



An
Bord
Pleanála

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

Inspector's Report ABP-309608-21

Strategic Housing Development	475 no. apartments and associated site works
Location	Hartfield Place, Swords Road, Whitehall, Dublin 9
Planning Authority	Dublin City Council
Applicant	Eastwise Construction Limited
Prescribed Bodies	Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media Irish Water National Transport Authority Transport Infrastructure Ireland
Observers	Ann O'Sullivan

Bronagh Lanigan
Eimear McGowan
Elaine and Kieran Weldon
High Park Residents Association
(Michael Downey)
John Conway and the Louth
Environmental Group (BKC Solicitors)
Kasandra O'Connell

Date of Site Inspection

8th April 2021

Inspector

Sarah Moran

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Appendix I: EIA Screening

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 development site is located along the Swords Road (R132), Dublin 9. The western side of the site fronts onto the Swords Road and the site is accessed from this location. Highfield Hospital is to the immediate south, also fronting onto the Swords Road. There are vacant lands owned by Dublin City Council and Whitehall GAA pitches to the north of the site, facing onto the Swords Road and Collins Avenue. Beech Lawn Nursing home is located to the rear (east) of the site, accessed from Grace Park Road via High Park. The site formed part of the accommodation works for the construction of the Dublin Port Tunnel and the tunnel is located beneath the site on a line north/south.
- 2.2. Permission has been granted for 374 no. apartments and associated works (ABP Ref. PL29N.238685, Reg Ref. 3269/10), as amended by Reg Ref 3405/19 and works have commenced on site.
- 2.3. The red line site boundary includes works on lands in the ownership of Dublin City Council at the Swords Road site frontage. A Letter of Consent is submitted.

3.0 Proposed Strategic Housing Development

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

Site Area	c. 3.25 ha ('developable area' 2.73 ha)
Total Gross Resi Floorspace	40,682 sq.m.
Residential density	174 units/ha
Building height	4- 8 storeys
Housing Mix	26 no. studio units (5%) 179 no. 1 bed apts (38%)

	251 no. 2 bed apts (53%) 19 no. 3 bed apts (4%)
Plot Ratio	1.54 (based on developable site area)
Site Coverage	30.6%
Public and communal open space	5,520 sq.m. of public open space (20.2% of the site area) 3,617 sq.m. external communal amenity space and 588 sq.m. indoor communal amenity space.
Dual Aspect	55.6%
Non-residential development	Café on the ground floor of Block A (99 sq.m.)
Childcare	Creche (c. 414 sq.m.)
Part V	Transfer of 47 no. units on site.
Roads / Vehicular / Pedestrian access	Works to Swords Road including new signalised 4 th arm to the Swords Road/ Iveragh Road junction with pedestrian crossings to all arms of the junction; removal of one car parking space at the western side of Swords Road and a new pedestrian refuge island on the southern arm of the junction. New right turn pocket into the development on the northbound approach of Swords Road and new left turn filter lane on the southbound approach, shared with the bus lane. Additional secondary emergency access to Swords Road. Relocation of the existing footpath along Swords Road eastwards and provision of a grass verge and cycle path along the western boundary of the development site.
Car and cycle parking	348 no. car parking spaces (284 no. basement spaces and 64 no. surface level spaces) 0.7 spaces per unit 11 no. motorcycle parking spaces at basement level 527 no. bicycle parking spaces (480 no. secure cycle parking spaces and 47 no. visitors cycle spaces)
Site Services / Infrastructure	Infrastructure works to the Swords Road including a new watermain connection to an existing watermain on Collins Avenue, foul and surface water mains connection to High Park at the north eastern corner of the site and connection to the existing surface water main on Swords Road.
Ancillary Development	Bin storage, ESB substations and switchrooms.

3.3. The development is laid out in 7 no. blocks and a two-storey standalone creche. It generally replicates the layout and footprint of the scheme permitted under PL29N.238685 but proposes additional height of up to one storey on several blocks, an increase in the overall quantum of residential units from 374 no. apartments to 475 no. apartments and the slight relocation of the creche building to the west, to facilitate the provision of public and communal open space. The applicant notes the planning history of the site and states:

It is the Applicant's intention to commence construction of the permitted scheme imminently, however as they will not have adequate time to complete the development before the permission expires in April 2022, they are 're-applying' for the permitted scheme with modifications that are compatible with the scheme will be under construction.

The proposed development generally seeks to add a floor to Blocks A, B, C, D and E within the development, with the height of Blocks F and G unchanged. The development permitted under PL29N.238685 had a density of 131 units/ha, increasing to 137 units/ha with the additional units permitted under Reg. Ref. 3405/19. The current proposal has a density of 174 units/ha.

- 3.3.1. The development is to be constructed in three phases: Phase 1 comprising the access from the Swords Road and Block F (76 no. units); Phase 2 comprising Blocks A, B and D and the creche (215 no. units); and Phase 3 comprising C, E and G at the southern end of the site (184 no. units).
- 3.3.2. The application is accompanied by, *inter alia*, a Material Contravention Statement, EIA Screening Report, AA Screening Report and Tunnel Impact Assessment.

4.0 Planning History

4.1. PL29N.238685 Reg. Ref 3269/10 (as extended)

- 4.1.1. Permission granted for 358 no apartments, a crèche (465 sq.m.) and 3 no retail/commercial units (344 sq.m.) in 7 no. 4-7 storey blocks over a partial basement. Extension of duration was granted until 12th February 2022 under Reg Ref 3269/10/X1, which has since been amended to 9th April 2022 as a result of Covid 19. Construction works are currently being undertaken on site.

4.2. Reg, Ref. 3405/19 Amendments to Block F

4.2.1. Permission granted on 19th March 2020 for amendments to PL29N.238685 for increase in overall permitted quantum of apartments to 374 no. units with Block F increasing from 60 no units to 76 no. units. The development involved the rationalisation of the existing floor plans and amendments to the footprint of Block F to increase the no. of apartment units. The height of Block F remained unchanged at 6 storeys.

4.3. Reg. Ref. 3766/20 Block A (Current Undecided Application)

- 4.3.1. Permission sought for amendments to Block A comprising the rationalisation of existing floor plans and the provision of an additional storey resulting in an increase in the no. of apartment units within Block A by 18 no. units to a total of 61 no. units and an amendment to the previously permitted 3 no. retail/commercial units to provide a cafe unit (97.6 sq.m.) and a communal amenity space (253.2 sq.m.) including a reception area, meeting rooms and a lounge at ground floor level; amendments at basement level to provide a residents gym, yoga room and changing facilities (188.7 sq.m.); and the provision of a sun lounge (43.2 sq.m.) and external garden terrace (79.7 sq.m.) at 6th floor level. The development also proposes revised elevational treatments; amendments to underground services; PV panels; green roofs; bin store; and all associated works above and below ground. The overall height of Block A is to increase from a 5-7 storey block to a 5-8 storey block.
- 4.3.2. Dublin City Council (DCC) issued a Further Information request on 22nd January 2021 and a Clarification of Further Information request on 24th March 2021. There has been no response to the latter to date.

5.0 Pre-Application Consultation ABP-308050-20

5.1. The pre-application consultation related to a proposal to construct 475 no. apartments and associated works, an additional 101 no units to the development permitted under PL29N.238685 in the form of an increase in height Block A- E, with the footprint of the blocks, access into the site, car parking, open space and communal areas all to remain the same as the permitted development.

5.2. A section 5 consultation meeting took place via Microsoft Teams on 27th November 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 submit the following specific information with any application for permission:

1. A detailed landscaping plan illustrating the quantum and functionality of all areas designated for communal and public open space. The landscaping plan shall be accompanied by an updated Sunlight/Daylight analysis showing an acceptable level of residential amenity for future occupiers which includes details on the standards for the private and shared open space and the open space associated with the creche.
2. A rationale for the proposed car parking provision should be prepared, to include details of resident and visitor parking, mobility split, car parking management, car share schemes and a mobility management plan.
3. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants), specifically with regards to compliance with any relevant guidelines.
4. A Site-Specific Management Plan which includes details on management of the communal areas, public space, residential amenity, and apartments.

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.

Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs. Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites.

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

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

The site 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)

6.3. Dublin City Development Plan 2016-2022

6.3.1. The site and adjoining lands to the north are zoned 'Z12 Institutional Land (Future Development Potential)' with the objective '*to ensure that existing environmental amenities are protected in the predominantly residential future use of these lands*'. The detailed requirements of the Z12 objective are set out in section 10.2 below.

6.3.2. 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.

6.3.3. 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 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. It is located in a 'low rise rest of the city' area for which a maximum height of 16m applies for commercial and residential development, as per development plan section 16.7.2, which also states the following in relation to 'pre-existing height in low-rise areas':

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 outlining:

- *The context with a site and area analysis which includes an appraisal of the character of the area adjoining the site*
- *The design principles which have been applied and how these will be translated to the development in terms of response to local character, layout, density, scale, landscape, visual appearance and impact on amenities, including sunlight*
- *Drawings, perspectives and photo-montages to demonstrate how the approach has been applied*

6.3.4. 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.

6.3.5. Section 8.5.10 Dublin Port Tunnel and Public Transport Tunnel Structural Safety includes the following policy:

MT22: To require the submission of a Development Assessment for all development proposals located in the vicinity of both Dublin Port Tunnel, the proposed DART Underground protected corridor, or any proposed public transport tunnel. Detailed requirements for Dublin Port Tunnel are set out in Appendix 6, and Iarnród Éireann should be consulted in relation to heavy rail.

6.3.6. Chapter 16 deals with Development Standards: Design, Layout, Mix of Uses and Sustainable Design. Section 16.4 sets out density standards, such that DCC will promote sustainable residential densities in accordance with the standards and guidance set out in the Guidelines on Sustainable Residential Development in Urban Areas and having regard to the policies and targets in the Regional Planning Guidelines 2010–2022 or any RSES that replaces the regional planning guidelines. Section 16.5 sets out plot ratio standards, with an indicative standard of 0.5 – 2.5 for Z12 zones. Section 16.6 states an indicative site coverage of 50% for Z12 zones. Section 16.10 sets out the required housing mix for apartment developments >15 units.

6.3.7. The site is located within a Zone 3 parking area, where a standard for 1.5 car parking spaces and 1 cycle parking space per apartment unit applies.

6.4. **Whitehall Framework Plan 2008 (as extended)**

- 6.4.1. This is a non-statutory Schematic Framework Plan and Site Brief for Z12 zoned lands previously used as the Port Tunnel Depot at the junction of Swords Road and Collins Avenue. The Framework Plan boundary includes the development site and lands to the immediate north, which are owned by DCC and currently undeveloped. Section 3.6 of the Framework Plan states in relation to impacts on the Port Tunnel:
- Any proposal for development over or near the tunnel must show that no additional loading of greater than 22.5KN/m² will be imposed on the tunnel. Any proposal must satisfy the DPT designers that this criterion is met.*

Also:

The introduction of planned Quality Bus Corridors (QBC) on Swords Road (overall road width of 22m) and Collins Avenue will require the site boundaries to be set back to accommodate dedicated bus and cycle lanes.

The Framework Plan includes indicative locations for preferred vehicular access points from the Swords Road. Section 5.0 sets out a vision and proposed site layout for the lands.

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 a key underutilised brownfield site located close to Dublin city centre, key employment generators and public transport services will support several National Policy Objectives of the NPF, including NPO 2a, NPO 3a and 3b and NPOs 4, 5, 6, 11 and 32m in terms of strategic development.
- The development is consistent with Pillar 3 of Rebuilding Ireland, to build more homes at appropriate urban locations and Pillar 4, to improve the rental sector.
- The development satisfied the criteria set out in section 3 of the Building Height Guidelines. A detailed rationale is provided in support of this statement.

- The development site is located in a 'Central and/or Accessible Urban Location' as per the Apartment Guidelines, due to its proximity to significant employment locations such as Beaumont Hospital and DCU (both c. 1km) as well as several high frequency bus services at the Swords Road QBC. The housing mix and the design and layout of the development comply with specific policy requirements of the Apartment Guidelines.
- 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 has a high quality of design and finish and responds to the 12 criteria set out in the Urban Design Manual. It will provide an attractive living environment and a greatly enhanced public realm and will interact well with surrounding development.
- The scheme is consistent with DMURS with regard to proximity to Swords Road QBC, limited car parking provision and active street frontages. The roads layout is designed to comply with DMURS. A Statement of Consistency with DMURS is submitted.
- The site is within Flood Zone C. The development is acceptable with regard to the objectives of the Flood Risk Management Guidelines.
- 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 4.3 regarding development of infill/brownfield sites and RPO 5.5. regarding sequential development in the Dublin Metropolitan Area.
- The development provides 5,520 sq.m. of public open space, c. 20.2% of the overall site area, in accordance with zoning objective Z12.
- The transfer of 47 no on-site units will meet the 10% social and affordable housing requirement for Z12 lands.
- The development exceeds the maximum height of 16m that applies at this location under development plan policy on building height. This matter is addressed in the Material Contravention Statement.

- The proposed plot ratio of 1.54 is within the indicative plot ratio range of 0.5-2.5 for Z12 lands and the site coverage of 25% is less than the development plan standard of 50% for Z12.
- The car parking provision is slightly below development plan standards. It is submitted that this is acceptable due to the location at the Swords Road QBC and with regard to the Apartment Guidelines. The cycle parking provision significantly exceeds development plan standards.
- The design of the development responds to the conceptual layout of the Whitehall Framework Plan. Although the exact location of the proposed blocks and open spaces does not match the indicative layout of the Framework Plan, the overarching concept of a development which encourages permeability through the site with high-quality open spaces has been achieved. The Tunnel Impact Assessment demonstrates that the development will not result in loading greater than 22.5 KN/m² on the tunnel beneath, in accordance with the requirements of the Framework Plan. The development will not impact on the Swords Road bus and cycle lanes. The proposed vehicular access to the development is in accordance with that indicated for the development site in the Framework Plan.

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. The Material Contravention Statement relates to the matters of building height and housing mix. The points made in relation to these issues may be summarised separately as follows.

