



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-308875-20**

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#### **Strategic Housing Development**

Alterations to previously permitted  
Reg. Ref.: 2628/17 and ABP-300241-  
18 to now provide 321 no. Build to  
Rent shared accommodation bed  
spaces and associated site works.

#### **Location**

Phibsborough Shopping Centre and  
345-349 North Circular Road, Dublin  
7.  
([www.phibsboroughshoppingcentreshd.ie](http://www.phibsboroughshoppingcentreshd.ie))

#### **Planning Authority**

Dublin City Council

#### **Applicant**

Phibsborough Shopping Centre Ltd.

#### **Prescribed Bodies**

An Taisce  
Inland Fisheries Ireland

Irish Water  
Transport Infrastructure Ireland

**Observer(s)**

Aideen McDonnell  
Anne Bedos  
Anne Ganon  
GATU Phibsboro-Glasnevin  
Cieran Perry  
Connaught Street Residents  
Association  
Declan Meenagh  
Dorothy Smith  
Eamonn Maher  
Great Western Square Residents  
Association  
Hannah Mullen  
Joe Costello  
Jon Reilly and other  
Mary Lou McDonald and others  
MPM Residents Association  
Neasa Hourigan  
Patricia McKenna  
Rathdown Road and District Residents  
Shandon Residents Association  
Sinead O'Leary  
The Bohemian Football Club Limited

**Date of Site Inspection**

16<sup>th</sup> March 2021

**Inspector**

Una O'Neill

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The subject site (0.969ha in area) is located at the centre of Phibsborough village in north Dublin City, c.1.2km northeast of O'Connell Street and c.220m south of the Royal Canal, close to the junction of the Phibsborough Road (R135, former N2) and North Circular Road (R147, former N3) known as Doyle's Corner. The Mater Hospital and Mountjoy Prison are located c.250m and c.170m, respectively, east of the site.
- 2.2. The site comprises the majority of Phibsborough Shopping Centre and office block, but excluding retail units nos. 7 and 13-17 (Tesco). Additional lands to the west of the shopping centre are included and comprise the east stand of Dalymount Park (and ancillary structures, surface parking, access and overgrown area; additional lands to the south comprise a car mechanic's premises (former Des Kelly Carpets' premises within amended historic tram yard warehouse) and surface parking area and hard surface access route to North Circular Road; and additional lands to the centre and southeast comprise surface parking and hard surface access routes.
- 2.3. The existing shopping centre comprises a single-storey row of retail units with external access, podium level parking at open first floor level, a 2-storey section at the northern end and a tower block of 8-stories (6-stories office above ground floor retail and first floor podium parking level) located towards the northern end. The office building is constructed from pre-cast, vertically emphasized concrete panels with a pebbled surface. The shopping centre is setback from the street behind a parking forecourt, with a vehicular entrance from Phibsborough Road and an exit onto Connaught Street and a number of formal and informal pedestrian entrances. The podium level parking is accessed off Connaught Street.
- 2.4. The site has frontage onto North Circular Road to the south, Dalymount Park to the west, Phibsborough Road to the East, and Connaught Street to the north. There is a vehicular access at the southern end off Phibsborough Road, adjacent the shopping

centre forecourt entrance, providing access to a service lane to the rear of the retail units, to a separate surface car parking area, to Dalymount Park and an indirect connection (controlled by gates) to North Circular Road via Kelly's Yard. Adjacent the south of this access, there is another service access providing access to a gated service lane and ESB substation via a ramp.

- 2.5. To the southeast the site abuts the historic village core, largely characterised by 2-storey, redbrick-faced buildings dating from the Victorian period. To the southwest and northwest, the neighbouring properties are 2-storey Victorian period residential dwellings.

### **3.0 Proposed Strategic Housing Development**

- 3.1. The proposal, as per the submitted public notices, consists of alterations to the permitted development, as permitted under DCC Reg. Ref.: 2628/17, ABP Reg. Ref.: ABP-300241-17. The proposed alterations include:

- Alteration to the permitted 341 bed student accommodation scheme, in permitted Blocks A and B, to accommodate a 321 bed shared accommodation scheme. This alteration includes a reconfiguration of the two number student accommodation blocks as follows:
  - Omission of the permitted basement of the permitted student accommodation development.
  - Alteration of the permitted Ground, First and Second Floor spaces to contain 518 sq.m Communal Amenity Space, Reception, Waste Storage, Bikes Store, Plant, Laundry Facilities, Storage, and Office Space associated with the Shared Accommodation.
  - Alteration of the permitted third to seventh floors from 341 student bedspaces, set out in clusters, to 321 shared accommodation bedspaces, set out in 303 single occupancy units and 4 cluster units containing a total of 18 bedspaces.
  - Introduction of c.1,130 sq.m of shared amenity spaces to include kitchen and living areas, dispersed across the third to seventh floors.

- Introduction of external roof terraces in both blocks on the sixth floor fronting on to Phibsborough Road with a combined total of c. 156sq.m, introduction of roof terraces centrally located at seventh floor in both blocks to provide a total of c.256 sq.m communal amenity space, and redesign of permitted external central amenity spaces located at second floor.
- Increase in height of the permitted building by c. 2m to allow for raised ground level. There are no additional floors proposed. The width of the accommodation blocks have also increased by c. 2m to allow for larger bedrooms.
- Overall increase in floorspace of c.1,079 sq.m from c.11,156 sq.m permitted to c.12,235sq. m.
- Minor alterations to the permitted civic plaza as a result of proposed raised ground level - this includes removal of permitted steps as conditioned by An Bord Pleanala under Condition 4 of ABP-300241-17.
- Alterations to permitted Units A1 and A2, onto the civic plaza, as a result of the alterations to the accommodation blocks. These alterations result in an increase in retail area of Unit A1 from c.662 sq.m to c.747 sq.m, and a reduction in restaurant/café area of Unit A2 from c.511 sq.m to c.370 sq.m. Overall reduction in retail/restaurant/café space of c.110 sq.m in Blocks A and B.
- Alterations to Block C, to the south of the plaza, and a subsequent reduction in Restaurant/Cafe Unit A4 of c.16 sq.m and permitted Office Floorspace of c.61 sq.m as a result of minor setback of the building at ground and first floor levels.
- Alterations to the permitted amendments to the existing Shopping Centre to include:
  - It is proposed to retain part of Unit 1 (previously permitted to be demolished) to facilitate the retention of the rooftop parking. This unit, when amalgamated with Unit 2 results in a minor increase of c.63sq.m.
  - Removal of the permitted new staircase from ground level to first floor level serving both the existing car park and the existing office tower. It is proposed to retain this space, Retail Unit 12, as it currently is with a floorspace of c.80sq. m.

- The inclusion of a new sub-station in the permitted Block C (no resulting change in the building footprint or elevations).
- The proposed development of PV panels at roof level of Block A with a total area of c.175 sq.m.
- The proposed alterations also include for resulting alterations to permitted hard and soft landscaping, boundary treatments, signage, façade and all ancillary site and development works.
- Overall increase in floorspace of 998 sq.m from c.22,574 sq.m permitted to c.23,572sq.m

3.2. The following tables set out some of the key elements of the proposed scheme:

Key Figures relating to shared accommodation

<b>Site Area</b>	0.969 ha.
<b>No. Bedrooms</b>	321 bedrooms, all single occupancy. 19 of the 321 bedrooms are in a cluster format.
<b>Plot Ratio</b>	2.43
<b>Site Coverage</b>	38%
<b>Other Uses</b>	Amendments to permitted retail units.
<b>Amenities</b>	Atrium Amenity Area; Laundry Room; Studio x 2; Storage; Central Amenity Hub including break out space, juice bar, games area; external covered and uncovered courtyard terraces/gardens at 2 <sup>nd</sup> , 6 <sup>th</sup> and 7 <sup>th</sup> floors.
<b>Height</b>	4-6 storeys over existing parade of retail units and their associated roof top parking.

Parking Provision



<b>Car Parking</b>	0 proposed (existing spaces to front of retail parade and above retail parade to be retained).
<b>Bicycle Parking</b>	164 space bicycle storage room; 50 spaces provided within Plaza area.

3.3. In addition to the architectural and engineering drawings, the application was accompanied by the following reports and documentation:

- Planning Statement
- Planning Justification Report
- Material Contravention Statement
- Statement of Consistency
- Response to ABP Opinion
- Architectural Design Report
- Co-Living Demand and Location Analysis
- Co-Living Design and Concept Report
- Co-Living Operational Management Plan
- Covid-19 Risk Assessment
- Operational Service Management Plan
- Draft BTR Covenant
- Landscape Design Rationale
- Engineering Services Report
- Flood Risk Assessment
- Transport Assessment including DMURS and Road Safety Audit
- Preliminary Mobility Management Plan
- Energy Statement Sustainability Report

- Building Lifecycle Report
- Accurate Visual Representation Report
- Appropriate Assessment Screening Report
- EIA Screening Information Report
- Daylight and Sunlight Report
- Pedestrian Comfort Wind Study
- Summary of Noise Impacts on Residential Amenity
- Irish Water Confirmation of Feasibility and Statement of Design Acceptance
- Outline Construction Management Plan and Outline Demolition Waste Management Plan
- Operational Waste Management Plan

#### 4.0 Planning History

PA Reg Ref. 2628/17 (ABP-300241-17) refers to a 2018 grant of permission and retention for development at a site of 0.969 ha development consisting of the part demolition of existing structures on the site and the construction of an extension to the existing Phibsborough Shopping Centre onto Phibsborough Road and North Circular Road ranging in height from 3 to 7 storeys to contain new retail / restaurant and office units, student accommodation, a new civic plaza and an upgrade of the existing Shopping Centre and commercial office tower facade with a total new build gross floor area of 15,775m<sup>2</sup> (including basement). The application did not include Units 7 and 13-15 & 17 of the existing Shopping Centre.

PA Reg.Ref.2709/17 refers to a 2017 grant of permission for part demolition of existing structures, site clearance and associated boundary hoarding, including the existing Tramway End/ East Terrace of Dalymount Stadium (excluding the area of the existing floodlights), the existing warehouses in Kelly's Yard off the North Circular Road and other ancillary site clearance.

## 5.0 Section 5 Pre Application Consultation

### 5.1. Pre-Application Consultation

A section 5 pre-application consultation with the applicants and the planning authority took place via Microsoft Teams on 12<sup>th</sup> October 2020 in respect of a proposed development comprising amendments to a 341-no. student bed space accommodation previously permitted under 2628/17 and ABP-300241-17 to provide a 321-bed shared accommodation scheme with all associated site works. The main topics discussed at the meeting were –

- Planning History (ABP 300241-17)
- Justification/Rationale for Co-Living Accommodation
- Residential Amenities (sunlight/daylight, noise)
- Communal Amenities/Facilities
- Traffic & Transportation (Parking & Bus Connects)
- Irish Water Submission
- Any Other Business

Copies of the record of the meeting, the Inspector's Report, and the Opinion are all available for reference on this file.

### 5.2. Notification of Opinion

5.2.1. An Bord Pleanála issued a notification that it was of the opinion that the documents submitted with the request to enter into consultations constitutes a reasonable basis for an application for strategic housing development, under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

5.2.2. The opinion notification pursuant to article 285(5)(b) referred to specific information that should be submitted with any application which can be summarised as follows –

1. Clearly identify on the plans and particulars elements of the redevelopment of the site (ABP Ref. 300241-17) which have been permitted under Section 34 of the Planning and Development Act 2000, as amended that do not form part of the application proposed under the remit of Strategic Housing Development.

2. Notwithstanding that the proposal constitutes a reasonable basis for an application, the prospective applicants are required to submit an evidence-based rationale/justification for Co-Living/Shared Accommodation at this location. This consideration and justification should have regard to, inter alia, (i) the vision for the development of Phibsborough and the relevant housing and settlement policies set out in the Dublin City Development Plan 2016-2022; (ii) the Sustainable Urban Housing: Design Standards for New Apartments, specifically the guidance on Shared Accommodation Developments and in particular sections 5.18, 5.19 and 5.22 and SPPR 9 of same and (iii) the suitability of this location for Shared Accommodation with regard to accessibility and connections to employment centres and community facilities. Comprehensive information regarding the nature of the proposed use should be submitted to facilitate assessment of this issue including details of the occupation, operation and management of the scheme. The further consideration of this issue may require an amendment to the documents and/or design proposals submitted.
3. Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is required to submit a justification/rationale for the height of the proposed development having regard to inter alia Section 3.2 of the Urban Development and Building Height, Guidelines for Planning Authorities', 2018 and Section 16.7.2 of the Dublin City Development Plan 2016-2022.
4. A detailed schedule of accommodation which indicates consistency with relevant standards in SSPR 9 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) including a report which addresses the use of compensatory communal residential support facilities and amenities for any proposed non-compliance with Table 5a and 5b.
5. A report that addresses issues of residential amenity (both of adjoining developments and future occupants), specifically with regards to overlooking, overshadowing and noise. The report shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and adjoining residential development (permitted or

built) and within the proposed development and include mitigation measures, where required.

6. Details of the proposed materials and finishes to the scheme including the treatment of roof terraces, courtyards, landscaped areas, civic plaza and public realm. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development.
7. Detailed drawings, cross-sections, elevations and additional CGIs of the site to demonstrate that the development provides an appropriate interface with the adjoining streets and provides for a quality public realm.
8. A micro climate analysis.
9. Response to issues raised in report from Transportation Planning Division in Addendum B of the PA Opinion received by An Bord Pleanála on the 22nd June 2020.
10. A justification/rationale for the Carparking Provision (or lack of) associated with the Shared Living Accommodation. Also, a site layout plan which clearly identifies the existing car and bicycle parking within the wider Phibsborough Shopping Centre redevelopment site. A draft Mobility Management Plan is also required.
11. A draft Construction Management Plan and a draft Waste Management Plan.
12. Where the prospective applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

### 5.3. Applicant's Statement

A statement of response to the Pre-Application Consultation Opinion, as issued by the Board, was submitted with the application, which is briefly summarised as follows:

**Item 1 – Clearly Identify elements permitted under S34 application that do not form part of this application:**

- The applicant has submitted an Existing Permitted set of drawings identifying what is the permitted scheme; the Proposed Drawings have included a green dashed line indicating the extent of proposed alterations; and an additional set of drawings are included in the Design Statement which further highlight the areas that are only subject of this alteration application.

**Item 2 - Submit an evidence-based rationale/justification for Co-Living/Shared Accommodation at this location:**

- The following reports have been submitted: Co-Living Planning Justification Report; Co-Living Concept and Design Report; Co-Living Demand and Location Analysis.

**Item 3 - Justification/rationale for the height**

- Reference is made to Section 7.1.2 of the Planning Report as well as the Material Contravention Statement.

**Item 4 - Consistency with relevant standards in SSPR 9 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) including a report which addresses the use of compensatory communal residential support facilities and amenities for any proposed non-compliance with Table 5a and 5b:**

- This is considered in the Planning Justification Report, the Concept & Design Report and the Architects Design Statement.

**Item 5 – Residential Amenity**

- Architects Design Statement sets out the proposed alterations and includes for additional diagrams.
- The architects drawing set sets out sections and elevations which consider many of the adjacencies and interactions with relevant structures.

- In terms of overlooking this is set out in the Architects Report where alterations to one of the façade of the proposed shared accommodation blocks have been altered to minimise any overlooking between blocks and narrower points.
- Overshadowing is addressed in the Daylight & Sunlight Report prepared by Brady Shipman Martin
- Issues relating to potential noise is addressed in the Noise Report prepared by AWN.

#### **Item 6 – Materials and Finishes**

- The Architects Design Report and supporting drawings and also the Landscape Design Report and supporting drawings. The proposed scheme retains the permitted civic plaza and proposes alterations to address the removal of the previous included steps and ramps.

#### **Item 7 – CGIs**

- The Architects Drawings, Architects Design Report, AVR Report and Landscape Drawings sets out how the proposed alterations ensure that the same quality of interfaces and public realm as the permitted development is continued.

#### **Item 8 – Micro Climate Analysis**

- A Pedestrian Comfort Wind Study has been prepared by K8T Consulting in addition to a Daylight & Sunlight Report prepared by Brady Shipman Martin. Both reports conclude that the public and communal open spaces will be comfortable high quality spaces receiving good levels of sunlight and a calm environment.

#### **Item 9 – Transportation Department DCC Issues**

- These items are addressed in the Traffic Assessment prepared by NRB Consulting Engineers in the Operational Service Management Plan prepared by WK Nowlan, and in the Operational Waste Management Plan prepared by AWN Consulting.

#### **Item 10 – Car Parking Provision**

- Traffic Assessment and Travel Plan (Mobility Management Plan) prepared by NRB Consulting addresses issues.

## **Item 11 – Outline Construction Management Plan and Waste Management Plan**

- An Outline Construction Management Plan and Construction & Demolition Waste Management Plan prepared by JJ Campbell Engineers, in addition to an Operational Waste Management Plan prepared by AWN is included in the application.

## **Item 12 - Material Contravention**

- A Material Contravention Statement has been prepared by Brady Shipman Martin and accompanies the application. It sets out clear rationale as to why An Bord Pleanála can permit the proposed alterations even though a Material Contravention of the Dublin City Council Development Plan, with regards to height, has occurred.

### **5.4. Applicant's Statement of Consistency**

5.4.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which states how the proposal is consistent with the policies and objectives of section 28 guidelines and the Dublin City Development Plan 2016-2022. The following points are noted:

- The subject site is located within the Dublin Metropolitan Area, as designated by the Regional Spatial and Economic Strategy.
- As per the Apartment Guidelines, the site is a central/accessible urban location, which is suited to higher density development.
- The subject site is located adjacent to Phibsborough Road and in close proximity to the junction with the North Circular Road both key transport routes in Dublin City and serviced by many Dublin Bus Routes. Further, the site is within 500m of 2 light rail stops. Phibsborough Road is anticipated to be upgraded as part of the Bus Connects Core Route No.3.
- Proposal is stated to meet shared accommodation requirements in relation to location and residential standards, as per the Apartment Guidelines 2018.
- It is considered that the Building Height Guidelines, allows Dublin City Council and ABP greater flexibility in considering the site specific design response which has resulted in increased height over that previously permitted. The increased height is as a result of the removal of the basement and subsequently the finished floor levels of the buildings were lifted and the ground plane has been graded slightly in order to



integrate with the levels of the surrounding areas. No additional floors are proposed under the increase in height.

- It is stated that the permitted civic space, as proposed to be slightly altered, sits at the heart of the extended Phibsborough Shopping Centre combining the aspirations of a new civic space surrounded by animated uses, a new pedestrian link from North Circular Road, and a future access to a redeveloped Dalymount Park, while also connecting the new retail to the existing.
- The development of the lands for residential purposes supports the achievement of Core Strategy targets.
- The change from student to shared accommodation will still ensure residential use is provided on the site and will enable the wider regeneration of the Shopping Centre environs by drawing further activity to the area ensuring its vitality throughout the day.
- The proposal is stated to be consistent with the policies and provisions of the Dublin City Council Development Plan 2016-2022.

## **5.5. Applicant's Statement on Material Contravention**

5.5.1. The application documentation includes a report titled Material Contravention Statement. The development as proposed is considered to materially contravene the Dublin City Development Plan 2016-2022 in respect of height and the submitted Material Contravention Statement is summarised as follows:

- Section 16.7.2 of the current Development Plan identifies building heights for the city. Given its location less than 500m (in walkability terms) from the Phibsborough Luas stop the maximum height permissible is therefore 24m under the Development Plan (proximity to rail hubs).
- The Development Plan states that 'Phibsborough will remain a low rise area with the exception of allowing for (i) up to a max of 19m in the centre of the Smurfit site and immediately adjoining the proposed railway station at Cross Guns Bridge; and (ii) the addition of one additional storey of 4m will be considered in relation to any proposals to reclad the existing 'tower' at the Phibsboro Shopping Centre'.

