 Assessment.....	22
8.1. Introduction .....	22
8.2. Principle of Co-Living Housing .....	23
8.3. Zoning.....	25
8.4. Layout, Design, Scale and Height .....	26
8.5. Impact on Cultural Heritage .....	34
8.6. Impact on Local Amenities .....	38
8.7. Standard of Accommodation .....	40
9.0 Appropriate Assessment.....	47
10.0 Recommendation .....	59
11.0 Reasons and Considerations .....	59
12.0 Conditions .....	61
Appendices .....	69

## **1.0 Site Location and Description**

- 1.1. The proposed development seeks permission for a revised shared accommodation / co-living development scheme to that previously permitted development under An Bord Pleanála (ABP) reference (ref.) 306181-19, the decision of which is currently the subject of Judicial Review proceedings.
- 1.2. The appeal site has a stated area of 0.16ha and is located on the north side of Dublin city centre, fronting onto Hill Street and with a rear pedestrian entrance from North Great George's Street. It is currently occupied by five adjoining buildings ranging in height from single to four-storeys, which are understood to have largely been used until the early 2000s for clothing manufacturing and storage. While signage remains on the front of the subject buildings, they do not appear to be in active use at present. The two-storey former factory building at the northern end of the site, known as Manders (no.38 Hill Street), is stated to have been subject to fire damage on two occasions and does not appear to be in active use at present. Informal parallel vehicular parking takes place along the pavement abutting the front of the subject buildings, while there is also on-street parallel parking and loading bays adjoining this pavement along Hill Street.
- 1.3. The surrounding area is characterised by a mix of uses, including commercial, residential and institutional uses. Adjoining to the southeast of the site is a four to five-storey block of apartments known as 'The Courtyard', which is understood to have been constructed in 2006. A three to four-storey apartment development, Headfort Court, adjoins the site to the northwest. Properties to the rear of the site along North Great George's Street, include James Joyce House, a cultural facility, and No.36, a building comprising a variety of commercial type uses. These buildings and adjoining buildings along North Great George's Street are recorded as protected structures dating from the seventeenth century. Ground levels rise by approximately 1.7m from the southern corner of the site up to the northern corner, while ground levels in the immediate area rise steeply from Parnell Street towards the site, with a gradual incline moving northwest towards Temple Street.

## **2.0 Proposed Development**

- 2.1. The following development is proposed:

- demolition and removal of all light industrial, warehouse, workshop and associated buildings on site with a stated gross floor area (GFA) of 2,921sq.m;
- construction of a shared-accommodation / co-living building comprising six to seven-storeys onto Hill Street and single to five storeys to the rear, accommodating a total of 150 bed spaces, served by communal facilities, including a reception area, a laundry, a communal lounge/games/juice bar space, co-working space, an activities room and storage areas, and a publically-accessible café (73sqm) all at ground-floor level, communal kitchens and living areas from ground to fifth-floor level and a community room recessed at sixth-floor roof level;
- provision of a entrances off Hill Street with use of the laneway off North Great George's Street as a secondary pedestrian and cyclist-only entrance, including a replacement timber door;
- provision of a rear surface-level courtyard space with covered parking shelter for 78 stacked bicycles and an external recessed roof terrace at sixth-floor level;
- provision of plant, refuse collection, staff facilities and washrooms at ground floor, green roofs and plant at roof levels, attenuation tank below the central courtyard space and connections to all local services;
- removal of condition 2 to ABP ref. 306181-19 requiring all units to be provided with functional kitchens to include cooking hobs.

**2.2.** The following table sets out the key elements of the proposed development:

**Table 1. Development Standards**

Site Area	0.16ha
No. of bed spaces	150
Density	937 bed spaces per ha
Total GFA	5,865sq.m
Building Height (maximum)	7 storeys / 23.3m
Plot Ratio	3.6
Site Coverage	64%

Communal Space	953.5sq.m
Amenity Floor Area	416sq.m (roof & courtyard)
On-site Car parking	None
Bicycle Parking	78 spaces

**2.3.** In addition to the standard documentation and drawings, the planning application was accompanied by various technical reports and drawings, including the following:

- Planning Application Report;
- Co-Living Demand & Concept Report;
- Architectural Design Strategy Report, including Computer Generated Images (CGIs);
- Operational Management Plan;
- Amendment to Permitted Development Engineering Services Report;
- Daylight & Shadow Analysis Report;
- Traffic & Transportation Statement;
- Preliminary Travel Plan (Mobility Management Plan);
- Screening for Environmental Impact Assessment (EIA);
- Information for Screening for Appropriate Assessment (AA);
- Conservation Assessment;
- Archaeological Assessment;
- Outline Construction Management Plan & Construction and Demolition Waste Management Plan;
- Operational Waste Management Plan;
- Part L & NZEB Report.

**2.4.** The application was accompanied by three separate letters consenting to the applicant making the application and stated to be from part owners of parts of the site. In response to a further information request of the planning authority, the applicant submitted additional details, including an architect's report and a supplementary daylight study report.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The planning authority decided to grant permission for the proposed development, subject to 14 conditions, which are generally of a standard nature, including the following:

Condition 7 – subject to compliance with Building and Fire Regulations, all units should be provided with functional kitchens to include cooking hobs;

Condition 8 – the development shall comply with the conditions and the duration of the permission under Dublin City Council (DCC) ref. 3546/19 / ABP ref. 306181-19;

Condition 13 – all windows marked as obscure or translucent shall be permanently maintained as such.

### **3.2. Planning Authority Reports**

3.2.1. Planning Reports

The initial report of the planning authority (September 2020) noted the following:

- other than the potential impacts resulting from the additional proposed building element at no.38 Hill Street, the principle of the proposed development, including the demolition of structures, compliance with land-use zoning objectives, the rationale for the housing typology at this location, the open space provision, cycle and car parking proposals and the impacts on local amenities has largely been considered to be acceptable within the previous grant of planning permission (ABP ref. 306181-19);
- the proposed plot ratio (3.6) would be above the indicative plot ratio for this area (1.0 to 2.0), however, Dublin City Development Plan 2016-2022 criteria allow for the proposed plot ratio, as well as the site coverage;
- an assessment of the proposed development relative to the Urban Development and Building Heights Guidelines for Planning Authorities (2018) reveals that the proposed building heights would be acceptable relative to

capabilities of being served by high capacity, frequent and well-connected public transport and the integration of the scheme with the public realm, as well as the development scale relative to the district, neighbourhood and street;

- daylight provision to the courtyards, bedrooms and shared-living areas would be in compliance with relevant standards. The proposals would not result in unacceptable levels of overshadowing to the neighbouring properties and acceptable levels of vertical sky component (VSC) for each unit would remain achievable;
- significant micro-climatic impacts or impacts on telecommunications or air navigation would not be anticipated;
- there would be a shortfall of 51sq.m of communal amenity space for residents, despite the additional extra cooking station per floor, and an increase in amenity space would be required as part of further information to address the potential for overcrowding;
- the potential impacts on the privacy available to the proposed southeast-facing units to the rear projecting wing and the northwest-facing cluster at first to fourth-floor level 17m opposite this wing, should be addressed by the applicant via further information;
- boundary treatment details should be provided and the potential for overlooking northwards to no.37 Hill Street (Headfort Court) should be addressed;
- the concerns of the Conservation Officer are noted, however, it is considered that the overall development would provide for a comprehensive and efficient use of the site, including the avoidance of a gap site along Hill Street, and the proposals would provide for the removal of an additional building in a poor state of repair along Hill Street;
- the provision of cooking hobs to the units was noted as good practice for similar permitted shared-living schemes in the city, and a condition requiring this feature to remain should be attached;



- no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site;
- the submitted screening report for EIA sets out that the development falls below the threshold for mandatory EIAR.

The recommendation within the Planning Officer's final report (November 2020) reflects the decision of the planning authority and noted the following:

- the revised proposals would provide a marginal increase in dining capacity and a greater level of separation between the dining and cooking areas;
- the potential for overlooking towards no.37 Hill Street has been addressed by the omission of windows facing this property, while the average daylight factor for these units would exceed the 1% requirement;
- the potential for loss of privacy to units has been addressed via revised window details, including the use of translucent glazing and angled elements.

### 3.2.2. Other Technical Reports

- Roads & Traffic Planning Division – no objection, subject to conditions, including those attached to the previous permission (ABP ref. 306181-19);
- Engineering Department (Drainage Division) – no objection, subject to conditions, including those attached to the previous permission;
- City Archaeologist – attach a condition to address the potential for archaeological finds;
- Conservation Officer – refuse permission;
- Water Management Report – attach conditions.

### 3.3. Prescribed Bodies

- Minister for Culture, Heritage and the Gaeltacht – no response;
- National Transport Authority – no response;

- Transport Infrastructure Ireland (TII) – Section 49 supplementary contributions and Luas line engineering work practices may apply;
- Irish Water – no response.

### **3.4. Third-Party Observations**

- 3.4.1. A total of nine third-party observations were received by the planning authority during the consultation period for the application, seven of which were stated to be from residents of North Great George's Street and the remainder were from the Irish Georgian Society and An Taisce. The issues raised in these observations are similar to those raised in the grounds of appeal and the observations to the appeal, and they are collectively summarised within the grounds of appeal below.

## **4.0 Planning History**

### **4.1. Appeal Site**

- 4.1.1. Pre-planning discussions between representatives of the planning authority and the applicant regarding redevelopment of the appeal site for shared accommodation took place under DCC ref. PAC0471/19 in November 2019. An extensive list of planning applications was referenced in the Planning Officer's report, the following of which are the most recent planning applications relating to the appeal site:
- ABP ref. 306181-19 / DCC ref. 3546/19 – permission was granted by the Board in June 2020 for the demolition of light industrial / warehouse buildings at 39-42 Hill Street & 36a North Great George's Street, and the construction of a three to seven-storey shared accommodation building containing 129 units;
  - DCC ref. 4286/18 – outline permission was refused by the planning authority in January 2019 for the demolition of the Manders building at no.38 Hill Street and the construction of a five-storey building containing ten apartments, as the proposed development was considered excessive and as it provided only for single-aspect apartments.

## **4.2. Surrounding Area**

4.2.1. Recent planning applications in the area are generally reflective of the urban character and the mix of uses within the area. The following applications relate to the adjoining properties to the appeal site:

- ABP ref. PL29N.237693 (DCC ref. 3222/10) – permission was refused by the Board in February 2011 for change of use of the second and third-floor apartments in no.36 North Great George’s Street to a medical consultancy, a protected structure adjoining the appeal site to the northwest, as the proposed development would result in the loss of residential floor space protected under Development Plan policy;
- DCC Ref. 4687/03 – permission was granted by the planning authority in January 2004 for the demolition of the adjoining two-storey building to the southwest of the appeal site (no.43/44 Hill Street), and the construction of a five-storey building containing 56 apartments, three commercial units and an underground car park. This development was subsequently amended by permissions granted under DCC refs. 2230/05 and 1094/06.

## **5.0 Policy & Context**

### **5.1. National Planning Framework**

5.1.1. Chapter 6 of the National Planning Framework (NPF) addresses ‘People, Homes and Communities’, setting out that place is intrinsic to achieving a good quality of life. The NPF contains a number of national policy objectives (NPOs), which articulate the delivery of compact urban growth as follows:

- NPO3(b) - aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO4 - promotes attractive well-designed liveable communities;
- NPO6 - aims to regenerate cities with increased housing and employment;
- NPO11 - outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards;

- NPO13 - promotes a shift towards performance criteria in terms of standards for building height and car parking;
- NPO33 - prioritises new homes that supports sustainable development at an appropriate scale relative to location.