6.6.2. Material Contravention Statement on Building Height

The following points are noted:

- The maximum overall height of the development at 26.75m (Block A) exceeds the 16m limit prescribed in the development plan for the Outer City Area. However, the development already permitted at this site exceeds the 16 m limit with a maximum overall height of c. 21 m.
- The proposed height is justified in the context of NPF objectives to deliver additional residential accommodation at sustainable locations in existing urban areas, ref. NPOs 2a, 3a, 3b, 13, 32, 33 and 35. The site is in close proximity to public transport and to significant employment locations. The scheme involves the development of an underutilised infill site on the outskirts of Dublin City, which will therefore contribute to delivering compact growth in urban centres.
- It is submitted that the imposition of the 16 m height restriction at the subject site would be contrary to SPPR 1 of the Building Height Guidelines, which notes that blanket numerical limitations on building height shall not be provided for through statutory plans.
- The applicant provides an assessment of the development against the criteria set out in Section 3 of the Building Height Guidelines. It is submitted that the development is in accordance with the policies and objectives of the Building Height Guidelines.
- The site is considered to be located in a 'central and/or accessible urban location' as defined in the Apartment Guidelines due to its proximity to significant employment locations at Beaumont Hospital and DCU (both c. 1km from the site) and adjoining the Swords Road QBC.
- The development will support RSES RPO 4.3 'Consolidation and Re-intensification' and RPO 5.5 of the MASP.

6.6.3. Material Contravention Statement on Housing Mix

- The proposed housing mix exceeds the maximum provision of 25% - 30% one bed units and provides less than the minimum 15% three bed units as specified in development plan section 16.10.
- The proposed housing mix is consistent with SPPR 1 of the Apartment Guidelines.

- Local demographic details are provided as per the Whitehall D Electoral Division data in the 2016 Census, which demonstrate that the Electoral Division is dominated by low density housing.
- It is submitted that there is a significant lack of diversity in the housing stock in the area surrounding the subject site. The provision of studio, one and two bed units will cater for smaller households in an area predominated by traditional low density semi-detached and terraced dwellings, therefore catering for a wider cohort of persons which is a direct response to the housing shortage that is readily reported and identified in recent planning policy.

7.0 **Observer Submissions**

7.1. Most of the submissions are made by or on behalf of local residents. The issues raised may be summarised as follows.

- The proposed residential units will be rented and occupied by transient tenants.
- The development has an excessive residential density that results in over development of the site and is out of keeping with the area.
- The development has a reduced quantum of three bed units. It will not meet the housing needs of the area as it does not provide sufficient family units.
- The height of the development will contrast with surrounding residential areas. It will result in adverse impacts on residential amenities due to visual impacts, overlooking and overshadowing.
- The development will result in severe traffic congestion, particularly at the access to Swords Road. The development could result in traffic using Gaeltacht Park as a 'rat run' to Collins Avenue.
- The development does not include pedestrian or cycle connections to local areas.
- Residents of High Park Estate object to any amendments to the boundary wall shared with the development site or to any pedestrian links with the development, due to adverse impacts on privacy and concerns about anti-social behaviour, also additional demand for on-street parking, which is already oversubscribed. Any connections or works to the existing sewer, surface water system or water supply

in High Park should be carried out without any alteration to the boundary wall and made good. High Park residents have been maintaining a flower bed at the boundary wall, which should not be impacted by the development.

- The proposed creche will not cater for local demand. There is a shortage of childcare facilities locally. Local schools and community facilities are already under strain and cannot cater for additional development.
- The development does not include provision of a work hub.
- There are concerns that the development will have structural impacts on the Port Tunnel.

7.2. The submission by John Conway and the Louth Environmental Group makes the following legal points:

- The Board cannot justify a grant of permission by reference to the Urban Development and Building Heights Guidelines for Planning Authorities. These Guidelines and the SPPRs contained therein (In particular SPPR 3) are *ultra vires* and not authorised by section 28(1C) of the Planning and Development Act 2000 (as amended). It is submitted that such provision is repugnant to the Constitution and that the Guidelines are contrary to the SEA Directive, insofar as they purport to authorise contraventions of the development plan /LAP, without an SEA being conducted, or a screening for SEA being conducted, on the variations being brought about to the development plan/ LAP as a result of same.
- The developer has erroneously relied on SPPR 3 of the Building Height Guidelines having regard to the locus of the proposed development and the applicability of the Guidelines to same in light of the contents of the Development Plan in relation to identified urban areas and suburban areas.
- The proposed development and documentation presented does not comply with the requirements of the Building Height Guidelines including the SPPRs and the Specific Assessments set out therein. The Board cannot grant permission for the proposed development in circumstances where the relevant criterion under the Building Height Guidelines, which are mandatory in nature, cannot be satisfied.

- The application and application documentation do not comply with the mandatory requirements of the Planning and Development Regulations 2001 (as amended), including in relation to the EIA Screening Report.
- The assertion of the Environmental Report (p. 12) that the development does not require an EIAR is flawed and based on erroneous interpretation of the requirements of the 2000 Act, the Planning and Development Regulations 2001 or the EIA Directive. The developer has attempted to circumvent the requirement for an EIAR by erroneously relying on a previous permission and a narrow construction of the categories of projects' and applicable thresholds for same which require mandatory EIAR. The current SHD application, when viewed cumulatively (no. of residential units, car parking spaces and other uses, etc.) clearly requires an EIA, if a purposive interpretation is applied to said thresholds under the 2001 Regulations.
- The Environmental Report and the Screening Assessment are fundamentally flawed as it seeks to rely on a separate permission, which is a separate 'Development Consent' for the purposes of the EIA Directive and the Planning and Development Act/ Regulations.
- The Environmental Report, Screening Assessment and Construction Management Plan provide insufficient information to enable a proper and complete assessment of pollution and nuisances arising from the development. There is insufficient information to assess the impact on risk to human health arising in respect of the development.
- The development and documentation submitted, including the Environmental Report, is insufficient and does not comply with the requirements of the 2000 Act 2000, the 2001 Regulations 2001 or the EIA Directive.
- The reliance on the Construction Management Plan, a Construction and Demolition Management Plan, an Operational Waste Management Plan and a proposed Dust Management Programme for the purposes of EIA screening is contrary to the requirements of the EIA Directive due to a lack of detail and specific information and does not allow for a complete assessment of the environmental impact of the development. Certain matters will be left over for

agreement with the planning authority, contrary to requirements, including public participation requirements, of the EIA Directive.

- The Board lacks ecological and scientific expertise and/or does not appear to have access to such expertise in order to examine the EIA Screening Report as required under Article 5(3)(b) of the EIA Directive.
- The development does not comply with the requirements of Part XAB of the 2000 Act and the Habitats Directive, due to inadequacies and lacunae in the submitted AA Screening Report. The Board therefore does not have sufficient and/or adequate information to carry out a complete AA screening.
- The information provided in relation to impacts on air quality and dust impacts is out of date (2014) and the findings in relation to this matter are not based on any scientific information. The analysis of potential impacts arising from dust is inadequate and contains a lack of reasoning in respect of conflicting data.
- The Wintering Birds Survey identifies that protected bird species, namely the Light-bellied Brent Geese are known to utilise lands near the development site and identifies potential suitable habitat for this species at different locations near the development site. The information in the Wintering Birds Survey was not considered in the AA Screening notwithstanding that it relates to protected species and the fact that they may by-pass/fly over the development site. There is insufficient information in the application in relation to the impact of the proposed development during the construction and operational stages on the protected birds flight lines/collision risks for the purposes of the AA Screening Report. This is a lacuna.
- There is insufficient information in the application documentation in relation to the impacts of the development on bird and bat flight lines/collision risks during the construction and operational phases for the purposes of the EIA Screening Report, AA Screening Report, Ecological Impact Statement (including Wintering Birds Survey) and the Height Guidelines and any assessments required to be carried out by the Board in respect of same.

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 North Central Area Committee, as expressed at a meeting of members held on 1st April 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 Drainage Division, 16th April 2021; DCC Housing & Community Services, 10th March 2021; DCC Waste Regulation and Enforcement Unit, 9th March 2021; DCC Transportation Planning Division, 20th April 2021; DCC Environmental Health Officer, 21st March 2021; DCC Parks, Biodiversity & Landscape Services, 19th April 2021, which are incorporated into the following summary.

8.2. DCC Comment on Open Space Provision and the Z12 Zoning Objective

8.2.1. The planning authority considers that the applicant has not met the Z12 requirement regarding the provision of 20% of the site as accessible public open space. It considers that the stated area of public open space, 5,520 sq.m., is:

“... an overinflated figure based on the inclusion of incidental areas including privacy strips, circulation space, and grass margins, that do not comprise areas of soft landscape suitable for relaxation and children’s play in line with the zoning.”

The planning authority comments that the proposed footprint is based on that permitted under PL29N.238685, which was originally granted under the Dublin City Development Plan 2016-2022 and subsequently amended by Reg. Ref. 3405/19 under the Dublin City Development Plan 2010-2016. Those development plans did not have a separate requirement for communal open space, it was bundled with private open space. That application had a stated area of 7,800 sq.m. open space or 28% of the site area. The development as proposed under Reg. Ref. 3405/19 had an area denoted as ‘Area B’ on the site plan, which corresponded to the area of soft landscaping suitable for relaxation and children’s play as currently proposed. In that application, the area was measured at 4,005 sq.m., which appears to be a more realistic although still generous measurement. At approx. 14%, this falls short of the

20% required by the zoning objective. That application showed areas of car parking and roads as public open space to make up the 20% requirement.

- 8.2.2. DCC Parks and Landscape Services Division comments that the provision of green roofs and the relocation of the crèche to provide a more open character to the Public Open Space are welcomed. However, they note that the measuring of the public open space includes the inappropriate inclusion of lands right up to the building façade that would be required to function as private open space or privacy strips, also the omission of the MUGA.
- 8.2.3. The development plan requirement for public open space is in addition to the requirement for communal open space, which entails an overall requirement of 2,927 sq.m. The area designated as communal amenity space was measured as 2,602 sq.m. in Reg. Ref. 3405/19. There has been no change to the footprint of the buildings, but this area has been recalculated to include incidental spaces and extend up to and between building façades and is now stated to be 3,542 sqm. The more realistic figure is 2,602 sqm. There is an additional terrace of 75 sqm to the 6th floor of Block A, giving a total shortfall of c. 250 sq.m.
- 8.2.4. The planning authority states that development plan standards for public open space and communal open space have changed since the original grant of permission nearly 10 years ago, and the subject proposal does not comply with the Z12 zoning objective. No meaningful attempt has been made to amend the development to address this issue by the omission or relocation of blocks, and no additional public open space has been provided. The planning authority considers that the shortfall in appropriate public open space contravenes the Z12 zoning and has not been addressed by the applicant in their Statement of Material Contravention.

8.3. DCC Comment on Height, Scale and Design

- 8.3.1. The existing permitted development was lodged in 2010, under the Dublin City Development Plan 2005-2011, which did not set a height target or limit on the site (although the non-statutory Whitehall Framework Plan 2008 set target heights as part of that masterplan). The proposed heights in the planning application were 5-8 storeys with a two-storey crèche. The Dublin City Development Plan 2010-2016 was adopted in December 2010, prior to a decision by Dublin City Council, and that plan set a limit of four storeys on the site. As such, permission was granted (following FI)

with an amending condition attached by DCC, limiting the height of all blocks to four storeys, to avoid a material contravention of the newly adopted plan. The Board granted permission a development of 4-7 storeys at the site.

- 8.3.2. The subject proposal has a height of 5-8 storeys and represents a material contravention of the current City Development Plan. DCC notes national planning policy as per the Building Height Guidelines and specifically SPPR1 and SPP3 of same and provides a detailed assessment of the proposal with regard to the criteria set out in section 3.2 of the Guidelines. It states:

“... overall the planning authority considers that a very limited and light-touch approach has been applied by the applicant to certain aspects of the assessment criteria specified in the Building Height Guidelines, including place-making, public spaces, the formation of urban neighbourhoods, the mix of uses, and the mix of dwelling typologies.”

DCC comments that the permitted development could not be considered an inefficient use of a key site with a density of 137 units/ha. The proposed development would result in a marginal increase in total bedspaces from 1,496 to 1,502 bedspaces. This marginal increase in bedspaces comes at the expense of the provision of housing appropriate to families.

8.4. DCC Comment on Density, Site Coverage and Plot Ratio

- 8.4.1. DCC considers that the site has an accessible, inner suburban location, which is suitable for higher density development as per national planning policy. The proposed site coverage and plot ratio are within the development plan parameters for Z12 lands.

8.5. DCC Comment on the Quality of Residential Accommodation and Childcare

- 8.5.1. The following points are noted:
- In the light of development plan policies QH6 and QH19, the planning authority is disappointed to see the proposed subdivision of the majority of the permitted three bed apartments to a higher number of smaller units. There is a risk that the provision of a large number of smaller units will not lead to long-term residential communities, will lead to higher turnover of inhabitants, and will undermine the

aim of creating attractive, enduring neighbourhoods with well-consolidated development.

- DCC notes that this site does not have design constraints that would curtail the delivery of dual aspect apartments and considers that a figure in excess of 50% dual aspect apartments should be delivered. The proposed 55.6% of dual aspect apartments are largely genuine dual aspect units. However, there are concerns about the predominantly northern orientation of a number of the designated dual aspect apartments, some of which have predominantly north-facing balconies, for example in Block C, and the northern end of Block D.
- The Daylight and Sunlight Assessment results shows daylight achieved in line with the BRE minimums to the majority of rooms. However, the values used for transmittance and reflectance are not stated in the methodology of the assessment; as such is it unclear if they are a reasonable assumption for normal conditions. Additionally, the kitchen area of living spaces has been omitted from the calculation, on the basis that it is completely internal and not serviced by a window. The BRE guidelines note that non-daylit internal kitchens should be avoided wherever possible, and if a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room. Given the modest figures achieved for some of the living rooms, (for example, in Block D and E) these could not be considered well daylit. No assessment has been provided for sunlight to the proposed apartments.
- DCC states no objection to the proposed communal facilities subject to appropriate management and mitigation measures, including noise mitigation, to ensure the amenity of immediately adjacent residents.
- The proposed creche has a stated area of 414 sq.m., which is a reduction from the permitted crèche of 522 sq.m. The increase in apartment numbers includes a reduction in two-bed and three-bed apartments and an increase in studio and one-bed apartments, which would not be suitable for families with children. As such, the proposal is unlikely to generate additional demand for crèche places.

