



An  
Bord  
Pleanála

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

## Inspector's Report ABP-309627-21

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### Strategic Housing Development

Demolition existing buildings on site,  
construction of 188 no. apartments  
and associated site works

### Location

Former Heidelberg/Miller Building and  
S.C.R Garage sites, Davitt Road,  
Dublin 12 ([www.davittbtrshd.com](http://www.davittbtrshd.com))

### Planning Authority

Dublin City Council

### Applicant

Heidelberg Davitt Limited

### Prescribed Bodies

Irish Water; Department of Tourism,  
Culture, Arts, Gaeltacht, Sport and  
Media

### Observer(s)

Alan Geraghty; Caoimhe McWeeney;  
Carolyn Moore; Daithí Doolan; Irene

Wilson Power and James Power; John  
Dromgoole; Rita and Patrick  
McGowan; Sophie Nicoullaud.

**Date of Site Inspection**

27<sup>th</sup> March 2021 and 31<sup>st</sup> May 2021

**Inspector**

Una O'Neill

## Contents

1.0 Introduction .....	4
2.0 Site Location and Description .....	4
3.0 Proposed Strategic Housing Development .....	4
4.0 Planning History.....	8
5.0 Section 5 Pre Application Consultation .....	8
6.0 Relevant Planning Policy .....	18
7.0 Observer Submissions.....	23
8.0 Planning Authority Submission .....	29
9.0 Prescribed Bodies.....	39
10.0 Assessment.....	41
11.0 Appropriate Assessment .....	83
12.0 Environmental Impact Assessment Screening .....	107
13.0 Recommendation .....	110
14.0 Reasons and Considerations .....	110
15.0 Recommended Draft Order .....	111
16.0 Conditions .....	118

## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The subject site is located on the southern side of Davitt Road in Dublin 12. On the opposite side of Davitt Road is the Grand Canal and the Luas Red Line, with the Goldenbridge Road Luas Stop circa 154m west of the site and the Suir Road Stop circa 150m east of the site.
- 2.2. The site, which has a stated area of 0.57 ha, comprises a large unoccupied two storey factory building, known as the Heidelberg/Miller Building and the site of the former SCR garage repair/Petrol Station, both of which are accessed directly off Davitt Road.
  - 2.2.1. The site is bounded to the west by a single storey commercial building, adjoining which is The Marble Arch pub at the junction of Davitt Road and Benbulbin Road. The site is bounded to the east by a Dublin City Council Waste Management Depot. To the south/rear of the site are two storey terraced dwellings which front onto Galtymore Road.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposal, as per the submitted public notices, comprises the construction of a part 3 to part 9 storey building in a u-shaped block layout, over basement level, including 2 no. commercial units (with a GFA of 101 sqm and 193 sqm, for Class 1- Shop or Class 2- Office / Professional Services or Class 8- Medical Centre or Class 11 – Gym or Restaurant / Café use), 188 no. Build-to-Rent (BTR) apartments, resident support facilities, and resident services and amenities.
- 3.2. The following tables set out some of the key elements of the proposed scheme:

### Table 1: Key Figures

<b>Site Area</b>	0.57 ha gross (includes 0.02ha of DCC owned lands relating to a footpath within red line).
<b>No. of Residential Units</b>	188
<b>Density</b>	330 units per hectare
<b>Height</b>	3 storeys (10.16m) - 9 storeys (27.85m), over basement
<b>Plot Ratio</b>	3.3
<b>Site Coverage</b>	50%
<b>Resident Support Facilities &amp; Resident Services and Amenities</b>	1165 sqm – resident’s store, laundry room, bin store, cycle storage, reception management area; residents lounge, residents workspace, games room, and gym.
<b>Public Open Space</b>	External public realm improvements to footpath.
<b>Communal Open Space</b>	2073 sqm external communal space (courtyard at ground floor & roof terraces at 3 <sup>rd</sup> , 6 <sup>th</sup> and 7 <sup>th</sup> floor levels)
<b>Private Open Space</b>	144 balconies / terraces for the 188 proposed BTR apartments. 44 apartments have no balconies.
<b>Part V</b>	18 units proposed to meet Part V requirements.

**Table 2: Unit Mix**

	<b>Studio</b>	<b>1 bed</b>	<b>2 bed</b>	<b>Total</b>
<b>Apartments</b>	20	79	89	188
<b>As % of total</b>	11%	42%	47%	100%

**Table 3: Parking Provision**

<b>Car Parking</b>	58 spaces at basement level and 4 motorcycle spaces.  1 on street parking space.
<b>Bicycle Parking</b>	280 cycle spaces at basement level.  106 spaces at surface level.

- 3.3. The primary vehicular access to the site is proposed from Davitt Road to the basement level.
- 3.4. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that a new connection to the existing wastewater network is feasible without upgrade. For water, approx. 50m of upgrade works are required to connect to the site to the existing network.
- 3.5. In addition to the architectural and engineering drawings, the application was accompanied by the following reports and documentation:
- Planning Report – Statement of Consistency
  - Material Contravention Statement
  - Statement of Response
  - Architectural Design Statement
  - Building Lifecycle Report
  - Housing Quality Assessment
  - Masterplan Document
  - Social and Community Audit
  - Childcare Demand Audit
  - Archaeological Assessment

- Bat Survey Report
- BTR Management Plan
- CGI and Verified Views Brochure
- Daylight and Sunlight Assessment Report
- Ecological Statement
- EIA Screening Statement
- AA Screening Report
- Natura Impact Statement
- Operational Waste Management Plan
- Part V Details
- Energy Analysis Report
- Microclimatic Wind Analysis and Pedestrian Comfort Report
- Site Lighting Report
- Utilities Report
- Landscape Design Report
- Landscape Townscape and Visual Assessment Report
- Basement Impact Assessment
- Construction and Demolition Management Plan
- DMURS Statement
- Engineering Services Report
- Parking Management Strategy
- Residential Travel Plan
- Site Specific Flood Risk Assessment
- Traffic and Transport Report

## 4.0 Planning History

**Reg Ref 3051/15** - Permission GRANTED at the former Heidelberg/Miller Building for a mixed use development of 3-4 storeys over 2 blocks (office c. 3,397m<sup>2</sup>/ retail and 25 no residential units 19 apart & 9 no duplex units).

**PL29S.228397 (Reg Ref 6641/07)** - Permission REFUSED for a 3/5 storey office building (c. 10,092 m<sup>2</sup>) for reasons of negative visual impact on the surrounding area due to the scale and mass and the impact on the residential amenity to the rear by virtue of overlooking and overbearing.

SHD Permissions to the west along Davitt Road (Former Dulux Factory Site)

**ABP-303435-19** - Permission GRANTED under SHD for 254 no BTR apartments, retail/ café unit. Heights were 3-7 storeys, with maximum height of 24.13m onto Davitt Road.

Construction is currently underway on this site.

## 5.0 Section 5 Pre Application Consultation

### 5.1. Pre-Application Consultation

A section 5 pre-application consultation took place remotely via Microsoft Teams between the applicants, the planning authority and An Bord Pleanála on 16<sup>th</sup> November 2020 in respect of a proposed development of 200 Build To Rent (BTR) residential units and 2 no. commercial units (ABP-307910-20). The main topics discussed at the meeting were:

1. Design and Layout, inter alia, scale, bulk and mass of proposed development.
2. Impact on the development potential of adjoining sites.
3. Residential Amenity, inter alia, existing and proposed residents.
4. Compliance with Apartment guidelines, inter alia, SPPR 7 & 8.
5. Parks Issues.
6. Transport Issues.
7. Drainage Issues.



## 8. Any Other Business.

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

## 5.2. Notification of Opinion

An Bord Pleanála issued a notification that it was of the opinion that the documents submitted with the request to enter into consultations required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development, which should have regard to the following issues:

### Height and Design

1. While the site may be considered suitable for high density development and may be able to absorb height and taller elements within it, the documents require further consideration and/or justification as they relate to the scale, bulk and mass of the building relating specifically to the visual impact along Davitt Road and the receiving environment around the Grand Canal area, an area of conservation interest. The further consideration of these issues may require an amendment of the documents and/or design proposal submitted.

### Impact on Adjoining Sites

2. Further consideration and/or justification of the design of the east and west gable, having regard to the separation distance from the boundaries and the potential impact on the future development of the existing sites to the east and west.

### Residential Amenity

3. Further consideration and/or justification of the documents as they relate to impact of the proposal on the residential amenity of both the occupants of the existing neighbouring dwellings and future occupants of the proposed development, having regard, inter alia to the following:

- The location and design to the rear of the neighbouring dwellings and the potential for a negative impact on the visual and residential amenity,
- The absence of private amenity space having regard to the quantum and quality of the resident support facilities and residential services and amenities and the

quantum and design of the proposed communal open space areas and the potential for a negative impact on the residential amenity of the future occupants.

- The further consideration of these issues may require an amendment of the documents and/or design proposal submitted.

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

1. A Housing Quality Assessment which provides the details regarding the proposed apartments set out in the schedule of accommodation, as well as the calculations and tables required to demonstrate the compliance of those details with the various requirements of the 2018 Guidelines on Design Standards for New Apartments including its specific planning policy requirements (SPPR 7 & SPPR 8). The report shall detail the use of the residential support facilities and amenity areas used to offset the standards and/or compensatory measures proposed within the proposal.
2. A comprehensive justification is required for any proposed north facing single aspect units.
3. Drawings that detail dual aspect ratios should be clearly laid out and be accompanied by a detailed design rationale report.
4. An Updated Sunlight/Daylight analysis showing an acceptable level of residential amenity for future occupiers and neighbours of the proposed development, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties.
5. A landscaping plan including details of all proposals for the communal open space in the courtyard and roof terraces. The landscaping plan will clearly indicate the quantum of open space provision having regard to any circulation space.
6. A report that specifically addresses the urban design rationale including the proposed materials and finishes of the frontages and public realm along the

front of the side, adjoining Davitt Road. Particular regard should be had to the requirement to provide high quality design and sustainable finishes and include details which seek to create a distinctive character for the overall development. The documents should also have regard to the need to enhance the streetscape and enhance the footpath in the general area.

7. Additional CGIs/visualisations/3D modelling and cross section drawings showing the proposed treatment of the new public street through the site and the proposed development relative to existing and proposed developments in the vicinity, including justification for an increase height at this location relative to the surrounding area. Any contextual drawings along Davitt Road should include the recently permitted SHD application ABP 303435-19.
8. Wind micro-climate study, including analysis of any balconies and upper level roof gardens.
9. A rationale for the proposed car parking provision should be prepared, to include details of local census, mobility split, car parking management, car share schemes and a mobility management plan.
10. A Community and Social Infrastructure Audit.
11. A drawing detailing all areas proposed for Taking in charge.
12. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

### 5.3. Applicant's Statement of Response

A statement of response to the Pre-Application Consultation Opinion, as issued by the Board, was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016, which is briefly summarised as follows:

### **Item 1 Height and Design:**

- Refer to HJL Architectural Response and the Landscape / Townscape Visual Assessment Report.
- A series of design alterations have been made. The roofline has been broken up in order to add variation in the perceived height of the building, assisting in modulating the scale and massing.
- Improved setbacks, design alterations and reduction of the building massing on the eastern and western elevations to provide for a suitable transition in scale and massing to future Z1 redevelopment sites to the east and west. The proposed building heights still range from 3 to 9 storeys, but with a greater degree of sculpting and massing to provide for a more appropriate transition and relationship with adjoining properties / development sites.
- The 3 storey element of the building is setback by at least 11 metres from the site boundary, with the separation distances increasing as the heights increase to fifth and seventh floor level. The revised proposals are considered sufficient to avoid issues of overlooking and overbearing onto the residential properties to the south on Galtymore Road and have sufficient regard to the future development potential of adjoining sites.
- Provision of balconies and terraces, alterations to fenestration and materials, and general elevational refinement, which improves the overall design quality of the scheme, having regard to the prominent location of the site on the southern side of Davitt Road and the Grand Canal Conservation Area, and location on the Luas Red Line public transport corridor.
- The interface between the building and the street has been successfully addressed, with active uses and amenity areas addressing the footpath, which is significantly increased from an area of 193 sq.m at 1.9 m wide to 296 sq.m at 6m wide comprising the public realm enhancements (this area excludes the loading bay/on streetcar parking space and the basement entrance).
- The final scheme incorporates a greater and more varied array of high-quality materials, including 3 different tones of brick. Selected areas will be finished in high quality stone, complementing and contrasting the brickwork.

