



An
Bord
Pleanála

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

**Inspector's Report
ABP-309345-21**

Strategic Housing Development

205 no. Build to Rent apartments and
associated site works

Location

Old Bakery Site, 113 Phibsborough
Road, Cross Guns Bridge,
Phibsborough, Dublin 7.

Planning Authority

Dublin City Council

Applicant

Bindford Limited

Prescribed Bodies

Dept. of Tourism, Culture, Arts,
Gaeltacht, Sport and Media
Inland Fisheries Ireland
National Transport Authority
Irish Rail
Irish Water

Waterways Ireland

Observers

Aideen McDonnell and the Berkeley
Road Residents Association
Aileen Finnegan and Others
Alexey (Aleksei) Malogulko
Allan Myhill
Anna Malogulko
Arleen O'Rourke
BLEND Residents Association
Board of Directors of Cross Guns Quay
(Block B) CLG
Brid Carter
Carmel Carroll
Carmel Sherry
Cllr. Cat O'Driscoll and Gary Gannon
T.D.
Christopher Campbell
Ciara Fitzpatrick and Brian Rice
Ciaran Mullarkey
Ciaran Perry
Cliona O'Connell
Colm Moore
Conor O'Malley
David Kelly
Deirdre Germaine
Eamonn Kelly
Eamonn Maher
Eamonn Murray

Cllr. Eimear McCormack
Elizabeth Murtough
Ethna and Michael Begley
Fearghal O’Nia and Orla Reynolds
Fergal McCarthy and Others
Frank McDonald
Gael and Niamh Gaudin
Gemma Clarke and Val Cassidy
Gordon Hassett and Cara Loh Hassett
Helen Blackmore
Iona and District Residents Association
Jean Lunny
Cllr. Joe Costello and Cllr. Declan
Meenagh
John and Ciara Brennan
John Begley
John Conway and Louth
Environmental Group
Jordan Montminy and Maeve O’Boyle
Julianne Gee Ho and David Ho
Laura and Peter Kelly
Leinster Street North Residents
Association and Shandon Residents
Association
Lisa Carroll
Louise Leonard & Declan Ronan
Lucy Chadwick
Maria Browne and Sean Curneen
Senator Marie Sherlock

Mark Gallagher

Martin Dunne

Michael King

Michael Murphy and Brid Conway

Michael O'Dwyer and Larry Untoy

Michael Holmes

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Natalie Kilroy

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Horner, Cllr. Darcy Loneragan

Niamh Kelly

Noel Sheehan

Olivia Fox Gill and Laurence Gill

Patricia McKenna

Patrick Flynn

Paul Carty

Peter Murray

Rathdown Road Residents Association

Roman McGoldrick & Orla McKieran

Ronan Carton

Rosaleen and Gerry Kenny

Rosaleen McElvanny and Frank

McCormack

Sarah Mallon

Shandon Residents Association

Sinead Scullion

Sonja and Fionn MacCumhall

Sophie Lerner

Susanne Crowe

The Enniskerry Road Residents
Association

Tracy Dunne

Una Ní Mhearaín

Date of Site Inspection

8th April 2021

Inspector

Sarah Moran

DECISION QUASHED

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DECISION QUASHED

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The site (c. 0.73 ha) is a disused bakery and mill located on the Royal Canal, c. 200 m to the north of Phibsborough Shopping Centre in Dublin 7. It is accessed from the Phibsborough Road, to the immediate south of Cross Guns Bridge. The existing buildings at the site include a concrete silo that is 27.5m in height, as well as other ancillary industrial buildings and an ESB substation. The site is between the 5th and 6th locks of the Royal Canal and fronts onto the southern canal tow path, with a high stone wall along the canal frontage at the northern site boundary. The canal infrastructure and towpaths are designated as a Conservation Area. There is a railway line along the opposite side of the canal, further to the north of the site. The 7 storey former North City Flour Mills building to the immediate east of the site is a protected structure (RPS 6732), now in residential use within the Cross Guns Quay apartment complex, which is served by an access laneway from the Phibsborough Road that also serves the development site. The southern site boundary adjoins a mews laneway to the rear of two-story terraced housing along Leinster Street North, also the rear gardens of houses on Shandon Road and Shandon Park. The streets to the south of the site are designated as a Residential Conservation Area. The western site boundary adjoins duplex dwelling units within the Shandon Mill complex.

3.0 Proposed Strategic Housing Development

- 3.1. The development involves the demolition of all of the existing buildings / structures at the site and the construction of 205 no. Build to Rent (BTR) units as follows:

APARTMENT TYPE	NO. OF UNITS	%
Studio apartment	55	27
1 bed apartment	85	41
2 bed apartment	65	30
Total	205	

3.2. The following key points of the development are noted:

Site Area	0.73 ha
Total Gross Resi Floorspace	c. 15,963.6 sq.m.
Residential density	c. 292 units/ha
Building height	4-12 storeys
Plot Ratio	2.25
Site Coverage	36.4%
Aspect	53.65% dual aspect
Public and communal open space	2.978 sq.m.
Non-residential development	Cafe/retail unit (67.3 sq.m.) and public plaza to the east of the site Internal residential amenity space at ground and top floor levels of Block C, including gym, lounge, shared workspaces, parcel store and reception. External roof terraces at Blocks A and B
Childcare	No provision
Part V	Transfer of 20 no. on-site units to Dublin City Council
Roads / Vehicular / Pedestrian access	Vehicular and pedestrian connection to Phibsborough Road 2 no. pedestrian accesses at the Royal Canal to the north (necessitating alterations to the existing boundary wall).
Car and cycle parking	29 no. car parking spaces (20 no. basement spaces and 9 no. surface spaces) comprising 24 no. residents' spaces, 2 no. car club spaces and 3 no. set down spaces. 5 no. basement motorcycle spaces

	272 no. residential bicycle parking spaces and 72 no. surface visitor bicycle parking spaces
Ancillary Development	Two new ESB substations and retention of existing ESB substation.

- 3.3. The application includes a draft Section 47 Agreement between Dublin City Council and the developer, which states that the developer agrees with the City Council to restrict and regulate the development for the period of 15 years from the date of the planning permission, such that the development shall remain owned and operated by a single entity and no individual residential unit within the development may be sold or sub-let separately. Upon expiry of the 15-year term, none of the individual residential units in the development may be sold individually or collectively without the need for any further planning permission.
- 3.4. The application is accompanied by a Material Contravention Statement and a Natura Impact Statement.

4.0 Planning History

4.1. Reg. Ref. 2402/14 PL29N.243444.

- 4.1.1. Permission granted in 2014 by Dublin City Council (DCC) and by the Board for demolition of existing buildings at the site and the construction of 21 no. dwelling units, 8 no. apartments and 2 no. commercial units. The development included 29 no. car parking spaces, 16 no. bicycle spaces, plant rooms and bin storage, with access from the site access road off Phibsborough Road. This scheme provided 3 storey houses backing onto the laneway to the south and 4-6 storey structures facing the Royal Canal. A public plaza was proposed centrally along the canal frontage. The permission granted by the Board omitted house no. 13 by condition such that a total of 28 no. residential units were permitted.

4.2. Reg. Ref. 6818/07 PL29N.231198

- 4.2.1. Permission refused on appeal in 2009 for demolition of the existing buildings and construction of a mixed-use scheme comprising 148 no. residential units, 35 no. medical consulting suites, creche, café and gym (18,384 sq.m, approx.) The

development ranged from 2 to 13 storeys in height over 2 no. basement levels. The decision was based on the following:

- Material conflict with the Phibsborough / Mountjoy LAP, having regard to:
 - Visual obtrusiveness and overbearing nature due to the excessive height, bulk, and continuity of facades of canal side structures, giving rise to extensive overshadowing which would prejudice the potential use and enjoyment by the public of this important amenity space.
 - Prejudice the satisfactory provision of a strategic pedestrian and cycle route.
 - Overlooking and overbearing impacts on existing residences on Leinster Street North and impact on their amenities.
- Traffic safety as the additional vehicular traffic which would be generated would exceed the safe capacity of the existing entrance arrangements having regard to the restricted width of the access laneway.

4.3. Reg. Ref. 1745/07

4.3.1. Permission refused by DCC for a mixed-use scheme in 4 no. buildings ranging from 6 to 9 storeys with a 13 storey element and 6 no. terraced 2 storey townhouses, containing with a total GFA of 21,588 sq.m. approx., for the following reasons:

- Height and density resulting in an unacceptable congested form of urban infill that would be seriously injurious to the value of the proposed residential units.
- Impacts on the amenities of the adjoining housing, in terms of overshadowing, overlooking and a heightened sense of enclosure to outlooks.
- Visual impact on the residential conservation area.
- High incidence of north facing single aspect units.

4.4. Reg. Ref. 4033/06

4.4.1. DCC refused permission for a mixed-use scheme containing 4 no buildings ranging from 5 to 7 storeys with a 13 storey element and roof gardens over two basement levels, for the following reasons:

- Height and density resulting in an unacceptable congested form of urban infill that would be seriously injurious to the value of the proposed residential units.
- Sub-standard form of residential development having regard to the proposed internal layouts and lack of meaningful open space provision on site.

4.5. Vacant Sites Register

- 4.5.1. DCC entered the development site on the Vacant Sites Register on 28th November 2017, as per the Notice of Entry on file. The above named applicant (Bindford Limited) made an appeal to the Board against the entry, ref. PL29N.300593. The Board determined that the site was a vacant site within the meaning of the Urban Regeneration and Housing Act, 2015, however this determination is the subject of ongoing legal proceedings (ref. High Court 2018 No. 579 JR).

5.0 Pre-Application Consultation ABP-307400-20

- 5.1. The pre-application consultation related to a proposal to construct 207 no. BTR apartments within 3 no. blocks ranging in height from 4 to 12 storeys at the subject site. The proposal also involved a new café / retail area at ground floor level of the eastern block (Block C) along with residential amenities including residents lounge and external terrace overlooking the canal, kitchen, dining room, meeting / media screening room and work booths; provision of new open space to the east of the site; a total of 28 no. car parking spaces (20 no. basement spaces and 8 no. surface spaces), 270 no. cycle parking spaces and 66 no. visitor cycle parking spaces and vehicular and pedestrian connection to Phibsborough Road with two additional pedestrian accesses off the Royal Canal to the north of the site.
- 5.2. A section 5 consultation meeting took place via Microsoft Teams on 2nd September 2020. Representatives of the prospective applicant, DCC and ABP were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the consultation meeting and the submission of the planning authority, ABP was of the opinion that the documents submitted with the request to enter into consultations constitute a reasonable basis for an application for strategic housing development.

5.3. The opinion notification pursuant to article 285(5)(b) also stated that, notwithstanding that the documentation submitted constituted a reasonable basis for an application for strategic housing development to An Bord Pleanála, the prospective applicant was advised to address the following:

1. Building height and design strategy, with particular attention to Block C and its prominence in views from the south, also interactions with adjoining protected structures and views east and west along the Royal Canal. Prospective applicant to address Material Contravention issue if necessary.
2. Materials and finishes, balcony, and boundary treatments, with particular regard to the requirement to provide high quality and durable finishes and materials which have regard to the surrounding context of the site.
3. Quality and residential amenity of ground floor apartments, particularly north facing apartments with frontage onto the canal tow path, in terms of privacy, security and daylighting.
4. Measures to avoid overlooking and loss of privacy due to overlooking within the development and to protect the privacy of ground floor dwelling units adjoining areas of open space.
5. The Wind Environment and potential impacts on the quality of public, communal, and private amenity spaces.
6. The type and level of communal facilities provided on the site having regard to the BTR nature of the development.
7. Proposed construction methodology to obviate potential impacts on the integrity of the Royal Canal.
8. Proposed measures to address potential overlooking of existing adjoining residential properties, including the nature, function, and effectiveness of the proposed perforated screens to be provided on the southern elevation.
9. Treatment of the access roadway between Phibsborough Road and the development site with regard to DMURS, Quality Assessments and measures to avoid conflict between pedestrian and vehicle movements.

10. Management of public open space and the distinction between communal and public spaces including the relationship with an area of open ground to the east of the site.

5.4. Applicant's Response to Pre-Application Opinion

- 5.4.1. The application includes a statement of response to the pre-application consultation, as provided for under section 8(1)(iv) of the Act of 2016, which outlines the information / documentation submitted as specified in the ABP Opinion.

6.0 Relevant Planning Policy

6.1. National and Regional Policy

6.1.1. National Planning Framework 2018-2040

National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas.

Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

National Policy Objective 2A A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.

National Policy Objective 13 In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

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

6.1.2. Rebuilding Ireland – Action Plan for Housing and Homelessness 2016

Pillar 4: Improve the Rental Sector. The key objective is addressing obstacles to greater private rented sector deliver and improving the supply of units at affordable rents.

Key actions include encouraging “build to rent”. Build-to-rent developments are designed with the occupants in mind – this might be equal sized bedrooms clustered around a central shared space, or the inclusion of amenities such as gyms and crèches and shared entertainment facilities.

6.1.3. Regional Spatial and Economic Strategy for the Eastern and Midland Region

Phibsborough is located within the Dublin Metropolitan Area. The following Regional Policy objectives are noted in particular:

RPO 4.3 Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

RPO 5.4 Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

RPO 5.5 Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

6.2. **Section 28 Ministerial Guidelines**

6.2.1. The following is a list of relevant section 28 Ministerial Guidelines:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (as updated 2020)
- Design Manual for Urban Roads and Streets (DMURS)
- Urban Development and Building Height Guidelines for Planning Authorities
- Childcare Facilities Guidelines for Planning Authorities
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Architectural Heritage Protection Guidelines for Planning Authorities
- Framework and Principles for the Protection of the Archaeological Heritage

6.3. Dublin City Development Plan 2016-2022

- 6.3.1. The site is zoned Z1: 'To protect, provide and improve residential amenities'. Lands to the south at Leinster Road North and Shandon Park are zoned Z2: 'To protect and / or improve residential conservation areas'. Shandon Mill and the Cross Guns Quay apartment scheme are zoned Z1. The Royal Canal area is zoned Z9: 'To preserve, protect and improve recreational amenity and open space and green networks'. The canal is also a designated Conservation Area. The former North City Flour Mills building, now the Cross Guns Quay apartment complex, is designated as a protected structure (RPS 6732).
- 6.3.2. Phibsborough is identified as a Key District Centre (KDC), Z4. The plan strategy is to reinforce the KDCs as the main urban centres outside of the city centre. The following development plan policies apply:

SC10: To develop and support the hierarchy of the suburban centres, ranging from the top tier key district centres, to district centres/urban villages and neighbourhood centres, in order to support the sustainable consolidation of the city and provide for the essential economic and community support for local neighbourhoods, including post offices and banks, where feasible, and to promote and enhance the distinctive character and sense of place of these areas.

- 6.3.3. The following development plan policies apply in relation to residential density and housing mix:

SC13: To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context, and which are supported by a full range of community infrastructure such as schools, shops and recreational areas, having regard to the safeguarding criteria set out in Chapter 16 (development standards), including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture. These sustainable densities will include due consideration for the protection of surrounding residents, households, and communities.

SC14: To promote a variety of housing and apartment types which will create a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces.

- 6.3.4. Development plan section 4.5.4.1 sets out policy on building height. The following policies are noted in particular:

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).

Policy 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.

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

The development site is not located in an area designated for high rise or medium rise as per development plan Fig. no. 39.

- 6.3.5. Chapter 5 sets out policies for quality housing. The following policies are noted in particular:

QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm, and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

QH17: To support the provision of purpose built, managed high-quality private rented accommodation with a long-term horizon.

- 6.3.6. Chapter 10 includes policies relating to linkages to parks, open spaces, and waterways. A Green Cycle Corridor is identified along the Royal Canal.

- 6.3.7. Chapter 11 deals with Built Heritage and Culture. The following policies are noted in particular:

CHC2: To ensure that the special interest of Protected Structures is protected. Development will conserve and enhance Protected Structures and their curtilage ...

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

- 6.3.8. Chapter 16 deals with Development Standards: Design, Layout, Mix of Uses and Sustainable Design. Section 16.3.4 specifies that all residential schemes should provide 10% of site area as public open space. Section 16.3.4 states:

Depending on the location and open space context, the space provided could contribute towards the city's green network, provide a local park, provide play space or playgrounds, create new civic space/plaza, or improve the amenity of a streetscape. Green spaces can also help with surface water management through integration with sustainable urban drainage systems. Soft landscaping will be preferred to hard landscaping which will be given consideration only in schemes where soft landscaping would not be viable or appropriate.

Where adjacent to canals or rivers, proposals must take into account the functions of a riparian corridor and possible flood plain.

6.3.9. Section 16.5 sets out plot ratio standards, with an indicative standard of 0.5 – 2.0 for Z1 and Z2 zones. It also states 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.*

Section 16.6 specifies an indicative site coverage standard of 45% – 60% for Z1 and 45% for Z2. Section 16.7.2 sets a general height limit of 28m commercial or 24m residential in the inner-city area, and 16m in the outer city area and up to 24m for commercial and residential development at a rail hub (within 500m of existing and proposed Luas, mainline, DART, DART Underground and Metro stations). Where a site has a pre-existing height over that stipulated above, a building of the same number of storeys may be permitted, subject to assessment against the standards set out elsewhere in the development plan and the submission of an urban design statement. Development plan section 16.7.2 also states:

Phibsborough will remain a low rise area with the exception of allowing for:

- Up to a max. of 19m in the centre of the Smurfit site and immediately adjoining the proposed railway station at Cross Guns Bridge; and*

- (ii) *The addition of one additional storey of 4m will be considered in relation to any proposals to reclad the existing 'tower' at the Phibsborough Shopping Centre.*

6.3.10. Development plan section 16.10 relates to residential development. It specifies that, in the case of 'build to let' developments, the applicant shall be requested to submit evidence to demonstrate that there is not an over-concentration of such schemes within an area, including a map showing similar facilities within 0.25km of a proposal. This managed rental model shall be retained in single ownership for 20 years (minimum) during which period units may not be sold off on a piecemeal basis. Build-to-let schemes for mobile workers should be adaptable for future demographic needs of the city, e.g. by providing for the amalgamation of studios in a change of use scenario.

6.4. **Phibsborough Local Environmental Improvements Plan 2017-2022**

6.4.1. The site is within the boundary of the Phibsborough LEIP. Section 4.1 of the LEIP notes that a new civic space was granted at the Royal Canal frontage of the development site under PL29N.243444, which provides a "public square" onto the canal, a focal point for the development and for the wider canal area. The permission also conditioned a requirement for a café/restaurant in one of the proposed new buildings fronting onto this space. Section 4.2 Open Space and Green Infrastructure, identifies the Royal Canal as the most important piece of green infrastructure within the plan area. Proposals by the National Transport Authority (NTA) include the installation of a cycle track and improved pedestrian path along the entire length of the Royal Canal. Proposals for use of this stretch of canal for water based sports / recreation are identified.