- Section 16.7.2 states that where a site has a pre-existing height a building of the same number of storeys may be permitted, subject to assessment against the standards set out in Chapter 16 in the Development Plan and the submission of an urban design statement outlining a number of elements.
- It is stated that the proposed material contravention relates only to building height, as the Z4 zoning of the site permits residential development and identifies as a key objective to 'establish significant residential population bases with diversity in unit types and tenures capable of establishing long-term integrated communities'.
- The proposed alterations to the permitted development raise the ground floor level and provide for minor increases in floor to ceiling heights and as such the building has increased in height over and above the permitted height to the rear of the site up to c.26m. This is as a result of the removal of the basement and a subsequently the finished floor levels of the buildings were lifted and the ground plane has been graded slightly in order to integrate with the levels of the surrounding areas (ie removal of slopes and steps to civic plaza). This also ensures compliance with Condition 4 of An Bord Pleanála's grant of permission. No additional floors are proposed above what is permitted under this minor increase in height.
- NPO 13 (from the NPF) which states that 'in urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected'.
- SPPR 1 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) notes that blanket numerical limitations on building height shall not be provided for through statutory plans therefore it is stated that the imposition of a restriction at the subject site would be contrary to SPPR 1.

- It is stated that the proposed development at this location is consistent with the relevant national planning policies, regional spatial and economic strategy and section 28 guidelines, including the National Planning Framework and the Urban Development & Building Height Guidelines.

## 6.0 Relevant Planning Policy

### 6.1. National Policy

#### **Project Ireland 2040 - National Planning Framework**

The National Planning Framework was published in 2018. National Policy Objective 3(b) seeks to 'Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, with their existing built-up footprints'.

The following objectives are of note:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Planning Objective 13: In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## **Section 28 Ministerial Guidelines**

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

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2018)
- Sustainable Urban Housing, Design Standards for New Apartments, (Updated) Guidelines for Planning Authorities (2020)
- Urban Development and Building Height Guidelines for Planning Authorities (December, 2018)
- Design Manual for Urban Roads and Streets (December 2013)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

### **6.2. Regional Policy**

Under the RSES a Dublin Metropolitan Area Strategic Plan (MASP) has been prepared to manage the sustainable and compact growth of Dublin.

The following Regional Policy Objectives are of note:

- RPO 3.2: Compact Growth – to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO 4.3: Support the consolidation and re-intensification of infill/brownfield and sites to provide high density and people intensive uses within the existing built up area of Dublin city and suburbs and ensure that the development of future

development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

- RPO 5.2: Support the delivery of key sustainable transport projects including Metrolink, DART and LUAS expansion programmes, BusConnects and the Greater Dublin Metropolitan Cycle Network and ensure that future development maximises the efficiency and protects the strategic capacity of the metropolitan area transport network, existing and planned.
- RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.
- RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines and 'Urban Development and Building Heights Guidelines for Planning Authorities'.
- RPO 5.8: Support the promotion and development of greenway infrastructure and facilities in the Dublin metropolitan area and to support the expansion and connections between key strategic cycle routes and greenways as set out in the NTA Greater Dublin Area Cycle Network Plan.
- Section 9.2 Diverse and Inclusive Region, notes that changing household formation trends will require a range of housing typologies including student housing, smaller units, shared living schemes and flexible designs that are adaptive for people's full life cycle to meet their housing needs today and into the future.

### 6.3. Local Planning Policy

The **Dublin City Development Plan 2016-2022** is the relevant statutory plan for the area. The following sections are considered to be relevant:

- The site is zoned Z4 'To provide for and improve mixed-services facilities'.
- Phibsborough is a designated Key District Centre - KDC 8.

- Within these identified key district centres, the following general development principles shall apply:
  - Population: Establish significant residential population bases with diversity in unit types and tenures capable of establishing long-term integrated communities.
  - Density: Ensure the establishment of high-density developments capable of sustaining quality public transport systems and supporting local services and activities. Account should be taken in any such development of any distinct or valuable architectural or historical features that influence the urban form, character and scale of the existing area.
  - Transport: Ensure provision is made for quality public transport systems. Provide improved access to these systems and incorporate travel plans, which prioritise the primacy of pedestrian and cyclist movement and address the issue of parking facilities and parking overflow.
  - Commercial/Retail: The creation of a vibrant retail and commercial core with animated streetscapes.
  - Community and Social Services: The centres will be encouraged to become the focal point for the integrated delivery of community and social services.
  - Employment: Encourage the provision of mixed-use developments incorporating retail, office, residential and live-work units, and the creation of small startup units. (The floor area limitations in respect of offices given in the land-use zoning objective Z4 shall not apply in the case of identified key district centres, and applications involving office development in these areas shall be assessed on their merits, taking account of the overall objective to provide for a mixed-use environment.)
  - Built Environment: The creation of high-quality, mixed-use urban districts with a distinctive spatial identity and coherent urban structure of interconnected streets and child-friendly public spaces and urban parks. Development should have regard to the existing urban form, scale and character and be consistent with the built heritage of the area.

- Capacity for development: Encourage the development/re-development of underutilised sites.
- Appendix 3 Retail Strategy: District Centres - Level 3; - Older Centres
 

The Retail Strategy supports the redevelopment and revitalisation of the existing Phibsboro Shopping Centre, which expands the retail offering, stating 'New development shall be of a suitably high density and mix to create new job opportunities at this key nodal point which is highly accessible by public transport. Uses that create an 'evening economy' and enhance the attractiveness of the centre will be encouraged, as will the integration of the site with the adjoining Dalymount Park, ideally creating a new enhanced public entrance to this sporting venue. The provision of a new civic plaza will also be sought.'
- Chapter 2, section 2.2.8.1 - Phibsborough is included in the schedule of areas for which Local Area Plans are planned to be prepared in order to deliver the Core Strategy of the Development Plan; [Note: No plan in place at present].
- The site is included within the boundary covered by the Phibsborough Local Environmental Improvements Plan 2017 – 2022: A 5 year working document with the focus on identifying a range of actions and/or programmes to improve the local environment. The preparation of the LEIP is an objective of the Dublin City Development Plan 2016 – 2022.
- A small section of the site (southern portion) is located within an Architectural Conservation Area (ACA) i.e. a small section of the vehicular access laneway serving the warehouses to the rear of the site (Phibsborough Conservation Area Report Character Appraisal and Policy Framework adopted in the 5th October 2005).
- Dublin City Industrial Heritage Record site: 18 07 028 (Tramway Depot) is located within the proposed development.
- Phibsborough Road is a designated Historic Approach (as seen in Figure 3 of the Development Plan)
- Chapter 4 Shape and Structure of the City

SC10: To develop and support the hierarchy of the suburban centres, ranging from the top tier Key District Centres, to District Centres/Urban Villages and Neighbourhood Centres...

SC12: To ensure that development within or affecting Dublin's villages protects their character.

SC13: To promote sustainable densities, particularly in public transport corridors...

SC14: To promote a variety of housing and apartment types...

SC16: To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected ...

SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in Chapter 15 (Guiding Principles) and Chapter 16 (development standards)...

- Chapter 5 Quality Housing

QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods; QH7: sustainable urban densities; QH8: development of under-utilised sites; QH13: adaptable and flexible homes; QH17: private-rented accommodation; QH18: high-quality apartments.

- Chapter 10 Green Infrastructure, Open Space & Recreation

Objective GIO38: To redevelop Dalymount Park soccer stadium providing enhanced sporting recreational and community amenities and as part of this development to celebrate the rich sporting history of this site.

- Chapter 11 Built Heritage and Culture acknowledges that built heritage contributes significantly to the city's identity and richness and diversity of its urban fabric. Relevant policy –

CHC4: To protect the special interest and character of all Dublin's Conservation Areas.

- Chapter 16 Development Management Standards



S.16.2.2.2 - Infill Development: it is particularly important that infill developments respect and enhance its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

S.16.5 – Indicative Plot Ratio: 2.0. A higher plot ratio may be permitted in certain circumstances such as: Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed; To facilitate comprehensive redevelopment in areas in need of urban renewal...

S.16.6 – Site Coverage: 80%. Higher site coverage may be permitted in certain circumstances such as: Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed; To facilitate comprehensive redevelopment in areas in need of urban renewal...

S.16.7.2 - Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development (table 'Building Height in Dublin'; Map K). 'Phibsborough will remain a low rise area with the exception of allowing for (i) up to a max of 19m in the centre of the Smurfit site and immediately adjoining the proposed railway station at Cross Guns Bridge; and (ii) the addition of one additional storey of 4m will be considered in relation to any proposals to reclad the existing 'tower' at the Phibsboro Shopping Centre'. The maximum height permissible for sites in proximity to rail hubs is 24m under the Development Plan.

S.16.10.3 - Residential Quality Standards – Apartments and Houses

S.16.23 - Shopping Centres

#### 6.4. Designated Sites

The site is not located within or adjoining a European site.

South Dublin Bay SAC, is c.5.0km to the south east.

North Dublin Bay SAC, is c.6.1km to the east.

Howth Head SAC, is c.11.7km to the east.

Rockabill to Dalkey Island SAC, is c.12.2km to the east.

North Bull Island SPA, is c.6.1km to the east.

South Dublin Bay and River Tolka Estuary SPA, c.2.9km to the east.

The nearest site designated for nature conservation, not otherwise designated as a European site, is the Royal Canal proposed Natural Heritage Area (pNHA site code 002103). At its closest point the pNHA is c.250m from the proposed development site at Phibsborough. The Grand Canal pNHA (site code 002104) is c.3.5km to the south and Liffey Valley pNHA (site code 000128) is c.5.2km to the south west.

## 7.0 Third Party Submissions

7.1. In total 25 submissions were received, four of which are from prescribed bodies (see section 9 hereunder for summary of those submissions).

7.2. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues within the main assessment:

### Policy

- Proposal would contravene national policy which is to resist co-living developments.
- Application was submitted after the Departments circular of November 2020.
- Concerns that the proposal would fail to establish a mix of sizes in accordance with Department of Housing and Dublin City Development Plan policy and fails to contribute to a longer-term community in the area or answer local housing need. The proposal fails to positively contribute to the mix of uses.
- Co-living accommodation along with student accommodation is exempt from the Part V obligations of the Planning and Development Act 2000.
- Co-living intended for city centre locations – Phibsborough is an urban village on the north side of Dublin City, as described in Phibsborough Local Environmental Improvements Plan 2017-2022 by DCC.

- Concerns that the proposal fails to comply with the National Framework Plan Objective No.4 and Policy QH6 of the Dublin City Development Plan as it would not create a diverse and integrated community or a socially mixed area.
- Concerns relating to the height and bulk of the proposed development and the material contravention of the Dublin City Development Plan 2016-2022.
- Concerns that the application material fails to provide accurate and up-to-date statistics on current demand for shared accommodation living.
- Contrary to new Apartment Guidelines as will result in over concentration of similar developments in the area, amounting to 1491 units in Phibsborough, Broadstone, Stoneybatter, and northwest inner city.
- The application material fails to accurately assess the impact of the phenomenon of working remotely on the demand for shared living developments.
- Co-living is not an affordable rental solution.
- A request that the application be reviewed on a de-novo basis.

#### Design and Layout

- Proposal is contrary to the general principles applied by the development plan to the eight identified district centres, of which Phibsborough is one:
  - Built Environment: The proposed development is inconsistent with surroundings, in particular protected structures on North Circular Road, and the Victorian heritage of the area will be dwarfed by the height of the development. From the Phibsborough Road the imposing towers look obtrusive and overpowering on the village.
  - Commercial/Retail: The vibrancy of the existing village will be affected by the layout and displacement of the village centre from Phibsborough Road to the back of the buildings onto the NCR, with the civic plaza located to the back of the buildings and not to the front. Pedestrian links onto the NCR and Phibsborough Road are questioned.
  - Population: A diversity in unit types and tenures is required to establish long term integrated communities. Co-living is an inadequate and unsustainable form of accommodation. Concern also in relation to long term

pandemic issues with a 2016 UN Environment Programmes Report identifying the issue of zoonotic diseases as a key emerging issue of global concern, with a 2020 update stating Covid 19 will not be the last pandemic.

- The proposal is 2m higher than that previously permitted and will have a negative impact on the streetscape and impact on local residents. Increase in scale and height will have negative impact on character of the area. Increase in height is not justified, as per section 37(2)(b) of the Act.
- Requirement for integrated design approach between the development of the Shopping Centre and Dalymount Park.
- Concerns that there is no community gain proposals for the development.
- Question over lack of detail in relation to the green roof design and long term maintenance.
- Integrated design approach required between this site and adjoining Dalymount Park in the delivery of planned major development of the Stadium led by DCC.

#### Impact on Residential Amenity

- Development of co-living units is inappropriate and unwelcome.
- Good quality permanent accommodation such as apartments or houses are needed in Phibsborough.
- Proposal does not meet planning requirements for sustainable communities.
- There is over saturation of transient accommodation in the Dublin 7 and Dublin 1 areas.
- Single tenure mix is a recipe for social integration difficulties in the future.
- Concerns relating to the psychological effects of shared living and the inability to have adequate private space.
- Concerns relating to Covid 19 and shared living.
- There is an onus on ABP to plan for such diseases by providing people with accommodation that facilitates some sort of isolation.
- The submitted Demand and Location Analysis and demographic analysis is weak and relies on information from estate agents. No consideration has been given to

impact of Covid 19 and future of working from home scenarios. Employment options in the area are therefore questionable, and reference to Grangegorman and students irrelevant. Most large employment hubs are not within 15mins walking distance of the site, with the exception of the Mater. The submitted report fails to provide a comprehensive justification for the development of co-living/shared accommodation. Section 5.18 of the Guidelines states it in on the proposer of a scheme to demonstrate that their proposal is based on accommodation need and to provide a satisfactory evidential base accordingly, which has not been done.

- The submitted Co-Living Demand and Location Analysis Report does not objectively demonstrate a demand for co-living.
- Concern in relation to abilities of the management company SQRE to manage a co-living development of this scale.
- It is unclear if the bedrooms will be marketed as double/twin rooms. The report calls them single occupancy but their size is the minimum size for double/twin occupancy.
- Concerns relating to the number, size and ratio of shared living spaces per occupant which is very low.
- Overall lack of communal kitchen and living spaces. On level 3 there are 38 rooms and only 2 small communal kitchen/living spaces.
- On the fourth and fifth floors of one block there are 36 bedrooms which share 2 living/kitchen areas. The second block has 29 bedrooms sharing 2 living/kitchen areas. This is in excess of the 2-6 room per living/kitchen area in the guidelines.
- In Block 1, on floor 4 and 5 there are 22 bedrooms associated with a single kitchen/living/dining area of 57sqm, making for an average of 2.59 sqm per person.
- The average kitchen/dining/living area at 3.3sqm per bedroom is very low. It is lower than average in previous application for student accommodation of 4.28sqm per bedroom.
- The student accommodation provides for 51 shared kitchen/dining/living spaces, while the co-living proposal provides for only 20. In the case of student accommodation, 3-8 occupants share a space. In the co-living it ranges from 9-15 occupants.

- The proposal for 1 kitchen per 16.25 bedrooms per floor is low.
- The submitted Co-Living Design and Concept Report estimates that 42% of residents will use the kitchen never or once a month. If a kitchen space is inadequate then residents will rarely or never use it.
- The proposed number of units is 322 and not 321. The gross floor space of 4961sqm would mean an average of less than 15.5sqm per bed unit. While the applicant states that the bed units are around 18sqm, the total gross floor space of 4377sqm would mean an average floor space of each unit of less than 14.5sqm.
- The development consists of a high percentage of single sided, north facing apartments.
- Should permission be granted a Liaison Committee structure between the developer and local residents should be established to address all phases of the development, including hours of work, demolition works, removal of rubble, transport of building materials and all construction traffic.

#### Traffic and Transportation

- Concerns raised that the proposal does not provide any parking.
- The need to take into account the High Court's interpretation of public transport capacity with regard to existing public transport when justifying the location of the proposed development.
- The Metro Link and Bus Connects proposals are not in existence.

#### Landscaping

- Concerns that the proposed landscaping should be improved and should consider the National Biodiversity Plan 2011-2016 and Dublin City Biodiversity Action Plan 2015-2020.
- Phibsborough is developing a Biodiversity Action Plan with Dublin City Council plus community input. There is no reference to this plan in the submitted documents/in landscaping the public realm.

## 8.0 Planning Authority Submission

### 8.1. Overview

8.1.1 In compliance with section 8(5)(a) of the 2016 Act, Dublin City Council submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 15<sup>th</sup> February 2021. The report notes the site location and description, planning history in the area, proposal, policy context, summary of submissions/observations, summary of views of the relevant elected members and analysis of the proposal. The submission includes several technical reports from relevant departments of Dublin City Council.

8.1.1. The Chief Executive's Report concludes 'Having regard to the zoning objective, Z4 To provide for and improve mixed services facilities, the proximity of good public transport to the City Centre, and to the designation of the site as a Key District Centre, it is considered that, subject to compliance with the conditions recommended below, the proposed development would be generally consistent with the proper planning and sustainable development of the area and would not seriously injure the amenities of property in the vicinity. The proposal has been considered on its merits, as it was submitted prior to amended guidelines on apartments carry into effect'. The CE Report from Dublin City Council is summarised hereunder.

#### **Summary of Inter-Departmental Reports**

- Transportation Planning – No objection subject to conditions.
- Drainage Division – No objection subject to conditions.
- Parks and Landscaping – No objection subject to conditions.
- EHO – No objection subject to conditions.
- Waste Regulation – List of queries supplied.

#### **Summary of View of Elected Members:**

The CE Report states that members expressed the view that the site is key to the redevelopment of Phibsborough and there were strong objections to this proposed development. The proposed development was stated to be unnecessarily high and out of context for the area. There were concerns about the volume of construction/demolition traffic to and from site and also the future impact on Traffic in

the area. There were strong objections to the shared living model which was stated to be unsuitable for the area and will have a negative impact on the area. An Emergency Motion was presented to meeting opposing the proposed Co-Living Development at Phibsborough Shopping Centre. There were also concerns about the lack of community facilities and amenities and it was stated that the development does not provide any community gain for the village. The issues raised by the elected members are summarised as follows:

#### Height/Density and Dublin City Development Plan

- Proposed development is unnecessarily high and obtrusive on the part that comes out onto North Circular Road and with its long windows is intruding on the existing architecture which is unsatisfactory.
- It was questioned what is the justification for the height of the proposed development in this area.
- The proposed height is in contravention of our development plan and we should oppose the proposed development on those grounds.
- From the Phibsborough streetscape coming down it dominates the village in an unattractive fashion.

#### Design/Layout and Standard of Accommodation

- A call was made on developers in general to show some creativity and show us that you have the necessary skills to come up with a proper development for a site such as this one as this proposal is ridiculous.
- It is accepted that we need some accommodation for single people but this needs to be delivered sustainably so that we can have one-bed units which are of high quality and we can also have accommodation for families.
- As illustrated in the application documents, we have a 12 sqm unliveable area and then a shared area for any other facilities.
- Working from home and small tiny bedsit type accommodations which are of a poor standard.
- Dispute the statement by applicants that only 16% of people will be cooking on a daily basis and that all they need is a bed and a wifi connection.



- Sub-standard living accommodation in the future.
- The tower hasn't changed much in this particular proposal - covering on the tower may attract dust and make it even more unattractive.
- The previous occupants of the tower, An Garda Siochana, complained that the building was very unhealthy to work in and it was questioned if this issue had been addressed.
- From the top floor you will be able to see into Dalymount Park.

#### Traffic and Car Parking

- It was questioned if the development would contribute to higher car dependency in the area given its proximity to Derry and Cavan roads and traffic implications.
- Query over Demolition and Excavation Plan and how to be managed in an area with heavy traffic.
- Volume of construction and demolition traffic to and from the site.
- If we look at the planning permission granted for the development of the former Motor Tax Office in Chancery Street, a specific condition was included which restricted the number of heavy construction vehicles entering the site during the construction/demolition phase. I would urge this committee to recommend that similar a condition be attached to any permission granted in this instance.

#### Public Open Spaces, Community Facilities and Amenities

- There is a severe lack of childcare in Phibsborough Village and surrounding areas and this should really have been addressed in this proposed development.
- There is not enough playground space in the area which is important in the current Covid 19 era. There is some in Blessington and Mt Bernard but not much in between and this has not been addressed with this development which will bring a greater density of people to the area.

#### Impact on Local Community

- There is a very vibrant community in Phibsborough who are looking forward to a bright future for children in the area with improved amenities and facilities with

creches, cycle lanes, pedestrian ways, amenities for people with disabilities etc. This proposed development does not provide any community gain for the village.