- The provision of a building of greater height and scale, and of a high quality architectural design, along the Grand Canal within this Inner Suburban location will enhance the legibility of the area.
- Given the width of the existing carriageway, the LUAS track and the Grand Canal along this section of Davitt Road, there is potential to absorb greater building heights in this Inner Suburban / Rail Hub location. The c. 67m separation distance from the front of the site to the buildings on the northern side of the corridor means there will be no overshadowing or overbearing, and the scale of development can be accommodated without adversely impacting on the character of the area, which at present is a relatively hostile urban environment with a poor quality public realm.
- The Landscape / Townscape & Visual Assessment states 'The height of the building is considered to be in proportion to the width of the corridor, being approximately half of the width of the canal / Luas / Davitt Road corridor, so will not be a visually obtrusive or dominant form. Over time, with the development adjacent at the old Dulux site and other new developments as envisaged, this and the other buildings fronting onto Davitt Road will form a new and varied edge to the canal which is considered a positive effect in urban design and landscape character terms, compared with the existing poor quality landscape'.

## **Item 2 Impact on Adjoining Sites:**

- Potential impact on the adjoining Z1 zoned sites to the east and west of the application site has been considered.
- The separation distances of the building from the site boundary have been increased to 5.5 – 12m from the western boundary and 5.6 – 7.6m from the eastern boundary.
- The masterplanning exercise and indicative separation distances illustrates how the development on the subject site can be accommodated appropriately with the redevelopment of the two adjacent sites, with indicative separation distances between blocks of 17-19m on the western side and 18-26m on the eastern side. We note that the Board considered the separation distance of 18m between Block A and B of the permitted SHD scheme under ABP Ref.: 303435-19 on the former Dulux site to the west, to be acceptable.

- Section 9 of the Daylight and Sunlight Assessment, prepared by 3D Design Bureau, provides an analysis of the indicative masterplan prepared by HJL for the Z1 zoned sites, in order to give the Board comfort that the proposals on the subject site has appropriate regard to the brownfield / underutilised lands to the west and east. The assessment undertaken allows 3DDB to state that ‘if the adjoining sites were developed at a similar scale and size of the proposed development it would yield acceptable results’.
- The layout has been altered to provide improved setbacks from all boundaries. In addition, the roofline has been broken up in order to add variation in the perceived height of the building, assisting in modulating the scale and massing of the structure (See HJL Statement of Response).
- The 3 storey element of the building is setback by at least 11 metres from the site boundary, with the separation distances increasing as the heights increase to fifth and seventh floor level. The revised proposals are considered sufficient to avoid issues of overlooking and overbearing onto the residential properties to the south on Galtymore Road and have sufficient regard to the future development potential of adjoining sites.
- The separation distance from the south west boundary of the site has been increased from 4.3m to 11m.
- The proposed development has mitigated any potential overlooking to the existing two-storey houses on Galtymore Road through the setback and screening strategy from roof terraces. The landscape design includes wide planters which both prevent people from approaching the edge of the garden and when planted with evergreen shrubs of 2m height, will prevent all possible overlooking from the gardens. Opaque glass screens are also proposed to be installed on the southern, eastern, and western sides of the roof gardens.
- The 3 storey element of the building is setback by at least 11 metres from the site boundary, increasing further at the setback fifth floor level. This ensures substantial separation distances of c.22.5m from the existing residential properties to the south, which currently have a view onto the existing industrial / warehousing buildings on the site. The revised proposals are considered sufficient to avoid issues of

overlooking and overbearing and result in an appropriate re-use of a brownfield site which is zoned for residential development.

### **Item 3 Residential Amenity:**

- The revised proposal increases the provision of private amenity space to include 144 no. balconies (77% of the total number of apartments) for residential units.
- The proposal provides excess communal amenity space (ground and roof terraces and internal amenity space) to compensate for the 44 no. units that do not have private amenity spaces, as provided for under SPPR8(ii) of the Apartment Guidelines 2020. The 44 no. units that do not have private amenity areas equates to 244 sqm required amenity space. The scheme includes 2,073 sq.m of external communal amenity space, including the courtyard at ground floor level and roof terraces at 3rd, 6th and 7th floor level, which is almost twice the minimum requirement under Appendix 1 of the Guidelines for the 188 no. units (1,092 sq.m). The breakdown of proposed external areas is as follows: External courtyard at ground floor level: 1,587 sq.m.; Roof terraces (3rd, 6th and 7th floor level): 486 sq.m.
- Sufficient compensatory communal amenity space has been provided to justify the non-provision of private amenity space for 44 no. individual units (244 sq.m of amenity space) as provided for under SPPR8(ii) of the Guidelines.
- In accordance with SPPR7(b) of the Apartment Guidelines, the development includes ancillary resident support facilities and resident services and amenities with a total GFA of 1,165 sq.m, including a resident's store, laundry room, bin store, and cycle storage at basement level and a reception / management area, residents lounge, resident's workspace, games room, and gym at ground floor level. The scheme provides for 3.2 sq.m amenity space per unit and is considered to be acceptable having regard to other permitted BTR schemes.
- The revisions made from pre-application stage to final submission, which includes a reduction in unit numbers by 12, the provision of balconies / terraces for 144 no. units, and the quality of the external and internal communal amenity spaces, will ensure that the development provides a suitable quality of residential amenity for future residents.

- The site is located in an Inner Suburban area that is particularly well served by green infrastructure and parks.

The specific information required in the Opinion issued to the applicant has also been submitted.

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

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

- Development complies with Z1 zoning and requirements of a BTR development, as required by SPPR 7 and 8 of the Apartment Guidelines.
- The site is strategically located less than 100 metres from the Suir Road Red Luas Line stop and within 200 metres of the Goldenbridge Luas stop. Therefore, the site represents a highly accessible urban location, suitable for the provision of additional residential units and increased building heights.
- The proposed scale and density of development complies with national planning policies and objectives which seek to greatly increase levels of residential development in urban centres, on public transport corridors and on brownfield sites.
- The application includes a Material Contravention Statement which sets out compliance with the development management criteria under Section 3 of the Planning Report / Statement of Consistency and Building Height Guidelines which allows the Board to approve the proposed building heights under the provisions of SPPR 3.
- Development is consistent with the relevant national and regional planning policy, guidelines issued under Section 28 of the Planning and Development Act (2000), as amended, and the Dublin City Development Plan 2016-2022.
- Section 6 of this report and the Housing Quality Assessment (HQA) and Design Statement prepared by HJL Architects indicates compliance with quantitative standards for residential apartment units as outlined within the Apartment Guidelines 2020.



- The proposed heights and massing have been informed by a Daylight / Sunlight assessment prepared by 3D Design Bureau.
- When viewed in the context of the SHD development to the west and redevelopment of the adjoining Z1 zoned sites, the appropriateness of the proposed heights is apparent, in that they tie in effectively with the building heights established on the former Dulux site, due to the topography and gradient along Davitt Road.
- The Landscape / Townscape & Visual Assessment satisfies the relevant criteria of Section 3.2 and SPPR3 of the Building Height Guidelines 2018 relating to assessment of landscape & visual impacts as it will enhance the public realm of Davitt Road.
- A small number of the apartments are single aspect and north facing (34 no. units). These apartments overlook the Grand Canal amenity areas which is a significant amenity feature and therefore considered to be acceptable and an appropriate architectural and urban design solution for this site. These north facing apartments also meet the average daylight factor recommendation of the BRE Guidelines, and therefore are considered acceptable in this instance.
- No childcare facility is proposed - refer to the Childcare Demand Audit.
- Car parking is considered appropriate having regard to the guidance contained within the 2020 Apartment Guidelines based on the location of the proposed development in close proximity to high quality public transport.
- It is not possible to provide a specific area of public open space, however, public realm improvements along the north boundary of the site which extend the public footpaths are proposed. This is considered to be appropriate in the context of the subject brownfield site and noting the quantum and quality of communal amenity space proposed within the development.

## 5.5. Applicant's Statement on Material Contravention

5.5.1. The application documentation includes a report Statement of Material Contravention, which relates to the issue of Height and is summarised as follows:

- The proposed building heights of 3 to 9 storeys, with a maximum height of 27.85 metres. Section 16.7.2 of the Dublin City Development Plan 2016-2022 includes a

building height restriction of up to 24m for commercial or residential development on sites within 500m of existing and Luas stop.

- The proposed building heights of part 3 to part 9 storeys, over basement, with a maximum height of 27.85 metres, responds to recent government policy on building heights in urban locations well served by public transport. This includes the Urban Development and Building Height Guidelines 2018 and specifically SPPR 3.
- The current limitation of building height as set out in the City Development Plan is inconsistent with the Building Height Guidelines, which acknowledges that to achieve higher density, development of taller buildings is required at appropriate locations.
- The Material Contravention Statement has outlined how the proposal meets all criteria outlined in national planning policy and S.28 Guidelines, particularly the Apartment Guidelines 2020 and Building Height Guidelines 2018. The site is suitable for high density development and the heights proposed, which marginally exceed the 24m height limit in the City Development.

## 6.0 Relevant Planning Policy

### 6.1. National Policy

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

A number of key policy objectives are noted as follows:

- National Policy Objective 3(b): Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, with their existing built-up footprints.
- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Planning Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to

achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

- National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## **Section 28 Ministerial Guidelines**

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

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2020)
- Urban Development and Building Height Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013), as updated
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme

- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

## 6.2. Regional Policy

### **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031**

A number of key Regional Policy Objective (RPOs) are noted as follows:

- RPO 3.2: Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO 4.3: Support the consolidation and re-intensification of infill/brownfield 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 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.
- RPO 5.4 : Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments' Guidelines, and 'Urban Development and Building Heights Guidelines for Planning Authorities'.
- RPO 5.5 : 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.

### 6.3. Local Planning Policy

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

Zoning: Z1 ‘to protect, provide and improve residential amenities’.

I note under Variation 21 of the Dublin City Development Plan 2016-2022 (adopted 10<sup>th</sup> March 2020) the application site (in addition to the adjoining sites to the west and each) was rezoned from Z6 to Z1 – Residential.

Under ‘Purpose of the Variation’ it is stated: The lands reviewed comprise low scale / low intensity employment uses with obvious vacancy and dereliction. Given the inner suburban location of the lands which are serviced by the Luas Red line, this is an inefficient use of these lands. It is considered that a change of land use zoning from Z6 (Employment) to Z1 (Residential) would be appropriate for these lands.

#### Chapter 5 – Quality Housing

Policy 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.

Policy 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.

Policy 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.

Policy QH18: To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

## Chapter 11

The northern section of the site is in the Grand Canal Conservation Area. There are no specific policies in relation to the Grand Canal.

### 11.1.5.4 Architectural Conservation Areas and Conservation Areas

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

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting
2. Re-instatement of missing architectural detail or other important features
3. Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area
5. The repair and retention of shop- and pub-fronts of architectural interest”.

Section 11.1.5.6: Conservation Areas – Policy Application:

New development should have a positive impact on local character. In seeking exemplary design standards, the planning authority will require development in Conservation Areas to take opportunities to enhance the area where they arise.