6.5. **Applicant's Statement of Consistency**

6.5.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines, the City Development Plan, and other regional and national planning policies. The following points are noted.

- The proposed development of residentially zoned lands at a brownfield site located at a well-established inner city area, in close proximity to many services

and amenities including Luas, bus and train services is consistent with several National Policy Objectives of the NPF.

- The development is consistent with Pillar 3 of Rebuilding Ireland, to build more homes at appropriate urban locations. It will improve the quantity and mix of residential stock at a location that is particularly well served in terms of public transport, education, local retail, recreational and associated social infrastructure.
- The development is within Dublin City at the top of the settlement hierarchy for the region as outlined in the RSES. It is consistent with RSES RPO 4.2 regarding development of infill/ brownfield sites, as well as the principles for the growth of the Dublin Metropolitan Area set out in RSES section 5.3.
- The provision of higher density development on an infill site served by high quality pedestrian and cycle links and close to public transport services is consistent with the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities. The development responds to the 12 criteria set out in the Urban Design Manual. It will replace existing derelict structures and is of a high standard of design and finish, which will provide an attractive living environment and a greatly enhanced public realm and will interact well with surrounding development.
- The development site is identified as a 'Central and/or Accessible Urban Location' as per the Apartment Guidelines. It is c. 10 minutes' walk from Cabra and Phibsborough Luas stations and is adjacent to multiple high frequency bus routes at Phibsborough Road. It is close to significant employment locations at the Mater Hospital (800m), TUD Grangegorman (1.25 km) and c. 1.5 km from Dublin City Centre. The housing mix and the design and layout of the development comply with specific policy requirements of the Apartment Guidelines.
- The development is consistent with the principles of DMURS as it prioritises permeability for pedestrians and cyclists and achieves an appropriate balance between the functional requirements of different network users. The low parking

provision and car club promote a modal shift to alternative forms of transport, while also creating a high quality public open space in the area.

- The applicant has justified the lack of childcare provision with regard to the provisions of the Childcare Guidelines.
- The application includes a Flood Risk Assessment, which demonstrates that the development is outside flood zones A and B and is appropriate for residential development as per the Flood Risk Guidelines.
- The development is in accordance with relevant development plan policies on urban design, residential development, open space and landscaping and physical and social infrastructure. The site provides for 5% of public open space, which is less than development plan requirements, due to site constraints. However, it is proposed to provide a financial contribution in lieu to DCC.
- The development improves connectivity between the Royal Canal and Phibsborough Road and provides a public square to the east of the site with a café/retail unit fronting onto the canal, similar to that permitted under PL29N.243444, as noted in the Phibsborough LEIP. It will provide improved passive surveillance of the Royal Canal Way.

6.6. Material Contravention Statement

- 6.6.1. The applicant's Material Contravention Statement submits that the development is of strategic or national importance, i.e. that section 37(2)(b)(i) of the 2000 Act applies. It is also submitted that section 37(2)(b)(iii) applies, i.e. that permission should be granted for the development having regard to section 28 guidelines, specifically the Urban Development & Building Heights: Guidelines for Planning Authorities (2018). The Statement also refers to section 9(3)(b) of the 2016 Act in this regard.
- 6.6.2. The Material Contravention Statement relates to the matters of building height, public open space, plot ratio and site coverage and car parking. The points made in relation to these issues may be summarised separately as follows.

6.6.3. Material Contravention Statement on Building Height

- The site is located adjacent to the “Inner City” as defined on Map K of the Development Plan.
- The existing silo building at the site is c.29.5m high and significantly taller than any other buildings in the area. It is the equivalent of almost 10 storeys, based on an average residential storey height of 3m.
- The development is 3 – 12 storeys tall. Blocks A and B are 26.34 m and Block C is just over 40m. Block C is a ‘mid-rise’ building as defined in the development plan.
- The development has been designed to a high standard. It is appropriate for the site context and steps down to meet adjoining buildings. The replacement of the existing silo building with a new tall building ensures the continuity of legibility in the area that the site currently provides.
- The development will provide a new connection to the canal bank and provide a new retail outlet, both of which represent planning gain.
- The Architectural Heritage Impact Assessment (AHIA) finds that the development would not have any adverse impacts on the adjacent protected structure or conservation areas.
- The development site is located within 500m of the existing Cabra Luas stop and is directly south (within 100m) of the proposed Glasnevin Metro stop and interchange with the Maynooth line. It benefits from access to excellent existing public transport facilities in the area including the Luas, high frequency buses and rail, as well as the proposed interchange and Bus Connects routes.
- The application includes a Microclimatic Wind Analysis and Pedestrian Comfort Report, a Bat Assessment, and an Ecological Impact Assessment, which all confirm that the development will not have a detrimental impact on the local environment
- The current proposal is the optimum layout which provides the best protection to existing surrounding neighbours and ensures the best use of this serviced, vacant site.

- It is submitted that the imposition of a height or numerical restriction at the subject site would be contrary to SPPR1 of the Building Height Guidelines. The Statement provides an evaluation of the development against the principles outlined in section 3.1 of the Guidelines and the Development Management Criteria set out in section 3.2 of the Guidelines.

6.6.4. Material Contravention Statement on Public Open Space

- The public open space provided within the development comprises a public plaza adjoining the Royal Canal tow path, which measures 5% of the site area.
- The applicant submits that residents of the development will have direct access to the Royal Canal, which is one of the main outdoor amenities of the north city.
- The applicant notes the particular site constraints given its linear layout coupled with the ambition to create an attractive, new urban development with appropriate frontage onto the Royal Canal at this derelict urban site whilst protecting the amenities of the neighbouring properties.
- For these reasons, the applicant proposes a financial contribution in lieu of the shortfall of public open space.

6.6.5. Material Contravention Statement on Plot Ratio and Site Coverage

- The proposed plot ratio of 2.25 is not considered to be a material contravention of development plan section 16.5.
- The proposed site coverage of 36% is less than the indicative range of 45% - 60% site coverage for Z1 zoned sites specified in the development plan and is therefore not considered a material contravention.
- It is submitted that the shortfall of public open space is not a material contravention, given the proximity of the site to an existing large public amenity and the fact that the development plan allows for developments to propose a shortfall where considered appropriate to seek a financial contribution towards public open space provision/ upgrade elsewhere in the vicinity.

6.6.6. Material Contravention Statement on Car Parking

- The parking provision of 0.1 space per residential unit is less than the maximum standard for Z1 zoned lands within development plan Parking Zone 2, also SPPR

7 of the Apartment Guidelines. It is submitted on this basis that a material contravention does not occur in relation to car parking.

7.0 Observer Submissions

7.1. There is a large volume of observer submissions in response to the development, including submissions by elected representatives and residents' groups. The issues raised may be summarised as follows.

7.2. Observer Comments on Build to Rent Development

- The statutory notices provide a very generic description of the development and lack the specific quantum/area (in sq.m.) of the development and the extent/area of the buildings to be demolished, as well as other particulars. The application does not provide adequate details of the existing buildings on the site and does not provide adequate / accurate details of distances to site boundaries.
- The development contravenes the residential zoning of the site and development plan objectives to protect the residential amenities and character of the RCA to the south of the site. Development plan policy on transitional zonal areas is noted in this regard.
- The proposed housing mix is inadequate with many studio units and a lack of 3 bedroom units. This is inflexible and inappropriate to the area. The development does not cater for families or older people. More family type units are needed in the area. Contravention of Phibsborough LEIP policy QH19.
- The development does not provide affordable accommodation and will be too expensive for local people.
- BTR accommodation will be occupied by transient residents rather than a long term, sustainable community. There is already a significant amount of student accommodation in the area and homeless hostels, as well as pending co-living applications.
- The applicant did not adequately consult with the local community.
- The development does not provide amenities or services for the local area and does not include a childcare facility. Community services and childcare and

medical facilities in the area are at capacity. It is unclear if the proposed play area will be accessible to the public.

- Existing public transport in the area is at capacity. The development is premature pending the delivery of MetroLink and Bus Connects proposals for the area.
- The retail unit within the development is limited in scale and may not be viable given the limited accessibility of the site.
- The development would contravene many objectives of the Phibsborough LEIP including policies QH18, QH19 and QH22.
- There is an over concentration of BTR developments in Dublin City Centre. There are a number of applications for BTR accommodation in the vicinity of the development site, including the permission granted in 2018 for student accommodation at Phibsborough Shopping Centre under ABP-300241-17 and the current application for student accommodation at the same location, ref. PL29N.308875. Observers also refer to the proposed BTR development at the Hendrons Building, ref. ABP-308841-20, and to student accommodation at Broadstone Hall and at Dominic Place. It is submitted that the applicant's Build to Rent Justification Report does not take these developments into consideration.
- There is no clarity as to the long-term management of the development once the covenant expires.
- Due to the BTR nature of the development, the Part V units within the scheme will eventually revert to the developer rather than be owned indefinitely by DCC.
- The BTR development does not take cognisance of the Covid pandemic and resultant changes in living arrangements, such as working from home, also the need for larger communal spaces and open spaces.
- Residential units within the development may be hoarded by the developer to maintain or push up rental values.

7.3. Observer Comments on Height, Scale and Density

- The building height, scale and density are excessive/ inappropriate and out of character with the area.
- The height of the existing silo should be the maximum height at the site.

- The development contravenes Development Plan policy on building height.
- The applicant's evaluation of the development against SPPR 1 of the Building Height Guidelines lacks a comprehensive assessment of the development in relation to all SPPR, in particular assessment of the Development Management Criteria set out under SPPR 3 of the Guidelines. The applicant does not adequately demonstrate how the proposal responds to the scale of the adjacent RCA, protected structure and Royal Canal Conservation Area and does not adequately demonstrate how the development enhances the public spaces along both sides of the canal to justify its additional height. Observers also comment that the development is not in a landmark position that could facilitate such increases in height. It is submitted that the increase in height is unjustified in relation to SPPR 3 of the Guidelines.
- The height and form of the development make a negative contribution to the improvement of legibility through the site or wider urban area. It is submitted that the proposed height and scale and the poor design form of the development mean that its height and form cannot be justified in this instance. The development fails to uphold or enhance amenities and would be contrary to the Building Height Guidelines.
- Use of national guidelines to justify height are ultra vires and not authorised by section 28(1C) of 2000 Act.
- The Building Height Guidelines are contrary to the SEA Directive as they purport to authorise contraventions to the development plan/ local area plan without an SEA or screening for SEA being conducted.
- Observers note previous refusals at the development site on grounds relating to excessive scale, height and density and adverse impacts on residential amenities and on the Royal Canal, including refusals by the Board on these grounds. It is submitted that these refusal reasons are still valid.

7.4. Observer Comments on Design and Visual Impacts

- The development will be visually obtrusive and will dominate views in the wider area. It will present a monolithic and incongruous appearance to the Royal Canal and breaches a long established building line along the southern bank of the canal.
- The design, scale and finish of the development are out of keeping with the area, particularly the RCA to the south of the site.
- The development will fundamentally change the character of the established residential area to the south of the site, with a particularly negative impact on Leinster Street North.
- The Townscape and Visual Impact Assessment (TVIA) does not consider impacts on Dalclassian Downs, Glasnevin, Dublin 11.
- The development provides inadequate public open space and contravenes the City Development Plan and Phibsborough LEIR on this matter. The lack of public open space within the development is not adequately compensated by proximity to the Royal Canal. The payment of a development contribution in lieu of public open space provision on site does not comply with development plan policy on same. The lack of adequate public open space is an indication that the scheme will result in overdevelopment of the site.
- The development will provide inadequate residential accommodation due to a lack of public/ communal open space, poorly designed and sited apartments, lack of light in apartments due to use of screens, inadequate private open space provision, lack of family units or amenities and to a high proportion of single aspect and north facing apartments. There are inadequate separation distances between the blocks, contrary to minimum setback guidance in the development plan.
- The design and layout of the public open space are poor, and it will be overshadowed by the development.
- There are concerns about the quality and amenity of the ground floor apartments facing the canal.

- The design does not take account of Covid and separation of entrances, units and avoiding multi occupancy development.
- The dual aspect ratio is questionable given the amount of controlled aspect windows to minimise overlooking.
- The development does not include adequate measures for sustainable design to mitigate climate impacts.
- Concerns that the green walls will be omitted from the final scheme as they are not included in all of the submitted drawings.
- The gated access to the development will contravene development plan policy QH10, which seeks to discourage gated residential developments as they exclude and divide established communities. It is unclear how the access will be managed by the operator and how access to the café will be facilitated and managed in this context.

7.5. Observer Comments on Impacts on Residential Amenities

- The drawings contain inaccuracies regarding distances to boundaries and the scale of the existing buildings on site. The cross sections provided are selective and misleading. The application therefore contravenes article 298(1)(a) of the Planning and Development Regulations 2001 (as amended).
- The development provides inadequate separation distances to existing housing. The 22m standard is adequate for opposing 2 storey dwellings but is not relevant to the proposed development.
- The development will significantly contrast in scale with existing houses in Leinster Street North and other adjacent residential areas. The difference in height will be exacerbated by the sloping topography of Leinster Street North.
- The application does not provide views of the proposed development from Leinster Street North.
- The development will have an overbearing impact on the established residential areas to the south of the site, due to its height, mass, and scale. The location of play and exercise areas and car and cycle parking and a gated entrance along

the southern boundary to the rear of Leinster Street North will compound this negative impact on residential amenities due to additional noise and disturbance.

- The development will result in a substantial loss of daylight to adjacent residential properties. The houses within Leinster Street North have habitable rooms (bedrooms and living spaces) to the rear/north, which will be overshadowed by the development. The north facing rear gardens are the only private amenity spaces serving these dwellings.
- The applicant's daylight report excludes residential properties on Shandon Road which are the nearest dwellings to the development.
- Notwithstanding the fact that Block A is stepped down where it addresses Shandon Mill, this does not represent a meaningful height reduction at this location. The rear gardens and rear elevations of these duplex properties will be overlooked and will experience a loss of privacy and overshadowing.
- South facing balconies, living spaces and communal areas within the development will overlook adjacent residential properties at Leinster Street North, Shandon Road and Shandon Mill. The proposed screens to south facing windows are an inadequate measure to prevent overlooking and will reduce the amount of sunlight in the apartments. This form of screening is out of character for the area and, due to its use on extremely dominant tall structures, will increase visual impacts to the south of the site. Possibility that the screens will be omitted / amended by a subsequent planning application, with consequent adverse impacts on residential amenities.
- The treatment of the southern boundary is inadequate, with an adjacent refuse store that may result in vermin and noise impacts.
- There is a bike store to the rear of no. 40 Shandon Road, which is too high and will have an overbearing visual impact.
- The development will result in adverse impacts on residential amenities due to noise and anti-social behaviour, particularly associated with the roof terraces. The inadequate provision of public open space within the development may lead to more intensified usage of the roof terraces, with increased noise levels and loss of privacy from these areas.

- The microclimate wind analysis is flawed as it excludes houses on Shandon Road from the 3D model.
- The application lacks detail as to how the demolition will be carried out, potential impacts associated with asbestos, etc.
- Adverse impacts on residential and environmental amenities during the construction period, including noise, dust, and traffic.
- There are concerns about structural impacts on surrounding buildings because of the proposed demolition, excavation and construction works.

7.6. Observer Comments on Architectural and Cultural Heritage, Ecological Impacts

- The development will have adverse impacts on the North City Flour Mills protected structure. Block C will contrast in scale with it and will overlook the protected structure. The development will dominate the protected structure and diminish its architectural form and distinct character.
- The development will interrupt views of the North City Flour Mills from the east and west and the building will no longer remain the focus of its setting within the Royal Canal Conservation Area.
- The height and footprint of the development significantly exceed those of the existing buildings at the site with consequent impacts on the historic surroundings. The scale and form of the proposals are significantly different from the existing historic and industrial buildings on the site and the applicant's argument for their similarities is not appropriate.
- The AHIA does not adequately assess the architectural, historical, cultural, scientific, technical and social significance of potential impacts on the existing structures at the development site, the Mill Building protected structure or the Royal Canal Conservation Area and is not consistent with best practice as outlined in the EPA Guidelines on Information to be Contained in an EIS
- The development will have adverse impacts on the Phibsborough ACA to the south of the site and contravene relevant development plan policies in relation to same. The AHIA does not provide adequate assessment of this matter.

- There are several protected structures in the vicinity as well as buildings within the adjacent conservation area that are listed in the National Inventory of Architectural Heritage as regionally significant, but are not protected structures, i.e. the two canal locks and Cross Guns Bridge. The AHIA does not adequately assess potential impacts on these structures.
- The existing silo at the site is a rare remaining example in Dublin of this type of structure and should be reused. Similar structures have been successfully converted to residential accommodation elsewhere. The demolition of the silo will result in a loss of embodied energy in the existing concrete.
- The removal of part of the stone boundary wall at the frontage to the canal will have an adverse impact on the Royal Canal Conservation Area. The development breaches the long-established building line along the canal bank.
- The development will have adverse ecological impacts on the Royal Canal Conservation Area including impacts on bats, otters, and swans. The Bat Survey is inadequate as it did not have internal access to the buildings on site. The applicant does not provide adequate assessment of otter impacts.
- The development may require sub-threshold EIA due to the sensitive location of the site adjoining the canal, an important local amenity and piece of green infrastructure and a proposed Natural Heritage Area (pNHA).
- The development will overshadow the Royal Canal and reduce amenity at this location. The Royal Canal Greenway has benefited from substantial public investment to develop its amenity value, as well as work by many local voluntary nature groups and community groups. The development would undermine this public investment. There is a lack of public amenities in the Phibsborough area.
- The development does not comply with the Planning and Development Act 2000 (as amended) and the Habitats Directive due to inadequacies and lacunae in the AA Screening Report and NIS. The Board does not have sufficient and/or adequate information to complete AA in relation to the development.
- There is insufficient information in the application in relation to the impact of the development on bird and bat flight lines / collision risks for the purposes of the EIA Screening Report, AA Screening Report and NIS, including insufficient

information in relation to the nature and extent of the demolition works or the piling and excavation works.

7.7. Observer Comments on Roads, Pedestrian, Bicycle and Traffic Issues

- The development will add to existing traffic congestion in the area.
- Existing public transport in the area has inadequate capacity and cannot cater for demand generated by the development. The development is premature pending the delivery of MetroLink and Bus Connects.
- The development provides an inadequate quantum of car parking for residents and will add to existing demand for on-street parking in the area, which is currently oversubscribed.
- The car parking layout could result in traffic hazards, including car parking near the basement ramp. The spaces serving the existing Cross Guns development may be heavily compromised because of the access arrangements.
- Observers question the viability of the provision of a basement car park at this location near the Royal Canal and to a protected structure.
- The entrance from Phibsborough Road will result in a traffic hazard due to its narrow width and lack of dedicated pedestrian and cycle access at this heavily trafficked location. The access laneway already serves the Cross Guns Quay development and does not have additional capacity for the development as well as public access to the canal. The canal tow path does not provide a fully accessible access to the development. Additional concerns about safe access for emergency vehicles from Phibsborough Road.
- The application includes proposals outside the red line site boundary including the provision of 5 no. cycle parking spaces. There is no letter of consent for the proposals outside the site boundary or for the access through the adjoining site to Phibsborough Road. The application includes additional car parking spaces within the blue line site boundary and that a separate planning permission should be sought for these spaces.