- Co-living development only attracts a transient population and with 1,500 co-living units already planned for our area, this isn't sustainable and will do untold damage to the area. A more mixed-tenure type development would be more suitable for this site.
- Student and co-living accommodation not appropriate to this area.
- There would be a liaison committee set up between the developer and the local community so that they could engage on a regular basis so that any issues can be ironed out and this should be a requirement for all such developments in future.
- A co-living development is not suitable for the make-up and fabric of this village and would be disastrous for future development of the village.

#### Local Area Plan and Regeneration of Area

- When preparing the LAP, which unfortunately never reached fruition, and in our development plan for area, we were looking for an integrated plan which would allow the proper sustainable development of Phibsborough. This proposed development would not be in keeping with the vision of that plan.
- The redevelopment of Phibsborough is highly dependent on the development of both Dalymount and the Phibsborough Shopping Centre.
- A proper residential development which will attract families is required.
- The urgent need for the regeneration of Phibsborough should not force us to accept any type of development and consign our citizens to modern style tenement living such as this.

#### Planning History

- An Oral hearing was held by ABP into the previous application which was granted and is now proposed to be amended by this application. At the time of that Oral Hearing, the main objection was to the provision of student accommodation and we sought family oriented, social and affordable accommodation in its place. In spite of these objections, permission was granted.

- With a development of this scale and size, it was questioned how come there were so few pre-planning consultations with DCC and An Bord Pleanála.

### Shared Living Model

- Co-living - unhealthy and unsustainable and could easily become the slums of the future.
- The Minister in recently deciding to amend Planning Guidelines restricting all future co-living developments was quoted as saying “there is also a serious risk that co-living permissions will add to upward pressure on land prices. By allowing permissions to extract higher units of beds in a single development and combined with the higher than anticipated number of applications, this has the potential to have negative repercussions for other development types such as affordable purchase or cost rental that the Programme for Government is committed to promoting”. This statement should be noted.
- The shared-living model in the application is referencing old government policy and surely we should not be accepting the current application on those grounds. Co-living is no longer accepted as a good standard of housing in accordance with current government policy.
- Guarantee required that single bedrooms won't be let out to multiple people.
- Questioned if the Law Agent or Attorney General could be a legal challenge to these co-living developments in light of the new government guidelines on Co-living.

### Emergency Motion in the names of Cllrs Cieran Perry, Nial Ring, Christy Burke, Anthony Flynn, Janice Boylan, and Séamas McGrattan

This committee completely opposes the proposed 'co-living' developments at Phibsboro Shopping Centre and Hendron's in Broadstone. We believe the proposed 'co-living' concept is developer-led, is unsustainable and lowers living standards for those who will occupy the development. We believe the primary motive for 'co-living' developments is to maximise profit by building large numbers of tiny living units.

Co-living, by its very nature, attracts a transient population which will not contribute to a sense of community in the locality. Family homes or permanent secure accommodation would provide much needed permanent homes while also creating a sense of community.

This committee notes that: -

- Developers of 'co-living' building are not required to provide social housing or community gain.
- There is no evidence that 'co-living' developments contribute to addressing the housing crisis.
- The Minister for Housing, Planning and Local Government has introduced new planning guidelines to restrict all future 'co-living' developments.
- Nine 'co-living' developments are currently in the planning process or granted permission in the general area.

This motion was carried and was requested to be included in Chief Executives Report to An Bord Pleanála.

### **CE Report - Planning Analysis**

- Principle – acceptable, having regard to location proximate to Dublin City Centre and future high capacity public transport of luas, QBC and proposed Bus Connects programme. No objection to changes to permitted retail. No objection to upgrade of permitted office block.
- Substantive issues for this application relates to the change of use of the permitted Block A and B from 341 student accommodation units to 321 shared accommodation uses (including the necessary alterations for communal amenity space/ office space reception, storage, laundry and office space) and the increase in height of the rear portion of blocks A and B from 24m to 26m (a material contravention of the Dublin City Development Plan 2016-2022).
- In relation to the proposed amendments including the omission of the permitted basement, the increase in width of the two blocks by c.2m, the alterations to the civic plaza and the alteration to the permitted retail units A1 and A2, the Planning Authority does not have any concerns.
- Justification for the proposed development - it is considered that the proposed development is justified at this location.
- Retail Amendments - retail alterations are acceptable.

- Height, scale and design – It is noted that material contravention applies only to the rear of the site adjacent to the future redeveloped Dalymount Park stand with the scheme reducing in height where it adjoins Phibsborough Road, therefore the majority of the site remaining within the 24m limit. On balance, it is considered that the height of proposed shared accommodation is acceptable, having regard to the precedent set on the site by the permitted development at 24m. Further to this, it is considered that the subject site is appropriate for a taller building having regard to its location within the centre of Phibsborough Village, which is within walking / cycling distance of the city centre and to high frequency bus routes along Phibsborough Road and North Circular Road. The site is also within 500m of two stops on the LUAS cross city at Phibsborough and Cabra. Having regard to local, regional and national policy in relation to the acceptability of higher density development in proximity to public transport, the height of the proposed development is considered acceptable.
- Design – In relation to the western façade, it is noted that Condition No. 6 of the parent permission (DCC Reg. Ref.: 2628/17, ABP Reg. Ref.: ABP-300241-17) requires fenestration on each level of both blocks of the then permitted student accommodation. The Planning Authority is of the opinion that fenestration as envisaged by Condition No.6 of the parent permission should be required. Fenestration on these façade would reduce the developments reliance on single aspect apartments and would benefit the residential amenity of the future residents. On balance it is considered that the proposed development would comprise of a well-designed contemporary development which sits within an existing infill site which has broken up the two storey character of development on Phibsborough Road for a long time which includes an existing office block of a similar height, The design of the proposed development is considered to be acceptable.
- Density, Site Coverage and Plot Ratio - The Planning Authority does not have any in-principle objection to a high density development on this site, given its close proximity to the city centre and various high frequency public transport corridors. The Planning Authority does not have any in-principle objection to a high density development on this site, given its close proximity to the city centre and various high frequency public transport corridors.

- Residential Amenity –
- The applicant describes an average of 3.7 m<sup>2</sup> (a total of 1,130m<sup>2</sup>) of common living kitchen space per person in the proposed development. This figure is far below the minimum requirement of 8m<sup>2</sup> per resident as set out Table 5b of Section 5.16 of the apartment guidelines.
- In terms of resident to cook stations, the applicant describes a total ratio of 1 cook station per every 5.2 residents throughout the development. This can be broken down to a ratio of 1 per 4.7 on the second floor, 5.4 on the third floor, 5.5 on the fourth floor, 5.5 on the fifth floor, 5.4 on the sixth floor and 4.6 on the seventh floor.
- Notwithstanding that the applicants arguments that this ratio is acceptable having regard to the fact that the floor area of the majority of bedrooms (203) are greater than the minimum bedroom size of 12m<sup>2</sup> by at least 50% and that the shared kitchen / dining / living rooms are dual or triple aspect, it is considered that the low ratio of space to resident would not provide future residents with an acceptable living environment.
- This could be dealt with by way of a condition which requires the increase in the level of communal kitchen/living/dining space, through the amalgamation of bedspaces with the each of the shared kitchen/ living/ dining room areas on floors 3 to 6 of both blocks. It is considered that the residents on floors 2 and 6 have acceptable levels of shared kitchen/ dining/ living space.
- If the condition as recommended is applied, the total floor area of the shared kitchen / dining / living room would increase to 1,367m<sup>2</sup> and the number of units within the scheme reduce by 24 to 297. This would lead to a ratio of 5.1m<sup>2</sup> of shared kitchen /dining / living room per resident. It is noted that that the enlarged shared kitchen / dining / living rooms would also provide for more kitchen cook stations While this ratio is still below the required 6sqm, It is considered that it would provide for a far superior outcome for the future residents of the scheme.
- Communal open/amenity space - The total communal amenity space (internal and external) provided as part of the scheme is 1,736sqm, which equates to 5.4sqm per bed space. It is considered that, while the combined area of internal and external

communal open space is relatively low, this is made up for in terms of the quality of the open space provided.

- Civic Amenity Space - In the event of planning permission being granted it is recommended that a planning condition be attached that seating / sculptures etc. be provided in this scheme and exact locations and materials etc. to be confirmed by way of written agreement with the planning authority.
- Boundary Treatment along Phibsborough Road - In general the Planning Authority welcomes any active and enhanced streetscape in this area and the proposal in this regard is considered to be acceptable.
- Connections with Dalymount Park - The interface between the proposed development and Dalymount Park both during construction and in operational times is of paramount importance. The proposal to include a pedestrian / vehicular access route along the western boundary of the land would provide appropriate enhanced connectivity and permeability in this area and in light of this, the connection to Dalymount Park is considered to be acceptable.
- Sunlight/Daylight/Overshadowing - 321 bedspaces are proposed mostly in the form of single bedrooms. 100% are single aspect with half (50%) of these with a southerly aspect and half (50%) with a northerly aspect. The results of the analysis demonstrate that all of the selected bedrooms exceed the minimum requirement. In terms of the shared kitchen/ living / dining spaces the analysis demonstrates that all of the selected shared spaces exceeds the minimum requirement of 1.5%, with the poorest performing area being the shared space on floor two of Block B which achieves 1.57%. It is considered that the external communal space, when taken as whole would provide acceptable access to external sunlight for residents. According to the overshadowing diagrams the proposed development would not cast any unacceptable shadows on the closest residential developments on the North Circular Road to the south or the upper floors of commercial units to the east of the land on Phibsborough Road.
- Wind - The public and residential spaces proposed are useable and comfortable to use from a wind perspective, this is considered to be acceptable.

- Car Parking – It is considered that the subject land is appropriately located in proximity to high frequency public transport and within walking distance of the city centre to justify the proposed zero parking provision.
- Bicycle Parking – Provision in accordance with development plan and acceptable.
- Service Yard - The plans for the service yard have been agreed in principle between the applicants and the Transportation Planning Division of Dublin City Council. This is considered to be acceptable. The Transportation Planning Division of Dublin City Council have not highlighted any concerns relating to the management of deliveries, however any works outside the red line area would have to be agreed in writing with the Environment and Transportation Department, this is considered acceptable.
- Waste – Proposals acceptable, subject to condition.
- Construction Management - Proposals acceptable, subject to condition.

## 8.2. Statement in accordance with 8 (3) (B) (II)

The Chief Executive's Report recommends a grant of permission, subject to a number of conditions, including the following:

- C2: The proposed development shall be amended to provide a minimum of 5m<sup>2</sup> of shared kitchen / dining living room per bed space and this shall be achieved by omitting proposed bedroom units and amalgamating the resultant floor areas into the shared kitchen / dining room / living room areas as follows:
  - a) The bedroom units (18.0sq.m) to the immediate north west of the proposed shared kitchen / dining/ living room at the eastern end of Block A on floors 3,4,5, and 6;
  - b) The two bedroom units (18 sq.m. x 2) to the immediate south east of the shared kitchen / dining / living room within the central 'crank' of Block A on floors 3,4,5 and 6;
  - c) The bedroom unit (18 sq.m.) to the immediate north west of the shared kitchen / dining / living room at the eastern end of Block B on floors 3,4,5 and 6; and



d) The two units to the immediate south-east of the shared kitchen / dining / living room within the centre of Block B on floors 3,4,5 and 6.

Or similar arrangement to be agreed to in writing with the Planning Authority prior to the commencement of development on site.

Reason: In the interests of providing a satisfactory standard of residential amenity for occupants of the development and to achieve greater compliance with the provisions of Section 5.16 (Table 5b) of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018).

- C3: Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority revised details and drawings amending the development as follows:

- a) The western elevations of the two number shared accommodation blocks shall be amended to incorporate fenestration on each level from second floor to seventh floor levels, inclusive, similar to that proposed on the east-facing elevations.

- b) The west facing elevations to the two number shared accommodation blocks shall be finished in brick similar in quality and pattern to that proposed on the east-facing elevations.

- c) All glazing to the western elevations, from ground through to seventh floor level shall be fitted and maintained with clear glazing only and the glazing shall not be obscured by screens or other such devices as would reduce passive surveillance of the area to the west of the building.

Reason: To provide for, improve and promote pedestrian and passive transport movements and permeability through the site.

- C4: The terms and conditions of the permission for the original development, which was issued under Reg. Ref. 2628/17 (ABP Ref PL29N.300241) shall be fully complied with, except where modified by this permission.

- C5: The duration of the permission hereby granted to implement the proposed development shall be for a period of 5 Years from the date of the final grant of permission under Reg. Ref. 2628/17 (ABP Ref PL29N.300241).

- C6: The development hereby permitted shall operate as a Shared Accommodation Development as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2018). Each bedroom unit shall be single occupancy only and the development shall be professionally managed, where individual rooms are rented within an overall development that includes access to shared or communal facilities and amenities.
- C7: Covenant or legal agreement.
- C10: Landscape scheme; public artwork; ecologist survey of invasive species.
- C11: Nesting for swifts to be provided for in the building/courtyards, in the interests of ecology and sustainability.
- C13: Transportation works requirements.

## 9.0 Prescribed Bodies

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

- Irish Water
- Transport Infrastructure Ireland
- National Transport Authority
- The Minister of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.
- The Heritage Council.
- An Taisce – the National Trust for Ireland.

Four of the bodies have responded and the following is a summary of the points raised.

- 9.1. Irish Water: In order to accommodate the proposed connection to the Irish Water network at the Premises, upgrade works are required as follows; • Connection main - Approx. 50m of new 200mm ID pipe main to be laid to connect the site to the main. • Upgrade Main – Approx. 170m of new 200mm ID pipe main to replace the existing 6” main.

Irish Water currently does not have any plans to extend its network in this area. It is stated that should the applicant wish to progress with the connection they will be required to fund the required upgrades. These works will take place in the public domain and will be delivered by Irish Water.

In respect of wastewater it is stated that a new connection to the existing network is feasible without upgrade.

The report states the development must incorporate Sustainable Drainage Systems/Attenuation in the management of stormwater to reduce surface water inflow into the receiving combined sewer. Full details of these must be agreed with Local Authority Drainage Division.

9.2. An Taisce: The submission states that the type of accommodation needed in an urban village such as Phibsborough is apartments of appropriate (varied) size and quality for purchase, not further shared accommodation units for rental. The report states the proposal constitutes minimum-size apartments for transient students or workers, which fails to establish a mix of sizes in accordance with Department of Housing and Dublin City Development Plan policy, and An Taisce considers that this fails to contribute to a longer-term community in the area or answer local housing need. It is noted by An Taisce that shared accommodation does not have to comply with social housing requirements. The Dublin Housing Strategy provides that the building of residential space (houses or apartments) in the city contributes to balanced and sustainable development and An Taise also notes the aims of Living City Initiative tax incentive scheme for Dublin which seeks repopulation of the centre. An Taisce recommend that the proposed alterations are refused permission.

9.3. Inland Fisheries Ireland: There can be no direct pumping of contaminated water from the works to a watercourse at any time. Any dewatering of ground water during excavation works must be pumped into an attenuation area before being discharged to offsite. A discharge license may be required from Dublin City Council.

The submission notes that Ringsend WWTP is currently working at or beyond its design capacity and won't be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

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

- 9.4. Transport Infrastructure Ireland: The proposed development falls within an area set out in a Section 49 Levy Scheme for Light Rail (LUAS Cross City). If the above application is successful and not exempt, as a condition of the grant please include for the Section 49 Contribution Scheme Levy.

## 10.0 **Assessment**

### 10.1. **Introduction**

Having examined the application details and all other documentation on file, including the C.E. Report from the Planning Authority and all of the submissions received in relation to the application, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this application are as follows:

- Principle of Development
- Quantum of Development
- Quality of Residential Accommodation
- Layout, Design, Height and Visual Impact
- Impact on Amenities of Neighbouring Properties
- Biodiversity and Landscaping
- Material Contravention
- Traffic, Transportation and Access
- Infrastructural Services including Flooding
- Other Matters

These matters are considered separately hereunder.

10.2. I have carried out an Environmental Impact Assessment Screening and Appropriate Assessment Screening in respect of the proposed development, as detailed later in this report.

### 10.3. Principle of Development

10.3.1. The proposed development is for the alteration of permission ABP-300241-17, granted under Section 34 of the Act. The previous application permitted the construction of an extension to the existing Phibsborough Shopping Centre comprising new retail/restaurant and office units, student accommodation, a new civic plaza and an upgrade of the existing Shopping Centre and commercial office tower facade. The main component of this alteration application relates to the permitted Blocks A and B, with a change of use proposed in these blocks from the permitted 341 student accommodation units to proposed 321 shared accommodation units (including the necessary internal alterations for communal amenity space/ office space reception, storage, laundry and office space). Blocks A and B are proposed to be redesigned at ground, first and second floor levels, with introduction of external roof terraces on the sixth floor of both blocks fronting onto Phibsborough Road and at the seventh floor centrally located. In addition the width of the residential blocks have increased by 2.3m, to accommodate larger bedrooms; the overall height of the residential blocks is raised by 2m (from 24m to 26m) at its western end to provide a higher floor–ceiling dimension on each floor (c.150mm per floor) and to accommodate the changes to the external plaza levels; the basement is omitted; the plaza levels are altered to remove the external steps in response to Condition 4 in ABP’s decision to Grant (ABP ref: 300241-17); the proposed building line adjacent to the existing rear service laneway (ground and first floor only) is altered to respect the existing Right of Way as granted to the current anchor tenant; and some alterations to the permitted floor space of the existing permitted retail, café/restaurant and office units as a result of the above changes.

10.3.2. I note the definition of Strategic Housing contained in S.3 of the Planning and Development (Housing) and Residential Tenancies Act, 2016, as amended, includes under 3(ba), development —

- (i) consisting of shared accommodation units that, when combined, contain 200 or more bed spaces, and

(ii) on land the zoning of which facilitates the provision of shared accommodation or a mixture of shared accommodation thereon and its application for other uses

- 10.3.3. S3(d) allows for the alteration of a permission granted under section 34 where the proposed alteration relates to development specified in paragraph S3(a), (b), (ba) or (c) of the Act, as amended. I am not assessing this application de novo, but rather am assessing the alterations and their associated impacts on the permitted elements of the development and on the surrounding area. The applicant has clearly indicated in the submitted Architectural Design Statement what elements of the site have been permitted under Section 34 of the Planning and Development Act 2000 (as amended) which do not form a part of this application, and what elements form part of this application.
- 10.3.4. With regard to the definition in relation to 'other uses', it is noted that the strategic housing definition allows 'other uses' if the zoning facilitates it and if in accordance with S3(i) of the definition 'the cumulative gross floor space of the...shared accommodation units...comprises not less than 85 per cent...of the gross floor space of the proposed development...or...shared accommodation to which the proposed alteration of a planning permission so granted relates'. The 'other uses' on the site have been permitted and the proposed development comprises modifications to some elements of those 'other uses', overall resulting in a stated minor decrease of 61sqm to the permitted 'other uses'. Looking at the gross floor area of the proposed shared accommodation buildings and the gross floor area of the proposed modifications only, I consider the gross floor area of the proposed development complies with the limits prescribed for 'other uses'.
- 10.3.5. Under the Dublin City Development Plan 2016-2022, the application site is governed by zoning objective Z4 District Centres (including Key District Centres) 'to provide for and improve mixed-services facilities'. Phibsborough is identified / designated a 'Key District Centre' (8). A number of general development principles are set out for Key District Centres, relating to population, density, transport, commercial/retail, community and social services, employment, build environment, and capacity for development. Residential is a permissible use under Zoning Objective Z4.

- 10.3.6. The plot ratio of 2.43 and site coverage of 38% is in accordance with development plan provision, having regard to the location of the site proximate to the Luas stop and its current underutilised status and need for urban renewal.
- 10.3.7. I am satisfied that the proposed development is consistent with the zoning objective. The CE Report states that the use is acceptable.

#### Principle of Shared Accommodation

- 10.3.8. The guidelines Sustainable Urban Housing: Design Standards for New Apartments were revised on 23<sup>rd</sup> December 2020 in relation to shared accommodation provision, specifically SPPR 9, which states:

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 specific demand identified by a local planning authority further to a Housing Need and Demand Assessment (HNDA) process;

or,

(ii) on the date of publication of these updated Guidelines, a valid planning application to a planning authority, appeal to An Bord Pleanála, or strategic housing development (SHD) planning application to An Bord Pleanála, in which case the application or appeal may be determined on its merits.