## Chapter 12 Sustainable Communities and Neighbourhoods

Policy QH12: To promote more sustainable development through energy end use efficiency, increasing the use of renewable energy and improved energy performance of all new development throughout the city by requiring planning applications to be supported by information indicating how the proposal has been designed in accordance with guiding principles and development standards set out in the development plan.

## Chapter 16 Development Standards

Section 16.3.4 Public Open Space – All Development: There is a 10% requirement specifically for all residential schemes as set out in Section 16.10.1.

The Development Plan states ‘Depending on the location and open space context, the space provided could contribute towards the city’s green network, provide a local park, provide play space or playgrounds, create new civic space/plaza, or improve the amenity of a streetscape’.

Section 16.7.2, ‘Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development’ - A height of up to 24m (commercial and residential) is indicated for sites within 500m of an existing/proposed Luas line.

Section 16.10.3: Residential Quality Standards – Apartments and Houses:

Public Open Space -

In new residential developments, 10% of the site area shall be reserved as public open space...A landscaping plan will be required for all developments, identifying all public, communal (semi-private) and private open space. The design and quality of public open space is particularly important in higher density areas...

Public open space will normally be located on-site, however in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or other factors, to locate the open space on site, or where it is considered that, having regard to existing provision in the vicinity, the needs of the population would be better served by the provision of a new park in the area (e.g. a neighbourhood park or pocket park) or the upgrading of an existing park. In these cases, financial contributions may be proposed towards the provision and enhancement of open space and landscape in the locality, as set out in the City Council Parks Programme, in fulfilment of this objective.

## **7.0 Observer Submissions**

- 7.1. In total ten submissions were received, two of which are from prescribed bodies (see Section 9 hereunder). The submissions were primarily made by or on behalf of local residents.

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

#### Principle of Development

- Build-to-rent apartments are not conducive to the sustainable, long-term development of our communities.
- Risk with Build to Let of supply of one type of housing only. They are not conducive to sustainable long term development of our communities.
- There is an over-concentration of studio and single bed units, and not enough family-sized units. There is a lack of three bed apartments for families who wish to stay or settle in the area. Important to have a mix of households.
- Do not want the BTR model, people need to be able to buy if they want to.
- Concerns regarding the longer term operation model of the site to rent to 188 households.
- A comprehensive plan is needed for Davitt Road and Naas Road areas to develop greater infrastructure, community services and facilities.
- This major development is one of a number of developments along Davitt Road that, if granted permission, will increase the population by 4,500 along 5 luas stops from Suir Road to Bluebell. Marlett Properties have been granted permission for 340 units at Muirfield Drive (opposite Bluebell Luas Stop), the proposed Dublin City Council Development at Emmet Road will see 485 units for social housing (adjacent to Drimnagh Luas Stop), BM Durkan Ltd is currently constructing 265 units (at Goldenbridge Luas Stop) and the Miller Heidelberg site is proposing 188 residential adjacent to (Suir Road Luas Stop).
- Covid Restrictions: five weeks is not sufficient time to comment on large scale applications.

#### Height, Density, Design and Layout

- Concerns in relation to scale and height.
- The proposed development breaches the height guidelines in the Dublin City Development Plan, and the precedent which has been set on the canal.



- There is no justification for a height of 9 storeys along that section of the Grand Canal and no justification for 6 storeys at the back of two storey houses that were built in the 1930s.
- A maximum height of 5 to 6 storeys would be more suited to the area and would appease most of the concerns that people have. Other submissions see 3 stories as perfect height.
- The roof gardens on the blocks will effectively add an additional storey to those blocks.
- Different levels not addressed. Davitt Road rises up to the west towards Bluebell. The Durkin site (being developed at the Luas stop) is at a higher level. This development shouldn't try to match that height, but should be lower, as per the natural level road of the road.
- The proposed height does not respect the existing built environment. A height of 4 to 5 floors would be appropriate.
- Proposal will overshadow the canal.
- Density is too high given size of the site.
- One submission welcomes the principle of the development in terms of scale and massing at this location with the benefit of the Luas Line, however, request that layout is amended to show an 11m separation distance from the western boundary to allow both sides to be developed fairly.
- The design of the development lends nothing of architectural interest to the canal and would establish a low aesthetic bar for the development of this area. We need to be cognisant of the long term, cumulative impact of too many dull, uninspired 'cookie cutter' buildings on our City's streetscape.
- Need to take into consideration the architectural heritage of the area.
- Concerns in relation to proximity of the block as it relates to the western boundary, with blocks being within 3m at their closest. It is noted the internal courtyard is 33m which could facilitate the block moving east to reduce impact on site to west.

- The potential impact on the development of the neighbouring DCC site, which will be developed for sustainable, community-oriented social housing. If the Miller Heidleberg site is subjected to over-development at this juncture, this could limit the development potential of that social housing.
- Lack of permeability and openness of this development and lack of provision of any community space.

#### Impact on Adjoining Properties and Residential Amenity

- Overlooking and impact on privacy of residents to the rear on Galtymore Road.
- Decrease of natural light due to size of apartment buildings.
- There may be potential impact of natural sunlight to back gardens of houses on Galtymore Road and a decreased view of the natural skyline from their back windows.
- Development would seriously impede on the adjoining residential properties, being obtrusive due to overshadowing and overlooking.
- Impact on privacy, including from roof gardens, of back gardens of dwellings to the rear.
- Impact of overshadowing and light on two storey dwellings on Galtymore Road/backing onto the site.
- Impact on sunlight/daylight on the adjoining property to the west and its development potential.
- Impact of proposed trees on boundary wall of dwelling to rear and potential overshadowing of garden from trees. This issue needs to be addressed.
- Increase in noise pollution from increase in number of people living in the area.
- Concerns regarding bins/waste management and concerns over rats given proximity to canal.
- Noise level and pollution (dust and dirt) during construction.
- Impact of piling and drilling on foundations of houses and boundary walls.

#### Community Facilities and Amenities

- The lack of civic and green spaces in Drimnagh and the failure of this proposal to add anything of community value in terms of amenity value or public spaces.
- The lack of community gain, generally; the questions around permeability and the openness of this development and the lack of provision of any community space.
- Shortfall of services and community facilities in the area, including GPs, school places, lack of a primary care centre etc.
- The gap in youth services has already been addressed by the Drimnagh Task Force Report in collaboration with Dublin City Council. Dynamic Drimnagh has been formed to work with organisations within the community to improve facilities from health and wellbeing services, lifelong learning, and environmental issues, address planning and development requirements.

#### Construction Impacts

- Hazardous Material may be present on the site and should be disposed of properly.
- Need for a proper construction phase plan.
- Working hours need to be restricted due to proximity to dwellings.
- Impact of piling in the development. Residents should be given prior notice of scheduling of piling.
- Individual surveys of dwellings to rear would alleviate worries of their homes falling down around them and reassure them that should any incident occur there will be repair of any structural damage by the developer/contractor.
- Considering the close proximity of the construction site to neighbouring houses, we would seek that Dublin City Council request An Bord Pleanála to insert a term and condition for the developer to carry out housing surveys on dwellings directly impacted upon during the construction. Should the piling disturb soil, foundations, or the structure of the dwellings, we ask that the problem is resolved between the individual parties (contractor and proprietor).
- A small gesture of regular window cleaning and car wash voucher would be welcomed.

#### Traffic and Transportation

- Limited capacity on existing Luas line in normal peak times.
- No cycle lane facilities along the canal.
- Too many car parking spaces proposed.
- Traffic on Galtymore Road and on Davitt Road is at a standstill. Traffic heading for Naas Road and the N7 impacts on Drimnagh.
- Site is walking distance to schools, shops, medical centre and everything needed. The Luas is right there. The heart of the city is accessible by foot, cycle or scooters and public transport. Access to more car clubs is needed.
- Increase traffic before, during and after construction.
- Insufficient car parking for amount of apartments being built.
- Concern there will be overspill parking onto Galtymore Road.
- Carbon emissions from underground car parks, need to lower emissions.

#### Other Matters

- No community gain proposed.
- Lack of stakeholder engagement from developer.
- Disposal of any hazardous material, including asbestos, in accordance with appropriate licence required. The old SCR garage would without doubt, contain petrol and/or diesel storage tanks underground. It would be expected that these will be disposed of, in accordance with the appropriate licence to remove these.
- Work should not commence prior to 08:00 am and not exceed 18:00 pm Monday to Friday and 08:00 am to 14:00 pm on Saturdays. We would expect that no work would be carried out on Sundays or Bank Holidays. Derogations to start prior to 08:00 am should not be granted and would ask if derogations are to be granted, that they are granted for evening time only.
- To stop global warming every effort needs to be made in the construction sector to build as close to passive building standard as possible. This project needs to follow strict sustainable building guidelines.

## 8.0 Planning Authority Submission

### 8.1. Overview

In compliance with section 8(5)(a) of the 2016 Act, Dublin City Council submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 4<sup>th</sup> May 2021. The report includes, inter alia, summary of third party submissions, summary of views of the relevant elected members, and analysis of main planning issues. The submission includes several technical reports from relevant departments of Dublin City Council. The Chief Executive's Report concludes that 'On the basis of the information received, it is considered that the development as proposed is consistent with the relevant provisions of the Dublin City Development Plan 2016-2022' and conditions are recommended in the event of a grant of permission.

8.2. The CE Report from Dublin City Council is summarised hereunder.

#### 8.2.1. Summary of Inter-Departmental Reports

- Engineering Dept, Drainage Division – No objection; conditions recommended.
- Transportation Planning Division – Broadly satisfied with the proposal. Conditions recommended.
- Environmental Health Officer – No objections in principle. Conditions recommended.
- Planning and Property Development Dept – Applicant has engaged with Dept and are aware of Part V obligations.
- Parks, Biodiversity & Landscape Services – No objections. Conditions recommended. This area is not deficient in public open space based on the City Parks Strategy. Financial Contribution in lieu of public open space recommended.
- Waste Regulations Section – A number of points set out.
- City Architects Division – Development potential of DCC Waste Management Depot (adjoining the site) may be restricted. Greater distance to boundary than proposed 5m should be achieved to facilitate future requirement for 22m between windows. The windows at the east end of the north wing should be omitted or

designed to eliminate views to DCC site. Sunlight and daylight study showing a similar building on DCC site should be carried out.

- Development Contributions Section – Conditions recommended in relation to Bonds; in lieu of open space; and a section 48 development contribution.

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

- Members welcomed the development of the site, but a number of concerns were raised.

#### **Elected Members Comment on Height/Density**

- The bulk and scale of the proposed development is out of context for the area and is in contravention of our Dublin City Development Plan.
- There is no justification for a height of 9 storeys along that section of the Grand Canal and no justification for 6 storeys at the back of two storey houses.
- A maximum height of 5 to 6 storeys would be more suited to the area and would appease most of the concerns that people have.
- There is a need for this and other developments in the area to comply with our current and future Development Plan and An Bord Pleanála should give greater consideration to this in trying to have a consistency in what we are trying to achieve in the city.
- Creation of a precedent for further developments in the area.
- Roof gardens on all of the blocks would effectively add an additional storey.
- The density of 330 units per hectare is over double a rate of other density in Dublin, of 185 units in Reuben Street and 113 in York Street. However, it is half of the proposed density in Donnybrook of 763 per hectare which is also a “Build to Rent.”
- The elevation of the land is higher at the location of this site and we need to be cognizant of that when considering the appropriate height of the blocks of apartments.

#### **Elected Members Comment on Design and Mix of Bedroom Sizes**

- The apartments look very small compared to European standards.