## **5.2. Regional Spatial and Economic Strategy**

- 5.2.1. A central tenet of the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Authority (2019) is to support the implementation of the NPF. The RSES identifies regional assets, opportunities and pressures, while also providing policies in the form of regional policy objectives (RPOs). The spatial strategy for the Dublin Metropolitan Area, including the area of the appeal site, seeks to support the consolidation and re-intensification of infill/brownfield sites to provide high-density and people-intensive uses within the existing built-up area of the city.

## **5.3. Ministerial & Other Guidelines**

- 5.3.1. The following planning guidance documents, including Ministerial Guidelines, are relevant in the assessment of this appeal:
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020 and 2018);
  - Urban Development and Building Heights Guidelines for Planning Authorities (2018);
  - British Standard (BS) EN 17037:2018 'Daylight in Buildings' (2018);
  - Rebuilding Ireland Action Plan for Housing and Homelessness (2016);
  - Architectural Heritage Protection – Guidelines for Planning Authorities (2011);
  - Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice' (BRE, 2<sup>nd</sup> Edition, 2011)
  - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
  - Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).

## 5.4. Local Planning Policy

- 5.4.1. The majority of the appeal site is situated on lands with a zoning objective 'Z1 – Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, while the rear portion along North Great George's Street has a zoning objective 'Z8 – Georgian Conservation Areas'. This Z8 zoning overlaps a 'Conservation Area', while many of the neighbouring properties along North Great George's Street are included within the Record of Protected Structures (RPS) appended to the Development Plan, including the adjoining properties at no.35 (RPS ref. 3197, James Joyce Cultural Centre), no.36 (RPS ref. 3198), no.37 (RPS ref. 3199) and no.38 (RPS ref. 3200). Variation 31 of the Development Plan was adopted in January 2021 and this provides for an area centred on North Great George's Street, including the appeal site, to be included within an Architectural Conservation Area (ACA).
- 5.4.2. Under Policy QH1 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 5.3 above. Policy SC13 promotes sustainable densities in residential development proposals with due consideration for surrounding residential amenities. The following policies are considered relevant to this appeal:
- Policy QH5 – addressing housing shortfall through active land management;
  - Policy QH6 – sustainable neighbourhoods with a variety of housing;
  - Policy QH7 – promotion of sustainable urban densities;
  - Policy QH8 – promoting the development of vacant and under-utilised sites;
  - Policy QH11 – promotion of safety and security in new developments;
  - Policy QH13 – new housing should be adaptable and flexible;
  - Policy QH17 – support purpose-built, managed high-quality private-rented accommodation with a long-term horizon.
- 5.4.3. Section 16.7.2 of the Development Plan sets out building height limits, including a 24m restriction for residential developments in the subject inner-city area.
- 5.4.4. Other relevant sections of the Development Plan include the following:

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.9 – Urban Form and Architecture;
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 11.1. – Built Heritage;
- Section 16.2 – Design, Principles and Standards;
- Section 16.10 - Standards for Residential Accommodation;
- Section 16.38 – Car Parking Standards (Zone 1 – maximum of 1 space per residential unit).

5.4.5. Dublin City Council has started the preparation of a new Dublin City Development Plan for the period 2022 to 2028. It is understood that a draft Development Plan is intended to be submitted to the members of the Council for their consideration in late November 2021.

## 5.5. Natural Heritage Designations

5.5.1. The nearest natural heritage designated sites to the appeal site, including Special Areas of Conservation (SAC) and Special Protection Areas (SPA), comprise the following:

**Table 2. Natural Heritage Designations**

Site Code	Site Name	Distance	Direction
004024	South Dublin Bay and River Tolka Estuary SPA	2.1km	east
000210	South Dublin Bay SAC	3.8km	southeast
004006	North Bull Island SPA	5.2km	east
000206	North Dublin Bay SAC	5.2km	east
000199	Baldoyle Bay SAC	9.8km	northeast
004016	Baldoyle Bay SPA	10.1km	northeast
000202	Howth Head SAC	11.0km	northeast
003000	Rockabill to Dalkey Islands SAC	11.3km	east
000205	Malahide Estuary SAC	12.4km	northeast

004025	Malahide Estuary SPA	12.4km	northeast
001209	Glenasmole Valley SAC	12.9km	south
002122	Wicklow Mountains SAC	13.0km	south
004040	Wicklow Mountains SPA	13.2km	south
004113	Howth Head Coast SAC	13.6km	northeast
004117	Ireland's Eye SPA	13.7km	northeast
002193	Ireland's Eye SAC	13.9km	northeast
004172	Dalkey Islands SPA	13.8km	southeast

## 6.0 Screening for EIA

- 6.1.1. The applicant has addressed the issue of EIA within an EIA screening statement and I have had regard to same in this screening assessment. This report contained information to be provided in line with Schedule 7A of the Planning and Development Regulations 2001-2020 (hereinafter 'the Regulations'). The EIA screening submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Where an application is made for sub-threshold development and Schedule 7A information is submitted by the applicant, the Board must carry out a screening determination, therefore, it cannot screen out the need for EIA at preliminary examination.
- 6.1.2. This proposed development, is of a class of development included in Schedule 5 to the Regulations. Class (10)(b) of Schedule 5 to Part 2 of the Regulations provides that mandatory EIA is required for the following classes of development:
- (i) construction of more than 500 dwelling units,
  - (iv) urban development which would involve an area greater than 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.
- \*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.
- 6.1.3. The development would provide for the demolition of buildings and the construction of 150 dwelling units, as well as public café, all on a site measuring 0.16 hectares in

a built-up urban area. Having regard to classes 10(b)(i) and 10(b)(iv) of Schedule 5 to Part 2 of the Regulations, the proposed development is therefore sub-threshold in terms of the mandatory submission of an EIA.

6.1.4. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report, and I recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an EIA report would not therefore be required having regard to the following main reasons and considerations:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i) and 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2020,
- the location of the co-living scheme with public café and associated development on lands zoned 'Z1 - Sustainable Residential Neighbourhoods' and 'Z8 - Georgian Conservation Areas' within the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of this Plan, including the adopted variation no.31;
- the existing development and history of the site;
- the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001-2020;
- the guidance set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2020, and;
- the features and measures proposed by the applicant envisaged to address what might otherwise be significant effects on the environment, including



measures identified in the Outline Construction Management Plan and Construction and Demolition Waste Management Plan.

- 6.1.5. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an EIA report would not therefore be required.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

- 7.1.1. A total of four third-party appeals opposing the decision of the planning authority were received, with three from residents of North Great George's Street and one from the Irish Georgian Society. In conjunction with the third-party observations, the issues raised in relation to the proposed development can be collectively summarised as follows:

#### Development Principles

- the Z8 zoning objectives for the area along North Great George's Street should also apply to the remainder of the site zoned 'Z1';
- the previous permission (ABP ref. 306181-19), should not have been granted by the Board;
- there is likely to be a lack of demand for this type of living accommodation in a post-Covid era, due to health and safety concerns;
- long-term housing solutions would be more preferable for the redevelopment of this site, as opposed to housing that caters for transient groups and relegates the housing needs of single people;
- student housing is already well catered for in this area and co-living is simply another form of student housing;
- other existing vacant commercial buildings in the area may provide greater scope to cater for co-living schemes;
- the access along North Great George's Street would become the primary access and would divert footfall from along Hill Street where it would be most needed;

## Residential Amenities

- proposals would result in negative impacts on the quality of life of neighbouring residents and would force residents out of the area,
- proposals lack due consideration for the potential to restrict lighting to the basement windows and the garden areas along North Great George's Street and within Headfort Court, despite the existing limited lighting to the lower rear levels of North Great George's Street;
- proposals would result in excessive overlooking and overshadowing of neighbouring properties;
- proposals would result in the loss of outlook and views of the sky from the properties to the rear;
- proposals would result in the loss of privacy for neighbouring residents and all proposed flat roofs should not feature walls, screens or planting;
- increased noise and disturbance would arise along North Great George's Street as a result of the proposed cyclist and pedestrian access on this street, the position of a proposed plant room to the rear of the site, the general activity during the construction and operational stages, the need for waste and laundry servicing and the use of the rooftop terrace;
- as the North Great George's Street entrance would not be monitored, this would create security issues in the area;
- increased health and safety risks would arise, including the risks associated with residents cooking on rooftop areas;
- increased waste and littering would be likely;
- the assessment of lighting levels to amenity areas based on the lighting during the 21<sup>st</sup> day of March, fails to consider the lighting available at other times of the year;

## Design and Cultural Heritage

- the proposed development height and scale would be out of character with the historic area, including the Georgian core of the city;

- proposals represent overdevelopment of what are in essence mews sites with an original mews building;
- the buildings are within the curtilage of the protected structures along North Great George's Street;
- proposals would be contrary to policy CHC2 of the Development Plan, which aims to safeguard the special interest of protected structures and the provisions set out within section 11.1.5.3 of the Development Plan addressing the need for traditional proportionate relationships in the built environment;
- the proposed parapet height exceeds the height of the rear terrace to North Great George's Street and, therefore, the new building would not be subservient to this terrace;
- proposals lack consideration for the detailed architectural, cultural and historical significance of North Great George's Street properties, which is intended to be included within an ACA;
- the planning authority's decision is contrary to the advice offered by their own Conservation Officer;
- the proposals are of monolithic scale and represent a poor architectural response to the context and streetscape, while the northern return wing should be omitted;
- no vents should be provided along the northern side of the building;

#### Development Standards

- when compared with the previously permitted scheme, there would be reduced amenities for future residents of the units;
- the Covid pandemic highlights the health hazard that this type of accommodation would facilitate and the removal of the cooking hobs to the individual units would force the use of the communal amenity areas;
- when compared to the previously permitted scheme, only six additional cycle spaces would be provided, despite 21 extra bed spaces being proposed;

## Other Matters

- a decision should not issue until the Judicial Review proceedings regarding the previous decision (ABP ref. 306181-19) are concluded;
- the application proposals should be assessed in full and not merely as amendments to the previously permitted scheme;
- conditions should be attached to restrict the sale of alcohol from the café;
- proposals would result in negative impacts in the value of property and would set a precedent for further similar development;
- the applicants are simply trying to acquire the most financial gain from the project;
- a copy of a document generally opposing the Strategic Housing Development process was submitting with the grounds of appeal;
- application details are omitted, including the complete ground-floor elevations and the boundary treatments along Headfort Court;
- the previous comments of the observers on the planning application DCC ref. 3546/19 and the appellants under appeal ABP ref. 306181-19 remain pertinent.

## **7.2. Applicant's Response**

The applicant's response to the grounds of appeal can be summarised as follows:

- proposals primarily aim to amend and extend the development previously permitted, with the principle of co-living accommodation established, with no further increases in building height and with building scale responsive to neighbouring building heights, context and topography;
- due consideration for the architectural heritage of the area has been undertaken as part of the design of the scheme, including context relative to zoning objectives, protected structures, the conservation area and the draft ACA;

- proposals generally continue previously permitted development scales, design and height, and would contribute positively to the streetscape, as confirmed by the Planning Authority;
- proposals would not alter the permitted impacts on no.36 North Great George's Street, which has been operating as short-term residential accommodation and an office in recent years;
- sufficient separation distances between the proposed buildings and the protected structures to the rear has been maintained.