8.6. DCC Comment on Pedestrian, Cycle, Roads and Parking Issues

- 8.6.1. The main points of the report of DCC Transportation Planning, 20th April 2021 may be summarised as follows:

- DCC Transportation Planning Division notes the NTA comments regarding the BusConnects proposals for Swords Road, including an associated cycle lane at the development site frontage. The detailed design and construction stage of the development should align with the BusConnects proposals.
- Transportation Planning Division is satisfied with the proposed Swords Road access, subject to conditions. The secondary emergency access to the Swords Road is also acceptable.
- Additional pedestrian and cycle accesses from the Swords Road are welcomed. Additional connectivity to the lands to the north should be created as they will be developed in the future. Observer objections to connections to the east are noted, however, these should be considered against the benefits to local residents of increased permeability, and shorter walking distances to bus stops, schools, and other amenities on the Swords Road, or to the new crèche or park. Design issues may be resolved by condition.
- The proposed quantum of car parking is below the development plan maximum standard for Area 3. This is acceptable given the proximity of the site to the city centre and to the Swords Road public transport corridor, subject to a robust Mobility Management Plan and Car Parking Strategy. The Transport Planning Division has concerns regarding the creche and basement car parking layouts.
- The proposed cycle parking quantum complies with minimum development plan standards but is substantially below the standards of the Apartment Guidelines. The quantum of long-term residential cycle parking should be increased. There are concerns that any future allocation of space for cycle parking at surface level would result in a loss of amenity open space. There are also concerns regarding the functionality of the proposed basement cycle parking and lack of details in relation to same. There is little additional space at basement level to accommodate increased resident cycle parking.
- Transportation Planning Division recommends conditions.

8.7. DCC Miscellaneous Issues

- DCC Transportation Planning Division notes the concerns stated by TII regarding impacts on the Dublin Port Tunnel. It confirms that at a warning letter was issued

to the applicant in April 2021. The division has been in consultation with TII and the applicant to address the outstanding compliance issues associated with PL29N.238685 and this matter is currently being assessed to ensure that the relevant documents are provided to TII.

- DCC Drainage Division, 16th April 2021, recommends conditions.
- DCC EHO, 25th March 2021, recommends an Acoustics Report to assess noise impacts on residential amenities associated with the Port Tunnel. Recommends conditions.
- DCC Housing & Community Services, 10th March 2021, has engaged with the applicant regarding Part V obligations.
- DCC Waste Regulation and Enforcement Unit, 9th March 2021, recommends conditions.

8.8. DCC Conclusion

8.8.1. The planning authority recommends refusal for the following reason:

The proposed development does not contain a minimum of 20% publicly accessible open space, suitable for relaxation and children's play, and as such it contravenes the zoning objective for Z12 lands. Additionally, the proposal is deficient in communal open space, having regard to the standard set out in the Dublin City Development Plan 2016-22. The proposed development would, therefore, be contrary to the provisions of the Dublin City Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

9.0 Prescribed Bodies

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

9.1.1. The Dept. notes the submitted Archaeological Appraisal Report and recommends that a condition requiring archaeological monitoring of ground disturbance and topsoil removal at construction stages be included in any grant of permission.

9.2. National Transport Authority

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

- The proposed left-turn pocket into the development from the northern arm of the Swords Road would have the effect of ending the existing bus priority in advance of the junction. This approach is not consistent with BusConnects proposals project and will require further engagement with the NTA.
- 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 notes that the proposed tenure mix is unclear from the application. 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 format. 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.

9.3. Transport Infrastructure Ireland

9.3.1. The following points are noted:

- TII has statutory responsibility for the safety of the Dublin Port Tunnel.
- TII requires demonstration that a development does not incur a surcharge loading on the Tunnel in excess of 22.5kN/m² either during construction or at project completion.
- TII is concerned with regard to potential adverse impacts on the physical integrity of the Tunnel due to the absence of clear documentation and plans with regard to compliance with PL29N.238685 and subsequent applications including current application(s) and future proposals which are the subject of this planning application.
- Development has commenced on the site. TII are unaware if compliance with planning conditions related to the Dublin Tunnel under PL 29N.238685 (as

extended and amended) has been achieved. It is understood that Dublin City Council has initiated an enforcement investigation with respect of the site on 18th December 2020. TII has not received any documentary evidence to date, which would indicate that such enforcement issues have been resolved. This is an issue which the Bord should consider during the processing of this application.

- TII recommends conditions in the event of permission being granted.

9.4. Irish Water

- 9.4.1. 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:

- Z12 Zoning Objective
- Building Height
- Housing Mix
- Density of Development, Plot Ratio and Site Coverage
- Design and Layout of Development
- Impacts on Visual and Residential Amenities and Sensitive Receptors
- Impacts on the Dublin Port Tunnel
- Traffic and Transport
- Drainage, Flood Risk and Site Services
- Archaeology
- Childcare and Community Infrastructure
- Observer Comments and Legal Issues
- Material Contravention Issues

- DCC Chief Executive Recommendation

These matters may be considered separately as follows.

10.2. Z12 Zoning Objective

10.2.1. The Z12 objective states:

Land-Use Zoning Objective Z12: To ensure existing environmental amenities are protected in the predominantly residential future use of these lands.

The proposed residential development is acceptable in principle under the Z12 zoning objective and the land uses 'childcare facility' and 'restaurant' are listed as 'permissible' in the Z12 zone in the City Development Plan. Development plan section 14.4 states in relation to 'permissible' uses:

A permissible use is one which is generally acceptable in principle in the relevant zone, but which is subject to normal planning consideration, including policies and objectives outlined in the plan.

I am satisfied on this basis that the proposed development is in accordance with the Z12 zoning objective and is acceptable in principle.

Development plan section 14.8.12 sets out detailed requirements for developments on lands with the Z12 objective. The development may be considered with regard to these requirements of the Z12 objective as follows.

10.2.2. Masterplan and Public Open Space Requirement

Development plan section 14.8.12 states:

Where lands zoned Z12 are to be developed, a minimum of 20% of the site, incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public open space. The predominant land-use on lands to be re-developed will be residential, and this will be actively encouraged.

In considering any proposal for development on lands subject to zoning objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. In particular, the masterplan will need to identify the strategy for the provision of the 20% public open space requirements associated with any residential

development, to ensure a co-ordinated approach to the creation of high-quality new public open space on new lands linked to the green network and/or other lands, where possible ...

... On Z12 lands, the minimum 20% public open space shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play, unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 20% minimum public open space shall be apportioned otherwise.

With regard to the requirement to prepare and submit a masterplan, the site is within the boundary of the non-statutory Whitehall Framework Plan (2008). The Framework Plan relates to the development site and to the adjoining lands to the north that are in the ownership of DCC. It has the objective, as stated in section 1.1 of the Framework Plan, "... to provide a schematic development framework for the site", based on analysis of the wider study area. Section 5.0 of the Framework Plan sets out a Vision and Structuring Concept for the overall lands and addresses indicative site layouts, movement strategy, public space strategy (including the 20% provision), land use and density, building heights and a capacity study. Although the applicant has not prepared a specific masterplan in the context of the subject application, I note that the DCC Chief Executive Report refers to the Whitehall Framework Plan in its consideration of the application and does not state any concerns that the applicant has not met the masterplan aspect of the requirements for developments on Z12 lands, as set out in development plan section 14.8.12. I consider that the Framework Plan and the applicant's detailed consideration of same, as set out in the documents and drawings on file, meets the development plan requirement for the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding.

With regard to open space provision, the Framework Plan vision for the development site includes a large area of 'amenity' space on the eastern side of the development site, at roughly the location of the proposed public open space in the subject development. This location is to allow for a vista through the site from the north towards Highfield Hospital, generally aligning with the route of the Port Tunnel under the site. Section 7.3 of the Framework states in relation to the Public Space Strategy:

A major wedge of open space running diagonally across the site, amounting to just under 20% of the site will serve both existing and future residents, landscaped to provide a succession of different spaces as listed below and facilitating a range of passive (and active) amenity and play and sensory experience.

The detailed layout for the strategy indicates a green space at the location of the proposed 'public open space' in the subject development, laid out with a MUGA / astro pitch and playground. The Framework Plan also provides for a small residential square at the southern end of the site, adjacent to the Highfield Hospital, to relieve and provide a setting for that building, with the layout indicating 'boule, table tennis, Golf /putting' at this location.

The development permitted under PL29N.238685 (as extended and amended) had the same footprint as the current proposal. The Inspector's report of PL29N.238685 considered that the overall development achieved the 20% public open space requirement of the Whitehall Framework Plan, with 28% of the total site area being open space in that instance. The layout permitted under PL29N.238685 indicated a MUGA at the northern end of the eastern open space, as provided for in the Framework Plan. The layout of the western side of the site provided a separate open space. This differed from the layout indicated in the Framework Plan, which indicates perimeter blocks enclosing courtyards on the western side of the site. The layout of PL29N.238685 also included an open space at roughly the location of the residential square adjacent to Highfield Hospital, as provided for in the Framework Plan, however it was not laid out with sports facilities.

The current proposed site layout indicates an area of 'public open space' at the eastern side of the site, which has a total stated area of 5,520 sq.m. It is submitted that this equates to 20.2% of the total site area and meets the Z12 20% requirement. The public open space is to be connected to the Swords Road via publicly accessible pedestrian routes. The Landscape Masterplan denotes this area as the 'East Gardens' with areas of hard and soft landscaping, pedestrian routes, a kickabout area and a play area. The layout also indicates an area of 'communal open space' on the western side of the site, which has a stated area of 3,542 sq.m. This area is denoted as the 'West Gardens' in the landscaping scheme and comprises plaza areas, a play area and a lawn area. The communal open spaces are to be distinguished from the public spaces in accessibility and appearance. The

area at the southern end of the site, adjacent to Highfield Hospital, does not serve as amenity space and is primarily occupied by a void vent over the basement car park and a circulation route.

The DCC Chief Executive report considers that the stated total area of public open space (5,520 sq.m.) is an 'overinflated' figure as it includes footpaths, circulation space, privacy strips and grass margins that do not comprise areas of soft landscape suitable for relaxation and children's play. It also notes that the application Reg. Ref. 3269/10 PL29N.238685 was considered under a previous City Development Plan that did not have a separate requirement for communal open space, such that the previous development had a total open space provision of 28% of the total site area. In the application to alter PL29N.238685, Reg. Ref. 3405/19, the eastern area of open space was measured at 4,005 sq.m. which, at c. 14% of the site area, falls short of the 20% requirement. The planning authority concludes on this basis that the development contravenes the development plan requirements for lands with the Z12 zoning objective.

Having examined the proposed development in the context of the requirements of development plan section 14.8.12, including consideration of the detailed site layouts and landscaping proposals and the development previously permitted under PL29N.238685, I note the following points in relation to the provision of public and communal open space in the development:

- The Whitehall Framework Plan provides for 'open space' at 'just under 20%' of the total Framework Plan area, i.e. the development site and the lands to the north.
- The development permitted under PL29N.238685 provided 28% of the total site area as 'open space' (undifferentiated between public and private). The layout of Reg. Ref. 3405/19 measured the eastern open space (that indicated as the 'east gardens' in the subject application) as 4,005 sq.m. or c. 14% of the total site area.
- The proposed public open space on the eastern side of the site, as per the dark green area indicated on drawing no. L1-101 'Open Space Diagram', includes spaces between Blocks D and E and Blocks F and G, also a circulation space to the north of Block D and a marginal area to the south of Block G. I agree with the assessment of the planning authority that these areas are not functional open

space. I also note in this regard development plan section 16.10.1, which requires the provision of an appropriate boundary treatment and/or 'privacy strip' at open space areas.

- The proposed public open space on the eastern side of the site does not include a MUGA, as specified in the Whitehall Framework Plan and as was included in this area under the development permitted under PL29N.238685. This omission is noted in the comment of DCC Parks, Biodiversity & Landscape Services dated April 19th 2021. However, the public open space does include a kickabout area and a play area.
- I consider that the public open space on the eastern side of the site will have limited accessibility to the public from Swords Road, given the intervening presence of several apartment blocks and the communal open space on the western side of the site. However, I accept that it will ultimately be accessible from the north as part of a larger area of open space, as provided for in the Whitehall Framework Plan, and that the overall layout also provides for new connectivity to the east.
- The proposed layout does not include an open space at the southern end of the site adjacent to Highfield Hospital, as provided for in the Whitehall Framework Plan. The relevant area is instead occupied by a void vent and a circulation area, with areas of shrub planting.
- Having regard to the detailed assessment below, it is considered that the communal open space on the western side of the site materially contravenes development plan quantitative requirements for communal open space, as set out in section 16.10 of the plan.
- I note the submitted Daylight and Sunlight Assessment Report, which finds that the public open space, the communal open space and other parts of the site meet BRE guidance standards, i.e. at least half of the space receives at least two hours of sunlight on March 21st.
- While I note the caveat stated in the Z12 objective:

unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 20% minimum public open space shall be apportioned otherwise

I do not consider that this applies to the subject development given that the site does not include any specific recreational or conservation features, and that the Whitehall Framework Plan provides an indicative layout for the overall lands.

To conclude, with regard to the above points, I consider that the proposed development materially contravenes the requirement to provide 20% of the site area as 'public open space which shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play' on Z12 lands, as set out in development plan section 14.8.12.

10.2.3. Z12 Objective and Building Height

Development plan section 14.8.12 states:

... development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards in Chapter 16, Section 16.10 - Standards for residential accommodation in relation to aspect, natural lighting, sunlight, layout and private open space.