- 10.3.9. The current application was submitted prior to the publication of the revised guidelines, therefore, as per SPPR 9(ii), I am assessing this application on its merits. I note a submission makes reference to a Circular from the Department issued prior to the Guidelines and prior to the lodgement of this application, however, the guidelines and not the circular take legal precedence in this instance.

- 10.3.10. In assessing the merits of this application, I consider it reasonable to consider the guidance provided in the 2018 Apartment Guidelines (notwithstanding they have been superceded) as an aid to assessing the merits of this application, as they are the most relevant guidance available against which to assess a shared accommodation proposal. I have therefore referred to specific sections of the 2018 Apartment Guidelines in my assessment hereunder.

#### Location

10.3.11. A number of the submissions consider the proposed development is not justified at this location as Phibsborough is not a city centre location but an urban village. It is contended that the proposal would contribute to an overconcentration of 'transient' housing in the area and does not meeting planning requirements for a sustainable community.

10.3.12. Section 5.18 of the 2018 Apartment Guidelines notes that due to the distinct nature and features of Shared Accommodation type development, it is only appropriate where responding to an identified urban housing need at particular locations. There is an obligation on the proposer of a shared accommodation scheme to demonstrate to the planning authority that their proposal is based on accommodation need and to provide a satisfactory evidential base accordingly. Section 5.19 states that the prevailing context of the proposed site shall also be considered, with city centres identified as the appropriate location for such development. Section 5.22 states that shared accommodation proposals may be related to the accommodation needs of significant concentrations of employment in city centres and core urban locations such as major national level health campuses or similar facilities. The guidelines state that planning authorities should ensure that the scale of such proposals is appropriate to the location and / or buildings involved and to the specific role that the development of the shared accommodation sector should play in the wider urban apartment market.

10.3.13. The submitted reports in relation to the shared accommodation/co-living element of the development include a Planning Justification Report, Co-Living Demand and Location Analysis, Co-Living Concept and Design Report, and Co-Living Operational Management Plan. These reports address the suitability of the site for shared accommodation and set out a rationale/justification for this type of development having regard to the site location and housing need, as well as management proposals. The Planning Justification Report supports the change of use from student accommodation to shared accommodation, having regard to the 2018 Apartment Guidelines. It is stated that shared accommodation has the potential to emerge as a distinct segment within the overall urban accommodation sector. The document also has regard to the location of the site in proximity to high frequency public transport, within walking distance to the city centre and within the centre of a large mixed use area. The document points to the fact that, at present, there is only



a limited number of shared accommodation schemes granted, currently within the planning system, or potentially part of a future application. The document also states that there is a demand for this type of development. The Co-living Demand and Location Analysis, prepared by SQRE Living, makes an argument for the proposal on the basis of the high cost living currently experienced in Ireland and the growing need for community-led accommodation, particularly within the younger age cohorts. The report points out that demand in the rental markets has been particularly strong in the past few years, with a decline in home ownership. Single person households are on the increase and are stated to account for 40% of Phibsborough's residents. The central location of the site is considered, as well as proximity to employment, and the high level of existing services and amenities. The type of accommodation proposed is considered an innovative solution aimed at revitalising underutilised spaces such as this site. The report considers that the co-living model of residential development can provide a reasonable new form of accommodation to help in satisfying the demand in the housing market and alleviate rental affordability pressures.

10.3.14. While submissions consider this area is an inappropriate location for Shared Accommodation, I note that Phibsborough is located within the area identified in the RSES as 'Dublin City and Suburbs', within the Dublin Metropolitan Area. Dublin City and Suburbs accounts for about half of the Region's population or a quarter of the national population, as well as being the largest economic contributor in the state. I note policy SC10 of the development plan seeks 'To develop and support the hierarchy of the suburban centres, ranging from the top tier Key District Centres, to District Centres/Urban Villages and Neighbourhood Centres, in order to support the sustainable consolidation of the city and provide for the essential economic and community support for local neighbourhoods, including post offices and banks, where feasible, and to promote and enhance the distinctive character and sense of place of these areas'. While historically Phibsborough has evolved from being a village and from an urban design perspective has its own distinct character and community (as raised in submissions), the prevailing context is of a well serviced, centrally located, urban area. The site is highly accessible by Luas and by bus, as well as being within walking distance of a range of city centre services and amenities. While disputed in submissions, I note the site is connected to a large

number of employment sites, including the Mater Private Hospital and The Mater Misericordiae University Hospital (both identified CSO Workzones) in addition to Mountjoy Prison and TUD Grangegorman which are all within 800m, as well as being a short commuting distance from a range of city centre based employers. I am satisfied that the location is suitable for a large-scale Shared Accommodation development of the type proposed.

- 10.3.15. The CE Report considers that the link between the application site and employee catchment as required under the Apartment Guidelines has been demonstrated and the location of the development in the context of accessibility within walking and cycling distance of the city centre, and proximity to high frequency public transport offerings of bus and Luas is acceptable.

#### Identified Need

- 10.3.16. As noted previously, the 2018 Apartment Guidelines state that shared accommodation is only appropriate where responding to an identified urban housing need at a particular location.
- 10.3.17. A large number of submissions have raised concerns in relation to a proliferation of transient accommodation typologies, including student and tourist accommodation, alongside permitted/proposed shared accommodation in this area and that such a transient type of accommodation does not support sustainable communities and will not contribute to the existing community. It is considered that more family type accommodation, with a required element of social housing, is required in this area.
- 10.3.18. The 2018 Apartment Guidelines state that the planning authority should monitor the provision of Shared Accommodation in areas to ensure a proliferation does not result. The CE Report has addressed this issue and states that permission has being sought for a small number of such developments in the city council area with no such schemes in current operation close to the site. The CE Report notes that permission was granted for a shared accommodation development with 129 units at 39-42 Hill Street and 36a North Great Georges Street (DCC Reg. Ref. 2546/19 and ABP Reg.Ref. 306181) and an application was granted (now under appeal) to amend this scheme to add 21 additional units (DCC Reg. Ref. 3061/20 and ABP 308836). A further application has recently been granted planning

permission for shared accommodation for 121 units at St. Mary's Place North and between No's 13 and 16 Mountjoy Street (DCC Reg.ref 4691/19), which is under appeal. An application is currently before the Board for a Strategic Housing Development for 280 bedrooms at the Hendron's building (36-40 Dominick Street Upper). The CE Report concludes that it is considered that there is no evidence to suggest a proliferation of either existing or proposed BTR / Shared Accommodation developments in the Phibsborough area. It is stated in the CE Report that the vast majority of housing in the area is made up of standard housing and while observers are of the opinion that tourist and student accommodation should be considered in the same light as Shared Accommodation when considering any potential proliferation, Shared Accommodation is considered to be a distinct form of housing in the Apartment Guidelines.

10.3.19. In considering whether a proliferation of Shared Accommodation exists in the area, I have had regard to recent planning permissions, sites under construction, and completed developments in the vicinity of the site. I have had specific regard to those cases highlighted by observers in their submissions. Having reviewed all the information submitted and having regard to the historical context of two storey houses in the immediate area and traditional apartment developments, I do not consider there is an oversupply of this type of accommodation. I consider this shared accommodation format will provide for diversity in unit type and tenure in this area, and while a variety of unit type/tenure is not provided for on the site itself (as raised in submissions), I do not consider this gives rise to a lack of diversity. The applicant submits that one of the reasons that the development of Shared Accommodation is appropriate on this site relates to issues in relation to air rights, which was noted in the Inspectors Report in relation to the permitted development on this site and consideration of other formats of accommodation. Concerns raised in submissions in relation to the negative impact of Shared Accommodation on established communities is not substantiated and there is no evidence to support these claims. In my view, this type of accommodation should not be viewed as being provided to the detriment of family housing provision or social housing. This type of accommodation is recognised as fulfilling a distinct housing need under planning policy. While working from home is dominant at present due to the Covid 19 pandemic, I do not agree with concerns raised in submissions that this format of

accommodation is incapable of supporting working from home, notwithstanding that this current situation is a relatively short term issue.

10.3.20. The applicant has in my opinion suitably demonstrated that there is need for this type of housing in the area, which is in close proximity to employment opportunities as described under the Apartment Guidelines and accessible by high quality public transport and active modes.

10.3.21. In terms of affordability, the applicants contend that the shared accommodation proposal will help alleviate rental affordability pressures in the area. As raised in submissions, there is little evidence presented to support this claim. Nonetheless, it is evident that there is a shortage of rental accommodation and housing in general, which has not been reduced during the Covid 19 pandemic. The provision of this format of accommodation, will provide additional accommodation and will free up other rental accommodation for the wider housing market. At a local level, the proposed development would introduce a significant residential population into this area and support the zoning objective to avail of opportunities to provide for residential use with appropriate amenity facilities as well as providing for a vibrant retail and commercial core with animated streetscapes.

10.3.22. Having considered all the information before me, I consider that the proposed shared accommodation use overall is acceptable at this location and is in line with the overarching national aims to increase housing stock, including in the rental sector, as set out in various policy documents, including, but not limited to, Rebuilding Ireland – Action Plan for Housing and Homelessness (2016).

#### 10.4. **Quantum of Development**

10.4.1. Concern is raised in submissions in relation to the density of development proposed at this location. The site coverage of 38% and plot ratio of 2.43 falls within the guidance contained within the Dublin City Development Plan 2016-2022 and is in my opinion acceptable. The site is located within Dublin City and Suburbs, where high density development is supported by national policy and guidelines as well as by Dublin City Development Plan 2016-2022. I consider the site to be highly accessible to employment opportunities, amenities and services and can be considered a central and/or accessible urban location as defined under the Apartment Guidelines.

As a result, national planning policy supports the provision of higher density development on the site.

## 10.5. Quality of Residential Accommodation

- 10.5.1. A number of submissions raise concerns in relation to the quality of residential accommodation being offered, including bedroom size, low area of kitchen/dining/living space to serve the bedrooms, and low provision of cooking facilities.
- 10.5.2. As noted previously in this report, notwithstanding that the Apartment Guidelines were updated in 2020, I have had regard to the 2018 Apartment Guidelines as an aid to assessing the merits of this application. The 2018 Apartment Guidelines refer to Shared Accommodation as a specific type of Build to Rent (BTR) accommodation where individual rooms are rented within an overall development that includes access to shared or communal facilities or amenities.
- 10.5.3. Specific Planning Policy Requirement (SPPR) 7 and 9 of the 2018 Apartment Guidelines relate to Shared Accommodation. A clustered model of shared accommodation with one format detailed as 2-6 bedrooms sharing common areas is advocated in the guidelines. Section 5.15 notes other formats may be proposed. Section 5.16 identifies specific standards for bedroom sizes and the provision of communal amenities. SPPR 9 of the 2018 Apartment Guidelines states the following:
- “Shared Accommodation may be provided and shall be subject to the requirements of SPPRs 7 (as per BTR). In addition:
- (i) No restrictions on dwelling mix shall apply;
  - (ii) The overall unit, floor area and bedroom floorspace requirements of Appendix 1 of these Guidelines shall not apply and are replaced by Tables 5a and 5b;
  - (iii) Flexibility shall be applied in relation to the provision of all storage and amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities. The obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;

- (iv) A default policy of minimal car parking provision shall apply on the basis of shared accommodation development being more suitable for central locations and/or proximity to public transport services. The requirement for shared accommodation to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures”.

10.5.4. Table 5a of the Apartment Guidelines set out the minimum bedroom size for shared accommodation proposals. For a single room the minimum bedroom size is 12 sq. m. For a double/twin room, the minimum bedroom size is 18 sqm.

10.5.5. The proposed development is for 321 bedrooms in two blocks, Block A and Block B, (block B being the southern of the two blocks), with accommodation provided on levels 2 to 7. All bedrooms are stated to be single occupancy bedrooms. 19 bedrooms are arranged in a cluster format on level 2 of both blocks. Block A on the 2<sup>nd</sup> floor has two clusters of 4 bedrooms and 6 bedrooms and an additional 13 bedrooms served by one kitchen/dining/living (k/d/l) room. Block B on the 2<sup>nd</sup> floor has two clusters of 3 bedrooms and 6 bedrooms and an additional 15 bedrooms served by one kitchen/dining/living room. Floors 3-7 comprise bedrooms on either side of a central corridor with two kitchen/dining/living (k/d/l) rooms on each floor, with the exception of floor 7, which has a smaller footprint and is served by one k/d/l for 10 bedrooms in Block B and one for 13 bedrooms in Block A. One of the shared k/d/l rooms on floors 3-6 of each block are located centrally on the floor and the second k/d/l is positioned at the east end of each floor in each block, overlooking Phibsborough Road and comprising a triple aspect.

10.5.6. The bedrooms, as noted above, are primarily single aspect units accessed off a central corridor in each block. The western bedrooms of Block A are dual aspect with windows facing west to Dalymount. I note this is not the case for Block B. Each of the bedrooms has a kitchenette comprising a sink, combi-microwave, and small fridge. There are no hobs in the bedrooms as it is stated in the submitted Co-Living Design and Concept Report that this is to avoid the kitchenettes becoming an alternative rather than an addition to the shared kitchen/dining/living spaces. All the bedrooms meet the minimum bedroom size of 12sqm for single occupancy rooms. The 19 bedrooms located in various size clusters are stated to be 15-18 sqm. The

other bedrooms are mainly 18sqm in area, with 6 described as premium rooms being 1-2sqm bigger and the accessible rooms are 26-27sqm. All bedrooms are ensuite.

10.5.7. Internal amenity areas are proposed on the ground, first floor and second floor levels, with external amenity provided at second floor between Blocks A and B, which allows for connectivity between the blocks. External courtyards are also provided on the 6<sup>th</sup> and 7<sup>th</sup> floors, with the proposed external courtyards generally covered or partially covered.

10.5.8. It is stated in the submitted documentation that a total of 1130 sqm of shared kitchen/dining/living space is provided evenly across the two residential blocks and that overall shared kitchen/dining/living area per bed space in the cluster arrangement is 6.8sqm and in the single person unit equates to 3.7sqm per bed space. It is stated that the shared k/d/l equates to an average 4sqm per person in Block A and an average 3.5sqm per person in Block B. The level of communal provision outside the cluster arrangement appears to be justified by the applicant on the basis of the size of the bedrooms, which are in excess of the minimum standards.

10.5.9. The following table summarises the proposed communal kitchen/dining/living areas to serve the 321 units, per floor in each of Blocks A and B:

<b>Block A Floor</b>	<b>No. of Bedrooms</b>	<b>K/D/L floor area (sqm)</b>	<b>K/L/D floor area per bedroom/person (all single occupancy bedrooms)</b>
2	6 bed cluster + 3 bed cluster + 13 beds	3 x K/D/L comprising: 40 sqm for 6 bed + 26.7 sqm for 3 bed + 56 sqm for remaining beds  (requirement for 6 bed cluster is 32 sqm; and for 3 bed is 24sqm)	6.66 sqm per bedroom for 6 bed cluster; 8.9 sqm per bedroom for 3 bed cluster; 4.3 sqm per bedroom for 13 single beds

3	29 bedrooms	2 x K/D/L rooms: 56 sqm + 61 sqm = 117 sqm	4.03 sqm
4	29 bedrooms	2 x K/D/L rooms: 59.5 sqm + 61 sqm = 120.5 sqm	4.15 sqm
5	29 bedrooms	2 x K/D/L rooms: 59.5 sqm + 61 sqm = 120.5 sqm	4.15 sqm
6	23 bedrooms	2 x K/D/L rooms: 51 sqm + 61 sqm = 112 sqm	4.86 sqm
7	13 bedrooms	1x K/D/L room = 36 sqm	2.76 sqm  Note: adjoining amenity room of 18sqm proposed. If included, 4.15 sqm per bedspace proposed.

<b>Block B Floor</b>	<b>No. of Bedrooms</b>	<b>K/D/L floor area (sqm)</b>	<b>K/D/L floor area per person provided (all single occupancy bedrooms)</b>
2	4 bed cluster + 6 bed cluster + 15 beds	3 x K/D/L rooms: 28.3sqm for 4 bed + 39 sqm for 6 bed + 65sqm for remaining 15 beds (requirement for 4 bed cluster is 28 sqm; and for 6 bed is 36sqm)	7sqm per bedroom for 4 bed cluster; 6.5 sqm per bedroom for 6 bed cluster; 4.33 sqm per single bedrooms



3	36 bedrooms	2 x K/D/L rooms: 54 sqm + 65 sqm = 119 sqm	3.3 sqm per bedroom
4	37 bedrooms	2 x K/D/L rooms: 57 sqm + 65sqm = 122 sqm	3.2 sqm per bedroom
5	37 bedrooms	2 x K/D/L rooms: 57 sqm + 65sqm = 122 sqm	3.2 sqm per bedroom
6	31 bedrooms	2 x K/D/L rooms: 57 sqm + 46 sqm = 103 sqm	3.3 sqm per bedroom
7	10 bedrooms	1 x K/D/L rooms: 38 sqm	3.8 sqm per bedroom  Note: adjoining amenity room of 18.9sqm proposed. If included, 5.69 sqm per bedspace proposed.

10.5.10. I note the CE Report raises concerns in relation to the ratio of shared kitchen/dining/living (k/d/l) space per resident, which is considered to be far below the standards of 8sqm as set out in the guidelines. The CE Report also raises concerns in relation to the ratio of cooking stations to resident which equates to 1 cook station per 5.2 residents (which can be broken down to a ratio of 1 per 4.7 on the second floor, 5.4 on the third floor, 5.5 on the fourth floor, 5.5 on the fifth floor, 5.4 on the sixth floor and 4.6 on the seventh floor). The CE Report states that 'notwithstanding that the applicants arguments that this ratio is acceptable having regard to the fact that the floor area of the majority of bedrooms (203) are greater than the minimum bedroom size of 12sqm by at least 50% and that the shared kitchen / dining / living rooms are dual or triple aspect, it is considered that the low ratio of space to resident would not provide future residents with an acceptable living environment'. It is considered that this could be dealt with by way of a condition which requires an increase in the level of communal kitchen/living/dining space,

through the amalgamation of bedspaces within each of the shared kitchen/ living/ dining room areas on floors 3 to 6 of both Blocks A and B. The CE Report calculates that as a result of these changes the total floor area of the shared kitchen / dining / living room would increase to 1,367m<sup>2</sup> and the number of units within the scheme reduce by 24 to 297. It is stated that this would lead to a ratio of 5.1sqm of shared kitchen/dining /living room per resident. The CE Report states that it is 'considered that this approach is similar to that of An Bord Pleanála in two recent applications for shared accommodation in Dublin, (SHD ABP Ref 308162-20 The Old Glass Factory and no's. 113-117 Cork Street and no's. 118-122 Cork Street, Dublin 8 and SHD ABP Ref 307976-20 Brady's Public House, Old Navan Road, Dublin 15) where that the level of shared kitchen/dining/living room was increased by way of the replacement of bedspaces'.

10.5.11. As indicated in the tables above, the level of provision of communal kitchen/dining/living space for the clusters on the 2<sup>nd</sup> level of both blocks meets the requirements of section 5.16 of the Apartment Guidelines 2018. However, with regard to the remaining bedrooms, the requirements, which could be interpreted as being 8 sqm per bedspace for bedrooms 1-3 and 4sqm per bedroom above that, or alternatively 6sqm per bedspace, are not met. In my opinion the applicant has not demonstrated that sufficient space will be provided, with assumptions based around usage by residents of such spaces in my mind questionable with a resultant low level of shared kitchen/dining/living space, including cooking hobs, being provided. I have considered precedent of other Board decisions in relation to Shared Accommodation also. Notwithstanding each application is assessed on its merits, I note a number of cases determined by the Board in relation to Shared Accommodation, where shared living spaces fell below/just above the 4sqm per bedspace, were generally considered substandard, with the addition of hobs per room or additional communal space required by condition to compensate for this shortage. With regard to Block A, I note the kitchen/dining/living floor space per bedroom is approx. 4sqm, with the exception of the 6<sup>th</sup> floor which is closer to 5sqm. I agree with the CE analysis that this issue could be addressed by way of condition, with the incorporation of additional bedrooms into the kitchen area. I note the CE report recommends the inclusion of one bedroom to the northwest of the shared k/d/l space overlooking Phibsborough Road and the inclusion of two bedrooms to the west of the centrally

located k/d/l space on floors 3-6. This would result in a reduction of 12 bedrooms from Block A and an increase in the k/d/l space per bedspace on floors 3-6 to approx 5.9/6/7sqm per bedspace across the three floors, which I consider acceptable.

