



An  
Bord  
Pleanála

## Inspector's Report ABP-309217-20.

### Development

A mixed development at DIT/TUD involving the demolition of the main buildings and annex buildings, and the construction of a mixed-use development in 5 no. blocks from 1 to 14 storeys above basement levels (3 no. levels) including commercial office, 299 BTR residential units, creche, café / restaurant and double height exhibition space.

### Location

Kevin Street Lower, Church Lane South and Camden Row Dublin 8.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

2682/20.

### Applicant(s)

GA Development Dublin ICAV.

### Type of Application

Permission.

### Planning Authority Decision

Grant with Conditions.

### Type of Appeal

Multiple Third Party

### Appellant(s)

Gerard Doyle & Bernie Devin & Others  
Eilis Brennan  
Ruairi O'Cuiv & Jennifer Traynor

New Bride Street Residents Group  
Chevron Nolan  
Essam Bishara  
Kevin Street Apartment CLG  
Residents of Camden Row

**Observer(s)**

Senator Ivana Bacik  
Cllr. Mannix Flynn  
Frank McDonald  
Jim Brilly  
Claire Byrne & Carolyn Moore  
Zermatt Property Ltd.

**Date of Site Inspection**

20/04/2021.

**Inspector**

A. Considine.

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## 1.0 Site Location and Description

- 1.1. The subject site is located within Dublin City Centre approximately 400m to the west of St. Stephen's Green. The site has frontage on Kevin Street Lower to the north, New Bride Street to the west, Camden Row to the south and Church Lane South and Liberty Lane to the east. The site occupies a significant block of the city and lies to the southern extent of the City Centre zoned lands in the Dublin City Development Plan. The site is located within a very accessible location and within close proximity to a number of high-profile tourist attractions including Grafton Street 600m to the north, St. Patrick's Cathedral 250m to then north west, Dublin Castle 600m to the north and St. James's Gate and the Phoenix Park approximately 1.5-2km to the north west of the site.
- 1.2. This area of Dublin City includes a variety of uses and building styles, many of which rise to a maximum of 7 to 8 storeys in height. The commercial uses in the area include a variety which are commonplace in such city centre locations including retail, office, bars and restaurants to the north and east, with primarily residential to the south and west. The residential element in this area of Dublin City includes a mix of longstanding apartment buildings which co-exist beside historical houses, generally of 2 to 3 storeys in scale. The area is rich in history with a large number of protected structures, buildings included on the NIAH and national monuments noted in the vicinity of the site. Of note, St. Kevin's Church and Graveyard comprise the south western boundary of the proposed development site, the Kevin Street Public Library fronts onto Kevin Street Lower and the site also backs onto a number of protected structures, houses, located on Camden Row.
- 1.3. The subject site has a stated area of 1.58ha and is currently occupied by the main buildings and annex buildings associated with DIT/TUD Kevin Street Campus, as well as warehouse buildings located on Church Lane South. In addition, the subject site includes Nos. 30 – 35 New Bride Street, all of which comprise two storey residential houses (all but 1 are currently in use as offices associated with the Third Level Institution), and no. 35, also known as 19A Kevin Street Lower, rising to 3 storeys with a flat roof.
- 1.4. Access to the existing site is via Kevin Street from the north and Camden Row from the south. It is noted that the proposed development site has included areas of public

lands and that a letter of consent from Dublin City Council has been included with the application. In addition, the Kevin Street Public Library, while not included in the application site, is impacted the proposed development by way of a proposed double height exhibition space to be provided to the rear of the building as well as a link bridge / office accommodation proposed above the rear of the library building. It is noted that this Library building has been recently restored by DCC.

## 2.0 Proposed Development

2.1.1. Permission is sought, for a 10-year full planning permission for a mixed-use development at the Dublin Institute of Technology / Technological University Dublin (TUD) site, Kevin Street Lower, Dublin 8. The application site includes the Dublin Institute of Technology / Technological University Dublin main buildings and Annex Building located at Kevin Street Lower, Church Lane South and Camden Row; part of the Kevin Street Library site, Kevin Street; warehousing structures fronting 1-8 Church Lane South and Liberty Lane, and no's 30 to 35 (inclusive) New Bride Street (No. 35 is also known as 19A Kevin Street Lower) at the junction of New Bride Street and Kevin Street Lower.

The development consists of the following:

- Demolition of the existing TUD Main buildings and the Annex Building located at Kevin Street Lower, Church Lane South, and Camden Row; Warehousing Structures fronting 1-8 Church Lane South and Liberty Lane, and no's 30-35 (inclusive) New Bride Street (No. 35 also known as 19A Kevin Street Lower), with a total combined gross floor area (GFA) of 27,144 sq.m;
- Construction of a new mixed-use development in 5 no. blocks (Blocks A - E) ranging from 1 to 14 no. storeys in height above lower ground and basement levels (3 no. levels). The development includes 53,110 sq.m of commercial office floorspace in Blocks A, B and C and 21,669 sq.m of residential accommodation in Blocks D and E, providing a total of 299 no. Build to Rent residential units (130 no. studios, 130 no. 1-bed units, and 39 no. 2-bed units) and residential support and amenity facilities. The proposal includes 1 no. creche facility (305 sq.m), 1 no. café / restaurant unit (122 sq.m) and a double height exhibition space extension to the rear of Kevin Street Library (245

sq.m). The total GFA, including lower ground / basement levels, of the proposed development is 85,436 sq.m.

all at DIT/TUD site, Kevin Street Lower, Dublin 8.

A full detailed description of the proposed development is presented in Appendix 1 of this report and an Environmental Impact Assessment Report (EIAR) is submitted with the planning application.

2.2. The application included a number of supporting documents as follows;

- Planning Particulars:
  - Cover letter  
Prepared by John Spain Associates providing details of the enclosures with the application. This cover letter also sets out an assessment of development contributions to be attributed to the proposed development.
  - Plans, particulars and completed planning application form, site notices and fee.
  - Part V Report
  - Planning Report
  - Development Justification Report
  - Social & Community Infrastructure Audit / Assessment
- Architecture:
  - Architectural Design Statement
  - Schedule of Areas Brochure
  - Housing Quality Assessment Brochure
  - Building Life Cycle Report
- Landscape:
  - Landscape Design Access Statement
- Engineering:
  - Traffic Impact Assessment



- Mobility Management Plan Framework
- Site Specific Flood Risk Assessment
- Engineering Services Report
- Structural Engineering Proposals to Boundary Walls Statement
- Basement Impact Assessment
- Commercial Sustainability & Energy Statement
- Residential Sustainability & Energy Statement
- Embodied Carbon Report
- External Lighting Design Report
- Mechanical & Electrical Report
- Environmental:
  - Environmental Impact Assessment Report – Volumes 1 & 2.
  - Environmental Impact Assessment Report – Non-Technical Summary
  - Appropriate Assessment Screening Report
  - Construction & Demolition Waste Management Plan
  - Operational Waste Management Plan
  - Construction & Demolition Management Plan
  - Arboricultural Report
  - Tree Constraints Plan
  - Tree Removal & Retention Plan
- Other Reports:
  - Sunlight, Daylight & Shadow Assessment
  - Assessment of Architectural and Historic Significance
  - Economic Impact Assessment
  - Build to Rent Management Plan

- 2.3. Following the submission of the response to the further information request, the applicant submitted the following documents:
- FI Response Cover Letter
  - Updated drawings, schedule of areas and schedule of drawings.
  - FI Design Response Report
  - Landscape Response to FI
  - Engineering Report in response to Roads and Traffic Issues and Drainage issues.
  - Updated Site-Specific Flood Risk Assessment
  - RSK Report – Supplementary Ground Movements and Damage Category Assessment
  - Construction Methodology Outline Statement
  - EIAR – FI Addendum
  - EIAR Volume II Addendum Report – Townscape, Landscape & Visual Impact Assessment
  - Sunlight, Daylight and Shadow Assessment Addendum Report
  - Architectural Heritage Response to FI Request
  - Archaeology FI Response Cover Letter and
    - Historical Assessment Report
    - Archaeological Testing Report Part 1 and Part 2
    - St. Kevin’s Park – Northern Boundary Wall Report
    - St. Kevin’s Park Historic Graveyard Boundary Wall Survey drawings
  - FI Response Photomontage Report
- 2.4. The response to the FI request has resulted in a number of architectural revisions to the development proposal including an overall reduction in gross office floorspace incorporating changes to Blocks A and B, a reduction in the number of car parking spaces to 160, increased bicycle parking spaces to 1,708, revised cycle access

arrangements, revised basement and lower ground floor level arrangements, landscaping amendments and proposals to close the slip lane to New Bride Street from Kevin Street lower with associated public realm and road improvements in this area. There are no architectural revisions proposed to Blocks D and E or Block C other than the proposed relocation of the roof plant area from fifth floor level to third floor level.

- 2.5. The planning documents include a draft agreement between the Applicant and Dublin City Council which confirms that the agreement will bind the Developer in accordance with the provision of Section 47 of the Planning Acts and Section 5.0 of the Sustainable Urban Housing: Design Standards of New Apartments, March 2018, to restrict and regulate the development for the period of 15 years 'from the date of the planning permission (the Term)'. It is submitted that the development shall remain owned and operated by a single entity, no individual unit will be sold separately, no individual residential unit will be sub-let separately and upon expiry of the 'Term', any of the individual residential units may be sold individually or collectively without the need for any further planning permission, and any other conditions or matters to be agreed. In this regard, and in the interest of clarity, I would suggest that the 'Term' referred to in the draft agreement should not commence until the scheme is operational and not from the date of planning permission as indicated.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 24 conditions.

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

##### **3.2.1. Planning Reports**

The initial planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes a

section on Environmental Impact Assessment and Appropriate Assessment Screening.

The initial Planning Report notes that the proposed development is acceptable in principle, but raised concerns in terms of the following:

- Visual impact of the proposed development
- Concerns that the height, proximity and massing of proposed Block C to St. Kevin's Church and graveyard will have a negative impact on the character and context of the historical graveyard.
- Potential impact of the development on residential amenity of houses on New Bride Street, Camden Row and the roof top apartment within College Court Apartments.
- Transportation Planning Division concerns.
- Archaeology Department concerns.
- Drainage Division concerns.

Further information is required in relation to the above.

Following the submission of the response to the further information request, the Planning Officers final report deemed the proposed development acceptable. The planning officer recommends that permission be granted for the proposed development, and this Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

### 3.2.2. Other Technical Reports

**Drainage Division:** Further information initially required as due to the lack of adequate information it was not considered possible to state that satisfactory drainage can be provided for the development. Permission should be withheld until satisfactory information is provided in relation to the following:

- Revised Flood Risk Assessment appraising the risk of pluvial flooding required.

- Clarify the location of the proposed surface water outfall from the development and amend the SSFRA / drainage layout accordingly.
- Detail how compliance with the key surface water management criteria as listed under Section 16.3 of the Greater Dublin Regional Code of Practice is proposed to be achieved.

Following the submission of the response to the further information request, the Drainage Division of DCC advised no objection subject to compliance with conditions.

**City Archaeologist:** Two copies of the report are noted on the planning authority file. The report notes that the site is located within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City) which is listed on the RMP and is subject to statutory protection. The site of a medieval house RMP DU018-020195 is located within the north western corner of the site boundary and the site of the medieval parish church and graveyard of St. Kevin RPM DU018-020078 abuts the south eastern corner of the site. St. Kevin's Church is shown on the 1756 Roque Map as an intact church with an adjoining churchyard, and the church was still intact until the beginning of the 20<sup>th</sup> Century. The main access to the church was through a gate and stairs from Church Lane South.

Chapter 4 of the EIAR deals with archaeological impact and outlines archaeological testing undertaken in November 2019 under licence, which produced evidence for stratified archaeological deposits that date from the medieval period up to the modern era, including remains of 18<sup>th</sup> century Dutch Billy type houses. The EIAR notes high archaeological potential of the site and that the proposed basement, with a formation level of 10.4m below the existing ground level, will have a negative

impact on any surviving subsurface archaeological deposits and features.

The report considers that a number of issues relating to the historic graveyard boundary wall, the potential for human remains to be present within the subject site, inadequate consideration for alternative options for the St. Kevins Church boundary walls, the potential presence of the Ferneley House within the site has not been discussed in the EIAR and issues relating to the visual impact of the proposed development on the recorded monument and protected structure. The initial City Archaeologist report recommends that further information is required in relation to the proposed development.

Following the submission of the response to the FI request, the City Archaeologist noted ongoing concerns regarding the height, mass and proximity of the proposed development to St. Kevin's Church and Graveyard, noting that it is significantly larger in scale than the extant DIT building complex. Block C (4 storeys) and Block D (13 storeys over basement) are to be located 2.3m and 2.1m north and west of the current boundary of the Recorded Monument and protected structure, and the photomontage views submitted indicate that the development will overlook the historic boundary of the park and thus will impact on the character and context of the historic graveyard. Clarification is required so that the applicant addresses the negative visual impact on the monument by reducing the bulk and proximity of the proposed development Blocks C and D. In the event of a grant of planning permission, the report includes recommended conditions to be attached.

**Transportation Planning Division:** The report notes the nature of the proposed development, the planning history of the site as well as traffic related submissions to the planning application from statutory

bodies and third parties. The report required the submission of further information in relation to the following:

1. Details around the potential closing of the left turn slip from Kevin Street Lower to New Bride Street.
2. Updated TIA to include the provision of filtered permeability on New Bride Street as included as an option under Bus Connects.
3. Update public realm proposed layout to show pedestrian priority.
4. Revised car parking layout with reduced quantum of parking spaces and provision of EV charging points.
5. Increase cycle parking and more details required on the cyclist access points to the basement level parking.
6. Details of exact location of security shutter on the ground floor drawing and indicate how much space is allocated to queuing vehicles.
7. Options report required outlining other potential construction access points to the site, including swept path analysis of HGVs turning left into Camden Row from New Bride Street, as well as left into the site and right out of the site from and onto Camden Row.

Following the submission of the response to the FI request, the Transportation Planning Division submitted a further report, advising concerns in terms of the limitations of the bicycle access proposals and the revised bicycle parking layout. The report requests clarification in relation to these issues. The report also makes recommendations in terms of conditions in the event of a grant of planning permission to include revised plans to address clarification issues and a condition limiting the development to a maximum of 126 car parking spaces in total, including 61 for residential spaces, 50 for commercial uses and 15 no. car share spaces for the exclusive use of residents or commercial occupants amongst others.

### 3.2.3. Prescribed Bodies

**Irish Water:** The drainage / watermain layout drawings indicate the presence of a 900mm & 300mm existing IW combined sewer and 110mm IW water main within the proposed development boundary on Church Lane South. The drawings indicate that a section of the existing IW sewer and IW watermain are proposed to be abandoned and removed. Further information is required as follows:

- To ensure the appropriate protection of IW assets, the applicant is required to submit an enquiry to IW diversions and agree provisions for any abandonment and / or removal of IW assets. The outcome of this enquiry will be submitted to DCC as further information.

**TII:** The proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen’s Green to Broombridge Line) under S.49 Planning and Development Act, as amended.

If the application is successful and not exempt – where the levy does not apply – a condition should include for the Section 49 Contribution Scheme Levy.

The report also refers to the Code of Engineering Practice for works on, near or adjacent to the Luas Light Rail System.

**An Taisce:** It is considered that the existing buildings could be repurposed and that the demolition of the existing complex on the site is not justifiable and should be retained and reused. The demolition of the existing buildings will produce a major quantity of demolition waste which will have to be landfilled, contrary to the requirements of the City Development Plan, Section 16.2.1.

The proposed development appears overscaled and overmassed for the location and does not take sufficient account of, or respond appropriate to, the situation bordering the inner



city and inner residential suburbs, doesn't take account or show sufficient sensitivity to the scale, setting and amenities of the historic and residential aspects of the location including the protected structures and park, and the recently, and sensitively restored public library. The proposed development will swamp and engulf the library and the applicant is seeking to squeeze an excessive quantum of new development onto the site.

#### **3.2.4. Third Party Submissions**

There are 62no. third party objection/submissions noted on the planning authority file, which includes objections from 5 elected councillors, a TD and a Senator. There are a number of the submissions who represent multiple parties with one submission with 28 signatures and one with 250 signatures. The issues raised are summarised as follows:

- Concerns over health and safety of families in the area.
- The scale and height of the proposed complex is going to disrupt lives during the building and the loss of light, privacy, noise and disturbance as well as dust and hours of construction are concerns. Impacts on the stability and structures of adjacent properties during construction is also raised as a concern, particularly protected structures.
- Environmental issues raised in relation to potential asbestos at the site.
- Issue of rodents.
- Impacts of overlooking and overshadowing into existing residences.
- Traffic and parking issues.
- The density of the development does not reflect the existing neighbourhood environment.
- Impact of the development on children in the neighbourhood who use the library to study. What provisions will be in place to ensure they can continue to get to and from the library safely?

- How will residents and businesses be made aware of road closures and disruptions?
- The development is completely out of proportion in scale, bulk and size with its adjacent residential area zoned Z1.
- The submitted Sunlight, Daylight & Shadow Assessment clearly states that it is impossible to avoid a level of perceptible impact on neighbouring properties without severely limiting the height of the development on the application site and prejudicing the possibility and viability of its redevelopment. It is submitted that DCC must defend the right to daylight of existing residents and limit the height of the development.
- The submitted Sunlight, Daylight & Shadow Assessment also describes Kevin Street Library as having 'excessive light under current design guidelines' and asserts that the shadows imposed will be beneficial.
- The development will see the removal of 16 trees and the construction of Blocks A & B directly onto Kevin Street Lower (current car park), creating an oppressive skyline.
- The proposed loss of the mature trees is a shock and most concerning as they offer some privacy to adjacent residents and wildlife in the area. The trees must be saved.
- Objects to the proposed new vehicular entrance onto New Bride Street which will provide the only access to the car parking which will have 217 parking spaces.
- Concerns raised that the proposed development will put St. Patrick's Cathedral and Christ Church in the shade by towering above all other buildings in the area.
- Issues raised with the proposed breakdown in unit types, including 130 studio, 130 one bed and only 39 two-bed units, which is not adequate to address the current housing crisis or contribute to the creation of sustainable communities in the Inner city. DCC have a policy of not supporting bedsit accommodation in the City Centre.

- The development falls short of what is envisaged for a City Centre Mixed use zone 5 area and should include retail at ground level.
- The design and height are unsympathetic to the area, lacks transition and does not have regard to adjoining zones.
- Issues raised with the % of dual aspect units indicated as a number of units labelled dual aspect have only a slightly protruding window.
- Issues raised with the impact of overshadowing of St. Kevin's Park which will drastically change the landscape of the park and distorting the setting of the Protected Structure.
- Inadequate additional public amenities proposed.
- It is considered that the car parking provision is excessive given the location of the site and proximity to public transport.
- Objects to the nature of the Build-to-Rent model which is financially driven to the exclusion of building homes for people to reside in long term and put or keep roots in a neighbourhood.
- The proposed development is four times the floor area of existing buildings on the site and are not the multi-family private rented sector residential units originally envisaged by the purchasers of the site in 2019. Rather, they are two stacks of primarily single bedroom or studio flats, most single aspect and lacking balconies or any other private open space.
- The level of existing commercial vacancy in the vicinity is raised questioning the need for the scale of development proposed. The impacts of Covid-19 and more people working from home has not been fully considered.
- Issues raised in terms of pedestrian access through the site as proposals submitted suggest that all routes may not be open to the public.
- It is not clear if the proposed development is to be a gated development which will offer no increase in quality of life to the neighbourhood.
- The loss of the existing gym and swimming pool which was accessible to local residents is raised as a concern in terms of the impact of the development on existing amenities.

- DCC has refused permission for buildings higher than 4 or 5 storeys in the vicinity in the past causing a substantial reduction in the value of sites.
- Impact of the development on utility services.
- In line with the requirements of the City Development Plan, a condition should be included in any grant of permission that a significant public art work (of no less value than €200,000) be commissioned as part of the development along the proposed pedestrian route through the complex.
- Welcomes the redevelopment of the site but the development should include a greater proportion of residential units which provide for a diverse range of people and families who will live and settle in this area of the city, not just provide single rooms for a transient community.
- Given the level of information submitted, and the use of approximately 80 consultants, it is not possible for residents in the area to fully address all issues with the proposed development.
- The site is to be developed purely in the interest of maximising revenue and profit and is not in keeping with the development of sustainable and liveable city or community.
- Housing should be developed with global pandemics, which WHO have been clear are here to stay, in mind in terms of private open space.
- Issues raised in relation to the erection of site notices at the site and lack of any consultation or discussion with the local residents regarding the proposed development.
- The proposed development goes against the community led proposals for a DMURS Neighbourhood Cell in the immediate areas of Portobello and St. Kevin's as the added traffic associated with the proposed development will not comply with the objective to reduce traffic.
- The development, and proposed vehicular entrance, will increase congestion, impacting the proposed BusConnects plans in the area.

- Inadequate visual impact assessment carried out given the proximity of the site to a number of protected structures including St. Patrick's Cathedral, Deanery, St. Stephen's Green and St. Kevin's Church.
- No provision has been made to pay for prior baseline structural surveys of existing residences and protected structures to monitor noise intrusion, dust and water tables and to pay compensation for any damage caused by deep piling or other demolition, excavation and building operations.
- Due to the importance of the scheme to the future stability and prosperity of the immediate area, a scaled block model should be requested to be provided and placed on display in the Civic Officers for members of the public to view.
- The quality test of a redevelopment project in an historic city is 'the less one notices it, the better it is'.
- In the absence of a Housing Need and Demand Assessment for the area, the proposed BTR development will result in the cumulative over provision of studio / one-bedroom apartments in an area which is contrary to the creation of a sustainable community and contrary to the proper planning and sustainable development of the area.
- It is not appropriate that St. Kevin's Park is used to meet the open space demand generated by the proposed development.
- The proposed bar and roof terrace at level 4 of Block D will generate a nuisance and detract from the residential amenity of adjacent properties.
- Impact of the build on existing noise sensitive businesses in the area.
- Concerns raised as to the timing of the application during Covid-19 lockdown which thwarted community consultation.
- The remains of an earlier structure on the site may underlie the existing College forecourt, known in deeds of the first decade of the 18<sup>th</sup> Century as 'The Great House or Capital Messuage' of Phillip Ferneley the extensive gardens of which extended south to Long Lane where the boundary incorporated defensive ditches and bastions thrown up in the 1640s. The complex is depicted in detail on the Rocque's map.

- No preliminary assessment of the historical significance of this site could be found in the voluminous documentation submitted with the application and concern is raised that this aspect of the site may have been overlooked.
- The existing library structure may have encroached on part of the house site but the remainder appears not to have been built on due to the set back of the factory that replaced it in the 19<sup>th</sup> Century or the college that now occupies the site. This increases the likelihood that substantial remains of the foundation layout and plan of the 17<sup>th</sup> century house may survive in-situ.
- The applicant should be invited to submit a detailed historical assessment of the site with particular reference to the Ferneley House and adjoining structures.
- The recent impact of lockdowns has shown that more parks and green spaces are desperately needed in this neighbourhood. The proposed development provides no additional community gain in that regard and appears to 'integrate' a public park into a private development.

## 4.0 Planning History

4.1.1. There is a planning history pertaining to the subject site relating, in general, to minor amendments and additions to the existing structures on the site and the change of use from residential to educational and ancillary office use associated with the buildings fronting onto New Bride Street. A full summary of the planning history of the site is provided in Appendix 2 of the Planning Report submitted with the planning application.

4.1.2. Adjacent Sites:

**ABP ref: PL29S.217799 (PA ref: 1435/06):** Permission was refused following a first party appeal, for the demolition of a 2-storey structure and the construction of a 5 storey mixed use building at 23 Liberty Lane, Dublin 8. The Board refused permission for the following 2 reasons:

1. The proposed development, by reason of the location of the site within a wider area of lands identified as suitable for redevelopment, would be premature, in that it could, by reason of its design, including the provision of balconies to the

rear of the building, prejudice any future proposal for the integrated re-development of these lands. The proposed development therefore is not in accordance with the proper planning and sustainable development of the area.

2. The proposed development, by reason of its layout, height, and form, including the absence of a lift facility, and with no provision for off-street resident or visitor car parking, and with no communal amenity open space, would be seriously injurious to the amenity of future occupants of these units. The proposed development is thereby contrary to Section 15.9 of the Statutory Plan. The proposed development would set an unwelcome precedent for similar schemes on restricted infill sites in the City Centre area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

## **5.0 Policy and Context**

### **5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. Objective 3b seeks to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 favours development which can encourage more people to live or work in existing settlements while Objective 27 seeks to prioritise walking and cycling accessibility to existing and proposed development.
- 5.1.2. National Strategic Outcome 1 relates to Compact Growth and focuses on pursuing a compact growth policy at national, regional and local level. With regard to Dublin it states;

‘Dublin needs to accommodate a greater proportion of the growth it generates within its metropolitan boundaries.... At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50

ring and a more compact urban form, facilitated through well designed higher density development.

5.1.3. Objective 13 states that in urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth.

## 5.2. **Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**

5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

## 5.3. **Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2020):**

5.3.1. These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government’s action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National



Planning Framework, published since the 2015 guidelines. Aspects of previous apartment guidance have been amended and new areas addressed in order to:

- Enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas;
- Make better provision for building refurbishment and small-scale urban infill schemes;
- Address the emerging ‘build to rent’ and ‘shared accommodation’ sectors; and
- Remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.

5.3.2. Chapter 5 of the Apartment Guidelines deals with Build to Rent (BTR) and Shared Accommodation (SA) schemes. BTR schemes are defined as follows:

Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord.

5.3.3. Specific Planning Policy Requirement (SPPR) 7 sets out the following requirements for BTR developments:

- (a) Described in the public notices associated with a planning application specifically as a ‘Build-To-Rent’ housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;
- (b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development.

These facilities to be categorised as:

- (i) 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.

5.3.4. Where the requirements of SPPR 7 are fulfilled, the proposed BTR development will qualify for assessment by the planning authority as a specific BTR scheme, where a number of distinct planning criteria may be applied. These are set out in Specific Planning Policy Requirement 8 as follows:

For proposals that qualify as specific BTR development in accordance with SPPR 7:

- (i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;
- (ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases 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;
- (iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.

- (iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;
- (v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.

5.3.5. Appendix 1 of the Guidelines set out the required minimum floor areas and standards for apartments as follows:

**Minimum overall apartment floor areas:**

Studio	37 sq m (n/a)*
One bedroom	45 sq m (38 sq m)*
Two bedrooms (3 person)**	63 sq m (n/a)*
Two bedrooms (4 person)	73 sq m (55 sq m)*
Three bedrooms	90 sq m (70 sq m)*

\* Figures in brackets refer to 1995 guidelines

\*\*Permissible in limited circumstances

**Minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms:**

Apartment type ***	Width of living/dining room	Aggregate floor area of living / dining / kitchen area*
Studio	4m**	30 sq m**
One bedroom	3.3 m	23 sq m
Two bedrooms (3 person)	3.6m	28 sq m
Two bedrooms (4 person)	3.6 m	30 sq m
Three bedrooms	3.8 m	34 sq m

\* Note: An enclosed (separate) kitchen should have a minimum floor area of 6.5 sq. metres

\*\*Note: Combined living/dining/bedspace, also includes circulation

\*\*\* Note: Variation of up to 5% can be applied to room areas and widths subject to overall compliance with required minimum overall apartment floor areas.

**5.4. Urban Development and Building Heights Guidelines for Planning Authorities December 2018.**

5.4.1. The guidelines encourage a more proactive and flexible approach in securing compact urban growth through a combination of both facilitating increased densities and heights, while also mindful of the quality of development and balancing the amenity and environmental considerations. Building height is identified as an important mechanism to delivering such compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

**5.5. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).**

5.5.1. Having regard to the presence of protected structures and recorded monuments, in and adjacent to the site, the *'Architectural Heritage Protection, Guidelines for Planning Authorities'* are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives:

- a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and
- b) for preserving the character of architectural conservation areas.

5.5.2. The document provides guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures. The guidelines seek to encourage the sympathetic maintenance, adaption and re-use of buildings of architectural heritage. Chapter 13 deals with Curtilage and Attendant Grounds and Section 13.5 relates to Development within the Curtilage of a Protected Structure and Section 13.8 of the Guidelines relate to Other Development Affecting the Setting of a Protected Structure or an Architectural Conservation area and the following sections are relevant:

- Section 13.8.1
- Section 13.8.2
- Section 13.8.3

## 5.6. National Inventory of Architectural Heritage

- 5.6.1. The National Inventory of Architectural Heritage (NIAH) is a unit within the Department of Environment, Heritage and Local Government engaged in compiling an evaluated record of the architectural heritage of Ireland. Where an NIAH survey of a particular area has been published, relevant planning authorities will be provided with information on structures within the area of that survey. The planning authority can assess the content of, and the evaluations in, an NIAH survey with a view to the inclusion of structures in the RPS according to the criteria outlined in these guidelines. The site is located adjacent to a number of properties identified as protected structures and listed in the NIAH. Full details of all relevant properties are provided in Appendix 2 of this report.
- 5.6.2. The proposed development affects the Kevin Street Library which is listed on the NIAH, NIAH ref 50110035. The Library building has a Regional Rating and is dated 1900 – 1905. The building is identified in Architectural, Artistic, Historical and Social categories of special interest.
- 5.6.3. To the south west of the subject site, there are 5 houses identified on the NIAH, nos. 20, 22-25 Camden Row lying immediately adjacent to the site while Nos. 17-19 Camden Road are located across the road from the site. These 8 properties, 7 houses and the Former School at Corner of Camden Row and Heytesbury Street, are also included in the register of Protected Structures as are the three houses across the road.
- 5.6.4. **St. Kevin's Church (in ruins) and Gate** Protected Structure ref 1145. This structure is also included in the NIAH ref 50110036, dated 1740-1760 with a regional rating and included in the Archaeological, Architectural, Historical and Social categories of Special Interest. The NIAH notes the original use of the site as a church / chapel, and historical use as a graveyard / cemetery. Its current use is described as a park.

## 5.7. National Monuments Service:

- 5.7.1. A search of the NMS website identifies that No. 35 New Bride Street (also known as 19A Kevin Street Lower) is listed in the Record of Monuments and Places, ref DU018-020195-, and described as a House – medieval. The proposed development seeks the demolition of this 3-storey building.

Mon. No.	Map	Nat. Grid	Townland or Street Name	Classification
DU018-020195	3263D	31536123329	Kevin Street Lower Bride Street New	House Site

- 5.7.2. In addition, St. Kevin’s Church is also identified as a National Monument, SMR ref DU018-020078-. A full description of St. Kevin’s Church is included in Appendix 2 to this report.