- There seems to be insufficient storage areas in the apartments.
- Concern that 60% of the apartments were not dual aspect.
- Concern in relation to overlooking and overhanging balconies.
- There are too many studio and single bed units, which is not what the area needs. There is a lack of three bed apartments for families in the area.
- The view was expressed that it was an ugly design similar to what we see all over the city. They are trying to integrate the brick finish but it doesn't quite deliver.
- Concern in relation to adequate soundproofing of apartments as the site is close to Luas line where you get the annoying "bong" sound as well as the sound of the Luas passing.
- The site should have been treated in a much more holistic and creative manner in order to enhance its beautiful location along the banks of the canal and a great opportunity is being lost here.

#### **Elected Members Comment on Need for a Local Area Plan**

- Between the five Luas Stops from Suir Road to Bluebell there is going to be an increase of approx. 4,500 people in 1,418 units on south side of canal. We therefore need a comprehensive plan to develop greater infrastructure, community services and facilities and commercial/retail outlets in the area, in tandem with these developments.
- Need for a LAP for Davitt Road similar to one for Naas Road, to develop a more holistic approach.
- This is one of the industrial sites that we rezoned last year, variation no. 21. I voted against all local rezoning on the basis that once they were rezoned we would have no input whatsoever into the plans that are being presented to us and that is the case with this proposed development.
- Question how this proposed development would impact on any future plans for the DCC site next door.

#### **Elected Members Comment on Transportation Planning and Mobility**

- Traffic congestion in the Davitt Road area.

- Having only one access point to site from Davitt Road is a problem and could be hazardous and other access points should be explored.
- There is a massive issue with car parking in Drimnagh area.
- There is provision for 58 car spaces but only 6 of them will have electric charge points which seems very low and will cost the management company further in years to come.
- It's a perfectly located site on the banks of the canal, located close to Luas and a 15 min drive or cycle to city centre and the development of apartments is appropriate for this site.
- 58 car spaces that close to Luas Line and that close to City Centre is not appropriate and the extra car spaces only encourages further traffic congestion in the area.
- Welcome exceedance of the standard for cycle spaces.
- There is a need to develop cycle ways in the area.
- The proposed footpath improvements on Davitt Road are to be welcomed.

### **Elected Members Comment on Community Services/Facilities, Parks and Amenities**

- Concern that Drimnagh is being left behind with regard to community development and there is a lack of civic and green spaces etc. Need for additional civic space in the area.
- There is no community gain for local residents.
- For example some of the proposed retail/commercial developments could be made available to local community groups at zero or reduced rent to be used for community purposes.
- It was questioned if this would be a gated community and if the public realm areas would be open to public.
- We need to ensure that adequate medical and educational facilities are provided locally in tandem with these proposed developments.



- The Drimnagh Task Force Report was launched last week. We need to ensure that developers contribute to and consult with the local youth services with regard to their proposals in order to strengthen these services in the long term.

### **Elected Members Comment on Impact of proposed development on Local Community**

- Concerns about the impact of the proposed development during construction phase on the properties on Galtymore Road which were built in the 1930s and whose garden walls are 90 years old.
- We had a similar situation with the construction of the National Children's Hospital where the contractor BAM had entered into an agreement with local residents to carry out surveys and assess and rectify any damage caused to adjoining properties during construction. We should insert such a condition into any planning permission granted in this case and that local residents will be compensated for any damage caused to their properties during construction.
- The Construction Management Plan does not have any provision for parking for builders during construction phase.
- The construction management plan needs to be circulated to local community and if there is any asbestos or oil tanks on site this needs to be safely removed and disposed of.
- There also needs to be adequate mitigation measures with regard to dust and disturbance during construction.
- In the light impact study the areas around Devoy Road, Stephens Road, O'Leary Road and Kickham Road are shaded out and are not referenced and they don't say what the impact will be on peoples light on that side of canal. This is a serious flaw in the report.
- Concern about overlooking of houses on Galtymore Road.
- It resembles a fortress which is not part of or inclusive of the surrounding area.
- The proposed development is an assault and is hostile to the local community and has no aesthetic whatsoever.

### **Elected Members Comment on Build to Rent Model**

- “Build to Rent” is not acceptable, considering it is not affordable housing, in a very suitable, close to city location on the banks of the Grand Canal.
- If this is more foreign investment, then no tax is returned to government to fund local authority and community needs, and rent payment leaves the country.
- It is wrong to have such an overconcentration of build to rent developments at a time when we have no security of tenure and no system of fair rent, similar to what they have in continental Europe, for people who still want to rent. Legislation is required to regulate same.
- At a recent meeting of the Drimnagh Residents Association somebody said that they were told by the developer that the reason it is all build to rent is because the banks were refusing to lend for any other model of accommodation at present. This would be of concern if true as an overconcentration of one particular type of tenure would be very disruptive for that area.
- It would be preferable to see affordable housing for purchase on this site.
- There should be a mix of build to rent and build to buy.
- It was stated that the development could be described as build for profit rather than build for rent.

### 8.2.3. **CE Report: Planning and Technical Analysis**

#### **DCC Comment on Principle of Development**

- Acceptable and Build to Rent justifiable at this location.

#### **DCC Comment on Child Care Facilities:**

- It is considered that the proposal to have no childcare facility within the scheme is acceptable in principle.

#### **DCC Comment on Community and Social Infrastructure:**

- Social and Community Infrastructure Audit/Assessment. It is concluded that the extant provision in the surrounding area will result in a good standard of amenity and accessibility to necessary infrastructure for future residents and the wider area.

#### **DCC Comment on Public Open Space:**

- Section 16.10.3 of the Development Plan states that “Public open space will normally be located on-site, however in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity...”. Dublin City Parks Services in their report ‘welcome the proposals of improvement of the public realm along Davitt Road, which it is considered will contribute both to improve the amenity of the streetscape and the wider Grand Canal conservation area. With regards to the shortfall it is recommended that the deficit can be provided as a financial contribution in lieu in accordance with 16.3.4 of the City Development Plan. Should the Board not consider this appropriate then a full financial contribution in lieu of public open space is recommended or a full 10% of public open space/public realm should be provided. The public open space/public realm proposals will not be taken in charge and suitable conditions safeguarding public access and use are required.” In light of the above it is recommended that if the Bord decide to grant this scheme that a condition be attached that a financial contribution in lieu of public open space be attached.

**DCC Comment on Communal Open Space:**

- The standards for communal open space are above the minimum standards required. This is welcomed by the Planning Authority. Dublin City Council Parks Services in their report note that “Higher level roof terraces should provide weather proof seating areas/ facilities, such as pods or conservatories, to allow continued use of these spaces by residents in adverse weather. Private open space is at 74% provision with no balconies for 44 units and proposed is compensated by alternative provision of communal open space at roof terrace levels.”

**DCC Comment on Private Open Space:**

- The Planning Authority welcome the provision of private balconies, to 74% of the units. This is an improvement on the previous submissions. The Planning Authority also welcomes the overprovision of communal open space in this scheme.

**DCC Comment on Residential Support Facilities /Services:**

- The facilities provided in the development are considered reasonable for a scheme of this size.

**DCC Comment on Impact on Adjoining Properties:**

With regard to properties to east and west, the following condition is recommended

- The proposed East Wing, as shown moved about 5m west from DCC boundary, so that no part of this wing is within 11 metres of the adjoining boundary to the east of the site. Currently a distance of circa 7 metres is indicated. This will enable the adjoining lands to be developed in a similar way, ensuring adequate window to window separation distances.
- Likewise the West wing should be moved so that no windows or balconies are within 11m of the boundary it faces.
- The proposed windows of the east end of the North Wing will need to be omitted, or designed to eliminate views towards DCC site. These windows are desirable but not essential to the proposed apartments. These are the windows on the eastern gable to units D-01-15, D-02-17, D-03-16, D-04-16, D-05-15, D-06-15, and D-07-10.
- The proposed windows on the west end of the North Wing will need to be designed to eliminate views towards the adjoining lands to the west of the site. These are the windows to D-01-04, D-02-04, D-03-03, D-04-03, D-05-02, D-06-02, D-07-01.

With regard to properties on Galtymore, the CE Report states the following:

- In terms of the amenities along Galtymore Road, the bulk and massing of the blocks to the rear have been stepped down in height from 9 storeys onto Davitt Road, down to 6 storeys and then down to 3 storeys to the blocks closest to Galtymore Road. It is considered that adequate setbacks have been provided to the south of the site. Privacy screens have also been provided on the roof terraces which will reduce the impact on the houses to the south. Due to the orientation of the development site, it is not considered that the massing and height will unduly impact on the residential amenities of properties along Galtymore Road.

**DCC Comment on Impact on Sunlight and Amenity Space & Wind Analysis:**

- The planning authority is generally satisfied with the proposed setbacks, from adjoining sites, and taken together with the suggested amendments as mentioned above, that the scheme would not have undue impacts on adjoining sites. It is

important that the roof terraces have adequate screening to prevent any overlooking to adjoining sites.

**DCC Comment on Height:**

- The Planning Authority considers the height onto Davitt Road, having regard to the location of the site opposite the Grand Canal, a Conservation Area, is excessive, and would like to see the height reduced by a minimum of one floor onto Davitt Road. The Bord, if so minded, should consider a condition which omits the 8th floor of this scheme, which will be an overall reduction of 3 two bedrooms units and 7 one bedroom units, so a reduction in 10 units overall. This together with the suggested setbacks on the eastern and western elevation and window treatment on the east and western elevation of the block will mitigate any potentially negative impacts.
- Materials and Finishes: A selection of bricks are proposed including a white brick, a red brick and also a grey brick. In terms of windows and doors, a high quality aluminium finish is proposed. The proposed finishes appear to be of high quality. A sample of the materials and finishes and colour of brick should be agreed in writing with the Planning Authority prior to commencement of above ground works on site.
- Management Strategy: A management plan has been submitted for the BTR scheme.
- Part V: 18 units are proposed in total, comprising of 6 number 2 bedroom units and 3 number one bedroom units. Details of the location of these units should be agreed with DCC housing section. The applicants has engaged with the Housing Department in relation to the above development and are aware of the Part V obligations pertaining to the site if permission is granted.

**DCC Comment on Transportation Issues:**

It is recommended that these conditions be attached in the event that planning permission is granted.

- Drainage/Surface Water Issues: Dublin City Council Drainage Division in their report have no objections to the proposed development subject to a number of conditions.

**DCC Conclusion:**

- Most of the issues above in terms of noise, dirt, and working hours can be dealt with by conditions.
- The Planning Authority would concur with the observations that the height of the block, especially fronting the canal is excessive. The issue of the proximity of the development and its impacts on adjoining properties to the south, east and west of the site can be dealt with by certain amendments to the scheme either by setting back the block from the boundary or alternatively designing windows in such a way so they do not directly overlook the adjoining sites.

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

The Chief Executive's Report states that on the basis of the information received, it is considered that the development as proposed is consistent with the relevant provisions of the Dublin City Development Plan 2016-2022. The Planning Authority submits this report to An Bord Pleanála in accordance with the requirements of Section 8(5)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and recommends that An Bord Pleanála consider a grant of permission.

A number of conditions are recommended, including the following:

- C2: The proposed development shall be amended as follows:
  - a) The northern block onto Davitt Road shall be reduced by at least one storey. In this regard the Bord should consider the omission of the 8th floor of this scheme, which will be an overall reduction of 3 two bedrooms units and 7 one bedroom units.
  - b) The proposed East wing shall be moved circa 5m west from the boundary, so that no part of this wing is within 11 metres of the boundary to the east of the site. In the interests of clarity the East wing comprises of Apartments D-00- 22, D-00-21, D-00-20, D-00-16, D-00-17, and D-0019, and all units on other floors above these units.
  - c) The western wing shall be moved to the east so that separation distances of 11 metres from the boundary are achieved. In the interests of clarity the West wing comprises of Apartments D-00-01, D-00-22, D-00-24, D-00-23, and all units on other floors above these units.
  - d) The proposed windows of the east gable end of the North wing should be omitted, or designed in such a way to eliminate views towards the site to the 32 east. These

windows are desirable but not essential to the proposed apartments. These are the windows on the eastern gable to units D-01-15, D02-17, D-03-16, D-04-16, D-05-15, D-06-15, and D-07-10.

e) The proposed windows on the west end gable of the North wing will need to be designed to eliminate views towards the adjoining lands to the west of the site.