### **7.3. Observations**

- 7.3.1. Six observations were submitted in response to the grounds of appeal, four of which were stated to be from occupants of North Great George's Street and one each from North Great George's Street Preservation Society and An Taisce. These observations largely reaffirm issues raised within the observations at the planning application stage and also within the grounds of appeal, as collectively summarised above. The observations state that conditions attached to a permission would not address concerns raised, including those relating to noise and overlooking, while additional conditions have been requested to be attached in the event of a permission generally with respect to boundary treatment works to the rear, the restriction of balconies and additional controls for the management of the facility.

### **7.4. Planning Authority Response**

- 7.4.1. The planning authority did not respond to the grounds of appeal.

### **7.5. Further Submissions**

- 7.5.1. In responding to the grounds of appeal of the other appellants, a further submission from an appellant of North Great George's Street reaffirms matters raised within the grounds of appeal. Following consultation by An Bord Pleanála with the Minister for Culture, Heritage and the Gaeltacht, An Taisce, The Arts Council, The Heritage Council and Fáilte Ireland, further submissions were not received from these parties.

## **8.0 Assessment**

### **8.1. Introduction**

- 8.1.1. Planning permission was previously granted on part of this site for the demolition of the buildings at 39 to 41 Hill Street and the construction a three to seven-storey building comprising 129 co-living units with ancillary communal areas and a public café (ABP ref. 306181-19). The current proposal is for a revised enlarged development absorbing the adjoining plot at no.38 Hill Street and altering the internal layout, to provide for a total of 150 co-living units with ancillary communal areas and a public café. The applicant has also requested the omission of a condition to the aforementioned previous permission, requiring functional kitchens with cooking hobs within individual units, and I address this issue below (see section 8.7).
- 8.1.2. The applicant has referred to the proposed development as an extension to a permitted scheme, whereas the grounds of appeal assert that the proposed development should be assessed in its entirety and de novo. The previously permitted development decision is currently the subject of Judicial Review proceedings and development has not yet commenced. Many of the substantive matters requiring assessment have been considered by the Board in arriving at the previous appeal decision, and I refer to these matters below as part of my comprehensive consideration of the overall development, while also focussing, where necessary, on the revised planning context and the alterations to the proposed development when compared with the previously permitted development.
- 8.1.3. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, having visited the site and having regard to relevant local, regional and national policies and guidance, I consider that the main issues for consideration in this appeal are as follows:
- Principle of Co-Living Housing;
  - Zoning;
  - Layout, Height, Scale and Design;
  - Impact on Cultural Heritage;
  - Impact on Local Amenities;

- Standard of Accommodation.

## **8.2. Principle of Co-Living Housing**

8.2.1. In 2018 the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities set out guidance with respect to the shared accommodation/co-living housing typology, whereby professionally-managed rental accommodation would be provided to meet the housing needs of key sectors of society, including international workforce on short-term contracts, as well as young professional people and older people who want to live independently. These Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities were updated on the 23<sup>rd</sup> day of December, 2020, as it was determined that there was a sufficient quantum of shared accommodation/co-living units either permitted or subject to consideration within the planning system that may be built out to demonstrate and prove this housing concept without impacting on the housing system. Under specific planning policy requirement (SPPR) 9 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities 2020 (hereinafter the ‘New Apartment Guidelines’) the following is stated:

- There shall be a presumption against granting planning permission for shared accommodation/co-living development, unless the proposed development is either,
  - (i) required to meet the specific demand identified by the local planning authority further to a housing need and demand assessment process, or
  - (ii) on the date of publication of these guidelines a valid planning application to the Planning Authority, appeal to An Bord Pleanála, or a SHD planning application to An Bord Pleanála in which case, the application or appeal may be determined on its merits.

8.2.2. The exception provided for under point (i) above does not apply, as I am not aware that Dublin City Council has identified a specific demand for this housing further to a housing need and demand assessment process. The exception outlined above in point (ii) would apply in this instance, as the planning application was lodged to the

planning authority on 20<sup>th</sup> day of July, 2020, and an appeal was lodged to An Bord Pleanála on the 4<sup>th</sup> day of December, 2020, prior to the publication of the updated Guidelines. On this basis I am satisfied that there should be no presumption against the granting of planning permission on the basis of SPPR 9 in this appeal case and it should be assessed on its merits.

8.2.3. From the outset it is noted that the 2020 version of the New Apartment Guidelines, no longer provides development standards with respect to shared accommodation / co-living schemes, while the statutory plan for the subject area does not provide any specific guidance in this regard either. While acknowledging that the statutory basis for determining of the appeal is provided by the 2020 version of the New Apartment Guidelines, to guide assessment of the adequacy of the subject proposals, including the standard of accommodation, I consider it reasonable, most logical and of merit to utilise standards that had initially been set out in the 2018 version of the New Apartment Guidelines.

8.2.4. The grounds of appeal assert that co-living would not be appropriate for the area and that alternative forms of housing would be more preferable for the site. The applicant submitted a report with their planning application in support of the demand for the proposed shared accommodation, titled 'Co-Living Demand & Concept Report', in accordance with the requirements set out under section 5.18 of the 2018 New Apartment Guidelines. In assessing the previous permission (ABP ref. 306181-19) it was considered that based on housing provision in the area at the time, the designation of the subject city centre area as part of the top tier in the settlement hierarchy for Dublin with extensive connectivity, the site location would be suitable for shared-living/co-living accommodation. There has been a number of applications submitted, appeals lodged and permissions granted for shared-accommodation / co-living developments in the neighbouring north inner-city area since the Board's decision under ABP ref. 306181-19, including permissions for 37 units at Frederick Street (ABP ref. 309429-21) and 114 units on Mountjoy Street (ABP ref. 307851-20). The evidence available would suggest a desire to provide this typology of housing in this part of the city and that saturation would be unlikely based on the fact that the 2020 updated New Apartments Guidelines determined that there is a sufficient quantum of shared accommodation/co-living units either permitted or subject to consideration within the planning system, that may be built out to demonstrate and



prove the co-living concept, without impacting on the housing system.

Consequently, subject to consideration of the zoning objectives and other planning and environmental considerations, I am satisfied that the principle of a co-living scheme on this site would be acceptable having regard to the planning history of the site, the pattern of development in the area, the connectivity of the site to various city centre infrastructures and services, and the provisions of the New Apartment Guidelines.

- 8.2.5. For clarity, I recommend that a condition is attached in the event of a permission, detailing that the permission solely relates to single occupancy shared-living accommodation, while also requiring the submission of a covenant or legal agreement that confirms that the development shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years. Furthermore, conditions of a permission should require no unit to be let or sold as a self-contained residential unit and details regarding the ownership and management structures for the continued operation of the development should be provided in line with a shared accommodation model prior to the expiry of the initial 15-year period.

### **8.3. Zoning**

- 8.3.1. The previously permitted co-living scheme and public café were considered to comply with the land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2016-2022. Since the previous permission was granted in June 2020, the land-use zoning objectives for the area have not changed with the majority of the appeal site situated on lands with a zoning 'Z1 – Sustainable Residential Neighbourhoods' with a stated objective 'to protect, provide and improve residential amenities', while the rear portion of the site closest to North Great George's Street has a zoning 'Z8 – Georgian Conservation Areas' with a stated objective 'to protect the existing architectural and civic design character and to allow only for limited expansions consistent with the conservation objective'. The expanded area of the site, no.38 Hill Street, is situated on lands with a zoning objective 'Z1 – Sustainable Residential Neighbourhoods'. The co-living element of the development would introduce a residential use to the site, and while being of a commercial housing typology, I am satisfied that this type of use on site is 'permissible in principle' based on Development Plan provisions. The café use would introduce a 'restaurant' type

use to the site, which is open for consideration based on Development Plan provisions, and I do not consider that this use could be considered to reasonably conflict with the objectives for the area. If permitted, restrictions or otherwise on the sale of alcohol from this café would be controlled by the liquor licencing laws. The rear area of the site within the land-use zoning 'Z8 – Georgian Conservation Area', would provide for pedestrian and cyclist access from North Great George's Street and a bicycle storage structure to serve the co-living scheme, which would not conflict with zoning provisions. I am satisfied that the proposed development complies with the land-use zoning objectives for the overall site. Specific potential impacts on architectural heritage, including compliance with objectives relating to the ACA and conservation area designations are assessed further below (see section 8.5).

#### **8.4. Layout, Design, Scale and Height**

- 8.4.1. A detailed assessment of the layout, height and design of the proposed co-living scheme under ABP ref. 306181-19 concluded that the development would provide for an appropriate response in redeveloping nos.39 to 42 Hill Street, in line with the principles set out in the Ministerial Guidelines and the provisions of the Development Plan relating to layout, height and design. In comparison with the previously permitted development, the proposed development would now introduce an additional six-storey element and a single-storey rear projection on the site of no.38 Hill Street via demolition of a two-storey building, on an enlarged site. The grounds of appeal assert that the overall scale and height of the proposed development would be inappropriate and excessive for the site and that the proposed development would not respond sensitively to the site context.
- 8.4.2. The surrounding area is dominated by buildings of three to five-storeys along Hill Street and four storeys along North Great George's Street and Parnell Street. The maximum stated building height would be 23.3m, excluding all lift overruns, while the new element at no.38 would have a maximum building height of approximately 19.2m. The Development Plan sets out that the maximum building height allowable for residential development in this area would be 24m, excluding plant, flues and lift overruns. Consequently, the proposed development would not contravene the building height standards provided for in the Development Plan.

8.4.3. The proposed building heights would be taller than prevailing building heights and assessment against the scaled criteria within the Urban Development and Building Heights Guidelines for Planning Authorities is undertaken below. The Building Heights Guidelines provide clear criteria to be applied when assessing applications for increased height, including SPPR3(a), which provides that where an application for planning permission sets out how a development proposal complies with the criteria in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters set out in the NPF and the Building Heights Guidelines, then permission for such development can be granted, even where specific objectives of the relevant Development Plan may indicate otherwise. In principle, I am satisfied that there is no issue with the height in terms of compliance with national policy, therefore the issue of height is considered below in the context of SPPR3(a), which refers to the criteria in section 3.2 of the Building Heights Guidelines.

#### Scale of the City

8.4.4. At the scale of the city, the site is centrally located and accessible to public transport and shared transport services, including those listed in the preliminary Travel (Mobility Management) Plan submitted. The development layout, including defined urban edge along Hill Street, pedestrian/cyclist access off North Great George's Street and the separation of taller building elements from North Great George's Street, would largely remain as previously considered to be acceptable (under ABP ref. 306181-19) and in any event I am satisfied that the proposed layout successfully responds to the site context and represents a sufficiently high standard of urban design, in accordance with the principles set out in the Development Plan, the Urban Design Manual and the NPF.

#### Scale of the Street

8.4.5. Contiguous elevation drawings submitted with the application illustrate the existing and proposed variations in building heights along Hill Street and also when viewed from the rear of properties along North Great George's Street (see drawing no. 1843 P03\_11 Revision A). The building element fronting onto Hill Street would be six to seven storeys, generally stepping upwards following ground levels and the stepped building heights in The Courtyard scheme, with a drop to six storeys to respond to

the three to four storey adjoining building to the northeast (Headfort Court). The two projecting rear wing elements on the side boundaries behind the main building would be five storeys, stepping down to three storeys to the rear of the southern wing and single storey to the rear of no.38 Hill Street. I am satisfied that the separation distances between the proposed building and other neighbouring buildings to the rear, as well as the stepped building height, would be sufficient to ensure that there would not be an abrupt transition between the proposed and existing building heights.