10.5.12. Block B when compared against Block A has a greater number of units per floor and has less kitchen/dining/living area per bedspace when compared to Block A. I consider the provision of 3.2/3.3sqm per bedroom/person to be overall poor. I note the 2<sup>nd</sup> floor level is adequately served in terms of the cluster arrangement and meets the 2018 Apartment guidelines standards, and shared space for other rooms on that floor is 4.33sqm. Levels 3, 4 and 5 in Block B have the highest number of bedrooms per floor at 36/37 bedrooms per floor and benefit the least from adjoining amenity areas, which emphasises to a greater degree the underprovision of communal/shared space at these levels. Of the two shared kitchen/dining/living spaces on each floor, one of the shared spaces (the smaller of the two) is triangular in shape given the crank in the building form where it is located, with the narrowest point of the room being 2.2m wide, where the seating/living couches are located, with the far end of the room being 5.2m wide where the kitchen is located. While I note the submitted CE Report states it has no issue with the shape of the room, I consider the layout of this shared k/d/l makes movement around the living space appear awkward and cramped. It is notable that the minimum width of a living/dining room in a three bed apartment is 3.8sqm. I further note that this is the smaller of the two shared k/d/l spaces on each floor, yet given its position between two groupings of bedrooms, it is likely to be the most utilised shared space. Given the combined issue of the shared kitchen/dining/living space hovering around 3sqm per bedroom for levels 3-6 in Block B which is in my opinion quite low and the poor shape of the smaller of the shared spaces, I have considered increasing the shared kitchen/living/dining space in the middle of Block B (roughly triangular in shape) at its southern end by incorporating one of the adjoining bedrooms to the east into the space, which would result in an additional 18sqm to this room on floors 3-6 (increasing its size from approx 57sqm to approx 72/75sqm). This would bring the shared kitchen/living/dining space on these floors closer to 4sqm (3.7sqm/3.8sqm/3.9sqm) which I still consider substandard. As per the CE assessment, I consider the addition of a second bedroom adjoining the eastern end, in addition to an increase in the shared k/d/l space overlooking Phibsborough Road

through the incorporation of one bedroom per floor into this space, would be required to bring the levels to an appropriate standard. Overall the proposed changes would result in a reduction of 12 bedrooms from Block B and result in an area of 4.6/4.8/5 sqm per bedspace across floors 3-6 of Block B. The above amendments to Blocks A and B, would reduce the overall proposed number of bedrooms from 321 to 297 bedrooms. Should the Board be minded to grant permitted I recommend a condition in this regard.

Communal Support Facilities

10.5.13. The supporting communal and recreational amenities required by SPPR 9 (iii) are set out in SPPR 7 (b) as follows: (i) Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc. (ii) Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc. Such compensatory support facilities and amenities are required in addition to and separate to the common kitchen/ living and dining areas required for Table 5b and SPPR 9 (ii).

10.5.14. In relation to communal and recreational amenities, these are provided at ground, first, second, sixth and seventh floors. These are set out in the table below:

	<b>Resident Support Facilities</b>	<b>Resident Services and Amenities (sqm)</b>	<b>External Amenity (sqm)</b>
Ground floor	Bin storage Bicycle storage Office	Co-Living Atrium Amenity 180 sqm (Reception, Lounge & Amenity Area).	
1 <sup>st</sup> floor	Laundry 51sqm; Storage facilities for residents'	Gallery Area 180sqm (seating	

	bulky items 25sqm + 40 sqm;  Linen storage 27.5 sqm;  Office	space; co-working space);  2 x studio spaces of 96sqm + 60sqm	
2 <sup>nd</sup> floor	Toilets at 2 <sup>nd</sup> floor level off central amenity hub	Central Amenity Hub (games area/juice bar/break out space) 380 sqm.  Cinema Room 58sqm.	External amenity area 245 sqm;  External courtyard 98 sqm;  Covered garden area 46 sqm.
3-6 <sup>th</sup> floor	Cleaner Room		
6 <sup>th</sup> floor			Block B covered roof garden 77sqm.  Block A covered roof garden 79sqm.
7 <sup>th</sup> floor	Cleaner room		Block B external roof garden 163 sqm.  Block A external roof garden 93sqm.
<b>Total</b>		<b>954 sqm</b>	<b>801 sqm</b>

10.5.15. I note a Landscape Design and Rationale Report has been submitted addressing the external and covered amenity spaces within the scheme.

10.5.16. I consider overall that the quality, design and layout, and quantum of the communal facilities (internal and external) across the ground, first, second, sixth and seventh floors is acceptable and will provide a reasonable level of amenity for future residents.

#### Daylight and Sunlight

10.5.17. In considering daylight and sunlight impacts, the Apartment Guidelines (2020) state that PA's should have regard to quantitative performance approaches outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' (Section 6.6 refers). I have had regard to both documents. A Daylight and Sunlight Report has been submitted with the application, which I have considered.

10.5.18. Within the submitted Daylight and Sunlight Report, I note internal spaces and external amenity areas have been examined. The potential impact in terms of neighbouring properties has also been addressed, which I discuss separately in section 10.7 hereunder.

10.5.19. With regard to the internal spaces, the second and third floors of Blocks A and B have been analysed in the submitted report to determine the Average Daylight Factor for each bedroom. It is stated that the lower floors will experience the highest degree of obstruction from existing and proposed (permitted) opposing structures and will therefore demonstrate the lowest daylight levels. Higher floor levels are not assessed as it is assumed that having the same design layout they will achieve better results. I accept the basis of the survey.

10.5.20. BRE209 uses the recommendations of BS8206-2 Code of practice for daylighting for ADF of 5% for well day lit space, and also the specific minimum standards for different residential room types as follows: Kitchens min. 2.0%, Living Rooms min 1.5%, Bedrooms min 1.0%. I note the updated BS EN 17037:2019 has replaced BS8206-2, however, I note BS 2008 remains the applicable standard, as provided for in the s.28 Guidelines and Development Plan, and notwithstanding this the BS and BRE guidance allow for flexibility in regard to targets and do not dictate a mandatory requirement. In terms of shared living/kitchen/dining space, an ADF of 1.5% is applied to the site. The ADF of the submitted floors shows that all shared

k/d/l rooms are significantly in excess of 3%, with the exception of one shared kitchen space in Block B at second level which has an ADF of 1.57%. I note the majority of bedrooms in Blocks A and B have an ADF in excess of 2%. I consider the findings of the report in relation to ADF values acceptable and I am satisfied that the proposed development will meet residential amenity levels for future occupants.

10.5.21. The guidelines state that in terms of sunlight access, for an external garden or amenity space to appear adequately lit throughout the year, it should be capable of receiving at least two hours of sunshine on 21st March on 50% of the space. The results show that the seven areas of shared external space collectively will be capable of receiving more than 2.0 hours of sunlight on 21st March on 72.66% of the total space. The lower courtyard areas, if considered individually, are shown to fall slightly below the 50% target. The external rooftop terraces at upper levels and the roof are in full sunlight. Figure 3 and table 3 of the submitted report show the levels of sunlight available in the external spaces and also show the level of exposure to the civic plaza, which exceeds the 2 hours over the majority of the area. I am satisfied that while there are some shortfalls, the majority of outdoor space meets the targets and taken as a whole the development is well served and will adequately serve future occupants.

10.5.22. Overshadowing of the permitted development compared to the proposed development has been set out in appendix A of the submitted report. Shadow profiles are included for 21<sup>st</sup> March/September, 21<sup>st</sup> June and 21<sup>st</sup> December. Shadows cast will mostly impact of the northern parts of the established shopping centre building. As the developments comprise blocks that step down towards Phibsborough Road, the report highlights that afternoon and evening shadows onto Phibsborough Road are shortened, and the east to west alignment of blocks with spaces between permits filtering of sunlight and daylight onto the street and its buildings. The report highlights that the shadow diagrams show an imperceptible difference in overshadowing on private properties for most of the day and a slight increase in the extent of overshadowing in the later part of the afternoon onto Phibsborough Road and the building facades along the eastern side of the street. The pattern is similar on 21st June with a slight increase in overshadowing onto Phibsborough Road by 7:00pm. On 21st December, the diagrams indicate an

imperceptible change in the morning shadow profiles and a negligible/slight increase during the early afternoon on Phibsborough Road until sunset.

- 10.5.23. I have reviewed the findings of the report and I am satisfied that no significant additional overshadowing will arise as a result of the proposed development above that previously permitted.

#### Overlooking

- 10.5.24. The Architectural Design Statement indicates the width of the residential blocks have increased by 2.3m, to accommodate larger bedrooms, with the distance between blocks reduced (see section 5.3 of the Architectural Design Statement). The width has been increased along the northern side of Block B and the southern side of Block A (a portion of it) and a section of the northern side of Block A, with a distance of c.13m between the blocks at their eastern end and c.15.5m at their western end. Angled projecting windows with a mix of clear and frosted glass are proposed along a portion of the façade of Block A to address potential overlooking. I consider the design detail in this regard acceptable.

- 10.5.25. I note projecting angled windows are also proposed to a portion of the southern façade of Block B, which is 19m from the rear boundary of dwellings to the south. This is discussed further in section 10.7 hereunder.

#### Noise Assessment

- 10.5.26. A 'Technical Note on Summary of Potential Noise Impacts on Residential Amenity' has been submitted with the application, which assesses the impact of the development on the surrounding area from the existing and permitted non-residential areas to future occupants and potential impact of noise from the existing road network to future occupants.

- 10.5.27. With regard to impact of the proposed development, the noise generated from the permitted service yard on future occupants which overlook this yard is examined, as well as on neighbouring existing noise sensitive receptors. It is stated that the main Tesco delivery occurs during the night and uses the front of store rather than the permitted service yard and it is understood that future Tesco deliveries will continue to use this approach. The service yard permitted as part of the existing permitted development is located at ground floor level on the western side of the



proposed development. The permitted service yard level is approximately 1.35m higher than the existing Tesco service yard. Two goods lifts are included to overcome the change in level between the permitted new service yard and the existing laneway and service yard at the rear of the shopping centre. It is stated that as mitigation, the bedrooms in the shared accommodated section are positioned at 2<sup>nd</sup> floor level and up and the building envelope both here and at the front where the tesco deliveries occur will be enhanced so that the glazing will be selected to achieve an acoustic rating of 35dB Rw and any passive ventilation selected will achieve an acoustic rating of 44dB Dne,w. In terms of the management of the delivery yard, the report states that the mitigation measures are to be finalised as part of the design however the following are stated to be likely required:

- Restrict the new permitted service yard to daytime (7am to 7pm) use only.
- Dock leveller to goods lift.
- Smooth surface finish to all areas where cages will be marshalled.
- Enhanced acoustic glazing and ventilation to shared living bedrooms overlooking service yard.
- Enhanced separating constructions between adjacent residential and non-residential amenity spaces.

In addition, the following 'good practice' issues are advised for the site:

- It is critical that drivers making regular deliveries to site behave in a way that noise disturbance is minimised.
- Vehicle engines shall not be left idling once on site. In addition, on-board refrigeration units (if any) shall also be turned off when on site.
- Drivers should minimise impact sounds whilst working about their vehicle. This includes dropping tailgates and moving cages and pallets.
- All radios and amplified music in the truck cab shall be turned off prior to the doors being opened.
- There should be no shouting or communicating in raised voices whilst on site.
- There should be no unnecessary sounding of horns whilst on site.

10.5.28. I accept the mitigation measures as proposed will address to a large degree noise issues arising. However, I have outstanding concerns in relation to the aspect of the north facing units in Block A where it directly adjoins the boundary with the service yard, with no visual or noise barrier between the bedroom windows on this elevation and the yard. I note the previous permission for the site permitted a canopy above the service yard along this elevation of the student accommodation (north elevation of Block A in this application), which had a dual use as a roof garden/external amenity area and a covered loading area off the service yard. While I do not consider an additional external amenity area would be functional or required at this location given the current layout, I do consider that a projecting canopy above the loading area would mitigate to a greater extent noise impacts from the service yard and provide an important visual buffer between bedroom windows at this elevation (two of which are projecting over the yard) and the yard below. Should the Board be minded to grant permission, I consider a condition in relation to this issue should be considered.

10.5.29. Road traffic noise on the surrounding road network and carpark activity on the existing roof top carpark has been considered. It is stated that to ensure that suitable noise levels will be achieved internally to protect the residential amenity of future occupants when windows are closed and vents are open for ventilation, that the glazing and ventilation specification will include thermal double or triple glazed units with slightly thicker panes of glass where necessary and any passive natural ventilation paths that may be required will be via a suitably selected acoustic vent to allow the required level of ventilation be achieved while maintaining the acoustic integrity of the building envelope.

10.5.30. The report makes recommendations in relation to mitigating potential internal noise transfer between various amenity spaces and residential spaces. The report acknowledges that there are units in proximity to the cinema and that the walls in the area should be designed in a way that achieves recommended sound insulation performance.

10.5.31. The report states that once suitable mitigation is implemented, the noise emissions from the operation of the development are unlikely to injure the residential amenity of the proposed shared living units within the development or other adjoining sensitive locations.

10.5.32. I am overall satisfied with the noise mitigation measures proposed within the report. Given the wording in the report that states details are to be finalised as part of the detailed design, I consider a condition in relation to the final agreement of measures is warranted.

#### Wind Microclimate Study

10.5.33. A Pedestrian Comfort Wind Study prepared by K8T Consulting is included as part of this planning application. The external wind environment around the development and at the entrances was assessed as well as the external amenity areas at 2<sup>nd</sup>, 6<sup>th</sup> and 7<sup>th</sup> levels. The usability of the spaces was assessed having regard to the Lawson Criteria which is a benchmark for pedestrian comfort. Enhancements and possible mitigation were also considered.

10.5.34. All public realm areas around the site, including the civic plaza, are found to be tolerable or acceptable for standing and seating. The upper level residential amenity areas are all considered acceptable or tolerable in terms of access for walking, standing and seating throughout the year, with the inclusion of covered areas improving the rain and wind environment. I accept the findings of the report.

#### Covid 19

10.5.35. A number of submissions raise concern that shared/co-living accommodation could have adverse impacts in relation to Covid-19 spread. A Covid 19 Risk Assessment has been submitted with the application, which considers the risk of shared living and spread of Covid 19, taking into account the design of the scheme, facilities in a bedroom, availability of outdoor spaces, mechanical ventilation system (provides for 5 air changes per hour), the management protocols in place to manage use of the shared spaces particularly during a pandemic and in accordance with HSE guidance, and cleaning procedures. The report considers that subject to observing HSE guidance in relation to social distancing and implementation of management protocols as set out, the risk of transmission of Covid 19 is very low. In this regard, it is noted that An Bord Pleanála is not a public health authority and that there is currently no policy restriction on the development or operation of such Shared Accommodation. The operator / provider will have responsibility to ensure that appropriate measures are put into place, as per overarching public health restrictions and guidelines in place at any given time. I note a submission raises

concerns in relation to the ability of SQRE Living to manage the scale of accommodation proposed. I have no evidence before me to question of the ability of SQRE Living to manage such a scheme.

## 10.6. **Layout, Design, Height and Visual Impact**

10.6.1. As noted previously, this application is for modifications to permitted development ref. ABP-300241-17. I have discussed above the amendments proposed with regard to the use of Blocks A and B for shared accommodation, justification and need for this accommodation type, and consideration of residential amenity associated with this use. Hereunder I discuss in detail the other amendments proposed by way of this application and their implications in terms of the layout and design of the development, as well as the issue of height and visual impact arising from the various modifications.

### Civic Plaza

10.6.2. A civic plaza was permitted as part of permission ABP-300241-17. The original layout included a split level Civic Plaza incorporating a set of steps linking the two levels. Condition 4 of the permitted development required alterations to the civic plaza, as follows:

Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority revised drawings and details, revising the design of the proposed civic plaza, including access to/from the surrounding public roads and to/from Dalymount Park and to/from Dalymount Lane, which shall:

(a) seek to comply with 'Buildings for Everyone: A Universal Design Approach. External Environment and Approach 1' (NDA Centre for Excellence in Universal Design, 2012), including, in particular the requirements to avoid barriers and to minimise travel distances (such as that created and increased by the proposed stepped arrangement of the space),

(b) provide for crowd access/egress requirement to/from the site of the existing/future-redeveloped Dalymount Park stadium (the proposed stepped arrangement is in conflict with this requirement),

(c) provide for articulated Heavy Goods Vehicles access from North Circular Road (the proposed subdivided and stepped arrangement of the space does not provide sufficient space for Heavy Goods Vehicles to manoeuvre safely into the site and any subdivision of this space would need to be setback in a northerly direction),

(d) provide permanently open pedestrian access to/from Dalymount Lane to/from the development site,

(e) omit the wall structure(s) to the north of the ramped access (Electricity Supply Board right-of-way) from Phibsborough Road to the civic plaza, and to continue the stepped arrangement along the northern perimeter of the ramp, except where an alternative design arrangement is agreed in writing with the planning authority,

(f) provide for prevention of vehicular traffic through the civic space generally, except on an agreed occasional basis, and

(g) provide for publicly accessible bicycle parking to the standard required by the planning authority within the proposed civic space and/or ancillary spaces. Reason: To ensure that the public space within this development is accessible and safe, in compliance with Council policy SN29, and to avoid creation of a traffic hazard.

10.6.3. As part of this planning application, the applicant states that plaza levels have been redesigned to work without steps and to provide full universal access across the new civic space. The ground plane of the new plaza is proposed to now slope very gently over its full length from Phibsborough Road towards Dalymount Park, with steps and ramps removed. It is stated that this alteration has been facilitated by the removal of the permitted basement and raising of the ground floor levels. It is stated that the amendments to the civic plaza ensures compliance with Condition 4 of An Bord Pleanála's grant of permission.

10.6.4. Concerns are raised in submissions that the location of the civic plaza will detract from the vibrancy of the existing village by the layout and displacement of the village centre from Phibsborough Road to the back of the buildings onto the NCR, with the civic plaza located to the back of the buildings and not to the front. Pedestrian links onto the NCR and Phibsborough Road are questioned.

- 10.6.5. The CE Report raises no concerns in relation to the revised design of the civic plaza. It is stated that the space provided is easily accessed, well positioned at the junction of the two pedestrian accesses into the development and large enough to allow civic events to take place in. In the event of planning permission being granted, the CE Report recommends that a planning condition be attached that seating / sculptures etc. be provided in this scheme, with exact locations and materials etc. to be confirmed by way of written agreement with the planning authority.
- 10.6.6. I have reviewed the plans for the civic plaza and connectivity into the surrounding street network. I am satisfied that the proposed amendments will result in a usable well designed space which will be accessible to all, seamlessly connecting into the surrounding street network. I note management measures proposed in relation to occasional vehicular access through the space, which appear reasonable with measures ensuring this space is predominantly a pedestrian zone. While I note the concerns raised in relation to the location of the civic plaza, I would highlight that the location of the civic plaza is as approved under ABP-300241-17 and this application seeks changes to the levels of the plaza and entrance details from the surrounding street network only. Notwithstanding this, I consider the location of the plaza will contribute to the public realm and support additional outdoor amenities in this area and will not in my opinion detract from the vitality of the existing village.
- 10.6.7. With regard to concerns raised in submissions in relation to the access with Dalymount stadium and redevelopment of Dalymount, nothing proposed would in my opinion hinder the development of Dalymount and the movement strategy around the site as proposed is acceptable. The CE Report states that Dublin City Council purchased Dalymount Park in 2015 and the current plan by the city council is to completely demolish the current stadium, reorient the pitch to a north-south direction and construct a UEFA category 3 stadium with a capacity of 6,000. It is stated that the plans show a pedestrian / vehicular access route along the western boundary of the land, which appears to be acceptable and would provide appropriate access to Dalymount Park. I note condition 5 of ABP-300241-17 relates to this route and remains applicable.