## 5.8. Development Plan

- 5.8.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Zone Z5: City Centre in the Dublin City Development Plan 2016-2022 which seeks “To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity”. The lands to the immediate south of the site, comprising a number of protected structures, is zoned Zone Z2: Residential Neighbourhoods (Conservation Areas) in the Dublin City Development Plan 2016-2022 where it is the stated objective “To protect and/or improve the amenities of residential conservation areas”.
- 5.8.2. The lands to the south of Camden Row are zoned Zone Z4: District Centres in the Plan where it is the objective “To provide for and improve mixed-services facilities”, while the area of St. Kevin’s Church and Cemetery are zoned Z9: Amenity/Open Space Lands / Green Network and where it is the objective “To preserve, provide and improve recreational amenity and open space and green networks”. Lands to the west of New Bride Street are zoned Z1: Sustainable Residential Neighbourhoods in the Dublin City Development Plan which seeks “To protect, provide and improve residential amenities”.

5.8.3. In terms of Quality Housing and Sustainable Neighbourhoods, Section 2.3.3 of the Dublin City Development Plan 2016-2022 states that it is an objective of the council to create a quality compact city of mixed – tenure neighbourhoods, catering for a wide range of family types. The Development Plan also states that:

‘Requiring apartment schemes to have good local facilities, and that large schemes are phased to ensure support infrastructure is provided in tandem with residential development, will assist in achieving this key strategy. An emphasis on effective property management for both apartment and housing complexes will also improve the quality of residential development’.

5.8.4. Section 5.5.2 of the Dublin City Development Plan 2016-2022 encourages sustainable residential areas. The plan states that “building at higher densities makes more efficient use of land and energy resources, creating a consolidated urban form which fosters the development of compact neighbourhoods and a critical mass which contributes to the viability of economic, social, and transport infrastructure”.

It is the stated policy of Dublin City Council, **QH12** refers:

‘To promote more sustainable development through energy end-use efficiency, increasing the use of renewable energy, and improved energy performance of all new development throughout the city by requiring planning applications to be supported by information indicating how the proposal has been designed in accordance with the development standards set out in the Development Plan.’

5.8.5. In terms of Building Height, Section 16.7.2 of the Development Plan sets out 3 no. height category limits for the city, Low-rise, Mid-rise and High-rise. The subject site is located within the Inner City which is an area listed within the low – rise (up to 28m commercial and up to 24m residential) height category.

5.8.6. The plan includes a number of policies in relation to building height as follows:

**SC16:** To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

**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). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the river Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

**SC18:** To promote a coordinated approach to the provision of tall buildings through local area plans, strategic development zones and the strategic development and regeneration areas principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline.”

5.8.7. In terms of Transportation and car parking, the CDP seeks to promote the use of sustainable modes of transport, car parking provision will be below the development plan maximum standard and bicycle parking facilities will be in excess of the development plan standards. The site is located within Zone 1 which requires a maximum of 1 car parking space per dwelling and 1 per 350m<sup>2</sup> of offices. The Plan requires 1 cycle space per residential unit and 1 space per 150m<sup>2</sup> for offices.

5.8.8. In terms of Development Standards, the following sections of the Plan area relevant:

- Section 16.3.4 – Public Open Space – All Development. There is a 10% requirement specifically for all residential schemes as set out in Section 16.10.1
- Section 16.5 - Plot ratio for Z5: City Centre zoned lands is 2.5-3.0
- Section 16.6 - Site Coverage 90%

5.8.9. Section 16.10.1 of the City Development Plan sets out the Residential Quality Standards for Apartments and the following is considered relevant:

- Floor Areas:

Minimum overall apartment floor area - Studio-type 40 sq.m and 1-bed 45 sq.m



- Mix of Residential Units:

Each apartment development shall contain:

- A maximum of 25-30% one-bedroom units
- A minimum of 15% three- or more bedroom units

These maximum and minimum requirements apply to proposals of 15 units or more and may not apply to certain social housing needs and/or where there is a need for a particular form of housing for older people and students having regard to the housing strategy.

The above mix of unit types will not apply to managed 'build-to-let' apartment schemes for mobile workers where up to 42-50% of the total units may be in the form of one-bed or studio units. Communal facilities such as common rooms, gyms, laundry rooms etc. will be encouraged within such developments. This provision only applies to long-term purpose-built managed schemes of over 50 units, developed under the 'build-to-let' model and located within 500 m (walking distance) of centres of employment or adjoining major employment sites.

## 5.9. Other Policy & Guidance Documents

- Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- DEHLG and OPW Guidance 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009).

## 5.10. Natural Heritage Designations

5.10.1. The site is an urban brownfield site and is not located within any designated site. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 3.2km to the east of the site. The North Dublin Bay SAC (Site code 000206) and North Bull Island SPA (Site Code 004006) lie approximately 6.3km to the east.

5.10.2. The Grand Canal pNHA (Site Code 002104) lies approximately 700m to the south and the Royal Canal pNHA (Site Code 002103) 2.1km to the north east. North Dublin

Bay pNHA (Site Code 000206) lies approximately 2.7km to the north east and the Liffey Valley pNHA lies approximately 5.9km to the west.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. There were 8 no third-party appeals against the decision of the Planning Authority to grant planning permission for the proposed mixed-use development from

- Gerard Doyle & Bernie Devin & Others
- Eilis Brennan
- Ruairi O’Cuiv & Jennifer Traynor
- New Bride Street Residents Group
- Chevron Nolan
- Essam Bishara
- Kevin Street Apartment CLG
- Residents of Camden Row.

6.1.2. The issues raised reflect those submitted during the PAs assessment of the proposed development and are summarised as follows:

- Welcomes the redevelopment of the site but the height of the development as proposed is unacceptable as it will dwarf existing historic houses adjacent and will deprive residents of sunlight and sky.
- The nature of the proposed development will do little to attract long term residents who would enhance the fabric of the close inner city community.
- No regard has been given to the fact that the subject site, while in a Zone 5 area, borders a Zone 1 Residential area and a Zone 2 Residential Conservation Area. The design is inconsistent with the character of the area and will have a stark overbearing aspect on the existing dwellings, with little transition or step down from the highest building (14 storeys) to existing two storey terraced houses.

- The development will impact sunlight entering homes adjacent to the site and terraces will result in overlooking.
- Inadequate photomontages to show the impact of the development on houses on New Bride Street. The quality and veracity of the photomontages submitted is also questioned.
- The development as proposed, fails to promote community life due to the proposed housing mix of 130 studios and 130 1-bed units with only 39 two bed units.
- Issues raised in relation to the quality of the housing units proposed in terms of dual aspect and no account being taken with regard to the need for residential units to facilitate remote working.
- The scale of the office component is also questionable in terms of Covid-19 and the experience of the past year.
- Questions the suitability for all the residential units to be Build-to-Rent to the exclusion of owner occupier and the lack of family orientated accommodation.
- Roads and access issues via New Bride Street raised as a concern in terms of the impact of the additional cars on the already busy street, which has a carriageway of almost 8m between pavements. With parking, the carriageway can be reduced to 5m in width.
- Inadequate car parking for the complex proposed.
- The proposed pedestrian access would be welcomed if it was set within a lower and more community friendly development. Concern is also raised that this access may be restricted with the installation of gates.
- Issues raised with the demolition of houses on New Bride Street.
- Issues raised with the massing, density and height of the buildings proposed and the impact of the development on the historic Victorian red brick Dublin City Library, only recently renovated and restored by DCC.
- Impact of the development on other historic structures and amenities in the vicinity, including protected structures and St. Kevin's Church.

- Issues raised with the portrayal of the area in promotional brochure does not fairly reflect an area which has a bustling commercial life on Kevin Street Lower, Wexford Street and Camden Street but which is also substantially residential.
- Issues raised in relation to the Sunlight, Daylight and Shadow analysis submitted, which are considered inadequate and inaccurate in terms of impact on existing properties. A debatable VSC metric has been applied in both the report and addendum report as it was clear that the conventional global skylight VSC standards would not be compatible with the 'use zoning guidelines' of the site. The author of the report states that 'test studies proves that achieving full compliance would impose inappropriate constraints on the form and scale of the development and would be at odds with the other design objectives'.
- While the previous use of the site as offices and classrooms were day and early evening uses, the proposed development would result in 24-hour activity and therefore continuous overlooking potential, loss of privacy and noise for residents.
- It is requested that the Board, prior to making a decision, refer the development in the context of Covid-19, to the HSE as provided for under Article 28 of the current Planning and Development Regulations, in order to avail of the latest health guidance.
- Existing residents who work from home on a permanent or a Covid-19 related basis will be impacted by 24-hour disturbance and noise from the site, including an adjacent recording studio, pilates studio, architects studio and various email-reliant businesses.
- The decision to grant and the failure of the PA to consider existing visual and residential amenities of the area. The applicant included internal images of an appellants' property without consent.
- The scale of the development is so large that one dimensional drawings misrepresent the true impact of the proposal. No effort to minimise the visual impact of the development has been put forward despite the request for further information.

- The development will result in a reduction in property values.
- The adequacy of the EIAR and AA is questioned in terms of assessing alternative and cumulative impacts as well as other matters.
- If the Board are minded to grant permission it is requested that conditions are attached to address and mitigate the issues raised by third parties.
- The development site has significant potential to redress the hostile and poorly supervised environment that is currently experienced on Kevin Street, with the only interaction with the public and existing uses is confined to the library. The level of activation proposed will have a negligible enhancement of the vitality of the street, and none during the evening. The proposal does not accord with the Zoning Objective Z5 in this regard.
- The proposed development significantly exceeds the maximum proportion of one bedroom / studio development of 50% normally permitted and significantly exceeds the proportion of studio units normally permitted of 25% comprising a total of 43.5% proposed.
- As there has been no Housing Needs Demand Assessment carried out, there is no robust underlying evidence base provided for the residential mix as proposed. If permitted, the development will result in the cumulative over provision of studio / one bed apartments in an area that is contrary to the creation of a sustainable community.
- It is requested that if the Board are minded to grant permission, a split decision should issue refusing the residential element.
- The quality of the residential offer is questioned in terms of provision of open space at 1.78m<sup>2</sup> per person.
- As the proposed development does not comply with conventional dwelling design standards and should not be permitted to be considered anything other than Build-to-Rent in the longer term beyond 15 years.
- Security issues for houses on Camden Row raised as a concern.
- Construction period concerns raised.

- The development will have a serious and detrimental impact of the setting and amenity of St. Kevin's Park by reason of overbearing and overshadowing.
- Duration of permission (10 years) sought has not been justified.
- Loss of light, overlooking and loss of privacy
- Living distance to new site
- Personal health / underlying conditions
- Public health (rodents etc)
- Noise and disturbance resulting from ongoing building work
- Adequacy of parking / loading / turning
- Highway safety and traffic
- Hazardous materials
- Design and layout of new buildings

## 6.2. **Planning Authority Response**

None.

## 6.3. **Observations**

6.3.1. There were 6 observations submitted in relation to this multiple third-party appeal from the following:

- Senator Ivana Bacik
- Cllr. Mannix Flynn
- Frank McDonald
- Jim Brilly
- Claire Byrne & Carolyn Moore
- Zermatt Property Ltd.

6.3.2. The issues raised in the observations support the third party appeals and are summarised as follows:

- Housing mix will not contribute to the creation of sustainable communities in the area.
- It is submitted that the scale of the building is monolithic in height and massing and does not successfully integrate into its setting, contrary to the requirements of the guidelines.
- Inadequate photomontage images of the development from Camden Row.
- While the guidelines allow for the unlimited construction of studios, Dublin City Council policy does not support this. It is unreasonable to impose this substandard accommodation on the Council for tenants under the Part V proposal.
- It is submitted that the design approach – multiple glazed ‘set back storey’ - is destroying the architectural character of Dublin city centre and is used as an attempt to conceal over-scaled projects.
- Issues raised with the design, height and density proposed.
- Impacts of the development on the public estate are also raised as a concern, particularly St. Kevin’s Park and Kevin Street Library.
- No active uses are proposed at street level and inadequate family friendly facilities provided. There are no family sized apartments proposed and quality of proposed residential offer questioned.
- Large high-rise schemes of small BTR apartments cannot be regarded as ‘benchmarks for inner city living’ as they effectively exclude families.
- There is no provision in the Z5 zoning for the scale of the development proposed and the site is not one of the four areas identified in the City Development plan for high-rise (over 50m) developments, or the 10 areas for mid-rise (up to 50m) developments. The development can only be justified by reference to the 2018 Urban Development and Building Heights Guidelines.
- Boundary wall issues raised with adjacent home.
- Roads and traffic issues also raised.

- The development, Block C, will significantly impact any development potential of the adjacent property due to proximity of proposed building to existing.

#### 6.4. First Party Response to Third Party Appeals

6.4.1. The applicant submitted responses to the third-party appeals. The submission includes an introduction and sets out the site location and context including protected structures, planning policy context as well as providing a description of the proposed development as amended by the response to the FI request. The response to the third-party appeals is presented under a number of headings as follows:

- Request for Oral Hearing:
  - It is submitted that all relevant information has been provided to ensure that sufficient information was available to adjudicate on the application.
  - The development is not of such complexity or significance as to warrant an Oral Hearing.
- Impact on the character of the area having regard to the proposed massing, density and height:
  - In response to concerns raised, the Board is referred to the application documents for a detailed justification for the proposed development.
  - The scheme was designed to respond to the various scales and streets surrounding the site whilst providing increased density and height in a high-quality urban development in accordance with the planning policy framework.
  - The design evolved in response to the pre-application meetings.
  - In response to the FI request, the massing, scale and elevational treatment of Block A and Block B was revised, providing a more appropriate transition in scale.
  - With regard to proposed residential Block E, it is submitted that this block will result in an enhanced relationship when compared with the current existing building on site.
  - In relation to Blocks D and E, the development reduces in scale and massing towards the frontage with the main mass in the centre of the site.



- The proposed height meets all the criteria outlined in national policy in terms of building heights and therefore, it is appropriate for the Board to grant permission for the proposed development.
- There are no concerns arising in terms of the biodiversity of the site, as confirmed by the ecologist.
- Visual Impact and Photomontages:
  - The Townscape, Landscape and Visual Impact Assessment submitted with the application was prepared to determine which effects are likely to be significant and whether those changes will be negative or positive.
  - The TLVIA Addendum was prepared in response to the FI request.
  - The selection of views assessed do not cover every possible view of the proposed development but are rather a broad spread of representative views from publicly accessible places.
  - While it is acknowledged that the eastern residential block in terms of Camden Row, represents a substantial addition, a harmonious relationship with Camden Row is achieved through well considered design and the scale gradually steps down from 14 storeys to 4.
  - It is not agreed that the development is monolithic in nature.
  - The proposed development does not appear dominant in views towards St. Patrick's Cathedral so as to visually diminish the building.
  - The photomontages provided are not misleading and any discrepancies between the proposed verified views and the actual human experience are merely a limitation a photographs ability to replicate the human experience.
  - The photomontage presented at image No. 8 in a third-party appeal (New Bride Street Residents) is not a verified view can cannot be relied upon to represent an accurate indication of how the proposed development will appear in this view.
  - It is important not to consider individual views in isolation. Rather a full set of views should be considered together in order to gain a full appreciation of the scheme and its visual impact on the surrounding environments.

- **Public Realm and Active Ground Floor Use:**
  - The Board is referred to the Planning Report for justification on this matter and submit that the proposed development provides a significant enhancement when compared to the existing environment.
  - The proposed design creates an easily understandable urban environment including active building frontages.
  - The development includes additional public realm improvements surrounding St. Kevin's Park in addition to the library extension, the provision of a café/restaurant and a childcare facility.
  - The proposed uses are acceptable under the site's Z5 zoning in the CDP.
- **Demolition of houses:**
  - It is noted that the majority of the houses to be demolished are no longer in residential use.
  - Notwithstanding the increase in scale, the proposed development is considered to align with the present established character of Kevin Street Lower and it will not impact on the urban quality of New Bride Street.
  - The buildings to be demolished are not listed on the NIAH.
  - The retention of the buildings on the site would severely limit the developable opportunities of the site and would prevent the delivery of a successful office and residential scheme for the site.
- **Build to Rent Development and Residential Mix:**
  - The proposed development was designed in accordance with SPPR 7 and SPPR 8 of the Apartment Guidelines 2020.
  - The Planning Report submitted sets out a detailed justification for the mix.
  - The Apartment Guidelines supersede the CDP in terms of the quantitative standards for apartments, including in relation to unit mix.
  - It is further submitted that the proposed mix reflects the household formation and housing demand in the area, where the 2016 Census identified that the

average household size in the electoral area is 1.88 persons compared to a city wide average of 2.49 persons.

- The population profile for the area indicates a larger cohort of those under the age of 40, with 81% of households comprising 1 and 2 persons in the area. The prevalence of houses to the south and south west of the site highlights the need for greater numbers of studios and 1 bed apartments in City centre locations.
- Quality of the Proposed Residential Development:
  - The response notes the appeals refer to the cumulative leniencies and flexibility taken by the proposed development in meeting relevant design standards.
  - All units meet or exceed the minimum standards applicable to BTR schemes in accordance with the Apartment Guidelines 2020.
  - A total of 95 units are provided with private amenity space. It was considered appropriate to omit private amenity space for some units given the level of communal amenity space provided internally and externally and to protect the residential amenity of existing properties to the west and south.
  - Communal open space of 1,600m<sup>2</sup> provided exceeds the minimum required and increases to 2,085m<sup>2</sup> when including the roof terraces in Block D. The development also provides for public open space and public realm improvements equating to 2,703m<sup>2</sup> (approximately 15% of the 1.44ha), in addition to the existing neighbouring St. Kevin's Park.
  - The scheme provides for 101 dual aspect units which equates to c34% and no single aspect units north facing.
  - While the 1.5% value was applied in the context of ADF targets, the average ADF for all rooms test was much better and well in excess of this at 2.7%.
- Impact on Residential Amenity:
  - In terms of the issues raised in relation to overlooking, loss of privacy and loss of light, a comprehensive response on the relationship with the adjoining residential properties was provided in response to item no. 3 of the FI request.

- Appendix 4 of the response includes additional and revised drawings as well as a summary of the drawings for ease of reference. Sections have also been updated to address the proposed development and the existing adjacent developments.
- The development will not have any undue impact on the residential amenities of neighbouring properties when compared with the existing college buildings on site.
- The redesign of Block A provides for an improved relationship with New Bride Street properties and Block B and C continue to ensure an appropriate relationship with the adjoining College Court Apartments.
- Block E is set back to a suitable distance from the boundary of the properties on Camden Row and New Bride Street when compared with the existing office buildings.
- The Sunlight, Daylight and Shadow Assessment Addendum provides an updated assessment in light of the amendments to the scheme.
- In terms of the existing rear gardens of New Bride Street and Camden Row, the development has been carefully considered where the current shoulder height of the existing buildings has been respected and used to determine the layout, siting, height and design of Block E.
- Block D fronts Camden Row and provides an appropriate urban edge, with setbacks as the height increases to the upper levels to ensure no unacceptable impact on residential amenity.
- The Sunlight, Daylight and Shadow Assessment Addendum demonstrates an improvement in terms of skylight to neighbouring properties with only one window dropping below the identified value. All tested amenity spaces on New Bride Street and Camden Row pass the two-hour test requirements for the 21<sup>st</sup> of March.
- Opaque glazing is proposed in the western elevation of Block D to ensure no windows directly overlook nos. 21 – 24 Camden Row. No amendments as requested in the third-party appeal are required as the current design ensure

no undue impact with regards overshadowing, overlooking or overbearing impacts.

- The revisions to proposed Block A on the corner of New Bride Street and Kevin Street has greater regard to the existing Iveagh Trust development to the west and steps down towards the houses on New Bride Street.
- In terms of concerns raised in relation to security and the public realm, it is submitted that there is a gate beside the route adjacent to No. 25 Camden Row to ensure that this is not used as a main route by the public. The main public route is to the east of Block D and away from the existing residential properties.
- In relation to Block B and the relationship with College Court Apartments, it is submitted that the proposal delivers an improved separation distance when compared to the existing college building and a stepped transition in height, mitigating any potential undue impact in terms of overlooking from the increased height.
- There is no misrepresentation with the street elevation.
- It is noted that there are two planning applications on Liberty Lane, Reg Ref: 3479/20 for the development of a 4-storey office building at no. 19 Liberty Lane and Reg Ref: 3897/20 for development of a 5-storey office building at no. 23 Liberty Lane. An appeal requests that the applicant at no. 23 should be considered in terms of cumulative impact. It is submitted that as both of these applications are the subject of FI, it is not appropriate for the Board to give any weight to them at this stage.
- It is concluded that the development is located on a site where it would be impossible to avoid a level of perceptible impact on neighbouring properties, without severely limiting the height of development on the application site and prejudicing the possibility and viability of its redevelopment.
- Overall, the design has evolved specifically to limit impact on neighbours, maximise light to occupants while balancing other development constraints.

- Daylight and Sunlight Assessment:
  - A number of the appeals raise concern that the VSC measure of 18% rather than the 27% standard was used and that this is not considered appropriate in relation to the neighbouring properties. The adoption of an alternative VSC target is fully justified within the original Daylight and Sunlight Assessment based on similar opposing development and precedent.
  - The guidance targets in BRE are intended to be employed with a degree of discretion and flexibility.
  - The majority of windows tested did not rely on the revised target and the design went through a number of iterations seeking to minimise impact on neighbours.
  - The transition in height for Blocks D and E address the concerns raised with regard to sunlight and sky on east facing windows in properties to the west of New Bride Street. It is also submitted that these properties are over 40m from the Block E.
  - The image submitted with a third-party appeal with the estimated loss of skyline from their property is not accurate. The limited impact on skyline would also mean that there is limited impact on sunlight.
  - The VSC for all windows tested on Camden Row, except for 1 window, well exceeds the rest ratio of 0.08 and the alternative VSC target is not a concern for these dwellings.
  - In terms of shadow analysis, the metric is based on the amount of amenity space that receives 2 hours of sunlight on the 21<sup>st</sup> of March in accordance with BRE Guidelines. This is a quantitative method and not a subjective view based on shadow plots. It does not mean that transient shadows will not be cast.
  - The response prepared by Chris Shackleton, appendix 6 of the appeal response document, includes a consideration of all third-party appeal submissions in relation to Sunlight and Daylight Assessment.
  - The response notes that Dublin City Council raised no concerns regarding the Daylight and Sunlight Assessment.

- Demolition and Construction Impacts:
  - Issues raised with regard to demolition and construction impacts are noted as are a number of suggested conditions to protect the residential amenity of neighbouring properties.
  - It is submitted that the application was supported by a Construction and Demolition Management Plan which provided sufficient mitigation measures for demolition and construction phases.
  - It is submitted that the decision of DCC is not clear if the request for a 10-year permission has been permitted. It is requested that the Board allow a suitable condition for this as a 10-year permission is considered appropriate given the scale and nature of the development and associated complexities of construction.
  - It is submitted that the development will take place in a timely manner and it is estimated that the demolition phase will take c10 months, the basement excavation stage circa 12 months, and construction phase up to 36 months.
- Transport Matters:
  - The proposed vehicular access to the basement from New Bride Street is considered to be the optimum location due to the existing road cross section width available and the current traffic volume along New Bride Street in comparison to that along Kevin Street and Camden Row.
  - The proposed scheme will omit the existing vehicular access points on Kevin Street and Camden Row which will improve the surrounding road networks performance at these locations, particularly for pedestrian and cycle movements.
  - Pedestrian and cycle permeability links are proposed via Kevin Street and Camden Row. No gate is proposed on this route.
  - In terms of car parking, a detailed response to the parking provision is included in the FI response and accepted by the PA as being in accordance with the Dublin City Development Plan.
  - Additional bicycle parking facilities were also included, and the scheme meets and exceeds the requirements of the PA and the Apartment Guidelines.

- 15 no. shared car spaces and 5 cargo bike storage locations will be provided in accordance with the requirements of condition 14 of the DCCs decision.
- Impact on Kevin Street Library:
  - A number of appeals raise concerns in terms of the impact of the development on Kevin Street Library.
  - While the building has recently been included in the NIAH, it is submitted that Chapter 5 of the submitted EIAR already noted the library building to be a key heritage building of architectural and social heritage significance and provides a full assessment of the impact of the development on the building.
  - It is submitted that the proposed rear extension to the library will not result in any adverse impact to the character of the library as internally, it will remain intact. Amendments to the proposed development have been made as part of the pre-application discussions in this regard.
  - In terms of Daylight and Sunlight, it is submitted that the existing daylight levels within the library are excessive and the proposed design improves the results for all existing rooms with much more desirable ADF results and reducing greatly those area which previously showed very excessive percentage.
- Impacts on St. Kevin's Park:
  - Issues raised in relation to the overshadowing, and impact on the setting of St. Kevin's Par and protected structure have been addressed as part of the FI response for the application.
  - As part of the response to the FI request, an updated visual impact assessment was submitted. It is accepted that the proposed development will be visible from the park and that the proposed blocks are greater in scale to the existing DIT building range.
  - The proposed development will modify the peripheral setting of the park but will not prove detrimental to its character as it will not materially change the pre-existing densely occupied urban landscape setting.
  - The proposed development will result in enhanced permeability across the site with the proposed public realm strategy.



- While the change in visual impact is considered significant, this is considered a positive aspect of the scheme with the architectural design providing a suitable transition between the more historic park and the modern new redevelopment of the former TUD/DIT campus.
- Other Remaining Concerns:
  - In terms of issues raised regarding the legislative requirements of the EIA Directive and associated Regulations in terms of assessing alternative and cumulative impacts, the appellant does not specifically set out where the EIAR is lacking or deficient.
  - With regard to recent applications for permission on adjoining sites, it is noted that these were submitted after the subject application and are currently subject to FI requests.
  - As set out in the mitigation measures included in the EIAR, additional surveys, such as Bat Surveys, will be undertaken prior to any demolition or construction works commencing.
  - References to other recent developments / applications are not comparable.

The response concludes that all third-party issues have been comprehensively addressed and the development justified. It is submitted that the proposed development is supported by national, regional and local policy and guidance and it is requested that the Board grant permission. The response includes a number of additional appendices, including as follows:

3. Appeal response prepared by City Designer
4. Schedule of Architectural Drawings prepared by HJL
5. Appeal Response prepared by CS Consulting
6. Appeal response prepared by Chris Shackleton

## **6.5. Third Party Response to First Party Response to Third Party Appeal**

6.5.1. Following the submission of the First Party Response to Third Party appeals, the following third parties submitted further responses:

- Zermatt Property Limited

- Ruairi O’Cuiv & Jennifer Traynor
- Residents of New Bride Street & Iveagh Trust
- Gerard Doyle & Bernie Devlin & Others
- Chevron Nolan
- Residents of Camden Row
- Kevin Street Apartments
- Frank McDonald

6.5.2. The responses generally restate their initial concerns, and that the applicant has failed to address the issues raised by third parties in the course of this appeal process. In principle, the overall proposed height and scale is considered to be excessive in the context of the existing urban context and the development offers little or nothing in return to the long-established local community. The minimal increase in ground floor active uses will not promote appropriate city and urban life or activities during the evenings or at weekends and will result in this area of the city being deserted at these times. It is considered that this approach is a lost opportunity to create a sustainable neighbourhood and would repeat the mistakes made in other areas of the city.

6.5.3. In addition to the above, the responses continue to raise concerns in terms of the impact of the proposed development on the existing residential amenity of adjacent residences and protected structures. The application provides no analysis of the existing building stock in the area or existing dwelling type or size other than a statement indicating that the immediate area surrounding the subject site provides evidence of a prevalence of houses to the south and south west of the site. This is used to justify the greater number of studio and 1 bed units and it is considered that this approach is flawed. It is further submitted that the quality of the residential scheme is inadequate in terms of open space provision and that the units would not conform to conventional apartment standards if the development is no longer considered a BTR after the 15 year period.

6.5.4. It is requested in all cases that permission be refused for the proposed development or that significant modifications be made to the development to minimise the impact on adjacent properties in terms of overbearing, overshadowing and overlooking.

## 7.0 Planning Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
  - a. National Policy
  - b. Zoning
  - c. Density & Quantum of Development
  - d. Demolition
2. Design Strategy
  - a. Layout, Design & Scale
  - b. Height
3. Public Realm, Open Space Layout & Uses
4. Residential Mix
5. Residential Amenity
6. Impacts on Protected Structures, ACA & Archaeology
7. Roads & Traffic
8. Water Services
9. Other Issues

### 7.1. Principle of the development

- 7.1.1. The proposed development seeks to construct a mixed-use development which includes both office use as well as a 'Build-to-Rent' accommodation, with a total of 299 units. In addition, the development will include a creche facility, a café / restaurant, and a double height exhibition space to the rear of the existing Kevin

Street public Library. The development also includes a number of roof terraces and a new public realm which will connect Kevin Street Lower to the north, to Camden Row to the south. In addition, the development will include a substantial basement area which will incorporate a number of uses including car and bicycle parking as well as residential storage areas and office space. Additional residential amenity and support facilities include a community lounge, WIFI lounge and information lobby, gym, billiards room and a cycle repair station.

- 7.1.2. Following the submission of the response to the further information request by the Planning Authority, the development was amended reducing the gross office space in Blocks A, B and C from 53,110m<sup>2</sup> to 50,008m<sup>2</sup>, following a reduction to Block A and an increase to Block B. There are no amendments to the residential Blocks D and E and the reduction in office floor space results in a development with a total gross floor area, including all lower ground and basement levels, of 83,400m<sup>2</sup>, down from 85,436m<sup>2</sup>.

#### National Policy

- 7.1.3. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. Objective 3b seeks to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford.
- 7.1.4. National Strategic Outcome 1 relates to Compact Growth and focuses on pursuing a compact growth policy at national, regional and local level. With regard to Dublin it states;

‘Dublin needs to accommodate a greater proportion of the growth it generates within its metropolitan boundaries.... At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.

- 7.1.5. Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 fully supports the ‘need for

urban infill residential development' and 'increase output of private housing to meet demand', such as that proposed on this site.

I am satisfied that the proposed development complies with national policy in principle.

#### Dublin City Development Plan 2016-2022 - Zoning

- 7.1.6. The subject site is located within Dublin City Centre and on lands which are zoned Zone Z5: City Centre in the Dublin City Development Plan 2016-2022 and where it is the stated objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. The subject site lies at the southern end of this zoning block and office and residential uses are identified as permissible in principle on Z5 zoned land. The lands to the immediate south of the site, comprising a number of protected structures, is zoned Zone Z2: Residential Neighbourhoods (Conservation Areas) in the Dublin City Development Plan 2016-2022 where it is the stated objective "To protect and/or improve the amenities of residential conservation areas".
- 7.1.7. The lands to the south of Camden Row are zoned Zone Z4: District Centres in the Plan where it is the objective "To provide for and improve mixed-services facilities", while the area of St. Kevin's Church and Cemetery are zoned Z9: Amenity/Open Space Lands / Green Network and where it is the objective "To preserve, provide and improve recreational amenity and open space and green networks". Lands to the west of New Bride Street are zoned Z1: Sustainable Residential Neighbourhoods in the Dublin City Development Plan which seeks "To protect, provide and improve residential amenities".
- 7.1.8. This large urban site can be considered as a vacant brownfield site, following the relocation of the former DIT/TU Dublin campus to Grangegorman. The existing buildings on the site are now vacant. The site is not located within an area of the city which is covered by an LAP or SDZ designation. The wider area includes a variety of residential types, from single storey over basement protected structures to the south, two storey terraced houses to the west to apartment blocks, also protected structures in the form of the Iveagh Trust apartments to the west of New Bride Street. Other modern apartment developments are noted to the north and east. There have been a number of developments in the area which have increased the

building heights to 8 storeys and include a variety of commercial and residential uses. The area might reasonably be described as a transitional area in this regard.