- 8.4.6. There is a playful approach in the design proposed, as emphasised in the projecting box elements and the concealed service doors within the cladding on the southern end of the front façade along Hill Street. The applicant asserts that the design approach is in direct contrast to the ordered scale and proportion of the terraced houses along North Great George's Street. The proposed build exhibits a consistency in design and external finish with only minor alterations to the previously permitted elevations. The roofs to the buildings would feature a metal parapet, roof gardens with timber pergola structures and intensive green roof finishes. I am satisfied that the design and external appearance of the proposed building would have a positive contribution to the streetscape, particularly in replacing the vacant former warehouse and factory buildings, which are falling into disrepair. The proposed elevational treatments and the ground-floor uses along Hill Street, including a public café and communal areas, would also add visual interest and activity along the streetscape, and in doing so would provide an improved means of addressing the public realm. As noted above, the proposed development would provide increased variety in housing within this area. The proposed plot ratio and site coverage for the development would be acceptable having regard to circumstances outlined in the Development Plan, whereby exceedances in indicative plot ratio and site coverage standards would be permissible, including the existing development on site and the comprehensive redevelopment and renewal of this area.

#### Scale of the Site

- 8.4.7. An Architectural Design Strategy report was submitted with the application, including CGIs, setting out the applicant's rationale for proposing a contemporary design approach for the building elevations, as well as the use of quality, durable and low

maintenance materials and finishes throughout the scheme. It is intended to employ measures to minimise energy consumption within the facility and to provide for a nearly zero energy compliant building (NZEB), as per the 'Part L & NZEB Report' submitted with the application.

- 8.4.8. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. These Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or British Standard (BS) 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors, including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. Section 6 of the 2020 New Apartments Guidelines also state that planning authorities should have regard to these BRE or BS standards.
- 8.4.9. The applicant's Daylight & Shadow Analysis Report provides an assessment of daylight access within the proposed scheme having regard to the quantitative standards within BS 8206-2: 2008 'Lighting for Buildings - Part 2: Code of Practice for Daylighting' and the BRE 209 'Site Layout Planning for Daylight and Sunlight' (2011). I note that in the UK BS EN 17037:2018 'Daylight in buildings' replaced BS 8206-2: 2008 in May 2019, however, I am satisfied that this document/updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines (2018) (i.e. BS 8206-2: 2008 and BRE 209). In assessing the potential impact on neighbouring residences, below I consider the loss of light from the sky into the neighbouring properties through their

main windows, as well as the extent of overshadowing and loss of sunlight to the private amenity spaces associated with neighbouring residences.

#### Light from the Sky

8.4.10. The BRE guidance on daylight is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens and bedrooms. In order to assess the impacts of developments on existing buildings, the criteria set out in Section 2.2 of the BRE guidance can be summarised as follows:

- (i) Is the separation distance greater than three times the height of the new building above the centre of the main window? In such cases the loss of light will be small. If a lesser separation distance is proposed further assessment is required.
- (ii) Does the new development subtend an angle greater than  $25^{\circ}$  to the horizontal measured from the centre line of the lowest window to a main living room? If it does further assessment is required.
- (iii) Is the Vertical Sky Component (VSC)  $>27\%$  for any main window? If VSC is  $>27\%$  then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum.
- (iv) Is the VSC  $<0.8$  of the value before? The BRE guidance states that if VSC with the new development in place is both  $<27\%$  and  $<0.8$  times its former value, occupants of the existing building will notice the reduction in the amount of skylight.
- (v) In the room impacted, is area of working plan which can see the sky less than  $0.8$  the value of before? (i.e., if 'yes' daylighting is likely to be significantly affected). Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

8.4.11. The tests above are a general guide only and the BRE guidance states that they need to be applied flexibly and sensibly. The guidance document states that all figures and targets are intended to aid designers in achieving maximum sunlight and daylight for future residents and to mitigate the worst of the potential impacts for existing residents. It is noted that there is likely to be instances where judgement

and balance of considerations apply. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist in identifying where potential issues and impacts may arise and to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Dublin metropolitan area, and increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical.

8.4.12. The VSC section of the applicant's Daylight and Shadow Analysis Report states that the neighbouring buildings which could possibly be affected from daylight reception are those to the south and west of the proposed new development. Separation distances are generally less than three times the height of the new building above the centre of the main windows being considered (at the closest point), therefore, based on the BRE guidance a more detailed daylight assessment is required. I am satisfied that the VSC assessment has been targeted to the neighbouring rooms that are at the most challenging locations and demonstrate the worst-case scenario. The assessment considered 102 rear windows on all levels of the neighbouring buildings along Belvedere Court and 35 to 40 North Great George's Street. The study indicates the use of the windows based on the best available information and assumes that the tested windows serve a range of residential apartments, a museum, short-term residential, circulation space and offices. The windows tested are identified within the study and their locations and levels are picked up in the application drawings.

8.4.13. Notwithstanding that the precise use of each of the rooms served by the 102 tested windows is not known, with the proposed development in place the level of change to the average daylight factor (ADF) to all windows tested would be within the change factor of 0.8, as recommended in the BRE guidance. The VSC as a percentage of the existing situation would be within 84% and 99% for the properties along 35 to 40 North Great George's Street, while being within 84% and 100% for the apartments along Belvedere Court. I am satisfied that the assessment undertaken is robust and comprehensive and that it indicates that with the proposed development in place the impact on daylight reception to the neighbouring buildings would meet the recommended standards set out in the BRE document 'Site Layout and Planning for Daylight and Sunlight – a Guide to Good Practice' (2011).

### Loss of Sunlight/Overshadowing

- 8.4.14. For reasons relating to attractiveness of a space, functionality, clothes drying, plant growth and affecting other environmental conditions, the BRE guidance recommends that at least half of a garden or amenity area should receive a minimum of two hours sunlight on the 21<sup>st</sup> day of March (spring equinox). Where this level of minimum sunlight is not achievable, the BRE Guidance indicates that any loss of sunlight as a result of a new development should not be greater than 0.8 times its former value, otherwise the loss of sunlight would be noticeable. The submitted Daylight and Shadow Analysis Report includes an assessment of the impact on existing neighbouring gardens for both the previously permitted development (ABP ref. 306181-19) and the proposed development.
- 8.4.15. An overshadowing / sunlight assessment was undertaken by the applicant using a 3D model of the development and adjoining buildings, with the results shown in graphical format in the submitted Daylight and Shadow Analysis Report. The report examined the levels of sunlight to the six nearest gardens to the north and west of the appeal site at Headfort Court and 37 to 40 North Great George's Street, which are considered to be the amenity areas with the greatest potential to be impacted by the development, and, as such, present the worst-case scenario from an achievable sunlight and overshadowing perspective. The report revealed limited levels of sunlight at present for three of the six neighbouring gardens based on BRE guidance, while there would be no alteration in sunlight levels for the amenity areas to the south and southwest of the site at Belvedere Court and The Courtyard.
- 8.4.16. The report concluded that as a result of the proposed development nos.38 and 39 North Great George's Street would receive less than the minimum of two hours sunlight on 21<sup>st</sup> March for half their garden areas. However, the gardens to nos. 38 and 39 presently without the proposed development in place receive sunlight below the minimum standards set out in the BRE guidance. The study indicates that the garden to no.37 North Great George's Street would receive additional sunlight and that there would be no change in sunlight levels to the gardens of nos.38 and 40 North Great George's Street. For the garden of no.39 North Great George's Street the sunlight received would be 5% less than the current value according to the applicant's report. For the two raised terraces serving Headfort Court, the reduction in sunlight would be 20% and 50% below the current value, however, when



measured on the 21<sup>st</sup> day of March, at least half of both raised terraces would receive a minimum of two hours sunlight on 21<sup>st</sup> March in compliance with the BRE standards. In summary and based on the study submitted, the tested amenity areas that are considered to present the worst-case scenario in terms of the potential for loss of sunlight and overshadowing arising from the proposed development, would all receive adequate sunlight throughout the year when compared with the existing circumstances and with the proposed development in place, in compliance with the BRE guidance.

- 8.4.17. Having regard to the objectives for comprehensive urban regeneration at this location and the constraints offered by the site in terms of its position immediately south of Headfort Court, coupled with the limited impact that arises in respect of the other neighbouring properties, I consider that the potential for undue impacts on the amenities of the neighbouring residential properties can be reasonably discounted and that the discretion offered by Section 3.2 of the Sustainable Urban Development and Building Heights Guidelines (2018) and Section 6.6 of the New Apartments Guidelines (2020) is such that, a refusal of permission is not warranted.

#### No.38 Hill Street – Previous Refusal

- 8.4.18. The planning authority previously refused outline planning permission in 2019 for a five-storey building on the site of no.38 Hill Street. In contrast to the subject proposals featuring a rear building line on the upper floors approximately 1m behind the rear building line to the adjoining Headfort Court building, the previously refused five-storey building would have extended 12.5m behind the rear building line of Headfort Court and this was considered excessive by the planning authority. I do not consider the scale of the subject proposals to be excessive relative to the proximity and relationship with neighbouring properties, including Headfort Court and no.38 North Great George's Street. Detailed assessment regarding the scale of the proposals relative to North Great George's Street and The Courtyard apartment complex to the southwest has previously been considered under ABP ref. 306181-19. The six to seven storey elements of the building would be positioned over 24m from the rear of properties along North Great George's Street. I am satisfied that the subject proposals would not be excessive in scale relative to these neighbouring properties, particularly given the positioning, appearance and height of the existing buildings on site that are proposed to be demolished as part of the subject scheme.

## Conclusion

8.4.19. The development would be within a city centre location and would provide for a high quality of architectural finishes and overall design, including the use of materials and elements to break up the scale and mass of the proposed building, as well as building heights suitably addressing topography and the proximity to neighbouring properties. In conclusion, I am satisfied that subject to consideration of the impacts on architectural heritage the proposed development would provide for an appropriate response in redeveloping this brownfield site at the scale of the city, street and site, in line with the principles set out in the Ministerial Guidelines and the provisions of the Development Plan relating to layout, design, scale and height.

## **8.5. Impact on Cultural Heritage**

8.5.1. During consideration of the previous scheme, detailed assessment regarding the potential impacts on the architectural heritage of the area was undertaken. In the interim the subject site has been included within an ACA, which requires consideration of the proposals with respect to this revised planning context. The grounds of appeal assert that the proposed development would have a detrimental impact on the character and setting of neighbouring protected structures, including the properties along North Great George's Street. The Conservation Officer from the planning authority provided details regarding structures along North Great George's Street and recommended refusal of planning permission, as they considered the scale of the development, largely involving the redevelopment of mews sites to North Great George's Street, would be excessive from their 'architectural conservation standpoint'. The applicant's design strategy and conservation assessment provides information, including maps, acknowledging the historical context of the site and the evolution of the urban morphology of the area. The applicant's conservation assessment asserts that the proposed development would reduce the bulk of buildings close to the rear of the protected structures along North Great George's Street, as well as having no appreciable impact on the character or setting of all neighbouring protected structures, as well as other buildings on Hill Street and the immediate streets.