8.0 Planning Authority Chief Executive Report

8.1. Dublin City Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the Central Area Committee, as expressed at a meeting of members held on 25th February 2021. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows. The submission includes several technical reports from relevant departments of DCC, comprising DCC Transportation Planning Division dated 23rd March 2021; DCC Housing & Community Services memo dated 10th February 2021; DCC Drainage Division comment dated 16th March 2021; and DCC Parks, Biodiversity & Landscape Services report dated 15th March 2021 and DCC Environmental Health Officer, Air Quality Monitoring & Noise Control Unit a report dated 2nd March 2021, which are incorporated into the following summary.

8.2. DCC Comment on Zoning, Housing Mix and Build to Rent Development

- The development complies with the Z1 zoning objective and is acceptable in principle.
- The applicant's Market Justification Report identifies that 45% of the population of Phibsborough rent their homes. Given that the prevailing dominant unit type in the area is 2 storey 3/4 bed terraced housing, this suggests that many renters are sharing houses or occupying residences that are too large for their needs. A variety of rental types is appropriate for a healthy housing market and the planning authority considers the justification made by the applicant for a BTR development at this location to be acceptable, notwithstanding observer concerns in relation to this matter.
- The unit mix is in accordance with the Apartment Guidelines.

8.3. DCC Comment on Height, Scale, Density and Plot Ratio

- The existing silo is 27.5m in height, equivalent to a 9 storey building. Development Plan policy with regard to height, including specific reference to Phibsborough, precludes height to the level proposed by the 12 storey (39.85m)

Block C at this location and the development would therefore materially contravene Development Plan height policy.

- With regard to the Building Height Guidelines, the imposition of blanket height restrictions cannot be applied any longer, however there is not carte blanche to seek height in every area of the city. The planning authority retains the right to control height in the city and to direct it into appropriate locations close to employment generators, high capacity public transport and services and to ensure that such development does not overwhelm the neighbourhoods in which such schemes will be located.
- There are concerns about the visual impact of the taller elements of the development, particularly when viewed from nearby established residential areas and Phibsborough village. A condition is recommended to omit levels 8, 9 and 10 from Block C. This would reduce the visual impact of the development, retain the rooftop amenity space, and still create a high-density scheme with a density of c. 265 units/ha by the omission of 12 no. units.
- The plot ratio of the development is marginally (0.24) above the indicative plot ratio for Z1 lands and the site coverage falls within the range set out in development plan standards. The plot ratio and site coverage are acceptable.
- The residential density is considered acceptable with regard to the inner-city location of the site within the canal cordon and to its proximity to high capacity public transport and employment opportunities.

8.4. DCC Comment on Design, Visual Impacts and Heritage Impacts

- It is highly likely that attempting to reuse the silo would involve either such extensive alterations to make it fit for use that the cost would be prohibitive or that the structure would no longer retain the features that make it distinctive. The silo is not a local landmark in a positive sense and its removal would be appropriate.
- The proposed contemporary design and materials are considered appropriate at this location. The planning authority would have a strong preference for all balconies to be enclosed by obscure glass balustrades for privacy and aesthetics. It recommends the replacement of areas of render with stone cladding / reconstituted stone cladding. Consideration should also be paid to introducing

some level of colour to the facades such as coloured glazing to balcony balustrades or the use of colour to describe the framework which supports the balconies on the northern elevation of Blocks A and B.

- The separation between Blocks A and B is not apparent when viewed from the canal side to west and east and the buildings have a monumentality and robust presence onto the canal. The planning authority considers that use of colour in facing materials is necessary to describe the blocks clearly as separate entities within an overall commonality of form and proportions. The shared use of finishing materials across the blocks creates internal consistency within the scheme but while that benefits Blocks A and B an alternative approach might be more beneficial to Block C in making it stand out from its immediate neighbours as a local landmark.
- The northern elevation of Block C has a strong profile and the east and west facades are satisfactory, however there are concerns about the architectural quality and visual impact of its southern elevation. The proposed perforated screens contribute to the overall unrelieved solidity of the elevation and the southern façade presents as if it is the service core with a blank gable. The planning authority recommends a condition that the screens be required to be more three dimensional and kinetic in form. It also requests that the darker brick be replaced by either stone/reconstituted stone cladding panels or a lighter brick to offset the appearance of the screens.
- In terms of wider visual impacts, it is noted that the permission granted under 2402/14 included 2-6 six storey buildings. The existing buildings at the site have their own impact on the area both visually and environmentally. Blocks A and B are not excessive in height and are consistent with the North City Flour Mills. Their visual impact is not unduly negative. It is not considered that Blocks A and B are overly intrusive above the roofs of the buildings within the RCA to the south and they do not materially detract from the visual character and amenity of these streets to an unacceptable level. The development is a suitable juxtaposition arising from an urban landscape where 18th and 19th century buildings are bounded by 21st century buildings of modern materials and height reflective of the policy context in which they emerge.

- Block C would be visible from a number of vantage points, however, subject to improvement of the southern façade, the block would not have an overly negative impact on the skyline and is comparable to existing and permitted buildings in the wider city area in similar contexts, e.g. the new Mater Hospital building, St. Vincent's Private Hospital and the Player Wills site, which are sited adjacent to domestic scale residential buildings of similar architectural style, age and character.
- The planning authority considers, notwithstanding the fact the development contravenes the City Development Plan in terms of height, that the site is robust enough, with a post-industrial context of poor quality buildings, to accommodate the buildings at the scale proposed given the location within the inner city/inner suburban interface close to high capacity public transport, employment centres and the city centre. The scheme is a 21st century addition to the townscape of Phibsborough and will undoubtedly have a strong visual impact but this is not considered a negative factor.

8.5. DCC Comment on the Quality of Residential Accommodation

- The planning authority is generally satisfied with the layouts and dimensions of the apartment units.
- The planning authority is satisfied that the proposed 56% dual aspect units are true dual aspect with no pop out or angled windows. This is a satisfactory quantum of dual aspect units. As per the daylight and sunlight analysis north facing units would receive adequate daylighting. The single aspect north facing units face a water body and amenity area, as provided for in the Apartment Guidelines. The level of daylight access to the proposed apartments is acceptable overall.
- The planning authority is not completely satisfied with the amenity levels of the ground floor units in Blocks A & B facing the canal bank. They are single aspect north facing with frontage set behind railings. While the scheme has been improved by provision of winter gardens there is still a degree of doubt that the units will have less than optimal residential amenity for ground floor units. The applicant has made a particular effort to improve these units by increasing the terrace area and raising the level of the apartment ground floors. The railings

would still intrude up to half the height of the glazing but set back, however, there is a trade-off between optimal residential amenity and redevelopment of an underused vacant site which benefits from the outlook over the canal. On balance, the ground floor north facing units are considered reasonable in this context.

- The planning authority is satisfied with the level, diversity and location of the communal facilities provided, subject to conditions.
- The design and layouts of the balconies and winter gardens are generally acceptable with regard to exposure to wind impacts.
- The ground level communal open space has adequate privacy planting to the front of ground floor units and is overlooked adequately. The main children's play space appears quite close to the ground floor windows of units in Block A. The roof level communal open space is also provided in roof terraces in Blocks A & B do not have natural surveillance which might be improved by placing windows onto the terrace from the corridor accessing the adjacent apartments.
- DCC Parks, Biodiversity and Landscape Services Division comment that there is a significant under-provision of public open space on the site, which is not adequately compensated for by proximity to the canal. The area would benefit from the full provision to provide a better recreational area adjacent to the canal and due to the absence of open space in the adjoining residential developments.
- DCC Environmental Health Officer, Air Quality Monitoring & Noise Control Unit of Dublin City Council, in a report dated 2nd March 2021, notes the proximity of an Irish Rail compound and track line, which is used during night time hours and the recommendations of Irish Rail regarding noise mitigation measures. It is uncertain that the scheme as designed can provide adequate acoustic screening and a condition requiring same may result in the redesign of elements of the design after permission is granted which deprives third parties of their right to respond. The unit recommends refusal in the absence of this information.

8.6. DCC Comment on Impacts on Residential Amenities

- The Sunlight and Daylight Analysis indicates that there would be a reduction in daylight and sunlight at adjacent residential properties, but this would be marginal

and the impact on residential amenity would not be significant or unacceptable. The development will not result in undue overshadowing of neighbouring properties.

- The main potential for overlooking arises between the studio units at 1st to 5th floors in Blocks A & B to the rear of the dwellings on Leinster Street to the south. The distances involved are adequate to prevent undue overlooking. It is recommended that all balconies to the south facing studio units are fitted with obscure glazing to balconies to further limit potential overlooking. The proposed metal screens to all the southern elevations would restrict overlooking. The recommendation that the screens on the southern elevation of Block C should be a more three dimensional architectural feature would include the screens being set forward of the window frame thus providing further obviation of downward overlooking.

8.7. DCC Comment on Traffic, Pedestrian and Cycle Connections and Parking

- DCC Transportation Planning Division recommends conditions including updated Mobility Management Strategy; further details of access from Phibsborough Road; clarification of management of set down areas; details of car parking management; confirmation of car club provision; bicycle management strategy.
- The proposed links to the Royal Canal Greenway are acceptable with regard to increased permeability to facilitate increased pedestrian/ cycle movements.

8.8. DCC Comment on Ecology

- The planning authority notes the ecological concerns stated by the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media and by Waterways Ireland regarding potential ecological impacts associated with the alteration /removal of the boundary wall to the Royal Canal. The issues raised are considered to be of such significance and would have such an impact on the layout of the scheme that amendments by condition would result in an extensive and material redesign post permission with third parties having no right of response. Given this outcome it is considered that the scheme must be refused. A subsequent redesign of the scheme addressing these concerns might form a later application which would be given due consideration under the SHD process.

8.9. DCC Comment on Miscellaneous Issues

- Given the site location and the expected low number of children that might be resident, the non-provision of a childcare facility on site is reasonable.
- The applicant apparently has not submitted a Social Infrastructure Audit, as required under development plan policy SN5.
- The submitted Construction, Demolition and Environmental Waste Management Plan and Operational WMP are satisfactory.
- DCC Housing & Community Services has engaged with the applicant in relation to Part V provision.
- DCC Drainage Division states no objection subject to conditions.
- DCC Waste Regulations Technical Officer recommends waste conditions.

8.10. DCC Conclusion

The planning authority **recommends refusal** for the following reasons:

- The Royal Canal is a designated conservation area as set out in the current Dublin City Development Plan 2016-2022 and this section of the canal is documented as a habitat for several protected species including bats and otters. The position and proximity of the three buildings to the existing canal side, the removal of the existing boundary wall and creation of new accesses onto the tow path would have a negative impact on the habitat of protected species in the immediate vicinity while the level of amendment required to account for this would result in a development materially different to that proposed. The proposed development would therefore cause serious injury to a designated conservation area and would be contrary to both national planning policy and the current Dublin City Development Plan and the proper planning and sustainable development of the area.
- The development site is in proximity to an Irish Rail compound and track line which is utilized to enable track repair and maintenance for the rail network system. All work that is carried out from this compound, is, as a necessity, conducted during night-time hours. No acoustic impact assessment has been provided with the application and the Planning Authority considers there is strong

potential for noise impacts which cannot be determined and obviated in the absence of the required expert assessment. The proposed development would therefore be at risk of such impacts which would cause serious injury to the residential amenities of the area and so would be contrary to the proper planning and sustainable development of the area.

- The development proposes a substandard level of public open space which is contrary to the policies and objectives of the current Dublin City Development Plan and would, in itself and by the precedent established for substandard provision of public open space, cause serious injury to the residential amenities of the area and, therefore, would be contrary to the proper planning and sustainable development of the area.

The planning authority also recommends conditions if the Board is minded to grant permission.

9.0 Prescribed Bodies

9.1. Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media

9.1.1. Dept. Comment on Archaeology

The Dept. notes the applicant's Archaeological Assessment and recommends a condition requiring Archaeological Monitoring of construction.

9.1.2. Dept. Comment on Nature Conservation

The following main points are noted:

- The EclA notes that there is no suitable habitat on the development site for otter. However, otters are known to be present on the Royal Canal, which, because of the regime of strict protection afforded to the otter under the Habitats Directive (92/43/EEC) must be considered of considerable conservation significance. There have been repeated reports in recent years of the usage by otters of the stretch of canal between the 6th Lock upstream of the development site and Broome Bridge a further 2 km upstream (details of same are provided) and an otter holt has been identified close to the Luas green line terminus. The Dept. is concerned that increased disturbance and illumination from the development could inhibit the movement of the otters around the 5th and 6th Locks to the canal

downstream, particularly in the context of the proposed public transport interchange on the opposite side of the canal, along with a proposed illuminated cycleway along the northern bank of the canal as part of the Royal Canal Greenway. It is possible that these various transport projects will be under construction at the same time as the subject development.

- The Dept. recommends conditions relating to limiting demolition works to outside the nesting season, supervision by a licenced bat specialist, installation of bat and swift nest boxes and no provision of external lighting on the canal side of the development.
- The Dept. recommends that, in order to avoid disturbance preventing others utilising the southern tow path of the Royal Canal to move past the 5th and 6th Locks, the Board should request the applicant to omit the proposed pedestrian accesses from the development onto the canal towpath or at least limit their use to between 7 AM and 8 PM. Also, the canal boundary wall should be retained as far as possible allowing for its refurbishment to link with the design of the new apartment buildings, and that the faces of the apartment blocks on their canal sides should be set back to the line of the existing canal face of 'The Mill' apartment block.

9.2. Waterways Ireland

9.2.1. The following points are noted from the submission by Waterways Ireland:

- The Royal Canal has become a very important ecological system which is recognised by its designation as a proposed Natural Heritage Area (pNHA).
- Waterways Ireland would have concerns of the impact of any development on the canal and its environments and boundaries.
- Any change or alteration of the boundaries including removal of boundary wall or access on to canal banks along the Royal Canal would require extensive consultation with Waterways Ireland. Opportunities for appropriate enhancements to the amenity and heritage value of the adjacent Royal Canal should be explored further and implemented as part of the scheme.
- Waterways Ireland does not permit the discharge of any kind into the canal either during or after the development of any site.

9.3. Inland Fisheries Ireland

- 9.3.1. The submission by Inland Fisheries Ireland notes that the Royal Canal in this area supports significant populations of coarse fish and a range of other freshwater aquatic species, plus all associated floral and faunal components in adjacent habitats. Inland Waterways Ireland should be consulted with on any work carried out on the canal. Conditions are recommended relating to construction and environmental management. IFI also states that it is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the development to protect the ecological integrity of any receiving aquatic environment.

9.4. National Transport Authority

- 9.4.1. The following points are noted from the submission by the NTA:
- The development is broadly consistent in principle with the land use planning principles of the Transport Strategy for the Greater Dublin Area 2016-2035, subject to the other planning considerations being addressed.
 - The proposed Metrolink project will run to the east of the site in proximity to Prospect Road, crossing under the Royal Canal. Significant works are proposed in this area which includes construction of Metrolink Glasnevin Station and Interchange as part of the DART+ Programme. Permanent and temporary land acquisitions are proposed to facilitate these works. Metrolink is at an advanced stage of design development with an agreed final route and the preparation of a Railway Order application under way.
 - The proposed Metrolink works will temporarily affect pedestrian, cycle and vehicular access to the Royal Canal Way between Prospect Road and the 6th Lock. A proposed temporary alternative access to the Royal Canal Way includes a pedestrian / cycle / vehicular bridge to link the north canal bank with Shandon Park via the development site, where a landscaped area and a children's playground are proposed. The bridge and temporary access will be removed, and all existing permanent accesses will be restored after the completion of Metrolink. The NTA recommends a condition requiring the applicant to liaise with the NTA to resolve this interface issue.

- The NTA notes relevant transport and land use planning objectives in the NTA Transport Strategy 2016-2035, the EMRA Regional Spatial and Economic Strategy 2019-2031, the Dublin City Development Plan 2016-2022 and the Urban Design Manual that accompanies the Sustainable Residential Development in Urban Areas Section 28 Guidelines. It is not evident that the development would meet these transport and land use objectives related to diversity of tenure, the accommodation of a wider demographic profile, or social inclusivity. Failure to achieve these may undermine the strategic transport aim to establish high-density consolidated development as an attractive and enduring urban form. Because of this, Government investment in strategic and local transport, which is planned to complement a more consolidated form of urban development, may be compromised. The NTA recommends that in assessing the development, full consideration is given to the combined and complementary objectives referred to.

9.5. Irish Rail

- 9.5.1. Irish Rail / Iarnród Éireann notes that the railway on the opposite side of the Royal Canal operates 24 hours a day with maintenance activity taking place at night and during shutdowns of passenger services. The development is close to the live railway and must take account of the potential noise and vibration impact that an operational railway may have on sensitive receptors. Residential units should be designed, orientated, and located to limit the impacts of noise and vibration from transportation traffic and maintenance activities. Irish Rail recommends that the Applicant incorporates best practice principles in the design using BS8233 - Guidance on Sound Insulation and Noise Reduction for Buildings, also that the applicant carry out a noise risk assessment to inform an Acoustic Design Statement (ADS) and appropriate mitigation measures where noise thresholds are expected to be exceeded. Conditions are also recommended.

9.6. Irish Water

- 9.6.1. The proposed connections to the IW water and wastewater networks in the area can be facilitated. The applicant has engaged with IW in respect of the design proposal and has been issued with a Statement of Design acceptance for the development. IW requests the Board to attach specific conditions to any permission granted.

10.0 Assessment

10.1. The following are the principal issues to be considered in this case:

- Principle of Build to Rent Development
- Residential Density, Plot Ratio and Site Coverage
- Building Height
- Design and Layout of Development
- Impacts on Visual and Residential Amenities
- Archaeology and Cultural Heritage Impacts
- Drainage, Flood Risk and Site Services
- Ecology
- Traffic and Transport
- Part V
- Childcare Provision
- Material Contravention Issues
- DCC Chief Executive Recommendation

These issues may be considered separately as follows.

10.2. Principle of Build to Rent Development

10.2.1. The proposed residential development is acceptable in principle under the Z1 zoning objective that applies under the Dublin City Development Plan 2016-2022. The proposed café /retail use is 'open for consideration' under the Z1 objective and I note that the planning authority states no objection to this use. The development is therefore considered to be acceptable in principle under the Z1 zoning objective.