There are no residential properties immediately adjoining the development site. Highfield Hospital to the south of the site is 3-4 storeys high. Blocks C, E and G have 4 storey elements facing the southern site boundary, with higher elements away from the hospital facing the Swords Road or the centre of the development site. Beech Lawn nursing home, to the east of the site, is three storey. Blocks F and G on the eastern side of the development are both six storey, unchanged from the permission of PL29N.238685. There are also adjacent residential properties at High Park, further to the east, however the eastern side of the development is unchanged. There are no existing or permitted residential properties to the north of the site. There are two storey properties on the opposite side of the Swords Road, however, given the intervening distance (c. 38-40m) and the location of the site fronting onto a public transport corridor, I consider that these properties are not adjacent to the development site such as to require a similar height at the western site boundary with regard to the Z12 objective. Potential overshadowing of adjacent residential

properties and sensitive receptors is considered with regard to BRE standards is considered in section 10.7.4 below. The overall height of the development in the context of development plan policy on same is also considered in section 10.3 below. I am satisfied, however, that the development is in accordance with this specific development plan requirement for lands with the Z12 zoning objective.

10.2.4. Z12 Part V Requirement

Development plan section 14.8.12 states:

... at least 10% social and affordable housing requirement, as set out in the housing strategy in this plan, will apply in the development of lands subject to the Z12 zoning objective.

The applicant proposes to transfer 47 no. units at the site to DCC in order to comply with the requirements of Part V of the Planning and Development Act 2000 (as amended). A site layout plan indicating the units to be transferred is submitted, along with costings. All of the units to be transferred are located in Block C at the south eastern corner of the site. I note the Memo on file from DCC Planning & Property Development Dept., dated 10th March 2021, which states that the applicant has engaged with the Housing Dept. I am satisfied that the development meets this development plan requirement for lands with the Z12 zoning objective.

10.2.5. Z12 Conclusion

Having regard to all of the above, I consider that the development materially contravenes the requirement set out in development plan section 14.8.12 that development on lands with the Z12 zoning objective retain 20% of the site area as accessible public open space which shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play. This matter has not been addressed in the applicant's Material Contravention Statement or mentioned in site notices and the subject application therefore does not meet the requirements of section 8(1)(a)(iv)(I) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended). The Board therefore cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) in this instance and is precluded from granting permission.

10.3. Building Height

10.3.1. Observers comment that the height of the development will contrast with surrounding areas and will have adverse impacts on residential amenities due to visual impacts, overlooking and overshadowing. 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.

10.3.2. The current proposal may be compared to that granted under PL29N.238685 (as amended) as follows (as per DCC CE Report):

	Permitted Units	Proposed Units	Permitted Storeys	Proposed Storeys
Block A	43	61	5-7	5-8
Block B	55	78	5	5-6
Block C	40	54	4-5	4-6
Block D	56	76	7	7-8
Block E	50	58	4-7	4-8
Block F	76	76	6	6
Block G	54	72	4-6	4-6
TOTAL	374	475		

10.3.3. Section 7.5 of the Whitehall Framework Plan provides for heights of 5 storeys at the Swords Road frontage and at the north east corner of the site, 3 storeys at the southern end of the site and 7 storeys fronting onto the open space at the centre of the site. As per development plan Fig. no. 39, the site is located in a 'low rise rest of the city' area for which a maximum height of 16 m applies for commercial and residential development. The development permitted under PL29N.238685 has a maximum overall height of c. 21 m and therefore exceeded this parameter. Development plan section 16.7.2, which sets out policy on pre-existing height, is noted. The current proposal has a maximum height of 26.75 m (Block A) and therefore materially contravenes development plan policy on building height at this location.

10.3.4. The applicant's Material Contravention Statement seeks to justify the proposed building height on the grounds that the development is located at a 'central and/or accessible location' as per the Apartment Guidelines and that it will support several key objectives of the NPF, including NPO 2a which states that a target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs; NPOs 3a and 3b which aim to deliver at least 40% of all new homes nationally within the build-up of existing settlements and to deliver at least 50% of all new homes in the five main cities within their existing built-up footprints; NPO 13 which stipulates that 'in urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth'; NPO 32 which sets a target of 550,000 no. additional homes to 2040; NPO 33 which prioritises the provision of residential development at appropriate scales within sustainable locations and NPO 35 which notes the aim to increase residential density in settlements through a range of measures including (amongst others) in-fill development schemes and increased building heights. It is also submitted that the development will support RSES Regional Policy Objectives RPO 4.3 and RPO 5.5, as quoted in section 6.1.2 above.

10.3.5. Sections 2.11 and 2.12 of the Building Height Guidelines discuss locations where increased building height 'is not only desirable but a functional policy requirement' including locations with the potential for comprehensive urban redevelopment (particularly those in excess of 2 ha) and 'central and/or accessible' urban locations as per the Apartment Guidelines. I am satisfied that the development site is such a location with regard to the following matters:

- The overall site area of c. 3.25 ha, the undeveloped nature of the lands, their zoning for development and the scope for comprehensive development, as envisaged in the Whitehall Framework Plan.
- The highly accessible location of the site c. 3.9 km from Dublin City Centre, and adjoining Swords Road QBC, which is also designated as a proposed BusConnects Spine Route. The site is also c. c. 1.8 km from the Proposed Metrolink station at Collins Avenue and c. 2.2 km from Drumcondra railway

station. Swords Road is also designated as a primary route in the NTA Greater Dublin Area Cycle Network.

- The site is close to several significant employment locations including Beaumont Hospital and DCU (both c. 1 km) and Dublin City Centre.

10.3.6. Building Height Guidelines Development Management Principles and Criteria

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, to the analysis provided in the planning authority Chief Executive report and to observers' comments. I am satisfied that there is adequate documentation on file, including drawings, layouts, design details, photomontages and CGIs and a Daylight and Sunlight Assessment Report to enable due consideration on the following matters and I have had regard to same. The assessment is also based on my site inspection dated 8th April 2021.

I have considered the development with regard to the development management principles set out in section 3.1 of the Guidelines as follows:

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 undeveloped lands located at an infill site in an established residential area close to Dublin City Centre and to several significant employment locations as well as to a wide range of services, facilities and amenities. The site adjoins Swords Road QBC and proposed BusConnects spine route and adjoins cycle and pedestrian infrastructure. It is also close to Drumcondra railway station. 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.

Having regard to the applicant's rationale for the proposed building height, to the planning's authority's assessment of the matter as set out in the Chief Executive Report and to my detailed analysis of the documentation on file and site inspection, I have considered the development with regard to the development management criteria set out in section 3.2 of the Guidelines as follows:

At the scale of the relevant city/town

- I note that the site is undeveloped lands at a key location where new development is envisaged under the Whitehall Framework Plan.
- I consider that the site is highly accessible and is well served by public transport as it adjoins a QBC and proposed BusConnects spine route. The application includes a Mobility Management Strategy.
- I note that the site is not immediately adjacent to any designated Architectural Conservation Areas or protected structures. No key landmarks or views are unduly impacted by the development. There is a protected structure nearby to the east of the site, RPS ref. 3239, "High Park Church and projecting portion of original convent buildings". I am satisfied that the development will not have any significant adverse impacts on the setting of the protected structure.
- The application includes a Townscape and Visual Impacts Assessment (TVIA), as discussed in section 10.7.6 below. Having considered the TVIA, along with comments of the observers and the planning authority and with regard to my inspection of the development site and the surrounding area, I conclude that the proposed additional development at the site will not have any significant adverse visual impacts.
- I consider that the development will integrate into the area with new pedestrian and cycle connections and will enhance the public realm with a new plaza at the Swords Road site frontage and a new public open space on the eastern side of the site.

- I consider that the development contributes to place-making in the vicinity with the provision of a new plaza along the Swords Road frontage of the site and a landmark at Block A at the north western corner of the site, with a commercial unit on the ground floor and associated public plaza. I note that the development also provides a public open space on the eastern side of the site, with soft landscaping and kickabout and play areas, which will be accessible from the Swords Road. I also note that the development provides new pedestrian and cycle connections and has been designed to integrate with the future development of the lands to the immediate north of the site, as provided for under the Whitehall Framework Plan.
- I note that Blocks C, E and G 'step down' towards the southern site boundary with 4 storey elements facing Highfield Hospital. In addition, Blocks F and G facing Beech Lawn Nursing Home to the east are unchanged from the development permitted under PL29N.238685. I am therefore satisfied that the development responds to the scale of adjoining developments.
- Having regard to the proposed elevations to Swords Road and to the intervening spaces between Blocks A, B and C, which are the most visually prominent elements of the development in the public realm to the south and west of the site, I consider that the development will not present a monumental or unrelieved façade to Swords Road and provides sufficient variety and visual interest at this location. I have also had regard to the detailed materiality, public realm, landscaping proposals and pedestrian and cycle infrastructure in relation to this matter.

At the scale of the district/neighbourhood/ street

- I consider that the development will make a positive contribution to the streetscape and to the wider area with the provision of a plaza and new pedestrian and cycle infrastructure at Swords Road. I also note in this regard that the development will present an active frontage to Swords Road in place of the undeveloped lands at this site. The frontage to Swords Road is broken into three

separate blocks with visual permeability between the blocks to avoid a monolithic frontage.

- The issue of potential flood risk is assessed in section 10.10.2 below, which concludes with regard to the Flood Risk Management Guidelines that the site is entirely located in Flood Zone C for fluvial and tidal flooding and that no significant flood risk arises at or as a result of the development.
- I consider that the development will present an attractive outlook to the adjoining hospital and nursing home. I am satisfied that it will not have any significant adverse impacts on residential amenities or sensitive receptors, as discussed in section 10.7 below.
- I note that the development will provide landscaped public open space for the wider area that is accessible from Swords Road, as indicated in the Whitehall Framework Plan, with potential future connections to the north and east that would improve permeability in the wider area. It will also provide a public plaza at the Swords Road frontage. I therefore consider that it will contribute to placemaking in the area.
- I consider that the proposed housing mix will improve the diversity of housing typologies available in this area, which is generally characterised by low density two storey housing.

At the sale of the site/ building

The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.

The footprint of the development generally matches that of PL29N.238685. Section 4.6 of the Design Statement states:

The height and placement of the proposed buildings on the site has been designed to ensure that access to daylight and skylight in existing neighbouring properties are not adversely affected.

The attention of the Board is drawn to section 10.7.4 below, which considers potential overshadowing impacts on adjacent residential properties and sensitive

receptors in detail and concludes that the development will not have significant adverse impacts on residential amenities by way of overshadowing.

Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

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

The applicant's Daylight and Sunlight Assessment considers access to daylight and sunlight within the proposed apartments as well as overshadowing of amenity spaces within the development, with regard to BS 8206-2:2008 recommendations, as summarised in sections 10.6.2 and 10.6.6 below. I am satisfied that the submitted Daylight and Sunlight Assessment is sufficient to assess a development of the scale proposed. Overall, I consider that compliance with BRE 209 and BS2008 is achieved, and that the amenity of existing residents and future residents is satisfactorily addressed and maintained.

Specific Assessments

- The applicant submits that the development is not of sufficient height and scale to require a specific assessment of microclimate impacts. This point is accepted, given that the overall height will not extend beyond 8 storeys and that the overall size of the site is c. 3.25 ha.
- The development will not involve any removal of existing trees or hedgerows with consequent potential ecological impacts on birds or bats. No significant ecological impacts are envisaged.
- The development will not impact on telecommunications channels.

- The applicant will liaise with Dublin Airport Authority during the construction phase to ensure that the relevant safety measures are adhered to and that there is no impact on the operations of Dublin Airport. The site is not located within the Dublin Airport Outer Public Safety Zone as per development plan Map B.

Having regard to the applicant's rationale, to the DCC Chief Executive Report, to the comments of observers and to my above assessment and in view of other national policies, I consider that proposed development satisfies the criteria set out in section 3.2 of the Building Height Guidelines.

10.3.7. Building Height Material Contravention

Given that the proposed material contravention of the City Development Plan in relation to the matter of building height 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)(iii) 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 of section 28 guidelines differ from the provisions of a development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

10.4. Housing Mix

10.4.1. The overall housing mixes of the permitted and proposed developments may be compared as follows (as per DCC CE Report):

Unit Type	PL29N.238685 (as amended)		Proposed Development	
Studio	0	0%	26	5%
One bed	60	16%	179	38%
Two bed	254	68%	251	53%
Three bed	60	16%	19	4%
Total Units	374		475	

Observer submissions object to the proposed reduction in three bed units, on the basis that the development will not provide residential units that are suitable for family accommodation and therefore will not meet the housing needs of the area.

10.4.2. Development plan section 16.10 states apartment developments >15 units shall contain a maximum of 25-30% one bed units and a minimum of 15% 3 + bed units. The proposed development does not meet either of these requirements and therefore materially contravenes the development plan in this matter. SPPR 1 of the Apartment Guidelines provides:

Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

The proposed housing mix is consistent with SPPR 1.

10.4.3. The applicant's Material Contravention Statement seeks to justify the proposed housing mix on the basis that the development is consistent with SPPR 1. It also notes that, according to Census data, the Electoral Division in which the site is located is dominated by low density housing with a significant lack of diversity in the housing stock in the local area. I am satisfied overall that the proposed housing mix

will add to the range of housing typologies available in this established and highly accessible residential area. The housing mix is acceptable in principle on this basis. I also note that the planning authority states disappointment that the development will provide a higher number of smaller units than that permitted under PL29N.238685 but does not state that the development contravenes SPPR1.

10.4.4. Housing Mix Material Contravention

As discussed above, 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 this instance in relation to housing mix. Having regard to the above assessment, I am satisfied that the development is in accordance with SPPR1 of the Apartment Guidelines and that permission for the development should be granted having regard to section 28 guidelines, specifically the Design Standards for New Apartments Guidelines for Planning Authorities, which were adopted subsequent to the current City Development Plan. The provisions of section 9(3) of the SHD Act are also noted in this regard.

10.5. **Density of Development, Plot Ratio and Site Coverage**

10.5.1. Observers comment that the development has an excessive residential density that results in overdevelopment of the site and is out of keeping with the area. The development has a stated residential density of 174 units/ha. Section 7.6 of the Whitehall Framework Plan provides for a residential density of 143 units/ha at the development site.

10.5.2. As per the assessment in section 10.3.5, I consider that the development site is located in a 'central and/or accessible area' with reference to the Apartment Guidelines. The 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 additional residential development on this prime, undeveloped, serviced site, in a compact form with higher density, would be consistent with the policies and intended outcomes of 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 proposed site coverage and plot ratio are within the parameters for Z12 lands as set

out in sections 16.5 and 16.6 of the City Development Plan. I therefore consider that the proposed residential density of 174 units/ha is acceptable in principle at this location with regard to these matters, subject to design and amenity standards, which are discussed in detail in other sections of this report.