## Protected Structures

- 8.5.2. In addition to the protected structures along North Great George's Street, the Tower of the Old St. George's Church (RPS Ref. 3380) opposite the site on Hill Street and approximately 30m to the east is also a protected structure, while the International Organisation for Migration (IOM) building opposite the site and 20m to the northeast is included within the National Inventory of Architectural Heritage (Ref. 50010702).
- 8.5.3. The existing buildings on site are not specifically identified as protected structures or features within the attendant grounds of protected structures, and the development would not involve works to protected structures. The Conservation Officer and the grounds of appeal assert that the buildings on the subject site are within the curtilage of the protected structures along North Great George's Street and, as such, the proposed buildings should be subservient in scale and should not exceed the height of the rear terrace to North Great George's Street.
- 8.5.4. It is not apparent that the buildings on site are within the curtilage of the protected structures. The Architectural Heritage Protection - Guidelines for Planning Authorities (2011) outline an approach in identifying the curtilage of a protected structure, including matters relating to functional connections, historic relationships between structures and ownership. Based on historical mapping, it is highly likely that the plots on the subject appeal site would have been used to provide rear service access to the properties fronting onto North Great George's Street. Over time the properties have become subdivided and the vast bulk of properties along Hill Street appear to be in separate ownership to the North Great George's Street properties. While coach houses or similar buildings may have historically occupied the Hill Street side of the North Great George's Street properties, such buildings are no longer present on the frontage to the appeal site based on the information available, including the Conservation Assessment report submitted with the application. The historical relationship and functionality between the properties has eroded over time and a clear and obvious connection between the protected structures along North Great George's Street and the existing former warehouse and factory buildings along Hill Street no longer exists. The buildings on the appeal site do not form part of protected structures and they are not features that make a contribution to the character or setting of neighbouring protected structures.

### Architectural Conservation Area

8.5.5. In January 2021 Dublin City Council adopted variation no.31 of the Development Plan, which assigned North Great George's Street and the surrounding area, including the appeal site, as an ACA. The special interest and character of the ACA is primarily defined by the Georgian terraces along North Great George's Street. The stated purpose of the ACA is to protect and enhance the special character of the ACA by ensuring that all new development is carried out in a manner sympathetic to the special character of the area and to encourage the reinstatement and enhancement of existing structures in a manner sympathetic to the special character of the area. Policy CHC5 of the Development Plan states that the loss of non-protected structures that make a positive contribution to the character and appearance of an ACA will be resisted unless it can be demonstrated that this would be of public benefit. I am satisfied that based on the information available, including internal and external photographs submitted, the subject buildings are in a poor state of repair at present, and based on my visit to the area, the subject buildings do not contribute in a positive manner to the character or setting of the ACA. These matters are not contested by parties to the appeal. Policy CHC5 states that demolition of buildings that have a neutral or negative contribution on an ACA will be encouraged where this can be replaced with a high-quality building with enhanced environmental performance. As noted above a high-quality building is proposed and the 'Part L & NZEB Report' submitted by the applicant, clearly shows that this would have a more enhanced operational environmental performance than the existing structures. In conclusion, the demolition of the subject buildings would be in compliance with the provisions set out under policy CHC5 of the Development Plan.

### Impacts on Setting and Character

- 8.5.6. Policy CHC2 of the Development Plan requires the design, form, scale, height, proportions, siting and materials of new development to relate to and complement the special character of neighbouring protected structures, while policy CHC4 aims to protect the special interest and character of all Dublin's conservation areas.
- 8.5.7. With the exception of the 3.5m-wide gap for the laneway serving the appeal site, the four-storey red-brick terrace on North Great George's Street would restrict views of the proposed development from North Great George's Street. The scale of the

previously permitted building (ABP-306181-19), which is of similar scale to the proposed building, in the context of the existing buildings along North Great George's Street is illustrated on page 7 of the Architectural Design Report submitted, and this indicates that a substantial difference in existing, previously permitted and proposed building heights would not arise within the block. Given the existing scale of buildings adjoining the site and on site, including a four-storey building backing onto part of the rear boundary, the minimum 24m separation distance between the terrace of protected structures and the proposed six to seven-storey building elements, as well as the stepped building design, I am satisfied that the proposed development would not substantially interfere with or have an adverse impact on the character or setting of the conservation area, the ACA or the protected structures to the rear along North Great George's Street. The proposed works within the area identified as having a zoning objective Z8 and also within a 'conservation area', are not substantial, and these elements of the works would improve the character of the conservation area, by sensitively reusing and reinstating the historical 3.5m-wide access off North Great George's Street, as illustrated in the CGIs submitted (see page 25 of the Architectural Design Report).

- 8.5.8. I am satisfied that the special interest and character of the conservation area and ACA would be protected and enhanced and the setting and character of neighbouring protected structures would not be adversely impacted. In conclusion, the proposed development would comply with conservation principles and the provisions of the Development Plan, including policies CHC2, CHC4 and CHC5, and the proposed development should not be refused permission for this reason.

#### Archaeology

- 8.5.9. The Archaeological Assessment submitted states that the site is within the zone of archaeological potential for the historic city (DU018-020) and within the constraint zone for a possible graveyard (DU018-020495), as well as marginally outside the constraint zone for St. George's Church and graveyard (DU018-020496). The findings of previous archaeological tests in the vicinity are outlined in the Archaeological Assessment. The site has been heavily developed in the past and its archaeological potential is considered to be low. Archaeological monitoring is recommended in the assessment and this can be secured via condition in the event of a permission.

## **8.6. Impact on Local Amenities**

- 8.6.1. The grounds of appeal raise concerns with respect to the potential impact of the development on the amenities of neighbouring properties, generally arising from the potential for loss of light, privacy and outlook, as well as overlooking and overbearing impacts. In response the applicant asserts that the proposals primarily aim to amend and extend the development previously permitted.
- 8.6.2. The closest residential buildings to the appeal site include those along North Great George's Street and Hill Street. The six to seven storey elements of the building would be separated from the rear of properties along North Great George's Street by 24m. Detailed assessment of the impacts of a building of similar siting, scale, height and design on nos.39 to 42 Hill Street was undertaken as part of the consideration of a recent appeal (ABP ref. 306181-19), where it was concluded that the development would not result in excessive loss of light, overshadowing or overlooking for neighbouring properties and it would not have an excessively overbearing impact when viewed from neighbouring properties. I am satisfied that the information presented in the grounds of appeal or the planning application do not provide substantive reason to justify revised conclusions regarding the proposed element of the development on the site of nos.39 to 42 Hill Street, as there would be no greater impact than that which was previously considered to be acceptable. Notwithstanding this, in light of the revised zoning and the additional ACA objectives for the subject area, I have reviewed the proposed scheme in its entirety and I am satisfied that the orientation of the building relative to Hill Street residences and the substantive separation distances from North Great George's Street residences would be achieved in the subject proposals to avoid excessively overbearing impacts or excessive direct overlooking between the proposed and existing properties. Furthermore, decorative brick detailing would break up the bulk of the gable building ends facing the rear of the site. Other than the roof terrace amenity area, which would be securely managed, access to flat roof areas is not proposed. I have also assessed the impacts of the proposed development on lighting and the potential to excessively overshadow neighbouring properties in section 8.4 above, where it was concluded that the proposals would be generally within the acceptable limits.

- 8.6.3. The proposals would introduce a six-storey building with a single-storey rear wing on the site of no.38 Hill Street. As stated above, the upper-floors to this building would only project approximately 1m behind the rear building line of the adjoining Headfort Court apartments. The single-storey rear projection element would replace an existing single-storey structure and an overgrown yard area. At further information stage the applicant omitted windows approximately 13m to the south and facing towards the rear of Headfort Court. Consequently, I am satisfied that the proposed development would not interfere with the privacy enjoyed by residents of Headfort Court. I also note that the proposed six-storey building at no.38 Hill Street would be approximately 30m from the rear of the terrace at no.38 North Great George's Street and this separation distance would be sufficient in ensuring excessive direct overlooking between these buildings would not arise. The projecting window box introduced at further information stage in the northwest rear projecting element of the building would be over 30m from the windows of properties to the rear and would not result in excessive direct overlooking of these properties.
- 8.6.4. Proposals do not alter the previously permitted intention to provide secondary pedestrian and cyclist access off North Great George's Street and the security and access arrangements outlined within the submitted operational management plan would reasonably serve to address the potential for excess noise and disturbance from use of this access, the living spaces and the external amenity areas. The measures presented, including the restriction of access to amenity areas outside of 08:00 and 22:00 hours, are more extensive than what would normally be required for an infill-urban residential development and I am satisfied that compliance with the operation management plan submitted as part of the application proposals, would suitably address the potential for undue residential impacts arising for both neighbouring residents and occupants of the accommodation.
- 8.6.5. The grounds of appeal assert that the proposed development would lead to a depreciation in the value of property in the vicinity. Arising from the assessment above, in particular with regard to the conclusions of the impact of the proposed development on neighbouring residential amenities, and cognisant of the existing buildings and appearance of the site, I am satisfied that clear and convincing evidence has not been provided to support claims that the proposed development would be likely to result in a significant depreciation of property values in the vicinity.

8.6.6. In conclusion, the proposed development would not result in excessive loss of privacy, overshadowing or overlooking of neighbouring properties and would not have an excessively overbearing impact when viewed from neighbouring properties. Accordingly, the proposed development would comply with Policy SC13 of the Development Plan, which promotes sustainable densities within developments, with due consideration for surrounding amenities. The proposed development should not be refused for reasons relating to impacts on neighbouring amenities.

## **8.7. Standard of Accommodation**

8.7.1. At further information stage the applicant revised the subject proposals to increase the floor area of the shared living / lounge / kitchen areas on the first to fourth floors inclusive and I am satisfied that this improved the overall quality of the accommodation. The units within the northwest rear projecting wing were also altered to address the potential for overlooking internally and towards Headfort Court, as referenced above.

### Unit Size

8.7.2. Restrictions on unit mix and the requirement for Part V units did not apply under SPPR (i) of the 2018 New Apartment Guidelines. Potential for the privacy enjoyed by future residents of the ground-floor units to be undermined is addressed via a screen fronting the units onto the external courtyard. The operational management plan and co-living demand and concept report submitted with the application provide details in relation to the operation of the scheme, including the security measures to be employed. Both cluster and individual units are proposed with each of the units to be provided with ensuite wash facilities and floorspace exceeding the minimum standards set in table 5a of the 2018 New Apartment Guidelines for single bedroom units (12sq.m) (see table 3 below). The layouts presented in the Architectural Design Report show a clear differentiation in the various unit areas, including kitchenette, bathrooms, sleeping zones and live/work areas with adequate room for storage to be provided. Ceiling heights of 3.2m for the ground-floor units and 2.7m for the upper-floor units would comply with the minimum standards. Overall unit,



floor areas and bedroom floorspace would meet the requirements, as set out under SPPR (ii) of the 2018 New Apartment Guidelines.