10.2.2. I am satisfied that the development meets the requirements of SPPR 7 of the Apartment Guidelines with regard to BTR development. The application is advertised and adequately described in the documentation on file as a BTR development. The application includes a draft section 47 agreement between the developer and the planning authority, which specifies that the development shall remain owned and

operated by a single entity for a period of 15 years from the date of permission and that no individual residential units shall be let or sold separately during this period. The application also includes proposals for resident support facilities and resident services and amenities.

10.2.3. The development comprises 27% studio apartments, 41% 1 bed units and 30% 2 bed units. This mix is acceptable in the context of SPPR 8 of the Apartment Guidelines, which provides that there shall be no restrictions on dwelling mix for BTR developments. Several submissions question the suitability of BTR apartments at this location and submit that owner-occupier units would be more appropriate and result in the creation of a sustainable community in Phibsborough. The application includes a Build to Rent Market Justification Report, which considers available socio-economic data and the demographics of the area. It notes that the Phibsborough area has excellent accessibility to public transport and proximity to many employment centres and educational institutions including the Mater Hospital, TU Grangegorman and Dublin City Centre. It has a young, economically active population with 42% of residents in the 25-44 age category, 70% of the population economically active and 9% classified as students. A high proportion of households in the population (45%) live in privately rented accommodation. It is submitted that the proposed BTR accommodation is ideally suited to meet the needs of this demographic and to add to the housing typology available in the area, which is currently dominated by 2 storey 3-4 bed terraced housing, much of which is rented by multiple occupants. The development will deliver an appropriate form of residential development to meet local demand on this prime, underutilised site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of current Government policy. The planning authority notes these points and that national planning policy is supportive of BTR development and considers the BTR development to be acceptable in principle on this basis. I concur with this assessment and consider that there is ample justification for BTR development at the subject site.

10.2.4. Several observers comment that the development will result in an over-concentration of BTR development in this part of Dublin City. Many submissions refer to this issue in the context of student accommodation in the area and co-living proposals, which are considered as separate housing typologies under the Apartment Guidelines. The

application does not include any mapping or assessment of the extent of existing / permitted BTR developments in the area, as required under development plan policy. However, section 3.1 of the submitted Built to Rent Market Justification Report notes that there is a privately rented scheme nearby at Bakers Yard, Phibsborough, which is not specifically BTR accommodation. There is also a 484 unit BTR scheme currently under construction in the neighbouring suburb of Cabra and I note that permission was recently granted for 321 no. BTR units at Phibsborough Shopping Centre under ABP-308875-20. I do not consider that there is an excessive concentration of BTR accommodation in the vicinity of the development site such as would warrant a refusal of permission.

10.3. Residential Density, Plot Ratio and Site Coverage

10.3.1. The development has a residential density of c. 292 units/ha. Many observers comment that it will result in an excessive residential density that is out of keeping with the character of the area and will result in overdevelopment of the site.

10.3.2. I am satisfied that this location is consistent with a 'central and/or accessible location' as per section 2.4 of the Apartment Guidelines. It is c. 1.5 km from Dublin City Centre, c. 1.25 km from TU Grangegorman and < 1km from the Mater Hospital, all of which are significant employment locations. It is also c. 850m from Cabra Luas stop, within 300m of Dublin Bus stops served by high frequency services and 1.2 km from Drumcondra railway station, notwithstanding current proposals for further public transport infrastructure in the area. The Apartment Guidelines state that such locations are generally suitable for small to large scale higher density development with no maximum density set. I consider that the delivery of residential development on this prime, underutilised, serviced site, in a compact form with higher density, would be consistent with policies and intended outcomes of current Government policy, specifically the NPF, the RSES and the Apartment Guidelines, which all look to secure more compact and sustainable urban development in the Dublin Metropolitan Area and to facilitate the efficient and sustainable use of public transport infrastructure. I note that the provision of high-density residential development is generally supported by the planning authority at this location, as it would be comparable to other inner-city sites within the canal cordon. I therefore consider that the proposed residential density of c. 292 units/ha is acceptable in

principle, subject to design and amenity standards, which are discussed in detail in other sections of this report.

10.3.3. The proposed plot ratio is 2.25, which is outside the indicative plot ratio range of 0.5 – 2.0 specified for Z1 and Z2 zones in development plan section 16.5. The applicant's Material Contravention Statement notes that development plan section 16.5 provides that higher plot ratios may be considered in certain exceptional circumstances, including:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed and
- To facilitate comprehensive redevelopment in areas in need of urban renewal.

The site adjoins several high capacity bus routes and is close to Cable Luas stop. The development will facilitate the regeneration of a disused industrial site at a prime location in an established residential area. I am satisfied that it meets these 'exceptional circumstances' and that the proposed plot ratio, which is marginally higher than the indicative standard for Z1 lands, is acceptable in principle at this location. I therefore concur with the applicant's assessment that the proposed plot ratio would not materially contravene development plan policy.

10.3.4. The development has a stated site coverage of 38.5%, which is below the indicative range of 45% - 60% for Z1 lands and the indicative standard of 45% for Z2 lands as specified in development plan section 16.6. I therefore concur with the applicant's assessment that the development does not materially contravene development plan policy on site coverage, as set out in the Material Contravention Statement. I would therefore question why this issue has been included in the Material Contravention Statement.

10.4. Building Height

10.4.1. Many Observer submissions raise serious concerns in relation to the proposed building height and contravention of development plan policies on same. The applicant's Material Contravention Statement addresses this matter and the planning authority has also considered the issue in detail. This section of my report considers height in the context of policy, the related issues of impacts on visual and residential amenities and on heritage impacts are considered elsewhere in the assessment.

10.4.2. The existing silo at the development site is 29.5 m high, equivalent of almost 10 storeys of residential development. The development ranges from 3-12 storeys with Block C replacing the silo building having a height of 40.3 m. Blocks A and B are generally c. 26.3 m high. The site is not at a location specifically identified in the development plan as suitable for mid-rise or high-rise development. Development plan section 16.7.2 clarifies that Phibsborough will remain a low-rise area, with the exception of a maximum of 19m immediately adjoining the proposed railway station at Cross Guns Bridge, in the vicinity of the development site. Given that the development height significantly exceeds both the existing structures at the site and the 19m height recommended for this area, it therefore materially contravenes development plan policy on building height.

10.4.3. Section 3 of the Building Height Guidelines sets out principles and criteria for planning authorities and the Board to apply when considering individual applications. SPPR 3 of the Guidelines states:

It is a specific planning policy requirement that where,

- 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and*
- 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise ...*

The development may be considered with regard to the principles and criteria set out in section 3 as follows, with regard to the rationale submitted by the applicant, the analysis provided in the planning authority submission and observers' comments.

Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?

The development site is a brownfield infill site located in an established residential area c. 200 m from the centre of Phibsborough village (designated as a Key District

Centre under the current City Development Plan) and c. 1.5 km from Dublin City Centre, in close proximity to a wide range of services, facilities and amenities. The site is located c. 850 m from Cabra Luas station, adjoins several high frequency bus routes and a proposed Bus Connects spine route and adjoins cycle and pedestrian infrastructure at the Royal Canal. The development is therefore considered to support the above principle.

Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?

The development exceeds the building height parameters set out in the development plan for this location. The development plan identifies key locations where taller buildings are to be accommodated and provides for the designation of specific sites to accommodate taller buildings under LAPs, Framework Plans and SDZs, generally in accordance with SPPR 1 of the Building Height Guidelines. The development plan predates the Building Height Guidelines.

Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?

I am satisfied that the development plan is generally consistent with and supports the policies and objectives of the NPF. However, I note the provisions of NPF NPO 13, which provides that planning standards for building height in urban areas will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth and states:

These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

I also note NPO 35, which seeks to increase residential density in settlements through a range of measures including infill development schemes, site-based regeneration and increased building heights. The development plan has been superseded by the NPF in relation to these matters.

10.4.4. The applicant has submitted a rationale for the proposed building height with regard to the development management criteria set out in section 3.2 of the Guidelines and the planning authority also considers the criteria in detail. I consider that the site location justifies higher density residential development. I note that the planning authority generally accepts that the development provides an innovative and attractive design response to the site. In addition, the development will make a positive contribution to the public realm by the provision of a new public open space adjoining the Royal Canal. The proposed apartments will help to diversify the dwelling typologies that are available in the area. The applicant submits that the development has been carefully designed to maximise access to natural daylight, ventilation, and views and to minimise overshadowing and loss of light. I note that the planning authority is generally satisfied that the additional height can be accommodated at this location without unreasonably compromising the residential amenities of adjacent properties or detracting from the architectural significance of the former North City Flour Mills protected structure or Phibsborough RCA. The following statement in section 10 of the DCC OE Report is noted in this regard:

The planning authority considers, notwithstanding the fact that the development contravenes the City Development Plan in terms of height, that the site is robust enough, with a post-industrial context of poor quality buildings, to accommodate the buildings at the scale proposed given the location within the inner city/ inner suburban interface close to high capacity public transport, employment centres and the city centre. The scheme is a 21st century addition to the townscape of Phibsborough and will undoubtedly have a strong visual impact but this is not considered a negative factor.

I generally concur with the conclusion of the planning authority and I consider that the development meets the criteria set out in section 3.2 of the Building Height Guidelines (see further consideration of these matters in the remainder of this report).

10.4.5. I note that Dublin City Council recommends a condition requiring the omission of floors 8, 9 and 10 (containing 12 units) of Block C, on grounds relating to visual impact. This matter is considered in section 10.6 below.

10.4.6. Given that the proposed material contravention does not relate to the zoning of land, the Board may grant permission if it considers that it would do so if section 37(2)(b) of the 2000 Act were applied. In this instance and with regard to the above matters, I consider that section 37(2)(b)(i) applies as the development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016. I also consider that section 37(2)(b)(ii) applies in relation to the proposed building height, i.e., permission for the development should be granted having regard to section 28 guidelines, specifically the Urban Development and Building Heights Guidelines for Planning Authorities and in particular section 3.2 and SPPR 3 of same. In addition, the development should be granted in view of NPF NPOs 13 and 35, which seek to consider building height in urban areas based on a performance based approach, in order to achieve targeted growth and specifically states that building height standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected. The provisions of section 9(3) of the SHD Act are also noted in this regard, i.e., that where SPPRs or section 28 guidelines differ from the provisions of a development plan or a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

10.5. Design and Layout

10.5.1. Proposed Design and Layout

The development is laid out in three blocks along the northern edge of the development site facing the Royal Canal, Blocks A and B (4-7 storeys) and Block C (12 storeys). The café is located at the north eastern corner of the ground floor of Block C, facing the canal and Cross Guns Bridge. The ground floor of Block C also contains residential services and amenities for the entire development comprising a gym, shared workspace, reception area, parcel store, office, and a multifunctional residents' lounge. There is also a residents dining area and lounge on the 11th floor

of Block C, with an adjoining roof terrace, as well as roof terraces at the 6th floors of Blocks A and B.

The Design Statement divides the development into two character areas, Zone 1 at the canal side and public realm and Zone 2 on the southern side of the site. At the canal frontage, part of the existing stone wall is to be removed and topped with a railing to a general height of c. 2.5 m along the frontage of the development. There is a gated connection from the canal path to the open space between Blocks A and B, which will provide pedestrian access for residents of the development. The café and residents' lounge and associated terraces will provide active frontages to the canal at the north eastern corner of the site, inside the boundary wall and railing. The development includes a plaza on the eastern side of the site, between Block C and the North City Flour Mill building. This is publicly accessible during daytime hours and is laid out with hard landscaping and seating areas as an extension of the public realm at the canal edge. It will provide a publicly accessible link between the canal and the Phibsborough Road access to the southeast of the site. The adjacent area between the eastern site boundary and the North City Flour Mill building is not in the ownership of the applicant, however an indicative landscaping treatment is proposed including cycle parking. (I note that observers object to the cycle parking, but this is an indicative treatment only).

Zone 2 encompasses the spaces on the southern side of the site and between the apartment buildings. The Phibsborough Road access is laid out as a shared surface to the south of the Cross Guns Quay complex. It leads to a gate at the entrance to the development that serves the ramp to the basement car park and an adjoining set down area that will be used for drop offs, deliveries, etc., adjacent to the café and to the residents' reception area on the ground floor of Block C. The remainder of the southern part of the site is laid out as a shared space with areas of landscaping and tree planting, outdoor seating, and the pedestrian connection to the canal between Blocks A and B. There is a play/ exercise area to the west of Block A. The southern boundary is lined with covered cycle parking and accessible car parking spaces, also the existing ESB substation and a covered refuse storage area. The masonry wall along the southern boundary is to be retained.

The development is to be finished in a palette of brick, coloured render, and zinc cladding, with steel balconies and wintergardens. The main canal elevations and all

elevations of Block C are finished in brick. There is a light coloured brick on the canal side elevations of Blocks A and B and on the majority of Block C and a darker toned brick on the south east corner volume of Block C. Zinc is used on the pitched roofs of the canal side volumes of Blocks A and B, on the facades of lift and stair volumes and of the facades of upper floor volumes in Block C.

10.5.2. Building Line and Canal Edge Treatment

Observer submissions comment that the development will sit c. 1.7m forward of the existing structures at the development site and of the building line established by the North City Flour Mills building to the immediate east of the site. I note that the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media recommends that, in order to avoid disturbance preventing otters utilising the southern tow path of the Royal Canal to move past the 5th and 6th Locks, the pedestrian accesses from the development to the canal towpath should be omitted or at least limited to use during daytime hours. The Dept. also recommends that the boundary wall between the development and the canal towpath should be retained in as far as possible, allowing for its refurbishment to link with the design of the new apartment buildings, and that the faces of the apartment blocks on their canal sides should be set back to the line of the North City Flour Mills building. The submission of Waterways Ireland notes the ecological sensitivity of the canal and requires extensive consultation regarding any change or alteration of the boundaries including removal of boundary wall or access on to canal banks along the Royal Canal.

The Design Statement provides a rationale for the proposed building line such that Blocks A, B and C are located in the northern part of the site to maximise separation distances to the existing residential areas to the south. It also notes that, while the facades are slightly forward of the North City Flour Mills building, the plaza and landscaping between Block C and the North City Flour Mills, which has a depth of c. 22m, provides a buffer to that structure. Having regard to the wider context of the development site, including the Shandon Mills development to the west of the site and to the consideration of visual and heritage impacts as discussed in detail below, I am satisfied that the proposed building line is acceptable.

The development involves the removal of part of the existing stone wall along the canal boundary and its replacement with a railing to a general height of 2.5m, in

order to provide views and light to ground floor apartments and to provide passive surveillance over the canal. The ground floor apartments facing the canal are at a higher level than the canal tow path and the canal wall below the railing will be retained to a general height of c. 1.45 m above the level of the tow path and c. 0.7m above the FFL of the apartments. There is a 1m deep open terraced area inside the railing. The private open spaces to the front of the apartments are designed as wintergardens to provide a further buffer to the public realm. It is suggested that the lower parts of the glazing to the wintergardens (up to a height of c. 1.1m above FFL) could be fitted with translucent glass at ground and first floor levels to provide further privacy to the apartments, which could be required by condition. Detailed cross sections are provided. I am satisfied that this treatment will result in an acceptable standard of residential amenity for the apartments and will result in increased surveillance, and consequently public safety, along the canal tow path, while the retention of the lower part of the existing canal wall represents an acceptable compromise in terms of providing privacy to the apartments. While the comments of observers and prescribed bodies regarding the retention of the existing boundary wall are noted, I consider that the provision of a railing will substantially improve the amenity of ground floor apartments as well as passive surveillance of the canal area, both of which are desirable outcomes. I also note from the Architectural Heritage Impact Assessment (AHIA) that the existing boundary wall does not have any special historical significance as it has been heavily modified and that a similar existing treatment in front of the Cross Guns Quay complex is attractive and successful and sets a precedent for the development site.

Dublin City Council recommends refusal on grounds relating to the provision of a new public access to the canal and related impacts on protected species. While the potential ecological issues are considered below, I note that the permission granted at the development site under PL29N.243444 included a 'public square' at the canal edge and a condition requiring a café /restaurant fronting onto the space. Section 4.1 of the Phibsborough LEIP notes the civic space granted under PL29N.243444, which is to function as a focal point not only for the development but also for the wider canal area. I consider that the provision of a publicly accessible plaza space overlooked by the café and associated terrace will be an attractive addition to the public realm at this location, will enhance the public amenity value of the canal, will

improve permeability in the wider area and will represent a significant planning gain. I also note in this regard that the Microclimatic Wind Analysis of the development finds that it does not unduly impact on wind or pedestrian comfort conditions at the Royal Canal Way. In addition, the residents' access between Blocks A and B is limited in scale and use and will have minimal impacts. The proposed public open space and residents' access are therefore considered acceptable subject to conditions including limiting their use to daytime hours only.

10.5.3. Communal Open Space, Residents' Services and Amenities

SPPR 7(b) of the Apartment Guidelines requires that BTR developments are accompanied by detailed proposals for supporting communal and recreational amenities. The development may be considered as follows, with regard to the communal amenity space requirements set out in Appendix 1 of the Apartment Guidelines:

Unit Type	No. of Units	Required Communal Amenity Space Provision
Studio	55	4 x 55 = 220 sq.m.
1 bed	85	5 x 85 = 425 sq.m.
2 bed	65	7 x 65 = 455 sq.m.
Total	205	1,100 sq.m.

The communal landscaped areas within the development have a total stated area of 2,628 sq.m., which exceeds the above requirements, notwithstanding that SPPR 8(ii) of the Guidelines provides that flexibility shall apply for BTR developments in relation to the communal amenity space requirements in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. The development provides communal amenities and external spaces within the apartment blocks in addition to the open spaces. There are residents' support facilities within Block C and at basement level comprising a management office, parcel store, staff facilities, bike workshop and basement large item storage. The following services and recreational amenities are also provided:

Tenant Amenity	Area
Gym	76.1 sq.m.
Lounge lobby / shared workspace area / reception	71.5 sq.m.
Multifunctional residents lounge	32 sq.m.
Residents dining area	41 sq.m.
Residents lounge	50 sq.m.
Ancillary areas and WC	61.4 sq.m.
Total Indoor Amenity Space	460.5 sq.m.
Total Outdoor Amenity Space (Roof Terraces at Blocks A, B and C)	440 sq.m.