These are the windows to D-01-03, D-01-04, D-02-03, D-02-04, D-03- 02, D-03-03, D-04-02, D-04-03,D-05-01, D-05-02, D-06-01, D-06-02, D-07-01.

- C3: a) Details of all privacy screens, including height and materials to all of the roof terraces to be submitted as well as landscaping proposals for these terraces. b) Higher level roof terraces should provide weather proof seating areas/ facilities, such as pods or conservatories, to allow continued use of these spaces by residents in adverse weather.

- C26: The developer shall pay the sum of €4000 per residential unit to the planning authority as a contribution under section 48 of the Planning and Development Act 2000 (as amended) and the Dublin City Development Plan, in lieu of the provision of public open space or in lieu of part of the provision of public open space. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate.

## 9.0 Prescribed Bodies

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

- Transport Infrastructure Ireland
- National Transport Authority
- Irish Water
- Minister for Culture, Heritage and the Gaeltacht (built heritage)
- An Taisce- The National Trust for Ireland
- The Heritage Council
- Dublin City Childcare Committee

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

- 9.1. Irish Water: The applicant has engaged with Irish Water in respect of design proposal and has been issued a Statement of Design Acceptance for the development.

Water: In order to accommodate the proposed connection at the premises upgrade works are required to the existing Irish Water network. Approx. 50 metres of 150 ID new main to be connected from the site location to the existing network, 450 HPPE via existing 125mm MDPE. The applicant will be required to fund this extension which will be delivered by Irish Water. Any consents required for works not in the public domain will be the responsibility of the applicant to obtain.

Conditions recommended.

- 9.2. Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media: (Dated 12<sup>th</sup> April 2021)

- Nature Conservation: Note that there is Japanese Knotweed exists on the site. In relation to the bat survey, it is noted that a dusk bat activity survey in July recorded appearance of some bats.

Recommend if planning permission is granted then the following condition should be inserted.

a) "That a Japanese Knotweed Management Plan should be submitted to the Planning Authority before the commencement of development on site , this plan to include measures to eliminate Japanese Knotweed from the development site and dispose of any Japanese Knotweed contaminated material by either its destruction or burial in sealed cells on site , or its removal off site under licence from the National Parks and Wildlife Service of the Department of Housing Local Government and Heritage for its disposal or destruction in an approved facility. Reason: To control the spread of an invasive plant species capable of damaging buildings and other structures and to protect biodiversity."

b) That dusk and dawn bat activity surveys and a bat roost survey of the interior of the former Heidelberg/ Miller Building shall be carried out in the summer of 2021 and repeated immediately before the demolition of this building, such demolition only to



proceed under the supervision of bat specialist licensed to handle bats following receipt of a derogation licence from the NPWS to destroy any bat roosts on the premises. Reason: To avoid the injury or death of bats afforded a regime of strict protection under the Habitats Directive (92/43/EEC) .

c) That a friendly lighting regime and bat boxes and bat bricks should be installed in the proposed development in accordance with the proposals set out in the Ecological Statement and Bat Report supporting this planning application. Reason: To conserve bat species.

d) That swift nest boxes shall be installed in the proposed development, their number, types and locations on the apartment blocks to be agreed in writing with the Dublin City Council Biodiversity Officer prior to the commencement of any works on the site. Reason: To promote biodiversity by providing nesting sites for the swift, a bird species in decline in Dublin and known to occur in this area of this city.

- In relation to Archaeology, the report states that the National Monuments Service have examined the submitted Archaeological Assessment Report (Irish Archaeological Consultancy Ltd, February 2021) and that there are no further archaeological requirements in this case.

## 10.0 **Assessment**

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

- Zoning / Principle of Development
- Density
- Height, Scale and Design
- Visual Impact and the Grand Canal
- Impact on Development Potential of Properties to West and East
- Impact on the Amenities of Neighbouring Properties

- Future Residential Amenity
- Public Open Space and Social Infrastructure
- Ecology and Landscaping
- Traffic, Transportation and Access
- Infrastructural Services including Flooding Issues
- Archaeology
- Material Contravention

These matters are considered separately hereunder. Furthermore, Appropriate Assessment and Environmental Impact Assessment Screening and are addressed in Sections 11.0 and 12.0 hereunder.

#### 10.1. **Zoning/Principle of Development**

10.1.1. The site is zoned Z1 'To protect, provide and improve residential amenities'.

Residential use is a permissible use. It is also proposed to provide two commercial units to this development, which are identified in the description of development as being 'a class 1 shop, or class 2 office/professional services, or class 8 medical centre, or class 11 gym or restaurant/café use'. Shop (local) is a permissible use under Z1; class 2 professional services can relate to a wide range of uses and as it is not clear what the applicant is proposing, this type of use could potentially be deemed not to be permissible or open for consideration; I note office as per class 3 is not listed and is therefore deemed not to be permissible; a medical centre is a permissible use; gym being a cultural/recreational building and use, is a permissible use; and a restaurant is an open for consideration use. While the addition of ground level activity at this location through the provision of commercial uses is welcomed, I consider the nature of those uses should be refined to ensure compliance with development plan policy. Should the Board be minded to grant permission, I consider the proposed commercial units should be restricted. This issue could be addressed by way of condition.

10.1.2. Concerns have been raised in submissions in relation to the lack of a plan for this area, which has seen a number of sites rezoned to Z1 and the number of developments along Davitt Road between the five Luas stops with potential increase

in population of 4,500 people. Concern is also raised in relation to the provision of Build to Rent at this location, with such a model considered not to be conducive to the sustainable long term development of communities; concern in relation to the operation model in the long term; lack of choice with regard to house type; and not enough family sized units.

10.1.3. In relation to the issue of a lack of a plan or local area plan for this area, I note that the application lands and the adjoining lands, which were recently rezoned by the elected members, have no requirement on them for the creation of a plan for the area. The proposed development is consistent with the land use zoning objective set out in the Dublin City Plan 2016-2022 (subject to a condition in relation to the commercial use element) and the provisions of the Planning and Development and Residential Tenancies Act of 2016 (as amended) in respect of strategic housing applications.

10.1.4. Chapter 5 of the Apartments Guidelines for Planning Authorities, 2020 defines 'build to rent' development as 'Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord'. It is recognised that this type of housing development has a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs in Ireland. It is envisaged that such purpose-built development would comprise higher density urban apartment schemes, to enable the delivery of viable long-term residential accommodation for rental purposes, and in particular to provide housing solutions for those for whom home-ownership may not be a priority or needed in their particular circumstances. It is a further requirement of the Apartment Guidelines that any such build-to-rent development remains owned and operated by an institutional entity, and that this status will continue to apply for a minimum period of not less than 15 years. The Guidelines also specify that no individual residential units may be sold or rented separately, during that period.

10.1.5. While submissions consider this area is an inappropriate location for Build to Rent, I would highlight the application site is located within the area identified in the RSES as 'Dublin City and Suburbs', within the Dublin Metropolitan Area. Dublin City and Suburbs accounts for about half of the Region's population or a quarter of the national population, as well as being the largest economic contributor in the state.

The site is highly accessible by Luas and by bus, as well as being within walking distance of a range of city centre services and amenities, and connected to a large range of employers within a short commuting distance. I am satisfied that a Built to Rent scheme is suitable and justifiable at this location. I have considered the concerns raised in the submissions received, however I am of the opinion that the proposal will provide a viable housing solution to households where home-ownership may not be a priority and in an area where the main housing provision is family type two storey dwellings. The residential type and tenure provides a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland and I am satisfied in this regard. Concerns raised in submissions in relation to the negative impact of Build to Rent developments on established communities is not substantiated and such a scheme will not necessarily attract a transient population. I note the applicant has submitted a BTR Management Plan and I have no reason to believe there will be significant issues with the long-term management of the development. I consider that the proposed Build to Rent accommodation overall is acceptable at this location and is in line with the overarching national aims to increase housing stock, including in the rental sector, as set out in various policy documents, including inter alia Rebuilding Ireland – Action Plan for Housing and Homelessness (2016).

## 10.2. Density

- 10.2.1. The proposed development comprises 188 units on a site of 0.57ha with a stated density of 330 units per hectare.
- 10.2.2. A number of observer submissions have expressed concern in relation to the density and scale of the development given the size of the site, noting the level of development in the area of the Luas stops proximate to the site is already significant.
- 10.2.3. The National Planning Framework (NPF) promotes the principle of ‘compact growth’ at appropriate locations, to enable people to live nearer to where jobs and services are located with a requirement that at least half of new homes within Ireland’s cities are to be provided within their current built-up footprint. Of relevance, are objectives 27, 33 and 35 of the NPF which prioritise the provision of new homes at locations that can support sustainable development, encouraging increased densities in settlements where appropriate. Section 28 guidance, including the Sustainable Residential Development Guidelines 2009, the Urban Development and Building

Height Guidelines 2018, and the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020, assist in determining appropriate locations for increased densities.

- 10.2.4. The application site is located in the inner suburban area of Dublin City, within circa 150m of the Goldenbridge Road Luas Stop and circa 158m of the Suir Road Stop, within approx. 240m of the 123 bus stop on Galtymore Road (frequency of 10mins during the day), within 1 km of St. James Hospital, within 1.4km of Crumlin Childrens' Hospital, and within walking distance of a number of services and amenities. The Dublin MASP, as set out in the RSES, highlights the Luas Corridor as a strategic development corridor, where compact growth is supported.
- 10.2.5. The Guidelines on Sustainable Residential Development in Urban Areas (SRDUA) states that for sites located within a public transport corridor, it is recognised that to maximise the return on this investment, it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns, including higher densities. The guidelines state that minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, ie within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station.
- 10.2.6. The Urban Development and Building Height Guidelines (2018) state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels. The guidelines caution that due regard must be given to the locational context, to the availability of public transport services and to the availability of other associated infrastructure required to underpin sustainable residential communities.
- 10.2.7. The Sustainable Urban Housing Design Standards for New Apartment Guidelines (2020) note that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector. The guidelines address in detail suitable locations for increased

densities by defining the types of location in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations.

- 10.2.8. The site is in my opinion a 'Central and/or Accessible Urban Location' as defined under Section 2.4 of the Apartment Guidelines 2020 and is a suitable location for higher density residential development. I am satisfied that the site is well placed to accommodate high density residential development given its proximity to high capacity public transport of the Luas, within walking distance of significant employment and within short commute (walking, cycling, Luas, bus) of a range of employment options, and within walking distance of a range of services and amenities. I am of the opinion that the delivery of residential development on this prime, underutilised, serviced site, in a compact form comprising higher density units would be consistent with policies and intended outcomes of current Government policy, specifically the NPF, which looks to secure more compact and sustainable urban development with at least half of new homes within Ireland's cities to be provided within the existing urban envelope (Objective 3b).
- 10.2.9. In terms of local policy, Dublin City Development Plan states the council will promote sustainable residential densities in accordance with the Guidelines on Sustainable Residential Development in Urban Areas (as considered above). With regard to plot ratio, I note it is indicated to be 3.3 and site coverage is 50%. The Dublin City Development plan sets out an indicative plot ratio for this site of 0.5-2.0, stating a higher plot ratio may be considered adjoining major public transport termini and corridors, which is applicable to this site. Site coverage is within the range indicated in the development plan of 45%-60%.
- 10.2.10. The overall acceptability of this density is subject to appropriate design and amenity standards, which are discussed further in detail hereunder.