Retail Unit 1 and Block C - Retention of Car Park Over Existing Shopping Centre

10.6.8. The submitted documentation highlights that in the permitted scheme, it was proposed to remove Unit 1 (formerly Burdocks) of the original Shopping Centre and remove some of the existing parking from podium level. The applicant states that in response to the existing legal covenants on the existing Shopping Centre, this application seeks that part of the existing car park, which forms the roof over the original retail Units 1-12 is to be retained in its entirety. To this end, it is proposed to chamfer the front and back corners of gable Unit 1 and create a new fully glazed wall along its length. The works will result in a minor increase in retail floorspace of Unit 1 (as permitted, to be amalgamated with Unit 2). The applicant states that as a result of the increased extent of the existing Unit 1, it is proposed to set back the permitted Block C façade on the southern side of the plaza to ensure that a consistency with regards to the width of the entrance to the plaza is maintained, which results in a minor decrease in floor space in Unit A4 (on the southern side of the plaza) and the upper office floor levels.

10.6.9. I have reviewed the works proposed and am satisfied that the entrance width from Phibsborough Road, while amended, will not significantly affect the quality of this entrance space, and the proposed amendments to the levels result overall in an improvement to the usability and design of this entrance. The CE Report raises no issues with the modifications proposed.

#### Permitted Units A1 and A2

10.6.10. The applicant states Units A1 (permitted as retail) and A2 (permitted as restaurant/café) are altered as a result of having to reconfigure stair core locations for the above co-living and also having to set back the building line of Block B at ground floor to facilitate the continued use of the access to the rear of the existing retail units. These alterations results in an increase in retail area of Unit A1 from 662 sq.m to 747 sq.m, and a reduction in restaurant/café area of Unit A2 from 511 sq.m to 370 sqm, with an overall reduction in retail/restaurant/café space of 110 sq.m in Blocks A and B.

10.6.11. I note the amendments proposed and have no issue in this regard.

#### Removal of permitted new staircase to serve existing rooftop car parking and office reception

10.6.12. The permitted development included for a new staircase located in the existing Unit 12 to serve the rooftop car parking. The existing staircase was then proposed to be used exclusively for the existing office tower. This application proposes to alter the permitted development to exclude this element and retain unit 12. This alteration is acceptable.

#### Omission of the Basement

10.6.13. The permitted basement comprised a bike store of 169 spaces, a gym and a plant room. The bike store in this application is located at ground level and comprises 164 spaces. The plant room is also located at ground level. I have no issue with the omission of the basement level as part of this application.

#### Height and Visual Impact

10.6.14. The two permitted taller blocks on this site under ABP-300241-17, Block A and Block B, have an overall height of approx. 24m, stepping up in height from east to west, ranging from four floors of accommodation above the existing retail units to the east to six floors of accommodation over two ground floor entrance/communal amenity areas to the west. The proposed shared accommodation as part of this alteration application is to be accommodated in Blocks A and B (block B being the southern of the two blocks), with the applicant proposing to increase the maximum building height of these two blocks by 2m to 26m, with the height increase at the western end of the blocks. The applicant states that this increase in height is as a result of the removal of the basement, the lifting of the finished floor levels of the buildings, and a subsequent improvement in the permitted civic plaza through the removal of the need for slopes and steps to integrate with the levels of the surrounding areas, in addition to minor increases in floor to ceiling height of 150mm per floor. No additional floors are proposed above what is permitted.

10.6.15. The shared accommodation blocks are roughly rectangular in form, orientated with their main facades north-south, and are positioned over the existing rooftop parking above the existing single storey parade of retail units on the site. The existing retail units and the proposed blocks are set back approx. 11m from the existing footpath, with intervening surface car parking spaces. The two blocks slightly overhang the ground floor units and present as 4 storeys (levels 2 to 5, c.21m in overall height) to Phibsborough Road. The proposal steps up to 5 storeys (levels 2-6,



c.24m height) towards the middle of the building and then up to 6 storeys (levels 2-7, c.26m) to the rear (west) of the site. The blocks are orientated east-west with bedrooms accessed off a central corridor, and therefore primarily face either north or south. The eastern end of the blocks face toward Phibsborough Road and shared kitchen/dining/living rooms are located at this end of both blocks, with double height windows. At the western end (boundary with Dalymount Park) the bedrooms at the western end of Block A have windows allowing for a small number of dual aspect bedrooms, however, as noted in the submitted CE Report the bedrooms at the western end of Block B do not have windows. I note condition 6(b) of ABP-300241-17 stated 'The western elevations of the two number student accommodation blocks shall be amended to incorporate fenestration on each level from second floor to seventh floor levels, inclusive, similar to that proposed on the east-facing elevations. (b) The west facing elevations to the two number student blocks shall be finished in brick similar in quality and pattern to that proposed on the east-facing elevations. (c) All glazing to the western elevations, from ground through to seventh floor level shall be fitted and maintained with clear glazing only and the glazing shall not be obscured by screens or other such devices as would reduce passive surveillance of the area to the west of the building', with the stated reason being 'To provide for, improve and promote pedestrian and passive transport movements and permeability through the site'. I consider a similar condition remains relevant and would be warranted in this instance, should the Board be minded to grant permission.

10.6.16. A number of submissions have raised concerns in relation to the height of Blocks A and B and the overall impact of this increased height and the development on the historic character of the area.

10.6.17. Dublin City Development Plan 2016-2022 acknowledges the intrinsic nature of Dublin as a low-rise city. As the site sits within the 'transport hub' designation, the maximum permitted height within the parameters of the Development Plan, is 24m. I note the higher part is located to the rear of the site adjoining the Dalymount Park boundary. The applicant has submitted a Material Contravention Statement in respect of building height which makes a case for the proposed development on the basis of national guidance and in particular guidance set out in the Urban Development and Building Height Guidelines (2018).

10.6.18. In accordance with the Urban Development and Building Height Guidelines (2018), there is a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good public transport accessibility. SPPR3 allows for an exceedance of building height provisions within a development plan or local area plan where the assessment criteria in Section 3.2 of the guidelines are met. I have also considered other relevant national and local planning policy standards, including national policy in Project Ireland 2040 National Planning Framework, particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements. I note an Accurate Visual Representation (AVR) Report has been submitted with the application, in addition to a Daylight, Sunlight and Overshadowing Study and a Noise Impact Assessment. I note part of the southern site area is designated as an Architectural Conservation Area (ACA) with adjacent buildings also lying within the ACA, at the junction of North Circular Road and Phibsborough Road. In addition, the site sits adjacent to two Protected Structures (RPS Ref: 1733, 1734). I have considered the ACA status and the overall historic context of the site in my assessment. I have had regard to all documents submitted and submissions made and have viewed the site from various locations. I have addressed the issue of a possible material contravention of the Dublin City Development Plan 2016-2022 in section 10.9 below, and I provide further assessment against the criteria in section 3.2 of the Building Height Guidelines hereunder.

10.6.19. At the scale of the city/town, the site is well served by public transport and falls within the definition of a 'central and/or accessible site' as defined in the Apartment Guidelines 2020. The site is well served by public transport with high capacity, frequent bus and Luas services, and is easily accessible by walking and cycling. The redevelopment of the site, with its creation of a civic plaza and connecting streets through the centre of the blocks will make a positive contribution in terms of place-making and the scale and massing of the proposed Blocks A and B, with their staggered heights rising from east to west, has had due regard to the adjoining developments and will add visual interest to what is an underutilised site, in need of rejuvenation.

10.6.20. With regard to the character of the area/neighbourhood in which the development is located, the application amends the level of the permitted civic space

to remove the requirement for steps and integrates the ground levels of this site with the adjoining sites, providing for an attractive and accessible public space for the area, which is permeable and connected to the existing surrounding street network, while allowing for future connectivity through Dalymount Park when it is redeveloped. The development of co-living accommodation will support activity throughout the day and into the evening, contributing positively to the new street and urban space within the centre of the scheme and providing increased activity and passive surveillance to the surrounding streets.

10.6.21. In terms of consideration of the site and buildings, I note Blocks A and B have been increased by 2m on the western side/rear of the site, adjoining Dalymount Stadium and I note the context of the existing office block on site to the north which has an overall height of 28m. While concerns are raised in submissions that the increase in height will have a negative impact on the built environment and be imposing upon the adjoining Victorian areas, I am satisfied that the increase in height at the western end of the blocks adjoining Dalymount Stadium is not so significant an increase above what was permitted to result in a significant alteration of key views or to have a significant negative impact on the character of the surrounding area or on the ACA. The alteration in height is limited to the western end of Blocks A and B and the buildings remain overall below the height of the existing adjoining office block. The overall staggered approach to height in the design of the buildings from east to west across the site mitigates impacts in terms of scale and massing. I have considered the historic context of the site and am satisfied that the amendments proposed will not have a significant negative impact on the visual or historical character of the area. Overall, I consider the location where the height has been added, in addition to the visual cohesion which these blocks bring to the existing site with its single tall office building, will result overall in a development which adds legibility to this location at the junction of Phibsborough Road and North Circular Road and will contribute to the dwelling typologies available in the area.

10.6.22. In terms of specific assessments, an AVR (Accurate Visual Representation) has been submitted; sunlight/daylight/overshadowing considered; and a Pedestrian Comfort Study has in addition been submitted. Having regard to the information before me, I consider the proposal is acceptable in terms of layout, design, height and massing, as demonstrated in the submitted documentation.

10.6.23. Overall, I am satisfied that the height and massing of the development will enhance the character of the area and I find that the proposed development satisfies the criteria described in section 3.2 and therefore SPPR 3 of the Building Height Guidelines. Having examined the photomontages and visual impact assessment, I am overall satisfied that the site can accommodate the scale of development and increase in height proposed and would support legibility in the area. I do not consider the change of use and design modifications will give rise to significant impacts on neighbouring properties in terms of overlooking, sunlight/daylight or privacy (see section on Impact on Neighbouring Properties hereunder for a more detailed analysis).

10.6.24. Concerns are raised in the submissions in relation to the lack of integration of this development with the proposed redevelopment of Dalymount Park. I do not consider the proposed development or layout would in any way hinder the further development or integration of this development with Dalymount Park and the connectivity provided for by way of ABP-300241-17 is not altered by this application. The CE Report has raised no concerns in this regard.

#### **10.7. Impact on the Amenities of Neighbouring Properties**

10.7.1. Concerns are raised by neighbouring residents in relation to the impact of development on residential amenity.

10.7.2. I note the principle of residential blocks at this location has been established on the site under permission ABP-300241-17, where the overall shape and orientation of Blocks A and B is as now proposed, with minor modification to the footprint and increase in height of 2m. I have examined the potential impacts of the alterations to the permitted layout on the residential amenity of neighbouring properties, including inter alia in relation to overlooking, loss of privacy and overbearance. The issue of the visual impact of the altered height has been discussed separately above.

10.7.3. The closest residential properties to the boundaries of the site are Nos. 337, 339, 341 and 343 North Circular Road. The rear garden boundaries to these properties are approx. 19m from the southern elevation of Block B. The southern elevation of Block B comprises angled windows to the proposed bedrooms along that section of the building which is positioned to the rear of these properties. While the scale has increase by 2m to the rear of these properties, I do not consider this height increase

will have a significant additional impact on neighbouring properties over what has been permitted given the distances involved, the positioning of the blocks north of the dwellings in question, and the mitigation measures incorporated into the design of the shared accommodation block. I further note that this additional height has not resulted in an additional floor of development and is limited in its extent. I have further considered properties located to the north, northwest and on the eastern side of Phibsborough Road and overall given separation distances involved and the design and orientation of the blocks, I do not consider the proposed amendments will significantly impact on the residential amenity of neighbouring properties in terms of overlooking, loss of privacy or overbearance.

#### Daylight, Sunlight and Overshadowing

- 10.7.4. The Daylight and Sunlight Report examines the potential impact of the development on the four private residences located immediately to the southwest of the development on the North Circular Road, including Nos. 337, 339, 341 and 343, and their associated gardens. As per the BRE 209 guidance, the private open space areas of the dwellings to the southwest on North Circular Road were examined on the 21<sup>st</sup> March to ascertain if they were capable of receiving more than 2 hours of sunlight over 50% of the space with the proposed development in place. All the private gardens are shown to comply with the guidance.
- 10.7.5. The overshadowing diagrams submitted show shadow profiles on 21<sup>st</sup> March/September 21<sup>st</sup> June and 21<sup>st</sup> December. The diagrams indicate the proposed amendments will not have a significant impact on surrounding properties, when compared against the permitted development. Given the design and orientation of the blocks within the development shadows cast from the developments will mostly impact on the northern parts of the established shopping centre building.
- 10.7.6. I have examined the submitted Daylight and Sunlight Report, which appears reasonable and robust, and I am satisfied that the amendments proposed will not have a significant negative impact on the residential amenity of the area. The CE Report has not raised any concerns in this regard. This is a zoned, serviceable site and I consider the proposal appropriate at this location. I consider that the proposal does not represent over-development of the lands in question.

#### Construction Traffic

10.7.7. I note the concerns raised in some submissions regarding construction stage impacts. I note that an Outline Construction Management Plan has been submitted with the application, which deals with the issues of noise, vibration, dust, traffic management, construction demolition and waste and hours of operation. A Traffic Management Plan will also be required thus ensuring the appropriate management of traffic to and from the site. As such these plans are considered to assist in ensuring minimal disruption and appropriate construction practices for the duration of the project. Potential construction impacts will be short term and temporary in nature and I am satisfied that they can be appropriately mitigated through good construction management and practice. A condition in this regard would be warranted, should the Board be minded to grant permission.

## 10.8. **Biodiversity and Landscaping**

- 10.8.1. An Appropriate Assessment Screening Report has been submitted with the application, which includes information arising from the ecological assessment of the site. A Landscape Design Rationale has also been submitted.
- 10.8.2. A number of submissions raise concerns in relation to the lack of consideration of the Dublin City Biodiversity Action Plan in the submitted Landscape Design Report and proposed landscaping of the public realm. It is stated that a more robust and comprehensive greening and landscaping strategy for the whole scheme is required to maximise the use of natural materials with a strong focus towards native trees, pollinators and wildflowers.
- 10.8.3. The DCC Parks, Biodiversity and Landscape Services Report, which is an appendix to the CE Report, states that further consideration should be given to additional tree planting to help green the plaza area. It is stated that more shrub cover to amenity spaces is preferable to provide areas for wildlife to nest. Further detail on the plant selection for biodiversity enhancement is requested and avoidance of light spill to the proposed trees and planting to avoid any potential impact on birds is requested. It is stated that DCC Parks, Biodiversity and Landscape Services and Birdwatch Ireland, through their studies under the DCC/BWI Urban Birds Project (2013-2015), have recorded swifts (*Apus apus*) including in this area (Figure 1). As swifts are in decline in the city due to lack of habitat, it is requested that the design of the buildings should

incorporate measures for swifts and a condition in this regard is recommended within the report.

10.8.4. I note the landscaping proposals contained within the application. I am generally satisfied in this regard, however, I accept that additional measures to ensure support of biodiversity and pollinators are possible and would be welcomed. I consider a condition in this regard would address any outstanding concerns in this regard.

10.8.5. According to the Appropriate Assessment Screening Report, an extensive stand of Japanese knotweed (*Fallopia japonica*) was recorded and has been treated since 2016. It appears that all Japanese Knotweed has been removed from the site. A review of the site in this regard would be warranted to ensure all of this invasive species has been eradicated and treatment documented, as requested by DCC Parks, Biodiversity and Landscape Services.

#### 10.9. **Material Contravention**

10.9.1. The applicant has submitted a document titled 'Material Contravention Statement', which has been advertised in accordance with Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The applicant considers the development as proposed materially contravenes the Dublin City Development Plan 2016-2022 in respect of height.

10.9.2. The Dublin City Development Plan 2016-2022 states under Section 16.7.2 that a maximum building height of 'up to 24m' for residential developments in the city centre applies. The proposed alteration to the permitted development, which allows for a height of 26m at the western ends of Blocks A and B therefore, contravenes the development plan.

10.9.3. Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the development plan, the Board may grant permission where it considers that:

- (i) the proposed development is of strategic or national importance,
  - (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,
- or

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

or

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

10.9.4. With regard to S.37(2)(b)(i), the development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The proposed development is of strategic importance to the consolidation of development and compact growth within existing urban footprints, as supported by NPO 11 of the National Planning Framework, and RPO 3.2 and RPO 4.3, as set out the Dublin MASP within the RSES. The site is in proximity to public transport and major employment facilities and proximate to the Luas greenline, which is considered a strategic development corridor. The application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

10.9.5. In relation to the matter of conflicting objectives in the development plan, there is no evidence put forward by the applicants, or by any other parties, that there are conflicting objectives within the Dublin City Development Plan 2016-2022, insofar as the proposed development is concerned.

10.9.6. With regard to S.37(2)(b)(iii), I consider the proposed development in terms of the density, layout and design is in accordance with national guidance, including the National Planning Framework specifically NPO 13 and NPO 35, and the EMRA-RSES, which support compact sustainable development on central and accessible sites. The proposed development is furthermore in compliance with the Urban Development and Building Height Guidelines in particular SPPR3, which references section 3.2 Development Management Criteria. I have assessed the proposed



development against the section 3.2 criteria (see section on Height and Visual Impact above). The proposal is of a high quality urban design and the form, massing and height of the proposed development has been adequately considered to ensure any impacts on sunlight/daylight/overshadowing are not significant. The proposal also complies with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018, as relates to Shared Accommodation proposals, subject to conditions being imposed requiring the omission of bedrooms and the provision of additional communal kitchen/dining/living floorspace. Having regard to the provisions of Section 37(2)(b)(iii), it is justified, in my opinion, to contravene the Dublin City Development Plan 2016-2022 in relation to height.

10.9.7. In relation to the pattern of development/permissions granted in the area since the adoption of the Development Plan, of particular relevance is a previously approved development on this site (ref ABP Ref 300241-17) where buildings of 24m height was permitted. As such precedent for higher buildings has been recently established on this site.

10.9.8. Should the Board be minded to invoke the material contravention procedure, as relates to Development Plan policies pertaining to height, I consider that the provisions of Section 37(2)(b)(i),(iii) and (iv) have been met, and in this regard I consider that the Board can grant permission for the proposal.

#### **10.10. Traffic, Transportation and Access**

10.10.1. The application has been accompanied by a Transportation Assessment Report, including DMURS and a Road Safety Audit. A Preliminary Mobility Management Plan has also been submitted.

10.10.2. A number of submissions have raised concerns in relation to the lack of parking, lack of capacity on existing public transport and highlight that the metro link and bus connects proposals are not in existence.

10.10.3. The proposed development consists of alterations to the existing permitted development at Phibsborough Shopping Centre under reg ref ABP-300241-17, from student accommodation to shared accommodation in addition to other minor modifications. In terms of traffic generation, the proposed change of use from student accommodation is considered to have a negligible impact in traffic terms. No

parking was proposed for the student accommodation previously permitted and no parking is provided for in the proposed Co-Living/Shared Accommodation scheme. Justification for the lack of additional car parking to serve the Co-Living/Shared Accommodation part of the development is set out in the submitted application on the basis of the site's location serviced by high quality public transport, within walking and cycling distance of the city centre and existence of cycle and car share schemes operating in the area.

10.10.4. As noted previously in this report, the guidelines Design Standards for New Apartments were updated in 2020, however, I refer to the 2018 guidelines in my assessment of the shared accommodation proposals as an aid to this merits based assessment of Shared Accommodation. In relation to parking standards, the 2018 Design Standards for New Apartments under SPPR 9 (iv) states that 'a default policy of minimal car parking provision shall apply on the basis of shared accommodation development being more suitable for central locations and/or proximity to public transport services. The requirement for Shared Accommodation to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures'. The site is within an urban location, within walking distance of the Mater Hospital and wide range of other significant employers within a short commuting distance within the city centre, is well served by public transport, and is defined as a 'central and/or accessible' site as per the Apartment Guidelines. Given the site's suitability for Shared Accommodation, the default minimal policy in relation to parking is in my opinion justified, as per SPPR 9 of the Guidelines. I note the DCC Transportation Planning Report submitted with the CE Report considers the approach to parking acceptable in principle.