Section 5.11 of the Apartment Guidelines provides that the nature and extent of the resident services and amenities serving BTR developments may be agreed by the developer and the planning authority having regard to the scale, intended location and market for the development. Having regard to the Design Statement and to the landscaping proposals, I consider that the internal and external communal spaces within the development have a high standard of design and layout. I note that the Sunlight and Daylight Analysis finds that 98% of the outside amenity space receives more than two hours of daylight on March 21st, which exceeds the BRE minimum of 50%. I also note the Microclimatic Wind Analysis, which assesses predicted wind conditions and associated pedestrian comfort and finds that the majority of the ground level amenity spaces and all of the roof terrace areas are determined to be suited to 'long/short term sitting' in accordance with the Lawson Criteria methodology used. The external communal areas will be complemented by the communal services and amenities outlined above, as well as having the benefit of a location adjoining a significant public amenity at the Royal Canal. I therefore consider that a satisfactory standard of communal amenities has been provided overall, in accordance with the requirements of the Apartment Guidelines.

10.5.4. Public Open Space

Section 16.10.3 of the City Development Plan specifies that all residential schemes should provide 10% of site area as public open space. The public open space

provided in the development is the plaza to the east of Block C, which has a stated area of 350 sq.m., or 5% of the total site area, with the applicant proposing to provide a development contribution in lieu of the remaining 5% public open space requirement. Many observers comment that a lack of public open space within the development results in overdevelopment of the site. The planning authority considers that the development is substandard due to the shortfall and DCC Parks, Biodiversity and Landscape Services Division has not indicated agreement to provision of a contribution in lieu. The planning authority therefore recommends refusal based on substandard public open space provision, among other issues.

I accept that the public open space within the scheme is limited. However, I consider that the proposed canal side plaza will significantly enhance the amenity of the canal and, as envisioned in the Phibsborough LEIP, will act as a focal point for the wider area along with the café. The development will therefore make a substantial contribution to the public realm at this location. There is scope to introduce a further public open space on the western side of the development, at the space between Block A and the western site boundary. However, there are several drawbacks with this approach, one being potential impacts on the residential amenities of adjacent properties within the Shandon Mill complex and another being the introduction of a second public access to the canal bank with consequent associated issues of security, loss of part of the boundary wall and environmental impacts. Overall, I consider that this area is best used as a passive communal space for residents of the scheme, as is proposed. On balance, given that the development is satisfactory in other respects, I consider that the proposed 5% public open space provision is acceptable.

The issue arises as to whether the development materially contravenes the City Development Plan in this regard. Development plan section 16.10.3 states in relation to public open space at 'build to let' developments:

Public open space will normally be located on-site, however in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or other factors, to locate the open space on site, or where it is considered that, having regard to existing provision in the vicinity, the needs of the population would be better served by the provision of a new park in the area (e.g. a

neighbourhood park or pocket park) or the upgrading of an existing park. In these cases, financial contributions may be proposed towards the provision and enhancement of open space and landscape in the locality, as set out in the City Council Parks Programme, in fulfilment of this objective.

I note that development plan section 16.3.4 states:

In the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy).

It could be argued that the linear form of the development site, constrained to the south and west by an ACA and by the Royal Canal to the north, does not lend itself to the provision of an extensive area of public open space and that the above provision applies, such that the development does not materially contravene this aspect of the development plan. However, given that there is some ambiguity, and that the planning authority has not agreed to a development contribution in lieu of open space provision and recommends refusal on the basis of substandard public open space, I now propose to assess the development as a material contravention of development plan policy on public open space for residential developments.

As discussed above in relation to the matter of building height, I consider that section 37(2)(b)(i) applies as the development is considered to be of strategic and national importance. I also consider that section 37(2)(b)(iii) applies in relation to the matter of public open space, i.e. permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area and to any relevant policy of the Government, the Minister or any Minister of the Government. In this instance, I refer to policies set out in the NPF to achieve higher densities in urban areas and the redevelopment of brownfield sites, particularly NPO 35 as outlined above, as well as RSES Regional Policy Objective 4.3, which seeks to support the consolidation and re-intensification of infill/ brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs. In addition, section 9(6) of the SHD Act provides that the Board may decide to grant a permission for a proposed strategic housing development in

respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, other than in relation to the zoning of land. I consider that the development provides a reasonable justification for the limited area of public open space, given the site constraints and the desirability of redeveloping this derelict industrial site and considering that the public open space proposed will provide a substantial contribution to the public realm adjoining the Royal Canal amenity area. I therefore conclude that the Board can materially contravene the City Development Plan in relation to this matter.

10.5.5. Dual Aspect Units

Observers comment that the development includes a high proportion of single aspect units, many of which are north facing. The development includes a total of 53.65% dual aspect units, well in excess of the 33% requirement for dual aspect units in central and/or accessible locations as per SPPR 4 (i) of the Apartment Guidelines. In addition, as noted by the planning authority, the dual aspect units within the development are true dual aspect units with no 'pop out' elements or angled windows. While I note that c. 26% of the apartments in the development are single aspect north facing units, these all overlook that Royal Canal. Section 3.18 of the Apartment Guidelines states that north facing single aspect apartments may be considered where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature. I also note that the Sunlight and Daylight Analysis finds that all north facing units exceed BRE guidance for Average Daylight Factors (ADFs). The proposed single aspect north facing units are acceptable on this basis.

10.5.6. Residential Amenity of Apartments

Observers comment that the development provides substandard residential accommodation due to issues such as poorly designed and sited apartments, lack of light in apartments due to use of screens, inadequate private open space provision and overlooking between apartment units.

The apartments are designed to comply with the standards set out in the Apartment Guidelines, having regard to the relaxations provided for BTR developments as set out in SPPR 8 of same. The Housing Quality Assessment indicates apartment floor

areas that generally exceed the standards set out in SPPR1 of the Guidelines and are acceptable noting that SPPR 8(iv) states that the requirement for the majority of all apartments in a scheme to exceed minimum floor areas by a minimum of 10% shall not apply to BTR schemes. Ground level floor to ceiling heights meet the 2.7m requirement as per SPPR 5. There is a maximum of 10 units per lift /stair core as per SPPR 6, notwithstanding the provision of SPPR 8(v) that the requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes. SPPR 8(ii) provides that 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 of the Guidelines, however all units in the development have private open space and storage areas in accordance with the Appendix 1 standards notwithstanding this relaxation.

Communal waste storage areas are provided at surface and basement levels. The Operational Waste Management Plan details projected waste streams from the residential and commercial aspects of the development. This is acceptable with regard to the guidance provided in sections 4.8 and 4.9 of the Apartment Guidelines. The application includes a Building Lifecycle Report, as required by the Apartment Guidelines, which states that a property management company will be established in accordance with the Multi-Unit Developments Act 2011.

Many of the observer submissions refer to the issue of overlooking between apartments, with consequent impacts on their residential amenities. Translucent screens are provided to the side of wintergardens and privacy screens to the side of balconies to prevent overlooking. While there are limited separation distances between the apartment blocks, translucent glazing is provided to windows on the eastern gables of Blocks A and B (all are secondary windows or are lighting circulation areas) to prevent overlooking to windows in the opposite west facing gables of Block B and C. In addition, the landscaping plan indicates planted buffer zones c. 2m deep at building facades to provide a visual barrier and increase privacy at ground floor windows. I am satisfied that these measures will result in adequate standards of privacy within apartment units. Given that the balcony and wintergarden areas also satisfy the quantitative requirements set out in Appendix 1 of the Apartment Guidelines, and that the Microclimatic Wind Analysis finds them suited to

'long/ short term sitting' in accordance with the Lawson Criteria methodology, I am satisfied that they will provide adequate private amenity spaces for residents.

The Sunlight and Daylight Analysis summarises the results of a comprehensive analysis of all living spaces within the development with regard to the BS 2008 Code of Practice for Daylighting and the BRE guidance document 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2011). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/ updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referenced in the Building Height Guidelines. The Sunlight and Daylight Analysis finds that at 97% of rooms are in excess of the BRE guidelines for average daylight factors (ADF), i.e. > 1.5% for living/dining areas and > 1% for bedrooms. It is submitted that the scheme has been designed to ensure that no living space achieves a daylight factor less than 1% nor a bedroom less than 0.7% ensuring no sub-quality daylit spaces are provided for the development. There is an average ADF of 3.5% for all living/ dining spaces across the development, with 50% (i.e. Median) of the living spaces achieving an ADF > 3.5% and an ADF in the bedrooms across the scheme > 3.5%. I am satisfied on this basis that the overall level of residential amenity is acceptable, having regard to internal daylight provision.

Windows of bedrooms on the southern side of Block C are fitted with perforated screens to prevent direct overlooking of adjacent residential areas. Section 8 of the applicant's response to the pre-application Opinion states the following in relation to the screens:

From within the apartments, the perforated screens have the effect of partially reducing the direct view to the outside. From outside, the screens have the effect of almost fully reducing the direct view into the interiors. These different effects from inside and from outside are observed because the spaces inside the apartment are generally darker than the exterior and because the degree of perforation allows or limits the visibility through the screen.

A screen of c. 50% perforation is to be used to balance the aim of restricting views outwards while limiting inward views. I note that the Sunlight and Daylight Analysis

takes the perforated screens into account in assessing ADFs of rooms within the development, such that there are no rooms on the southern side of the development that fall short of BRE guidance. This is generally acceptable given that most of the screened windows light habitable rooms that are dual aspect, with additional, non-screened windows on east or west facing elevations. However, there are south facing bedrooms within units on floors 1 to 10 of Block C that have only one window, which is fitted with a perforated metal screen. While I accept that the ADFs for these rooms exceed BRE guidance, I consider that the lack of any outlook, as is necessary to prevent adverse impacts on adjacent residential amenities by way of overlooking, results in substandard habitable spaces. I therefore recommend that a condition be imposed limiting the use of these rooms to a 'study/ home office' rather than as bedrooms, thereby converting them from 2 bed units into 1 bed plus study. (I note alternative apartment layouts may be possible that retain these units as 2 bed units while obviating overlooking, this could be addressed by subsequent applications or an alteration).

10.5.7. Noise Issues Associated with the Adjacent Railway Line

The submission of Irish Rail /Iarnród Éireann states that the railway on the opposite side of the Royal Canal operates 24 hours a day with maintenance activity taking place at night and during shutdowns of passenger services. It recommends that the development must take account of the potential noise and vibration impacts of an operational railway on sensitive receptors and that residential units should be designed, orientated and located to limit the impacts of noise and vibration from transportation traffic and maintenance activities, with regard to BS8233 - Guidance on Sound Insulation and Noise Reduction for Buildings. The application does not include any consideration of noise impacts associated with the railway line. The planning authority considers that this issue cannot be resolved by condition and recommends refusal based on noise impacts that would cause serious injury to the residential amenities of the area. I consider that a condition could be imposed requiring a noise risk assessment of the development, to inform an Acoustic Design Statement (ADS) and appropriate mitigation measures where noise thresholds are expected to be exceeded, as recommended by Irish Rail.

10.5.8. Design and Layout Conclusion

I am satisfied that the development achieves a high quality of design and finish, while making optimum use of this zoned and serviced site, and provides a high standard of amenity and public realm that will also contribute to place making in the wider area. I also consider that the development will provide an acceptable standard of residential accommodation for future occupants, subject to conditions, and is generally satisfactory with regard to national and development plan guidance for residential development.

I note that the NTA proposes to temporarily use the western part of the development site as an access to serve works at the public transport interchange on to the north of the Royal Canal. There is no indication that the proposed layout would preclude such a use, which could be negotiated between the developer and the NTA, if or when necessary.

10.6. **Impacts on Visual and Residential Amenities**

10.6.1. General Issues

Observers comment that the development is out of keeping with the scale and character of the surrounding low rise established residential areas, including the Phibsborough RCA, and the Royal Canal, an important public amenity. They also raise serious concerns about adverse impacts on the residential amenities of adjacent properties by way of overlooking, overshadowing and visual obtrusion.

I note at the outset that the development will replace an existing industrial complex that has been derelict for over 35 years, which itself has a substantial bulk and scale and, to my view, does not present an attractive outlook to the Royal Canal or to adjacent residential areas. The proposed primarily residential land use should also be compared to the existing disused complex, with its associated potential as a focus for anti-social behaviour, graffiti, overgrown vegetation, etc. Many observers comment that the drawings submitted do not accurately detail the distances from the existing buildings on the site to the site boundaries/ adjacent residential properties, also that drawings and cross sections of the existing structures are inaccurate and exaggerate their height and massing, in order to minimise the relative impacts of the development. It is submitted that these discrepancies mislead the public about the proximity of the existing structures at the site to the site boundaries and do not fully

demonstrate the potential impacts of the proposed development. The following assessment is based on a detailed site inspection, including viewing the development site from the canal and from adjacent residential areas, as well as the applicant's topographical survey, maps and aerial photography of the development site and the wider area, in addition to the drawings and cross sections of the proposed development, in order to fully consider the development relative to the height, mass and layout of the existing buildings at the site. The assessment also has regard to the submitted TVIA, which includes CGIs and photomontages, with a comparison to the existing structures at the development site. I am satisfied that the TVIA uses a robust, comprehensive methodology for assessment of visual impacts, albeit that it could have included additional views of the scheme from Leinster Road North, to provide a fuller analysis of views from this location.

Overall, I accept that the proposed structures are substantially greater in mass and scale than the existing industrial buildings, including the silo, notwithstanding that they are set back further from site boundaries. I also note that Dublin City Council states concerns about the visual impacts of the taller elements of the development and recommends a condition omitting floors 8, 9 and 10 from Block C to ameliorate these impacts.

10.6.2. Visual Impacts on the Wider Area

The development will be present in many views from Phibsborough village and from the wider area in this part of North Dublin (generally within 1 km), due to its substantial scale and particularly to the height of Block C. There are no designated views or prospects within 1 km of the development site, and I am satisfied overall that visual impacts will be limited to the local vicinity and the Royal Canal. TVIA Viewpoints (VPs) nos. 4, 5, 6, 10, 13 and 14 represent longer range views of the development from Phibsborough Road, Phibsborough Village, Whitworth Road and Botanic Road. I am satisfied that the viewpoints selected provide a reasonable representation of views of the development from the wider area. The TVIA assesses impacts at these viewpoints as 'moderate -slight' (VPs 4, 13) to 'slight' (VPs 5, 6, 10, 14) and, having inspected the development site and viewed it from various locations in the locality, I concur with this conclusion.

The TVIA notes that the townscape character of the Phibsborough area around the site is mixed with a combination of 19th century housing, modern and historic transport infrastructure, and other buildings, including the modern Phibsborough Shopping Centre. It therefore assesses the sensitivity of the general area as 'medium-low'. The development will represent a notable increase in scale from the existing industrial buildings at the site, however it is also noted that multi-storey residential blocks are already present in the area. The TIVA states:

Whilst the proposal will result in a distinct increase in the scale and intensity of development within the application site, and its immediate surrounds, such a development is to be expected in a vibrant, dynamic and evolving settlement inner suburb such as Phibsborough, and will knit into the prevailing urban fabric rather than contrasting against it.

The development is assessed as having a 'moderate-slight' overall townscape and visual impact on this basis. I concur with this conclusion. The development will have a distinctive modern appearance, which contrasts with the surrounding residential areas and the historic structures associated with the Royal Canal. I am satisfied that, while the development will be visible as a local landmark (as is the case with the existing silo structure), the design and finishes are of high quality and will create interest and aid legibility in the wider area and enhance the public realm at this location. In addition, a larger scale at the development site is fundamental to the achievement of higher densities, as per national planning policy, and as considered in relation to building height above. It is inevitable, therefore, that any higher density development at this site is likely to contrast with surrounding development. Moreover, while the vicinity is generally low rise, it comprises a mix of canal infrastructure, road infrastructure, housing and other building types dating to the 18th, 19th and 20th centuries, which reflects the incremental development and densification of the area over centuries. The wider visual impacts are generally acceptable on this basis.

10.6.3. Visual and Overshadowing Impacts on the Royal Canal

Many observers comment that the development will have a monolithic presence at the Royal Canal and detract from its visual amenity. The planning authority comments that the development will have a 'monumentality and robust' presence at

the canal and the TIVA notes that the development will result in a 'more consistent degree of visual enclosure and gap filling' along the canal bank.

TVIA VPs nos. 1, 2, 3, 9, 11 and 12 represent views of the development from the Royal Canal. The TVIA notes that the Royal Canal already has views of more recent developments including the Cross Guns Quay apartment complex, Mountjoy Prison and Croke Park. The views along the canal are therefore deemed to be of 'medium' visual sensitivity. The visual impacts of the development are generally assessed as 'moderate-slight' at VPs 1, 2, 3, 9 and 'positive' at VPs 11 and 12. I consider that the magnitude of impacts on the canal could best be assessed as 'significant' given that the development has a substantially greater height and mass than the existing structures at the development site and that the proposed contemporary design contrasts with the historic canal infrastructure and the North City Flour Mills protected structure. However, I accept that visual impacts are moderate overall given the quality of the design and finish of the development, the provision of active frontages and a public plaza and landscaping at the canal edge and having regard to the dilapidated state of the existing canal wall and structures at the development site. The potential visual impacts on the Royal Canal are considered acceptable overall on this basis.

I note the recommendation of Dublin City Council that coloured elements should be introduced to the canal frontages of Blocks A and B, such as colour glazing to balcony balustrades or the use of colour to describe the framework which supports the balconies, in order to differentiate between the blocks and to establish them as visually separate entities. I consider that the materiality as proposed has a high quality finish, which provides an appropriate setting to the adjacent protected structure and to the historic canal infrastructure. I therefore do not recommend any amendments to the proposed finishes to the northern elevations of Blocks A and B.

Observers state concerns that the development will overshadow the Royal Canal, detracting from its heritage and amenity value. The Sunlight and Daylight Analysis does not assess overshadowing impacts to the north of the site and is considered deficient in this respect. Given the orientation, the development is likely to result in some overshadowing at this location and, given the increase in scale from the existing structures, there is likely to be a more substantial degree of overshadowing than at present. However, there are no residential properties on the northern side of

the Royal Canal at this location, due to the presence of the railway line, and I consider that any general amenity impacts associated with additional overshadowing will be offset by the improved public realm achieved by the active frontages of the development and the public plaza at the canal frontage.

10.6.4. General Impacts on the Visual and Residential Amenities of Areas South and West of the Site

The residential areas of Leinster Street North, Shandon Road and Shandon Park are designated as a Residential Conservation Area (RCA) in the City Development Plan with the Z2 zoning objective, while the Shandon Mill residential complex to the immediate west of the development site has the Z1 residential zoning objective. The existing streetscape of the area south and west of the development site is enclosed, with no external views towards the canal, and intermittent views of the existing industrial structures at the development site.

TVIA viewpoints VP 7 at Ulster Street and VP 8 at Shandon Road represent this area. The TVIA assesses the sensitivity of these locations as 'medium-low'. I do not accept this evaluation given that the area is designated as a Residential Conservation Area and that they are quiet residential streets rather than a busy circulatory route or a mix of land uses. I therefore consider that they are closer to the description of 'high' sensitivity townscapes as provided in TVIA Table 1-1:

Examples of which are high value townscapes, protected at a national or regional level, where the principal management objectives are likely to be considered conservation of the existing character.