**Table 3. Revised Proposed Unit Mix & Floor Areas**

Unit Type	No. of units	Floor Area (including ensuite)
1 bed (standard)	112	18.3 to 19sqm
1 bed (premium)	9	20.7 to 23sqm
1 bed (accessible)	6	27 to 30sqm
1 bed (cluster-type)	23	16 to 20.7sq.m
<b>Total Units</b>	<b>150</b>	

### Communal Areas

8.7.3. The proposed internal communal amenities, as indicated in the revised floor plans, are listed in Table 4 below.

**Table 4. Revised Proposed Floor-level Accommodation**

Floor level	Occupancy	Communal Area	Internal Communal Spaces
Ground	3 (single)	36sq.m	Shared Dining Room
		314sq.m	Juice Bar, Co-Working Area, Lounge, Games Area, & Activities Room
First	25 (single)	80.5sq.m	Shared Kitchen/Dining/Living
	5 (cluster)	40sq.m	Kitchen/Dining/Living
Second	25 (single)	116sq.m	Kitchen/Dining/Living / Shared Living
	5 (cluster)	40sq.m	Kitchen/Dining/Living
Third	25 (single)	116sq.m	Kitchen/Dining/Living / Shared Living
	4 (cluster)	37sq.m	Kitchen/Dining/Living
Fourth	25 (single)	116sq.m	Kitchen/Dining/Living / Shared Living
	3 (cluster)	38sq.m	Kitchen/Dining/Living
Fifth	24 (single)	63.5sq.m	Shared Kitchen/Dining/Living
Sixth	6 (cluster)	37.5sq.m	Shared Kitchen/Dining/Living
		35sq.m	Shared Living Amenity
<b>Total</b>	<b>150</b>	<b>953.5sqm</b>	

8.7.4. Additional resident support facilities also include a post room, reception area, laundry, storage areas, bin stores and bicycle store. Based on a minimum occupancy of 150 persons and the provision of 953.5sq.m of shared common

internal living, kitchen and amenity facilities, 6.3sq.m per occupant of communal areas would be provided. While recognising the length of some internal corridors from communal kitchen areas to several of the co-living units (30m+), there would appear to be a reasonably well-distributed provision of shared kitchen, dining and lounge areas between the single and cluster units on each of the floors proposed. I am satisfied that residents would enjoy an enhanced overall standard of amenity and that the quantitative and qualitative provision of common living and kitchen facilities serving the proposed development, including their location, aspect and the number of occupants sharing these spaces on each floor would be in line with similar schemes granted by the Board and the standards previously set by SPPR9 (ii) and (iii) within the 2018 New Apartment Guidelines. Having considered the merits of this scheme and residential amenity afforded future occupants in terms of individual bedroom/living room space and communal areas and facilities, the scheme would be in accordance with the principles of proper planning and sustainable development.

#### Daylight and Sunlight

- 8.7.5. I refer the Board to the submitted Daylight and Shadow Analysis Report, which considers the level of sunlight access to the main courtyard space serving the proposed co-living development. The BRE guidance recommends that at least half of the amenity areas should receive a minimum of two hours sunlight on 21<sup>st</sup> March (spring equinox). To this end, an analysis of the sunlight exposure levels for the courtyard amenity area was carried out using a 3D model and the results are shown in graphical format, indicating that in excess of 55% of the overall courtyard space would receive at least two hours of sunlight on the 21<sup>st</sup> day of March. The roof level terrace was not assessed, however, there would clearly not be any substantive obstructions of sunlight to this space, given its elevation above surrounding building heights and the open layout of this space. Based on the assessment submitted, and having regard to the referenced guidance, I am satisfied that the proposed amenity areas would meet and exceed the minimum sunlight standards recommended within the BRE guidance.
- 8.7.6. In respect of residential units, the BS 8206-2 Code of Practice for Daylighting recommends that a minimum ADF of 1.5% should be achieved for main living spaces/living rooms, with a 1% ADF for bedrooms and 2% ADF for kitchens. The proposed single-person co-living units would primarily feature individual living,

bedroom and kitchenette areas with their main kitchen cooking areas located in separate communal amenity rooms. As discussed further below, the cluster units would not feature kitchenettes. A specific ADF for co-living units is not provided in the BRE guidance, consequently, in the absence of same, given that the rooms would primarily serve as living and bedroom spaces with separate kitchen areas, a minimum target of 1.5% ADF should apply for the majority of the co-living units. Three ground-floor co-living units feature dedicated kitchenette spaces, as there would be no communal kitchens serving these units at this level. For these three co-living units, a 2% ADF should apply when assessing the adequacy of the lighting to these units.

- 8.7.7. A representative sample of daylight access for rooms within the proposed development was tested using the rooms that would be most likely to feature obstruction of daylight or lower levels of daylight, due to their location within the development, their lower-level position or due to their layout and fenestration. This included the three ground-floor units featuring dedicated kitchenette spaces. The results of testing revealed that for each of these 'worst-case scenario' co-living units from a lighting perspective, the minimum expected ADF would be within the range of 2% to 5.6%. The applicant submitted an additional daylight assessment at further information stage to address the level of lighting to the eight amended co-living units within the northwest rear projecting wing. This additional study highlighted an ADF of 1.5% to 1.9% for seven of the amended co-living units, with only one co-living unit having an ADF of 1.2%, thereby falling marginally below the minimum ADF standard (1.5%).
- 8.7.8. The applicant assumes that a minimum 1.5% ADF would be required for the shared communal amenity areas, which feature a mix of open-plan dining, seating and kitchen areas. Considering that there would be kitchens in many of these communal spaces serving as the primary cooking stations for residents, it would appear more reasonable to require an ADF of 2% for these areas. The applicant's analysis identifies an ADF of 1.7% to 1.9% for three of the communal amenity areas with kitchens, and as such these communal rooms would fail to meet the minimum target of 2% ADF. Where the three communal amenity areas fall short of the 2% ADF requirement, it is only their kitchen areas that do not meet the standards, as the required ADF of 1.5% would be exceeded for the seating, living and dining areas. I

would also note that the ADF targets sought as per the BRE guidance relate to more traditional residential typologies, and as such given that the subject co-living residential typology is not traditional and as there would not be significant periods of time spent by individuals cooking in these spaces, a lower level ADF is not unreasonable in this case and the application of this target in my assessment would not unduly impinge on the use or enjoyment of these spaces. I would not consider ADFs between 1.7% and 1.9% to constitute material or significant non-compliance with the BRE standards. BRE guidance allows for flexibility in its application of the targets, and in particular in instances such as this I consider the application of such flexibility to be appropriate and consistent with the Guidelines.

- 8.7.9. I am satisfied that the rooms tested represent the 'worst-case' rooms within the development, and that on this basis it is reasonable to predict that rooms not tested would meet the ADF standards. Based on the information provided and available, it is reasonable to predict that using the worst-case scenario 97.5% of the 158 co-living and shared communal amenity rooms in the development would achieve or exceed the minimum ADF requirements. The BRE guidance allow for flexibility in regard to targets and do not dictate a mandatory requirement and based on the worst-case scenario significant non-compliance with the BRE standards would not arise. Furthermore, the New Apartment Guidelines 2020 recognise that a discretionary approach should be taken with regards to non-compliance with daylight provisions in certain circumstances and I am satisfied that such an approach would be reasonable in this case given the unique co-living housing typology that is proposed, based on differing lifestyle choices and priorities, including communal spaces and activities, and the constraints in sustainably and efficiently providing for this development, which would comprehensively secure the regeneration of an inner-urban site. In measuring the adequacy of the provision of sunlight/daylight by the proportion of rooms meeting ADF standards, I am satisfied that the proposed development would adequately meet the residential amenity levels for future residents. All specific assessments required to enable comprehensive consideration have been submitted with the planning application.

## Condition 2 – Kitchenettes with Cooking Hobs

- 8.7.10. The applicant has requested that condition no.2 attached to ABP ref. 306181-19 requiring functional kitchens to include cooking hobs in individual units should be omitted in the event of a permission. The applicant's rationale for same is stated as being based on a desire to encourage shared use of communal areas, the ratio of persons per communal cooking stations, the kitchenette facilities proposed to be provided, fire safety considerations and eat-out/take out city-centre food options. As good practice, the planning authority decided to attach a condition requiring functional kitchens to include cooking hobs in individual units, subject to compliance with Building and Fire Regulations.
- 8.7.11. The grounds of appeal refer to pandemic situations as justifying the need for functional kitchens with hobs within the individual units. Cognisant of the relative infancy of this housing typology in Ireland, cooking hobs were considered necessary to be installed in the individual units, including those permitted under the Board's previous permission ABP ref. 306181-19. The applicant's Co-Living Demand and Concept Report states that residents are offered a choice to eat alone or in their room where the kitchenette allows for the preparation of snacks and simple meals. The proposed kitchenette area for a single-person unit would include a counter top with fridge, storage cupboard, microwave, kettle and toaster, while the 23 cluster-type units do not include kitchenettes, as they would have greater access to kitchen cook stations.
- 8.7.12. I note that recently permitted co-living schemes are not consistent regarding the functionality of kitchen facilities in individual units, with the Brady's, Old Navan Road scheme (ABP ref. 307976) featuring 'basic cooking facilities', the Rathmines House scheme (ABP ref. PL29S.306742) featuring electric cooking hobs and the Former Player Wills site scheme (ABP ref. 308917) featuring kitchenettes with sinks, storage areas and microwaves. In terms of fire safety, I understand that updated guidance set out in Technical Guidance Document (TGD:B) requires a distance of 1.8m from a kitchen cooker to an escape route in open-plan apartments and notwithstanding that open-plan apartments, per se, are not proposed within this scheme, noting the layout proposed for a typical room, the 1.8m separation distance would not be achieved. With the exception of the cluster units, the units would be provided with kitchenettes with a reasonable level of functionality and, based on the information available, I do

not consider it necessary or practical to attach a condition requiring cooking hobs within the functional kitchenettes to the individual units. Such an approach would also support the use of a minimum internal lighting target of 1.5% ADF for the majority of units, as considered in section 8.4 above.

#### Car Parking

8.7.13. I note that no car parking is proposed as part of the proposed development. SPPR 9 (iv) of the 2018 New Apartment Guidelines (iv) stated that a default policy of minimal car parking provision shall apply on the basis of shared accommodation development and the Development Plan establishes that car parking provision may be reduced or eliminated in areas that are well served by public transport. This site is centrally located and accessible to public transport and shared transport services, including those listed in the Travel (Mobility Management) Plan submitted. The Roads & Traffic Planning Division of the planning authority has no issue with the absence of on-site car parking and I am also satisfied that this would be acceptable based on planning provisions and the information and measures set out within the Travel (Mobility Management) Plan submitted.

#### Cycle Parking

8.7.14. A total of 78 double-stacked bicycle spaces are proposed in the courtyard space, which would be accessed off North Great George's Street. Based on the New Apartment Guidelines, a general minimum standard of one cycle space per unit should be applied. Access would be available to alternative shared bike and other schemes operating within the city centre and a Travel (Mobility Management) Plan has been submitted. As a condition in the event of a permission, this Travel Plan would be implemented for the facility. Consequently, I am satisfied that the provision of bicycle parking would be acceptable in this case.

#### Services

8.7.15. In terms of refuse collection, demolition and waste management, the general operation of the facility, water supply and wastewater services, the proposed development would be served in a similar manner to that considered acceptable under ABP ref. 306181-19. I am satisfied that that the services, as well as the construction and operational management proposals would be adequate to serve the

proposed development, subject to appropriate conditions, including those required by the planning authority.

- 8.7.16. In conclusion, the terms of SPPR 9 (i to iv) have been met by the applicant and an acceptable standard of shared-living accommodation, following the approach within the 2018 New Apartment Guidelines has been proposed.

## **9.0 Appropriate Assessment**

### **9.1. AA - Introduction**

- 9.1.1. This assessment is based on the Information for Screening for AA report submitted with the application, dated July 2020. 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 in this screening report. The information contained, along with the other documentation on file including the Screening for EIA report, as well as the Planning Authority report and other technical reports, the submissions of observers and the prescribed bodies and my inspection of the development site and surrounding area, are all considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development.