7.1.9. Having regard to the location of the subject site, on brownfield, serviced and zoned lands, together with the proximity to public transport, retail, community and social facilities, it is reasonable to conclude that in principle, the development of the site for mixed use purposes, including residential is acceptable. I am generally satisfied that the proposed development, in principle, adequately accords with the Z5 zoning objective afforded to the site.

Dublin City Development Plan 2016-2022 - Density & Quantum of Development:

7.1.10. The subject site is located within the city centre where the Dublin City Development Plan, at Section 4.5.3, promotes the intensive mixed-use development on well located urban sites together with higher densities. The proposed development provides for 299 build-to-rent units within the proposed development which amounts to a net residential density of 474 units per hectare. Given the context of the site, in proximity to high quality public transport modes, employment opportunities and a large range of amenities, I am satisfied that the density proposed is both appropriate and acceptable at this location.

7.1.11. Having regard to Z5 zoning afforded to the site, the Dublin City Development Plan provides that the indicative plot ratio for the site is 2.5-3.0 and the indicative site coverage is 90%. The proposed development provides for a plot ratio of 3.9 and a site coverage of 53%. In terms of the plot ratio, I note that Section 16.5 of the development plan indicates that plot ratio is a tool to help express the bulk and massing of buildings and should be used in conjunction with other development control measures including site coverage, building height, public and private open space, the standards applied to residential roads, and parking provision.

7.1.12. The plan further provides that 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.
- To maintain existing streetscape profiles.

- Where a site already has the benefit of a higher plot ratio.
- To facilitate the strategic role of institutions such as hospitals.

Having regard to the above, I am satisfied that the plot ratio proposed is both appropriate and acceptable at this location.

#### Dublin City Development Plan 2016-2022 - Demolition

- 7.1.13. The proposed development will involve the demolition of all of the existing structures on the site. The existing buildings include all of the buildings associated with the former use of the site as the DIT/TU third level campus, including all ancillary buildings, nos 1-8 Church Lane South and Nos 30-35 New Bride Street.
- 7.1.14. In terms of the Dublin City Development Plan, Section 16.10.17 relates to the Retention and Re-use of Older Buildings of Significance which are not protected.
- 7.1.15. The Board will note that the applicant has submitted a Demolition Justification Report and an Assessment of Architectural and Historical Significance report, which set out the rationale for the redevelopment of the proposed development site, including the demolition of the buildings. The report references the Assessment of Architectural Significance of the site as undertaken for the completion of Chapter 5 of the EIAR submitted and notes that the site does not include buildings of architectural significance and that the redevelopment of the site is considered to offer more in terms of urban cohesion, diversity and public amenity. I accept that the options for reuse of the existing buildings are limited for the proposed redevelopment of the site and I would accept that the existing floorplates are inefficient in terms of meeting modern requirements. Therefore, options for reusing the existing buildings would compromise the overall scheme.
- 7.1.16. I am satisfied that the applicant has submitted appropriate justification for their demolition and as such, the principle of demolition can be considered acceptable in this instance.

## 7.2. **Design Strategy:**

### Introduction:

- 7.2.1. The proposed development site is located on a prominent site which extends over a large urban block. This area of Dublin City includes a variety of developments,

including both residential and commercial and a range in building heights, generally rising from one and two storey houses to 6-7 storey buildings on Kevin Street, and rising to 8 storeys in the wider area. Residential properties on New Bride Street and Camden Row comprise terraced single and two storey homes and the site also lies immediately adjacent to a Residential Conservation Area and a number of protected structures, as well as the recorded monument at St. Kevin's Park.

7.2.2. The applicant submitted a detailed Architectural Design Statement as part of the suite of documents in support of the proposed development. The development, as amended following a request for further information by the PA, proposes a mixed-use development to be provided in 5 blocks across the site. Blocks A, B and C will comprise office floor space while Blocks D and E will provide residential accommodation, ranging in height from 1 to 14 storeys in height as follows:

- Block A: Fronting onto Kevin Street Lower and wrapping around onto New Bride Street, Block A will comprise an office building rising from 5 storeys at the corner of Kevin Street Lower and New Bride Street and a height of approximately 23m, to 9 storeys along Kevin Street Lower and a height of 37m, and with the top 3 floors (11 storeys) set back from Kevin Street with an overall height of approximately 47m above lower ground and basement levels. Block A was amended to reduce the scale and massing of the building on the corner of New Bride Street and Kevin Street Lower to 4 storeys in order to improve the transition in scale in this area.
- Block B: Fronts onto Kevin Street Lower and wraps around Church Lane South. This office building connects with Block A from the third-floor level, with the second-floor level extending over the proposed exhibition space, to rear of the Kevin Street Library. From the third-floor level, the proposed building will over-sail the rear of the existing library building. This building, at fifth floor level sets back from the corner of Kevin Street Lower and Church Lane South, and the area adjacent to the apartment development to the east of Church Lane South and continues to set back for the remaining upper floors. The building will rise to 10-storeys in total and has an overall height ranging from 27.043m on Kevin Street Lower to 42.55m at its highest point to the rear of the block. The height of Block B at the corner of Kevin Street and Church



Lane is approximately 4m higher than the adjacent apartment building to the east.

- **Block C:** Fronts onto Liberty Lane and Church Lane South. This Block stands independently from the rest of the commercial blocks and wraps around the rear of existing residential and commercial development which front onto Kevin Street Lower to the north and Liberty Lane to the east. These existing properties comprises 2½ storeys onto Liberty Lane rising to 5 storeys on Kevin Street Lower, with a penthouse level set back, with commercial uses at ground floor level and residential above. The proposed Block C building will rise to 5 storeys to a stated height of 22m in height and is to be constructed tight to the existing site boundaries. The plans and particulars submitted in response to the FI request indicate that this building will rise to a height of 19.8m along Liberty Lane and will decrease in height towards the north and adjacent to the Camden Court Apartments.
- **Block D:** This is the first of the residential blocks proposed within the scheme and will present a 4-storey frontage onto Camden Row to the south of the site. At this elevation, the building will rise to approximately 15.3m. The full building height will rise to 14 storeys, and approximately 48m, at the centre of the proposed development site with four step-ups across the building from Camden Row. The lower ground and ground floors of Block D will include a number of communal residential facilities with a multifunctional community room proposed to address Camden Row at ground floor level. The proposed café/restaurant is also located to the north-eastern corner of the ground floor of Block D, which will front onto the new proposed public plaza area.
- **Block E:** This block will be located to the rear of the existing houses fronting onto New Bride Street, and in the area of the existing DIT building. The block will rise to 10 storeys and approximately 32.2m in height and includes a step back at the eighth and ninth floors.

#### Design & Scale:

- 7.2.3. The proposed development seeks to construct a contemporary mixed-use scheme which has been designed to create a series of 5 buildings, as opposed to creating a monolithic block, across the site. The buildings are broken up using large vertical

glazing and the design strategy has sought to have regard to the historic building line on Kevin Street Lower. I would agree that the development has been designed to address the historic urban setting while proposing a contemporary and modern development.

- 7.2.4. Following the request for further information, I note that the scale and massing of Blocks A and B were revised in order to improve the visual impact of this section of the scheme, particularly in terms of Kevin Street and New Bride Street. The massing and scale of these buildings have been reduced and the setback of Block A at the corner of New Bride Street and Kevin Street Lower has been increased. This setback from the street has moved the building into the site and closer to Block E, one of the residential blocks proposed as part of the overall development. The corner section of Block A has also been reduced to 4 storeys in height at the corner with the upper floors set back. I note that the rear of Blocks A and B continue to rise to 10 and 11 storeys, with a maximum height of approximately 47m.
- 7.2.5. I consider that the amendments to Block A are appropriate in order to address the transition in scale from the houses on New Bride Street to the new development at the junction with Kevin Street Lower. The response to the PAs further information request includes details on the proposed materials to be employed in the buildings' finishes including details of proposed brick finishes, stone, windows and fins. I would also note the proposals for the upper floors of the development, which will be set back and will be constructed primarily with glass in order to create a lighter top and reduce the visual impact of the overall scale of the development on Kevin Street Lower. I would note that the upper floors of Blocks A and B will be prominent from the northern area of New Bride Street but consider that this element is acceptable given the nature and context of this junction.
- 7.2.6. In terms of the eastern area of Block B, and its location in proximity to the College Court Apartments, I also note that amendments to the development have been made to address this interface. The development has been set back from the existing apartment building by 8.9m along Kevin Street Lower, and the upper floors have been stepped back from the corner of Kevin Street Lower and Church Lane South. I am satisfied that this area of the development is acceptable.

- 7.2.7. In terms of the proposed development in the context of the Kevin Street Library, I note that the revised proposals increased the separation distance between the library and Block A to approximately 9m. The separation between the library and Block B is approximately 0.5m. I also note that the applicant has considered the library as an important building in the overall design concept, even though at the time of the preparation of the EIAR, the building was not included in the NIAH. While the library building itself does not form part of the proposed development site, the Board will note that the development includes a proposed extension to the rear of the library to facilitate the new exhibition space. In addition, the proposed link bridge connecting Blocks A and B will be constructed above the rear of the existing library building.
- 7.2.8. The bridge between Blocks A and B occurs from the third floor where it connects the buildings in the area just above the proposed library extension / exhibition space. From the 5<sup>th</sup> floor level of Blocks A and B, the bridge extends its floorplate over the existing library building for a depth of approximately 6m. I note that the Planning Authority has not raised any objections in this regard. In the context of the amended proposals submitted in response to the planning authority's further information request, I am satisfied that the development will not significantly impact on the character and setting of the Kevin Street Library, and I am satisfied that the applicant has had due regard to the context of this building in the streetscape and as part of the overall development.
- 7.2.9. Block C stands independently from the rest of the commercial blocks within the overall scheme and wraps around the rear of existing residential and commercial development which front onto Kevin Street Lower to the north and Liberty Lane to the east. These existing properties comprises 2½ storeys onto Liberty Lane rising to 5 storeys on Kevin Street Lower, with a penthouse level set back, with commercial uses at ground floor level and residential above. The proposed Block C building will rise to 5 storeys to a stated height of 22m in height and is to be constructed tight to the existing site boundaries. The plans and particulars submitted in response to the FI request indicate that this building will rise to a height of 19.8m along Liberty Lane and will decrease in height towards the north and adjacent to the Camden Court Apartments.

- 7.2.10. While I have no objection in principle to Block C in terms of height or scale, I note the third-party, and adjoining landowners, concerns that the layout of this building in the context of adjacent properties. It is submitted that if permitted as proposed, Block C would prejudice the redevelopment potential of the properties to the north and south on Liberty Lane due to the extensive glazing proposed and the construction of the building up to site boundaries.
- 7.2.11. I note that at first and second floor of Block C, the northern elevation of the building which is located immediately adjacent to Liberty Lane, includes a curtain wall glazing system. This element, being built tight to the boundary at ground, first and second floor, has the potential to impact any proposed redevelopment on the site to the north. I note that from the third floor, the proposed development steps back from the boundary in the order of 3.88m and as such, the impact is eliminated from this level. The Board will note that there is a current application for the development of a 5-storey office building on the site to the north in this area. A further information request issued which included issues relating to the impact on the PA permitted development, the subject of this appeal. In the event of a grant of planning permission, I would consider it appropriate that the proposed windows to the northern elevation of the Block C office building, and the section which lies adjacent to Liberty Lane, at first and second floor level should be omitted so as not to negatively impact on the adjacent property. This could be dealt with by way of condition.
- 7.2.12. The Board will note the concerns of the Dublin City Archaeologist in terms of the height, proximity and massing of proposed Block C in relation to St. Kevin's Church & Graveyard, a recorded monument and listed on the RPS, Ref: 1145, and the potential impact the development will have on the character and context of this site. While I will address matters relating to Built Heritage and Archaeology further in section 7.6 of this report, I note the response from the applicant following the PAs request for further information, whereby it is argued that the proposed design and height of Block C, which maintains a set back from the boundary of St. Kevin's Park of 6.3m, seeks to sensitively respond to the setting of the recorded monument and protected structure. Additional photomontages to demonstrate the appropriateness of the proposed relationship between Block C and St. Kevin's Park were also

submitted and an updated conservation assessment was prepared to examine specifically, the height, mass and scale of Block C in relation to St. Kevin's Park.

7.2.13. The proposed Block C is to be located a comparable distance to the boundary with St. Kevin's Park in terms of the existing building to be demolished on the site. It is submitted that the proposed building will not dominate the church and its setting and consideration is given to the established tree screening and existing boundary walls of the church. It is further submitted that the proposed materials to be used in the new development will not present a detrimental impact on the character or setting of the church. While I note that the PAs planning report accepted the arguments presented by the applicant in relation to Block C, I also note that the City Archaeologist noted ongoing concerns regarding the height, mass and proximity of the proposed development to St. Kevin's Church and graveyard, and in particular Blocks C and D. Of note, the existing DIT Buildings on the site are significantly smaller in scale to the proposed Blocks C and D and the City Archaeologist recommended that clarification be sought to address the negative visual impact on the monument by reducing the bulk of these blocks. The proximity of the buildings remains a concern although the City Archaeologist includes condition in the event of a grant of permission, in their report.

7.2.14. Having regard to the above, I consider that amendments are required to Block C, should the Board be minded to grant permission which include a reduced height and scale, in order to reduce and minimise the visual impact of Block C on the character and setting of the recorded monument. I note the submission by the applicant of additional photomontages which depict Block C in the context of the park and notwithstanding the arguments made, or the presence of existing trees which offer a level of screening, I would not agree that the impact to St. Kevin's Church and Graveyard is not significant. In addition, I refer the Board to my concerns in relation to the northern elevation of Block C.

7.2.15. My primary concerns relate to the southern elevation of the Block C building and in this regard, I consider that this building should be omitted or at minimum amended as follows:

- a) The overall height of Block C shall be reduced by 1 floor with the proposed 4<sup>th</sup> floor to be omitted.

- b) The 3<sup>rd</sup> floor shall be set back from the western elevation of the building by 10.2m, such that there shall be no office space provided to the west of the stairs at this level.
- c) The proposed curtain glazing on the northern elevation of the 1<sup>st</sup> and 2<sup>nd</sup> floors shall be omitted.

**Reason:** In the interests of visual amenity and the protection of the character and setting of the St. Kevins Church and Graveyard, recorded monument and in the interests of proper planning and sustainable development.

7.2.16. The amendments identified above do not impact substantially or materially on the quantum of development under consideration on this site, and the changes would be minimal in the context of the scale of office floor space proposed for the site. The amendments will improve the visual impacts on the adjacent properties, including St. Kevin's Park, and will enhance the level of residential amenity for existing residents. The reduction in the overall height of Block C will also have a positive impact on the public realm and amenity spaces proposed within the scheme at the interface between Block C and Block D through improved sunlight.

7.2.17. In terms of the proposed residential blocks, Blocks D and E, I have no concerns in terms of the design and finishes proposed in principle. I would also note that in terms of Block E, this building, rising to 8 storeys, and 25.65m, along the western elevation replaces the existing 6 storey DIT building on the site. The building will be constructed essentially in the same area as the existing building, with minor increased separation in places, and will be located between 12.3m and 22.8m from the rear of existing houses fronting onto New Bride Street. The overall height difference between the existing buildings and the proposed building at this elevation is approximately 1m (as calculated from the submitted survey drawings). I consider this to be insignificant over the full scale of the development.

7.2.18. Block D, which will be located centrally within the site will rise to between 4 and 13 storeys. The elevation to Camden Row to the south lies between the residential conservation area to the west and St. Kevin's Park to the east. The proposed scheme provides for a 4-storey elevation onto Camden Row with an overall height of 14.9m.

7.2.19. The existing protected structures to the west comprise a terrace of single storey over basement houses, bookended at the corner of Camden Row and New Bride Street with the Former Girls & Infant School, which is a two storey over basement, early 19<sup>th</sup> Century stone building. The scale of the building is more equivalent to a three-storey building and retains its historic context and appearance at this prominent corner location. The proposed development seeks to align and scale the roadside façade of Block D to create a bookend to the east of the terrace of houses and the applicant suggests that the 4-storey height and the maintenance of the building line defers to the scale of the school.

7.2.20. While Blocks D and E will rise to between 32.2m and 48m, I am generally satisfied that the site is capable of accommodating the scale of the development proposed in principle. I am concerned, however, that the scale of the façade of Block D which fronts onto Camden Row is excessive in the context of Camden Row, and would not provide an appropriate transition in scale in terms of the adjacent residential properties, appearing overbearing and incongruous in this streetscape. While I acknowledge the intention to 'bookend' the protected structures, and the fact that the 4 storey building to the east of the existing houses reflects the overall height of the former school building located at the corner of Camden Row and New Bride Street, I would not accept that the development has adequately considered the impact on the single storey houses over raised basement which lie immediately to the west and are all included in the record of protected structures. While I will discuss the impacts in terms of residential amenity further in Section 7.5 of this report, the Board will note that at 4<sup>th</sup> floor level, the roof of the building onto Camden Row is to be used as a terrace associated with the proposed Park Lounge within the scheme.

7.2.21. This element of Block D, therefore, in my opinion, would significantly affect the amenities, setting and character of the adjacent residential properties, protected structures. Should the Board be minded to grant permission in this instance, I recommend that the following amendments be made to proposed Block D:

- a) The proposed elevation of Block D onto Camden Row (submitted as 4 storeys) shall be reduced by 1 floor with the omission of proposed units D-03-05 and D-03-06 on the 3<sup>rd</sup> floor level.

- b) The proposed terrace area associated with the proposed Park Lounge (identified at 4<sup>th</sup> floor level on the submitted plans) shall be reduced in size in accordance with the omission of the two units prescribed above in part a) and shall only overlook the public realm area to the east of Block D.

**Reason:** In the interests of visual amenity and the protection of the character and setting of the St. Kevins Church and Graveyard, recorded monument, in the interests of residential and visual amenity and the protection of the character and setting of the protected structures to the west of the development and in the interests of proper planning and sustainable development.

I consider that the above amendment is immaterial in terms of the mix or number of residential units proposed and will, have a beneficial impact on the existing residential amenities of adjacent properties. The omission of the southern element of the Park Lounge terrace will not significantly impact on the functioning of the lounge space or the level of amenity proposed.

Height:

- 7.2.22. The Dublin City Development Plan, 2016-2022, at Section 16.7, provides guidance and standards for building height limits within the City. The subject site is located within an area the maximum height permitted is indicated at 28m for commercial development and 24m for residential development. Section 4.5.4 of the Plan deals with taller buildings and acknowledges the intrinsic quality of Dublin as a low-rise city and considers that it should remain predominantly so. The Plan further provides that taller buildings can also play an important visual role, and 'recognises the merit of taller buildings in a very limited number of locations at a scale appropriate for Dublin'.
- 7.2.23. The Board will note that all of the third-party appellants raise concerns in terms of the height and scale of the proposed development, which will rise to 14 storeys at its tallest, residential Block D, and will have an overall height of 48m at ridge height. I also note the height of proposed Block E which will rise to 10 storeys and approximately 32.2m in height. This building will run parallel to the existing single and two storey houses on New Bride Street, and to the rear of the houses on



Camden Row. The office Blocks A and B will also rise to approximately 47m in height over 11 floors.

- 7.2.24. Policy SC16 of the Dublin City Development Plan recognises the need for taller buildings in the city in a limited number of locations including the Docklands Cluster, Connolly, Heuston and George's Quay, subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA). The subject site does not lie within one of the identified locations for taller buildings and is not subject to an LAP. Policy SC17 requires that new developments protect and enhance the skyline of the inner city and demonstrate sensitivity to the historic city centre, the Liffey and quays, Trinity College, the Cathedrals, Dublin Castle and historic squares.
- 7.2.25. The Urban Development and Building Height Guidelines for Planning Authorities (Dec 2018), builds on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. In contrast to the City Development Plan, increased building heights is identified as having a critical role in addressing the delivery of more compact growth in urban areas, particularly cities and larger towns. Specific Planning Policy Requirements (SPPRs) of the height guidelines take precedence over any conflicting policies, and / or objectives of the Dublin City Development Plan.
- 7.2.26. The Board will note that the Planning Authority report acknowledges the locational context and size of the site, and the relevant Section 28 Guidelines, and in this regard, accepts that the site has the capacity to accommodate taller buildings without undue detriment to the character or setting of the city skyline. In principle, I agree with the Planning Authority in this regard, and while I note that the PA did not consider this issue in terms of material contravention, I am satisfied that the terms of the 2018 guidelines on building height justify a grant of permission for the proposed development despite its height exceeding the prescribed 24m in the development plan in accordance with section 37(2)(b) of the Planning Act. This matter is addressed in more detail in section 7.10.1 of this report.
- 7.2.27. In the context of the height of the proposed development, I would note no objection in principle, and would argue that the proposal adequately accords with the thrust of national policy in this regard. The proposal seeks to increase density on this urban

site by increasing height and I would fully support this principle given the sites location in proximity to public transportation and employment.

7.2.28. Given scale and context of the subject site adjacent to an established low rise residential area which includes a number of protected structures and a residential conservation area, a balance is required to be met, particularly in terms of existing residential and visual amenity. The Board will note the applicants' submission in terms of the overall proposed height and design suggesting that the Visual Impact Assessment prepared in support of the development shows that the development can be accommodated on the site and will represent a beneficial addition to all streetscapes.

7.2.29. I note the provisions of the Urban Development and Building Height Guidelines for Planning Authorities 2018 and the location of the appeal site in an area served by a high frequency multimodal public transport system. It is also notable that the said guidelines do not prescribe high buildings in all situations with Section 2.8 recognising that historic environments can be sensitive to large scale and tall buildings. In addition, Section 3.2 requires that proposed developments respond to the overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape. SPPR 3 states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

7.2.30. In this regard, the following is relevant:

(i) At the scale of the relevant city/town:

The site is located in a highly accessible location in terms of public transport with access to both buses and the Luas Green Line, with the St. Stephen's Green stop located approximately 6 minutes' walk away. I also note the proximity of the site to the Bus Connects corridor proposed to run along Camden Street Lower and Wexford Street to the east of the site. The proposed Metro Link at St Stephen's Green is also within walking distance from the site and DublinBikes and GoCar facilities are also available in proximity to the site. I am satisfied that the proposed development accords with this requirement.

(ii) At the scale of the district / neighbourhood / street:

In terms of the architectural character of the area, the subject site is located adjacent to lands which include Zone Z2: Residential Neighbourhoods (Conservation Areas), Z4: District Centres and the lands comprising St. Kevin's Church and Cemetery are zoned Z9: Amenity/Open Space Lands / Green Network. Lands to the west of New Bride Street are zoned Z1: Sustainable Residential Neighbourhoods. The Kevin Street Library is also located within the envelope of the proposed development. The scale of the surrounding neighbourhood, therefore, is varied and characterised by a range of architectural styles and periods.

The proposed development represents a change to the existing scale of the neighbourhood with the introduction of buildings up to 48m in height and the increase in density of development. The proposed development will introduce 5 blocks of varying scales and forms including the office Blocks A and B, fronting onto New Bride Street and Kevin Street Lower and rising from 5 storeys to 11 storeys and 23 to 42.55m in height, Block C which will be accessed from Church Lane South and Liberty Lane rising to 5 storeys and 22m in height, and the two residential blocks, Blocks D which will rise from 4 storeys and 15.3m in height on Camden Row to 14 storeys and 48m in height at the centre of the site. Block E will be located to the rear of the houses fronting onto New Bride Street and will rise to 10 storeys, and 32.2m in total and includes a step back at the 8<sup>th</sup> and 9<sup>th</sup> floors. As such, I am satisfied that the proposed development has been stepped to provide an appropriate transition between the existing residential properties to the west and south. The Board will note that the applicant submitted a number of documents with the application including an Architectural Design Statement and a Townscape and Visual Impact Assessment, with associated photomontages, EIAR Volume 2, as well as an Assessment of Architectural & Historic Significance, all of which have contributed to my assessment of the overall scheme.

It is submitted that the development has sought to respond to the various scales and street contexts which vary from Kevin Street Lower to the north and the lower scale of houses along New Bride Street to the west and Camden Road to south. The context of St. Kevin's Park is also noted, and the

development proposes to improve access to the park with a new connection to the north-east. Given the scale of the city centre site, which is appropriately located for redevelopment, I am generally satisfied that the proposed development has the potential to make a positive contribution to place-making and to the urban neighbourhood. I am further satisfied that the development incorporates new streets and public spaces as required and uses massing and height to achieve the required densities with sufficient variety in scale and form to respond to the scale of adjoining developments and integrates in a cohesive manner into the streetscape.

(iii) At the scale of the site/building

With regard to the proposed development at street and building level, I would acknowledge that the proposal will introduce new connections between Kevin Street Lower to the north and Camden Row to the south, as well as improved connections to St. Kevin's Park. The development will provide a new public realm and active frontage to the area and the introduction of the build-to-rent scheme will enhance and contribute to the housing offer in the local area.

In terms of the requirements of the Building Height Guidelines, the Board will note that matters relation to sunlight and daylight, as well as flood risk assessment will be discussed further in sections 7.6 and 7.9 of this report.

I am further satisfied that the design of the scheme does not include monolithic façades and all elevations provide appropriate fenestration in a manner which seeks to minimise overlooking of existing adjacent properties, while providing passive observation over the new street and public realm.

7.2.31. In terms of Section 3.2 of the Building Height Guidelines, I conclude that the proposed development satisfies the criteria set out therein and as such, the proposed development can be considered as complying with SPPR 3 of said guidelines.

Conclusion:

7.2.32. The Board will note that I have no objection in principle to the proposed height, design and scale of the development on this city centre site. The existing site is currently vacant and the proposed redevelopment of same, for the purposes of residential and office uses, is wholly appropriate and acceptable in the context of

both national and local policies. I consider the contemporary design to be of a high quality which generally has had regard to the historic and built heritage of the area and that the development will contribute positively to the public realm and connectivity through the site. I am further satisfied that the subject site is capable of accommodating the development without undue impacts arising to wider views across the city skyline.

7.2.33. While I have raised concerns in terms of Block C and the façade of Block D onto Camden Row, I would accept that on balance, the proposed development will result in a significant change in the streetscape in terms of height, scale, design and massing, it will generally assimilate into this transitional area of Dublin City.

### **7.3. Public Realm, Open Space Layout & Uses:**

7.3.1. The development proposes improvements to the public realm which will include increased permeability and connectivity within the urban block. This will be achieved through the provision of pedestrian streets which will connect Camden Row to the south to Kevin Street to the north and will provide for public open spaces along the route. The proposed scheme will provide additional public realm improvements in the vicinity of St. Kevin's Park with the provision of a new plaza area, in addition to the library extension, proposed café and childcare facility. The development also includes a number of terraces at upper levels which will be accessible to those working in the office building while additional open spaces at upper floor levels are also provided within the residential blocks.

7.3.2. In response to the FI requests, the proposed slip lane to New Bride Street from Kevin Street is to be closed to traffic with public realm and associated road improvements proposed in this area. It is noted that this area falls outside the red line boundary of the site, in the ownership of the City Council, and that the works will be carried out subject to agreement of the final details and implementation.

7.3.3. The quality of the proposed landscaping and public open spaces proposed within the scheme is excellent. The overall landscape design for the site has sought to provide accessible routes through the development and provide for new linkages between Kevin Street Lower and St. Kevin's Park and Camden Row. The Board will note the proposal to reinstate the access to St. Kevin's Park through Church Lane South as

part of the overall development, which is welcome. In addition, the development proposes a number of public spaces in the form of a garden courtyard between Blocks D and E, which will include a play area, seating and a multi-use space, a creche playground, linear buffer gardens and a plaza area to the rear of the Kevin Street Library extension and Block B. This Plaza space will be located in proximity to Kevin Street Park and will include a sculpture feature and seating area adjacent to the proposed café / restaurant. The development also includes a number of lower courtyards which are described as an extension of the internal office environments.

- 7.3.4. In addition to the above, the commercial terraces are indicated as offering a varied landscape area with opportunities for co-workers to gather and spaces where socialising and meetings as well as events can take place. The residential terraces will also provide panoramic views of the surrounding Portobello area. The SuDS strategy for the site is presented in Section 8 of the Landscape Architecture Design Access document in terms of roofs and roof spaces which will comprise green roofs as well as surface water management in the public realm.
- 7.3.5. While the applicant notes that the proposed development accords with the City Development Plan Z5 objectives in terms of proposed uses, I also note the third-party concerns in terms of the restricted uses proposed. The design of the scheme seeks to provide a mix of uses which will improve activity and visual interest on all frontages. While no retail is proposed, the Board will note that the scheme includes a café / restaurant and an exhibition space to the rear of the Kevin Street Library. The works to the public realm, including the connectivity through the site from north to south, as well as the proposed provision of a community room at ground floor level in Block D, fronting onto Camden Row, are all elements which will improve and generate activity in the area. I also note that the proposed community room will be available for use by both the residents of the BTR scheme and the wider community. While the level of use of this space is not stipulated and will have to be booked in advance of use, it is to be considered a welcome addition to Camden Row. Given the proximity of the site to a wide variety of shopping and retail offers, I am satisfied that the proposed mix of uses is both appropriate and acceptable.
- 7.3.6. In support of the proposed development, the applicant submitted a Social & Community Infrastructure Audit / Assessment report, prepared by John Spain Associates. The report includes a consideration of the development in terms of the

strategic, statutory and policy context as it relates to social and community infrastructure and identified possible future needs in the area. The report has been prepared in accordance with the context of Variation 7 of the City Development Plan to demonstrate how the proposal can contribute to any identified shortfall in the area. The report provides details of the existing social and community infrastructure in the surrounding area, including details of existing healthcare facilities, childcare and education facilities including third level, sports and recreation facilities as well as a variety of other community and cultural uses and facilities within the 15-minute walk time.

- 7.3.7. Chapter 6 of the Social & Community Infrastructure Audit / Assessment presents an assessment of needs and concludes that the key opportunity for an enhancement of the local community, social and cultural infrastructure of the area has been identified as part of the proposed scheme. This enhancement relates to an expansion of the services and facilities associated with the Kevin Street public library, which includes the provision of a new high-quality double height exhibition space. The report concludes that the proposed development, together with existing community and social infrastructure in the area, will result in a good standard of amenity and accessibility to necessary infrastructure for future residents and the wider area.
- 7.3.8. Overall, I am satisfied that the proposed development is acceptable in terms of the plans for the public realm, open spaces and community uses.