I also consider that the TVIA could have provided a more comprehensive assessment of views from Leinster Road North, however I accept that the proposed structures may be only partially visible in more 'close up' views of the site. The magnitude of the visual impact at the locations is assessed as 'medium', which I accept given that the existing bulky silo structure is already visible from them. The significance of the visual impacts is assessed as 'moderate' at both locations. This conclusion is accepted overall given that, while the development will contrast with the existing historic context, it will have a high quality of design and finish and that any development of these zoned and serviced lands, including that previously permitted at the development site, will change the outlook from these streets within

the RCA. I also note that the existing derelict structures do not currently present an attractive outlook.

The rear elevations of the houses on Leinster Street North are separated from the southern elevations of the development by an intervening area containing rear gardens and a mews laneway to the rear of Leinster Street North and by the open spaces on the southern side of the development. The closest separation distances between the facades generally range from 25.74m to Block C at the eastern side of the development to 29.03m at Block B. The southern elevations of the development will present frontages with heights from 3-4 storeys at the western end of Block A to the 12 storey Block C. Many observers submit that the development will have an overbearing and visually obtrusive presence to the rear of individual residential properties at Leinster Street North and Shandon Road. I accept that the outlook from these properties will change and that there is a substantial contrast in scale between the development and the existing two storey environment at this location. However, having regard to the intervening distances, and to the scale and derelict nature of the existing structures at the development site, as well as to the need to achieve an optimum residential density at this zoned and serviced site, the transition in scale is considered acceptable overall. I therefore accept the assessment of the TVIA and consider that there will not be significant adverse visual impacts at this location, notwithstanding its designation as an RCA. I also note that the applicant referred the application to the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media, to the Heritage Council and to An Taisce, and that none of these bodies has raised any concerns in relation to adverse impacts on the RCA. In addition, Dublin City Council has considered the issue in detail but does not recommend refusal in relation to impacts on the RCA. I also note that any development of these zoned and serviced lands would have some visual impact and, having regard to the high quality of design and finish of the development, I consider that the overall visual impact is acceptable in the context of a changing urban environment at this location close to the city centre.

I note that the planning authority recommends that coloured render finishes to external facades at the southern elevations should be replaced by more durable finishes. This issue may be addressed by condition.

The development includes various measures to mitigate/ prevent overlooking to the south of the site at Leinster Road North and Shandon Road. The closest southern elevations of Blocks A, B and C all include perforated metal screens to prevent direct overlooking of adjacent residential properties. Having regard to the details of the screens provided in the Design Statement and to the drawings on file, I am satisfied that they will successfully function to obviate overlooking, albeit at the cost of a loss of internal amenity to the habitable rooms. I note the recommendation of the planning authority that the screens should be amended to provide more animated facades. I concur with this recommendation and consider that the issue could be addressed by condition. Given that the other facades of Blocks A and B have greater separation distances from the properties to the immediate south of Leinster Street North (c. 34m – c. 43m), I consider that they will not result in direct overlooking of these properties. The western side of Block A will present a 4 storey façade (with upper floors set back) to the rear of the 3-4 storey duplex properties within Shandon Mills to the immediate west of the site. There is an intervening distance of c. 22m between the elevations, which encompasses amenity spaces within Shandon Mills and a communal open space within the proposed development. This distance is considered adequate to obviate overlooking at this location. I am satisfied overall, therefore that the development will not result in a significant adverse impact on residential amenities at properties to the south and west of the development by way of overlooking.

Many observers state concerns regarding potential noise and anti-social behaviour associated with the external terraces within the apartment blocks. I would note that, since the development is a BTR scheme that will remain in the ownership and management of a single entity, there is scope for greater control of such spaces than there might be in a 'traditional' apartment complex where units are in multiple ownerships. In addition, the Design Statement indicates that the roof terraces will include means of preventing residents from approaching the edge to view in a downwards direction towards adjacent residential properties, including planters and the selection of materials used under foot at the terraces. The Block C roof terrace is to be surrounded by glazed panels. Similar screens could be required by condition at the other external terraces, to provide noise mitigation. Further noise mitigation could be achieved by restricting the hours of access to the terraces, which may be dealt

with by condition. To conclude, overall, having regard to these mitigation measures and to the intervening distances to adjacent residential properties, I am satisfied that the roof terraces would not result in any significant adverse effects on residential amenities such as would warrant their omission by condition.

The existing boundary walls along the western and southern boundaries are to be retained. Observers state concerns in relation to the location of a refuse store inside the southern boundary, adjacent to the rear of residential properties at Leinster Road North. I accept that this is a logical location for the structure given its proximity to the development access and that it is accessible to all residents of the proposed development. I consider that external noise impact should be limited to refuse collection given that it is a covered store. I am satisfied that the proposed cycle parking areas would not result in any significant adverse impacts on residential amenities at this location.

10.6.5. Daylight and Sunlight Impacts to the South and West of the Development

The matter of daylight and sunlight impacts on adjacent residential properties is considered with regard to the Building Research Establishment's (BRE) '*Site Layout Planning for Daylight and Sunlight*' (2nd Edition) and BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*'. I note that this guidance is specifically referred to in section 3.2 of the Building Height Guidelines, in the context of assessing impacts at the scale of the site/ building.

Section 4.0 of the applicant's Sunlight and Daylight Analysis considers daylight impacts on neighbouring buildings to the south and west, based on a 3D model of residential properties at Leinster Street North and Shandon Mills. The study considers Virtual Sky Component (VSC) values with regard to the BRE guidance and the following standards:

- *If the VSC is $\geq 27\%$, conventional window design will usually give reasonable results.*
- *If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.*

- *VSC between 15% and 27%, special measures (larger windows, changes to room layout) are usually needed to provide adequate daylight.*

The analysis finds that, whilst the proposed VSC values to the rear of houses at Leinster Street were < 27%, this does not represent < 80% of their previous (existing) condition. Units at Shandon Mills receive VSC values >27% both with and without the development. The assessment therefore concludes that all windows at these locations would be compliant with BRE guidance with the proposed development in place.

The analysis considers sunlight availability at properties within 90° of due south with regard to the following BRE guidance:

If a living room of an existing dwelling has a main window facing within 90° of due south, and any part of a new development subtends an angle of more than 25° to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sun lighting of the existing dwelling may be adversely affected. This will be the case if the centre of the window:

- *receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours between 21st September and 21st March and*
- *receives less than 0.8 times its former sunlight hours during either period and*
- *has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.*

The analysis considers nos. 1-8 Shandon Mills only, as the houses on Leinster Street North are due south of the development and therefore not subject to the above parameters. The modelled annual probable sunlight hours (APSH) are all well in excess of 25% (40% - 59%) for all spaces analysed and the winter sunlight hours are all well over 5% (10% - 22%) for all rooms analysed. I note that there are some instances where the development will result in less than 0.8 times the former sunlight hours, however this is considered acceptable given that the annual sunlight hours and winter sunlight hours exceed guidance parameters overall.

Several observers note that the Sunlight & Daylight Analysis does not consider impacts on houses to the south west of the development at Shandon Road. I accept that these houses are in the immediate vicinity of the development, c. 20m from Block A at the closest point. However, given that the Sunlight and Daylight Analysis

provides a 'worst case scenario' assessment of impacts due south and west of the site, impacts at this location to the southwest of the development cannot exceed those at Leinster Street North or at Shandon Mills and therefore would be within the BRE parameters. I also note that the Sunlight and Daylight Analysis does not consider overshadowing impacts on exterior amenity areas of neighbouring buildings. However, the analysis considers the communal amenity spaces within the proposed development, to the south and west of the apartment blocks. It finds that these spaces meet the BRE criterion that at least 50% of an amenity area should receive at least 2 hours sunlight on 21st March. Given that the external amenity spaces of adjacent residential properties are further away from the apartment blocks than amenity spaces within the development, they should also meet the BRE criterion.

To conclude, I am satisfied overall that the development will not result in any significant adverse impacts on the residential amenities of properties to the south and west of the development at Leinster Street, Shandon Road and Shandon Mills to the south and west of the development site by way of visual impacts, overlooking or overshadowing.

10.6.6. Impacts on the Cross Guns Quay Apartment Complex

Block C is the closest element of the development to the Cross Guns Quay complex, as its eastern elevation is separated c. 22m from the western side of the North City Flour Mills building (roughly the same as the distance to the existing silo structure). This distance is adequate to obviate any overlooking between opposing windows. The Sunlight and Daylight Analysis does not consider potential impacts on habitable rooms on the western side of the North City Flour Mills Building. However, the proposed development involves the removal of an existing warehouse structure to the immediate west of the mills building, which has a pitched roof and extends to a height of 3-4 storeys, and its replacement with the public open space at the canal frontage. This will result in a considerably improved outlook from windows on the western side of the mills building, with a greater access to daylight and sunlight than at present due to the removal of the existing 3-4 storey warehouse structure. Given this improved outlook, and having regard to the intervening distance of 22m, I consider that there is unlikely to be any significant adverse impact by way of overshadowing at this location and I consider that this aspect of the development

results in a significant improvement on the current situation overall, in view of national and regional policy objectives to achieve compact urban areas and redevelopment of brownfield sites. I am therefore satisfied that the development will not have significant adverse impacts on residential amenities at the Cross Guns Quay complex. In this regard, I have had appropriate and reasonable regard to BRE guidance in relation to impact of Block C to western end of the North City Flour Mills building.

10.6.7. Construction Impacts on Residential Amenities

Several residents state concerns in relation to adverse impacts on residential properties during construction, particularly in relation to noise and traffic disruption. The submitted Outline Construction, Demolition and Environmental Management Plan includes construction management measures such as conducting demolition works in accordance with the BS Code of Practice for Demolition, BS 6187, also site security and waste management measures. In addition, the Structural Report indicates that noise and vibration impacts on adjacent residential properties will be monitored during construction. A detailed Construction and Environmental Management Plan may be required by condition, including measures to manage construction traffic.

10.6.8. Impacts on Visual and Residential Amenities Conclusion

To conclude, having regard to the above assessment, I am satisfied that the development will not have any significant adverse impact on visual or residential amenities such as would warrant a refusal of permission. I also consider that the development has a high quality of design and finish that will make a substantial contribution to the overall public realm at this location.

The planning authority assessment of building height recommends a condition requiring the omission of levels 8, 9 and 10 from Block C, due to concerns about visual impacts from the taller elements of the development, particularly from nearby established residential areas and from Phibsborough Village. Having regard to the above assessment of impacts on visual and residential amenities, I do not consider that this requirement would result in significantly reduced visual impacts and, in fact, could result in an amended height aspect ratio and a 'squat' structure. I therefore do not recommend such a condition in this instance.

10.7. Archaeology and Cultural Heritage Impacts

- 10.7.1. Many observers state serious concerns about impacts on the remaining architectural resource at development site, on the setting of the North City Flour Mills protected structure (RPS 6732) to the immediate east of the site and on the Shandon Mill protected structure further to the west of the site (RPS 6733), as well as impacts on the Royal Canal Conservation Area and on the Phibsborough RCA. The concerns generally relate to the contrasting design, height, mass, and scale of the development compared to the surrounding historic houses, mill, and canal infrastructure. These issues may be considered as follows, with regard to the applicant's AHIA and Archaeological Report. Observers comment that the AHIA is inadequate in various respects. I note that the AHIA outlines the history of the site and provides a comprehensive assessment of visual and structural impacts on adjacent structures. The following assessment is based on the AHIA, as well as the drawings and other documentation on file, the site inspection, and the detailed topographical survey of the existing structures at the site. I have had due regard to the section 28 Architectural Heritage Protection Guidelines for Planning Authorities.
- 10.7.2. The AHIA and Archaeological Report outline the history of the development site and vicinity. The canal infrastructure dates to the late 18th century. The North City Flour Mills building was originally constructed as an iron foundry in the mid 19th century and lime kilns previously occupied the development site. The railway to the north of the canal was also constructed in the mid 19th century. The residential terraces in the RCA to the south and west of the site were laid out in the 1880s, 1809s and early 20th century. The concrete silo at the development site dates to the 1950s and was in use until the 1980s.
- 10.7.3. Many observers submit that the silo structure at the development site should be retained, referring to international examples where similar structures have been successfully converted to residential accommodation. I note that the silo does not have protected structure status and is currently in a derelict condition. I also note and concur with the comment of the planning authority on this matter that the conversion of the silo is unlikely to be economically viable and, given the desirability of achieving an optimum density of residential development on this zoned and serviced site and also noting that permission has previously been granted to demolish the existing structures at the site, I consider that the proposal to demolish the silo and the

remaining structures at the development site is acceptable in principle. The southern boundary wall follows the demarcation of the original parish at this location. It is to be retained within the proposed development; details of remedial works are provided, which are satisfactory.

10.7.4. The northern boundary wall at the development site is part of the Royal Canal Conservation Area. The AHIA states that it is a 19th century rubble stone wall, which has been modified on multiple occasions, including the addition of a railing at the Cross Guns Quay complex to the east of the development site. A section of the wall (c. 5m long) has been reconstructed using concrete blocks and the wall has been increased in height using mass concrete. Areas of the wall are finished in pebble dash concrete render. An opening at the centre of the development site has been infilled. The submitted AHIA, Structural Report and Outline Construction, Demolition and Environmental Management Plan provide details of the proposed construction methodology, which includes measures to protect the northern canal wall and adjoining Royal Canal infrastructure. All elements of the development will be supported independently of the boundary wall and the attenuation tank will be situated c. 8m from the wall. The AHIA considers that the proposed amendments to the boundary wall are generally consistent with the existing boundary treatment at the North City Flour Mills building. The retained wall base (1.45m high) will be repaired and repointed where necessary and historic interventions will be retained in the remaining wall. Removed building stones will be salvaged. It is acknowledged that the proposed works may result in a degree of loss of the original 19th century fabric, however, it is considered that the proposed intervention will have an overall positive impact on the Royal Canal Conservation Area. I concur with this view given that the existing wall has already been heavily modified and that the development will enhance the public realm at this location.

10.7.5. With regard to the assessment of visual and overshadowing impacts above, I am satisfied that the development will not have a significant adverse impact on the Royal Canal Conservation Area but will instead result in a desirable addition to the public realm at this location. While I accept that the development will change the setting of the North City Flour Mills protected structure, I consider that, given the 22m setback to the east of site, there will be scope to view the building's western elevation, which is currently partially obscured by an existing 3-4 storey warehouse at the

development site. I also consider that, while the contemporary style of the development will contrast with the North City Flour Mills Building in views from the east, the 22m setback will give some visual relief. In addition, the brick, glazing and zinc cladding materiality of the development has been selected to complement the stone facades of the North City Flour Mills Building. I therefore consider overall that the development will not have an adverse impact on views of the North City Flour Mills protected structure from the Royal Canal.

10.7.6. Having regard to the detailed consideration of impacts on the residential areas to the south and west of the development site and to the assessment of visual impacts on the wider area, as discussed above, I am satisfied that the development will not have any significant undue impacts on the Phibsborough RCA.

10.7.7. The Archaeological Assessment states that there are no recorded monuments within 500 m of the development site. Limited archaeological testing (4 trenches) was carried out at the site in 2008 but nothing of archaeological significance was identified. The site has been heavily developed in the past and its archaeological potential is considered to be low. Archaeological monitoring is recommended. I note that no significant adverse impacts are identified, and that the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media recommends archaeological monitoring, which may be required by condition.

10.8. Drainage, Flood Risk and Site Services

10.8.1. The development will connect to the existing watermain network running along Phibsborough Road to the east of the site. Foul effluent from the development will drain via gravity to the existing 450 mm combined sewer along the Phibsborough Road. I note that Irish Water states no objection subject to conditions.

10.8.2. Surface water runoff from the site will be restricted to 2 l/s/ha as recommended by Dublin City Council, with attenuation provided within an underground surface water storage tank adjacent to the basement. Details of basement drainage are submitted. The development also includes SUDS measures comprising green and blue roof areas, filter drains, permeable paving, flow control device and petrol interceptor. It is submitted that the development will benefit the drainage network as the existing site is currently discharging surface water to the existing combined sewer without any restriction or attenuation, with a peak surface water runoff of 89.79 l/sec.

10.8.3. A Flood Risk Assessment is submitted. The site is zoned for development under the Dublin City Development Plan 2016-2022, which has been subject to Strategic Flood Risk Assessment. The site is entirely located within Flood Zone C with a low probability of flooding; therefore, no Justification Test is required as per the Flood Risk Management Guidelines. OPW historic flood maps indicate that no flood events have been recorded in the vicinity of the site. There is a residual flood risk associated with surcharging of the proposed on-site drainage systems or the existing surrounding drainage system, as well as overland flooding from the development site or the surrounding area. An overland flood route drawing is submitted, such that any overland flooding from surface water will result in flooding of the internal roads only. I am satisfied on this basis that no significant flood risk will arise at or as a result of the development. I note that DCC Drainage Division states no objection subject to requirements. I consider the proposed surface water drainage measures acceptable subject to conditions.

10.9. Ecology

10.9.1. Observers state concerns in relation to potential impacts on ecology at the development site and at the Royal Canal pNHA including vegetation removal and impacts on water quality, birds, bats, otters, and other species. In addition, the planning authority recommends refusal on grounds relating to adverse impacts on the Royal Canal conservation area. These matters may be considered as follows, noting that designated sites are considered separately below in the context of Appropriate Assessment.

10.9.2. General Ecological Impacts

The application includes an Ecological Impact Assessment (EclA) of the development, which is based on a site survey carried out on 18th August 2020. The habitats present at the site are limited and mainly consist of buildings and artificial surfaces, recolonising bare ground, dry meadows and grassy verges and ornamental/ non-native shrub. The biodiversity of the site is assessed as low overall, as the site is dominated by artificial surfaces with a mosaic of non-native shrubs and grassy verges occurring in small areas. There are no botanical features on the site of any scientific interest and there are no habitats of biodiversity value. The existing buildings and some areas of mature buddleia may provide some useful nesting sites

for local populations of passerine birds. Due to the high level of noise in the site from traffic in Phibsborough, the use of these shrubs by birds is likely to be low. There is a range of locally common flowering plants colonising different areas within the site and these would provide sources of nectar for pollinating insects. There are no records of any rare or protected plant species at the site. No non-native invasive species that are listed in Schedule Three of the Birds and Habitats Regulations (2011) were recorded in the site survey. No signs of mammals were noted, and it is very unlikely that large mammals, such as badgers, use the site. There are no suitable habitats within the site for otters.