10.6. Design and Layout, Quality of Residential Accommodation

10.6.1. Proposed Design and Layout

The proposed development of 7 no. apartment blocks (Blocks A – G) generally matches the footprint of that permitted at the site under PL29N.238685, except for the creche building, which has been re-orientated. The primary vehicular access is from the north western corner of the site, at the junction of Swords Road and Iveragh Road, such that a new crossroads is created. There is a vehicular route along the northern site boundary, with access to a ramp to the basement car park between Blocks A and D. The applicant states that there is an existing right-of-way to the east of the development site, which will be maintained as a pedestrian access which could connect to the GAA grounds and to High Park to the east.

Blocks A, B and C present 5-6 storey facades to the Swords Road. The Swords Road interface is to facilitate the BusConnects route and cycle lane at this location. There is a commercial unit and residents' facilities on the ground floor of Block A, adjacent to the site access. There is a public plaza (stated area 0.122 ha) with hard and soft landscaping, public seating, and café 'spill out' area at the Swords Road frontage and to the north of Block A, inside the main site access. There is a secondary pedestrian and emergency access from the Swords Road at the south western corner of the site, as well as additional pedestrian accesses from the Swords Road between Blocks A and B and Blocks B and C.

Blocks D and E at the centre of the site (4-8 storeys) subdivide the site with the area of communal open space to the west also overlooked by Blocks A, B and C and the area of public open space to the east, overlooked by Blocks F and G. The public open space generally overlays the route of the Port Tunnel. It is to be publicly accessible from the Swords Road and is laid out with a 'kickabout' area, communal plaza, play area, lawns, and areas of hard and soft landscaping. The two storey creche is located at the northern end of the site, overlooking the public open space, with an associated separate, enclosed play area. The communal open space will

also have a play area and areas of hard and soft landscaping, also seating and exercise areas.

Blocks F and G (4-6 storeys) define the western side of the site and overlook the adjacent Beech Lawn nursing home to the west. There is a shared surface inside the western and southern site boundaries, which provides circulatory spaces, car, and cycle parking areas.

The proposed buildings have a material palette consisting of brickwork (varied colours), render and zinc cladding with areas of glazing. All street facades are to be finished in brick, with render to facades within the development. There are limestone elements to the commercial frontage at the ground floor of Block A.

10.6.2. Communal Open Space, Residents' Services and Amenities

The following communal open space, services and recreational amenities are provided for residents of the proposed scheme:

Tenant Amenity	Area
Gym in basement of Block A	205 sq.m.
Reception area, meeting rooms and lounge on ground floor of Block A	250 sq.m.
Internal sun lounge on 6 th floor level of Block A	56 sq.m.
Communal lounge on ground floor of Block F	77 sq.m.
Total Indoor Amenity Space	588 sq.m.
Outdoor Communal Amenity Space	3,617 sq.m.
Area on western side of site stated area 3,542 sq.m.	
Roof terrace on 6 th floor of Block A 75 sq.m.	

Section 4 of the Apartment Guidelines deals with communal external amenity space, which may be provided as courtyards or roof gardens, and Appendix 1 of the Guidelines provides quantitative minimum standards for communal amenity space for apartments. The quantitative standards of Appendix 1 are also referenced in development plan section 16.10.1, which states that communal amenity space may be provided in the form of accessible sheltered roof gardens and communal landscaped areas at ground or at podium level. The proposed development may be considered with regard to these quantitative standards as follows:

Unit Type	No. of units	Required Communal Amenity Space Provision
Studio	26	4 sq.m. x 26 = 104 sq.m.
1 Bed	176	5 sq.m. = 895 sq.m.
2 Bed (4 person)	251	251 x 7 sq.m. = 1,757 sq.m.
3 Bed	19	19 x 9 sq.m. = 171 sq.m.
Total Requirement		2,927 sq.m.

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 overall. In addition, the applicant's Daylight and Sunlight Assessment examines the outside amenity spaces with regard to the BRE guidance document Site Layout Planning for Daylight and Sunlight A Guide to Good Practice (2011), which recommends that at least half of such spaces should receive at least two hours of sunlight on March 21st. Table 7.14 of the Assessment indicates that 83.4% of the communal open space on the western side of the site achieves this target (all of the external open spaces within the development exceed the 50% target). I am satisfied that the submitted Daylight and Sunlight Assessment by 3D Design Bureau is based on a robust methodology as set out in section 6.0 of same and I see no reason to question this conclusion. I am satisfied on this basis with the quality of the communal open space provided.

However, the DCC Chief Executive Report considers that the quantum of communal open space on the western side of the site that will function as amenity space is less than the applicant's stated figure of 3,542 sq.m., due to its design and layout. The planning authority therefore considers that the development does not meet development plan standards for communal open space in apartment developments, as set out above. Having regard to the proposed site layout and landscaping scheme, I note that the communal open space on the western side of the development includes circulation spaces and areas up to the building facades. The open space area also includes significant void areas over the basement car park, ref. drawing no. L1-100A. In addition, the area denoted as communal open space in the subject proposal was measured at 2,602 sq.m. in Reg. Reg. 3405/19. I agree with the assessment of the planning authority, which considers that 2,602 sq.m. is a more

realistic figure for the western communal open space than the stated area of 3,542 sq.m., given the issues regarding the current design and layout of communal open space. This figure results in an overall shortfall in communal open space provision of 250 sq.m., notwithstanding that the current proposal includes a 75 sq.m. roof terrace at the 6th floor of Block A. On this basis I consider that, on balance, the area of communal open space on the western side of the site is unlikely to meet the quantitative requirements for communal open space as set out in the development plan and Apartment Guidelines and I concur with the conclusion of the planning authority in relation to this matter.

The development is therefore considered to materially contravene the development plan in relation to the provision of communal open space. As is the case in relation to the matter of public open space, this matter has not been addressed in the applicant's Material Contravention Statement or mentioned in site notices and the subject application therefore does not meet the requirements of section 8(1)(a)(iv)(I) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended). The Board therefore cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) in this instance and is precluded from granting permission.

10.6.3. Consistency with the Apartment Guidelines

The apartments are designed to comply with the standards set out in the Apartment Guidelines. The Housing Quality Assessment indicates apartment floor areas that generally exceed the standards set out in SPPR 3 of the Guidelines, also that the majority of the apartments exceed the minimum floor area requirements by at least 10%. Each of the apartments also meets the standards for minimum aggregate kitchen /living room /dining areas, storage areas and private open space provision, as set out in Appendix I of the Guidelines. Ground level floor to ceiling heights meet the 2.7m requirement as per SPPR 5. All blocks comply with SPPR 6 regarding the number of units per core. 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.

10.6.4. Overlooking Between Residential Blocks

There are several locations where the façades of blocks are too close to obviate overlooking between habitable rooms:

- There is a distance of 11.875m between the southern elevation of Block A and the northern gable of Block B. The windows in the northern gable of Block B light habitable rooms but are secondary windows to dual aspect rooms. A condition requiring obscure glazing at the northern gable of Block B could be imposed if permission is granted.
- There is a distance of 13.160m between the southern façade of Block A and the northern end of Block D. I am satisfied that no significant potential for direct overlooking arises given the relative angle of Block D.
- There is a distance of 11.69m between the southern gable of Block B and the northern elevation of the western end of Block C. Given that the windows in the gable end of Block B are secondary windows to dual aspect habitable rooms, obscure glazing may be required by condition.
- There is a minimum distance of 20.735m between the eastern end of Block C and the western façade of Block E. I am satisfied that no significant potential for overlooking arises given the relative angle of Block E.
- Given the intervening distances (ranging between 13.705 and 50.42) and the angling of the blocks, I am satisfied that there is no possibility of significant overlooking between the east of Block B and the western façades of Blocks D and E. Likewise, there are greater distances between the eastern façades of Blocks D and E and the western elevations of Blocks G and F such that no significant possibility of overlooking arises.
- There is a minimum of 6.24m between the facades of Blocks F and G. The windows on the gable ends of the blocks are staggered to prevent overlooking at this location.

I am satisfied on this basis that, subject to conditions requiring obscure glazing at certain locations, there will be no significant overlooking between blocks within the development.

10.6.5. Noise Issues at Swords Road Site Frontage

The application does not include any detailed analysis of potential noise issues associated with proximity to the Swords Road QBC and proposed BusConnects route. This issue could be addressed by a condition 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 in the comments of DCC Air Quality Monitoring & Noise Control Unit, 25th March 2021.

10.6.6. Daylight and Sunlight Within Proposed Apartments

Development plan section 16.10 states:

Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011).

Sections 6.6 and 6.7 of the Apartment Guidelines state:

6.6 Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision.

6.7 Where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specific. This may arise due to design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.

As referenced above, section 3.2 of the Building Height Guidelines states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the PA or ABP should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and/or an effective urban design and streetscape solution.

I have had appropriate and reasonable regard to these documents (and associated updates) in the assessment of this application. However, it should also be noted at the outset that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines also state in paragraph 1.6 that:

Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.

The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

The applicant's Daylight and Sunlight Assessment examines Average Daylight Factor (ADF) values for rooms within the scheme with regard to BS 8206-2: 2008 and the BRE document Site Layout Planning for Daylight and Sunlight A Guide to Good Practice (2011). While the updated British Standard BS EN 17037:2018 'Daylight in buildings' replaced the 2008 BS in May 2019 in the UK, the 2008

guidance is referred to in the S28 Apartment Guidelines and Building Height Guidelines, as quoted above. I am satisfied that the updated BS 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 and the Apartment Guidelines.

I am satisfied that the applicant's Daylight and Sunlight Assessment by 3D Design Bureau is based on a robust methodology, as set out in section 6.0 of same, and I see no reason to question its conclusions. The Assessment considers ADF values with regard to BS 8206-2:2008 subclause 5.6, which recommends the following:

- 2% for kitchens
- 1.5% for living rooms
- 1% for bedrooms

While the assessment does not consider all of the proposed residential units, I am satisfied that the units examined provide a reasonable representation of light levels within the development overall and include the 'worst case scenario', being single aspect units on the lower floors of the blocks, and that on this basis it is reasonable to predict that rooms not tested would also meet the ADF standards.

The assessment analyses living/kitchen/dining spaces with a target of 2% where the kitchen has a window to the external wall. In units where the kitchen is completely internal and does not have an external window, a target value of 1.5% is applied to the combined living/ kitchen /dining area. A target value of 1.5% is used for studio units. The target ADF values are achieved or exceeded in all instances except for unit no. A2-03, a south facing single aspect one bed unit on the ground floor of Block A (92% of the target value) and unit no. D1-05, a single aspect one bed unit on the ground floor of Block D (95% of the target value). Overall, c. 98% of the assessed spaces were above the target values. Given that the units tested are considered to be 'worst case scenario' and that units on upper floors would achieve higher light levels, I am satisfied overall a higher percentage of units within the development would exceed the BRE targets and that the overall level of residential amenity is acceptable, having regard to internal daylight provision.

I note that the applicant's Daylight and Sunlight Assessment does not apply a 2% ADF target for all of the combined living/kitchen/dining spaces. I am satisfied that the application of an ADF target of 1.5% for living/kitchen is acceptable in this instance, as a balanced approach to ADF values having regard to all site and design factors applicable to an infill site in need of regeneration such as this, which must consider density of apartments, depth of apartments, orientation of apartments etc.

Notwithstanding my opinion in relation to the applicable ADF value, if an ADF value of 2% is applied, a total of 24 of the 118 no. units tested (20%) meet or exceed the 2% value, with most of the remaining units marginally below this value. Noting that the units tested already represent 'worst case scenario' units within the overall development, I therefore consider the number of units which fall short of this standard to be minor having regard to the scale of the development and the degree to which they fall short of 2% is not significant. I consider the overall standard of compliance achieved is acceptable when balanced against achieving the wider planning objectives for this site, as outlined in the Whitehall Framework Plan, and in light of the overall desirability of achieving optimum residential density on this infill site at a highly accessible urban location with regard to national planning policy on compact urban development and in view of the performance based approach of the Apartment Guidelines.

In conclusion, I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the Building Research Establishment's '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 am satisfied that the design and layout of the development has been fully considered alongside relevant sunlight and daylighting factors. The standards achieved, when considering all site factors and the requirement to secure comprehensive urban regeneration of this highly accessible and serviced site within the Dublin Metropolitan Area with a positive and active urban edge, in accordance with national policy guidance, are in my opinion acceptable and will result in an acceptable level of residential amenity for future occupants.

10.6.7. Aspect of Apartment Units

The overall proportion of dual aspect units is 55.6%, which exceeds the 33% requirement for central and/or accessible areas as required by SPPR 4 of the

Apartment Guidelines. There are no north facing single aspect units. The planning authority states concerns about the 'predominantly northern' orientation of several units in Block C and at the northern end of Block D. I note that the relevant units in Block C have west facing windows and private open spaces. The units at the northern end of Block D also have east facing aspects. The Board is also referred to the above analysis of daylight and sunlight within the proposed apartment units.

10.6.8. 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 for residents of the scheme that will also contribute to place making in the wider area. I also consider that the development will result in 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.

10.7. **Impacts on Visual and Residential Amenities and Sensitive Receptors**

- 10.7.1. The development site has a prominent location on the Swords Road, which is a gateway to Dublin City being on the main route between Dublin Airport and the city centre. There are no residential properties immediately adjoining the site. However, the southern site boundary adjoins Highfield Hospital and the eastern boundary adjoins Beech Lawn Nursing Home, both of which are sensitive receptors. There are residential properties at High Park further to the east of the site, and several residents of this area have objected to the development. There are also residential properties on the opposite side of Swords Road.
- 10.7.2. Observers comment that the development is out of keeping with the scale and character of the surrounding low rise established residential areas. They also raise serious concerns about adverse impacts on the residential amenities of adjacent properties by way of overlooking, overshadowing and visual obtrusion.
- 10.7.3. I note at the outset that the development involves the addition of one floor to blocks A, B, C, D and E in the development permitted at the site under PL29N.238685 (as amended). Potential visual impacts and other impacts on residential amenities may therefore be considered in comparison with the permitted development rather than to a greenfield site. The following assessment is based on a detailed site inspection,

including viewing the development site from adjacent residential areas, as well as maps and aerial photography of the development site and the wider area, in addition to the drawings and cross sections, in order to fully consider the proposed development relative to the height, mass and layout of the permitted 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. The relevant issues may be considered separately as follows.