#### **7.4. Residential Mix:**

- 7.4.1. The Board will note the adoption and coming into effect of the new Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government, as amended on 23rd December 2020. Section 5 of the Guidelines introduced a new Specific Planning Policy Requirement 9, which relates to shared accommodation / co-living developments. The Board will note that the subject proposal being considered here does not relate to this residential typology and as such, this appeal is assessed on its merits and having regard to the relevant 2020 guidance.
- 7.4.2. The guidelines updated the guidelines from 2015 in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account

of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness, Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines, and specific policy objectives contained in these guidelines take precedence over policies and objectives of development plans. The aims of the guidelines are to enable a mix of apartment types, make better provisions for building refurbishment and small-scale urban infill schemes, address the emerging 'build to rent' and 'shared accommodation' sectors and to remove requirements for car-parking in certain circumstances.

7.4.3. Chapter 5 of the Guidelines deal with Build-To-Rent and Shared Accommodation Sectors. The proposed residential element of the development is described as long-term rental, to remain owned and operated by an institutional entity for a minimum period of not less than 15 years. The development is also advertised as such and therefore, falls within the definition of Build-to-Rent Developments provided in the Apartment Guidelines. The development also includes a range of amenities and facilities for future tenants.

7.4.4. In the context of the information presented, I am generally satisfied that the subject site is suitable for the proposed mixed-use development, including the residential element and if permitted, would add to the residential offer in the area. I note that there exists a variety of residential types in the immediate area and while I acknowledge the third-party concerns in terms of potential transient residents and the number of studio and one bed units proposed, I would note that the justification for such units has been submitted following an assessment of CSO data in terms of the population age profile in the electoral division of Royal Exchange A, in which the site is located. I will address this matter further below.

7.4.5. The Apartment Guidelines note that BTR schemes can deliver housing to the rental sector over a much shorter timescale than traditional housing models and can therefore make a significant contribution to the necessary increase in housing supply. As such, the residential element of the proposed development falls within the definition of BTR development. and it is required that the units comply with the requirements of SPPR 7 of the Apartment Guidelines.

7.4.6. SPPR 7 of the Guidelines provides that BTR development must be:



- (a) Described in the public notices associated with a planning application specifically as a 'Build-to-Rent' housing development that unambiguously categorises the project (or part thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;
- (b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:
  - (i) Residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.
  - (ii) Residential Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

7.4.7. In terms of compliance with SPPR 7 (a), the development has been described as a mixed-use development which includes 21,669m<sup>2</sup> of residential accommodation in Blocks D and E providing a total of 299 no. Build-to-Rent residential units, in all public notices and a draft agreement has been submitted with the application, as discussed above in Section 2.5 of this report. This agreement sets out that on completion of the development, the development shall remain owned and operated by a single entity. No residential unit shall be rented or sold separately for a minimum of 15 years. I have noted previously that the document submitted states that the agreement will bind the developer to restrict and regulate the development for a period of 15 years 'from the date of the planning permission (the Term)'. The

'Term' referred to in the draft agreement should not commence until the scheme is operational and not from the date of planning permission as indicated.

7.4.8. In terms of SPPR 7 (b), it is required that BTR developments be accompanied by detailed proposals for (i) residential support facilities and (ii) resident services and amenities. In terms of the proposed development in this regard, the Board will note that the BTR accommodation is supported by a range of communal and recreational amenities. Resident support facilities include a community lounge, WIFI lounge and information lobby, gym, billiards room and a cycle repair station, as well as a park lounge residential amenity space located on the fourth floor of Block D with a floor area of 235m<sup>2</sup> and a second external space on the 12<sup>th</sup> floor, with an area of 250m<sup>2</sup>. In addition, the wider scheme includes a creche facility and café/restaurant together with the wider public plaza and open spaces. Limited car parking and extensive bicycle parking is also proposed. The proposed internal communal space for residents amounts to 1,703m<sup>2</sup> which equates to approximately 5.7m<sup>2</sup> per unit. I am satisfied that the proposed development will be acceptable in terms of the provision of appropriate communal amenity facilities.

7.4.9. The residential element of the overall development includes 299 no. residential units comprising a mix of studio, one bed and two bed units. The proposed units' range in floor area between 37m<sup>2</sup> to 87m<sup>2</sup> and all include bathrooms, storage, kitchenette, sitting area and double beds, and a number also include private amenity space. The proposed mix will be as follows:

130 x studio units (43.48%) ranging in size from 37m<sup>2</sup> to 43m<sup>2</sup>

130 x 1 bed units (43.48%) ranging in size from 45m<sup>2</sup> to 57m<sup>2</sup>

39 x 2 bed units (13.4%) ranging in size from 79m<sup>2</sup> to 87m<sup>2</sup>.

7.4.10. In terms of the proposed mix, and in particular the number of studio and one bed units proposed, the Board will note that it is the policy of Dublin City Council, Section 16.10.1 of the Development Plan, to restrict the provision of one-bed or studio units in Build to let schemes to 42-50%. In addition, the Board will be aware of the third-party concerns with regard to the lack of family units within the proposed scheme, given the location of the site in the context of adjacent residential areas. The PAs Planning Officers report also notes the requirements of the Development Plan in terms of the proposed mix and the Board will note that this did not give rise to a

justification for a refusal of planning permission having regard to the provisions of the Apartment Guidelines. The Board will note my previous recommendation regarding Block D and the omission of 1 x 2 bed unit and 1 x 1 bed unit. In the context of the proposed development, I am satisfied that this amendment will not materially impact the compliance of the development with the Apartment Guidelines in terms of mix

7.4.11. I would note that the National Planning Framework (NPF) identifies that household sizes in urban areas tend to be smaller than those in the suburbs or rural parts of the country. Indeed, one, two and three person households comprise 80% of all households in Dublin City. I also note that the Apartment Guidelines, SPPR 8, provides that no restrictions on dwelling mix shall apply unless specified otherwise and flexibility shall apply in relation to the provision of storage and private amenity spaces. The requirement for the majority of all apartments to exceed the minimum floor area standards by a minimum of 10% and the requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes.

7.4.12. The need for apartments and smaller units has emerged following the applicants' assessment of CSO data in terms of the population age profile in the electoral division of Royal Exchange A, in which the site is located. The results of Census 2016 identified that this area of Dublin City had an average household size of 1.88 persons in 2016, compared to a city-wide average of 2.49 persons. The population age profile also identified that there is a larger cohort of under 40s in the area, with 52% in the 20-39 age range. As such, there is a larger proportion of 1 and 2 person households in the area, at 81%, compared to the wider constituency and Dublin City as a whole. The applicant submits that as identified by the NPF, and confirmed by the Census 2016 data, the higher proportion of studio and one bed units reflects the housing demand of the demographic profile of the area. I consider this to be a reasonable determination.

7.4.13. In terms of the residential mix I note that a housing demand needs assessment was not completed by the Planning Authority. Overall, however, I am generally satisfied that the principle of the proposed development complies with the Apartment Guidelines in terms of the residential mix. Given the context of the site, and the adjacent residential areas, which includes a large variety of family homes, together with the census data in terms of the age profile of the population in the area, I am

satisfied that the development, if permitted will address a housing demand identified for the area.

## 7.5. Residential Amenity

### Existing Residents:

- 7.5.1. The existing houses immediately adjacent to the site include two storey terraced housing on New Bride Street to the west and single storey over basement houses to the south on Camden Row. The Board will note that all of the third-party appeals submitted in relation to the proposed development cite concerns in terms of impact of the development on existing residential amenity. The impacts raised include visual amenity, as well as impacts of overlooking and overshadowing given the scale of the new buildings proposed. I propose to address matters relating to overshadowing and overlooking of adjacent properties in this section of my report.

### Overlooking:

- 7.5.2. The Board will note that the location of the subject site includes a variety of existing residential properties from the single storey over basement houses to the south of the subject site, to the two storey terraced houses along New Bride Street to the west and the 6 storey Iveagh Trust apartments to the north-west of the site. I also note the location of the 5 storey apartment building on the east side of the site on Kevin Street Lower and the 2½ storey buildings which front onto Liberty Lane to the east.
- 7.5.3. Block A: Block A fronts onto Kevin Street Lower and wraps around the corner onto New Bride Street. The office building will rise to 4 storeys at this prominent junction, as amended as part of the response to the PAs further information request, with the upper floors set back. The separation distance between this building and the Iveagh Trust apartments is in approximately 22m. I am satisfied that the separation distance adequately conforms to the standard 22m traditionally sought between opposing first floor windows and referred to in the Dublin City Development Plan 2016-2022.
- I also note that Block A has been set back from the existing two storey houses on New Bride Street in the order of approximately 12m. Having regard to the nature of the proposed use of Block A, together with the existing development at this location

of the site, I am satisfied that there is no significant issue arising with regard to overlooking of existing residential properties.

7.5.4. Block B: Block B also fronts onto Kevin Street and wraps around Church Lane South to the east. This office building lies in proximity to the adjacent College Court apartments with Church Lane South separating the site from the apartment building. There is a separation distance of 9.322m between the proposed building and the western elevation of College Court and Block B proposes a set-back from the 5<sup>th</sup> floor. While I note the third-party submission in terms of the potential for overlooking, I am satisfied that the proposed development has adequately considered the potential impacts on residential amenity of adjacent properties. I am satisfied that there is no significant issue arising with regard to overlooking of existing residential properties.

7.5.5. Block C: Block C will front onto Liberty Lane and will rise to 5 storeys in height. The Board will note that I have raised concerns in terms of the visual impacts associated with Block C in relation to the adjacent St. Kevin's Church & Graveyard site, as detailed in section 7.2 of this report. With regard to the impact of this block on the residential amenity of adjacent properties, I note that the building sets back from 1<sup>st</sup> floor level with a further set back at 3<sup>rd</sup> floor level. This building has been designed to minimise any potential overlooking of the apartments to the north, and the amenity space associated with same, and the upper floors of the building significantly exceed the 22m traditionally sought between opposing first floor windows.

7.5.6. Block D: This block is located centrally within the proposed development site extending towards Camden Row to the south. At its junction with Camden Row, the building rises to 4 storeys. At the 4<sup>th</sup> floor level, the Board will note that the development proposes a Park Lounge with a large terrace, part of which will be located adjacent to the existing residential properties to the west. I have raised concerns in terms of the potential impact of this section of Block D on existing residential amenities of the adjacent property particularly with regard to overlooking and noise impacts. I have recommended that this element be amended. With regard to the potential for direct overlooking of the existing private amenity space, the Board will note that the residential units on the western side of Block D are proposed such that they do not directly overlook the existing private amenity

spaces of the houses on Camden Row. I am therefore satisfied that the development is acceptable in this regard.

- 7.5.7. Block E: Block E is to be located within the same area of the site which is currently occupied by the 6 storey DIT/TU building, running in a north – south direction. In the context of the scale and height of this building, I have indicated that the proposed building is comparable to the building to be demolished. In addition, the Board will note that the design of Block E includes the setting back of the upper floors which will result in increased separation distances above the 22m standard requirement for opposing windows.

The proposed building will be located between 12.3m in the southern area and 26.1m in the northern area, from the existing rear windows of the houses fronting on to New Bride Street. I also note that not all proposed units include balconies and I acknowledge the existing boundary, which includes a large number of trees, will contribute to the protection of existing residential amenities. The Board will also note the proposals for landscaping on the western boundary of the site.

- 7.5.8. I am satisfied that overlooking to all properties contiguous to the subject site has been minimised and/or mitigated through design, siting, and screen planting and having regard to siting and orientation of existing houses. Overlooking does not occur to a degree such as would warrant a refusal of permission or consideration of additional mitigation, over and above that already proposed as part of the overall design.

Daylight/Sunlight/Overshadowing:

- 7.5.9. Section 3.2 of the Urban Development and Building Height Guidelines (2018), in terms of the at scale of the site/building, states as follows:
- The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.
  - Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

- Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

7.5.10. In addition to the Building Height Guidelines, the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020 also require at Section 6.6, that planning authorities' should have regard to quantitative performance approaches to daylight provision 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' when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specifics.

7.5.11. The applicant's Sunlight, Daylight and Shadow Assessment Report is based on the BRE Report "Site Layout Planning for Daylight and Sunlight" and the assessment examines the impact of the proposed development on adjoining residential properties, St. Kevin's Park and the existing Kevin Street Lower library and provides an analysis of the performance of the proposed residential Blocks D and E. At the outset, the report notes that the impact on amenity spaces and sunlight to windows was generally compliant with the standard BRE guideline recommendations but that the conventional global skylight VSC standards would not be compatible with the 'use zoning objectives' of the site. It is stated that test studies proved that achieving full compliance would impose inappropriate constraints on the form and scale of the development and would be at odds with the other design objectives.

7.5.12. The initial report submitted with the planning application noted that the existing skylight available due to the poor historic use of the site should not drive the development plan nor zoning objectives and appropriate light should be considered

in terms of other developments in the area. To this end, the report sets out the logic for reducing the BRE standard global target of 27% Vertical Sky Component (VSC ambient light) to 18% given the context of the site within the city centre. In arriving at the 18% figure, I acknowledge that the applicants' consultant considered a number of developments in the vicinity of the site where housing faces larger developments. I consider this approach both acceptable and appropriate and I am satisfied that the 18% VSC proposed, reflects the examples as provided within the BRE guidelines for city developments.

7.5.13. The Board will note that an addendum to the Sunlight, Daylight and Shadow Assessment Report was submitted to the PA following the request for further information to address the revisions made to the development with regard to Blocks A and B.

7.5.14. The submitted Assessment considered the potential impact of the proposed development on the neighbouring residential areas in relation to:

- Existing:
  - Impact / change for skylight – Vertical Sky Component (VSC)
  - Impact / change for probable sunlight hours – Annual APSH & Winter WPSH
  - Sunlight/shadow impacts / change to existing Amenity Spaces
- Proposed development:
  - Average Daylight Factors
  - Daylight Analysis of Existing Buildings
  - Amenity spaces

The Board will note that I will discuss the impact on the proposed development further below in this report.

7.5.15. With regard to the existing properties, the assessment identified the adjacent sensitive neighbours and considered the impact on the following:

- College Court apartments, including the amenity space, located to the north-east of the site.



- Houses facing onto Liberty Lane to the east.
- Houses on Camden Row to the south-west.
- Houses on New Bride Street to the west (includes houses on both sides of the street.
- Iveagh Trust Apartments to the west and north-west
- Apartments to the north of the site

7.5.16. I have considered the report submitted by the applicant submitted with the original application and the supplementary report included as part of the first-appeal documentation and have had regard to BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) – the documents referenced in Section 28 Ministerial Guidelines. I also note the concerns raised in the third-party submissions as they relate to the potential impact on light in their homes and amenity spaces.

7.5.17. In terms of the potential impacts on existing dwellings, I consider that there are two elements to be considered, including loss of sunlight to amenity spaces and overshadowing, as well as the impact of loss of light within both existing and proposed homes due to the development. The Board will note that the response to the PAs further information request included an addendum to the Sunlight, Daylight and Shadow Assessment included a specific assessment for the penthouse, No. 42 College Court Apartments.

Sunlight to Amenity Spaces / Overshadowing of existing properties

7.5.18. With regard to sunlight to amenity spaces, Section 3.3.17 of the BRE guidance document provides that for a space to appear adequately sunlit throughout the year, at least half of the garden or amenity area should receive at least 2 hours of sunlight on the 21st March. In terms of existing private amenity spaces, Section 2 of the initial report identifies the amenity spaces of the houses surrounding the subject site as described above. The Board will also note that the analysis does not include the existing vegetation along the site boundaries. The BRE Guidelines provide, section 3.3.9 refers, that “normally trees and shrubs need not be included, partly because their shapes are almost impossible to predict and partly because the dappled shade

of a tree is a more pleasant shade than the deep shadow of a building (this applies especially to deciduous trees)".

- 7.5.19. The 2011 BRE Guidance indicates that any loss of sunlight as a result of a new development should not be greater than 0.8 times its former size. The submitted Sunlight, Daylight and Shadow Assessment Report includes an assessment of impact on existing neighbouring gardens with the existing buildings in place, and with the proposed development. Section 3.3.11 of the BRE guidance states that if an existing garden or outdoor space is already heavily obstructed then any further loss of sunlight should be kept to a minimum. In such instances, the guidelines recommend that the sun hitting the ground in the garden/amenity space should not be less than 0.8 times its former value with the development in place.
- 7.5.20. With regard to the shadow analysis, the assessment presented the results in tabular form (pg 17 of report), noting that all tested neighbouring private amenity spaces pass the BRE requirement, having more than 50% of the amenity receiving over 2 hours of sunlight on the 21<sup>st</sup> of March or do not breach the 0.8 times its former value limit. I note that the greatest impact arises in terms of the shared amenity space associated with the College Court apartments located to the north-east of the site. The existing shared space will be impacted in terms of shadow by a ratio of 0.61, but I note that this will not reduce the area affected by greater than 50%, with the existing area of 95.2% reducing to 58.3%. This is in accordance with the BRE requirements. It is concluded that the sunlight / shadow to the majority of tested amenity spaces is substantially unchanged.
- 7.5.21. In terms of the private amenity space associated with the penthouse of College Court apartments, I note that 60% of the current private amenity spaces, which includes a marginal area within the roof terrace, receives 2 hours of sunlight on the test day of 21<sup>st</sup> March. The Board will note that with the development in place, this area reduces to 49%. While this figure falls below 50% of the surface area, I note that the change ratio is 0.82 and as such, complies with the BRE guidelines. The Board will also note that the existing amenity space includes an area which is north facing and is currently in full shadow on the test day. In this regard, I am satisfied that the impacts arising to this space is not so significant as to warrant refusal of permission.

7.5.22. Having regard to the provisions of national and local policies and objectives with regard to urban development including increased densities and regeneration within this area of Dublin City, together with the constraints associated by the subject site in terms of its position immediately south and west of existing housing and residential development, and my assessment with regard to the impact that arises in respect of the impact to sunlight to and overshadowing of existing amenity spaces, I consider that the potential for undue impacts on the amenities of the neighbouring residential properties can be reasonably discounted and that the discretion offered by Section 3.2 of the Sustainable Urban Development and Building Height Guidelines and Section 6.6 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) is such that, a refusal of permission is not warranted with regard to Sunlight to Amenity Spaces / Overshadowing of existing properties.

Light from the Sky impact on existing properties:

7.5.23. The BRE guidance for daylight and sunlight is intended to advise on site layout to provide good natural lighting within a new development, safeguarding daylight and sunlight within existing buildings nearby and protecting daylight of adjoining properties. Section 2 of the document deals with Light from the Sky and Section 2.2 of the guidelines set out the criteria for considering the impact of new development on existing buildings. The guidance in this regard is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms, and include as follows:

- Consideration of the separation distance – if it is three or more times its height, the loss of light will be small.
- Consideration of the angle to the horizontal subtended by the new development at the level of the centre of the lowest window – if the angle is less than 25° it is unlikely to have a substantial effect on the diffuse skylight in existing buildings.
- Consideration of the Vertical Sky Component (VSC) - If VSC is >27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum.

- If the VSC is both less than 27% and less than 0.8 of its former value, occupants of the existing building will notice the reduction in the amount of skylight.

The Guidelines suggest that the above considerations need to be applied sensibly and flexibly.

7.5.24. In the context of the above, the Board will note that I have employed all of the relevant Guidance documents in order to present a rational assessment of the proposed development, identifying potential impacts arising and consideration on the reasonableness or otherwise of identified potential impacts. My assessment is based on the identified national and local policies which support the increase in density of development within Dublin City centre on appropriately zoned and serviced lands and the need to provide new homes while considering the potential impacts on existing residents.

7.5.25. The Sunlight, Daylight and Shadow Assessment Report identifies the adjacent residential properties considered sensitive and presents the results of the skylight VSC on the sensitive properties identified. Of the 47 windows tested, the results show that 95% of the windows comply with the appropriate VSC target of 18%, with only 2 windows initially dropping below the check values as follows:

- Window W18 – which relates to no. 25 Camden Row and the house immediately adjacent to Block D to the west. This property already has a limited existing skylight at 15% and with the reduction associated with the proposed development, there is a disproportionately high change ratio of 0.66.
- Window W36 – which relates to No. 2 New Bride Street, across from Block A, marginally drops below the 18% test value to 17.7%. The report notes that this is not a cause for concern. The Board will also note that following the revisions to Block A as part of the response to the FI request, the VSC for this window rises to 19% and therefore the impacts to this window have been reduced to comply with the test value employed.

7.5.26. In terms of sunlight into living spaces, the Sunlight, Daylight and Shadow Assessment Report provides results for windows facing within 90° of due south, and those windows that serve living rooms or conservatories. Of all the windows tested, 100% pass the Annual Sunlight (APSH) requirements. In terms of the Winter

Sunlight requirements, 3 windows, W46-48 drop below the requirements. These windows comprise ground floor windows associated with the apartments which face the proposed development across Kevin Street Lower.

- 7.5.27. I am satisfied that the VSC assessment has been targeted to neighbouring windows / rooms / dwellings that are at the most challenging locations and demonstrate the worst-case scenario. Having regard to scale of the proposed development, together with the context of the site within the city centre, the Guidance document provides for judgement and balance of considerations to be applied. In this regard, I acknowledge the established need to provide new homes within Dublin City and to increase residential densities on zoned and serviced lands.
- 7.5.28. In respect of loss of light from the sky, and based on my assessment of the proposed development together with the information before the Board, I am satisfied that the assessment undertaken is robust and comprehensive and that it indicates that the impact on daylight reception to the neighbouring dwellings with the proposed development in place, without the existing tree line along the boundaries to the houses on New Bride Street and Camden Row, would generally meet the recommended standards set out in the BRE document "Site Layout and Planning for Daylight and Sunlight – a Guide to Good Practice" 2011. In addition, and having regard to the response to the PAs further information request, I note that the College Court Penthouse was also specifically tested. While I note the potential loss of skylight for a small number of windows associated with adjacent residential properties, I do not consider this loss to be so significant such as to cause an unacceptable impact on the residential amenity or daylighting of these homes, and it would not constitute such an impact as would warrant a refusal.

### **Future Residents**

- 7.5.29. In terms of the proposed development and proposed residential units, the Board will note that not all units are provided with private amenity spaces. Of the 299 units, 95 (31%) are provided with balconies located on the western and eastern elevations of Block D and terraces at ground floor level with balconies on the upper floors of Block E. Where private amenity spaces are provided, I am satisfied that they comply with the minimum requirements in terms of depth and size as required in the Apartment Guidelines, and I note that all balcony amenity spaces pass the BRE requirements

with regard to achieving a minimum of 2 hours of sunlight. I note the provisions of SPPR 8(ii) of the Guidelines which allows flexibility in the provision of private amenity space associated with individual BTR units. This flexibility is facilitated subject to the provision of compensatory communal facilities and amenities for use by residents.

7.5.30. The proposed development provides a large area of communal amenity spaces at street level as discussed above in Section 7.3 of this report in the context of public realm and open spaces. In terms of the open space within the scheme, the Board will note that I consider the provision to be of high quality. I note the proposed provision of 2 external residential terraces at 4<sup>th</sup> and 12<sup>th</sup> floor levels in Block D as well as the additional resident support services and amenities within the complex including a community lounge, WIFI lounge and information point lobby at ground floor level and residential gym, residential storage, billiards room, waste and recycling, cycle storage and repair at lower ground mezzanine floor level of Blocks D and E. Overall, I consider the proposed development to be acceptable in terms of the provision of amenities for future residents.

7.5.31. The proposed mix of residential units within the proposed scheme is as follows:

130 x studio units (43.48%) ranging in size from 37m<sup>2</sup> to 43m<sup>2</sup>

130 x 1 bed units (43.48%) ranging in size from 45m<sup>2</sup> to 57m<sup>2</sup>

39 x 2 bed units (13.4%) ranging in size from 79m<sup>2</sup> to 87m<sup>2</sup>.

7.5.32. I would accept that the size of the units as proposed adequately comply with the minimum floor spaces for unit type, and I note that all residential units provide for adequate storage and comply with the minimum widths and aggregate area standards detailed in the Apartment Guidelines. The submitted Housing Quality Assessment submitted in support of the proposed development notes that of the 299 residential units proposed, 101, or 33.7%, have the benefit of dual aspect. I also note that no single aspect unit is north facing, with the majority of the units orientated east and west. Given the location of the subject site within a central area, and notwithstanding the concerns raised by third parties in terms of the quality of amenity for future residents, I am satisfied that the development complies with the guideline requirements in this regard. I am further satisfied that the proposed lift and stair cores are acceptable in the context of SPPR 8(v) and the number of apartments per floor per core applicable.

### Daylight / Sunlight

7.5.33. In addition to the above, the Board will note that the applicant submitted a Sunlight, Daylight and Shadow Assessment Report, prepared by Chris Shakleton Consulting. As part of this assessment, the Board will note that a consideration of the development performance, including an internal analysis of the development was included in Section 5 of the report. The assessment tested the habitable areas (living rooms and bedrooms and excluding storage, washroom, utility and circulation space as well as food preparation areas) on selected floors including ground, 1<sup>st</sup> and 5<sup>th</sup>, in Blocks D and E. I have noted above that the submitted assessment has been prepared in accordance with the relevant BRE Guidance.

### Sunlight to Amenity Spaces / Overshadowing of proposed units

7.5.34. The Board will note that not all of the proposed residential units include private amenity spaces or balconies. Of the private amenity spaces tested, including the balconies proposed at 1<sup>st</sup> and 5<sup>th</sup> floors of Block D and the 5<sup>th</sup> floor of Block E, all passed the 2hrs of sunlight on 21<sup>st</sup> March to at least 50% of the amenity. In terms of the shared amenity space proposed associated with the development, the shadow / sunlight assessment calculates that that 70% of the shared spaces will receive at least 2 hours of sunlight on the test date.

7.5.35. With regard to the quality of the shared amenity spaces proposed, I am satisfied that the development is wholly acceptable, and I have noted the quality of this space previously. Where private amenity space is proposed, I am satisfied that same will afford an appropriate level of residential amenity for future occupants of the development.

### Light from the Sky impact on proposed residential units:

7.5.36. In respect of new dwellings, the standards and guidelines recommend that for the main living spaces/living rooms a minimum average daylight factor of 1.5% is achieved, for bedrooms 1% and kitchens 2%. For shared spaces the higher ADF is recommended as the target. The applicant has argued that for kitchen/living rooms that an ADF of 1.5% is the appropriate target ADF level (in lieu of 2%). Having regard to the city centre location of the site and given the nature of the apartments in terms of design and layout, ie accepting that these rooms primarily function as living/dining rather than kitchens, I am satisfied that this is an acceptable approach

and level. I note the reduced ADF target for kitchen/living rooms in the BS EN 17037:2018 'Daylight in buildings, however, as stated previously, BS 2008 remains the applicable standard, as provided for in the s.28 Guidelines and Development Plan. The BS and BRE guidance allow for flexibility in regard to targets and do not dictate a mandatory requirement. It may be further noted that having regard to the separation between blocks, the quality and extent of balconies where provided and the aspect and view from the proposed units, including no north facing single aspect units, I am satisfied that the applicant has endeavoured to maximise the sunlight and daylight to the buildings.

- 7.5.37. In terms of Light Distribution ADF, the assessment concludes that in Block D, all 12 habitable rooms pass at ground floor level, 35 of 36 habitable rooms pass at 1<sup>st</sup> floor level and 22 of 23 habitable rooms pass at 5<sup>th</sup> floor level. In Block E, 13 of 15 habitable rooms pass at ground floor level, 19 of 22 habitable rooms pass at 1<sup>st</sup> floor level and 21 of 22 habitable rooms pass at 5<sup>th</sup> floor level. The ADF for 94/95% of the fully tested floor plates for ground, 1<sup>st</sup> and 5<sup>th</sup> floors, amounting to 130 rooms, comply with the BRE requirements, with the average ADF for both living rooms and bedrooms calculated at 2.7%.
- 7.5.38. I am satisfied that the windows tested across the scheme include the worst-case scenario units on the ground and 1<sup>st</sup> floors and in this regard, it is reasonable to conclude that other windows which would have an improved predicted impact, but not tested, are likely to pass the ADF test. In the context of the overall development, and if all other rooms within the proposed development, including those in the upper floors, I consider it reasonable to conclude that the percentage rate would increase. Of the 4 living rooms and 3 bedrooms within the scheme that failed the Average Daylight Factor levels, the Board will note that they fail in the order of between 0.1-0.2 of the ADF % factor. Bedroom no E122 is located to the north of Block E within a 2 bed apartment E-01-04 and the ADF is calculated at 0.6.
- 7.5.39. The Sunlight, Daylight and Shadow Assessment Report also includes a check on the annual and winter probable sunlight hours in the living rooms. Clause 3.1.15 of the BRE guidance document indicates that a dwelling will appear reasonably sunlit provided at least one main window faces within 90° of due south and the centre of at least one window can achieve 25% of annual probable sunlight hours (APSH), including at least 5% of APSH in winter months. Of the 39 windows tested in Block D



35 of 39 passed the 25% test with only 1 of those windows falling below 20% and all windows passing the winter 5% target. In terms of Block E, 29 of 38 windows passed the 25% target, with 1 of those failing below 20% and 34 of 38 windows passing the winter 5% target. The overall pass rate for the tested windows is 83% APSH and 95% in the winter months.

- 7.5.40. In terms of residential amenity for the future occupants of the proposed BTR scheme, I would generally accept that the development is acceptable and overall. I consider that where the tested living rooms failed, they were only marginally below the guidelines. As such, I am satisfied that the proposed development adequately meets residential amenity levels for future residents in respect of sunlight / daylight as measured by the % of rooms meeting ADF standards. Where the guidelines have not been met, I am satisfied that the breaches are not so material as to warrant refusal of permission.

## **7.6. Impacts on Protected Structures & Archaeology**

### Built Heritage & Protected Structures:

- 7.6.1. While the proposed development does not include works to a Protected Structure, the area immediately adjacent to the site includes a number of buildings which are included on Dublin City Councils Record of Protected Structures. The area to the south-west of the site is zoned Zone Z2: Residential Neighbourhoods (Conservation Areas) in the Dublin City Development Plan 2016-2022 where it is the stated objective "To protect and/or improve the amenities of residential conservation areas". A number of the protected structures are also identified in the NIAH. Kevin Street Library has recently been included in the NIAH and I note that all the houses on Camden Row listed in the NIAH have been afforded a Regional Rating, as has the Library. St. Kevins Church which lies to the south-east of the site boundary is also identified in the NIAH as having a regional rating, as well as being included as a National Monument.
- 7.6.2. The protected structures to the north of the site include the Moravian Meeting House buildings located to the north side of Kevin Street Lower. The two buildings were constructed as extensions to the adjoining Moravian Church to the north, also a protected structure and all are included in the NIAH. In addition, the Kevin Street

Library lies immediately adjacent to the subject site and the proposed development will impact this building due to the proposed extension of the library to the rear as well as the proposal to provide a bridge between Block A and Block B above the rear area of the original library building. The Board will note that the EIAR submitted with the application suggests that as these buildings pre-exist enclosed in the setting of taller buildings, and no direct impacts are predicted.