The following points are noted from the EclA in relation to potential ecological impacts:

- There is potential for impacts on water quality during the construction and demolition phases. Surface water will be managed during these phases in accordance with best practice. Details of proposed measures are provided.
- The development could result in habitat loss and fragmentation. Existing habitats at the site are of low biodiversity value overall and the development will not result in any significant impacts on local biodiversity.
- The loss of vegetation at the site will have impacts on pollinators. However, the plants present are quite common in the area and significant impacts arising on local pollinating insects are not likely.
- There is potential for impacts on local wildlife associated with disturbance during site preparation and construction works. However, given the location of the site in an urban setting and the existing background level of noise, this impact is likely to be neutral.
- The development includes measures that will promote the use of the site by wildlife including landscaping and bat and swift boxes.
- There will be no run-off from the site into the canal during operation. All run-off will be directed to the local surface water network, preventing any impacts on water quality in the canal during the operation of the site.

The EclA does not identify any significant residual or cumulative impacts, subject to the implementation of the proposed mitigation measures. I accept this conclusion

having regard to the low biodiversity value of the habitats present at the development site, to the limited nature of the likely impacts and to the mitigation provided by construction management measures and by the introduction of new vegetation and the installation of bat and swift boxes at the completed development. I consider that the EclA seems reasonable and robust overall and I note nothing on file from any entity that would cause significant questions about any conclusions of the ECIA. A condition requiring the mitigation measures recommended in the EclA may be imposed if permission is granted.

10.9.3. Impacts on the Royal Canal pNHA

The Royal Canal is a proposed Natural Heritage Area (pNHA). As per the NPWS website, pNHAs are sites of significance for wildlife and habitats that were published on a non-statutory basis in 1995 but have not since been statutorily proposed or designated. Prior to statutory designation, pNHAs are subject to several forms of limited protection, of which the following are relevant in this instance:

- Recognition of the ecological value of pNHAs by Planning and Licencing Authorities.
- Under the Wildlife Amendment Act (2000), NHAs are legally protected from damage from the date they are formally proposed for designation.

The Royal Canal pNHA Site Synopsis notes that the pNHA comprises the central channel of the canal and the banks on either side of it. The canal passes through a variety of landscapes and several different habitats are found within the canal boundaries - hedgerow, tall herbs, calcareous grassland, reed fringe, open water, scrub, and woodland. Otter spraints are found along the towpath, particularly where the canal passes over a river or stream. The ecological value of the canal lies more in the diversity of species it supports along its linear habitats than in the presence of rare species.

I consider that the proposed public open space represents a significant planning gain at this location in terms of improved public amenity at the canal edge. The proposed secondary access will provide pedestrian access for residents of the scheme only. Both accesses are to be limited to daytime hours, which can also be required by condition. As discussed in detail above, the ground floor residential units will be set back from the canal boundary and will be behind the partially retained boundary wall.

I consider that, overall, the additional activity generated by the development at the Royal Canal will be limited in the context of the current use of the canal as a public amenity in an urban area and its potential future use as a pedestrian/ cycle route in the context of future public transport improvements in the area. I also note that 28 no. residential units, 2 no. commercial units and a public open space were previously permitted at the canal edge under PL29N.243444. The development does not involve any surface water discharges to the Royal Canal and therefore there is no potential for impacts on water quality in the canal. I therefore consider that the development is acceptable in its current form, subject to the mitigation measures recommended by the Dept. and in the EclA.

I note that the submission of Waterways Ireland also states concerns in relation to potential impacts on the canal and its environments and boundaries and submits that any change or alteration of the boundaries including removal of boundary wall or access on to canal banks along the Royal Canal would require consultation. I am satisfied, given the conclusions of the EclA and with regard to the above assessment, that the development will not have any significant adverse impacts on the Royal Canal and I recommend a condition requiring consultation with the planning authority regarding works at the canal boundary.

10.9.4. Impacts on Bats

The Bat Assessment is based on a daytime and night-time bat survey that was carried out at the site on the 13th and 14th August 2018. The survey included daytime and night-time internal inspections of the buildings at the site. No evidence was found of bats roosting at the site. The Bat Assessment States:

A visual examination of the buildings internally provided at conclusion that there was no evidence of usage of the structure by bats at present or historically.

This conclusion was also based on the daytime and night-time survey of bat activity at the site. The survey noted two bat species, common pipistrelle, and Leisler's bats, foraging over the site and the adjacent Royal Canal. However, bat activity was very low overall during the survey period and was lower than would be expected given the availability of roost options within the building, the presence of vegetation and the Royal Canal.

Potential impacts on bats are associated with the loss of potential roost sites in the existing buildings and with increased lighting levels in the area. Recommended mitigation measures comprise re-evaluation of buildings prior to demolition, installation of bat and swift boxes to provide alternative nest sites, landscaping to provide new vegetative cover and controlled lighting to avoid light spill. No significant residual impacts on bats are predicted.

The submission by the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media recommends conditions to avoid adverse impacts on bats including the supervision of demolition works by a licenced bat specialist, as well as the installation of bat boxes and the omission of external lighting from the canal side of the development. These measures are already proposed in the documentation on file and can be required by condition. I am satisfied on this basis that the development will not have any significant adverse impacts on bats.

10.9.5. Impacts on Otters

The EclA notes that there is no habitat suitable for otters present at the development site. The submission by the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media notes that otters are known to be present on the Royal Canal and are believed to be active in the vicinity of the site. The Dept. is concerned that increased disturbance and illumination from the development could inhibit the movement of the otters around the 6th and 5th Locks to the canal downstream. It recommends the following measures to address the issue:

... in order to avoid disturbance preventing otters utilising the southern tow path of the Royal Canal adjacent to the development to move past the 6th and 5th Locks, the Board should request the applicant to remove from the development the proposed pedestrian accesses from it onto the canal towpath or at least limit their use to between 7 AM and 8 PM. Also and for the same reason, that the boundary wall between the proposed development and southern canal towpath should be retained in as far as this is possible allowing for its refurbishment to link with the design of the new apartment buildings, and that the faces of the apartment blocks on their canal sides should be set back to the line of the existing canal face of 'The Mill' apartment block on the east of the proposed development.

Having regard to the above assessment, I consider that the proposed public open space and pedestrian access at the canal edge are acceptable subject to a condition limiting their use to daytime hours and I recommend a condition to this effect. The development involves limited alterations to the existing boundary wall, which do not differ significantly in scale overall from those previously permitted at the development site under PL29N.243444. It also includes measures to reduce lighting impacts at the Royal Canal edge. The interface of the ground floors of the apartment buildings with the canal edge is considered in detail above and is acceptable. Given that most of the existing boundary wall is to be retained, I do not consider that a further setback to the building line of the North City Flour Mills building is necessary. I consider that the additional pedestrian activity generated at the canal edge would be limited in the context of the use of the canal as a public amenity at present and I am satisfied on this basis overall that the development overall would not result in significant adverse impacts on others such as would warrant a refusal of permission. I also note in this regard that the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media does not recommend refusal on grounds relating to adverse impacts on others.

10.10. Traffic and Transport

- 10.10.1. Observers state concerns that the development will add to existing traffic and parking congestion in the vicinity. It is submitted that public transport services are already oversubscribed and that the development will add to demand. There are also concerns that the access from Phibsborough Road will result in a traffic hazard as it is narrow and does not provide dedicated pedestrian / cycle infrastructure.
- 10.10.2. The proposed access layout from the Phibsborough Road is similar to that permitted for the development granted under PL29N.243444. The access layout indicates sight distances of 49m in both directions from a 2.4 m setback, which meets requirements for the 50 kph zone as per DMURS Table 4.2. The Phibsborough Road access is linked to the development site by a shared surface to the rear of the Cross Guns Quay complex. The proposed layout indicates a 4.8m wide carriageway along the existing laneway with a 1.2 – 1.5m wide verge along the southern side of the carriageway, planted with street trees. The carriageway is to function as a shared surface with no dedicated pedestrian or cycle routes. I note that the carriageway will also serve existing parking spaces to the rear of Cross Guns Quay, which are outside the red line site boundary. While I accept that there is a

'pinch point' at the access from Phibsborough Road, I consider that the shared surface is generally acceptable in an urban context and I note that DCC Transportation Planning Division states no objection subject to the agreement of a detailed design by way of condition. The submitted DMURS Compliance Statement, Swept Path Analyses and Road Safety Audit are also noted in this regard. The proposed access from the Phibsborough Road is considered acceptable on this basis.

10.10.3. The site has a highly accessible location, c. 1.5 km from the city centre. It is served by the Ballymun and Finglas Quality Bus Corridors along the Phibsborough Road, which connect to the city centre and to numerous other locations. The Phibsborough Road is also on the E and F Bus Connects spine routes. The site is c. 10 minute walk to the Cabra and Phibsborough stops on the Luas cross city route. The existing Drumcondra Railway station within 1km of the site is on the Dublin-Longford commute line to Connolly Station. Current MetroLink proposals include a new station at Glasnevin on the northern side of the Royal Canal, opposite the development site. The new MetroLink station is intended to serve as an interchange with the existing railway line, which is due to be electrified with Dart services between Maynooth and Connolly Station in the city centre. The tow path along the Royal Canal to the north of the site also serves as a Greenway providing pedestrian and cycle routes.

10.10.4. The Traffic Impact Assessment (TIA) is based on traffic count data collected in 2018. Traffic count data from 2020 was not deemed reliable due to the fluctuation in travel patterns as a result of the Covid-19 restrictions. Given the limited car parking proposed, the overall traffic levels generated by the development will be very low and fall below threshold levels for traffic assessment. NTA and DCC traffic counts also indicate that traffic volumes entering the canal cordon have declined since 2005 and overall traffic flows in the city centre reduced 3% between 2016 and 2017. The junction analysis of the Phibsborough Road access indicates that it will operate at or below 5% capacity with the peak hour development traffic in place, which is considerably below the 85% threshold capacity that usually signals that a junction is approaching its design capacity. While I note the concerns of Observers regarding traffic impacts, I accept the TIA conclusion given the accessible location of

the development site and the limited amount of car parking provided in the proposed development.

10.10.5. The site is located within parking Zone 2 as per development plan Map J Strategic Transport and Parking Areas. A maximum provision of 1 no. car parking space per dwelling applies. The site is within a 'Central and/or Accessible' location in the context of the Apartment Guidelines, where there is a default policy to minimise car parking provision. In addition, SPPR 8(iii) of the Guidelines provides that there shall be a default of minimal or significantly reduced car parking provision for BTR developments. The development provides 24 no. residents' car parking spaces at basement level, 2 no. car club spaces and 3 no. set down spaces at the entrance plaza, i.e. a total of 29 no. car parking spaces. The development also includes 5 no. motorcycle parking spaces. Car parking within the development is to be managed in the context of its BTR use. This provision is considered to be acceptable given the highly accessible location of the site in the context of the relevant policy provisions and subject to the implementation of a detailed car parking management strategy, as recommended by DCC Transportation Planning Division. While the development provides less than 1 car parking space per residential unit, I note that the development plan specifies this to be a maximum provision for Z1 areas and I therefore consider that the development does not materially contravene the development plan in this respect notwithstanding that the applicant includes the issue in their Material Contravention Statement.

10.10.6. I note that residents of the Cross Guns Quay complex state concerns that their parking spaces adjacent to the development access may be used by residents of the proposed scheme, however the management of the adjoining site is outside the scope of this application.

10.10.7. City development plan cycle parking standards require a minimum provision of 1 cycle space per residential unit. The Apartment Guidelines recommend a general minimum standard of 1 cycle storage space per bedroom with visitor parking at a rate of 1 space per 2 residential units, i.e. c. 373 no. spaces in this instance. The development provides 272 no. basement cycle spaces and 72 no. surface cycle spaces, of which 22 spaces are covered. This provision is considered adequate.

10.10.8. I note the NTA submission in relation to the proposed Metrolink works in the vicinity of the site, which include a temporary pedestrian/cycle/vehicular bridge to link the north canal bank with Shandon Park via the development site. As discussed above, the proposed layout does not preclude such an access, which may be negotiated with the developer if or when the need arises.

10.10.9. Having regard to the above, while Observer concerns in relation to traffic and transport impacts are noted, I am satisfied that the proposed roads, pedestrian and cycle layouts and car/cycle parking provision are acceptable subject to conditions and that the development will not result in undue adverse traffic impacts in the vicinity such as would warrant a refusal of permission. I also note in this regard that the DCC Transportation Planning Division does not state significant concerns in relation to traffic and transport impacts or related matters.

10.11. Part V

10.11.1. Section 5.15 of the Apartment Guidelines provides that Part V requirements under the Planning Act (as amended) apply to BTR developments. The applicant proposes to transfer 20 no. on site units to Dublin City Council to meet Part V requirements. The units to be transferred are located on levels 1, 2 and 3 of Block A. I note the memo on file by DCC Housing & Community Services, dated 10th February 2021, which states that it has engaged with the applicant regarding Part V provision. I recommend that a condition requiring a Part V agreement is imposed in the event of permission being granted.

10.12. Childcare Provision

10.12.1. The development does not include any childcare provision. The Childcare Facilities Guidelines for Planning Authorities recommend a minimum provision of 20 childcare places per 75 no. dwellings. Section 4.7 of the Apartment Guidelines states that the threshold for the provision of childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One bed or studio units should generally not be considered to contribute to a requirement for any childcare provision and, subject to location, this may also apply in part or whole to units with two or more bedrooms. The development includes 55 no. studio units, 85 no. 1 bed units and 65 no. 2 bed

units, and therefore is likely to generate limited demand for childcare facilities with regard to the guidance provided in section 4.7 of the Apartment Guidelines. Assuming that all 65 no. 2 bed units generate a demand for childcare, a total of 17 no. childcare places would be required to meet the requirements of the Childcare Guidelines. The applicant's Planning Report provides a list of existing childcare facilities in the area within a 15 minute walk. I consider that, with regard to the unit mix, the development is unlikely to generate a substantial demand for childcare places and that, having regard to existing childcare provision in the area, the lack of a childcare facility is acceptable in this instance. I also consider that the provision of a childcare facility to serve the required 17 no. childcare places would not be viable and would not warrant the provision of a dedicated childcare facility.

10.13. Material Contravention Issues

- 10.13.1. The applicant's Material Contravention Statement refers to five separate grounds of material contravention comprising building height, public open space, plot ratio, site coverage and car parking. While I have addressed these matters separately in the relevant sections above, I shall also address them here in the interests of clarity.
- 10.13.2. Having regard to the above assessment, I am satisfied that the proposed plot ratio and site coverage are in accordance with development plan policy on same for Z1 and Z2 lands and that the development does not materially contravene the development plan in relation to these matters. I am also satisfied that the development does not materially contravene development plan policy in relation to car parking.
- 10.13.3. I consider that the development materially contravenes development plan policy in relation to the matters of building height and public open space provision. I consider that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the County Development Plan and Local Area Plan would be justified for the following reasons and considerations.

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

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

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

Permission for the development should be granted having regard to regional spatial and economic strategy, guidelines under section 28 of the Act and the National Planning Framework, specifically:

- In relation to the matter of building height, SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2 of the Guidelines, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular National Policy Objectives 13 and 35). An assessment of the proposed development was carried out to determine that the development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines.
- In relation to the matter of public open space, permission for the proposed development should be granted having regard to Regional Policy Objective 4.3 of the Regional Spatial and Economic Strategy for the Eastern and Midland Region and National Policy Objective 35 of the National Planning Framework.

10.14. DCC Chief Executive Recommendation

- 10.14.1. The Dublin City Council Chief Executive's report recommends refusal on three separate grounds relating to impacts on the Royal Canal Conservation Area; noise issues due to proximity to the Irish Rail compound and substandard public open space provision. I have assessed these matters in detail in the relevant sections above, however I also summarise my conclusions here in the interests of clarity.

10.14.2. Impacts on the Royal Canal Conservation Area

The development will have minimal impacts on the existing boundary wall at the Royal Canal frontage of the development. The boundary has, in any case, been subject to substantial modifications and does not have any special historical significance. In addition, permission was already granted for the partial removal of the boundary as well as a new public open space at the canal edge of the development site under Reg. Ref. 2402/14 PL29N.243444. The use of the proposed pedestrian accesses will have limited impacts in the context of the current use of the Royal Canal as a public amenity area and can be restricted to daytime hours by condition. The development includes measures to reduce impacts on the canal including omission of public lighting at the northern side of the site. The development will not discharge surface water to the canal. The EclA does not identify any significant adverse impacts to the Royal Canal pNHA or to bats, birds or otters at or in the vicinity of the site, subject to mitigation measures. The comment of the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media recommends conditions in relation to these matters. The development will present a high quality of design and finish at the frontages to the Royal Canal and will provide a satisfactory setting for the historic canal infrastructure and for the North City Flour Mills protected structure. The development will replace a disused industrial complex that does not present an attractive outlook to the canal at present. The provision of a public space at the canal edge will represent a substantial planning gain and will provide a new focus for the public amenity space at the canal, as identified in the Phibsborough Local Environmental Improvements Plan. Any adverse impacts on the Royal Canal Conservation Area as a result of additional overshadowing from the development will be offset by the planning gain associated with the new public open space. I am satisfied overall on this basis that the development will not have any adverse impacts on the Royal Canal Conservation Area such as would warrant a refusal of permission.

10.14.3. Noise Impacts Associated with the Irish Rail Compound

I consider that a condition can be imposed requiring an Acoustic Impact Assessment, which includes recommended noise mitigation measures if/where necessary, to be agreed with the planning authority. I do not consider that the introduction of such mitigation measures is likely to change the permitted

development to such a degree that third parties would be deprived of a right to consultation. I am therefore satisfied that the issue may be addressed by condition.

10.14.4. Substandard Public Open Space Provision

I accept that the proposed provision of 5% of the site as public open space materially contravenes development plan policy, as addressed above. I consider that the proposed public open space on the eastern side of the site, while limited in scale, is well overlooked, has a high quality of design and finish and will represent a significant planning gain for the area as it will enhance the existing public amenity at the canal edge and will improve pedestrian permeability to Phibsborough Road. I am also satisfied overall that the development provides a good standard of communal open spaces, services and communal amenities for residents of the development, in accordance with the standards set out in the Apartment Guidelines for BTR developments. As per the assessment above, I do not consider that the development will result in overdevelopment of the site or that it will result in any significant adverse impact on adjacent residential amenities. I therefore do not consider that the development is substandard in relation to the provision of public open space. Given that Dublin City Council Parks and Landscape Services Division has not indicated agreement to a development contribution in lieu of public open space provision, I do not recommend a condition to this effect.

10.15. **Planning Assessment Conclusion**

- 10.15.1. Having regard to the above assessment, I conclude that permission should be granted for the proposed development subject to the conditions set out below.

11.0 **Environmental Impact Assessment**

- 11.1. The application was submitted after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

- 11.2. 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.)

The development involves 205 no. residential units on an overall site with a stated area of 0.73 ha. It is therefore considered that it does not fall within the above classes of development and does not require mandatory EIA.