10.10.5. While submissions contend that existing public transport is at capacity, the site is located along an existing high capacity and high frequency public transport corridor, and is well served by the Luas and bus, as well as being within walking and cycling distance of a wide range of services and amenities. As noted in the Mobility Management Plan, there are existing Go Cars located proximate to the site and four Go Cars are proposed on the site within the existing upper level car park. Additional planned improvements to the public transport network of the metro link and bus connects project will further contribute to the accessibility of this site. There are proposals to upgrade cycling routes within the vicinity of the site under the Bus

Connects scheme and the NTA's Cycle Network Plan for the GDA. Having regard to the site's location and proximity to a variety of public transport modes and the restricted nature of on-street car parking on the surrounding streets, it is my view that the proposed development would not result in an unacceptable level of overspill car parking onto the surrounding road network or give rise to significant additional traffic congestion.

10.10.6. I note the application proposes to retain an element of parking above the retail units, which was previously permitted to be removed. This is stated to be due to legal tenancy issues. I consider the retention of this space acceptable.

10.10.7. The Apartment Guidelines note that high quality accessible cycle storage is of importance in new developments. In particular, planning authorities must ensure that new development proposals in central urban and public transport accessible locations and which otherwise feature appropriate reductions in car parking provision are at the same time comprehensively equipped with high quality cycle parking and storage facilities for residents and visitors.

10.10.8. With regards to cycle parking, 164 bicycle parking spaces are proposed within a covered store to the northwest side of the building, along with 25 additional twin sided stands, providing 50 additional cycle parking spaces on the new public plaza. I note that there are also Dublin Bike stations and Bleeper Bikes located in close proximity to the development. The DCC Transportation Planning Report accompanying the CE Report raises no concerns in relation to the level of parking proposed.

#### **10.11. Infrastructural Services including Flooding Issues**

10.11.1. An Engineering Report was submitted with the application, in addition to a Site Specific Flood Risk Assessment.

##### Water and Wastewater

10.11.2. It is proposed to connect the development to the upgraded water mains in Connaught Street.

10.11.3. It is proposed to connect the foul sewer from within the site to the public combined sewer on Phibsborough Road.

10.11.4. Irish Water in the submitted report on this application states the applicant will be required to fund the required upgrade works to the water network and in respect of wastewater it is stated that a new connection to the existing network is feasible without upgrade.

#### Surface Water Management

10.12. The submitted Engineering Report states that the existing site is essentially impermeable without attenuation storage and currently discharges to the public surface water sewer unattenuated.

10.13. It is proposed to separate the storm runoff within the site and to use SuDS techniques, as per the Greater Dublin Strategic Drainage Study (GDSDS), to control stormwater discharge from the site. Water from green roofs will be attenuated in a rainwater harvesting tank and conducted to the attenuation tanks. Surface water from the public plaza and hard standing will be conducted to the attenuation tanks. Water from outfall MH will be discharged by gravity at a maximum flow rate (through use of two hydrobrakes) at 2 l/s to the existing combined sewer. The stormwater attenuation tanks are stated to be designed to contain a 1 in 100 year rainfall event and allows for increase by 20% for climate change. Permeable paving and rainwater harvesting are also proposed as part of the stormwater management system.

#### Flood Risk Assessment

10.14. In terms of water courses, none are present on the site. The main hydrological feature located near the site is the Royal Canal located c. 220m to the north. The Tolka River is located c. 1200m to the north of the site and flows in a south easterly direction where it discharges in to the Tolka Estuary c. 2900m to the east of the site. The Bradogue River flows 510m to the southwest of the site, it discharges into the Liffey c. 1700m to the south of the site. Since 1930 the river has been mostly culverted and is now an underground watercourse.

10.15. Pluvial flooding has been identified as the primary risk to the site. The site is classified as residing in Flood Zone C. Surface water flow onsite will be managed through the development's stormwater system. A minimal residual risk is present from potential failure of the stormwater system. It is stated that a fall from the carpark areas to the road should provide protection against potential road runoff. Following a

review of the available data no overland flow pathways were identified onto the site from the neighbouring properties or Dalymount Park.

10.16. I am satisfied that the proposed measures are sufficient to manage stormwater onsite and the measures do not increase the risk of flooding to neighbouring properties.

#### 10.17. **Other Matters**

##### Procedural Issues

10.17.1. The application was made and advertised in accordance with requirements of Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and the accompanying regulations. The statutory notices state that 18 of the total 321 bedrooms are accommodated within cluster bedroom arrangements. The clusters are located on the second floor of both blocks. A submission raises a query in relation to the number of cluster bed units. The statutory notices state that the proposal would include 18 cluster bed units but on page 14 of the SQRE (Co-Living Design and Concept Report) a total of 19 cluster rooms are shown. Having examined the drawings, specifically No. PO3\_03 'Proposed second Floor Plan', I note there are 19 cluster bed units. I consider this a relatively minor issue and the plans and documents overall clearly indicate what is proposed.

#### 10.18. **Planning Assessment – Conclusion**

10.18.1. The proposed development is for alterations to ABP-300241-17 and proposes the reconfiguration and alteration of the existing permitted student development buildings layout and arrangement to accommodate a 321 bedroom Shared Accommodation development and associated facilities. This includes a minor relocation of the building footprints, a minor increase in height, proposed new roof gardens and other alterations in respect of the wider permitted scheme, including change to the levels to the civic plaza and access from Phibsborough Road.

10.18.2. I am overall satisfied that in terms of location and need, there is adequate justification for the provision of co-living/shared accommodation at this location and it will provide for an adequate level of residential amenity, subject to conditions in relation to the shared kitchen/dining/living facilities. The modifications in terms of building footprint, the alteration of the levels across the civic plaza to remove steps

and ramps, in addition to minor amendments to retail space will overall contribute to a positive urban environment and result in a development of suitable density and scale at this strategic location with the city.

## **11.0 Screening for Appropriate Assessment**

### **11.1. Compliance with Article 6(3) of the Habitats Directive**

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

### **11.2. Background on the Application**

- The applicant has submitted an Appropriate Assessment Screening Report as part of the planning application, dated 8<sup>th</sup> December 2020.
- The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Potential impacts during construction and operation of the development are considered as well in combination impacts of neighbouring developments.
- The screening is supported by associated reports submitted with the application, including Engineering Services Report Planning (JJ Campbell and Associates, November 2020), Outline Construction Management Plan and Outline Construction and Demolition Waste Management Plan (JJ Campbell and Associates, November 2020) and Phibsborough PSC Flood Risk Assessment Report (JBA Consulting Engineers, November 2020).

### **11.3. The applicants AA Screening Report concluded that:**

In view of best scientific knowledge this report concludes that the proposed development at the Phibsborough site, individually or in combination with another plan or project, will not have a significant effect on any European sites. This assessment was reached without considering or taking into account mitigation measures or measures intended to avoid or reduce any impact on European sites.

11.3.1. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

#### 11.4. **Screening for Appropriate Assessment - Test of likely significant effects**

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

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

#### **Brief Description of the Development**

11.4.3. The development site/overview of the receiving environment is described in section 4 of the screening report. I refer the Board also to section 3 of this report above.

11.4.4. It is noted that the environmental baseline conditions are discussed, as relevant to the assessment of ecological impacts where they may highlight potential pathways for impacts associated with the proposed development to affect the receiving ecological environment (e.g. hydrogeological and hydrological data), which informs whether the development will result in significant impacts on any European Site.

11.4.5. An ecological survey of the site was undertaken and confirmed that there are no Annex I habitats on the proposed development site. No rare, threatened or legally protected plant species were recorded. There were no protected flora species recorded. Japanese knotweed (*Fallopia japonica*), an invasive plant species listed on the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011, was recorded in an area to the rear of the east terrace of Dalymount Park (the Tramway End) in 2016. The infestation was treated by invasive species contractors using an appropriate methodology (glyphosate spray application) and is stated to have been subject to long term management since 2016 in order to eradicate the plant from the site. No flora or fauna species for which European sites have been designated were recorded. There are no features (including the buildings)

potentially suitable for use by roosting bats, and there are no habitats of any importance for commuting/foraging bat species either on the site or in the immediate vicinity. No evidence of any protected species, or rare or protected plants, was recorded during the surveys carried out, and the habitats present are not suitable for such species. There are no habitats or species with links to European sites on the site proposed for development. No 'reservoir' type habitats (habitats which have the potential to support Qualifying Interest/Special Conservation Interest species in any European site) are present.

11.4.6. No watercourses are present within or connected to the proposed development site. The nearest watercourses to the site (the Royal Canal and the River Tolka) are not hydrologically connected to the proposed development site.

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

- Habitat loss/ fragmentation
- Habitat disturbance /species disturbance
- Construction related - uncontrolled surface water/silt/ construction related pollution

#### **Submissions and Observations**

11.4.8. The DCC Parks, Biodiversity and Landscape Services section report, accompanying the submitted CE Report, raises concerns in relation to following:

- The timing of ecological surveys and potential for ex-situ impacts.
- The combined sewer may discharge wastewater to the River Liffey/Tolka during moderate to heavy rainfall via combined sewer overflows, with potential impacts on the ecosystem of the River Liffey, which should be quantified and analysed also in terms of cumulative impacts with other developments.

11.4.9. The submission from Inland Fisheries Ireland notes that Ringsend WWTP is currently working at or beyond its design capacity and won't be fully upgraded until 2023. It is stated that it is essential that local infrastructural capacity is available to



cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

**European Sites**

11.4.10. The development site is not located in or immediately adjacent to a European site. A summary of the European Sites that occur within a possible zone of influence of the proposed development are set out in section 3.3.1 of the submitted Screening Report, which could be excluded on the basis of the lack of a direct hydrological link. However, an indirect potential surface water pathway exists, via the local surface water drainage network, between the proposed development site and coastal European sites associated with Dublin Bay (i.e. South Dublin Bay SAC, North Dublin Bay SAC, Rockabill to Dalkey Island SAC, North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA), as well as other sites further afield. There is also a potential groundwater pathway between the proposed development site and the European sites should indirect discharges (i.e. spillages to ground) occur, or should any contamination on the site enter the ground water.

11.4.11. The sites with a potential hydrological link are set out below, with an extended list relating to a 15km radius of the site listed in section 3.1.1 and table 1 of the submitted screening report:

European Site Name [Code] and its Qualifying interest(s) / Special Conservation Interest(s) (*Priority Annex I Habitats)	Location and Source-Pathway-Receptor Link
<p>South Dublin Bay SAC [000210] [1140]  Mudflats and sandflats not covered by seawater at low tide [1210] Annual vegetation of drift lines [1310] Salicornia and other annuals colonising mud and sand [2110] Embryonic shifting dunes NPWS (2013b)</p> <p>Overall aim of the Habitats Directive is to maintain or restore the favourable</p>	<p>c.5.0km to the south east</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed development at the Phibsborough site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to the sea.</p>

<p>conservation status of habitats and species of community interest.</p> <p>Conservation Objectives: South Dublin Bay SAC 000210. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.</p>	
<p>North Dublin Bay SAC [000206] [1140] Mudflats and sandflats not covered by seawater at low tide [1210] Annual vegetation of drift lines [1310] <i>Salicornia</i> and other annuals colonising mud and sand [1330] Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1395] <i>Petalwort</i> <i>Petalophyllum ralfsii</i> [1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [2110] Embryonic shifting dunes [2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2190] Humid dune slacks NPWS (2013a)</p> <p>Overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest.</p> <p>Conservation Objectives: North Dublin Bay SAC 000206. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht</p>	<p>c.6.1km to the east</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed development at the Phibsborough site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to the sea.</p>
<p>Howth Head SAC [000202]</p> <p>[1230] Vegetated sea cliffs of the Atlantic and Baltic coasts [4030] European dry heaths NPWS (2016)</p>	<p>c.11.7km to the east</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed development at the Phibsborough site could contain pollutants (foul water, silt,</p>

<p>Conservation Objectives: Howth Head SAC 000202. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.</p>	<p>hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to the sea.</p>
<p>Rockabill to Dalkey Island SAC [003000] [1170] Reefs [1351] Harbour porpoise <i>Phocoena phocaena</i> NPWS (2013)</p> <p>Conservation Objective is to maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>Conservation Objectives: Rockabill to Dalkey Island SAC 003000. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.</p>	<p>c.12.2km to the east</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed development at the Phibsborough site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to the sea.</p>
<p>South Dublin Bay and River Tolka Estuary SPA [004024]</p> <p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A130] Oystercatcher <i>Haematopus ostralegus</i> [A137] Ringed Plover <i>Charadrius hiaticula</i> [A141] Grey Plover <i>Pluvialis squatarola</i> [A143] Knot Calidris <i>canutus</i> [A144] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina</i> [A157] Bar-tailed Godwit <i>Limosa lapponica</i> [A162] Redshank <i>Tringa totanus</i> [A179] Black-headed Gull <i>Croicocephalus ridibundus</i> [A192] Roseate Tern <i>Sterna dougallii</i> [A193] Common Tern <i>Sterna hirundo</i> [A194] Arctic Tern <i>Sterna paradisaea</i></p>	<p>c.2.9km to the east</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed development site at the Phibsborough site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to Dublin Bay</p>

<p>[A999] Wetland and Waterbirds NPWS (2015b)</p> <p>Overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest.</p> <p>Conservation Objectives: South Dublin Bay and River Tolka Estuary SPA 004024. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.</p>	
<p>North Bull Island SPA [004006]</p> <p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A048] Shelduck <i>Tadorna tadorna</i> [A052] Teal <i>Anas crecca</i> [A054] Pintail <i>Anas acuta</i> [A056] Shoveler <i>Anas clypeata</i> [A130] Oystercatcher <i>Haematopus ostralegus</i> [A140] Golden Plover <i>Pluvialis apricaria</i> [A141] Grey Plover <i>Pluvialis squatarola</i> [A143] Knot <i>Calidris canutus</i> [A144] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina</i> [A156] Black-tailed Godwit <i>Limosa limosa</i> [A157] Bar-tailed Godwit <i>Limosa lapponica</i> [A160] Curlew <i>Numenius arquata</i> [A162] Redshank <i>Tringa totanus</i> [A169] Turnstone <i>Arenaria interpres</i> [A179] Black-headed Gull <i>Croicocephalus ridibundus</i> [A999] Wetlands &amp; Waterbirds NPWS (2015a)</p> <p>Overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest.</p>	<p>c.6.1km to the east</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed development site at the Phibsborough site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to Dublin Bay.</p>

Conservation Objectives: North Bull Island SPA 004006. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.	
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#### Identification of Likely Effects

- 11.4.12. With regard to habitat loss and fragmentation, given the site is not located within or adjoining any European sites, there is no risk of direct habitat loss impacts and there is no potential for habitat fragmentation. The proposed development site does not support populations of any fauna species linked with the QI/SCI populations of any European site(s). There is therefore no potential for any in combination effects to occur.
- 11.4.13. With regard to the issue raised by the DCC Parks Report in relation to timing of surveys undertaken, I note the Screening Report states site visits were initially undertaken in October 2016 and March 2017 in support of the original planning application and it is stated a final site visit was undertaken in May 2020. While the original surveys are more than 3 years old, a subsequent survey was undertaken in 2020 to reassess the site, which would be in line with CEEM guidance. No works have occurred in relation to this site in the intervening years and the site has not been altered in any way. Having visited the site and upon examination of the information before me, I am satisfied that the surveys submitted are robust.
- 11.4.14. With regard to hydrological links, surface water run-off and discharges from the proposed development will drain to the existing local surface water drainage network. Foul waters from the proposed development will be designed on a completely separate foul and surface water system with a combined final connection discharging into Irish Water's combined sewer system, which is acceptable to Irish Water, and will be treated at Ringsend WWTP for treatment, prior to discharge into Dublin Bay. The Zone of Influence (Zoi) therefore of potential effects on water quality from the proposed development could extend to Dublin Bay.
- 11.4.15. With regard to potential surface water run-off during construction, it is considered, having regard to the following factors, there is no possibility of the proposed development undermining the conservation objectives of any of the

qualifying interests or special conservation interests of the European sites in, or associated with, Dublin Bay as a result of surface water run-off or discharges:

- The distance to the European sites - there is no direct pathway between the proposed development site and these European sites. Any pollution from the construction site that entered any watercourse would be so diluted as to be undetectable by the time the water enters the Bay.
- A significant level of dilution and mixing of surface and sea water would occur in any event. Upon reaching the bay any pollutants would be even further diluted and dissipated by the waters in Dublin Bay.
- The construction of the proposed development will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development.
- There is no land-take from any European site associated with this development and there will be no resource requirements such as water abstraction. Given distances to European site, there will be no emissions to air, dust, noise or vibration issues from construction vehicles that could remotely impact any European site.

11.4.16. With regard to potential surface water flows during the operation stage, the Engineering Report highlights that run off from the proposed development will be restricted to greenfield run off rates in accordance with the requirements of the Greater Dublin Strategic Drainage Strategy (GDSDS). A 20% increase in storage volume is factored into the surface water design to allow for climate change. The site is located within Flood Zone C, within which the proposed development is suitable. There will be no operational impacts related to surface water management or flooding, on European sites or otherwise, as a result of the proposed development.

11.4.17. I have considered the DCC Parks, Biodiversity and Landscape Services section concern in relation to potential overflow from the combined sewer as a result of this development on the River Liffey/Tolka. I note the existing site is largely impermeable and at present discharges surface water unattenuated to a combined sewer. The proposed surface water management system will separate the foul sewer and surface water within the site and surface water will be managed and controlled in accordance with the GDSDS, which will reduce any existing pressures on the combined sewer. I note the development is for a relatively small residential

development providing for 321 no. bedspaces, as such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water and I do not consider the issue raised by the Parks section in relation to the combined sewer will give rise to any impact on the River Liffey/Tolka and ultimately Dublin Bay. Irish Water is satisfied with the scheme as proposed and the Water Services Division of DCC has raised no issues in this regard.

11.4.18. Having regard to foul drainage, the Ringsend WWTP operates under a discharge licence from the EPA (D0034-01). I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. Despite the capacity issues associated with the Ringsend WWTP, Dublin Bay is currently classified by the EPA as being of “Unpolluted” water quality status. I note also that the Liffey Estuary Lower is classified as unpolluted and the Tolka Estuary is identified as being potentially Eutrophic. Discharge from the WwTP has been shown to rapidly mix and become diluted in Dublin Bay and there is no evidence that operations from the over capacity of the WwTP is affecting the conservation objectives of the European sites in Dublin Bay. The proposed development, having regard to the relatively low level of foul discharge from the site relative to existing capacity at the WwTP, will not result in any measurable effect on water quality in Dublin Bay and its impact would be negligible. I consider that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of the European sites in, or associated with, Dublin Bay as a result of foul water discharges.

11.4.19. Potential disturbance and displacement impacts during construction and operation are considered. No European sites within the disturbance ZoI have been identified. There are no habitat areas within the disturbance ZoI of the proposed development that support populations of qualifying/special conservation interest species of any European site. No in-combination issues arise.

#### **Mitigation measures**

11.4.20. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

## **Screening Determination**

11.4.21. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it is concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site No. 000210 (South Dublin Bay SAC), 000206 (North Dublin Bay SAC), 000202 (Howth Head SAC), 003000 (Rockabill to Dalkey Island), 004024 (South Dublin Bay and River Tolka Estuary SPA), 004006 (North Bull Island SPA), or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

11.4.22. This determination is based on the following:

- The nature and scale of the proposed development on fully serviced lands,
- To the intervening land uses and distance from European Sites, and
- Lack of direct connections with regard to the source-pathway-receptor model.

## **12.0 Environmental Impact Assessment Screening**

12.1. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units
- 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. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

- Class 13 related to "Changes, extensions, development and testing":

"(a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and (ii) result in an



increase in size greater than – - 25 per cent, or - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.”

- Class 14, Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

- 12.2. The site is 0.969ha in area gross and is located in an urban area. The proposed development consists of alterations to the permitted development, as permitted under DCC Reg. Ref.: 2628/17, ABP Reg. Ref.: ABP-300241-17, which included student accommodation, to now consist of the development of Build To Rent Shared Accommodation and other minor alterations to the permitted development. The site is on zoned and serviced land. The site is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv), Class 13 and Class 14 of the Planning and Development Regulations 2001-2017.
- 12.3. The applicant has submitted an EIA Screening Report including the information set out in Schedule 7A of the Planning and Development Regulations, 2001 (as amended) to allow a screening for EIA in accordance with the criteria in Schedule 7 regarding the:
1. Characteristics of Proposed Development
  2. Location of Proposed Development
  3. Types and Characteristics of Potential Impacts
- 12.4. The submitted EIA Screening Statement concludes that the proposed residential development does not require the preparation of an Environmental Impact Assessment Report.
- 12.5. The various reports submitted with the application (as listed in section 2.4 of the submitted EIA screening document) are stated to address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment.