#### Dwelling Mix

- 10.2.11. I note concerns raised in submissions in relation to lack of unit mix and family size units. SPPR 8 of the Apartment Guidelines (2020) states that restrictions on dwelling mix do not apply to BTR development. The development proposes 11% of units will be studio units, 42% will be one bed and 47% will be two bed. In my opinion the proposed development will provide increased diversification of housing typology

in the area which at present comprises predominately two storey dwelling houses, and would in my opinion improve the extent to which it meets the various housing needs of the community.

### 10.3. Height, Scale and Design

- 10.3.1. Submissions have raised concerns in relation to suitability of the height, scale and massing of the development relative to the two storey dwellings which back onto the site and to the impact on the development potential of the lands to the east and west. It is contended that the submitted height does not respect the existing built environment and that the height should respect the variation in levels of the street which rises to the west. Concern is also raised in relation to the impact of the proposed height on the Grand Canal to the north/front of the site, which is an ACA and concern is raised in relation to overshadowing of the Grand Canal and detracting from its amenity value. It is submitted that the proposed development breaches the height guidelines in the Dublin City Development Plan, and the precedent which has been set on the canal.
- 10.3.2. The submitted CE Report considers the height of the proposed development at nine storeys onto Davitt Road is excessive having regard to the proximity of the two storey dwellings to the rear of this site, its proximity to the Grand Canal opposite the site, and the designation of the Grand Canal as a conservation area. The CE report states that concerns have been expressed in previous pre-application meetings regarding 9 storeys at this location and heights of 7-8 storeys would be more appropriate fronting onto Davitt Road and the Canal which is a designated conservation area. The CE Report recommends a condition that the northern block onto Davitt Road should be reduced by at least one storey, to a maximum of eight storeys, which would result in the omission of 10 units.
- 10.3.3. The layout of the scheme has been informed by the existing site context, including factors of the existing two storey residential context on Galtymore Road to the south/backing onto the site and context of the highly accessible location of the site benefitting from high quality public transport of the Luas (the site being within 150m-158m of two Luas stops), within the inner suburbs of Dublin City, within walking distance of a range of facilities and amenities and being within a short commuting distance to the city centre and a range of employment zones. The site development

is also influenced by the development potential of adjoining sites to the east and west which have been similarly rezoned to Z1 along with the application site in recent times.

- 10.3.4. I have considered the impacts of height in terms of residential amenity of neighbouring properties and the quality of accommodation for future occupants in more detail in Sections 10.7 and 10.8 hereunder.
- 10.3.5. The proposed development is for one u-shaped building over a basement level, with staggered heights ranging from 3 storeys/10.16m high to 9 storeys, with a maximum height proposed of 27.85m high. The Dublin City Development Plan 2016-2022 states, under section 16.7.2, guidance in relation to 'Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development'. A height of up to 24m (commercial and residential) is indicated for sites within 500m of an existing/proposed Luas line.
- 10.3.6. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) sets out the requirements for considering increased building height at various locations and recognises the need for our cities and towns to grow upwards, not just outwards. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment. The applicant has addressed section 3.2 in the submitted Material Contravention Statement. In addition to the architectural drawings and design statement submitted, I note a 'Landscape Townscape and Visual Assessment Report' (LTVA) and accompanying 'CGI and Verified Views Brochure' have been submitted, in addition to a Daylight and Sunlight Assessment Report and Microclimatic Wind Analysis and Pedestrian Comfort Report. I note the northern part of the site area is designated as part of the Grand Canal Architectural Conservation Area (ACA). I have considered the ACA status and the overall context of the site in my assessment. I have had regard to all documents submitted and submissions made and have viewed the site from various locations. I have addressed the issue of a possible material contravention of the Dublin City Development Plan 2016-2022 in section 10.14 below, and I provide further assessment of height against the criteria in section 3.2 of the Building Height Guidelines hereunder given the development plan indicates a



blanket maximum height of 24m for the application site, while the proposed development has a height of 27.85m.

Section 3.2 Criteria: At the scale of the relevant city/town

10.3.7. The first criterion under section 3.2 relates to consideration of the site at the scale of the city. The site falls within the definition of a 'central and/or accessible site' as defined in the Apartment Guidelines 2020. I note the site is well served by public transport, with a high capacity frequent Luas line running in front of the site with two stops within 160m of the site. The site is also in proximity to a frequent bus route on Galtymore Road as well as being within walking and cycling distance of a range of employment centres and facilities and amenities. There is a separate pedestrian path along the Grand Canal, in addition to the footpath along Davitt Road. Observer submissions note the peak time pressures on the Luas and question its capacity. The Luas is an existing high capacity, high frequency, mode of transport proximate to the site capable of accommodating large numbers of people, more than can be accommodated in a private car. This area offers choice of modes of transport for peak hour movements. There are plans to continually upgrade and improve all such modes of transport, including cycle facilities, which is not to say the existing options available are not high frequent or efficient. Peak hour pressures are common and to be expected in urban areas and were this to be the basis of a refusal, no development would take place in our towns and cities. To develop sustainable communities, developments must be designed to enable a shift in modal split from private car to walking/cycling/public transport. I consider the site is ideally located and serviced to build on such sustainable options. Supporting a shift in modes of transport to walking and cycling will ultimately benefit all in the community and the proposed development provides for a high level of connectivity into the surrounding network in this regard.

10.3.8. I have had regard to the character of the area in which the development is located, including its part designation within the Grand Canal ACA. CHC4 of the City Development Plan states that it is council policy 'To protect the special interest and character of all Dublin's Conservation Areas'. The Grand Canal ACA crosses the northern portion of the subject site and extends along the length of the canal. The conservation designation relates to the overall amenity value and characteristics of the Grand Canal environment although there are no specific provisions in relation to

this in the development plan. The Grand Canal is also a pNHA, designated a Blue-Green Corridor in Dublin City Council's Strategic Green Network, and is a City Centre Green Route. The Dublin City Development Plan states that 'new development should have a positive impact on local character. In seeking exemplary design standards, the planning authority will require development in Conservation Areas to take opportunities to enhance the area where they arise'.

10.3.9. The submitted Landscape/Townscape Visual Impact Assessment Report (LTVA) and accompanying CGIs, appraises the effect the proposed development will have on the receiving environment in terms of the quality of landscape, both physically and visually, and rates the proposed impact of the development as viewed from around the ACA from a number of identified visually sensitive receptors (this is examined in more detail in section 10.5 hereunder). The LTVA states that "The area is in a redevelopment transitional phase, to comply with the new zoning of the area, from industrial to mix-use high-density residential development. This site will be part of the first phase of landscape character change along Davitt Road. This development and the development under construction at the former Dulux site are part of this phase. A new skyline will develop along Davitt Road in the coming years, with the proposed site likely to be the tallest of the buildings, creating a focal element in the building line. This change will impact the character of this section of the Grand Canal corridor. The site is physically separated from the canal by Davitt Road and the Luas line, but the proposed development will define the edge of the corridor, similarly to how the canal is defined within Dublin City'.

10.3.10. I note from views VM3, VM12, VM6 and VM4 that the development will clearly be visible from the ACA, however, I am of the opinion that the proposed development will not detract from the character of the Grand Canal and the impact would not be so great as to warrant the removal of a floor, as recommended in the submitted CE Report. The development will remove vacant industrial units which detract from the ACA and replace them with a residential development which will visually improve the area and provide for additional overlooking and activity along this significant amenity, to the benefit of future occupants and to canal users. I have considered the ACA status of the Grand Canal, its overall width, the scale, height and set back of the proposed development from the edge of the Canal, and I

consider overall the proposal will have a positive impact on this section of the Grand Canal (see also section 10.5 hereunder).

- 10.3.11. With the recent rezoning of this site to Z1 as well as the rezoning of the adjoining sites, it is clear this area will undergo further regeneration and revitalisation of underutilised and vacant sites, particularly given the proximity of such sites to the existing high capacity Luas line. In my opinion, the development as proposed will integrate with and enhance the adjoining public realm, providing for an active edge with a staggering of massing and height, which will add to the urban form at this location, as well as improved legibility.
- 10.3.12. The site has in my opinion had sufficient regard to the adjoining sites in its design/massing/distance to boundaries and to the residential context of Galtymore Road to the south/rear (see sections 10.6 and 10.7 hereunder). While the design proposes a strong urban edge to Davitt Road with a height of 9 storeys, the development reduces in scale and massing to the rear of the site where it is proximate to the rear of two storey dwellings fronting Galtymore Road. The proposed development will be of increased scale compared to the wider established form for dwellings on Galtymore Road and will be visible from public streets, over the top of existing dwellings, however, this visibility is not harmful in my view and is appropriate for the urban location of the site, where a varied density and scale of development is to be expected. While the increased scale will alter the backdrop to the ACA and of these two storeys dwellings, I consider this impact to be acceptable. This is specifically in light of the quality of design for the proposed development. Overall, I am of the opinion that the redevelopment of the subject site is an opportunity to improve the contribution to the streetscape and I consider that the proposed predominately residential use would be beneficial to the character of the area.
- 10.3.13. I note concerns raised in submissions that the height of the development has not taken account of the topography of the area, with the proposed building height matching/slightly above the permitted 3-7 storey height of the SHD development to the west (ABP-303435-19), despite the ground levels on that site being higher. I note the street/Davitt Road rises as it travels west, therefore when the contiguous view is considered the highest parts of the buildings are similar in overall height, however, I consider the modulation in height across this building and that of the site being developed adequately provides for a varied building height which adds visual interest

and contributes to the visual amenity of the area. I do not consider the overall height of the proposed development must reflect the topographical differences between the two sites.

Section 3.2 Criteria: At the scale of district/neighbourhood/street

10.3.14. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood and streetscape, I note the proposed development will alter the visual character of the area, however, I consider that on balance this is consistent with emerging trends along the Luas line and is consistent with new development in the city generally being at an increased scale, more appropriate to the urban context and accessibility of the area. The proposal in my opinion responds appropriately to the urban edge along Davitt Road and contributes to the legibility of this stretch of the Grand Canal and activity along this frontage.

10.3.15. With regard to the proposed design, I note the varied height to the rear and stepping of the building from the sides which supports a transition in scale from the two storey dwellings to the rear and from the east and west boundaries. This ensures the massing of the development is modified to avoid a monolithic profile.

10.3.16. I note this area is evolving along the line of the Luas with more mixed typologies and increased densities being permitted in what historically has been a two-storey suburban area with poor public transport infrastructure. The area is evolving and sites in this area will in time be consolidated to maximise investment in public transport, as supported by the recent rezoning of the application site and its adjoining sites from Z6 to Z1. To support the development of sustainable communities, the creation of mixed forms and typologies alongside the existing built form is required, which will also contribute to the architectural interest of the area as it evolves alongside the existing two storey urban form.

Section 3.2 Criteria: At the scale of site/building

10.3.17. The section 3.2 criteria under the Building Height Guidelines refers to considerations on daylight and overshadowing. I discuss this in detail below in sections 10.7 and 10.8 of this report. The submission of specific assessments is also referenced in the guidelines, including wind microclimate, consideration of telecommunications, consideration of height on birds etc. These issue and others have been covered in submitted reports, (as listed in section 3.5 above and

referenced throughout this report), which are sufficient to assess a development of the scale proposed.

10.3.18. Overall, I consider that the proposed development satisfies the criteria set out in section 3.2 and SPPR3 of the Building Height Guidelines. The proposal adequately addresses the issues of proximity to high quality public transport connectivity; contribution to the character and public realm of the area; to place-making; to the urban streetscape; to legibility and to the mix of uses/typologies in the area. I consider in relation to the visual impact and impact on the streetscape that the proposal will provide for a strong well-designed building form at this highly accessible and serviced site. The provision for improved activity and engagement at street level and enhancements to the public realm is positive from an urban design perspective. The proposal contributes to the character of the Grand Canal and contributes to the public realm, while also having regard to the existing context of dwellings to the rear through its massing and design. Having regard to all of the above, I consider the site has the capacity to absorb a development of the nature and scale proposed and the design, height and layout are in my view acceptable.