7.6.3. With regard to the library, it is submitted that the proposed development seeks to replace the existing building with one broadly similar but that the development will introduce a permeable boundary in the form of glazing and animation together with an active elevation. While a number of third parties have raised concerns in relation to the impact of the development on this building, I am satisfied that the development will not significantly impact on the character and setting of the Kevin Street Library, and I am satisfied that the applicant has had due regard to the context of this building in the streetscape and as part of the overall development.

7.6.4. In addition, the Board will note that the applicant considered the impact of the proposed development in terms of the Sunlight, Daylight and Shadow Assessment Report, Section 4 of the report submitted refers. In terms of VSC, the report notes that a number of the windows tested are sloped / roof lights rather than vertical. In this regard, I note that the BRE guidelines do not provide alternative values for the assessment of such windows. The assessment presents the tabulated results for VSC on page 26 of the Sunlight, Daylight and Shadow Assessment Report and it is noted that over the full library building, 7 tested windows do not comply with the requirements. When considered overall however, the analysis of the library building shows very high VSC levels within the front room, the corridor and mezzanine areas. The rear of the building is lit by two long transverse pitched roof lights and the analysis tested 6 points along each. The three points tested on both south facing slopes, fall below the requirements. These windows will be impacted by the positioning of Block B and the proposed bridge between Block A and Block B, as well as the proposed double height exhibition space proposed as part of the overall scheme.

7.6.5. The Board will note that the north facing slopes of the roof lights will pass the VSC requirements and as such, it can reasonably be concluded that the rear room of the Library, while impacted to a certain degree, the impact is not so significant as to

warrant refusal of permission, or indeed, the inclusion of any mitigation measures. I also note the analysis of the applicant with regard to the existing level of light reaching the library rooms. It is submitted that the current average ADF for the building ranges from 6.3% in the front to 13.3% in the rear room. Such levels are considered to be excessive and uncomfortably bright. It is submitted that the proposed development will improve the light levels across the library building to more normal and compliant levels. I also note that the proposed exhibition space will have an ADF at 1.2% which is considered appropriate for the proposed use, which will be supplemented by specific controlled task lighting. I am satisfied that the proposed development is acceptable in terms of the potential impacts to Kevin Street Library.

7.6.6. With regard to the Moravian Meeting House buildings, the EIAR notes that the setting of these buildings also pre-exists 'enclosed' by taller structures. The adjacent building to the east of these buildings rises to 4 storeys with a 5<sup>th</sup> storey set back, while the apartment block to the west, also rising to 5 storeys is set back from the road edge which provides a separation from the protected structures. There is also a laneway, approximately 5m in width, between the apartment block and the Moravian buildings which enhances the setting. Having regard to the nature of Kevin Street Lower, particularly as one moves west, I am generally satisfied that the proposed development is acceptable in terms of the Moravian Meeting House buildings.

7.6.7. To the south, the Board will note that the houses in the Z2 Residential Neighbourhoods (Conservation Areas) are also included in the NIAH, with a regional rating and are protected structures. The single storey over raised basement terrace of houses is bookended to the west at the corner of Camden Row and New Bride Street with the Former Girls & Infant School which is a two storey over basement, early 19<sup>th</sup> Century stone building. The scale of the building is more equivalent to a three-storey building and retains its historic context and appearance at this prominent corner location.

7.6.8. The proposed development seeks to align and scale the Camden Row roadside façade of Block D to create a bookend to the east of the terrace of houses and the applicant suggests that the 4-storey height and the maintenance of the building line defers to the scale of the school. While I would acknowledge that the overall height of the proposed roadside element of Block D is comparable to the school, I have concerns regarding the scale and design elements are incompatible with the existing

protected structures to the east and would significantly affect the existing character and setting of these structures.

- 7.6.9. In addition to the impact of Block D on the houses and my previous concerns in terms of Block C on the adjacent St. Kevin's Park, I note the concerns of the Dublin City Archaeologist that the overall scale and proximity of Block D to the park will negatively impact the setting and character of the park, and the protected structure and national monument located within it. The impact extends to the reduction of light from the church and graveyard as well as the visual impacts associated with the development.
- 7.6.10. The Board will note that the proposed development will enhance access to the St. Kevin's Park with the reinstatement of the northern entrance and reopening of the historic laneway from Kevin Street Lower. The creation of the new pedestrian street will be open 24 hours a day and connect to Camden Row to the south. I note that this was recommended in a 2019 feasibility report carried out by Sean Harrington Architects for Dublin City Council Parks Department in relation to St. Kevin's Park. The Board will also note that the submitted Sunlight, Daylight and Shadow Assessment Report presents a shadow plot for St. Kevin's Park. The BRE analysis shows that the park will receive 2hrs of sunlight on the 21<sup>st</sup> of March and I note the southern orientation of the park. The details suggest that at the March and September Equinoxes, the park will be in partial shadow from 4pm and substantially in shadow from 5pm, and again from 5pm on the summer solstice in June and almost complete shadow by 6pm. I am satisfied that this is acceptable.
- 7.6.11. The Board will note that the applicant submitted additional photomontages to demonstrate the relationship between Blocks C and D and St. Kevin's Park as part of their response to the PAs further information request. I particularly have had regard to Plate 4b and Plate 8b which present two photomontages depicting Blocks C and D. While I acknowledge that Block D will have a visual impact on the park, I am satisfied that the existing trees within the park provide appropriate screening. The proximity of Block C, however, makes it impossible to mitigate the visual impact within the protected structure and recorded monument site. Should the Board be minded to grant permission in this instance, I again recommend that Block C be omitted or amended to reduce the visual impacts on the adjacent St. Kevin's Park.

Archaeology:

7.6.12. In terms of archaeology, the site is located within a zone of archaeological constraint for the Recorded Monument DU018-020 (Dublin City) which is listed on the Record of Protected Monuments and Places and subject to statutory protection under Section 12 of the Monuments Act 1994. In addition, the site is located within the Zone of Archaeological Potential for the City. The site lies immediately adjacent to St. Kevin's Church & Graveyard, Recorded Monument DU018-020078-, and the submitted application included an historical assessment as part of the EIAR, submitted under separate documents, as required under Policy CHC9 of the Dublin City Development Plan which states that it is the policy of the council:

To protect archaeological material in situ by ensuring that only minimal impact on archaeological layers is allowed, by way of the re-use of buildings, light buildings, foundation design or the omission of basements in the Zones of Archaeological Interest.

7.6.13. The reports submitted included details of site investigations and archaeological assessments carried out under licence and are discussed under my EIAR assessment below. Full details of the survey carried out in terms of the historic graveyard boundary wall was also submitted together with proposals to stabilise same. Following additional surveys carried out in June 2020, and in response to the planning authority's FI request, the basement area of the development was reduced in an effort to remain outside the historical northern boundary of the graveyard.

7.6.14. The EIAR acknowledges that it is impossible to avoid direct impacts on archaeology as the proposed development includes the construction of basements which will result in the removal of all archaeological remains buried on the site. Mitigation measures submit that where avoidance of impacting on archaeological deposits is not considered possible, the next step is to 'preserve by record'. Preservation by record involves the archaeological excavation of all deposits impacted by development works and is undertaken by a team of archaeologists who hand-excavate and record the deposits and structures either to natural deposits or to an agreed level.

7.6.15. The Board will note that the City Archaeologist, following the submission of the response to the FI request, continued to raise concerns in terms of the visual

impacts associated with the proposed development on the St. Kevins Church & Graveyard. I also note, however, that conditions were included in his report in the event of a grant of planning permission. Overall, it is acknowledged that the proposed development will have an impact upon the character and context of the historic site. The existing buildings on the site are currently constructed to the boundary of St. Kevin's Park and while the proposed development represents a higher scheme, the buildings will be set back from the site boundaries. On balance, I am satisfied that the proposed development, subject to the omission of Block C and amendments to Block D as discussed above, is acceptable in terms of built heritage and archaeology.

## **7.7. Roads & Traffic**

- 7.7.1. The applicant included a Traffic Impact Assessment as part of the planning documentation. The assessment concludes that the development can be supported by the existing road infrastructure, that the parking provision for the proposed development conforms to the relevant local and national standards and that the development access design and internal layout are fit for purpose and comply with DMURS. The report considers the impact of the development on the existing road network including the operation of the key junctions on New Bride Street and Camden Row. A Mobility Management Plan Framework has also been prepared with the intention that a MMP is to be put in place by the developer to encourage and support more sustainable travel patterns among both residents and office employees at the proposed development.
- 7.7.2. Access to the site will be via a new entrance off New Bride Street which will provide both vehicular and cyclist access to the basement car and bicycle parking areas. The subject site currently has two vehicular access points, from Kevin Street Lower to the north and from Camden Row to the south. The proposed development will result in the closure of these two existing access points and all traffic associated with the office and residential development will be via a new entrance to be located on the western boundary onto New Bride Street.
- 7.7.3. In terms of the traffic generated and trip distribution arising from the proposed development, the applicant employed trip generation factors from the TRICS database to predict for the AM and PM peak hour periods. The Trip Generation

Rates are presented in Table 2 and the Overall Development Trip Generation figures are presented in Table 3 of the TIA, with total trips calculated at 165 (97 arrivals and 68 departures) in the AM peak and 151 (75 arrivals and 76 departures) in the PM peak periods.

- 7.7.4. In terms of trip distribution, the TIA assumes that vehicular traffic to and from the development shall be distributed north and south along New Bride Street in the same proportions as the surveyed traffic accessing the Iveagh Trust at survey site J2. In terms of increases in traffic at the junction survey sites, details of which are presented in Table 13 of the TIA, the figures suggest that the development will result in a minimal proportional increase in the total traffic flows at most of the junction. The junction at the Iveagh Trust access onto New Bride Street will see an increase of more than 10% in the total junction traffic movements in the peak hour periods, with an increase of 13.7% in the AM peak and 13.0% in the PM peak. Junction survey sites J1, J3 and J4 show predicted proportional increases of 5% or more and as such, these junctions have been subject to detailed operational assessments as required in the TII Traffic and Transport Assessment Guidelines. The other 4 junctions are considered at negligible risk of detrimental effects as a result of the proposed development.

### **Operational Assessment**

- 7.7.5. To determine the likely traffic impact of the proposed development, operational assessments of the following 5 key junctions have been undertaken using the computer programme TRANSYT for both AM peak and PM peak hours:

J1: Bride Street / Kevin Street [R110] / New Bride Street

J2: New Bride Street / Iveagh Trust

J3: New Bride Street / Camden Row / Heytesbury Street / Long Lane

J4: Camden Row / Liberty Lane

J5: New Bride Street / Development Access.

The performance of the junctions has been assessed under a number of scenarios.

- 7.7.6. The modelling results suggest that in each of the years assessed, the additional vehicular traffic generated by the proposed development is shown to have a negligible impact on junction performance, adding no more than 1 PCU to any mean

approach queue and from having no discernible impact on, to between 1 and 4 seconds to the mean, vehicle delay on any approach for any of the junctions assessed. I am satisfied that the proposed development can be accommodated in terms of the existing roads infrastructure and will not adversely impact the existing roads in terms of traffic flows or capacity.

### **Car Parking**

- 7.7.7. The site is located within Zone 1 in terms of car parking provision. The Board will note that following the request for further information, the development reduced the proposed quantum of car parking from 217 spaces to 161 spaces to provide 61 spaces for the residential element and 100 spaces for the office use. I note the Transportation Planning Division of Dublin City Council sought a further reduction in the number of parking spaces for the office development, at 1 space per 1,000m<sup>2</sup> of office space, which would equate to 50 spaces. Following the response to the FI request, the applicant has argued that the proposed provision of car parking has already been reduced in the context of the City Development Plan requirements and that there is currently no policy objective or standard supporting such a significant reduction to a ratio of 1:1,000m<sup>2</sup>.
- 7.7.8. National policy, including the Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018, section 4.18 and 4.19, facilitate the reduction in the provision of car parking spaces, or the elimination of such provision in certain circumstances. I also note the content of the report from the Transportation Planning Division of DCC following the submission of the response to the FI request. It is submitted that a maximum of 126 no. car parking spaces should be permitted for the combined development incorporating 61 residential spaces, 50 no. commercial spaces and 15 no. car share spaces. I note that the planning officer agreed with the applicant in this instance and accepted that the proposed 100 parking spaces for the office space will not prejudice the safe or efficient operation of the surrounding infrastructure and is acceptable.
- 7.7.9. Given the location of the site I am satisfied that a reduced level of car parking can and should be considered appropriate to serve the proposed development. I also note the arguments raised by the applicant to provide for a ratio of 1:500m<sup>2</sup> of office floor space in terms of car parking in the context of the City Development Plan.



However, national policy and guidance seeks to reduce the provision car parking and promote the use of more sustainable modes of transport. In this regard, I am inclined to agree with the Transportation Planning Division Engineer. Should the Board be minded to grant planning permission in this instance, I recommend that the car parking provision for the development be reduced further to a maximum of 126 no. car parking spaces should be permitted for the combined development incorporating 61 residential spaces, 50 no. commercial spaces and 15 no. car share spaces.

### **Bicycle Parking**

- 7.7.10. In terms of cycle parking provision, the development site is again, located within Zone 1 in the City Development Plan for cycle parking. To serve the proposed development, 1 cycle parking space is required per residential unit, 1 space per 100m<sup>2</sup> of office space, 1 space per 150m<sup>2</sup> of café space and 1 space per 100m<sup>2</sup> of cultural building space amounting to 836 spaces for the original layout. In this regard, the development has a cycle parking requirement of 836 spaces. The proposed development initially provided 1,302 bicycle parking spaces. The layout provided for 1,250 spaces at basement level with 50 visitor parking / short stay spaces provided at surface level.
- 7.7.11. Following a request for further information, and amendments to the proposed development, the number of bicycle parking spaces increased to 1,708 spaces. Josta 2-Tier High-Capacity Racks are proposed to be installed in the bicycle storage areas. I note the concerns raised in relation to the lack of proposals for a cycle lift as part of the scheme as well as the lack of any cargo bicycle spaces. The Board will note that the Transportation Planning Division of Dublin City Council has recommended the inclusion of a number of condition in relation to the details of the bicycle parking including proposals for bicycle lifts and / or a separate bicycle ramp to be provided in addition to the bicycle stair ramp/channel proposed. This is required to improve access to this area of the development for all users including cargo bike users. I consider that should the Board be minded to grant permission in this instance, these requirements are both reasonable and necessary and relevant conditions for their provision should be included.

### **Servicing:**

7.7.12. With regard to servicing of the proposed development, I note that the internal layout of the development allows for both deliveries and waste collection to be conducted within the development itself. There will be no obstruction to either vehicles or pedestrians on the existing road network in the vicinity of the site. A new loading bay proposed on Kevin Street Lower will also serve as a set down area for taxis. I have no objections to the development in this regard.

### **Mobility Management Plan**

7.7.13. A Mobility Management Plan Framework has been submitted in support of the proposed development as a mechanism by which the development can maintain a low rate of private car use and support the objectives of sustainable development. The plan is identified as a template for the implementation of a full Mobility Management Plan on the completion and operation of the development. A Mobility Management Coordinator will be appointed to implement the Plan and monitor its performance. It is submitted that the MMP should be considered as a dynamic process and includes a number of measures to provide more sustainable transport choices.

7.7.14. The MMP identifies the location of the site within the city centre and presents details of the accessibility of the site in terms of pedestrians and public transport services including buses, the LUAS and DART services, as well as shared transport services such as the GoCar sharing service and Dublin Bikes docking stations. Section 7 of the MMP sets out the 3 no. objectives of the MMP for the proposed development, while Section 8 sets out the initial targets for the MMP, which includes a 10% target for staff and 6% residents driving. A condition should be included in any grant of planning permission requiring the submission of an updated Mobility Management Plan to the planning authority for approval prior to the occupation of the development.

### **Conclusion**

7.7.15. Having regard to the above, and subject to the inclusion of appropriate conditions as described, I am satisfied that the development is acceptable at this location with regard to roads and traffic and will not, if permitted, result in any significant impacts on the adjoining road network.

## 7.8. Water Services

- 7.8.1. In terms of water services, the Board will note that the applicant submitted an Engineering Services Report, prepared by CS Consulting Group, in support of the proposed development. This report sought to address how the development will be catered for in terms of water and drainage infrastructure. Section 3.1 of the report notes that the Dublin City Council records indicate that there are only combined public sewers in the vicinity of the site.

### **Foul Drainage:**

- 7.8.2. The report sets out details of the existing foul arrangements and notes that all foul effluent generated from the ground and upper floor levels of the proposed development shall be collected in separate foul pipes and flow by gravity to the ground floor level where it shall outfall into the existing 300mmØ combined sewer on Church Lane South via a new connection. For the basement levels, all foul effluent shall be collected in pipes of 150mmØ and flow under gravity to a foul pump station located in the proposed plant room at basement level -3. The foul effluent shall be pumped back to ground floor level where it shall discharge to the foul network and outfall under gravity as per the upper floors.
- 7.8.3. The report at Section 3.3 sets out the full details of effluent generation arising from all elements of the proposed development and submits that the development will generate wastewater in the order of 549.91m<sup>3</sup>/day which equates to:
- 6.364l/sec Average Flow and
  - 38.188l/sec Peak Flow (taken as 6 times average)

- 7.8.4. The Board will note that full proposals for the foul water drainage infrastructure and routing plan are presented in the drawings submitted in support of the proposed development and a response to the Pre-Connection Enquiry from Irish Water indicates that the proposed connection to the IW Network can be accommodated.

### **Storm Water Drainage:**

- 7.8.5. The development is required to limit its storm water discharge to 2l/s/Ha. The attenuation volume to be retained on the site for a 1-in-100 year extreme storm event, plus 20% for climate change requirements, indicates that a volume of 1,284m<sup>3</sup> is required to be provided. It is submitted that all storm water events will restrict flow

from the development using a flow control device and an attenuation tank will be provided to retain storm water volumes predicted.

- 7.8.6. The proposed development includes a number of SuDS proposals to be implemented including the use of green roofs to both residential and commercial blocks, low water usage sanitary appliances, footpaths and hardstanding areas will be directed into tree pits or landscaped areas to allow for local filtration and road gullies will be trapped to allow for the removal of grit and other potentially harmful material entering the storm network.

**Potable Water:**

- 7.8.7. The report sets out details of the existing potable water arrangements and the Board will note the letter from Irish Water advises that the connection to the network can be facilitate, subject to a number of upgrade works to the existing network. It is indicated that the development has to be connected to existing 160mm MOPVC with a 200mm ID pipe from approximate length of 15m. Connection main must be connected to the 160mm HDPE main south as the other mains surrounding the development are not suitable to connect the development onto.

**Flooding:**

- 7.8.8. A site-specific Flood Risk Assessment was prepared by CS Consulting Group for the subject site. The subject site is located within Flood Zone C and is not located within an area where mitigation measures are required in terms of fluvial flooding, tidal flooding or pluvial flooding events.
- 7.8.9. Following the request for further information, the applicant submitted further details to address concerns raised in relation to the potential risk to the development from pluvial flooding. This risk relates to the pluvial flood maps prepared as part of the EU IVB Flood Resilient City Project which indicates that the potential risk to the development with flood depths of up to 800mm for a 3hr 1% AEP rainfall event. The updated FRA submits that while there is no evidence of pluvial flooding affecting the site in the past, part of the site adjacent to Camden Row has been highlighted as being potentially vulnerable to pluvial flooding events.
- 7.8.10. Further consideration of the mapping suggests that they should be viewed as more indicative than highly accurate as the area of the site indicated as being potentially at risk is at the high point of the site. There is no readily identifiable route for pluvial

flood waters from Camden Row to enter the site. It is submitted that the site would not appear vulnerable to pluvial flooding. Drawing W021/SK008 shows details of potential flood paths through the scheme should a pluvial event be experienced but it is concluded that at no time would any of the residential units in the scheme be vulnerable to pluvial flooding. The risk of pluvial flooding is deemed to be within acceptable limits and mitigation measures are not required.

- 7.8.11. As part of the Greater Dublin Strategic Drainage Study, the existing public drainage system in Dublin was modelled for a number of different development scenarios with the predicted future scenario 2031 the most relevant hydraulic model to review. It is noted that the sewers to the north of the site on Kevin Street Lower and on Church Lane South, surcharge for a 1 or 2 year return period. The sewers located on Camden Row do not flood for a 30 year return period event or less. Storm water arising within the site will be attenuated on site and released at a controlled rate into the existing 300mmØ combined sewer on Camden Row. Therefore, the overall hydraulic capacity of the sewers to the north of the site will increase post development and the increased capacity will have the beneficial effect of reducing the likelihood of flooding issues occurring due to off-site drainage network surcharge.
- 7.8.12. In terms of groundwater flooding, the site overlies a locally important aquifer with a groundwater vulnerability of moderate. In addition to the Engineering Services Report, the applicant submitted a Hydrogeological Impact Assessment as part of the Basement Impact Assessment prepared by RKS Group Ltd. Site investigations recorded groundwater in boreholes at estimated depths of 3.00mbgl to 12.0mbgl, with resting groundwater depths recorded at depths of between 2.67mbgl and 5.46mbgl (8.42mAOD to 9.86mAOD). The basement will have floor levels at approximately 3.9mAOD and 0.5mAOD (8m and 11.5m below the existing ground levels) and below the recorded groundwater levels. The report notes that the basements of adjacent properties do not form fully penetrating structures and as such, groundwater flow is permitted not only around the basement but beneath them too. It is therefore considered unlikely that there will be any significant impact to any nearby structure.
- 7.8.13. In terms of the information submitted, I am generally satisfied that the development can be accommodated in terms of water services. I also note that the Drainage Division of Dublin City Council has raised no objection to the proposed development.

## 7.9. Other Issues

### 7.9.1. Material Contravention:

7.9.2. The Board will note that the Planning Authority report makes no reference to any material contravention of the Dublin City Development Plan. It is noted that Section 37(2)(b) of the Planning and Development Act 2000, as amended, provides that the Board is precluded from granting permission for development that contravenes materially the development plan, except 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 should be granted having regard to regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.9.3. In terms of the above, I would accept that the subject application seeks to provide both commercial floor space and residential units in the form of a build-to-rent scheme. It is the stated policy of Government, as detailed in Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040, to fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I consider that the subject site meets these requirements.

7.9.4. In addition, I note that by 2040, the NPF projects a need for a minimum of 550,000 new homes, at least half of which are targeted for provision in Ireland’s five cities (Objective 3b). The NPF also signals the Government’s policy towards securing more compact and sustainable urban development, which requires at least half of new

homes within Ireland's cities to be provided within the existing urban envelope (Objective 3a). In addition, the Board will note National Policies 13 and 35 refer to building height and car parking being based on performance criteria and increasing density through area or site-based regeneration and increased building height. As such, I consider that the proposed development might reasonably be considered as meeting the requirements of Section 37(2)(b)(i) of the Act.

- 7.9.5. Section 37(2)(b)(ii) and Section 37(2)(b)(iii) of the Act relates to instances where there are conflicting objectives in the Development Plan or where objectives are not clearly stated as well as having regard to relevant guidelines and national policies. The Board will note that the Planning Report submitted in support of the proposed development acknowledges the policies of the Dublin City Development Plan in relation to building heights. While the Plan includes policies and objectives which seek to provide for higher residential densities and ensure the efficient use of zoned lands, Section 16.7.2 of the plan seeks to restrict building heights to a maximum of 28m. The applicant, in this regard, considers that the proposed development with increased height is justified in the context of the NPF and the 2018 Building Height Guidelines, which supersede contradictory policies in the CDP.
- 7.9.6. These guidelines and policies seek to increase residential densities on zoned and serviced lands and the Apartment Guidelines provide clear guidance in terms of the types of locations which are considered appropriate for higher density apartment developments within central and / or accessible locations, subject to the site meeting all the cited criteria for such development. While I would fully accept that in order to achieve increased and sustainable densities at locations within the city centre, I would also note that the Dublin City Development Plan clearly identifies a number of locations where the principle of taller buildings, above the 28m maximum referred to in the applicants' submission, are deemed appropriate and acceptable in the context of the existing low-rise nature of Dublin. I also note that the subject site is not located within one of the four locations identified in the CDP and is located within a transitional zone at the southern edge of the Z5 zoning in the Plan. As such, I would consider this argument to be subjective in the context of Section 37(2)(b)(ii).
- 7.9.7. In relation to the Building Height Guidelines the applicant has submitted precedents for higher buildings within Dublin City Centre, which would exceed the limits set in the Dublin City Development Plan. I would also acknowledge that the existing

structures on the site rise to 6 storeys and I would wholly accept that the site constitutes an underutilised brownfield site at this city centre location. I would accept that the site is capable of accommodating a development which includes buildings taller than those existing on the site. It is clear that the thrust of the Building Height Guidelines has been applied to the full in the design and scale of the development proposed and that the density of development sought, seeks to maximise the national policy in this regard.

- 7.9.8. Section 37(2)(b)(iv) relates to the pattern of development in the area and permissions granted in the area since the making of the Plan. I would note that the applicant has submitted details of developments which have been permitted for higher buildings in Dublin City Centre, I would note that the majority relate to developments which range from 7 to 9 storeys, and up to 11 storeys for a development on Abbey Street, which I would consider at a remove from the subject site.
- 7.9.9. In any case, I am satisfied that the provisions of Section 37(2)(b)(i) and Section 37(2)(b)(iii) have been met and in this regard, I consider that the Board can consider a grant permission for the proposal.
- 7.9.10. **Third Party Issues:**
- 7.9.11. The Board will note that a number of the third-party appellants have raised concerns in terms of the lack of consultation with regard to the proposed development. Given the context of the site and the scale proposed, together with the impact of Covid-19 where many people did not get an opportunity to be notified of the project and have their opinions heard, third parties were disappointed that the Board did not hold an oral hearing on this case. While I acknowledge the frustration in terms of perceived lack of consultation, I note that the applicant is not obliged under the Planning Acts to engage in same. I also note the level of third-party submissions in relation to the planning application. Having considered all aspects of the proposed development, and all submissions in relation to same, I am satisfied that this report and assessment has had full regard to said third parties and all concerns raised.
- 7.9.12. Third party appellants had submitted concerns in terms of the granting of a development which is perceived to support transient residents which will not support the local community or provide accommodation for local families to continue residing



in this area of Dublin City. I would accept that the proposed development is an alternative form of residential offer to the usual house / apartment and Built-to-Rent schemes will continue to form part of the residential accommodation offer, particularly in our cities and continue to represent an appropriate form of development in appropriate locations. Having carried out a site inspection, I can confirm that the surrounding area includes a variety of residential developments, including two storey terraced houses and apartment blocks.

7.9.13. The Board will note the location of the site within the City Centre and in close proximity to employment opportunities, amenities, services and public transport. I also note the support of Dublin City Council for the proposal. I am satisfied that the proposed development can be considered acceptable in the context of residential unit mix and is generally in accordance with the principles and thrust of the 2020 Apartment Guidelines.

7.9.14. **Site Boundary Issue**

The Board will note that an issue arising in a third-party observation, Mr. Brilly who resides on Camden Row, relates to the fact that Mr. Brilly does not enjoy full access to the rear wall of his home as a consequence of how the boundary sits. It is indicated that this has been the situation since the home was purchased by his mother in the 1950s. He requests that the Board attach a condition to permission to resolve the matter.

I would note that any disagreement on the boundary of the site is a civil matter and outside the remit of the Board. I would be satisfied that the provision of Section 34(13) of the Planning & Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that any civil issues are rectified prior to the commencement of development on the site.

7.9.15. **Part V**

The proposed development includes Part V proposals. The Part V Report, prepared by HJL Architects provides details of the 30 proposed Part V units within the scheme. Block D will provide 7 units while Block E will provide 23 units at both ground floor and first floor levels and will provide for 13 no. studio, 13 no. 1-bed and

4 no. 2-bed units. Section 5 of the report sets out the Area Schedule for the Part V units as well as the residential amenity areas across the scheme.

The Board will note that the Planning Authority, in their decision to grant planning permission for the development, included condition 23 which requires the applicant to enter into an agreement with the PA under Section 96 of the Planning and Development Act 2000, as substituted by Section 3 of the Planning and Development Amendment Act 2002, in relation to the provision of social and affordable housing, in accordance with the Planning Authority's Housing Strategy unless the applicant has applied for and been granted an Exemption Certificate under Section 97 of the Act.

As such, I am satisfied that the proposed BTR development will be subject to Part V requirements and an appropriate condition to this effect should be included in any decision to grant permission.

#### **7.9.16. Development Contribution**

The subject development is liable to pay development contribution under Section 48 of the Planning and Development Act 2000, as amended. A condition to this effect should be included in any grant of planning permission.

The proposed development also falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen's Green to Broombridge Line) under Section 49 of the Planning and Development Act, as amended.

#### **7.10. Conclusion**

Arising from my assessment of this appeal case, including all of the information submitted in support of the proposed development, third party submissions and the planning authority reports, I am satisfied that the principle of the proposed mixed-use development, which includes commercial office space, 299 build-to-rent residential units, creche, café / restaurant and double height exhibition space, all within 5 proposed blocks, is acceptable and appropriate to this brownfield city centre site, and to the Z5 zoning objective afforded to the site.

I am satisfied that the development accords with national policy in terms of the provision of housing and that the nature of the proposed residential offer is appropriate to this city centre location where a wide range of social infrastructure and public transport facilities are easily accessible. The proposed BTR units are in accordance with the criteria of the relevant SPPRs of the Apartment Guidelines and I am satisfied that the building heights proposed are acceptable and will not give rise to any significant adverse impacts on the existing residential and general amenities of the existing homes on Camden Row, New Bride Street and Kevin Street Lower.

I am further satisfied that the development would be acceptable in terms of the archaeology of the area, subject to amendments to Blocks C and D and would be in accordance with the proper planning and sustainable development of the area. The recommended amendments to Blocks C and D are as follows:

**Block C:**

- a) The overall height of Block C shall be reduced by 1 floor with the proposed 4<sup>th</sup> floor to be omitted.
- b) The 3<sup>rd</sup> floor shall be set back from the western elevation of the building by 10.2m, such that there shall be no office space provided to the west of the stairs at this level.
- c) The proposed curtain glazing on the northern elevation of the 1<sup>st</sup> and 2<sup>nd</sup> floors shall be omitted.