- 11.3. As per 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. The applicant submitted an EIA Screening Report including the information set out in Schedule 7A of the Planning and Development Regulations, 2001 (as amended) to allow a screening for EIA in accordance with the criteria in Schedule 7 regarding the

- Characteristics of Proposed Development
- Location of Proposed Development
- Types and Characteristics of Potential Impacts

I note in this regard that this is a brownfield site located adjacent to but not within the Royal Canal pNHA and that the site has a generally urban context.

- 11.4. I have assessed the proposed development having regard to the above criteria and associated sub criteria having regard to the Schedule 7A information and other information which accompanied the application including, inter alia, Appropriate Assessment Screening and NIS, and I have therefore completed a screening assessment as set out in Appendix 1. I recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

- 11.5. The conclusion of this is assessment is as follows:

Having regard to

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

(b) the location of the site on lands zoned 'Z1' 'To protect, provide and improve residential amenities' under the Dublin City Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan;

(c) the location and context of the site;

(d) The existing use on the site and pattern of development in surrounding area,

(e) The planning history relating to the site

(f) The availability of mains water and wastewater services to serve the proposed development,

(g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)

(h) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),

(i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction & Demolition Waste Management Plan

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

12.0 Appropriate Assessment

12.1. AA Introduction

12.1.1. This assessment is based on the submitted AA Screening and Natura Impact Statement, prepared by Whitehill Environmental, dated November 2020. I am

satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained, along with the other documentation on file including the EclA, as well as the Chief Executive Report of Dublin City Council and other technical reports, the submissions of observers and prescribed bodies and my inspection of the development site and surrounding area, are all considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development.

12.2. The Project and Its Characteristics

12.2.1. See the detailed description of the proposed development in section 3.0 above.

12.3. The Development Site and Receiving Environment

12.3.1. The development site lies within an urban area and currently comprises a disused industrial complex. The dominant habitats locally include buildings and artificial surfaces, areas of amenity grasslands and gardens, scattered trees and groups of trees and open water habitats at the Royal Canal. The River Tolka is 980 m north of the development site. The site is adjacent to the southern banks of the Royal Canal, which enters the River Liffey beside the Samuel Beckett Bridge at North Wall Quay.

12.4. Stage I Appropriate Assessment

12.4.1. There are no designated sites within or immediately adjacent to the development. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

12.4.2. In determining the zone of influence I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the development site to a European Site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie).

12.4.3. The following designated sites lie within 15 km of the development:

Site (site code)	Distance from site (approx.)	Qualifying Interests / Conservation Objectives
South Dublin Bay and River Tolka Estuary SPA (004024)	3 km east	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
South Dublin Bay SAC (000201)	5.2 km south east/	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210] .</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p>

		Embryonic shifting dunes [2110]
North Bull Island SPA (004006)	6.1 km east	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
North Dublin Bay SAC (0000206)	6.1 km east	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p>

		<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
Baldoye Bay SAC (000199)	9.9 km north east	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
Baldoye Bay SPA (004016)	10.3 km north east	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p>

		<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Wetland and Waterbirds [A999]</p>
Howth Head SAC (000202)	11.7 km north east	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
Malahide Estuary SAC (000205)	11.8 km north east	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Spartina swards (<i>Spartinion maritimae</i>) [1320]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>

Malahide Estuary SPA (004025)	11.8 km north east	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>
Rockabill to Dalkey Island SAC (003000)	12.3 km east	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Reefs [1170]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p>
Glenasmole Valley SAC (001209)	13.3 km south	<p>The conservation objectives for the SAC relate to the maintenance of a favourable</p>

		<p>conservation condition of the following Annex I habitats:</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-siltladen soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p>
Wicklow Mountains SAC (002122)	14 km south	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p>

		<p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Lutra lutra (Otter) [1355]</p>
Wicklow Mountains SPA (004040)	14.2 km south	<p>The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:</p> <p>Merlin (Falco columbarius) [A098]</p> <p>Peregrine (Falco peregrinus) [A103]</p>
Ireland's Eye SPA (004117)	14.2 km north east	<p>The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:</p> <p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Herring Gull (Larus argentatus) [A184]</p> <p>Kittiwake (Rissa tridactyla) [A188]</p> <p>Guillemot (Uria aalge) [A199]</p> <p>Razorbill (Alca torda) [A200]</p>
Rye Water Valley / Carton SAC (001398)	14.3 km west	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats:</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]</p> <p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p>
Ireland's Eye SAC (002193)	14.4 km north east	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Perennial vegetation of stony banks [1220]</p>

		Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
Howth Head Coast SPA (004113)	14.5 km north east	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Kittiwake (<i>Rissa tridactyla</i>) [A188]

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

12.4.5. I note that the following Natura 2000 sites within 15km were examined in the submitted AA Screening Report, but found not to lie within the zone of influence of the project, with regard to their conservation objectives. I consider that there is no possibility of significant effects on these designated sites, with regard to their conservation objectives, due to intervening distances, to the nature of the intervening land uses and to the absence of a hydrological or any other linkage between the development and the European Site, and/or due to the presence of a substantial marine water buffer between the surface water discharge point and/or the WWTP outfall pipe at Ringsend and the European site and potential for pollution to be dissipated in the drainage network. I have therefore excluded them from the remainder of this AA screening.

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

- Rye Water Valley / Carton SAC (001398)
- Ireland's Eye SAC (002193)
- Howth Head Coast SPA (004113)

12.5. Potential Effects on Designated Sites

12.5.1. Having regard to the potential zone of influence and the submitted AA Screening Report, the following Natura 2000 sites are identified as lying within the potential zone of influence of the development due to potential indirect hydrological connections between the development and the European Sites in Dublin Bay via the Royal Canal, the surface water sewer network and the foul sewer network.

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

12.5.2. As outlined in the submitted AA screening report and NIS, I consider that the possible risks to the European Sites relate to the following matters:

- In relation to the above designated sites, the Royal Canal at Cross Guns is at a minimum distance of 6.7km upstream of the areas designated. The Royal Canal does not discharge directly into any of the sites. Given this hydrological distance and the estuarine/coastal mixing processes and dilution that would occur between the Royal Canal at Cross Guns and these designated areas and the fact that the Royal Canal is a managed, manmade waterway which does now flow towards the sea in the manner of a natural watercourse, it is unlikely that the development would lead to any significant decrease in water quality in Dublin Bay which would affect the SPAs or their qualifying interests.
- The development cannot increase disturbance effects to birds in Dublin Bay given its distance from these sensitive areas. There are no sources of light or noise over and above that this is already experienced in this built-up, urbanised location. There is no evidence to suggest that the proposed increase in building heights will have the potential to adversely impact species associated with Natura 2000 sites.

- The development will not occur in an area used by the bird species listed above as qualifying interests of the SPAs. The habitats within the application site are not suitable for these wading bird species. The development will not lead to decreases in the population trend of any bird species. The development will not lead to any decrease in the range, timing, or intensity of use of any areas within any SPA by these QI bird species. The development will not lead to the loss of any wetland habitat area within either SPA. Habitats on the site are not suitable for regularly occurring populations of wetland or wading birds which may be features of interest of the South Dublin Bay and River Tolka Estuary SPA. No ex-situ impacts can occur.
- Water quality is not a target for the maintenance of any of the QIs within either SAC of Dublin Bay. The targets relate to habitat distribution and area, as well as vegetation structure and control of negative indicator species and scrub. The development will not lead to any impacts upon these QIs, by virtue of changes to the physical structure of the habitats or to the vegetation structure which defines their favourable conservation status.
- There is a risk arising from potential construction related surface water discharges from the development site and the potential for these effects to reach the downstream European Sites and potentially affect the conservation objective attributes and targets supporting the conservation condition of the qualifying interests of the four European Sites due to habitat degradation as a result of hydrological impacts.
- Foul waters generated during construction and operation will be treated at Ringsend WWTP and following treatment will be discharged into Dublin Bay. While there are capacity issues associated with the Ringsend WWTP, the first phase of WWTP upgrade works will facilitate a 400,000 population equivalent extension. Further upgrade works will enable the WWTP to treat wastewater for up to 2.4 million population equivalent and are expected to be complete in 2025. In addition, Irish Water was granted permission for the Greater Dublin Drainage Project by ABP on 11th November 2019, which will help alleviate capacity issues at Ringsend WWTP. Furthermore, having regard to the scale of development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would in any event be subject

to Irish Water consent, and would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached.

- There is no potential for escape of non-native invasive plant materials, seeds or seedlings during construction or operation of the development, therefore there is no risk of any plant material reaching the receiving downstream water environment and European Sites and no significant associated effects are predicted.

12.5.3. Having regard to the information submitted with the application, including the Outline Construction, Demolition and Waste Management Plan, I consider that there is no likelihood of loss or disturbance of important habitats or important species associated with the features of interest of the SPAs or qualifying interests of the SACs as a result of construction works on the site. Pollution sources will be controlled through the use of best practice site management. The proposed construction management measures outlined are typical and well proven construction methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. Their implementation would be necessary for a housing development on any site in order to protect the surrounding environs regardless of proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. These practices are not designed or intended specifically to mitigate any putative potential effect on a Natura 2000 site.

12.5.4. Separately, I acknowledge the submission of Inland Fisheries Ireland which notes the sensitivity of the Royal Canal as an important ecological resource, which supports significant populations of coarse fish and a range of other freshwater aquatic species, plus all associated floral and faunal components in adjacent habitats and which recommends general conditions relating to construction and environmental management to prevent pollution of the Royal Canal, which are not sought with the intention of mitigating impacts on Natura 2000 sites. The recommended measures are generally provided for in the Outline Construction, Demolition and Waste Management Plan and are standard construction management measures. I also note the submission of the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media, which does not raise any significant concern in

relation to potential effects on designated sites and recommends permission subject to conditions.

- 12.5.5. I am therefore satisfied that, notwithstanding that the applicant has carried out Stage 2 AA, there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated sites in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

12.6. In Combination or Cumulative Effects

- 12.6.1. This project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased volumes to the Ringsend WWTP.
- 12.6.2. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, including the Dublin City Development Plan 2016-2022 covering the location of the application site. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is for a relatively small residential development providing for 205 no. residential units on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. While this project will marginally add to the loadings to the municipal sewer, evidence shows that negative effects to Natura 2000 sites are not arising. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is currently operating under EPA licencing which was subject to AA Screening. Similarly, I note the planning authority raised no AA concerns in relation to the proposed development.
- 12.6.3. The development is not associated with any loss of semi-natural habitat or pollution which could act in a cumulative manner to result in significant negative effects to any SAC or SPA. There are no projects which can act in combination with the

development which can give rise to significant effect to Natura areas within the zone of influence.

12.7. AA Screening Conclusion

- 12.7.1. In conclusion, therefore, having regard to the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites, and the hydrological pathway considerations outlined above, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required, notwithstanding that the applicant has submitted a Stage 2 NIS.
- 12.7.2. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

13.0 Conclusion and Recommendation

- 13.1. The development is considered to be compatible with the Z1 zoning objective that applies at the subject site. It will deliver a high-quality residential development at a serviced site that is located at a central/accessible location on a public transport corridor. While the increased height contrasts with surrounding development, it represents a reasonable response to its context and is stepped down at / set back from site boundaries to reduce impacts on adjacent properties and protected structures. The overall layout includes good quality public amenity space and provides opportunities for enhanced pedestrian connectivity for the wider area and an improved public realm at the Royal Canal. The development is a satisfactory response to the conservation issues that arise in relation to the site context at the Phibsborough Residential Conservation Area, the Royal Canal Conservation Area and the North City Flour Mills Protected Structure (RPS 6732) and other historic and protected structures in the immediate vicinity. I am satisfied that the development will not result in significant adverse impacts on visual or residential amenities such as would warrant a refusal of permission. The design and quality of residential

accommodation provided is of a high standard and is satisfactory. I am satisfied that the development will not result in a traffic hazard or in undue adverse traffic impacts. Drainage, access, and parking arrangements are acceptable subject to conditions. I am satisfied that the development will not be at risk of flooding and will not increase the risk of flooding elsewhere.

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

14.0 Recommended Order

Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 2nd day of February 2021 by Binford Limited, 13-18 City Quay, Dublin 2.

Proposed Development:

A planning permission for a strategic housing development at the Old Bakery Site, also known as 113 Phibsborough Road, Cross Guns Bridge, Dublin 7.

The proposed development will consist of:

- Demolition of existing buildings at the site.
- 205 no. apartments within 3 no. blocks ranging in height up to 12 storeys.
- A new café/ retail unit area, and public plaza to the east of the site.
- The apartment mix will comprise 55 no. studios, 85 no. 1-bed, and 65 no. 2 bed apartments along with internal residential amenity space (located in block C at ground and top floor levels and including gym, lounge, shared workspaces,

parcel store, reception). All apartments with balconies/ terraces facing north/ south/ east/ west. Communal open space will be provided on the top floor of each block and at the ground floor level.

- Provision of 29 no. car parking spaces (20 no. at basement and 9 no. at surface); 272 no. residential bicycle parking spaces along with a further 72 no. visitor surface parking spaces.
- Vehicular and pedestrian connection via Phibsborough Road with two additional pedestrian accesses to be provided along the Royal Canal to the north (necessitating alterations to the existing boundary wall).
- All associated site development works and services provisions including bin storage areas, substations, plant rooms, boundary treatments and landscaping.
- All enabling and site development works, landscaping, lighting services and connections, waste management and all other ancillary works.

Decision

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

Matters Considered

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

Reasons and Considerations

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

- (a) the location of the site in the established urban area of Dublin City in an area zoned for Z1 'To protect, provide and improve residential amenities';
- (b) the policies and objectives of the Dublin City Development Plan 2016-2022;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) 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;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018 and particularly Specific Planning Policy Requirement 7 and 8;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- (i) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (j) The pattern of existing and permitted development in the area;
- (k) The planning history of the site and within the area;
- (l) The submissions and observations received;
- (m) The Chief Executive Report from the Planning Authority; and
- (n) The report of the Inspector,

The Board 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.

Appropriate Assessment

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

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
- (b) the absence of any significant environmental sensitivities in the area,
- (c) the location of the development outside of any other sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

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

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the Planning Authority.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plan for the area, a grant of permission could materially contravene Dublin City Development Plan 2016-2022 in relation to the matters of building height and public open space provision. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the City Development Plan would be justified for the following reasons and consideration.

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

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

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

Permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically:

- In relation to the matter of building height, SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular National Policy Objectives 13 and 35). An assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines.
- In relation to the matter of public open space, permission for the proposed development should be granted having regard to Regional Policy Objective 4.3 of the Regional Spatial and Economic Strategy for the Eastern and Midland Region and National Policy Objective 35 of the National Planning Framework.

Conditions

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

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment and the Bat Assessment, submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

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

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

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

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

5. 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.

6. The proposed development shall be amended as follows:

- (a) The south facing bedrooms on floors nos. 1-10 of Block C shall be used as a home office / study only.
- (b) The perforated metal screens to the southern elevation of Block C shall be set forward of the window frame as is the case with those screens to Blocks A & B. The screens shall not be a flat plane and shall have some level of three dimensionality as an architectural feature.
- (c) All balconies shall be fitted with obscure glazed enclosures, all winter gardens shall have clear glazing to their front with the exception of the winter gardens to the ground floor units facing the canal which may have some level of obscure glazing to 1.2m above floor level if so required.
- (d) The obscure glazed balconies to the studio units on the southern elevation of Blocks A & B shall be raised to 1.5m above floor level to provide additional screening toward the south.
- (e) Windows shall be inserted into the southern wall of the corridor at the sixth floor of both Blocks A & B where this wall abuts the roof terraces.
- (f) The proposed coloured render external treatment shall be replaced by a more durable finish, to the satisfaction of the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: To provide a development of appropriate scale and finishes for this location in accordance with Development Plan and national policy in the interest

of the residential amenities of both existing and future residents and the proper planning and sustainable development of the area.

7. Glazed screens to a height of 2m shall be provided on all external sides of the roof terraces. Access to the roof terraces shall be restricted to residents of the scheme between the hours of 7 am and 10 pm Monday to Sunday.

Reason: In the interests of residential amenities.

8. The pedestrian access to the Royal Canal and the public plaza at the eastern end of the site shall be opened during the hours of 7 am and 10 pm only.

Reason: In the interests of residential amenities.

9. The applicant shall submit full details of all proposed changes to the site boundary facing the Royal Canal including removal of boundary wall or access on to canal banks along the Royal Canal to the planning authority for agreement in writing prior to the commencement of development. Use of the accesses to the canal by members of the public and residents of the development shall be limited to the daytime hours of 7AM to 10PM only.

Reason: To protect the Royal Canal as a heritage site and public amenity.

10. The applicant shall submit proposals for noise mitigation measures to address noise impacts on residential amenities of apartments from the adjacent railway line and railway maintenance works to the planning authority for agreement in writing prior to the commencement of development. The proposed mitigation measures shall be based on a noise risk assessment and an Acoustic Design Statement (ADS). The detail of the ADS should be commensurate with the level of risk identified in the noise risk assessment.

Reason: In the interests of residential amenities.

11. Details of proposed signage to the café to be submitted prior to occupation for the written agreement of the Planning Authority. An extraction and ventilation plan for the café shall also be submitted for the written agreement of the Planning Authority prior to occupation. All emissions to air associated with the development must be free from offensive odour and shall not result in an impairment of or an interference with amenities or the environment.

Reason: In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings

12. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

- (a) The roads and traffic arrangements serving the site, including signage, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (b) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (c) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority.
- (d) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.
- (e) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the

planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

- (f) 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.
- (g) The applicant shall submit a Mobility Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development.

In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity

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

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

- 14. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise

agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

15. Prior to commencement of the development, details of all areas of boundary treatment, green walls, play equipment and roof terrace planting, shall be submitted to, and approved, by the planning authority. Boundaries and areas of communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This

schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

18. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Strategy, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

19. No external lighting shall be installed on the canal-side of the proposed development.

Reason: To prevent illumination of the Royal Canal tow path, locks and water body adjacent to the proposed development inhibiting their usage by otter and bat species which are afforded a regime of strict protection under the Habitats Directive (92/43/EEC).

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

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

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

Reason: In the interest of public health.

22. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

23. 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.

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

Reason: In the interest of urban legibility.

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

Reason: In the interest of sustainable waste management.

26. 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.

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

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

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

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

28. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive and 0800 to 1400 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

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

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
- (b) Location of areas for construction site offices and staff facilities,
- (c) Details of site security fencing and hoardings,
- (d) Details of on-site car parking facilities for site workers during the course of construction,
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
- (f) Measures to obviate queuing of construction traffic on the adjoining road network,
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,

(k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,

(l) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

30. 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.

31. 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.

Sarah Moran
Senior Planning Inspector
10th May 2021

DECISION QUASHED

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