#### 10.4. **Visual Impact and the Grand Canal**

- 10.4.1. Many observers comment that the development will have a dominant presence at the Grand Canal and detract from its visual amenity. Observers raise concerns that the development will overshadow the Grand Canal.
- 10.4.2. The CE Report considers that one floor should be removed from the building given its potential visual impact on the ACA.
- 10.4.3. The application is accompanied by a Landscape/Townscape Visual Assessment Report (LTVA). The proposed impact of the development on the ACA as viewed from a number of identified visually sensitive receptors is examined. A series of views were selected from both sides of the canal. The primary landscape receptor is stated to be the Conservation Area of the Grand Canal Corridor. The proposed development will be clearly visible along the canal, as per VM4, VM5, VM6, and VM12 in the submitted CGIs report.
- 10.4.4. The LTVA report considers 'The height of the development (27.85m) is substantially less than the width of the canal corridor (50m). This proportion means that the canal will maintain the primary visual element and not be overwhelmed by the new

development. The proposed development will provide visual interest and definition to the canal corridor, through urban form, definition, streetscape animation and material used in the elevations, overall, and while it changes the visual corridor somewhat, it creates an improvement to the existing visual condition’.

10.4.5. I have reviewed the images presented in the report and in the submitted CGIs and all other drawings and documents, including the submitted sunlight-daylight analysis, and I am satisfied that while the development will be visible as a local landmark, the design and finishes are of high quality, will create interest and aid legibility in the wider area and enhance the public realm at this location. It is inevitable that any higher density development at this site is likely to contrast with surrounding development. The wider visual impacts are however generally acceptable in my opinion and will not detract from the Grand Canal ACA but will contribute to and support this amenity.

#### **10.5. Impact on Development Potential of Properties to West and East**

10.5.1. The application site and the adjoining sites were rezoned from Z6 to Z1 in March 2020. The former dulux warehouse approx. 112m west of the site is currently under construction, with the development of a 3-7 storey (24m high) residential apartment development. The submitted documentation includes a Masterplan document which addresses the development potential of the sites adjoining to the west and east of the application site. The Masterplan assumes a footprint and scale of development on each of the sites in order to assess the impact of proposed distances to boundaries on privacy/overlooking and sunlight-daylight impacts, as well as the potential visual impact with a scale and massing proposed similar to this site. The Masterplan (see page 21 of submitted document) shows to the east an indicative building block positioned 11m-19m off the boundary (versus 7m/partially 12m on the application site). To the west an indicative building block is indicated which is 14m off the boundary (versus 4.6m-12m on the application site). The overall height indicated is similar to that proposed. Section 9 of the submitted Daylight and Sunlight Assessment includes an ‘Additional Study – Hypothetical Masterplan’, which assesses the impact of the proposed development on future side windows on the adjoining sites in terms of ability to achieve VSC levels in accordance with guidance, assuming windows all along the side of a future block, facing into the site.

- 10.5.2. The CE Report and associated Appendix A report from the Architect's Department considers the development potential of the site to the east, which is in the ownership of DCC, would be negatively impacted due to proposed side windows and proximity of the development to the site boundary. Appendix A states that page 39 of Davitt BTR SHD HJL ABP Opinion Response Document indicates that the proposed distance from windows of the East Wing is 7m from DCC boundary, with the distance from balconies to the boundary approx. 5m. The windows of the east end of the North Wing are stated to be as little as 4m from DCC boundary. It is stated that the distance from the proposed windows to windows in any future development on DCC site should be at least 22m. Appendix A states that if the proposal is permitted as shown, this will cause DCC to have to either avoid windows and balconies or build at least 15m from boundary, which would severely restrict development options for DCC. The CE Report recommends a condition to move the east wing of the development 5m west and similarly the west wing 5m east, with the report indicating there is sufficient width within the block (approx. 31m-41m in the central courtyard) to allow for the wings to be brought closer together without impact on future occupants.
- 10.5.3. A submission has also been made in relation to the potential impact on the development potential of the site to the west given distances to the boundary.
- 10.5.4. I note the concerns raised in relation to proximity of the eastern wing to the boundary with the DCC site and I also note the indicative blocks on the neighbouring sites are not indicated the same distance off the boundaries, with the proposed blocks a greater distance off the boundaries to achieve a 19m separation distance. With regard to the eastern boundary of the application site, I note that the closest point is the northeast corner of the block, which is approx. 3.8m-7.5m from the boundary, with one side window to a kitchen/dining area, which is approx. 6m from the boundary. I note that this is a secondary window to the apartments on this section of the eastern elevation and therefore the implications in terms of sunlight daylight is not significant. I consider the issue of potential overlooking could be mitigated through the application of high level windows from the first floor plan to the seventh floor plan of the block, however, given this is an infill site and this is a secondary window to a kitchen/living area, I do not consider significant design constraints arise in terms of overlooking, in that there is scope in any future design to offset opposing windows and should living room windows be provided on the opposite site, the same

overlooking/privacy issues do not arise as with bedroom windows. I note that on the ground floor plan, the proposed building is 8m from the boundary, with a set back at first floor level for a section relating to one apartment which increases this distance to 12.88m at first floor level and above (10m when balconies considered), with the majority of the arm being 8m from the boundary (5.6m when balconies considered). I have considered also the distance of the proposed apartment block to the western boundary, which has a distance of approx. 6m to the boundary from the northwest corner of the block, where a dual aspect unit is proposed, and 8m-10m-13m for the remainder of the elevation (with this reduced where balconies are proposed).

10.5.5. While the CE Report indicates a 22m minimum separation distance (11m on each site) is required between future blocks to the east and to the west, I do not consider such a separation distance is required in terms of potential privacy/overlooking issues. The guidelines on Sustainable Residential Development in Urban Areas states that a 22 metre separation distance between opposing above ground floor windows is normally recommended for privacy reasons, this may be impractical and incompatible with infill development. I do not consider such a distance is required to be applied between apartment blocks in this high-density urban scenario. I note the Dublin City Development Plan references the 22m distance where it relates to houses (not apartments) and states this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. The development plan further states careful positioning and detailed design of opposing windows can prevent overlooking with shorter back-to-back distances. While it may be easier to design with minimum separation distances of 11m from the boundaries, this would not in my opinion result in the optimum use of land, which is a finite resource, at this highly accessible location and it would in my opinion be inappropriate and unsustainable to stipulate higher separation distances, which would ultimately exceed what would be required on an urban infill site. I recognise that should the neighbouring sites come forward for development in the future, development would need to accommodate the existing windows proposed on the side elevations, which, given their single aspect design, rely upon light and privacy to bedrooms and living rooms from their eastern and western elevations. I consider that there is sufficient space on the neighbouring sites to make such an accommodation through the employment of a good design and



without unfairly impacting those sites. Normal infill scenarios would consider standard measures such as off-setting of opposing windows/utilisation of angled windows etc. which would not be unreasonable in this context.

10.5.6. The application, as noted above, is accompanied by a Sunlight-Daylight Assessment which considers a scenario whereby an assumed layout and scale of development is proposed on the adjoining sites and BS standards applied a similar set of side windows on the adjoining sites. With regard to the potential development on the eastern site, I note on the first floor level, of the 16 indicative windows tested, 12 fall below the 27%, being mainly around 23/24%. On the second floor plan, 7 fall below the 27%, and on the third floor plan and above, all are over the 27%. With regard to the western site, the block is not as deep as the application site and two windows are indicated on each floor on the side elevation, with the first floor indicating one just below 27% and the remainder are all above 27%. It is stated that in those instances where the value falls between 15% and 27%, then special measures (larger windows or changes to room layout) are usually needed to provide adequate light. The assessment concludes that 'if the adjoining sites were developed at a similar scale and size, it would yield acceptable results'. While I note the separation distances indicate a greater separation on the neighbouring sites, this is just one design scenario as set out by the applicant. I am satisfied that there is adequate scope with the distance to site boundary proposed in this application to employ a site specific design on the neighbouring site that would allow for the sustainable development of the adjoining lands, without resulting in undue design constraints on either the site to the east or to the west or necessitating higher separation distances on the sites to the east and west than what would normally be required in a high density urban context.

10.5.7. Should the Board disagree with my assessment in this regard, I note the CE Report recommends a condition whereby the proposed western and eastern wings of the building are moved 5m further off their boundaries, to achieve an 11m separation from both side boundaries. It is also recommended that the windows on the north east and northwest gable of the building are designed to eliminate views towards the adjoining lands to the east and west of the site.

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

- 10.6.1. Concerns are raised by neighbouring residents in relation to loss of natural light, overshadowing, decreased view of skyline, overlooking, loss of privacy and amenity, health and safety concerns, and noise pollution as a result of the proposed development.
- 10.6.2. I have examined the layout proposed and where potential impacts may arise with neighbouring properties.

#### Sunlight Daylight

- 10.6.3. In considering daylight and sunlight impacts, the Apartment Guidelines (2020) state that PA's 'should have regard to quantitative performance approaches outlined in guides like the BRE guide Site Layout Planning for Daylight and Sunlight (2nd edition) or BS 8206-2: 2008 – Lighting for Buildings – Part 2: Code of Practice for Daylighting' (Section 6.6 refers). The Building Height Guidelines (2018) state under Section 3.2 Development Management Criteria, that at the scale of the site/building, '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'. I note the latter document British Standard (BS) 8206-2:2008 has since the publication of the guidelines been replaced by BS EN 17031:2018 'Daylight in Buildings', however, I am satisfied that it 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.
- 10.6.4. Both the Building Heights and Apartment guidelines indicate that where an applicant / proposal 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, and thereafter the planning authorities / An Bord Pleanála should apply their discretion, having regard to local factors including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution. This is provided for within the BRE guidance document itself.

- 10.6.5. I have had appropriate and reasonable regard to these documents (and associated updates) in the assessment of this application. I note that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria, and the BRE guidelines state 'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'.
- 10.6.6. The Daylight and Sunlight Assessment Report submitted with the application describes the performance of the development against BRE criteria and BS standards. Section 5 of the submitted report sets out the methodology.
- 10.6.7. Residential properties 237-275 to the south on Galtymore Road back onto the application site and the north-facing rear ground floor and upper floor windows of these dwellings were assessed in the submitted report (see figure 2.1 and 6.1-6.4). The impact on sunlight is measured in terms of Vertical Sky Component. BRE guidance states that where VSC falls below 27% and is less than 0.8 times the former value there would be a materially noticeable change in daylight. Section 6 of the submitted assessment indicates the results of the assessment in table form and indicates level of BRE compliance and rates the effect of the proposed development. The most affected dwelling appears to be no. 253. Of the four windows assessed on dwelling no. 253, the two first floor windows are at 27% and the two ground floor windows are at 14.75% and 24.10. I note the baseline VSC for one window was below the BRE guidance to begin with, being 20.73%. In terms of rating of the effect relative to the level of BRE compliance, the effect on the two ground floor windows is stated to be slight for one and not significant for the other. Of the 65 windows assessed, 56 are stated to have an impact of 'Imperceptible'/are 100% in compliance, 8 'Not Significant'/between 92.27%-100% compliant, and 1 'Slight'/88.96% compliant.
- 10.6.8. Sunlight impacts are not assessed, as annual probable sunlight hours (APSH) are generally measured to south facing living room windows, ie dwellings north of a development. The sensitive receptors on Galtymore are south of the application site and therefore an APSH assessment is not required. I further note the Apartment Guidelines and the Building Height Guidelines do not explicitly request an analysis in terms of sunlight, with reference to daylight and overshadowing, or loss of light in general, but no specific reference to sunlight.