**Block D**

- a) The proposed elevation of Block D onto Camden Row (submitted as 4 storeys) shall be reduced by 1 floor.
- b) The proposed terrace area associated with the proposed Park Lounge (identified at 4<sup>th</sup> floor level on the submitted plans) shall be reduced in size in accordance with the omission of the two units prescribed above in part a) and shall only overlook the public realm area to the east of Block D.

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

**Reason:** In the interests of visual amenity and the protection of the character and setting of the St. Kevins Church and Graveyard, recorded monument, in the interests of residential and visual amenity and the protection of the character and setting of the protected structures to the west of the development and in the interests of proper planning and sustainable development.

## 8.0 Environmental Impact Assessment

### 8.1. Introduction

- 8.1.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 8.1.2. 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.)
- 8.1.3. The proposed development involves a mixed-use development comprising 299 build-to-rent residential units and an office development on an urban site of 1.58ha. The site is located in an urban area that may come within the above definition of a “business district” but is below the threshold of 2 ha for such a location. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.
- 8.1.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

8.1.5. The Board will note that while a mandatory EIAR is not required for the proposed development, the applicant has prepared one to accompany the application having regard to the specific characteristics and features of the site, its size and the quantum of development proposed.

## **8.2. Environmental Impact Assessment Report:**

8.2.1. The EIAR submitted with the planning application is presented in two volumes, including the main report (Volume 1) and a Townscape, Landscape and Visual Impact Assessment (Volume 2). The EIAR includes a separate non-technical summary (Volume 1 & 2). Volume 1 provides 15 chapters and seeks to address all environmental matters associated with the proposed development in a grouped format. The EIAR is advertised in the public notices, and I have read this EIAR in its entirety.

8.2.2. The EIAR seeks to:

- Describe the proposal, including the site, and its surroundings, as well as the development's design and size:
- Describe the likely significant effects of the project on the environment:
- Describe the features of the project and measures envisaged to avoid, reduce and, if possible, remedy significant adverse effects:
- Describe the main alternatives studied and the main reasons for the choice of site and development, taking into account the effects on the environment:
- A separate non-technical summary is also provided:
- The EIAR also includes, at Section 1.11, details of the EIAR Project Management and Environmental Specialist Consultants who were commissioned for various technical chapters of the document, Table 1.8 of the EIAR refers.

8.2.3. The EIAR includes a Non-Technical Summary in a separate document. The NTS provides an introduction and seeks to describe the proposed development, as well as provide a summary of the findings about each of the environmental topics that are examined in the EIAR. The information presented is in clear and non-technical language. I am satisfied that the NTS is acceptable.

8.2.4. **Volume I** of the EIAR is presented under the following chapter headings:

1. Introduction & Methodology
2. Project Description & Alternatives Examined
3. Population & Human Health
4. Archaeology & Cultural Heritage
5. Architectural Heritage
6. Biodiversity
7. Land & Soils
8. Water
9. Air Quality & Climate
- 10.Noise & Vibration
- 11.Wind
- 12.Daylight & Sunlight Assessment
- 13.Material Assets
- 14.Interactions
- 15.Summary of EIAR Mitigation & Monitoring Measures

8.2.5. Chapter 1 of Volume I provides an introduction to the proposed development, information in relation to consultations and the EIAR Study Team as well as the legislative and EIA process. No difficulties in compiling the necessary information for the proposed development during the course of the EIA process were noted. I am satisfied that the application has been made accessible to the public through electronic means, as well as hard copies being available.

8.2.6. Chapter 2 provides a description of the site location and proposed development as well as setting out the policy context. Section 2.5 of the EIAR deals with alternatives examined noting that the design of the proposed development and alternative layouts on the subject lands was influenced by a number of key environmental and practical considerations. The EIAR notes that a do-nothing scenario is not considered viable or appropriate having regard to the opportunity to redevelop an underutilised site in Dublin City Centre.

- 8.2.7. The EIAR takes into account the cumulative impacts on the environment likely to arise in terms of the proposed development in combination with other projects and activities in the immediate area. This issue is addressed in Section 2.8 of the EIAR and notes that each chapter of the EIAR includes a cumulative impact assessment of the proposed development with other existing, permitted and planning projects in the area. Mitigation measures are also proposed where necessary. With the mitigation measures for each environmental aspect, it is anticipated that the potential cumulative impact of the proposed development would be minimal.
- 8.2.8. Chapters 3 to 15 of the EIAR seek to identify, describe and assess the main likely significant direct and indirect effects arising from the proposed development, and the interaction of the environmental aspects in accordance with the requirements of Schedule 6 of the Planning & Development Regulations, 2001 as amended. The EIAR also describes the methodology and evidence used to identify and assess the significant effects on the environment and provides a description of measures to be employed to prevent, reduce and where possible, offset likely significant adverse effects on the environment. Chapter 15 of Volume I of the EIAR considers the interactions by means of cross referencing each environmental aspect against all other aspects considered.
- 8.2.9. The requirements of Article 3(2) of the Directive require a consideration of the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. The EIAR addresses this issue in section 3.3.6. It is concluded that the proposed development does not present risks of major accidents or disasters, either caused by the scheme itself or from external man made or natural disasters.
- 8.2.10. The subject site is not regulated or connected to or lies in proximity to any SEVESO site which is regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations. The proposed development does not include any man-made industrial processes which might result in a risk to human health and safety. Therefore, there is no potential effects in this context. It is considered that having regard to the nature and scale of the development itself, it is unlikely that any major accident will arise. There are unlikely to be any effects deriving from major accidents and or disasters and I am satisfied that this issue has been addressed in the EIAR.



8.2.11. **Volume II** of the EIAR presents a Townscape, Landscape and Visual Impact Assessment.

8.2.12. I am satisfied that the information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effect of the project on the environment, taking into account current knowledge and methods of assessment.

### 8.3. **Alternatives**

8.3.1. In terms of the requirements to consider alternatives, the following is relevant:

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

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

- Annex (iv) (Information for the EIAR) provides more detail on ‘reasonable alternatives’:

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

8.3.2. Chapter 2 of the EIAR seeks to address the matter of alternatives considered. Given the context of the subject site, the consideration of alternative sites for the construction of the proposed mixed-use development was not considered necessary or reasonable. The proposals are considered to contribute positively to the development of the wider area and optimises underutilised land in an inner-city location. The consideration of alternatives, relate to alternative uses on the site and alternative designs.

8.3.3. In considering alternative uses on the site, the EIAR acknowledges the existing use of the site for educational purposes, with the current buildings on the site having been constructed between 1963 and 1968. It is also noted that the development of a centralised Technological University of Dublin campus at Grangegorman will see the

Kevin Street Campus relocate there and the site will cease serving an educational use. It is further submitted that an alternative use to the office and residential proposed was not considered to result in the best use of the site, particularly having regard to the need for high quality residential and commercial office space. The proposed uses comply with the zoning objective for the site.

- 8.3.4. It was considered that the reuse of the existing buildings was not practical or viable. Options for reuse are considered limited and not a practical undertaking given that the structures were purpose built and possible future adaption is not possible. A Demolition Justification Report has been prepared to support this assessment, noting that reuse would require to wholly alter the spatial and architectural character to accommodate re-purposing, and would not result in an appropriate utilisation of the site or an optimal design response in architectural or planning terms.
- 8.3.5. In terms of the no. 35 New Bride Street (also known as 19A Kevin Street) the NIAH identifies a medieval house in this location. Chapter 4 of the EIAR, Archaeology & Cultural Heritage, confirms that 'it is unlikely that upstanding fabric has survived sequential development on the site and recommends appropriate mitigation measures to address the impacts associated with the demolition of this structure'.
- 8.3.6. In considering alternative designs and layout, the EIAR notes that the environmental issues which have most informed the design process relate to visual impact, architectural heritage, archaeology, daylight / sunlight impacts, ecology, water, noise, and the potential impacts upon existing and future traffic and transport in the area. Three alternatives are detailed in the EIAR from the early design iterations presented during pre-application meetings between June and September 2019.
- 8.3.7. Alternative 2 was presented during pre-application meetings between October 2019 and January 2020, the ongoing design development included additional information including the Assessment of Architecture and Historic Significance, with further information provided in relation to Kevin Street Library, the Visual Impact Assessment and the Daylight and Sunlight Analysis.
- 8.3.8. Key changes included further revisions to the architectural treatment to Kevin Street Lower and Camden Row. Residential buildings were redesigned to provide for a more appropriate transition and setbacks from Camden Row and New Bride Street. Communal amenity space was enlarged and the separation distance between St.

Kevin's Park increased. This iteration included an improved relationship with Kevin Street Library and the proposed extension to provide a double height exhibition space. Following the detailed feedback from DCC, further detailed design development was undertaken, and is reflected in the final planning application proposals as submitted for approval. The application for development is supported by a suite of further reports and assessments. I am satisfied that the issue of alternatives has been addressed in the submitted EIAR.

#### **8.4. Environmental Impact Assessment**

8.4.1. This assessment has had regard to the application documentation, including the Environmental Impact Assessment Report, and all other supporting reports submitted, as well as all written submissions. In accordance with the requirements of Article 3 of the EIA Directive and Section 171A of the Planning and Development Act, 2000 (as amended), the environmental assessment is carried out against the following factors:

- (a) population and human health,
- (b) biodiversity, with particular attention to protected species and habitats protected under the Habitats Directive and the Birds Directive,
- (c) land, soil, water, air and climate,
- (d) material assets, cultural heritage and the landscape,
- (e) the interaction between the above factors.

#### **8.5. Population and Human Health**

8.5.1. Chapter 3 of the EIAR seeks to address impacts associated with the proposed development on population and human health and notes that regard has been had to other inputs to the EIAR and application including chapters addressing Air Quality and Climate, Noise and Vibration and Daylight and Sunlight Assessments, as well as other separate reports addressing Construction and Demolition Waste Management and the Construction and Demolition Management Plan.

8.5.2. Section 3.3 of the EIAR sets out the existing baseline situation noting that there was an annual increase in employment and a decrease in unemployment nationally in

2019. While the national economy and unemployment levels are currently experiencing unprecedented uncertainty due to the Covid-19 virus, it is expected to experience economic growth. The recovering economic activity and employment levels are expected to result in an increased demand for commercial floorspace and residential dwellings particularly in the Dublin region. The Chapter notes that population growth in the study area during the 2011-2016 intercensal period was not strong at 2.9%, in comparison with the state at 3.8% and Dublin City, at 5.1%. In terms of a do-nothing scenario, it is submitted that the site would become a redundant state once the third level educational use is relocated to the TUD Gragegorman Campus. In addition, the potential for any likely and significant positive environmental impacts arising from the proposed development would not arise.

8.5.3. In terms of impacts arising, the EIAR addresses a number of aspects including water, noise, air quality & climate, landscape and visual impact, economic activity, social patterns, land-use & settlement patterns, health & safety and risk of major accidents or disaster. Predicted impacts are considered in Section 3.9 of the EIAR with regard to Population & Human Health as follows:

**Demolition & Construction Phase:**

- The redevelopment of the site will involve construction activities within the site and notwithstanding the implementation of remedial and mitigation measures, there will be some minor temporary impacts on population and human health with respect to nuisance caused by construction activities.
- Subject to the implementation of remedial and mitigation measures proposed in the EIAR, and as controlled by the Demolition and Construction Management Plan, any adverse likely and significant environmental impacts will be avoided.
- Direct and secondary positive impacts likely to arise due an increase in employment and economic activity.
- The predicted likely and significant impact of demolition and construction phase will be short-term, temporary and likely to be neutral.

### **Operational Phase:**

- The operational phase will result in a significantly positive alteration to the existing underutilised site in terms of the provision of residential units, commercial office space and community facilities.
- Positive impacts on population and human health will include health benefits associated with the provision of a high-quality environment, public open space and improvements to the public realm.
- The implementation of remedial and mitigation measures is likely to have the impact of limiting any adverse significant and likely environmental impacts on population and human health.

### **Cumulative Impact**

- 8.5.4. With regard to human health, the cumulative impact of the development will provide the introduction of a high quality, new neighbourhood in the area with a high level of accessibility and amenity. This impact is likely to be long-term and positive and it is not considered that any additional mitigation measures are required further to those which are already outlined.

### **Mitigation Measures**

- 8.5.5. Avoidance, remedial and mitigation measures are noted and describe any measures that are either practical or reasonable, having regard to the potential likely and significant environmental impacts. Potential cumulative impacts are considered in terms of the wider area and the permitted and ongoing developments which include residential, commercial, recreational and civic uses, which will influence the demographic change, population growth and intensity of commercial use in this area of the city. The cumulative impact will result in a further increase in the population of the wider area which is considered to have a moderate impact on the population in the area. This impact is likely to be long-term and positive.

### **Residual Impacts**

- 8.5.6. It is anticipated that the proposed development will realise significant positive long term overall economic and social benefits for the local community and wider city, increasing population in the area which is considered a positive impact. The development will also result in additional services and amenities. It is considered that

there will be no negative residual impacts or effects on population and human health arising.

## **Conclusion**

- 8.5.7. I have read and considered all of the submissions made in relation to population and human health. I am satisfied that the EIAR has sought to avoid and manage identified impacts through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of population and human health in the context of the proposed development. I am also satisfied that cumulative effects are not likely to arise.

## **8.6. Archaeology & Cultural Heritage**

- 8.6.1. Chapter 4 of the EIAR seeks to address impacts associated with the proposed development on archaeology & cultural heritage, and notes that the chapter was informed by, and following on from, a detailed desk-based assessment undertaken in May 2019 and a programme of archaeological testing that was carried out in November 2019. The baseline data gathering included a study area extending 100m from the edge of the proposed development area and the sources used are detailed in the EIAR. All recorded archaeological sites within this study area are identified in Figure 4.2 of the EIAR.
- 8.6.2. With regard to the testing, it is noted that seven trenches were opened in three different areas of the site to investigate the nature and extent, date and significance of archaeological remains on site, to establish the degree of late-nineteenth century and twentieth century disturbance and to assess the level of the natural subsoil across the site. All trenches produced evidence for stratified archaeological deposits that dated from the medieval period up to the modern era while structural remains and chronologically diagnostic artefacts were also uncovered. Full findings from the Archaeological Testing are presented in Appendix 4.4 of this chapter of the EIAR.
- 8.6.3. Section 4.3 of the EIAR sets out the existing baseline situation noting that there are seven cultural assets identified within the study area, detailed in Table 4.4 of the EIAR. It is noted that the development site occurs within the Zone of Archaeological Potential for Dublin City and the site of a medieval house is located in the north-west

corner of the site. there is no demonstrable above ground evidence for the medieval house and this area is now occupied by a twentieth century building.

8.6.4. In terms of the characteristics of the proposed development from an archaeological perspective, it is noted that the development will involve deep excavations to construct the proposed basements to a depth of 10.4m below the present ground level. The works will include the digging of a secant pile foundation wall around the perimeter of the basement area which will impact subsurface archaeology throughout the area. The proposed development also incorporates proposals that have the potential to impact the cultural heritage asset within St. Kevin’s Park through the proposed modification of the north-western boundary, the supporting of the northern boundary and the reinstatement of the former historic access from Church Lane South.

8.6.5. In terms of impacts resulting from the proposed development, the EIAR identifies three archaeological sites where the impact due to the construction works, unless otherwise stated, are assessed to be negative and permanent.

**Construction Phase:**

Site No.	Site Type	Significance	Magnitude of construction impact	Significance of construction impact
AR1	Historic City – ZAP	High	High	Significant / Moderate
AR2	House – Medieval	Medium	High	Profound
AR3	St. Kevin’s Church & Graveyard	High	Medium	Potentially Significant

Of note, the EIAR acknowledges that the development, if approved may result in a high level of construction activity around the enclosure of the church and graveyard and within the constraints of the recorded monument. It is further noted that there is a high probability that medieval and post-medieval burials as well as artifacts and archaeological remains will be encountered in these locations.

**Operation Phase:**

8.6.6. Visual impacts are predicted for three cultural heritage sites including St. Kevin’s Church & Graveyard, the former Moravian Meeting House on Kevin Street Lower and the probable Dutch Bill located at 91 Camden Street Lower. The setting of the

remaining archaeological assets identified in the baseline study cannot readily be appreciated as the value of these assets is derived from their physical remains rather than their setting. No impacts during the operation of the development are therefore predicted on the four remaining cultural heritage sites.

### **Cumulative Impact**

- 8.6.7. With regard to archaeology and cultural heritage, the cumulative impact of the development is considered in the context of major permitted or pending applications within 500m of the subject site. None were identified that have the potential to increase the cumulative impact of the proposed development.

### **Mitigation Measures**

- 8.6.8. Avoidance, remedial and mitigation measures are noted and describe the measures that will be adopted to avoid, reduce, remedy and offset the impacts that the proposed development may have on features of archaeology and / or cultural heritage potential within the study area during both the construction and operational phases of the scheme. Proposed mitigation measures are detailed and will be subject to approval by the Dublin City Archaeologist, the Dublin City Architectural Conservation Officer, the National Monuments Service of the Department of Culture Heritage and the Gaeltacht and the National Museum of Ireland.
- 8.6.9. Mitigation measures are identified in terms of pre-construction phase and construction phase while no mitigation measures are identified for the operational phase of the development.

### **Residual Impacts**

- 8.6.10. No residual impacts or effects on archaeology and cultural heritage are noted or discussed.

### **Further Information Submitted:**

- 8.6.11. Section 4.13 of the EIAR identifies the difficulties encountered in the preparation of this chapter of the EIAR noting that the duration and scope of the archaeological testing works were limited by the fact that TUD remains a working third-level institution. Excavation attempts in the central courtyard were hampered due to the present of live services and a deep concrete layer being encountered. It was also intended to excavate a trench within the laneway that runs parallel to the norther



boundary wall of St. Kevin's Park but following a structural analysis of the leaning wall, the trench was abandoned due to health and safety concerns. It is submitted that these constraints limited the amount of information available in terms of subsurface archaeology which affected the amount of field assessment that could be carried out to inform the likely impact on cultural heritage within the site.

- 8.6.12. Following a request for further information, the applicant submitted a suite of additional reports and assessments including an EIAR Addendum and a further archaeological assessment. This further archaeological assessment was presented as a result of a further round of archaeological testing at the site in September 2020, in the laneway to the north of the boundary wall of St. Kevin's Park. This round of testing included three trenches and of note, no human burial or loose remains were identified. This updated report suggests that the line of the earlier northern wall of the graveyard is likely to be located under the warehouse to the north of the laneway.
- 8.6.13. In addition, the response to the further information request included detail survey drawings of the historic graveyard boundary wall and included proposals regarding wall stabilisation. The proposed basement in this area of the site has also been reduced in an effort to remain outside the historical northern boundary of the graveyard.

### **Conclusion**

- 8.6.14. I have read and considered all of the submissions made in relation to archaeology and cultural heritage. I am satisfied that the EIAR acknowledges that it is impossible to avoid the direct impacts as the construction phase of the development includes the construction of basements and will result in the removal of all buried archaeological remains. While preservation *in-situ* is the preferred option, in this case, preservation by record is considered acceptable as a form of archaeological mitigation. The EIAR, together with the reports submitted following the request for further information adequately addresses the impacts arising in terms of the proposed development and I note that the Dublin City Archaeologist has recommended a number of conditions be included in any grant of planning permission.
- 8.6.15. I am, therefore, satisfied that any potential impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed

mitigation measures and through suitable conditions. I have raised concerns in the Planning Assessment section of this report with regard to the visual impact of the proposed development on St. Kevin's Church & Graveyard, which remain.

## **8.7. Architectural Heritage**

- 8.7.1. Chapter 5 of the EIAR seeks to address impacts associated with the proposed development on architectural heritage, identifying buildings and other features of heritage significance in the environs of the site, qualifying existing inter-relationships and assessing the potential impacts of the proposed development in terms of fabric, character and settings. The assessment also acknowledges the presence of designated conservation and architectural conservation areas in the vicinity and reviews potential impacts the development may present for the character of these areas. The EIAR notes that multiple sources were consulted in the preparation of this chapter of the EIAR, and the chapter should be read in conjunction with related EIAR chapters, documents and appendices.
- 8.7.2. Section 5.3 of the EIAR sets out the existing baseline situation noting that the site includes a variety of building types dating from the mid-19<sup>th</sup> century to the late 20<sup>th</sup> century, none of which are protected structures. The Chapter identifies heritage structures in the immediate proximity to the development boundary, as well as ACAs in the vicinity and presents a brief historical development of site and surrounding environs from the late 17<sup>th</sup> century up to the establishment of the Technical School in 1885 and other developments into the 20<sup>th</sup> century. The chapter also includes an appraisal of the existing structures within the boundary of the site and includes a summary of significance of the buildings in section 5.3.5.5, as well as an appraisal of surrounding streets and heritage structures outside of the application boundary. It is notable that at the time of writing the EIAR, the Kevin Street Library was not a protected structure and not listed in the NIAH. The EIAR however, considered the building to be of architectural and social heritage significance.
- 8.7.3. In terms of impacts arising, the EIAR provides a description of potential impacts that the proposed development may have present for architectural heritage in the vicinity. Potential impacts are considered in terms of the characteristics of the proposed development, refers to the duration of impacts, and categorises them where possible as permanent, temporary, positive, negative or neutral.

8.7.4. Predicted impacts are considered in Section 5.9 of the EIAR with regard to architectural heritage which indicates that the principle of the proposed development is acceptable. The scheme has been considered against the architectural heritage and proposes a range of urban conservation gains including the reinstatement of the historic pedestrian movement from Camden Row to Kevin Street. It further offers an expanded urban parkland through a previously introverted site, and it is considered that, in time, the residential amenity of the 19<sup>th</sup> century dwellings will be enhanced by the future unified parkland. It is further submitted that the proposed development, as presented, is tempered to respect the amenities of enclosing residences and buildings.

8.7.5. The predicted impacts on heritage structures and conservation areas in the vicinity are addressed as follows:

<b>Protected Structures</b>	
<b>Structure</b>	<b>Impact</b>
<b>Kevin Street Library</b>	<ul style="list-style-type: none"> <li>• The existing Annex building is aligned within and essentially dominates the library, being visible from all internal rooms through its rooflights. While the proposed development seeks to replace this building with one broadly similar in terms of form and height, it will introduce a permeable boundary in the form of glazing and animation accompanying an active elevation will alter the introverted character of the library's reading rooms.</li> <li>• In terms of ventilation impacts, it is predicted that the performance of the library as a naturally roof ventilated building will remain unchanged.</li> <li>• The proposed rear extension and bridging over a shared open space has been designed to attract pedestrians beyond the original library entrance and into the developments Library Plaza.</li> <li>• Enveloping the library gives rise to impacts for its historic interiors.</li> </ul>
<b>St. Kevin's Park &amp; St. Kevin's Church &amp; Gateway RPS Ref. 145</b>	<ul style="list-style-type: none"> <li>• St. Kevin's Park is considered an idyllic oasis within the city, and the lawn to the south is regularly occupied at all times of the day. The area to the</li> </ul>

	<p>north is less frequented due to occasional anti-social behaviour.</p> <ul style="list-style-type: none"> <li>• The proposed development has sought to protect the character and setting of the southern lawn, it is accepted that it will be modified by taller buildings. The impact of the change is not considered detrimental.</li> <li>• The connection of the park to the proposed public space within the proposed scheme, and the reinstatement of the historical pedestrian connection with Church Lane is considered an important step towards restoring the prominence of St. Kevin's Church from Kevin Street.</li> <li>• The removal of the swimming pool and replacement of the hostile boundaries will provide a visual connection to the Park and may encourage the safer use of these lawns in the long term</li> </ul>
<p><b>40-41 Kevin Street Lower RPS Ref. 4185</b></p>	<ul style="list-style-type: none"> <li>• No direct impacts are predicted to the Moravian Church and Former School given the pre-existing setting of the protected structure as enclosed by taller structures to the east.</li> </ul>
<p><b>Former Girls &amp; Infants School RPS Ref. 1140 &amp; 22-25 Camden Row RPS Refs. 1141, 1142, 1143 and 1144</b></p>	<ul style="list-style-type: none"> <li>• It is submitted that the western end of Camden Row is characterful but lacks definition as it progresses due east. The former Girls and Infants school bookends the corner of New Bride Street and Camden Row and it is submitted that the terrace of 22-25 Camden Row would benefit from culmination with a corresponding book end to complete it as an urban composition.</li> <li>• The alignment and scale of Block D is derived from this observation in maintaining established building lines, and at 4 storeys, it is submitted that it defers to the scale of the School.</li> <li>• In accepting that the substituting of a tall building form with another with a different use may introduce impacts for the amenity of rear rooms and gardens of the protected terrace, screening of windows has been introduced to mitigate overlooking from proposed apartments.</li> </ul>

<b>17-19a Camden Row RPS Refs. 1136, 1137, 1138 and 1139</b>	<ul style="list-style-type: none"> <li>In replacing a large-scale building form with another, new direct impacts are not predicted as arising.</li> </ul>
<b>Former Boys School RPS Ref. 862 &amp; Blocks A-H and J-N of the Iveagh Trust Estate, RPS Ref. 861</b>	Minimal impacts are predicted as arising.
<b>No. 5 Kevin Street RPS Ref. 4184</b>	No impacts are predicted as arising.
<b>St. Patrick's Cathedral RPS Ref. 6443</b>	No impacts are predicted as arising.
<b>Conservation / Architectural Conservation Areas</b>	
<b>Camden Street Conservation Area</b>	Minimal impacts are predicted as arising
<b>ACAs in the wider vicinity</b>	No impacts are predicted as arising.

### **Cumulative Impact**

- 8.7.6. With regard to architectural heritage, the cumulative impact of the development at construction stage, existing walled screening that presently defines the architectural setting of protected structures will be temporarily supplemented with hoarding to address possible environmental changes arising. On completion of the works, the cumulative impact on the largely 19<sup>th</sup> century environs of the site will be considerable as the same environment has endured since the technical college was established.
- 8.7.7. Other large-scale developments have been constructed in the vicinity of the development site, all of which have contributed to the increasingly 20<sup>th</sup> century character of the area, which has proven that it can tolerate and embrace structures of scale and contrasting design. The cumulative impact is considered to be lessened on account of the sites existing and past character.

### **Mitigation Measures**

- 8.7.8. Avoidance, remedial and mitigation measures are noted and recommend a range of architectural heritage strategies that will ensure protection of the sites enclosing architectural heritage.

### **Residual Impacts**

- 8.7.9. Demolition works will present a short-term impact for neighbouring buildings which, notwithstanding mitigations, will still result in disruption. In terms of the construction phase, permanent impacts will arise in terms of the excavation for basements and the necessity for further archaeological testing. Given the scale of the site, it is submitted that the testing will represent the archaeological demographic for the wider environs and offer an unparalleled snapshot of the areas urban evolution up to the present day, an academic benefit that will be referenced long into the future.
- 8.7.10. In terms of the proposed development, the Townscape, Landscape and Visual Impact Assessment accepts that the urban environment will be changed dramatically in places but submits that the change is positive for the most part. Interactions of impacts arising from the principle of redevelopment are lessened when viewed against the site, and environs, aptitude for singular and cumulative permanent change.

### **Conclusion**

- 8.7.11. I have read and considered all of the submissions made in relation to architectural heritage. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts, other than visual impacts as discussed in the Planning Assessment section of this report, in terms of architectural heritage. I am also satisfied that cumulative effects, where they arise, are addressed.

## **8.8. Biodiversity**

- 8.8.1. Chapter 6 of the EIAR deals with Biodiversity and I would refer the Board to Section 9 of this report, which deals with appropriate assessment. The methodology for the study is indicated and a site visit was carried out on the 4<sup>th</sup> of July 2019 in fair

weather. The EIA identifies the designated sites within approximately 20km of the site, and Table 6.1 identifies the features of interest for the South Dublin Bay and Tolka Estuary SPAs in Dublin Bay, Dublin Bay being identified as an internationally important site for water birds, supporting over 20,000 individuals, with figures above 33,000 in the 2014/2015 Irish Wetland Birds Survey.

- 8.8.2. Table 6.3 identifies the 6 species of protected flowering plant within the Square O13, in which the subject site lies. A site survey noted that the subject site is entirely composed of buildings and artificial surfaces – BL3. As such, there is minimal vegetation present with no areas of green spaces. The habitat within the site is considered to be of negligible biodiversity value.
- 8.8.3. In terms of fauna, although a number of mammals are known to be present in Dublin city, including fox, there is no habitat on the subject site which is suitable for this species. The buildings were assessed for the suitability to host bat roosts, however the lack of semi-natural vegetation in the immediate vicinity is identified as a significant limiting factor and obvious roof cavities etc are absent. A survey for bats was carried out and concluded that while there are a small number of roost opportunities presented by the timber panelling on the main building, there is no evidence of bat occupancy. Questioning of the maintenance manager for the site noted no sightings or encounters with bats being recorded. Opportunities for bats to feed are also limited at the site.
- 8.8.4. With regard to birds, Rock Dove / Feral Pigeon are present within the city centre and roofs are known to provide nesting opportunities, particularly for Herring Gull, identified as of high conservation concern, and Lesser Black-backed Gulls, identified as medium conservation concern. Following an inspection of the roof of the building on the site, at least eight pairs of Herring Gulls were found to be nesting and a single Feral Pigeon was also noted.
- 8.8.5. There are no suitable habitats on the site for amphibians or fish. In terms of invertebrates, only the Marsh Fritillary butterfly is protected by law in Ireland and this species is not found on built up sites. Other protected vertebrates are confined to freshwater and wetland habitats and are not present on the site.
- 8.8.6. Potential impacts are considered in Section 6.5 of the EIAR with regard to biodiversity in the absence of mitigation as follows:

<b>Demolition &amp; Construction Phases</b>	
<b>Removal of building and artificial surface habitats</b>	<ul style="list-style-type: none"> <li>• The development will result in the loss of nesting sites for the Herring Gull and Feral Pigeon. The Herring Gull has suffered significant decline nationally and is of high conservation concern.</li> <li>• The gull is normally a coastal bird but has started nesting on buildings in urban areas in recent times. While its decline is based on a number of factors, the availability of nesting sites is not among these.</li> <li>• It is considered, while the nesting site will be lost, available nesting sites are widely available across the city and therefore the impact to the Herring Gull population is considered marginal.</li> <li>• The loss of the habitat is temporary as new areas of flat roof will be available during the operational phase.</li> <li>• The impact is assessed as negative, slight, likely and temporary.</li> </ul>
<b>Direct mortality of species during demolition</b>	<ul style="list-style-type: none"> <li>• This impact is most acute during bird breeding season, March to August. As the buildings have been identified as nesting sites, mitigation measures will be required during the construction phase in order to protect birds nests and eggs.</li> <li>• If bats are found to be present, they would also be impacted.</li> <li>• The impact is assessed as negative, significant, likely and permanent.</li> </ul>
<b>Pollution of water courses through ingress of silt, oils</b>	<ul style="list-style-type: none"> <li>• Given the distance between the site and the River Liffey, there is a buffer between potential pollution sources and the sensitive receptor.</li> </ul>



<p><b>and other toxic substances</b></p>	<ul style="list-style-type: none"> <li>• The Liffey supports populations of Brown Trout and Atlantic Salmon - Annex II species, which are species highly sensitive to pollutants. There is no pathway for pollutants to surface water courses.</li> <li>• This phase of development will include the pumping of groundwater out of the construction zone during basement excavation works. Groundwater will be discharged to the foul sewer under licence and no negative effects to biodiversity will arise.</li> <li>• This impact is assessed as negative, imperceptible, likely and permanent.</li> </ul>
<p><b>Operational Phase</b></p>	
<p><b>Pollution of water from foul wastewater</b></p>	<ul style="list-style-type: none"> <li>• The subject site will connect to the Ringsend Plant which is to be upgraded to see improved treatment standards and an increase in network capacity by 50%.</li> <li>• The impact is assessed as negative, imperceptible, likely and permanent.</li> </ul>
<p><b>Pollution of water from surface water runoff</b></p>	<ul style="list-style-type: none"> <li>• The Greater Dublin Strategic Study (2005) identified issues of urban expansion leading to an increased flood risk and a deterioration of water quality. The subject site is currently entirely of hard standing with no surface water attenuation in place. As such, any alterations to the drainage network can result in, at worst, a neutral impact.</li> <li>• The Engineering Services Report indicates the use of green roofs, low water usage sanitary appliances, directing of hard standing areas to tree pits or landscaped areas and road gullies to prevent grit and other potentially harmful materials entering the storm network.</li> </ul>

	<ul style="list-style-type: none"> <li>• The impact is assessed as negative, imperceptible, likely and permanent.</li> </ul>
<b>Impacts to Protected Areas</b>	<ul style="list-style-type: none"> <li>• No impacts are predicted to occur due to the separation distance and / or the lack of pathways</li> <li>• The impact is assessed as negative, imperceptible and unlikely.</li> </ul>

### **Cumulative Impact**

- 8.8.7. With regard to biodiversity, the cumulative impact of the development is considered in the context of permitted or planned projects and the catchment of the Ringsend Wastewater Treatment Plant. Impacts from built development in the area include loss of habitat, additions to drainage infrastructure, particularly wastewater and surface water, and the cumulative effects of pollution arising from multiple construction projects happening at the same time.
- 8.8.8. Additional loading to the Ringsend WWTP is not significant as there is no evidence that negative effects to high value species and habitats is currently arising from the discharge. The incorporation of separate foul and surface water drainage systems and SUDS attenuation measures into the brownfield city centre site is contributing to the cumulative positive effect of reducing rainwater runoff to the municipal treatment plant. In addition, the proposed development is not contributing to the loss of habitat and no significant effects will arise from this source. There are no pathways to natural water courses from the site.
- 8.8.9. There are no other effects which act in a cumulative way to result in significant impacts to biodiversity and no additional mitigation measures are proposed.