10.7.4. Overshadowing Impacts

The applicant's Daylight and Sunlight Assessment Report examines several types of impacts on adjacent residential properties based on 3D models of the development, including effects on Vertical Sky Component (VSC) and Annual Probable Sunlight Hours (APSH) values at adjacent windows to (assumed) habitable rooms, also overshadowing of residential properties and, specifically, garden/amenity areas.

I note that there are residential properties nearby to the east of the development at High Park which are not considered in the Daylight and Sunlight Assessment. The nearest houses at High Park are at least 65m from the eastern side of Block F.

Section 2.2.4 of the 2011 BRE Guidelines states:

Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small.

Noting that Block F has an overall height of 19.556m, this parameter would be met given the intervening distance of c. 65m. I also note that the nearest façades in High Park are not angled towards the development.

The Daylight and Sunlight Assessment considers impacts on the levels of daylight received by neighbouring properties in terms of Vertical 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.

A total of 118 no. windows of (assumed) habitable rooms were assessed at Beech Lawn Nursing Home, Highfield Hospital, and nos. 61-81 Swords Road. I am satisfied that the windows selected provide a comprehensive picture of likely VSC impacts.

The findings of the Assessment may be summarised as follows:

- Windows on the western side of the Beech Lawn Nursing Home are tested. The ground floor windows have resultant VSC values between 22.74% and 24.35%, which are below the applied target VSC values that are derived from the BRE guidance (both below the stated target value of 27% and less than 0.8 times the baseline value). The proposed VSC figures for ground floor windows achieve between 88.29% and 92.48% of the applied target values. Impacts are assessed as 'slight' or 'not significant'. This is also the case for 9 of the 12 west facing first floor windows tested. All of the second-floor windows achieve VSC values >27%.
- The Assessment provides VSC values for ground, first and second floor north facing windows of the main building of Highfield Hospital. The applied target VSC value (derived as above) is exceeded in all instances. Impacts are assessed as imperceptible.
- North facing ground and first floor windows at the Outpatients Clinic on the western side of Highfield Hospital are assessed. Two of the windows have resultant VSC values below the applied target values (both c. 93% of the applied target values). Impacts are assessed as not significant.
- East facing ground and first floor windows at nos. 61-73 Swords Road all have VSC values that exceed the applied target values. One window at each of nos. 75, 77 and 81 Swords Road achieves below the target value (c. 96% - 98%). Impacts are assessed as not significant.

The Assessment considers effects on the Annual Probable Sunlight Hours (APSH) at windows to habitable rooms in existing properties. The windows assessed were

selected on the basis of orientation, as per BRE Guidance that windows with an orientation within 90 degrees of due south should be assessed. Therefore, 44 no. east facing windows at nos. 61-81 Swords Road are assessed with regard to APSH. As per BRE guidance, a development could possibly have a noticeable effect on the sunlight received by an existing window, if the following occurs:

- The APSH value drops below the annual (25%) or winter (5%) guidelines; and
- The APSH value is less than 0.8 times the baseline value; and
- There is a reduction of more than 4% to the annual APSH.

The Assessment finds that the applied APSH target values are exceeded in all instances. Effects are assessed as imperceptible.

The Assessment considers impacts on sunlight at amenity areas at nos. 61-81 Swords Road to the west of the development, with regard to BRE guidance that, in order for a proposed development to have a noticeable effect on the amount of sunlight received in an existing garden or amenity area, the value needs to both drop below the stated target value of 50% and be reduced by more than 20% of the existing value. All of the gardens tested achieve this target.

The detailed Shadow Study provides hourly renderings from sunrise to sunset for the spring equinox and summer and winter solstices. It compares the existing undeveloped site with the proposed development. A comparison of the current proposal with that permitted under PL29N.238685 would be more useful. The shadow analysis does indicate additional overshadowing to the east, west and north of the development, however this is inevitable in comparison to the existing undeveloped lands.

The above findings of the applicant's Daylight and Sunlight Assessment are noted. I have reviewed the documentation submitted, concerns raised, and the relevant guidance documents, as required by the Apartment Guidelines and Building Height Guidelines. Having regard to the methodology set out in section 6.0 of the Daylight and Sunlight Assessment, to the extensive locations that were tested and to the use of several tests for various types of impacts on daylight and sunlight, I consider overall that this is a robust analysis of potential impacts on adjacent residential properties and sensitive receptors and the conclusions of the Assessment are

generally accepted. Having regard to my detailed assessment of the design and layout of the development and to my inspection of the site and surrounding areas, and with regard to the relevant standards set out in BS 2008, I am satisfied that the development will not have any significant adverse impact on residential amenities or sensitive receptors by way of overshadowing or adverse impacts on daylight/sunlight.

10.7.5. Overlooking Impacts

Section 4.6 of the Design Strategy details distances to adjacent facades. The opposing facades at nos. 61-81 Swords Road are all at least 38m from the western facades of Blocks A and B such that there is no potential for direct overlooking between habitable rooms. Similarly, there is a minimum of c. 28.5m between Block F and the western façade of Beech Lawn Nursing Home. The southern ends of Blocks E and G are close to Highfield Hospital. Block E is angled away from the hospital. Windows at the southern end of Block G are staggered to prevent direct overlooking of adjacent windows in the hospital buildings. I am satisfied on this basis that no significant potential for adverse impact on residential amenities or sensitive receptors by way of overlooking arises.

10.7.6. Visual Impacts

The development will be present in many views from the wider area in this part of North Dublin. The application includes photomontages and CGIs. The TVIA considers impacts within a 1 km radius of the development site. There are no designated views or prospects within 1 km of the site, and I am satisfied overall that visual impacts will be limited to the local vicinity. Figure 1.10 of the TVIA indicates 9 no. selected viewpoints (VPs) in the surrounding area. I am satisfied that the viewpoints selected provide a reasonable representation of views of the development from the wider area, including adjacent residential areas. The TVIA notes that the proposed additional floors will be set back from facades, which will reduce visual impacts, and that the development will generally be viewed in the context of surrounding development that consists of both residential housing and larger scale institutional facilities such as a hospitals, nursing home and schools. It is submitted that the proposed additional storey will marginally increase the scale and intensity of the development, but not to the degree that it appears over-scaled

relative to its environs. Having regard to the nature and scale of the proposed and permitted developments and to my inspection of the site and the surrounding area, I accept the conclusions of the TVIA that the surrounding area has medium-low sensitivity and that the subject proposal will generally have a low-negligible visual impact. The wider visual impacts are generally acceptable on this basis.

The following points are noted with regard to nearby residential properties and sensitive receptors:

- VPs nos. 2, 2a, 3 and 3a represent residential areas to the west of the development. Impacts at these locations are assessed as slight-imperceptible or imperceptible.
- VPS nos. 5, 6 and 7 represent residential areas to the east of the site (including High Park). Impacts at these locations are assessed as slight-imperceptible or imperceptible.

The TVIA concludes that, in comparison with the development permitted under PL29N.238685, the overall significance of the landscape/townscape impacts are assessed as slight-imperceptible. Having inspected the development site and viewed it from various locations in the locality, I concur with these conclusions.

There are no designated views or prospects in the vicinity. There is a protected structure nearby to the east of the site, RPS ref. 3239, "High Park Church and projecting portion of original convent buildings". I am satisfied that the development will not have any significant adverse impacts on the setting of the protected structure.

The TIVA does not consider visual impacts in the immediate vicinity of the site at Highfield Hospital to the immediate south of the site and Beech Lawn Nursing Home to the immediate east. The development will not result in any significant change in views to Beech Park Nursing Home given that Blocks F and G are unchanged from the permitted development. In addition, having regard to the CGIs and to the south continuous elevation of the development, ref. drawing no. HARTPL-CWO-SM-SM-ZZ-DR-A-000602, I am satisfied that the southern aspect of the proposed

development will not have a significantly greater impact on views from Highfield Hospital than the permitted scheme.

10.7.7. Construction Impacts on Residential Amenities

There is potential for adverse impacts on adjacent residential properties and sensitive receptors during construction, particularly in relation to noise and traffic disruption. The submitted Outline Construction Management Plan and Construction and Demolition Waste Management Plan outline construction management measures such as construction sequencing and programming, site security, surface water management, hours of work, noise and dust management measures and traffic management. A detailed Construction and Environmental Management Plan may be required by condition, including measures to manage construction traffic.

10.7.8. 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.

10.8. **Impacts on the Dublin Port Tunnel**

10.8.1. The application includes a Tunnel Impact Assessment dated February 2021 prepared by AGL Consulting Geotechnical Engineers and independently assessed by Byrne Looby Consulting Engineers, as required by development plan policy MT22 and development plan Appendix 6 'Dublin Port Tunnel Structural Safety'. The detailed submission of TII states:

The Dublin Tunnel has been designed to sustain a surcharge loading of 22.5kN/m² (kilonewtons/square meter) and needs to remain within limits for the SLS (Serviceability Limit State). Transport Infrastructure Ireland (TII) requires demonstration that a development does not incur a surcharge loading on the Tunnel in excess of 22.5kN/m² either during construction or at project completion. Cognisance in particular must be taken of any surcharge loading at depth due to anchors or piles. A developer therefore is required to demonstrate that the method

and sequencing of construction of the development minimises or eliminates the potential for tunnel deformation.

TII notes that development has commenced at the site and states that it is unaware if compliance with planning conditions related to the Dublin Tunnel as imposed under PL29N.238685 (as amended and extended) has been achieved. There are concerns in relation to potential adverse impacts on the physical integrity of the Tunnel in the absence of clear documentation and plans with regard to compliance. A copy of correspondence between TII and DCC regarding potential enforcement proceedings, dated 18th December 2020, is submitted. TII strongly recommends that the cumulative impacts of the permitted and proposed developments must be considered in order to ensure that the development would not reduce the structural safety, integrity and durability of the Tunnel.

- 10.8.2. With regard to the matter of enforcement, the application includes a copy of correspondence from the applicant to DCC, dated 17th February 2021, which states that no on-site construction works to any of the apartment blocks, foundation or basement structures had taken place to date. The report of DCC Transportation Planning Division, dated 20th April 2021, states that the Division has been in consultation with TII and the applicant to address outstanding compliance issues associated with PL29N.238685 and that the matter is currently being assessed to ensure that the relevant documents are provided to TII. DCC states no concerns in relation to potential impacts on the Tunnel, subject to conditions including construction management measures to avoid impacts on the integrity of the Tunnel.
- 10.8.3. The Tunnel traverses the eastern side of the site in a north/south direction, such that the creche and parts of Blocks F and G are directly over the Tunnel and related potential impact zones. The proposed basement is on the western side of the site but is partially within the eastern edge of the Tunnel impact zone. The Tunnel Impact Assessment examines impacts on the Tunnel due to the excavation and building loads associated with the development, based on analysis of soil/structure interaction and 3D modelling, with regard to criteria provided by the NRA (now TII) in the document 'Guidance Notes for Developers, The assessment of surface and sub-surface developments in the vicinity of the Dublin Port Tunnel'. The Tunnel Impact Assessment takes into account the development currently proposed under Reg. Ref. 3766/20, as well as development permitted at the site under PL29N.238685 (as

amended). The Assessment provides details of the levels, construction and design of the basement, basement access ramp, foundations, and attenuation tanks. It also examines impacts related to proposed construction sequencing. Cross sections indicating the location of the proposed works relative to the Tunnel are submitted.

10.8.4. The Tunnel Impact Assessment indicates that the development will not result in loading greater than 22.5kN/m² on the Tunnel under the site and concludes that:

In conclusion, it is found that the construction of the proposed residential development at Hartfield Place does not exceed the TII surcharge limit on the tunnels and is also found to have no detrimental effect on tunnel lining.

The TII submission notes the Assessment and strongly recommends a clear Construction Management Plan to avoid any adverse impacts on the structural integrity and safety of the Tunnel. Associated conditions are recommended, which include supervision of works by TII. I note that DCC states no significant concerns in relation to potential impacts on the Tunnel, subject to conditions.

10.8.5. To conclude, I am satisfied on this basis that the development would not have any significant adverse impacts on the Dublin Port Tunnel (including cumulative impacts), subject to detailed construction management measures, which may be required by condition.

10.9. Traffic and Transport

10.9.1. Observers state concerns that the development will result in severe traffic congestion, particularly at the proposed access to Swords Road. There are also concerns that the development could result in traffic using Gaeltacht Park as a 'rat run' to Collins Avenue.

10.9.2. The development site has a highly accessible location c. 3.9 km from Dublin City Centre on the Swords Road QBC public transport corridor, served by numerous regional and Dublin Bus services on the main artery between Dublin City Centre and Dublin Airport. The Swords Road is also proposed BusConnects Spine Route A and the site is close to orbital routes N2 at Griffith Avenue and N4 at Collins Avenue. The site is c. 1.8 km (22 minutes' walk) from the proposed Collins Avenue Metrolink station and c. 2.2 km (26 minutes' walk) from Drumcondra railway station. Swords Road is designated as a primary route in the NTA Greater Dublin Area Cycle Network.

10.9.3. The proposed vehicular access is located at the north western corner of the site, the location for the vehicular access indicated in the Whitehall Framework Plan and as previously permitted under PL29N.238685. There is also an emergency access to the Swords Road at the south western corner of the site. The red line site boundary includes areas of the Swords Road, to facilitate the introduction of the main site access as a signalised fourth arm to the Swords Road /Iveragh Road junction, with pedestrian crossings at all arms of the junction and a new pedestrian refuge on the southern arm of the junction. One car parking space at the western side of Swords Road is to be removed to facilitate these works. The proposed junction layout includes a right turning pocket into the development at the northbound approach from Swords Road with a left turn filter lane provided on the southbound approach, shared with the bus lane. The existing footpath along the Swords Road frontage of the site is to be relocated eastwards to facilitate a new public plaza, with a grass verge at the location of the existing footpath. There is also a cycle path along the Swords Road frontage. The proposed layout includes details of BusConnects proposals and the applicant states that they have liaised with the NTA to ensure compatibility with BusConnects. The submission of the NTA recommends a condition that the development is carried out in accordance with the BusConnects proposals on the Swords Road, which could be imposed if permission is granted. I note that DCC Transportation Planning Division is satisfied in principle with the proposed Swords Road access, subject to certain amendments, which may be addressed by condition. The secondary emergency access is also considered acceptable. I also note that the applicant's Traffic and Transport Assessment (TTA) indicates that the proposed junction design will operate within capacity and can accommodate future BusConnects Proposals. The proposed vehicular connections to the Swords Road are considered acceptable on this basis.