### **9.2. Site and Project Details**

- 9.2.1. A description of the site is provided in section 1 above. The development site lies within an urban area and currently comprises disused warehouse and factory buildings. The Royal Canal is located 700m to the north of the appeal site, flowing in a south-easterly direction into Dublin Bay at the Samuel Beckett Bridge on North Wall Quay. The River Liffey is located 800m to the south of the appeal site, flowing in an easterly direction into Dublin Bay. The AA screening information submitted states that the site contains no features of ecological significance, while the report submitted screening for EIA states that there are no protected trees or other vegetation on the site. A detailed description of the proposed development is provided in section 2 above.

### 9.3. Stage 1 - Screening

- 9.3.1. There are no designated sites within or immediately adjacent to the development. The project is not directly connected with or necessary to the management of a European Site. The proposed development is examined below in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on any European site in view of the conservation objectives of those sites.
- 9.3.2. In determining the zone of influence I have had regard to the nature and scale of the project, the distance from the development site to European sites, and any potential pathways that may exist from the development site to a European Site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)). Table 5 states the current qualifying interests / conservation objectives for those designated sites closest to the development, as referenced in table 2 above.

**Table 5. European Sites – Qualifying Interests / Conservation Objectives**

Site Name & Code	Conservation Objectives Qualifying Interest / Special Conservation Interest
South Dublin Bay and River Tolka Estuary SPA [004024]	<p>To maintain the favourable conservation condition of Common Tern;</p> <p>To maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it;</p> <p>Grey Plover is proposed for removal from the list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA. As a result, a site-specific conservation objective has not been set for this species;</p> <p>With the exception of Grey Plover, to maintain the favourable conservation condition of the qualifying interest species, as listed directly below.</p> <p>Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046]</p> <p>Oystercatcher <i>Haematopus ostralegus</i> [A130]</p> <p>Ringed plover <i>Charadrius hiaticula</i> [A137]</p> <p>Grey plover <i>Pluvialis squatarola</i> [A141]</p>



	<p>Knot <i>Calidris canutus</i> [A143]  Sanderling <i>Calidris alba</i> [A149]  Dunlin <i>Calidris alpina</i> [A149]  Bar-tailed godwit <i>Limosa lapponica</i> [A157]  Redshank <i>Tringa totanus</i> [A162]  Black-headed gull <i>Chroicocephalus ridibundus</i> [A179]  Roseate tern [A193]  Arctic tern [A194]  Wetland and waterbirds [A999]</p>
<p>South Dublin Bay SAC [000210]</p>	<p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide.</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]  Embryonic shifting dunes [2110]</p>
<p>North Bull Island SPA [004006]</p>	<p>To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it;</p> <p>To maintain the favourable conservation condition of the qualifying species, as listed directly below.</p> <p>Light-bellied brent goose [A046]  Shelduck <i>Tadorna</i> [A048]  Teal <i>Anas crecca</i> [A054]  Pintail <i>Anas acuta</i> [A054]  Shoveler <i>Anas clypeata</i> [A056]  Oystercatcher [A130]  Golden plover <i>Pluvialis apricaria</i> [A140]  Grey plover [A141]  Knot [A143]  Sanderling [A144]  Dunlin [A149]  Black-tailed godwit <i>Limosa</i> [A156]</p>

	<p>Bar-tailed godwit [A157]</p> <p>Curlew <i>Numenius arquata</i> [A160]</p> <p>Redshank [A162]</p> <p>Turnstone <i>Arenaria totanus</i> [A169]</p> <p>Black-headed gull [A179]</p> <p>Wetland and waterbirds [A999]</p>
<p>North Dublin Bay SAC [000206]</p>	<p>To maintain the favourable conservation condition of the qualifying interest habitats and species, as listed directly below.</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows [1330]</p> <p>Mediterranean salt meadows [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalwort <i>Petalophyllum ralfsii</i> [1395]</p>
<p>Baldoyle Bay SAC [000199]</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
<p>Baldoyle Bay SPA [004016]</p>	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p>

	<p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]  Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]  Wetland and Waterbirds [A999]</p>
Howth Head SAC [000202]	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:  Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]  European dry heaths [4030]</p>
Rockabill to Dalkey Islands SAC [003000]	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:  Reefs [1170]  Phocoena phocoena (Harbour Porpoise) [1351]</p>
Malahide Estuary SAC [000205]	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:  Mudflats and sandflats not covered by seawater at low tide [1140]  Salicornia and other annuals colonising mud and sand [1310]  Spartina swards (<i>Spartinion maritima</i>) [1320]  Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]  Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]  Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
Malahide Estuary SPA [004025]	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:  Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]  Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Shelduck (<i>Tadorna tadorna</i>) [A048]  Pintail (<i>Anas acuta</i>) [A054]  Goldeneye (<i>Bucephala clangula</i>) [A067]  Red-breasted Merganser (<i>Mergus serrator</i>) [A069]  Oystercatcher (<i>Haematopus ostralegus</i>) [A130]  Golden Plover (<i>Pluvialis apricaria</i>) [A140]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p>

	<p>Knot (<i>Calidris canutus</i>) [A143]  Dunlin (<i>Calidris alpina</i>) [A149]  Black-tailed Godwit (<i>Limosa limosa</i>) [A156]  Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]  Redshank (<i>Tringa totanus</i>) [A162]  Wetland and Waterbirds [A999]</p>
<p>Glenasmole Valley SAC [001209]</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats:  Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]  Molinia meadows on calcareous, peaty or clayey-siltladen soils (<i>Molinion caeruleae</i>) [6410]  Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p>
<p>Wicklow Mountains SAC [002122]</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:  Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]  Natural dystrophic lakes and ponds [3160]  Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]  European dry heaths [4030]  Alpine and Boreal heaths [4060]  Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]  Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]  Blanket bogs (* if active bog) [7130]  Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]  Calcareous rocky slopes with chasmophytic vegetation [8210]  Siliceous rocky slopes with chasmophytic vegetation [8220]  Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]  <i>Lutra lutra</i> (Otter) [1355]</p>

Wicklow Mountains SPA [004040]	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Merlin ( <i>Falco columbarius</i> ) [A098] Peregrine ( <i>Falco peregrinus</i> ) [A103]
Howth Head Coast SPA [004113]	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Kittiwake ( <i>Rissa tridactyla</i> ) [A188]
Ireland's Eye SPA [004117]	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Herring Gull ( <i>Larus argentatus</i> ) [A184] Kittiwake ( <i>Rissa tridactyla</i> ) [A188] Guillemot ( <i>Uria aalge</i> ) [A199] Razorbill ( <i>Alca torda</i> ) [A200]
Ireland's Eye SAC [002193]	The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets: Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
Dalkey Islands SPA [004172]	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA: Roseate Tern ( <i>Sterna dougalli</i> ) [A192] Common Tern ( <i>Sterna hirundo</i> ) [A193] Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]

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

9.3.10. I note that the following European sites were examined in the submitted AA Screening Report, but they were found not to lie within the zone of influence of the project, in view of their conservation objectives. I consider that there is no possibility of significant effects on these European sites, in light of their conservation objectives, due to intervening distances, to the nature of the intervening land uses, to the absence of a hydrological or any other linkage between the development and these European sites, and/or due to the presence of a substantial marine water buffer

between the surface water discharge point and/or the wastewater treatment plant outfall pipe at Ringsend and the European site, the treatment of wastewaters and the dissipation of potential pollutants within the drainage network. I have therefore excluded them from the remainder of this AA screening.

- Baldoyle Bay SAC (000199)
- Howth Head SAC (000202)
- Rockabill to Dalkey Island SAC (003000)
- Malahide Estuary SAC (000205)
- Glenasmole Valley SAC (001209)
- Wicklow Mountains SAC (002122)
- Ireland's Eye SAC (002193)
- Baldoyle Bay SPA (004016)
- Malahide Estuary SPA (004025)
- Wicklow Mountains SPA (004040)
- Ireland's Eye SPA (004117)
- Howth Head Coast SPA (004113)
- Dalkey Islands SPA (004172)

#### Potential Effects on Designated Sites

9.3.11. Having regard to the potential zone of influence and the submitted AA Screening Report, the following European sites are identified as lying within the potential zone of influence of the development due to potential indirect hydrological connections between the development and the European Sites in Dublin Bay via the Royal Canal, the surface water sewer network and the foul sewer network:

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

9.3.12. Their conservation objectives, as listed in table 5 above, largely relate to water-dependent habitats and species, including coastal and inter-tidal habitats and migratory wintering birds.

#### Likely Significant Effects

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are examined within the applicant's report submitted titled 'Information for Screening for AA' in terms of the likely significant effects on European sites:

- discharge of silt laden / polluted waters from the site during construction works;
- habitat disturbance / species disturbance (construction and / or operational);
- operational surface water and wastewater emissions.

### **9.4. Test of Likely Significant Effects**

#### Water Quality – Construction Phase

9.4.1. Consideration has been given to whether there is a potential risk arising from construction-related surface water discharges from the development site and the potential for these effects to reach the four European sites and potentially affect the conservation objective attributes and targets supporting the conservation condition of the qualifying interests of these European sites due to habitat degradation as a result of hydrological impacts.

9.4.2. Having regard to the information submitted with the application, including the Outline Construction Management Plan and Construction and Demolition Waste Management Plan, I consider that there is no likelihood of loss or disturbance of important habitats or important species associated with the features of interest of the SPAs or qualifying interests of the SACs as a result of construction works on the site, as pollution sources will be controlled through the use of best practice site management. The proposed construction management measures outlined are typical and well-proven construction methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. Their implementation would be necessary for a

residential/commercial development on any site, in order to protect the surrounding environs regardless of proximity or connections to any European site or any intention to protect a European site. These practices are not designed or intended specifically to mitigate any putative potential effect on a European site. I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the absence of a likely pollution source from the site into the surface water network, the levels of dilution within the network, the considerable intervening distances, and the volume of water separating the application site from European sites in Dublin Bay (dilution factor).

- 9.4.3. Water quality is not a target for the maintenance of any of the qualifying interests within either of the screened in SACs. Their qualifying interest targets relate to habitat distribution and area, as well as vegetation structure and control of negative indicator species and scrub. The development will not lead to any impacts upon these qualifying interests, by virtue of changes to the physical structure of the habitats or to the vegetation structure which defines their favourable conservation status.

#### Disturbance

- 9.4.4. The development would not increase disturbance effects to birds in Dublin Bay, including during construction phases, given its distance from these sensitive areas across an urban area. There are no substantive sources of light or noise proposed on site over and above that which is already experienced in this built-up urbanised location. There is no evidence to suggest that the proposed increase in building heights would have the potential to adversely impact species associated with European sites.
- 9.4.5. The development would not occur in an area used extensively by a bird species listed above as a qualifying interest of the SPAs. The habitats within the application site are not suitable for the relevant SPA wading bird species. The development would not lead to decreases in the population trend of any bird species. The development would not lead to any decrease in the range, timing, or intensity of use of any areas within any SPAs by these qualifying interest bird species. The development would not lead to the loss of any wetland habitat area within the SPAs. Habitats on the site are not suitable for regularly occurring populations of wetland or



wading birds that may be features of interest of the South Dublin Bay and River Tolka Estuary SPA or North Bull Island SPA. No ex-situ impacts can occur.