### **Mitigation Measures**

- 8.8.10. Avoidance, remedial and mitigation measures are noted in terms of biodiversity to relate to impacts associated with bird nesting season. 2 mitigation measures are detailed in the EIAR and captured in the Construction and Demolition Management Plan submitted with the application, which will require demolition works to be undertaken outside the bird nesting season. Although there is no evidence of bats roosting at the site, a precautionary approach will see a full inspection of the site and buildings undertaken during the optimal flight period. I also note that the mitigation

measures include proposals to introduce bat boxes and provide roosting opportunities within the new buildings.

### **Residual Impacts**

- 8.8.11. No significant negative effects to biodiversity are predicted to arise from the proposed development subject to the implementation of mitigation measures.

### **Conclusion**

- 8.8.12. I have read and considered all of the submissions made in relation to Biodiversity and I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity.

## **8.9. Lands & Soils**

- 8.9.1. Chapter 7 of the EIAR deals with lands and soils. The methodology for the study is indicated and specific geological information was obtained from a preliminary site investigation was carried out in the July 2019. The corresponding Site Investigation Report is included in Appendix 7.1 of the EIAR, and a Basement Impact Assessment is also included with the application under a separate report.
- 8.9.2. Table 7.1 of the EIAR presents a summary of the ground conditions encountered in the site investigations and in terms of hydrology the EIAR notes that the site has been occupied by various residential housing, warehouses and educational facilities since the early 1800s. There is no evidence to suggest that the previous land uses had a significant potential for contamination, but it is noted from site investigations, varying depths of made ground and fill of varying material underlie the site and therefore, it is assumed that there is potential for contamination. It is submitted that environmental testing as part of the site demolition will be carried out to confirm if any contamination is present on the site. I consider this to be reasonable.
- 8.9.3. Potential impacts are considered in Section 7.5 of the EIAR with regard to lands and soils and the potential impact of dewatering and temporarily reducing the ground water level on surrounding structures is assessed under the Basement Impact Assessment. This assessment includes a number of recommendations. The greatest

impact is considered to arise from the demolition of the existing structures on the site and the excavation of the hardstanding areas, soil and subsoil. Other potential impacts arising include:

- Potential effects of weathering and erosion of soil during extreme weather conditions following excavation works.
- Increased on site construction traffic will compact existing subsoils within the site.
- Increased traffic including heavy machinery increase risk to the integrity of the public road network which may lead to dust and mud being transported off site.
- Potential risk of localised contamination from construction materials leeching into the underlying soils by exposure, dewatering or construction related spillages.
- Potential risk of localised contamination of groundwater due to construction activities.
- The flow of the possible calcareous spring may be impacted during construction.

In terms of the operational phase, it is submitted that there will be little or no impact on the geology of the area on groundwater as runoff from hard standing areas will pass through a closed drainage system incorporating silt traps and oil/petrol interceptors.

### **Cumulative Impact**

- 8.9.4. With regard to land and soils, the cumulative impact of the development is considered in the context of the impact due to the basement construction on adjoining underground structure due to the potential to block groundwater flow patterns and the requirement for excavated soils to be disposed of in licenced landfill facilities.

### **Mitigation Measures**

- 8.9.5. Avoidance, remedial and mitigation measures are noted in terms of land and soils and impacts will occur during the construction phase. While moderate negative

impacts during the construction phase are predicted and will be short term in duration, the implementation of the mitigation measures will mitigate any significant long-term adverse impact. No significant long-term impacts are predicted during the operational phase of the development.

### **Residual Impacts**

- 8.9.6. Moderate residual impacts are predicted due to the large volume of excavated material being removed off site and the potential contaminants within. Residual impacts may also arise in terms of dewatering to construct the basement. Mitigation measures will include testing of the extracted material and groundwater during the construction phase and the licencing agreement with the Council may call for, subject to analysis of the groundwater, the groundwater to pass through filtration system to remove sediment from the water and oil interceptor prior to discharge to a designated sewer. There is no predicted long-term impact on the soil, geology and hydrogeology environments associated with the operation of the proposed development.
- 8.9.7. A programme of monitoring will take place during the demolition and construction stage in accordance with the Construction and Demolition Management Plan.

### **Conclusion**

- 8.9.8. I have read and considered all of the submissions made in relation to lands and soils, including all relevant reports submitted independently of, but referred to in, the EIAR. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of lands and soils.

### **8.10. Water (Hydrology, Water Supply, Surface Water Drainage, Foul Water Drainage)**

- 8.10.1. Chapter 8 of the EIAR deals with water and hydrology. The methodology for the study is indicated and the information was gleaned from a number of sources including a desktop study on the local and regional surface water and drainage network, relevant national and EU legislation and regulations. It is also noted that a site-specific flood risk assessment was submitted with the application, identifying that

the site is located within Flood Zone C and the primary risk of flooding to the site is pluvial. The existing buildings on the site drain to the public drainage network along Kevin Street Lower and all effluent arising from the proposed development will be conveyed in the IW sewerage system, ultimately discharging to the Ringsend WWTP.

8.10.2. In terms of the proposed development, the EIAR notes that the risk of hydrological impacts will be managed in terms of surface water discharge during the demolition, construction and operational phases. The redevelopment of the site will contribute to the sewerage system in the order of 14,000m<sup>3</sup> additional floor area. Storm water will be attenuated on site and surface water will discharge by gravity to an attenuation tank with a discharge rate of 2.0l/s to the public system.

8.10.3. The development will generate a wastewater loading of 534.34m<sup>3</sup>/day, equating to 6.185l/s average flows and a peak flow of 25.584l/s. Discharge will be to the combined system along Kevin Street. Within the site, the development will be serviced by a separate system for foul and storm which will extend to the combined manhole at the site's boundary. This will facilitate future separation of the public drainage system. The existing potable water connection will be maintained with the proposed development having a requirement of 6.041l/sec with a peak requirement of 21.36l/sec. Low usage appliances will be used throughout the development.

### **Cumulative Impact**

8.10.4. With regard to water, the cumulative impact of the development is considered in the context of following:

- **Stormwater:**

The proposed development is to incorporate an attenuation system into the overall design which will limit stormwater discharge rates to a redeveloped rate for all predicted stormwater events, increased by 20% for potential effects of climate change. By limiting the discharge rate, the development will increase the hydraulic capacity on the downstream network, positively affecting the local public drainage network.

- **Foul Drainage:**

The development will generate increased foul effluent flows to the IW network. The redevelopment of the site has been assessed by IW in terms of the

implications for the local network and the Ringsend WWTP. While the development will reduce the capacity in the existing infrastructure network the IW analysis indicates that the reduction in the overall local capacity is acceptable.

- Potable Water:

The development will generate an increased requirement for potable water. The development is considered acceptable by IW subject to the upgrade works which IW will design and carryout with a connection charge to be determined post planning.

### **Mitigation Measures**

8.10.5. Avoidance, remedial and mitigation measures are noted in terms of water and moderate negative impacts during the construction phase are predicted to be short-term. The implementation of the mitigation measures will mitigate any significant long-term adverse impact.

### **Residual Impacts**

8.10.6. No negative residual impacts are predicted to water quality. In terms of surface water, the provision of flow control with storm attenuation will ensure a reduced quantity of surface water, therefore reducing the impact on the receiving system. No significant impact will occur to the sewerage system as a result of the proposed development and while the development will result in additional demands on the public water network, the installation of low flow devices will minimise the impact on the existing water supply network.

### **Conclusion**

8.10.7. I have read and considered all of the submissions made in relation to water and hydrology, including all relevant reports submitted independently of, but referred to in, the EIAR. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of water.

## 8.11. Air Quality & Climate

- 8.11.1. Chapter 9 of the EIAR deals with air quality and climate. The methodology for the study is indicated setting out the criteria for rating impacts associated with the demolition and construction phase of the development on the air quality and climate, as well as the operational phase. Section 9.3 of the EIAR sets out the baseline data of the receiving environment as well as noting the sensitivity of the environment.
- 8.11.2. Potential impacts are considered in Section 9.5 of the EIAR. The greatest potential impact on air quality during the demolition and construction phase is from demolition and construction dust emissions and the potential for nuisance dust. While construction dust tends to be deposited within 200m of a construction site, the majority of deposition occurs within the first 50m. The EIAR classifies the overall sensitivity of the area to dust soiling impacts as high and an overall medium risk to human health arising. Impacts associated with the construction phase are short-term and the large demolition works will also be potentially dusty, with the demolition of +50,000m<sup>2</sup> of buildings. The risk of dust impacts as a result of the proposed development are summarised in Table 9.10 of the EIAR for each activity and includes the magnitude of risk between low and high. Dust mitigation measures are included in Appendix 9.2 and subject to implementation, the EIA submits that fugitive emissions of dust will be insignificant and pose no nuisance at nearby receptors. In terms of traffic, it is determined that demolition and construction traffic will have an imperceptible and short-term impact on air quality.
- 8.11.3. With regard to climate, the EIAR notes the potential for a number of greenhouse gas emissions to atmosphere during the construction of the development including from vehicles, generators and other machinery which may give rise to CO<sub>2</sub> and N<sub>2</sub>O emissions. The impact is considered to be imperceptible and short term. In support of the proposed development, the applicant submitted an Embodied Carbon Report which calculates the embodied CO<sub>2</sub> emissions associated with the demolition and construction to be 20,590,141kgCO<sub>2</sub> per year. The impact is considered short-term and negative on climate. The payback period has been calculated as 25 years after which the proposed development will have a positive impact on climate.
- 8.11.4. In terms of the operational phase, the EIAR notes that there is potential for a number of emissions to the atmosphere from traffic. However, it is noted that the



development will not increase traffic volume, traffic speeds or change the road alignment by an amount greater than the criteria included in the relevant guidance. In terms of human health, the EIAR submits that as the traffic generated by the proposed development does not satisfy the assessment criteria to require an air modelling assessment, it is determined that the impact to human health is negative, long-term but overall imperceptible.

### **Cumulative Impact**

8.11.5. With regard to air quality and climate, the cumulative impact of the development is considered in the context of the possibility of other construction activity within 350m of the site. It is noted however, that no significant commercial or residential developments have been permitted within this distance. Cumulative impacts have been incorporated into the traffic data supplied for the operational phase, with the EIAR determining that there is an imperceptible impact to air quality and climate during this stage. Any future projects of scale would need to conduct an EIAR to ensure that no significant impacts arise.

### **Mitigation Measures**

8.11.6. Avoidance, remedial and mitigation measures are noted in terms of air quality and climate and impacts will occur during the demolition and construction phase. To avoid any potential significant impacts a number of mitigation measures are detailed with regard to air quality and climate. No specific mitigation measures are required in relation to the operational phase.

### **Residual Impacts**

8.11.7. Once mitigation measures are implemented, the impact of the demolition and construction phase of the development will be short-term and not significant at nearby receptors. The impact of the operational phase of the development is deemed to be long-term and imperceptible.

### **Conclusion**

8.11.8. I have read and considered all of the submissions made in relation to air quality and climate. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the

proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

## 8.12. Noise & Vibration

- 8.12.1. Chapter 10 of the EIAR deals with noise and vibration and includes a description of the receiving ambient noise climate in the vicinity of the site and an assessment of the potential noise and vibration impact associated with the proposed development during the short-term demolition and construction phase and the long-term operational phase. The methodology for the study is indicated setting out the approach used and the criteria for rating impacts associated with the demolition and construction phase of the development on the noise and vibration. The closest noise sensitive receptors are identified as the adjacent residential properties and the library. In terms of construction vibration criteria, the EIAR notes that important buildings that are difficult to repair might require special consideration, but buildings of historical importance should not be assumed to be more sensitive. With regard to the operational phase, the EIAR considers the increase in traffic noise levels that will arise as a result of vehicular movements associated with the development as well as the mechanical and electrical sources which will support the proposed development.
- 8.12.2. Section 10.3 of the EIAR sets out the baseline situation of the receiving environment and presents details of an environmental noise survey conducted at the site. Figure 10.2 identifies the noise survey locations. The unattended noise survey was conducted for a week in September and a week in October 2019 and the results are included in Tables 10.8 and 10.9 of the EIAR.
- 8.12.3. Potential impacts are considered in Section 10.5 of the EIAR. The detail of typical plant items and equipment to be used in the demolition and construction phase of the development, including the associated noise levels anticipated are presented in Table 10.10 and predicted daytime noise levels are also included. The proposed development will take 10 months to clear the site, 12 months to excavate the basement and 30 – 36 months for general construction. The EIAR predicts that a significant impact may temporarily occur at nearby residents, commercial properties and the library when works are on-going. In terms of construction phase vibration, the EIAR notes that the demolition, piling and excavation activities will give rise to the greatest potential for impact. The EIAR submits that the vibration levels are not

expected to pose any significance in terms of cosmetic or structural damage to the nearest receptors and that the magnitude of vibration levels are likely to be below the limits set out in the relevant guidance.

8.12.4. In terms of operational noise, if building services plant items are required to serve the development, the cumulative operational noise level at the nearest noise sensitive location within the development will be designed/attenuated to meet the relevant noise criteria levels for day and night-time periods. Breakout noise from the proposed creche is not considered significant and breakout noise from the amenity spaces will be controlled to ensure that it is not audible inside the nearest residences, particularly during the night-time period. A traffic impact assessment relating to the proposed development has been prepared as part of the application and has informed the EIAR. The predicted increase in traffic noise levels associated with the development is less than 1dB for both opening and design years and this increase is considered negligible. The predicted impact in noise levels associated with traffic is long-term, neutral and imperceptible.

#### **Cumulative Impact**

8.12.5. With regard to noise and vibration, no cumulative impacts are expected to occur.

#### **Mitigation Measures**

8.12.6. Avoidance, remedial and mitigation measures are noted in terms of noise and vibration, at section 10.8 of the EIAR and include measures for both construction and operational phases.

#### **Residual Impacts**

8.12.7. Demolition and pilling activities are predicted to exceed the noise threshold for potential significant effect when they occur close to the adjacent dwellings. These exceedances will be temporary. Residual impacts associated with the noise of the proposed construction activities are considered to be negative, moderate to significant and temporary to short-term. With regard to construction vibration, the impacts are considered to be negative, moderate and temporary with additional traffic associated with the development will be neutral, not significant and permanent. The operational phase of the development will give rise to noise levels which are considered neutral, not significant and permanent.

## **Conclusion**

8.12.8. I have read and considered all of the submissions made in relation to noise and vibration. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise and vibration.

### **8.13. Wind**

8.13.1. Chapter 11 of the EIAR assesses the impact of the proposed development on the wind conditions affecting activities in the surrounding area. The presence of taller buildings among lower buildings provides the potential for windiness which depends on both the massing of the buildings, their orientation and the local climate. The methodology for the study is detailed using the Lawson Comfort Criteria which addresses comfort levels and distress levels. The assessment used a computational fluid dynamics modelling which includes three main stages, pre-processing, simulation and post-processing. The EIAR considers the existing baseline environment in terms of wind climate while the characteristics of the proposed development is dealt with in terms of the proposed site layout and the proposed roof terraces layout.

8.13.2. Potential impacts are considered in Section 11.5 of the EIAR. In terms of the construction phase, the potential effects on wind microclimate at the site is not assessed as they depend on the phasing of the development. If the development is to be constructed in phases, with parts to become operational before construction is complete, then temporary mitigation may be required or desirable to achieve appropriate levels of windiness.

8.13.3. In terms of the operational phase, impacts are addressed under the following headings:

- **Thoroughfares:** many thoroughfares in and around the development will encounter breezes quite frequently and will be suitable for 'walking' range. Wind speeds of 4m/s to 6m/s will not be uncommon in these areas while other thoroughfares will be less windy. Of note, the following thoroughfares will be exposed to stronger winds:

- Between Blocks B and D:  
South-westerly and westerly winds cause high speed winds to shear around the north-eastern corner of Block D, compounded by downdraft effects of Block D rendering the wind conditions in this area to be uncomfortable for 'walking' range on occasion. More vulnerable pedestrians including cyclists may find winds distressing in this area for a few hours a year– ie <12 hours a year.
- Between Blocks A and B:  
Near the library extension considerable windiness occurs at times. It arises when southerly and south-westerly winds funnel through the narrow space. This space will be uncomfortable for 'walking' at times and may be distressing on occasion for vulnerable pedestrians – ie <12 hours a year.
- Entrances:
  - Entrances are situated towards the centre of the buildings and away from corners where high speeds are more likely to occur.
  - They have been recessed which ensures the winds near them are in the 'standing' range as typical speeds are between 4m/s to 6m/s or slower.
- Public Seating Spaces:
  - In general, the seating areas are situated in sheltered areas, and they are suited to their intended function.
  - The café seating area east of Block D will act as an attractive area for 'sitting' for most of the year, however it will be windy and unsuited to 'sitting' at times due to higher speed winds forming at the block corner.
  - The seats, steps and planters with seats between Block B and Block D may encounter significant windiness on occasion. West and south-westerly winds will tend to funnel between these blocks and this in combination with the down drafts off Block D further compounds the windiness of this space. The seating area will be comfortable for 'sitting' for a reduced period through the year. The wind conditions are anticipated to be distressing for a few hours in a year - – ie <8 hours a year.

- Balcony:
  - There are two types of balconies proposed, the recessed and an outstand balcony.
  - The recessed balconies are sheltered from the wind by the façade.
  - The outstand balconies protrude out and are more exposed. The provision of solid screen balustrades helps shield the occupants from the wind.
  - Balconies are expected to receive conditions within the 'sitting' range and therefore, most balconies are suited to their intended use.
- Roof Terraces:
  - Given the height of the roof terraces, they are expected to be windy at times, but suitable for 'standing' activities for the most part.
  - In terms of the commercial blocks A and B, the northern terraces will be mostly sheltered from prevailing winds, and it is expected that most would be suitable for 'sitting' and occasionally approach 'standing' criteria. The western terraces will be more exposed to prevailing winds and will be windier, less suited to their intended use given the wind conditions in the 'walking' range with potential to experience wind speeds more vulnerable pedestrians would find distressing a few hours a year, ie <18 hours a year.
  - In terms of Block D (residential block) the terraces will be subjected to wind speeds in the 'standing' range except for the middle terrace. More windiness may be encountered on this terrace due to an interaction with Block E and the wind conditions may be uncomfortable on windier days likely to coincide with more inclement weather when the roof is in less demand.
  - In Block E (residential block) the lower terrace is close to the ground and sheltered. The upper roof terrace is mostly calm due to its relatively narrow width. The southern section is exposed to some strong winds and the wind conditions may be uncomfortable on windier days.

### **Cumulative Impact**

8.13.4. With regard to wind, no cumulative impacts are expected to occur.

## **Mitigation Measures**

- 8.13.5. Avoidance, remedial and mitigation measures are noted in terms of wind, at section 11.6 of the EIAR where it is noted that design stage mitigation measures were incorporated into the scheme to enhance wind conditions at the proposed development. In addition, Block B was modified to significantly reduce the extent of the overhang over the library building to reduce the windiness in the thoroughfare between Block A and Block B.
- 8.13.6. In terms of the public seating spaces, it is indicated that the extension of the canopy around the north-western corner of Block D is insufficient at reducing the windiness in this area and wind conditions along the seating area between Block D and Block B are expected to be in the 'standing' range. The stronger winds that more vulnerable pedestrians may find distressing will remain but in general, this area will still be an attractive 'sitting' space for 70% of the year.
- 8.13.7. Provision of screens along the upper balconies at the north-eastern corner of Block D ensures these balconies provide a calm and comfortable environment for the occupants. In terms of the terraces, the provision of balustrades as proposed does not provide significantly calmer wind conditions on the roof terraces. The terraces at Block A and Block B are less suited to their intended use while the wind conditions on Block D (residential block) are mostly tolerable for 'sitting' and suitable for 'standing', although there is a small pocket on the west side where the block rises higher and where considerable windiness may occur. The reduced extent of the upper terrace in Block E is beneficial as it prohibits access to the windier areas on the roof.

## **Residual Impacts**

- 8.13.8. In general, the proposed development is expected to provide an appropriate environment for pedestrians and occupants to carry out a wide variety of 'sitting', 'standing' and 'walking' activities. The EIAR submits that suitable wind mitigation has been adopted where less than desirable windiness is expected within the development.
- 8.13.9. Some less desirable windiness remains in the thoroughfare between Blocks A and Block B as well as the thoroughfare and seating area between Block B and Block D,

but it is considered that these conditions will likely only occur for a small number of hours per year, coinciding with inclement weather.

## **Conclusion**

8.13.10. I have read and considered all of the submissions made in relation to wind. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise and vibration.

## **8.14. Daylight & Sunlight Assessment**

8.14.1. Chapter 12 of the EIAR addresses the impact of the proposed development on the daylight and sunlight conditions of areas within and surrounding the development site. In addition to the chapter in the EIAR, the applicant submitted a standalone technical report – Sunlight, Daylight & Shadow Assessment – in support of the proposed development. The impact report was undertaken in accordance with the recommendations of the relevant guidance and considers the appropriate targets, impact on neighbours' criteria and the development performance criteria in the assessment. The analysis is based on the design information provided in the architectural drawings and included accurate representations of the existing, proposed buildings and the surrounding environment.

8.14.2. Potential impacts are considered in Section 12.5 of the EIAR in terms of the impact on existing residential neighbours as regards skylight -VSC, sunlight, APSH and shadow/sunlight. It is submitted that the development is located on a site where it would be impossible to avoid some level of perceptible impact on neighbouring properties, without severely limiting the height of development on the application site and prejudicing the possibility and viability of its redevelopment. The impact of the proposed development on residential neighbours is indicated as generally complying with the requirements of the Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, Second Edition, 2011. In terms of specific cases of impact identified in the Sunlight, Daylight & Shadow Assessment report, it is submitted that the impacts have been justified or ameliorating factors to mitigate the impact are detailed.



8.14.3. With regard to the impact on St. Kevin's Park to the south and south-west of the proposed development site, the EIAR notes that the park passes the 2-hour test requirement for the 21<sup>st</sup> of March and the change ratio is 1.00 (unchanged). There is only a nominal reduction in the sunlight available over the entire year with change ratios noted at APSH: 0.88 and WPSH: 0.98. For the equinoxes and both solstices, minimal change other than the progression of shadow earlier in the day is predicted and all tests show similar low/no impact results.

8.14.4. In terms of the impact on the Kevin Street Library, the EIAR notes that there are three main working rooms, being the front room, mezzanine and rear room. An impact analysis of the library showed extremely high VSC skylight results for the windows serving the rooms and due to the size of the windows, an alternative analysis on a performance basis ADF was undertaken. In terms of BRE, the majority of points tested pass the requirements. Where the results of one side of a pitched rooflight, to the roof of the rear room of the library, are low, they are counterbalanced by extremely positive results on the opposite slope. The tested points generally comply with the requirements of BRE guidelines in relation to VSC Skylight. The ADF analysis shows that the rooms in the existing library are flooded with light well over the 6% considered problematic, reaching 10% in areas of the floor plates, which suggests that they are uncomfortably bright. It is submitted that the proposed design improves the areas which currently show excessive percentages. The ADF for the new exhibition space is indicated at 1.2% which, when supplemented by specific controlled task lighting is well suited to the intended use.

8.14.5. The analysis of the proposed residential blocks, Blocks D and E, was carried out on a number of floor plates, including the ground floor levels, and first and fifth floors. The habitable areas, living rooms and bedrooms, only are considered and for shadow, the assessment tested the associated balconies along with the larger shared amenity spaces around these blocks.

- Light Distribution – Average Daylight Factor (ADF):
  - ADF for 94/95% of the fully tested floor plates comply with the BRE requirements.
  - The development shows excellent average ADF results.

- The average for living rooms is 2.7% and bedrooms also 2.7% which is in excess of the minimum requirements of 1.5% and 1.0% respectively.
- It would not be expected for every room in such a large development to comply with the high percentage of passes on the test floors will only improve further on higher levels.
- Sunlight for living rooms:
  - Living rooms comply with the BRE sunlight requirements both annual APSH and Winter WPSH
  - The 83% pass rate is consistent with 'careful layout design' as per the guidelines and thus compliant. An additional 11 windows dip below the requirements but still exceed 20% APSH, the pass rate rises to 97% if these marginal results are included.
  - The proposed development complies with the requirements of the BRE guidelines in relation to both annual and winter sunlight availability to living rooms.
- Shadow/Sunlight Amenity Spaces:
  - All balcony amenity spaces tested well pass the BRE requirements.
  - The defined shared amenity space around the development receives at least 2 hours of sunlight over 70% of its area on the 21<sup>st</sup> of March well in excess of the required 50%. The shared amenity space is very well lit.
  - The proposed development complies with the requirements of BRE guidelines in relation to amenity.

### **Cumulative Impact**

8.14.6. With regard to sunlight and daylight, no cumulative impacts are expected to occur.

### **Mitigation Measures**

8.14.7. Avoidance, remedial and mitigation measures are referenced in terms of sunlight and daylight, at section 12.6 of the EIAR where it is noted that mitigation measures were incorporated into the design stage of the development to address environmental impacts in respect of daylight and sunlight.

## **Residual Impacts**

8.14.8. In general, the potential and predicted impacts are considered to be the same as discussed above, as the mitigation measures were incorporated into the design of the development.

## **Conclusion**

8.14.9. I have read and considered all of the submissions made in relation to Daylight & Sunlight, including all relevant reports submitted independently of, but referred to in, the EIAR. The Board will also note my assessment of this matter as part of the planning assessment, Section 7 of this report. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of Daylight & Sunlight on the proposed residential units.

8.14.10. I acknowledge the applicant's submission that the development is located on a site where it would be impossible to avoid some level of perceptible impact on neighbouring properties, without severely limiting the height of development on the application site and prejudicing the possibility and viability of its redevelopment. I also acknowledge the third-party concerns raised in this regard. I am satisfied however, that the assessments submitted with regard to Daylight and Sunlight are robust in the consideration of impacts.

## **8.15. Material Assets**

8.15.1. Chapter 13 of the EIAR deals with Material Assets and is presented in two sections and addresses the impact of the proposed development traffic and transport, part 1, and utilities, part 2.

### **Part 1 – Material Assets - Traffic and Transport**

8.15.2. The chapter is primarily based on the separate Traffic Impact Assessment (TIA) which was undertaken in support of the proposed development. In terms of traffic and transport, the proposed development will close off existing vehicular accesses to the site and the access to serve the proposed development will be via a new simple priority-controlled junction on New Bride Street, on the western boundary of the

development site. Pedestrians and cyclists will access from the surrounding public streets at a number of locations and development facilitates permeability through the site. The Board will note that I have addressed roads and traffic matters above in Section 7.7 of this report.

- 8.15.3. In addition to the TIA, the applicant included a suite of other reports including a Mobility Management Plan Framework and additional information submitted following the request for further information. It is noted that a traffic survey was carried out to provide background information on the existing traffic movement patterns in the vicinity of the site and 12-hour traffic counts were carried out on Wednesday the 29<sup>th</sup> of May 2019 to establish peak weekday AM and PM traffic flows. The EIAR includes the methodology adopted in preparing the assessment which included a desktop study to appraise the receiving environment and the traffic survey – which was carried out at 7 locations with the data obtained used to derive the traffic flows at an eight-junction located between Kevin Street (R110) / Liberty Lane. Total traffic movements are presented in Table 13.1 of the EIAR.
- 8.15.4. In addition, future year background traffic growth is assessed with the baseline year 2019, proposed opening year 2022 and design year 2037. The predicted background traffic growth suggests that the cumulative increase over the 2019 background levels will increase by +0.6% in 2022 and 3.7% in 2037. The TRICS database was used to predict the trip generation to and from the proposed development during both the AM and PM peak hour periods. The forecast trip generation of the proposed development has been calculated from the relevant TRICS rates and the results are presented in Tables 13.5, 13.6 and 13.7 of the EIAR, with full details presented in the TIA. The calculated combined development trips indicate that there will be 165 in the AM peak and 151 in the PM peak, giving a total of 1235 on a weekday. It is noted that for the purposes of analysis, the trip generation for the development is not constrained by parking provision. In terms of distribution, directional splits are presented in the TIA report.
- 8.15.5. Operational assessments for 5 junctions are detailed in the EIAR and it is noted that J2, New Bride Street / Iveagh Trust will have an increase in total junction traffic movements by more than 10% of the existing background traffic levels, by 13.7%, in the AM peak hour and by 13.0% in the PM peak hour periods. The TIA includes modelling results for a number of scenarios and junction performance is assessed

based on five metrics including degree of saturation, maximum queue at end of red, mean maximum queue, mean delay per PCY and practical reserve capacity.