12.6. I have assessed the proposed development having regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and information which accompanied the application, inter alia, Appropriate Assessment Screening, and landscape details. I have completed an EIA screening assessment as set out in Appendix A.

#### Characteristics of the Proposed Development

12.7. The proposed development is for alterations to the permitted development, ABP Reg. Ref.: ABP-300241-17, which included student accommodation, to now consist of the development of Build To Rent Shared Accommodation and other minor alterations to the permitted development. The site is an urban site of limited biodiversity value. The proposal is not of a scale which would be unusual on an urban site and there will be no significant impacts from construction or operation.

#### Location of Proposed Development

12.7.1. The site comprises undeveloped land, zoned for residential uses in addition to other uses on this Key District Centre site. The quantum of development proposed and the location within a built-up area would have a minor impact on the natural resources of the area. The main use of natural resources is the land.

#### Type and Characteristics of Potential Impacts

12.8. The size and design of the proposed development would not be unusual in the context of urban area. The proposed use as residential on the Z4 zoned lands would not give rise to waste, pollution or nuisances that differed from that arising from the other development in the vicinity and the site will connect to the public foul sewer, water and utilise the existing road network. There are no surface water features on the site. I have had regard to the Architectural Conservation Area designation in my assessment. The proposed development will not significantly impact on any protected views or prospects listed in the Development Plan. There are expected impacts locally to the site, however, this must be taken in the context of the land being zoned for development.

12.9. The proposed development is not likely to have a significant effect on any European designated site (as per the findings of section 11 of this assessment).

12.10. 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 environmental impact assessment report would not therefore be required.

The conclusion of this assessment is as follows:

Having regard to

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) the location of the site on lands governed by zoning objective Z4 “To provide for and improve mixed-services facilities”, in the Dublin City Development Plan 2016-2022,
- c) The existing use on the site and pattern of development in surrounding area,
- d) The availability of mains water and wastewater services to serve the proposed development,
- e) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- f) 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),
- g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- h) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Management Plan and Outline 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.

## 13.0 Recommendation

I recommend that permission is granted, subject to conditions.

## 14.0 Reasons and Considerations

Having regard to the following:

- (a) the policies and objectives set out in the Dublin City Development Plan 2016-2022
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018 and Sustainable Urban Housing, Design Standards for New Apartments, (Updated) Guidelines for Planning Authorities (2020)
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) Architectural Heritage Protection – Guidelines for Planning Authorities, 2011
- (i) the nature, scale and design of the proposed development
- (j) the availability in the area of a wide range of social, community and transport infrastructure
- (k) the pattern of existing and permitted development in the area
- (l) the planning history within the area
- (m) the submissions and observations received,
- (n) the report of the Chief Executive of Dublin City Council

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

## 15.0 Recommended Draft Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 11<sup>th</sup> December 2021 by Brady Shipman Martin on behalf of Phibsborough Shopping Centre Limited.

### **Proposed Development Comprises of the Following:**

Alterations to the permitted development, as permitted under DCC Reg. Ref.: 2628/17, ABP Reg. Ref.: ABP-300241-17, which included student accommodation, to now consist of the development of Build To Rent Shared Accommodation and other minor alterations to the permitted development. The proposed alterations include:

- Alteration to the permitted 341 bed student accommodation scheme, in permitted Blocks A and B, to accommodate a 321 bed shared accommodation scheme. This alteration includes a reconfiguration of the two number student accommodation blocks as follows:
  - Omission of the permitted basement of the permitted student accommodation development.
  - Alteration of the permitted Ground, First and Second Floor spaces to contain 518 sq.m Communal Amenity Space, Reception, Waste Storage, Bikes Store, Plant, Laundry Facilities, Storage, and Office Space associated with the Shared Accommodation.

- Alteration of the permitted third to seventh floors from 341 student bedspaces, set out in clusters, to 321 shared accommodation bedspaces, set out in 303 single occupancy units and 4 cluster units containing a total of 18 bedspaces.
- Introduction of c.1,130 sq.m of shared amenity spaces to include kitchen and living areas, dispersed across the third to seventh floors.
- Introduction of external roof terraces in both blocks on the sixth floor fronting on to Phibsborough Road with a combined total of c. 156sq.m, introduction of roof terraces centrally located at seventh floor in both blocks to provide a total of c.256 sq.m communal amenity space, and redesign of permitted external central amenity spaces located at second floor.
- Increase in height of the permitted building by c. 2m to allow for raised ground level. There are no additional floors proposed. The width of the accommodation blocks have also increased by c. 2m to allow for larger bedrooms.
- Overall increase in floorspace of c.1,079 sq.m from c.11,156 sq.m permitted to c.12,235sq. m.

Minor alterations to the permitted civic plaza as a result of proposed raised ground level - this includes removal of permitted steps as conditioned by An Bord Pleanala under Condition 4 of ABP-300241-17.

Alterations to permitted Units A1 and A2, onto the civic plaza, as a result of the alterations to the accommodation blocks. These alterations result in an increase in retail area of Unit A1 from c.662 sq.m to c.747 sq.m, and a reduction in restaurant/café area of Unit A2 from c.511 sq.m to c.370 sq.m. Overall reduction in retail/restaurant/café space of c.110 sq.m in Blocks A and B.

Alterations to Block C, to the south of the plaza, and a subsequent reduction in Restaurant/Cafe Unit A4 of c.16 sq.m and permitted Office Floorspace of c.61 sq.m as a result of minor setback of the building at ground and first floor levels.

Alterations to the permitted amendments to the existing Shopping Centre to include:

- It is proposed to retain part of Unit 1 (previously permitted to be demolished) to facilitate the retention of the rooftop parking. This unit, when amalgamated with Unit 2 results in a minor increase of c.63sq.m.
- Removal of the permitted new staircase from ground level to first floor level serving both the existing car park and the existing office tower. It is proposed to retain this space, Retail Unit 12, as it currently is with a floorspace of c.80sq. m.

The inclusion of a new sub-station in the permitted Block C (no resulting change in the building footprint or elevations).

The proposed development of PV panels at roof level of Block A with a total area of c.175 sq.m.

The proposed alterations also include for resulting alterations to permitted hard and soft landscaping, boundary treatments, signage, façade and all ancillary site and development works.

Overall increase in floorspace of 998 sq.m from c.22,574 sq.m permitted to c.23,572sq.m

## **Decision**

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

## **Matters Considered**

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

## **Reasons and Considerations**

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

- (a) the policies and objectives set out in the Dublin City Development Plan 2016-2022
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016,
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018 and Sustainable Urban Housing, Design Standards for New Apartments, (Updated) Guidelines for Planning Authorities (2020)
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) Architectural Heritage Protection – Guidelines for Planning Authorities, 2011
- (i) the nature, scale and design of the proposed development
- (j) the availability in the area of a wide range of social, community and transport infrastructure
- (k) the pattern of existing and permitted development in the area
- (l) the planning history within the area
- (m) the submissions and observations received
- (n) the report of the Chief Executive of Dublin City Council, and
- (o) the report of the Inspector.

### **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 site, the information for the Screening for Appropriate Assessment 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 the Environmental Impact Assessment Screening Report submitted by the applicant which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended).

Having regard to:

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) the location of the site on lands governed by zoning objective Z4 'To provide for and improve mixed-service facilities' in the Dublin City Development Plan 2016-2022,
- c) The existing use on the site and pattern of development in surrounding area,
- d) The planning history relating to the site,
- e) The availability of mains water and wastewater services to serve the proposed development,
- f) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- g) 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),

- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the in the Outline Construction Management Plan and Outline 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.

#### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it could materially contravene Section 16.7.2 of Dublin City Development Plan 2016-2022 as outlined below: -

- Section 16.7.2 of the Dublin City Development Plan sets a maximum building height of 'up to 24m' for residential developments in the city centre.

Blocks A and B have a maximum height of 26m. The proposed development, therefore, materially contravenes the development plan.

The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dublin City Development Plan 2016-2022 would be justified for the following reasons and considerations:

With regard to S.37(2)(b)(i), the development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The proposed development is of strategic importance to the consolidation of development and compact growth within existing urban footprints, as supported by NPO 11 of the National Planning Framework, and RPO 3.2 and RPO 4.3, as set out the Dublin MASP within the RSES. The site is in proximity to public transport and major employment facilities and proximate to the Luas greenline, which is considered a strategic development corridor. The application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

With regard to S.37(2)(b)(iii), I consider the proposed development in terms of the density, layout and design is in accordance with national guidance, including the National Planning Framework specifically NPO 13 and NPO 35, and the EMRA-RSES, which support compact sustainable development on central and accessible sites. In relation to Section 28 Guidelines, of particular relevance are the Urban Development and Building Height Guidelines for planning authorities issued in December 2018 which state that inter alia building heights must be generally increased in appropriate urban locations, subject to the criteria as set out in Section 3.2 of the Guidelines. The proposal has been assessed against the criteria therein. The proposal also complies with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018, as relates to shared accommodation proposals, subject to conditions being imposed

requiring the omission of bedrooms and the provision of additional communal kitchen/dining/living floorspace.

In relation to section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended), the Board has previously approved a 24m high buildings on this site (ABP Ref 300241-17). As such, precedent for higher buildings has been recently established on this site.

## 16.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The development shall comply with the terms and conditions governing the overall site under Planning Register Reference Number 2628/17 (An Bord Pleanála Ref PL29N.300241), unless modified or otherwise required by this grant of planning permission or any conditions contained in this schedule.</p> <p><b>Reason:</b> In the interests of orderly development and clarity.</p>
3.	<p>The proposed development shall be amended as follows:</p> <p>(a) One bedroom unit (18.0 sqm) to the immediate north west of the proposed shared kitchen/dining/living room at the eastern end of Block A on floors 3,4,5, and 6 shall be incorporated into the shared kitchen/dining/living room on each of those floors.</p>

- (b) Two bedroom units (18 sqm x 2) to the west of the shared kitchen / dining/living room within the central 'crank' of Block A on floors 3,4,5 and 6 shall be incorporated into the shared kitchen/dining/living room on each of those floors.
- (c) One bedroom unit (18 sqm) to the immediate north west of the shared kitchen/dining/living room at the eastern end of Block B on floors 3,4,5 and 6 shall be incorporated into the shared kitchen/dining/living room on each of those floors.
- (d) Two units to the immediate south-east of the shared kitchen/dining /living room within the centre of Block B on floors 3,4,5 and 6 shall be incorporated into the shared kitchen/dining/living room on each of those floors.
- (e) This grant of planning permission permits 297 bedrooms of Shared Accommodation.
- (f) The western elevation of the shared accommodation Block B shall be amended to incorporate fenestration on each level from second floor to seventh floor levels, inclusive, similar to that proposed on the east-facing elevations.
- (g) The west facing elevations to the two number shared accommodation blocks shall be finished in brick similar in quality and pattern to that proposed on the east-facing elevations.
- (h) All glazing to the western elevations, from ground through to seventh floor level shall be fitted and maintained with clear glazing only and the glazing shall not be obscured by screens or other such devices as would reduce passive surveillance of the area to the west of the building.
- (i) A portion of the service yard to the north of Block B shall comprise a roof covering or other similar structure to act as a visual and noise barrier between the northern residential accommodation of Block B and the service yard below, details of which shall be submitted to the planning authority for written agreement.

	<p>Revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of providing a satisfactory standard of residential amenity for occupants of the development and to improve overlooking of pedestrian routes through the site.</p>
4.	<p>The Shared Accommodation units hereby permitted 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 (March 2018).</p> <p><b>Reason:</b> In the interests of the proper planning and sustainable development of the area.</p>
5.	<p>Prior to the commencement of development, the developer shall submit 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 fifteen years shall be from the date of occupation of the first 'shared living units' within the scheme.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development of the area.</p>
6.	<p>Prior to expiration of the 15-year period referred to in the covenant, 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.</p> <p><b>Reason:</b> In the interests of orderly development and clarity.</p>
7.	<p>Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the management company, established to manage the operation of the</p>

	<p>development together with a detailed and comprehensive Shared Accommodation Management Plan which demonstrates clearly how the proposed Shared Accommodation scheme will operate.</p> <p><b>Reason:</b> In the interests of orderly development and the proper planning and sustainable development of the area, and in the interests of residential amenity.</p>
8.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings and detailed public realm finishes shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
9.	<p>Details of all security shuttering, external shopfronts, lighting and signage shall be as submitted to, and agreed in writing with, the planning authority prior to-occupation of the commercial/retail units.</p> <p><b>Reason:</b> In the interest of the amenities of the area/visual amenity.</p>
10.	<p>Noise mitigation measures outlined in the Technical Note 'Summary of Potential noise Impacts on Residential Amenity' (dated 2<sup>nd</sup> November 2020) shall be carried out in full, except where otherwise agreed with the planning authority.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
11.	<p>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.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
12.	<p>No additional development shall take place above roof parapet level of the shared accommodation buildings, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant,</p>

	<p>telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess the impact of any such development through the planning process.</p>
13.	<p>Proposals for a development name, office/commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
14.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of the shared accommodation.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
15.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
16.	<p>The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:</p> <p>(a) Prior to the commencement of development all works proposed on the public road in particular footpaths and carriageway changes at the junction of Connaught Street and Phibsborough Road, shall be subject to written agreement with the planning authority. Any works to the existing public road and the public realm, including relocation</p>



	<p>of traffic control cabinets removal of car parking, loading bays/set down areas, road and footpath modifications, and signage, shall be carried out at the developer's expense and to the detailed requirements of the planning authority.</p> <p>(b) The proposed new civic space, footpaths and hard landscaping areas to be taken in charge including all materials and public lighting shall be agreed in writing with the planning authority prior to commencement of development. All materials shall be in accordance with the requirements of the planning authority.</p> <p>(c) A minimum of four car parking spaces within the development shall be permanently allocated to Car Club use.</p> <p>(d) Details of the bicycle parking space location, layout, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.</p> <p>(e) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.</p> <p><b>Reason:</b> In the interests of traffic, cyclist and pedestrian safety, to ensure adequate bicycle parking provision is available and to protect residential amenity.</p>
17.	<p>Prior to the opening or occupation of the development, a Mobility Management Strategy including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The</p>

	<p>interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Streets Interim Advice Note – Covid Pandemic Response (May 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p><b>Reason:</b> In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.</p>
18.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
19.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:</p> <p>(a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;</p> <p>(b) proposed locations of trees at appropriate intervals and other landscape planting in the development, including details of the size, species and location of all vegetation, including biodiversity enhancement measures;</p>

	<p>(c) provision for nesting for swifts, through the use of 'swift bricks' into the normal courses of facades, 'swift boxes' under eaves, or 'swift towers' in courtyards;</p> <p>(c) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes;</p> <p>(d) details in relation to public furniture/benches and public artwork;</p> <p>(e) details of a Landscape Management and Maintenance Plan of both communal residential and publicly accessible areas to be implemented during operation of the development. All planting shall be adequately protected from damage until established and maintained thereafter. Any plants which die, are removed or become seriously damaged or diseased in the first 5 years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of amenity, ecology and sustainable development.</p>
20.	<p>A qualified ecologist shall survey the site for invasive alien species designated under the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations (2011) to produce a verification report which shall be submitted to the planning authority for written agreement prior to commencement of development to ensure all invasive species have been eradicated from the site. Should any IAS be found, an IAS Management Plan shall be submitted to the planning authority for written agreement prior to commencement of development.</p> <p><b>Reason:</b> In the interest of amenity, ecology and sustainable development.</p>
21.	<p>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 not later than 6 months from the date of commencement of the</p>

	<p>development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
22.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
23.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide a demolition management plan, together with details of intended construction practice for the development, including a detailed traffic management plan, hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
24.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	<p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
25.	<p>The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
26.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
27.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

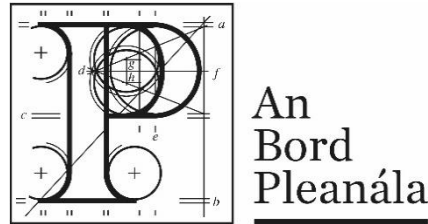
	<p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
28.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City 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.</p> <p><b>Reason:</b> 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.</p>

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Una O'Neill  
Senior Planning Inspector

22<sup>nd</sup> March 2021

## Appendix A: EIA Screening Form



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

<b>A. CASE DETAILS</b>		
<b>An Bord Pleanála Case Reference</b>		ABP-308875-20
<b>Development Summary</b>		Alterations to the permitted development, as permitted under DCC Reg. Ref.: 2628/17, ABP Reg. Ref.: ABP-300241-17. The proposed alterations include:  Alteration to the permitted 341 bed student accommodation scheme, in permitted Blocks A and B, to accommodate a 321 bed shared accommodation scheme; and other minor modifications to civic plaza and retail units.
	<b>Yes / No / N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	An EIA Screening Report and a Stage 1 AA Screening Report was submitted with the application

2. 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?	No	
3. 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	Yes	SEA undertaken in respect of the Dublin City Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan.

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



<p><b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b></p>	<p><b>No</b></p>	<p>The development comprises the construction of residential units and mixed uses on zoned lands. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.</p>	<p>No</p>
<p><b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b></p>	<p><b>Yes</b></p>	<p>The proposed development is located on brownfield lands within Dublin City Centre. The proposed development is not considered to be out of character with the pattern of development in the surrounding area.</p>	<p>No</p>
<p><b>1.3 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?</b></p>	<p><b>Yes</b></p>	<p>Construction materials will be typical of such an 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 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p><b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.</p>	<p><b>No</b></p>
<p><b>1.6 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?</b></p>	<p><b>No</b></p>	<p>No significant risk identified. Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services within the site. No significant emissions during operation are anticipated.</p>	<p><b>No</b></p>

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></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 mitigated by the operation of a Construction Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></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 Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will 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><b>No</b></p>

<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the inner urban location of the site and surrounding pattern of land uses.	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	This is an alteration to an existing permitted development. The development changes have been considered in their entirety and will not give rise to any significant additional effects.	<b>No</b>
<b>2. Location of proposed development</b>			
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> </ol>	<b>No</b>	No European sites located on the site. An AA Screening Assessment accompanied the application which concluded the development would not be likely to give rise to significant effects on any European Sites.	<b>No</b>

<p><b>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</b></p>			
<p><b>2.2 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?</b></p>	<p><b>No</b></p>	<p>No such species use the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p><b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b></p>	<p><b>No</b></p>	<p>Part of the scheme is located within an ACA. The scheme does not negatively impact on the historical, cultural or social importance of these structures.</p>	<p>No</p>
<p><b>2.4 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?</b></p>	<p><b>No</b></p>	<p>No such features arise in this urban location.</p>	<p>No</p>

<p><b>2.5 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?</b></p>	<p><b>No</b></p>	<p>There are no direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding. Potential indirect impacts are considered with regard to surface water and groundwater, however, no likely significant effects are anticipated.</p>	
<p><b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b></p>	<p><b>No</b></p>	<p>Site investigations identified no risks in this regard.</p>	<p>No</p>
<p><b>2.7 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?</b></p>	<p><b>No</b></p>	<p>The site is served by a local urban road network. There are sustainable transport options available to future residents. No car parking is proposed on the site and no significant contribution to such congestion is anticipated.</p>	<p>No</p>
<p><b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b></p>	<p><b>Yes</b></p>	<p>There are no such adjoining landuses. The development would not be likely to generate additional demands on educational facilities in the area.</p>	<p>No</p>

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	<b>No</b>
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>	No	<b>No</b>

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

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) the location of the site on lands governed by zoning objective Z4 'To provide for and improve mixed-service facilities' in the Dublin City Development Plan 2016-2022,
- c) The existing use on the site and pattern of development in surrounding area,
- d) The planning history relating to the site,
- e) The availability of mains water and wastewater services to serve the proposed development,
- f) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- g) 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),
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and



i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction & Demolition Waste Management Plan (CDWMP) and Construction 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:** Una O'Neill

**Date:** 22/03/2021