10.9.4. The access from Swords Road leads to a ramp serving the basement car park, located on the northern side of the site. There are shared surfaces along the eastern and southern site boundaries, with areas of surface car parking adjoining Block A, at the creche and inside the eastern and southern site boundaries. I note the applicant's Statement of Compliance with DMURS and I am satisfied that the proposed internal roads layout is generally consistent with DMURS. The applicant's Road Safety Audit is also noted in this regard. DCC Transportation Planning Division

raises several minor design issues, which could be addressed by condition. The layout indicates several pedestrian connections to the public footpath at Swords Road, which will facilitate the public accessibility of the creche and the public open space at the eastern side of the site. There is a proposed possible future pedestrian connection to High Park at the north eastern site corner. Several residents of High Park strongly object to this connection, on grounds relating to anti-social behaviour, adverse impacts on privacy, increased demand for on-street parking and loss of an existing flower bed. I consider that the provision of a new pedestrian connection at this location would be highly desirable in terms of improved permeability for the wider area, in accordance with the principles of DMURS, particularly in light of the BusConnects proposals for Swords Road. I note that the proposed pedestrian connection is also welcomed by DCC Transportation Planning Division. The development should be laid out such that it does not preclude any future connection at the north eastern corner of the site and a condition requiring same should be imposed if permission is granted. DCC Transportation Planning Division also requires additional pedestrian and cycle connectivity to the lands to the north of the site, within the Whitehall Framework Plan, which could also be required by condition.

10.9.5. The TTA is based on traffic count data collected in September 2019, pre Covid. The traffic analysis considers the Swords Road/Collins Avenue signalised junction and the proposed new Swords Road /Iveragh Road /Site Access junction. The projected increases in traffic flows at the Swords Road/Collins Avenue junction for the opening year of 2023 are well below the 5% threshold for further junction analysis as per the TII Guidelines for Transport Assessments. The % increase at the proposed site access junction for 2023 marginally exceeds the 5% threshold at 5.9% during the AM peak, with the PM peak increase being 4.6%. The junction modelling analysis of the proposed signal-controlled site access junction finds that projected DoS values for the site access are within capacity for the opening year of 2023 and the future year of 2028, however other arms of the junction will be above capacity. The TTA acknowledges that the proposed signalised junction will experience queuing and delays at peak times, however this is due to the large volumes of traffic travelling along Swords Road during the AM and PM peak periods. It is submitted that the proposed signalised junction will formalise the road network and provide a net benefit to pedestrians, cyclists, and motorists by providing dedicated crossing

facilities. I accept this point and I consider that, given existing and projected high traffic volumes, the junction will benefit pedestrians. As noted above, the layout is acceptable to the NTA with regard to BusConnects proposals.

- 10.9.6. The development provides a total of 348 no. car parking spaces (284 at basement level and 64 at grade), which equates to c. 0.7 spaces per unit. This quantum is below development plan standards for car parking Zone 3 as per development plan Table 16.1, which specifies a maximum standard of 1.5 spaces per dwelling. The TTA provides a rationale for the proposed quantum of car parking, based on census data and existing commuter patterns in the area, along with car parking management proposals. Given the highly accessible location of the site in close proximity to Dublin City Centre and having regard to the recommendations of the Apartment Guidelines for car parking at 'central and/or accessible' sites, where there is a default policy to minimise car parking provision, the overall quantum is considered acceptable. The submitted Mobility Management Plan is also noted in this regard. The provision includes 10 no. surface level car club spaces, further details of same could be required by condition. I note that DCC Transportation Planning Division states concerns in relation to the proposed basement car park layout and creche parking layout and I consider that a revised layout to address these concerns could be required by condition.
- 10.9.7. There are 527 no. cycle parking spaces, 480 no. secure basement spaces and 47 no. Sheffield stands at surface level. This provision exceeds the City Development Plan requirement for 1 no. cycle parking space per unit for parking Zone 3. A total of 1,740 no. cycle parking spaces would be required to comply with the standards set out in section 4.17 of the Apartment Guidelines, therefore there is a significant shortfall. The applicant's Mobility Management Plan proposes to monitor the use of cycle parking stands following the opening of the development and to provide additional cycle parking if there is demand. I would share the concerns of DCC Transportation Planning Division that additional cycle parking at a future date could be provided at a cost of residential amenity space. I therefore recommend that additional cycle parking and further details of cycle parking provision at basement level should be required by condition if permission is granted, to the satisfaction of DCC Transportation Planning Division.

10.9.8. 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 and that the NTA does not object to the proposed Swords Road access layout.

10.10. Drainage, Flood Risk and Site Services

10.10.1. The development will connect to the existing services in the area, as permitted under PL29N.238685. Construction work commenced at the site in September 2020 with site enabling works carried out, which included the installation of some site services. The applicant's Engineering Services Report provides details of the permitted site services. I note that the development includes SUDS measures including permeable paving, bioretention areas and extensive green roofs. The surface water drainage system comprises two separate networks, discharging to outfalls at Swords Road to the west and High Park to the east. The applicant's Engineering Report submits that the proposed increase in residential units at the site will not have any impact on the design or layout of the approved surface water drainage system. I note that DCC Drainage Division states no objection subject to conditions in its comment on file dated 16th April 2021. The permitted foul system had two outfalls to the existing system on the Swords Road, with a third outfall to the existing system in High Park. It is now proposed to discharge the whole site to High Park, due to capacity issues in the existing foul network at Swords Road. Details of proposed foul volumes are submitted. The permitted development connected to the public water supply at Swords Road and at High Park, however the current proposal is to connect to the public watermain at the Swords Road/Collins Avenue junction, as per requirements of Irish Water. Details of projected water demand are submitted. I note the comment of Irish Water that the proposed connections can be facilitated, subject to local network upgrades. The red line site boundary includes an area on the Swords Road to facilitate same. These proposals are satisfactory.

10.10.2. A Site-Specific Flood Risk Assessment (SSFRA) is submitted. OPW historic flood maps indicate that no flood events have been recorded in the vicinity of the

site. 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 regard to fluvial and tidal flooding, therefore no Justification Test is required as per the Flood Risk Management Guidelines. The Pluvial Flood Depth Map of the Strategic Flood Risk Assessment of the City Development Plan indicates that parts of the site are susceptible to pluvial flooding to a depth of 0.1m – 1m, this is to be addressed by the proposed storm water drainage design, which includes a 20% climate change allowance. The outfall rates from the surface water drainage system will be lower than the existing greenfield runoff rates. 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.

10.11. Archaeology

10.11.1. The application includes an Archaeological Appraisal of the site, which is based on a desktop survey of available records including the RMP, NIAH, cartographic sources and literary sources. I note that the Appraisal contains several discrepancies, including references to counties Louth and Longford. There are no Recorded Monuments at or in the immediate vicinity of the development. No significant impacts are anticipated. Archaeological monitoring is proposed. I note the comments on file of the Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media, which also recommend that a condition requiring archaeological monitoring of ground disturbance and topsoil removal at construction stages be included in any grant of permission.

10.12. Childcare and Community Infrastructure

10.12.1. Observers state that there is a shortage of childcare facilities locally and are concerned that the proposed creche will not cater for local childcare demand. 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 provides 26 no. studio units, 179 no. 1 bed units, 251 no. 2 bed units and 19 no. 3 bed units. Assuming that all two and three bed units generate a demand for childcare, a total of 72 no. childcare places would be required to meet the requirements of the Childcare Guidelines. The proposed creche has a stated area of 414 sq.m. with outdoor play area of 146 sq.m. It will have capacity for 63 no. children full/part time or 73 no. early childhood care and education spaces. The submitted Social and Community Infrastructure Audit provides a list of existing childcare facilities within 1 km of the development. I am satisfied that the proposed creche will provide adequate childcare to cater for demand generated by the development, in accordance with the Childcare Guidelines.

10.12.2. Observers submit that local schools and community facilities are already under strain and cannot cater for additional development. The applicant's Social and Community Infrastructure Audit provides details of nearby public transport connections, educational facilities, public open spaces, sports and recreational facilities, healthcare resources, cultural and recreational facilities, retail, and local services. Whilst I note the assessment does not provide any detail on the capacity of these existing facilities, I consider that Whitehall is a well-established urban area with a wide range of existing community and social infrastructure.

10.13. **Observers Comments and Legal Issues**

10.13.1. I have read and noted all of the observer submissions. The general concerns raised in relation to consistency with the Building Height Guidelines; tenure of proposed residential units; excessive density and overdevelopment; housing and use mix; adverse impacts on residential amenities by way of overlooking and overshadowing; visual impacts; pedestrian and cycle connections; capacity of proposed childcare facility and potential impacts on the Dublin Port Tunnel are addressed in the above assessment. Matters relating to environmental impacts and AA are considered in the relevant sections below. The submission of John Conway and the Louth Environmental Group makes several legal points including in relation to the use of section 28 guidelines that have not been subject to SEA to justify the proposed development, as well as detailed aspects of the EIA and AA screening

processes, which are outside the scope of this assessment, however I am satisfied that there is sufficient information on the file to enable the Board to make a decision on the proposed development.

10.14. **Material Contravention Issues**

10.14.1. The applicant's Material Contravention Statement refers to two separate grounds of material contravention comprising building height and housing mix. In addition, as per my above assessment, I consider that the development materially contravenes the development plan in relation to the matters of public and communal open space provision. While I have addressed these matters separately in the relevant sections above, I shall also address them here in the interests of clarity.

10.14.2. I consider that the development materially contravenes development plan policy in relation to the matters of building height and housing mix. 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 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 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 housing mix, permission should be granted as the development is in accordance with SPPR 1 of the Apartment Guidelines.

10.14.3. Separately, with regard to the above assessment, I consider that the development does not meet the requirement set out in section 14.8.12 of the development plan that developments on lands with the Z12 zoning objective shall retain a minimum of 20% of the site as accessible public open space, incorporating landscape features and the essential open character of the site, which shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play, as the overall quantum of useable public open space provided at the site that is suitable for such purposes (excluding privacy strips, circulation space and marginal areas) is below 20% of the site area. In addition, the development does not meet the standards set out in development plan section 16.10.1 in relation to the provision of communal open space for apartment developments, as the combined area of communal open space on the western side of the site and the roof terrace provided in Block A does not meet the quantitative standards for apartment developments set out in section 16.10.1 of the development plan. The development is therefore considered to materially contravene the development plan in relation to these matters. The matters of public and private open space provision have not been addressed in the applicant's Material Contravention Statement or mentioned in site notices and the subject application therefore does not meet the requirements of section 8(1)(a)(iv)(I) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended). The Board therefore cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) in this instance and is precluded from granting permission.

10.15. **DCC Chief Executive Recommendation**

10.15.1. The Dublin City Council Chief Executive's report recommends refusal for one reason relating to (i) contravention of the Z12 zoning objective due to inadequate public space suitable for relaxation and children's play and (ii) deficiency in communal open space with regard to development plan standards. As discussed above, I concur with the conclusions of the planning authority in relation to both of these matters.

10.16. **Planning Assessment Conclusion**

10.16.1. The proposed residential, café and creche uses are acceptable in principle under the Z12 zoning objective. The proposed development will deliver a high-quality residential development on a serviced site in a central/accessible location on a public transport corridor. It will support NPF national planning policy objectives relating to compact urban development, increased residential density and infill development including NPO 2a, NPOs 3a and 3b, NPO 13, NPO 32, NPO 33 and NPO 35. It will also support RSES Regional Policy Objectives RPO 4.3 and RPO 5.5 relating to increased residential densities and the consolidation of the Dublin Metropolitan Area.

10.16.2. While the increased height contrasts with the surrounding residential and institutional developments, it represents a reasonable response to its context and is stepped down at site boundaries to reduce impacts on adjacent residential properties and sensitive receptors. The overall layout includes good quality amenity spaces and provides opportunities for enhanced vehicular and pedestrian permeability within the Whitehall Framework Plan lands and in the wider area. The development will contribute to placemaking in the area with the provision of a plaza at the Swords Road site frontage and a public open space on the eastern side of the site.

10.16.3. The development will not have any significant adverse visual impacts either in the immediate vicinity or in the wider area. I am satisfied that it will not result in any significant adverse impacts on residential amenities or sensitive receptors by way of overlooking or overshadowing such as would warrant a refusal of permission. The design and layout of the 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 generally 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.

10.16.4. Having regard to the submitted Tunnel Impact Assessment, I am satisfied that the development would not have any significant adverse impacts on the Dublin Port Tunnel (including cumulative impacts), subject to detailed construction management measures, which may be required by condition.

10.16.5. However, I consider that the development does not meet the requirement set out in section 14.8.12 of the development plan that developments on lands with the Z12 zoning objective shall retain a minimum of 20% of the site as accessible public open space. In addition, the development does not meet the standards set out in development plan section 16.10.1 in relation to the provision of communal open space for apartment developments. The development is therefore considered to materially contravene the development plan in relation to the provision of public and communal open space to serve the proposed apartments. These issues have not been addressed in the applicant's Material Contravention Statement or mentioned in site notices and the subject application therefore does not meet the requirements of section 8(1)(a)(iv)(I) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended). The Board therefore cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) in this instance and is precluded from granting permission.