#### Water Quality – Operational Phase

- 9.4.6. Foul waters generated during construction and operation would be treated at Ringsend WWTP and following treatment would be discharged into Dublin Bay. While there are capacity issues associated with the Ringsend WWTP, the first phase of WWTP upgrade works would facilitate a 400,000 population equivalent extension. Further upgrade works will enable the WWTP to treat wastewater for up to 2.4 million population equivalent and are expected to be complete in 2025. In addition, Irish Water was granted planning permission for the Greater Dublin Drainage Project on 11<sup>th</sup> November 2019, which will help alleviate capacity issues at Ringsend WWTP. Furthermore, having regard to the scale of development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would in any event be subject to Irish Water consent, and would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached. Surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system after passing through an attenuation tank and a flow-control hydrobrake. I am therefore satisfied that there is no likelihood that pollutants arising from the proposed development either during construction or operation that could reach the European sites in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

### **9.5. In-combination Impacts**

- 9.5.1. This project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased volumes of wastewater to the Ringsend WWTP.
- 9.5.2. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, including the Dublin City Development Plan 2016-2022 covering the location of the application site. This has been subject to AA

by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any European sites. I note also the development is for a relatively small residential development providing for 150 no. co-living units on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal would not generate significant demands on the existing municipal sewers for foul water and surface water. While this project would marginally add to the loadings to the municipal sewer, evidence shows that negative effects to European sites are not arising. Furthermore, I note that upgrade works have commenced on the Ringsend WWTP extension permitted under ABP – PL.29N.YA0010 and the facility is currently operating under EPA licencing that was subject to AA Screening. Similarly, I note the planning authority raised no AA concerns in relation to the proposed development.

- 9.5.3. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any SAC or SPA. There are no projects which can act in combination with the development which could give rise to significant effects to European sites within the zone of influence.

## **9.6. Stage 1 – Screening Conclusion**

- 9.6.1. In conclusion, having regard to the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up urban area, the distances to the nearest European sites, and the hydrological pathway considerations outlined above, it is reasonable to conclude that on the basis of the information on the file, which I consider 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 the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206), or any other European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

- 9.6.2. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

## **10.0 Recommendation**

- 10.1. I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out directly below in the draft Board order.

## **11.0 Reasons and Considerations**

### **Proper Planning and Sustainable Development**

Having regard to the zoning objectives for the site, the nature, scale and design of the proposed development and the pattern of development in the area, it is considered that the proposed development would enhance the existing character of the area, would provide an appropriate response to the redevelopment of the site, would not have an adverse impact on the character and setting of North Great George's Street, neighbouring protected structures, the Architectural Conservation Area and the buildings of architectural heritage in the vicinity, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would provide an acceptable form of residential amenity for future occupants and would be acceptable in terms of servicing 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 Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document and other documents submitted with the application, the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a

significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment Screening**

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

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i) and 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2020,
- the location of the co-living scheme with public café and associated development on lands zoned 'Z1 - Sustainable Residential Neighbourhoods' and 'Z8 - Georgian Conservation Areas' within the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of this Plan, including the adopted variation no.31;
- the existing development and history of the site;
- the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001-2020;
- the guidance set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2020, and;
- the features and measures proposed by the applicant envisaged to address what might otherwise be significant effects on the environment, including

measures identified in the Outline Construction Management Plan and Construction and Demolition Waste Management Plan.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

## 12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 14<sup>th</sup> day of October, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The shared accommodation units hereby permitted shall be for single occupancy only and 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 issued by the Department of Housing, Planning and Local Government in December 2020.

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

3. Prior to the commencement of development, the developer 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 'shared-living units' within the scheme.

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

4. Prior to expiration of the 15-year period referred to in condition number 4 above, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a Shared Accommodation scheme. Any proposed amendment or deviation from the Shared Accommodation model as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity.

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

6. The glazing to the café and the shared accommodation common areas along Hill Street shall be kept free of all stickers, posters and advertisements and any roller shutter and its casing (if required) shall be recessed behind the glazing and shall be factory finished in a single colour to match the colour scheme of the building prior to their erection. The roller shutters shall be of the open lattice type, and shall not be painted on site or left unpainted or used for any form of advertising.

**Reason:** In the interests of visual amenity.

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with,

the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall include detailed boundary treatments and shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

**Reason:** In the interest of residential and visual amenity.

8. Prior to the occupation of the proposed development, a Mobility Management Strategy shall be submitted to the planning authority for written agreement. The strategy shall address the mobility requirements of future occupants and shall promote the use of public transport, cycling and walking. A mobility manager shall be appointed to oversee and co-ordinate the roll out of the strategy.

**Reason:** In the interest of sustainable transportation.

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

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

10. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

**11.** 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 amenity of property in the vicinity and the visual amenity of the area.

**12.** All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

**13.** 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.

**14.** 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.

- 15.** 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 the 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 the environment and sustainable waste management.

- 16.** The construction of the development shall be managed in accordance with a Construction & Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia, details and location of the proposed construction compound(s), details of intended construction practice for the development, including hours of working, noise and dust management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

**17.** Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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 residential amenities of property in the vicinity.

**18.** A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities 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.

**19.** 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 of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

**20.** 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.

**21.** The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City project (St. Stephen's Green to Broombridge Line), in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

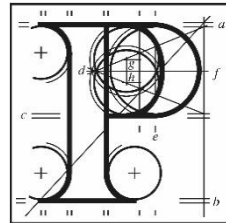
---

Colm McLoughlin  
Planning Inspector

24<sup>th</sup> August 2021

## Appendices

### Appendix A: EIA Screening



An  
Bord  
Pleanála

#### EIA - Screening Determination for Strategic Housing Development Applications

#### A. CASE DETAILS

<b>An Bord Pleanála Case Reference</b>		ABP-308836-20
<b>Development Summary</b>		Demolition of former warehouse and factory buildings and the construction of a 150 unit co-living / shared accommodation development in a building up to seven storeys in height, including a public café and associated development at 38-42 Hill Street, Dublin 1.
	<b>Yes / No / N/A</b>	
1. Has an AA screening report or NIS been submitted?	Yes	A Stage 1 AA Screening Report and an EIA Screening Report were submitted with the application

<p><b>2.</b> Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</p>	<p>No</p>	
<p><b>3.</b> Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	<p>SEA and AA undertaken in respect of the Dublin City Development Plan 2016-2022, including variation 31 of the Plan relating to this site.</p>

<p><b>B. EXAMINATION</b></p>	<p><b>Yes/ No/ Uncertain</b></p>	<p><b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b></p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p><b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p><b>Is this likely to result in significant effects on the environment?</b></p> <p><b>Yes/ No/ Uncertain</b></p>
<p><b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)</p>			

<p><b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The development comprises the demolition of existing warehouse and factory buildings and the construction of a co-living building with café at ground-floor level. There is variety in the nature and scale of development in the surrounding area, including residential buildings and various commercial buildings. The proposed development is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development.</p>	<p>No</p>
<p><b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>Such changes in land use and form are not considered to be out of character with the pattern of development in the surrounding city area.</p>	<p>No</p>
<p><b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p>No</p>
<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Any impacts would be local and temporary in nature and implementation of Outline Construction Management Plan and Construction and Demolition Waste Management Plan would satisfactorily address potential impacts. No operational impacts in this regard are anticipated. Invasive species have not been identified on site.</p>	<p>No</p>

<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Any hazardous wastes, if present, would be removed in a manner to avoid contamination, as outlined within the Outline Construction Management Plan and Construction and Demolition Waste Management Plan. No operational impacts in this regard are anticipated.</p>	<p>No</p>
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risks are identified. There is no direct connection from the site to surface waters. The operational development will connect to mains services. Surface water drainage will be separate to foul services. Operation of an Outline Construction Management Plan and Construction and Demolition Waste Management Plan will satisfactorily allow for the control of emissions from spillages during construction.</p>	<p>No</p>
<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably addressed by the operation of an Outline Construction Management Plan and Construction and Demolition Waste Management Plan, including the measures listed therein. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>



<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Yes</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Environmental Management Plan and Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>
<p><b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction would be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>
<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed would result in an intensification of use, an increase in population and employment in the co-living scheme and café. The development would provide housing that would serve towards meeting an anticipated demand in the area.</p>	<p>No</p>
<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>The proposed development of this planning appeal provides for the comprehensive redevelopment of the site at 38 to 42 Hill Street.</p>	<p>No</p>

<b>2. Location of proposed development</b>			
<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ cSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> <li>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ol>	No	<p>No conservation sites located in the immediate vicinity of the site. The nearest European sites are South Dublin Bay and River Tolka Estuary SPA [004024], South Dublin Bay SAC [000210], North Bull Island SPA [004006] and North Dublin Bay SAC [000206] between approximately 2.1km and 5.2km downstream of the site. The Royal Canal proposed Natural Heritage Area (pNHA) is approximately 700m to the north of the site. Annex II habitats or habitat suitable for protected species of plants were not found on site during ecological surveys. Given the existing nature of the site, the surrounding built-up urban context and the separation distance from the site across intervening urban land the proposed development would not result in significant impacts to any of these sites.</p>	No
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	Yes	<p>The lands are not suitable for wintering wetland or wading birds associated with coastal inlets and estuaries and the site was not identified to being used by such birds. Suitable habitat for flora and fauna was not identified.</p>	No
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	Yes	<p>Proposals provide for the demolition of warehouse and factory buildings, which are not of cultural significance. The surrounding area has ACA status. A Conservation Assessment was submitted and this asserts that no significant impacts would arise.</p>	No

		The buildings on site do not presently positively contribute to the ACA and are not part of the curtilage of protected structures. Adverse impacts on the special interest, character and setting of protected structures, the ACA and conservation area are not anticipated and significant impacts on buildings or areas of cultural importance are not anticipated.	
<b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No		No
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	There are no direct connections to watercourses in the area. The development will implement standard SUDS measures to comply with the Greater Dublin Regional Code of Practice for Drainage Works to control surface water run-off. The site is not at risk of flooding.	
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No		No
<b>2.7</b> Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by the urban road network. Significant operational impacts are not anticipated. Construction management should ensure that no significant emissions or traffic impacts arise.	No

<p><b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>Construction management should ensure that no emissions or traffic impacts would arise for local community facilities, including the restriction of construction hours, access controls and emission-limit levels. Operational impacts would not be significant.</p>	<p>No</p>
---	------------	---	-----------

<p><b>3. Any other factors that should be considered which could lead to environmental impacts</b></p>			
<p><b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</p>	<p>No</p>	<p>A previous permission decision under ABP ref. 306181-19 has not been enacted and is subject to judicial review. The subject proposals would provide for a comprehensive redevelopment of a larger site.</p>	<p>No</p>
<p><b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?</p>	<p>No</p>	<p>No transboundary considerations arise</p>	<p>No</p>
<p><b>3.3</b> Are there any other relevant considerations?</p>	<p>No</p>		<p>No</p>

<p><b>C. CONCLUSION</b></p>			
<p><b>No real likelihood of significant effects on the environment.</b></p>	<p>✓</p>	<p><b>EIAR Not Required</b></p>	<p>✓</p>
<p><b>Real likelihood of significant effects on the environment.</b></p>			

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i) and 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2020,
- the location of the co-living scheme with public café and associated development on lands zoned 'Z1 - Sustainable Residential Neighbourhoods' and 'Z8 - Georgian Conservation Areas' within the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of this Plan, including the adopted variation no.31;
- the existing development and history of the site;
- the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001-2020;
- the guidance set out in the Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2020, and;
- the features and measures proposed by the applicant envisaged to address what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Management Plan and Construction and Demolition Waste Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: \_\_\_\_\_ Colm McLoughlin

Date: 24<sup>th</sup> August 2021