- 8.15.6. In terms of the proposed development, the Board will note that the characteristics of the development relating to parking provision were amended during the course of the PAs assessment of the development. The EIAR assessment is based on the original layout while the amended proposal provides for a reduction in car parking space numbers and an increase in bicycle parking space numbers. In the context of the proposed development, the limiting of available car parking spaces is welcomed and is likely to limit the impact of the development on the adjacent road network.
- 8.15.7. Potential impacts are considered in Section 13.1.5 of the EIAR in terms of the impact on roads and traffic. During the construction phase, it is anticipated that vehicular traffic will reach a peak during site clearance works and basement excavation. Under a 'worst case' scenario, it is submitted that up to 10no. HGV trips may be made to the site each hour, which would equate to a total of 20 HGV movements in each of the peak hours. It is also noted that due to the city centre location and the constrained site conditions, no onsite parking for construction personnel will be provided, therefore, no additional traffic will be generated. With regard to the operational phase, it is noted that the development will generate regular vehicular trips on the surrounding road network, increasing traffic flows at nearby junctions.

### **Cumulative Impact**

- 8.15.8. The EIAR notes that there are no nearby committed developments identified with the potential to significantly increase vehicular traffic flows on the surrounding road network. Therefore, no cumulative impacts are expected to occur.

### **Mitigation Measures**

- 8.15.9. Avoidance, remedial and mitigation measures are referenced in terms of roads and traffic, at section 13.1.8 of the EIAR where it is noted that the development will be constructed subject to the preparation of a Construction and Demolition Management Plan, including a plan for the scheduling and management of construction traffic. This plan will outline measures to be taken to mitigate the impact of construction traffic on the surrounding road network. In terms of the operational phase, it is indicated that the development incorporates several design elements intended to mitigate the impact of the development on the surrounding road network,

including a reduced car parking provision and a high provision of secure bicycle parking. In addition, a Mobility Management Plan Framework is submitted, and a Mobility Management Coordinator will be appointed to oversee an ongoing MMP.

### **Residual Impacts**

8.15.10. Predicted impacts in the construction phase are considered to be significantly lower in terms of additional traffic flows on the surrounding road network than during the operational phase. In terms of the operational phase, the TRANSYT modelling results indicate that each of the assessed junctions shall operate within its effective capacity on all junction approaches during both the AM and PM peak periods in the design year, 2037, with the proposed development in place.

8.15.11. Within the scope of the MMP to be implemented, the Mobility Manager will be responsible for monitoring the travel habits of development occupants and visitors. Given the dynamic nature of the MMP, a package of measures and campaigns can be identified, piloted and monitored on an ongoing basis.

### **Conclusion**

8.15.12. I have read and considered all of the submissions made in relation to traffic and transport, including all relevant reports submitted independently of, but referred to in, the EIA and additional reports submitted following the request for further information during the PAs assessment of the development. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIA. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets - traffic and transport.

### **Part 2 – Material Assets - Utilities**

8.15.13. Part 2 of Chapter 13 of the EIA relates to material assets – utilities including potable water supply infrastructure, wastewater infrastructure, electricity, gas and telecommunications. The chapter sets out the baseline situation relating to each service noting that reference is also made in other chapters of the EIA. In addition, the brownfield nature of the site as well as the existing services already available at the site.

8.15.14. Potential impacts are considered in Section 13.2.5 of the EIAR in terms of the impact of the development on utilities and the risk of direct and indirect impacts are noted in relation to gas, electricity and telecommunications during the construction phase as well as the operational phase. While the development will result in an increased demand for utilities and services, it is noted that no difficulties in providing said services has been identified.

#### **Cumulative Impact**

8.15.15. The EIAR notes no cumulative impacts are expected to occur.

#### **Mitigation Measures**

8.15.16. Avoidance, remedial and mitigation measures are referenced in terms of utilities, at section 13.2.8 of the EIAR and it is noted that the main impacts are associated with the construction phase of the development.

#### **Residual Impacts**

8.15.17. No residual or predicted impacts are anticipated.

#### **Conclusion**

8.15.18. I have read and considered all of the submissions made in relation to material assets - utilities, including all relevant reports submitted independently of, but referred to in, the EIAR. I am satisfied that the impacts identified will be avoided and managed through specific proposals identified in the EIAR. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets - utilities.

### **8.16. Interactions of the Foregoing**

8.16.1. Chapter 14 of the EIAR deals with interactions between the environmental factors discussed in the previous chapters of the EIAR. The purpose of the chapter is to draw attention to significant interaction and interrelationships in the existing environment and it is noted that each chapter included a specific section on the environmental interactions. The primary interactions are summarised as follows:

- Archaeology with Land and Soils

- Architectural Heritage with Archaeology, Land and Soils, Townscape and Visual Impact and Material Assets
- Biodiversity with Land and Soils and Water
- Land and Soils with Population and Human Health, Biodiversity and Water
- Water with Population and Human Health, Biodiversity and Material Assets
- Air Quality with Population and Human Health
- Noise & Vibration with Population and Human Health
- Wind with Population and Human Health
- Daylight & Sunlight with Population and Human Health

8.16.2. It has been demonstrated that most of the interrelationships are neutral in impact when the mitigation measures proposed are incorporated into the design, construction or operation of the proposed development. It is also noted that the standalone reports submitted with the application have informed the relevant environmental assessment and are referenced where relevant in the EIAR.

### **8.17. Summary of Mitigation & Monitoring Measures**

8.17.1. Chapter 15 of the EIAR presents a summary of the mitigation and monitoring measures included in all of the chapters of the EIAR. This chapter is included for ease of reference for all parties.

### **8.18. EIAR Volume II - Townscape, Landscape and Visual Impact Assessment**

8.18.1. The Board will note that the EIAR submits the Townscape, Landscape and Visual Impact Assessment Chapter under a separate volume of the EIAR.

8.18.2. The initial chapters of Volume II of the EIAR set out the context of the subject site and considers the effects of demolition and construction, as well as presenting the development history of the site and surrounding area, assessing the effects of the proposed development within the urban context. The report includes a number of verified photomontages from 31 locations both close to and further from the site. The report includes, in section 2, a description of the methodology employed which includes townscape and landscape effects and visual effects and sets out the



distinctions between both. The early chapters of the report include a suite of maps and historical photographs of the site and area all of which contribute to understanding the evolution of building and design at this location of Dublin City Centre, as well as the history of the DIT at this site. Chapter 4 details the development site and its current context, including an architectural critique of the existing buildings on the site.

8.18.3. Chapter 5 of the TLVIA includes an assessment of the cumulative effects of two identified permitted developments in the vicinity including the Royal College of Surgeons site (development ranging from 5 to 8 storeys in height) and 45-47 Cuffe Street (Greenside House) (development of 8 storey office building). Chapter 6 sets out the characteristics of the proposed development, noting that the design 'seeks to be a modern, elegant urban series of buildings, that improve the urban block'. This section of the report includes details of the proposed development including CGI views of the proposed development. The report considers the proposed development in terms of the relevant policy requirements of the Dublin City Council Development Plan as well as national and regional policy, concluding that the proposed development accords with the stated requirements.

8.18.4. Chapter 8 of the report notes that the proposed development represents a change in density, height and character of the development site and considers the effects of the development on 4 character areas of Dublin City Centre including Portobello, The Liberties, South Georgian and Civic South. The findings of the assessment are summarised as follows:

- Character Area A: Portobello -  
The effect on the character area would be minor and beneficial and there would be no appreciable cumulative effect.
- Character Area B: The Liberties -  
The effect on the character area as a whole would be moderate and beneficial and there would be no appreciable cumulative effect.
- Character Area C: South Georgian -  
The effect on the character area as a whole would be negligible and there would be no appreciable cumulative effect.

- Character Area D: Civic South -

The effect on the character area as a whole would be moderate and beneficial and there would be no appreciable cumulative effect.

8.18.5. The Visual Impact Assessment is presented in Section 9.0 of Volume II of the EIAR and submits that the assessment was undertaken on the basis that the proposed development has been fully completed and is operational as the construction effects will be temporary. I consider that this is both reasonable and acceptable. The Board will also note that amendments were made to the overall design following a request for further information by Dublin City Council. In response, an Addendum Document was submitted to Volume II of the EIAR. This Addendum provides a review of the design quality of the proposed development which has been refined and provides an updated assessment of the visual impact of the revised design proposal in 23 verified views, including 5 new viewpoints, including 4 from the Portobello Character Area and a further view looking west along Kevin Street towards the junction with New Bride Street.

8.18.6. The conclusion reached in the Addendum report notes that the issues raised in the further information request have been addressed by a modified approach, giving more emphasis and influence to the existing New Bride Street townscape, with a smaller scale and use of brick, returns around the corner into Kevin Street. Of the views assessed, it is concluded that the proposed development would have major beneficial effects in 7 views, moderate and beneficial or balanced effects in 5 views, 9 minor and beneficial or neutral effects and 2 views experiencing no-change or a negligible effect.

### **Cumulative Impact**

8.18.7. Cumulative impacts are addressed above at Section 8.16.4. The EIAR concludes that the development will not give rise to an appreciable cumulative effect as considered in terms of the assessment of the 4 character areas in the vicinity of the site. I am satisfied that this is acceptable.

### **Mitigation Measures**

8.18.8. Mitigation measures were incorporated into the design stage of the development. No additional mitigation measures are recommended.

## **Residual Impacts**

8.18.9. Residual effects on visual receptors are presented in Table 4.1 of the Addendum Report. Mitigation measures were incorporated into the design of the development.

## **Conclusion**

8.18.10. I have read and considered all of the submissions made in relation to Townscape, Landscape and Visual Impact Assessment, including all relevant reports submitted independently of, but referred to in, the EIAR, as well as additional information submitted following the request for further information. I note that the impacts identified are to be avoided and managed through specific proposals identified in the EIAR. I am satisfied that the proposed development has been considered in terms of direct or indirect impacts on Townscape, Landscape and Visual Impact Assessment.

8.18.11. Having regard to national policy, together with the city centre location and the existing development on the site, I am satisfied that, subject to the amendments indicated in my planning assessment to Blocks C and D, that the proposed development is acceptable in terms of visual impacts.

## **8.19. Reasoned Conclusion on Significant Effects**

8.19.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submission from the Planning Authority, prescribed bodies and observers in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- In terms of **population and human health**, there are potential for impacts in terms of roads and traffic issues as well as dust and noise arising from the demolition and construction phase of the development affecting air quality and residential amenity. These impacts are considered to be temporary and short term. Mitigation measures are proposed.  
There will be a positive impact on population with regard to the creation of a number of jobs.

The development will increase the availability of housing stock in Dublin City Centre.

- In terms of **biodiversity**, the development will give rise to the loss of a nesting opportunity for Herring Gull, identified as a high conservation concern, and the Lesser Black-backed Gulls, identified as medium conservation concern. At least eight pairs of Herring Gulls were found to be nesting on the roof of the buildings to be demolished. There will be temporary disturbance to fauna, including birds during the construction phase while the operational phase will give rise to new potential nesting sites on new areas of flat roof.

- Effects on the receiving **land, soil and geology or water** environments are unlikely to arise given the city centre location and the brownfield nature of the site.

The EIAR sets out the mitigation measures which will be implemented as part of the Construction and Environmental Management Plan.

- In terms of **noise and vibration**, during the construction phase, noise impacts may arise from demolition and construction activities. There will also be increased construction vehicular movement in the wider area and on the local road network. Mitigation measures are proposed in terms of managing the impact of noise and vibration.

- In terms of **Visual and Landscape Impacts**, the proposed development will, if permitted, be located within the built-up area of Dublin city centre. The wider area has a variety of building types and heights and the proposed development will represent a significant introduction to this area in terms of height, density, scale and massing. There will be an acceptable impact on the urban landscape locally.

In conclusion, having regard to the above identified significant effects, I am satisfied that the proposed project, subject to the implementation of mitigation measures as described in the EIAR, would not have any unacceptable direct or indirect impacts on the environment.

## 9.0 **Appropriate Assessment**

### 9.1. **Introduction**

- 9.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 9.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The applicant did not submit a Natura Impact Statement with the application.
- 9.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 9.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
  - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

### **Consultations**

- 9.1.5. The Board will note that all third party, prescribed bodies and Local Authority submissions and consultations are summarised above in Section 3 of this report,

while all third-party appeal submissions are summarised in Section 6. No issues relating to AA are noted as having been raised.

## 9.2. Screening for Appropriate Assessment

- 9.2.1. The applicant prepared an Appropriate Assessment Screening Report which included a summary of the receiving environment and noted that the development is not directly connected or necessary to the management of a European Site. Figure 4 identifies the 15km radius around the proposed development site and notes the Natura 2000 Sites occurring within this area. Table 12 of the AA Screening Report identifies the Natura 2000 Sites within 15km of the site and identifies 5 as being located within the likely zone of influence. The AA Screening report includes details of all of the sites and the qualifying interests / Special Conservation Interests for which each site is designated. Each site was examined in the context of location in terms of the zone of Influence of effect from the proposed development and is considered in terms of AA requirements.
- 9.2.2. The AA Screening Assessment concludes that the following sites can be screened out in the first instance, as they are located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, it is concluded that no significant impacts on the following sites is reasonably foreseeable. I am satisfied that the potential for impacts on the following 15 Natura 2000 sites can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Baldoyle Bay SAC	000199	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>

Baldoyle Bay SPA	004016	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Howth Head SAC	000202	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Howth Head Coast SPA	004113	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Rockabill to Dalkey Island SAC	003000	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Dalkey Island SPA	004172	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p>

		<p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Irelands Eye SAC	002193	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Irelands Eye SPA	004117	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Glenasmole Valley SAC	001209	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Knocksink Wood SAC	000725	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Ballyman Glen SAC	000713	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p>



		<p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Wicklow Mountains SAC	002122	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Wicklow Mountains SPA	004040	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Malahide Estuary SAC	000205	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>
Malahide Estuary SPA	004025	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p><b>Screened Out</b></p>

9.2.3. The Screening Report identified the Natura 2000 sites within 15km of the subject site, within the zone of influence of the project, for the purposes of AA Screening, including as follows:

- North Dublin Bay SAC (Site Code: 000206)
- North Bull Island SPA (004006)
- South Dublin Bay SAC (000210)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Poulaphuca Reservoir SPA (004063)

### 9.3. Qualifying Interests for Natura 2000 Sites within Zone of Influence

9.3.1. The closest Natura 2000 sites, and those considered to be within the zone of influence for the proposed development, as there are potential pathways via the surface water drainage and wastewater drainage infrastructure, and therefore, hydrological links to the designated sites, are the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 3.2km to the east of the site. The North Dublin Bay SAC (Site code 000206) and North Bull Island SPA (Site Code 004006) lie approximately 6.3km to the east.

9.3.2. The following table sets out the qualifying interests for each of these sites:

European Site	Qualifying Interests
<p><b>South Dublin Bay SAC</b> <b>(Site Code: 000210)</b> Located approx. 3.6km to the east of the site</p>	<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> </ul>
<p><b>South Dublin Bay &amp; River Tolka Estuary SPA</b> <b>(Site Code: 004024)</b> Located approx. 3.6km to the east of the site.</p>	<ul style="list-style-type: none"> <li>• Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> <li>• Oystercatcher (Haematopus ostralegus) [A130]</li> <li>• Ringed Plover (Charadrius hiaticula) [A137]</li> <li>• Grey Plover (Pluvialis squatarola) [A141]</li> <li>• Knot (Calidris canutus) [A143]</li> </ul>

	<ul style="list-style-type: none"> <li>• Sanderling (<i>Calidris alba</i>) [A144]</li> <li>• Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>• Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Redshank (<i>Tringa totanus</i>) [A162]</li> <li>• Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Roseate Tern (<i>Sterna dougallii</i>) [A192]</li> <li>• Common Tern (<i>Sterna hirundo</i>) [A193]</li> <li>• Arctic Tern (<i>Sterna paradisaea</i>) [A194]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>
<p><b>North Dublin Bay SAC</b> <b>(Site Code: 000206)</b></p> <p>Located approx. 6.3km to the east of the site.</p>	<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Annual vegetation of drift lines [1210]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Embryonic shifting dunes [2110]</li> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>• Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> <li>• Humid dune slacks [2190]</li> <li>• <i>Petalophyllum ralfsii</i> (Petalwort) [1395]</li> </ul>
<p><b>North Bull Island SPA</b> <b>(Site Code: 004006)</b></p> <p>Located approx. 6.3km to the east of the site.</p>	<ul style="list-style-type: none"> <li>• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>• Shelduck (<i>Tadorna tadorna</i>) [A048]</li> <li>• Teal (<i>Anas crecca</i>) [A052]</li> <li>• Pintail (<i>Anas acuta</i>) [A054]</li> <li>• Shoveler (<i>Anas clypeata</i>) [A056]</li> <li>• Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</li> </ul>

	<ul style="list-style-type: none"> <li>• Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>• Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>• Knot (<i>Calidris canutus</i>) [A143]</li> <li>• Sanderling (<i>Calidris alba</i>) [A144]</li> <li>• Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>• Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</li> <li>• Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Curlew (<i>Numenius arquata</i>) [A160]</li> <li>• Redshank (<i>Tringa totanus</i>) [A162]</li> <li>• Turnstone (<i>Arenaria interpres</i>) [A169]</li> <li>• Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>
<p><b>Poulaphouca Reservoir SPA (Site Code: 004063)</b></p> <p>Located approx. 23km to the south of the site</p>	<ul style="list-style-type: none"> <li>• Greylag Goose (<i>Anser anser</i>) [A043]</li> <li>• Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</li> </ul>

9.3.3. It is noted that the subject development site is located outside all of the Natura 2000 sites identified above, and therefore there is no potential for direct effects to any designated site. The subject development site is an urban brownfield site and is not located within any designated site. The site does not contain any of the intertidal habitats or species associated with any Natura 2000 site. The existing site is composed entirely of buildings and artificial surfaces, all of which are of negligible biodiversity value, within a heavily built-up area of Dublin City. I would note that the only pathway between the site and the Natura 2000 sites in Dublin Bay are via surface water drainage and wastewater drainage. In addition, the Poulaphuca Reservoir is considered to be within the zone of influence of the development as the SPA is the source of drinking water for Dublin City, including the proposed development site.

#### 9.4. Conservation Objectives:

9.4.1. The Conservation Objectives for the relevant designated sites are as follows:

European Site	Conservation Objectives
<p><b>South Dublin Bay SAC</b> (Site Code: 000210) Located approx. 3.6km to the east of the site</p>	<ul style="list-style-type: none"> <li>• The NPWS has identified a site-specific conservation objective to <b>maintain</b> the favourable conservation condition of the Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets</li> </ul>
<p><b>South Dublin Bay &amp; River Tolka Estuary SPA</b> (Site Code: 004024) Located approx. 3.6km to the east of the site.</p>	<ul style="list-style-type: none"> <li>• The NPWS has identified site-specific conservation objectives to <b>maintain</b> the favourable conservation condition of the bird species listed as Qualifying Interests, as defined by a list of attributes and targets.</li> <li>• No site-specific objective has been set for the Grey Plover and it is proposed for removal from the list of Special Conservation Interest for the SPA.</li> </ul>
<p><b>North Dublin Bay SAC</b> (Site Code: 000206)  Located approx. 6.3km to the east of the site.</p>	<ul style="list-style-type: none"> <li>• The NPWS has identified a site-specific conservation objective to <b>maintain</b> the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> <li>○ Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>○ <i>Petalophyllum ralfsii</i> (Petalwort) [1395]</li> </ul> </li> <li>• The NPWS has identified a site-specific conservation objective to <b>restore</b> the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> <li>○ Annual vegetation of drift lines [1210]</li> <li>○ <i>Salicornia</i> and other annuals colonising mud and sand [1310]</li> <li>○ Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</li> <li>○ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Embryonic shifting dunes [2110]</li> <li>○ Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>○ Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> <li>○ Humid dune slacks [2190]</li> </ul>
<p><b>North Bull Island SPA</b> <b>(Site Code: 004006)</b></p> <p>Located approx. 6.3km to the east of the site.</p>	<ul style="list-style-type: none"> <li>● The NPWS has identified site-specific conservation objectives to <b>maintain</b> the favourable conservation condition of the bird species listed as Qualifying Interests, as defined by a list of attributes and targets.</li> </ul>
<p><b>Poulaphouca Reservoir SPA (Site Code: 004063)</b></p> <p>Located approx. 23km to the south of the site</p>	<ul style="list-style-type: none"> <li>● There is a generic conservation objective to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA: <ul style="list-style-type: none"> <li>○ Greylag Goose (<i>Anser anser</i>) [A043]</li> <li>○ Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</li> </ul> </li> </ul>

## 9.5. Potential Significant Effects

9.5.1. The AA Screening Report, submitted with the application, includes an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives. In order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- Habitat loss / alteration / fragmentation: The subject site lies at a remove of some 3.2km from the boundary of any designated site. This separation distance is increased in terms of the course of the drainage network in Dublin City. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.

- Disturbance and / or displacement of species: The site lies within a heavily urbanised environment. No qualifying species or habitats of interest, for which the designated sites are so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 sites have been designated. As the site is already developed, the new development is unlikely to give rise to new or additional disturbances associated with the operational phase of the development due to noise or light.

- Water Quality: The proposed development is to connect to existing public water services, and the AA Screening report references the Ringsend Wastewater Treatment Plant. It is noted that the Ringsend Treatment Plant is not currently compliant with its emission limit standards, but that work is underway to increase capacity. It is noted that notwithstanding the current issues with the WWTP, evidence suggests that no negative impacts to the Natura 2000 sites in Dublin Bay, and the habitats and species they support, are occurring from water quality.

The Board will note that the Ringsend WWTP is licenced to discharge treated effluent for a population equivalent of an average of 1.65 million, but the weekly averages can spike at approximately 2.36 million PE. This variation is associated with storm water inflows during periods of wet weather as the existing network works off a combined system for foul and surface water in many parts of the city, including in the vicinity of the subject site. The Board will also note that notwithstanding the capacity issues at the plant, the Liffey Estuary and Dublin Bay are currently classified by the EPA under the WFD 2010-2015 as being of 'unpolluted' water quality status. With the upgrading of the WWTP, the pollution level of future discharges to Dublin Bay will decrease in the medium to longer term. Having regard to the scale of the proposed development in the context of the overall licenced discharge at the Ringsend WWTP, I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality within Dublin Bay.

In addition, the Board will also note the policy of the Dublin City Development Plan, Policy SI18 refers, to require new development within the City to provide SUDs as a measure to reduce flood risk and improve water quality. The proposed development includes proposals for an on-site attenuation system in accordance with this policy, which will restrict storm water flow from the site for any storm duration. The receiving sewer will therefore have increased hydraulic capacity during such rain events, thereby enhancing the current capacity of the combined sewer and preventing the development from contributing to overflow events at the Ringsend WWTP.

The submitted Construction & Demolition Management Plan identifies environmental issues which may arise during the construction phase in terms of noise, air quality & dust monitoring, migrating dust & dirt pollution, harmful materials and vibration, and includes measures to eliminate and reduce such impacts. I am satisfied that the pollution control measures to be undertaken at the site are standard practices for development within urban sites in order to protect local receiving waters, even without the potential for hydrological connection to Natura 2000 sites. In any case, I am generally satisfied that in the absence of the measures indicated, the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay can be excluded given the distance to such sites, the nature and scale of the development and the lack of a direct hydrological connection.

## **9.6. In Combination / Cumulative Effects**

- 9.6.1. In relation to in-combination impacts, the submitted AA Screening Report notes a number of plans and projects in the immediate vicinity of the site as well as through the catchment of the Ringsend WWTP. Implementation of the Water Framework Directive which will ensure that improvements to water quality in Dublin Bay and the River Liffey are maintained or enhanced where relevant. In addition, the publishing of the Greater Dublin Strategic Drainage Study, policy document, in 2005, gave direction for the design of future drainage infrastructure. While the proposed development will add loading to the Ringsend WWTP, I note the works ongoing to increase capacity. I also note that the discharge from the plant is noted as not having an observable negative impact on the water quality in the near field of the discharge



and in the Liffey and Tolka Estuaries. In terms of in-combination with other 'brown-field' or infill sites, it is submitted that development of these sites is, while increasing pressure on the WWTP, leading to improvements in the standard of surface water attenuation across the city.

- 9.6.2. Having regard to the contribution of the proposed development to the wastewater discharge from Ringsend, together with all other matters raised above, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. In addition, I would note that all other projects within the Dublin Area which may influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA.
- 9.6.3. I am satisfied that sufficient information lies before the Board such that it can be concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 site which lies within the zone of influence of the proposed development site.

#### **9.7. Conclusion on Stage 1 Screening:**

- 9.7.1. I have considered the AA Screening report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

## 10.0 Recommendation

The proposed mixed use development which includes commercial office space, 299 build-to-rent residential units, crèche, café / restaurant and exhibition space to the rear of Kevin Street Library are acceptable in principle at this site with regard to the relevant Z5:City Centre Zoning, which seeks to 'consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'.

The provision of a higher density residential development at this location is desirable with regard its intermediate urban location and its proximity to high frequency transport services. In addition, the site is located in an area with a wide range of social infrastructure facilities.

The height, bulk and massing, detailed design and layout of the scheme are acceptable. I am also satisfied that the development would not have any significant adverse impacts on the amenities of the surrounding area. The future occupiers of the scheme will also benefit from a high standard of internal amenity.

The overall provision of car parking and cycle parking is considered acceptable, subject to conditions. I am satisfied the future occupiers of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.

Having regard to the above assessment, I recommend that the proposed development be granted, subject to conditions, for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

Having regard to:

- (a) the policies and objectives in the Dublin City Development Plan 2016-2022;
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (c) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

- (d) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2020;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (f) the nature, scale and design of the proposed development;
- (g) the pattern of existing and permitted development in the area,
- (h) the submissions and observations received and
- (i) the report of the Inspector,

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

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

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

2. The proposed development shall be amended as follows:

**Block C:**

- a) The overall height of Block C shall be reduced by 1 floor with the proposed 4<sup>th</sup> floor to be omitted.
- b) The 3<sup>rd</sup> floor shall be set back from the western elevation of the building by 10.2m, such that there shall be no office space provided to the west of the stairs at this level.
- c) The proposed curtain glazing on the northern elevation of the 1<sup>st</sup> and 2<sup>nd</sup> floors shall be omitted.

**Block D**

- a) The proposed elevation of Block D onto Camden Row (submitted as 4 storeys) shall be reduced by 1 floor with the omission of proposed units D-03-05 and D-03-06 on the 3<sup>rd</sup> floor level.
- b) The proposed terrace area associated with the proposed Park Lounge (identified at 4<sup>th</sup> floor level on the submitted plans) shall be reduced in size in accordance with the omission of the two units prescribed above in part a) and shall only overlook the public realm area to the east of Block D.

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

**Reason:** In the interests of visual amenity and the protection of the character and setting of the St. Kevins Church and Graveyard, recorded monument, in the interests of residential and visual amenity and the protection of the character and setting of the protected structures to the west of the development and in the interests of proper planning and sustainable development.

- 3. The Built-to-Rent 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) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

4. 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 development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

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

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

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

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

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

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

8. Details and samples of the materials, colours and textures of all the external finishes to the proposed development including external shopfronts, signage, pavement finishes and bicycle stands shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

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

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

10. Proposals for a development name, and for residential unit /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. The proposed name shall be based on local historical or topographical features, or other alternative acceptable to the planning authority, and shall be in both Irish and English. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

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

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

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

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

13. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Full details of proposed green roofs including construction and maintenance plan shall be submitted to and agreed in writing with the planning authority prior to commencement of development, unless otherwise stated.

**Reason:** In the interest of public health.

14. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
- (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

**Reason:** In the interest of public health.

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

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

16. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

17. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.



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

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and offsite disposal of construction/demolition waste.

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

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

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

20. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

21. The applicant shall comply with the following Transportation Planning Division requirements:
- a) Prior to commencement of the development, the applicant shall submit revised floor plans for the written agreement with the planning authority detailing bicycle lifts and/or a separate bicycle ramp in addition to the bicycle stair ramp/channel to provide improved access to the bicycle parking area for all users including cargo bikes.
  - b) 15 no. car share spaces for the exclusive use of residents or commercial occupants of the development, 5% accessible parking spaces and 10% EV spaces shall be provided. All car parking spaces shall be ducted and be future proofed for electrical charging. A revised car parking layout and Car Parking Management Strategy shall be submitted to the planning authority for written agreement prior to commencement of the development.
  - c) Prior to commencement of development, the applicant/developer shall contact the Environment and Transportation Department to agree in writing all works to the public road network including footpaths, vehicular entry treatments, pedestrian crossings, loading/parking bays, public lighting, and works to the Kevin Street and New Bride Street junction. Materials proposed in public areas shall be in accordance with the document 'Construction Standards for Roads and Street Works in Dublin City Council'. All works will be at the applicant/developers expense including fees applicable for the removal of a Pay and Display permit parking bay.
  - d) The applicant/developer shall prior to commencement of development, submit for the written agreement of the planning authority revised details for the proposed entry treatment and provision of bollards on Church Lane South. The revised details shall allow for the appropriate vehicular access to adjacent properties along Church Lane South.
  - e) 1708 no. bicycle parking spaces shall be provided, consisting of 700 no. residential spaces and 1008 no. commercial spaces. A minimum 5 no. spaces shall be allocated for cargo bicycle parking and these shall

be Sheffield style stands separated by an appropriate distance in order to accommodate a parked cargo bike. Electrical charging facilities for bikes at a ratio of 5% shall be provided. Cycle parking shall be secure, conveniently located, sheltered and well lit. Shower and changing facilities shall also be provided as part of the commercial development. Key/fob access shall be required to bicycle compounds/areas. The design of all resident/commercial and visitor cycle parking stands at basement and ground level shall allow both wheel and frame to be locked.

- g) Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties.

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

22. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation and demolition works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

23. Prior to the commencement of development, an archaeological method statement for impact mitigation (including temporary and enabling works) shall be provided for the written agreement of the City Archaeologist. The method statement shall contain:
- a) A detailed archaeological and historical desktop study of the subject site, to include industrial heritage.
  - b) A copy of the license application to the National Monuments Service.
  - c) Details of the proposed construction methodology, including the phasing of any archaeological excavation, and the location of site compound.
  - d) The methodology for the appropriate conservation and structural repair of the historic northern graveyard boundary

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

24. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of the development.

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

29. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to

commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

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

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A. Considine

Inspectorate

08/07/2021

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