10.16.6. I therefore recommend that the Board refuse permission.

11.0 Environmental Impact Assessment Screening

11.1. The site is an urban brownfield site (zoned Z12) located within a built up area. It comprises undeveloped lands that were previously used as a construction depot during the construction of the Dublin Port Tunnel. The site has now reverted to grassland with disturbed areas of recolonising bare ground, with areas of hard standing. Scrub and young trees are scattered throughout the site. The vegetation on the site was deemed to have negligible suitability for bat roosts. There are several non-native species distributed across the site, which offer low suitability for bat foraging habitat. There is no waterbody in the immediate vicinity. The site is not located within or immediately adjacent to any designated sites. The proposed

development relates to the demolition of existing industrial / warehouse buildings and construction of 475 no. apartments (including ancillary communal facilities), a café and creche in 7 no. blocks of 4-8 storeys in height.

- 11.2. The development is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations. An environmental impact assessment would be mandatory if the development exceeded the specified threshold of 500 dwelling units or 10 hectares, or 2ha if the site is regarded as being within a business district. In addition, Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- 11.3. The proposal for 475 no. residential units, a café and a creche on a site of c.3.25 ha, is below the mandatory threshold for EIA. The nature and the size of the proposed development is well below the applicable thresholds for EIA. I would note that the uses proposed are similar to predominant land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The AA Screening set out in Section 12.0 concludes that the potential for adverse impacts on Natura 2000 site can be excluded at the screening stage.
- 11.4. The criteria at schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The application is accompanied by an EIA Screening Report which includes the information required under Schedule 7A to the planning regulations. In addition, the various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to

the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Architectural Design Statement
- Townscape and Visual Impact Analysis
- Landscape Design Strategy
- AA Screening Report
- Environmental Report
- Traffic and Transport Assessment
- Flood Risk Assessment
- Daylight and Sunlight Assessment Report
- Planning Report
- Statement of Consistency
- Material Contravention Statement
- Social and Community Infrastructure Audit
- Bat Survey
- Wintering Bird Survey
- Archaeological Appraisal
- Arboricultural Assessment
- Outline Construction Management Plan
- Operation Management Plan
- Traffic and Transport Assessment
- Mobility Management Plan
- Public and Site Lighting Design Report
- Energy Statement and Life Cycle Report
- Site Specific Flood Risk Assessment
- Tunnel Impact Assessment

- Construction and Demolition Waste Management Plan
- Operational Waste Management Plan

11.5. Noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account I would note that the following assessments/ reports have been submitted.

- Report in Support of the Habitats Directive Screening has been undertaken pursuant to the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) and also addresses requirements arising from the Water Framework Directive (and River Basin Management Plans) and the Urban Wastewater Treatment Directive.
- An Energy and Part L Compliance Report has been submitted with the application, which has been undertaken pursuant to the EU Energy Performance of Buildings Directive and requirement for Near Zero Energy Buildings.
- The Flood Risk Assessment addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
- An Outline Construction and Demolition Waste Management Plan has been submitted that addresses requirements under the EC Waste Framework Directive and EC Environmental Noise Directive.

The EIA screening report prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening.

11.6. I have completed an EIA screening assessment as set out in Appendix A of this report. I consider that the location of the proposed development and the

environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.

11.7. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

12.0 Appropriate Assessment Screening

12.1. AA Introduction

12.1.1. This assessment is based on the submitted AA Screening Report, prepared by JBA Consulting, dated February 2021. 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 Environmental Report, 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 is currently undeveloped lands / site development works. The dominant habitats locally include buildings and artificial surfaces, areas of amenity grasslands and gardens, scattered trees and groups of trees. Historical aerial photographs show that the site has previously been used

during the construction of the Dublin Port Tunnel (c. 2005) but has now reverted to grassland. The site consists of a dry neutral grassland with disturbed recolonising bare ground along the western boundary and in the south-east corner of the site. There has been a slight reduction in the grassland habitat at the site since the commencement of enabling works at the site in October 2020. Non-native invasive species are present on the site. Winter Heliotrope is spread extensively across the site, while Butterfly-bush is more scattered. Cotoneaster occurs in the south-west corner of the site.

12.3.2. The site lies within the Water Framework Directive (WFD) Liffey and Dublin Bay Catchment and the sub-catchment Tolka_SC_020 (EPA, 2019). The closest waterbody to the site is the Tolka River, approx. 1.35km south of the site, which flows in a west-east direction and eventually reaches Dublin Bay.

12.4. Stage I Appropriate Assessment

12.4.1. 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).

12.4.2. There are no designated sites within or immediately adjacent to the development. 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)	2.4 km	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: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141]

		<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	<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> <p>Embryonic shifting dunes [2110]</p>
North Bull Island SPA (004006)	4.6 km	<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)	4.6 km	<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 maritima</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>Petalophyllum ralfsii (Petalwort) [1395]</p>
Baldoyle Bay SAC (000199)	7.3 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
Baldoyle Bay SPA (004016)	7.9 km	<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)	9.7 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I</p>

		<p>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)	9.3 km	<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)	9.3 km	<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)	10.4 km	<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><i>Phocoena phocoena</i> (Harbour Porpoise) [1351]</p>
Ireland's Eye SPA (004117)	11.7 km	<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 (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p>
Ireland's Eye SAC (002193)	12.0 km	<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> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>
Howth Head Coast SPA (004113)	12.4 km	<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>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p>
Rogerstown Estuary SAC (000208)	13.5 km	<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>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>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>
Rogerstown Estuary SPA (0004015)	13.8 km	<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>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p>

		Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]
Dalkey Islands SPA (004172)	14.9 km	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA: Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]

12.4.10. 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.

12.4.11. I consider that there is no possibility of significant effects on the following designated sites within 15 km, 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, and also having regard to the nature and scale of the proposed development:

- Baldoyle Bay SAC 000199
- Baldoyle Bay SPA 004016
- Malahide Estuary SPA 004025

- Malahide Estuary SAC 000205
- Howth Head SAC 000202
- Rockabill to Dalkey Island SAC 003000
- Ireland's Eye SPA 004117
- Ireland's Eye SAC 002193
- Howth Head Coast SPA 004113
- Rogerstown Estuary SAC 000208
- Rogerstown Estuary SPA 004015
- Dalkey Islands SPA 004172

12.5. Potential Effects on Designated Sites

12.5.1. There are potential connections between the development site and the following European Sites in Dublin Bay, relating to indirect surface water connections and to potential effects on species that are listed as qualifying interests:

- 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, I consider that the possible risks to the European Sites relate to the following matters:

- Potential indirect effects associated with surface water run-off from the development site via the foul and surface water network. Having regard to the lack of a direct hydrological connection, to the intervening hydrological distance and to the estuarine/coastal mixing processes and dilution that would occur between the development site and these designated areas, it is unlikely that the development would lead to any significant decrease in water quality in Dublin Bay which would affect the designated sites or their qualifying interests.
- 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.

- 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.
- The Light-bellied Brent Goose is listed as a Qualifying Interest of the South Dublin Bay and River Tolka Estuary SPA and the North Bull Island SPA. The AA Screening Report notes that Light-bellied Brent Goose forage in open grass fields off the coast and have been recorded within a 2km distance of the development site. The applicant's Wintering Bird Survey is also noted in this regard. However, no Brent Geese were recorded during the site visit, either on site or in flight, and the grassland on site was deemed to not be of suitable quality for Brent Geese, as it is not regularly maintained and is thus overgrown with last year sward occurring. Due to lack of maintenance, scrub and trees are emerging on the site. This type of habitat is not of ideal quality for the Light-bellied Brent Goose as they prefer well maintained fields with low cut grass sward, such as parkland and sport fields. The development site is therefore not considered to be suitable habitat for

Brent Geese and the development will not have any effect on the ex-situ habitat of this species.

- 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 and is expected to be completed in 2020. 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.

12.5.3. Having regard to the information submitted with the application, including the Outline Construction 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. Having regard to the above matters, I am satisfied that 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. 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. Appropriate Assessment 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 lack of direct hydrological pathway considerations or potential for ex-situ impacts as 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 (and submission of a NIS) is not therefore required.

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. I recommend that the Board refuse permission with regard to the planning assessment conclusion set out in section 10.16 above.

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 5th day of March 2021 by Eastwise Construction Limited, Station Mews, Lindsay Grove, Glasnevin, Dublin 9.

Proposed Development:

A planning permission for a strategic housing development at 'Hartfield Place', Swords Road, Whitehall, Dublin 9.

The proposed development will consist of the following:

Construction of a residential development providing 475 number residential units (gross floor area circa 41,195 square metres including basement) of four to eight storeys over basement in seven number blocks with a two-storey standalone creche.

The apartment units will consist of:

- 26 number studio units

- 179 number one-bed units
- 251 number two-bed units and
- Nineteen number three bed units

all with associated private balconies and terraces.

The development is laid out in seven number blocks as follows:

- Block A (five to eight storeys) containing 61 number apartments and one café unit (99 square meters)
- Block B (five to six storeys) containing 78 number apartments
- Block C (four to six storeys) containing 54 number apartments
- Block D (seven to eight storeys) containing 76 number apartments
- Block E (four to eight storeys) containing 58 number apartments
- Block F (six storeys) containing 76 number apartments
- Block G (four to six storeys) containing 72 number apartments

The development includes a two-storey purpose built creche (circa 414 square metres) with an outdoor play area (circa 146 square metres).

The development provides a stated area of 5,520 square metres of public open space in the form of a kickabout area, a playground, a plaza area and a lawn area and provides a stated area of 3,542 square metres of external communal open space which is comprised of two plaza areas, a play area and a lawn area.

The development provides 348 number car parking spaces comprised of 284 number spaces located at basement level and 64 number spaces located at surface level; 11 number motorcycle parking spaces; 527 number bicycle parking spaces comprised of 480 number secure cycle parking spaces and 47 number visitor cycle parking spaces; hard and soft landscaping; bin storage; ESB substations and switchrooms; and all other necessary associated site works above and below ground.

To facilitate the proposed development infrastructure works are also proposed to

Swords Road including installation of a 225mm diameter watermain connecting to an existing watermain located on Collins Avenue; installation of a foul and a surface water mains connection to High Park and a connection to the existing surface water main on Swords Road.

The development also includes works to the adjacent road network including the introduction of a signalised fourth arm to the existing Swords Road / Iveragh Road junction with pedestrian crossings provided to all arms of the junction; the removal of one car parking space at the western side of Swords Road; installation of a new pedestrian refuge island on the southern arm of the junction; provision of a right turn pocket into the subject site on the northbound approach of Swords Road with a left turn filter lane provided on the southbound approach, shared with the bus lane; relocation of the existing footpath (along Swords Road) eastwards and provision of a grass verge at the location of the existing path and a cycle path along the western boundary of the development site.

Decision

Refuse permission for the above proposed development based on the reasons and considerations 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.

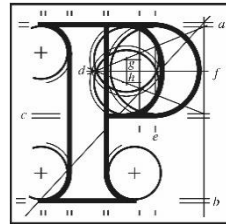
Reasons and Considerations

The development site is zoned Z12 'Institutional Land (Future Development Potential)' under the Dublin City Development Plan 2016-2022, with the objective 'To ensure that existing environmental amenities are protected in the predominantly residential future use of these lands'. Development plan section 14.8.2 requires that

developments on lands with the Z12 zoning objective shall retain a minimum of 20% of the site as accessible public open space, incorporating landscape features and the essential open character of the site, which shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play. Having regard to the quantum, design and layout of the proposed public open space on the eastern side of the development, the Board is not satisfied that the development meets this requirement. In addition, having regard to the quantum, design and layout of the communal open space on the western side of the development, the Board is not satisfied that the development meets the quantitative standards set out in development plan section 16.10.1 in relation to the provision of communal open space for apartment developments. The development is therefore considered to materially contravene the development plan in relation to the provision of public and communal open space to serve the proposed apartments. These issues have not been addressed in the applicant's Material Contravention Statement or mentioned in site notices and the subject application therefore does not meet the requirements of section 8(1)(a)(iv)(I) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended). The Board therefore cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) in this instance and is precluded from granting permission.

Sarah Moran
Senior Planning Inspector
21st June 2021

ABP-309608-21 Appendix 1: EIA Screening Form



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-309608-21
Development Summary		475 no. apartments and associated site works
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report and an AA Screening Report were submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	

3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA undertaken in respect of the Dublin City Development Plan 2016-2022
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B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of residential units on lands zoned 'Z12 ' and is in keeping with the residential and institutional development (existing and permitted) in the vicinity.	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposal involves the redevelopment of lands that were used as a depot during the construction of the Dublin Port Tunnel. The application includes a Tunnel Impact Assessment, which demonstrates that the development will not have adverse impacts on the Tunnel.	No

		The proposed residential development (apartments) is not considered to be out of character with the pattern of development in the surrounding area.	
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.	No
1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

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

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>
<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in an increase in residential units of 475 no. units.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large-scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>Standalone development, with developments in the immediately surrounding area permitted or built.</p>	<p>No</p>

2. Location of proposed development			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	No	<p>No conservation sites located on or in the vicinity of the site.</p> <p>The AA Screening report concluded that Stage 2 NIS was not required. This has been addressed in Section 12 of the Inspector's Report. The measures in question are not 'mitigation' measures for the purposes of Appropriate Assessment. I carried out a Stage 1 AA Screening and concluded no significant adverse impact on any European Sites and a Stage 2 NIS was not required.</p>	No
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	No		No
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	No	<p>The nearest protected structure is RPS ref. 3239, 'High Park Church and projecting portion of original convent buildings', nearby to the east of the development. I am satisfied that the development will not have any significant adverse impacts on the setting of the protected structure.</p> <p>There is a possibility of the presence of other historic material and/or archaeological</p>	No

		remains at the site. The site works can be carried out in the presence of an appropriately qualified archaeologist.	
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	There are no areas in the immediate vicinity which contain important resources.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	The site is not adjacent to any watercourse and is not at risk of flooding.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence in the submitted documentation that the lands are susceptible to landslides or erosion and the topography of the area is flat. Excavation works, basement construction and works to the existing site boundaries will be subject to best practice.	No
2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local urban road network.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	There are no existing sensitive land uses or substantial community facilities which could be affected by the project.	No

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No		No
C. CONCLUSION			
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required	
Real likelihood of significant effects on the environment.	No		

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(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 to 'Z12' 'To ensure that existing environmental amenities are protected in the predominantly residential future use of these lands' in 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 Management Plan

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

Inspector: _____ **Sarah Moran**

Date: 21st June 2021