10.6.9. In relation to overshadowing of amenity areas, BRE target values are that over 2 hours of sunlight is achieved over a minimum of 50% of existing amenity areas on the 21st March. With regard to overshadowing, the submitted assessment states that 'overshadowing is highly unlikely to occur in areas that are due south of the proposed development'. Given the orientation of the site north of Galtymore and having regard to the path of the sun, I do not consider the proposed development will have a significant negative impact on properties on Galtymore Road in terms of overshadowing. I have also considered the properties on the northern side of the Canal which are a distance of approx. 62m-66m from the site. I note the overshadowing analysis indicates overshadowing on sections of the canal at certain times of the day, however, it is clear that the canal area will receive more than 2 hours of sunlight on 21<sup>st</sup> March in that section opposite the proposed building. While concerns have been raised in relation to overshadowing of the canal, I do not consider the proposal will have a significant negative impact on this amenity. I note the proposed development, given the separation distance involved and having regard to the path of the sun, will not significantly impact the dwellings on the opposite side of the canal in terms of overshadowing.

10.6.10. The overshadowing diagrams submitted indicate there will be a level of overshadowing of the properties to the west and the east, however, it is clear from the diagrams submitted that this is limited to certain portions of the day given the path of the sun. The overall impact is in my opinion acceptable within this urban context and having regard to the existing uses adjoining the site, which are light industrial buildings to the west and a DCC depot to the east. Consideration has been given to the impact of the proposal on the development potential and sunlight/daylight to the west and east (see section 10.6 above).

10.6.11. The submitted assessment concludes that the proposed development will not have a detrimental effect on the levels of daylight received by the surrounding properties and that no existing properties will experience an unacceptable drop in level of daylight or sunlight. I have reviewed the documentation submitted, concerns raised, and the relevant guidance documents, as required by the Apartment Guidelines and Building Height Guidelines. While the applicant has not provided for alternative compensatory design solutions in relation to those instances where VSC is identified as being below the optimum, I note that this applies to a small number of

the 188 units proposed as discussed above and the level of effect will overall not have a serious detrimental impact on residential amenity. On balance, having regard to the urban location of the site in need of regeneration it is expected that new development will have some degree of impact upon daylight levels of existing properties; the need for housing on zoned and serviced lands; and the overall acceptability of the layout and design of the site; in my opinion the impacts identified in the submitted Daylight and Sunlight Analysis are acceptable and will not result in a significant negative impact on any of the residential properties on Galtymore Road or to the east and west with regard to daylight, sunlight, or overshadowing.

#### Overlooking and Overbearance

10.6.12. A number of submissions from residents on Galtymore Road raise concerns in relation to overlooking and overbearance.

10.6.13. At its closest point, the western arm of the building is approx. 11m from the southern/rear boundary and the eastern arm is approx. 10.5m-12.5m off the southern boundary, with separation distances between the proposed building and the two storey dwellings of approx. 19m-21m from the western arm and approx. 26m from the eastern arm. The proposed block is three storeys in height (10.16m high) at this rear section and rises away from this boundary to 5-6 storeys at a distance of approx. 18m-20m from the rear boundary on the western arm and 22m-24m on the eastern arm. I note there are no balconies on the rear of the western and eastern arms of the building, with the rear balconies on the middle section of the building being approx. 31m-39m from the rear boundary/41m-51m from the elevation of the dwellings to the rear. In terms of impacts of overlooking on properties on Galtymore Road, the proposed development will undoubtedly increase the perception of overlooking and have an impact on the outlook for existing dwellings, replacing the vacant warehouse (approx. 8m in height) and vacant garage repairs/filling station. I consider the separation distance from the 3 storey element of the proposed development to the 2 storey houses is acceptable within this urban context, and the roof terrace and increased heights are in my opinion acceptable given the increased separation distances and staggering in heights for those levels. I note no balconies are proposed on the rear arms of the blocks closest to the rear boundary, and I note the scale and spacing of the windows on the proposed rear elevations of the three storey elements and the staggering of the height away from the rear boundary. While

upper level terraces can introduce a level of noise on neighbouring properties, I note the distance to the boundary and the design of the terrace which provides for privacy screening 1.8m high and planting to create a further buffer from the edge of the terrace area for future occupants. Such measures will mitigate potential for increased overlooking and noise. I note additional screen planting is proposed along the rear boundary with Galtymore Road, with trees of 6m height to be planted, which will mitigate the altering townscape. Concerns are raised by observers in relation to spread of roots of the trees/potential damage to boundary wall and impact on daylight. If the trees are planted correctly this is not an issue likely to arise. A condition in relation to planting would address this issue.

10.6.14. I note the CE Report has considered impacts on Galtymore Report and states 'It is considered that adequate setbacks have been provided to the south of the site. Privacy screens have also been provided on the roof terraces which will reduce the impact on the houses to the south. Due to the orientation of the development site, it is not considered that the massing and height will unduly impact on the residential amenities of properties along Galtymore Road'.

10.6.15. In terms of outlook/overbearance, the proposal will be visible from Galtymore Road and from the rear of the dwellings directly south of the site (see VM1, VM2, VM10 and VM11 of the CGIs). The LTVA report states 'it is considered that there will be a moderate impact on views from these houses, and it is considered neutral in quality due primarily to the poor quality of the existing building, the stepped profile of the new building and the extent of tree planting on the boundary'. The protection of existing residential amenities requires balancing against the requirements for sustainable consolidated urban infill development in appropriate locations. Having regard to all of the information before me, including the layout, design and separation distances involved, I consider that while there will impacts on the dwellings fronting Galtymore Road in terms of outlook and the development will be visible when viewed from along this street, the impacts are not in my opinion so great as to have a significant negative impact on the residential amenity of the neighbouring dwellings or on the wider area such as would warrant an amendment to the layout. As demonstrated in the daylight-sunlight analysis and having regard to the specific design and layout of the block, including separation distances, stepped height, and massing of the proposal, I do not consider overall the proposal will result in

significant negative impacts on the existing residential amenity of properties in the area.

10.6.16. With regard to the existing buildings to the west and east of the site, I do not consider overlooking of these properties, given their existing uses, would result in a significant negative impact on existing employees of either the depot or the light industrial units to the west. I note concerns raised about the impact of this development on the development potential of these sites given the positioning of windows on the side elevations of the proposed block and distances to side boundaries. I have considered these potential impacts in section 10.6 above.

10.6.17. I discuss the issue of traffic and construction impacts in section 10.11 of this report hereunder.

## 10.7. **Future Residential Amenity**

### Design Standards for New Apartments

10.7.1. The Guidelines for Planning Authorities on Design Standards for New Apartments issued by the minister in 2020 contain several Specific Planning Policy Requirements (SPPRs) with which the proposed apartments must comply. Schedules were submitted to demonstrate compliance with the standards.

10.7.2. SPPR4 relates to dual aspect ratios and states that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in. The guidelines further state that 'north facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature'.

10.7.3. The proposed development is stated to provide for 75 no. dual / triple aspect units (40%) and 113 no. single aspect units (60%). 34 units (18% of units) are stated to be single aspect and northfacing, with these apartments facing the Grand Canal, which is considered a significant amenity feature/water body. I consider this acceptable and in compliance with SPPR4.

- 10.7.4. With regard to SPPR5 and floor to ceiling heights, the floor to ceiling heights at ground floor level are 3m, which is in excess of the minimum of 2.7m. The levels above have a floor to ceiling heights of 2.75m which exceeds the minimum of 2.4m.
- 10.7.5. In accordance with SPPR8(v), the requirement for a maximum of 12 apartments per floor per core (required by SPPR6) shall not apply to BTR schemes.
- 10.7.6. In compliance with SPPR7(a) the proposed development has been advertised as a BTR scheme. A draft legal covenant is submitted as part of the application which confirms that, the proposed Build to Rent scheme will remain in the ownership of an appointed Build to Rent company, who will manage the operation of the scheme, for a minimum period of not less than 15 years. No individual residential units will be sold or rented separately by the company during that period and the applicant accepts that this will be controlled by a condition of planning.
- 10.7.7. In compliance with SPPR7(b), the application is accompanied by detailed proposals for communal and recreational amenities, categorised as Resident Support Facilities, and Resident Services and Amenities. It is stated in the Housing Quality Assessment (HQA) that these internal communal and recreational facilities have a gross floor area of 1145 sqm and includes a resident's store, laundry room, bin store, and cycle storage at basement level and a reception / management area, residents lounge, residents workspace, games room, and gym at ground floor level. The Resident Services and Amenities equate to an area of 600sqm, providing for an area of approx. 3.2sqm per unit.
- 10.7.8. SPPR 8 sets out that no restrictions on dwelling mix apply to BTR developments, and flexibility in terms of storage, private amenity space, and communal amenity space applies, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. In terms of mix, as there are no restrictions, the proposal for 10% studios, 43% 1 bed and 47% 2 bed units is considered acceptable. I note the wider area comprises a high number of houses, therefore the proposed mix of unit sizes and type will cater for wider choice in the area. Balconies are not provided for 44 no. units, which is permitted under SPPR8 if compensatory communal areas are provided.
- 10.7.9. The communal amenity space proposed is stated to be 2,073 sqm in area and is located at ground level in the centre of the u-shaped block, and at 3rd, 6th and 7th



floor levels in the form of terraces. The Housing Quality Assessment submitted states that the scale of communal space is in excess of that required under Appendix 1 of the Guidelines by 1,092 sqm and it is stated that sufficient compensatory communal amenity space has been provide to justify the non-provision of private amenity space for individual units. I note also the range and scale of indoor community and recreational spaces provided for within the development. The quality and scale of alternative, compensatory communal support facilities and amenities is in my opinion acceptable. The external communal areas will be complemented by the communal services and amenities outlined above, as well as having the benefit of a location adjoining a significant public amenity of the Grand Canal. I therefore consider that a satisfactory standard of communal amenities has been provided overall, in accordance with the requirements of the Apartment Guidelines 2020.

10.7.10. Under SPPR8 there is a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures. The proposed BTR scheme provides 57 no. car parking spaces at basement level for the residential units, which includes 6 no. electrical charging parking spaces and 4 no. disabled parking spaces. This results in a car parking ratio of c. 0.3 spaces per residential unit within the scheme. The documentation submitted with the application which considers this issue further includes a Residential Travel Plan, Traffic and Transport Report, and Parking Management Strategy. The reduced provision of parking is in my opinion acceptable and in accordance with SPPR8. The implications of a reduced provision are assessed further under section 10.11 hereunder.

10.7.11. The Guidelines require a standard of 1 no. bike space per bedroom for residents and 1 no. bike space per 2 residential units for visitors. This equates to a requirement of 277 no. cycle spaces for residents and 94 no. spaces for visitors. The applicant notes that while this is not an SPPR of the Guidelines, the proposed development will accommodate 280 no. cycle spaces at basement for residents and 103 no. visitor parking spaces at surface level.

10.7.12. 285-500 sqm of play space is deemed to be required for the proposed development. The development provides 350 sqm of play space including 278 sqm

at ground floor and 72 sqm at 6th floor level within the roof terrace. This is acceptable.

10.7.13. A Building Lifecycle Report has been submitted, as required by the guidelines.

10.7.14. The proposed development overall would provide an acceptable standard of amenity for the occupants of the proposed apartments.

#### Sunlight, Daylight and Overshadowing

10.7.15. The submitted Daylight and Sunlight Assessment assesses the Average Daylight Factor (ADF) internally within the proposed development, taking a sample of 77 rooms across the ground floor and first floor. I note that not all apartments were assessed, however, I am satisfied that this is the norm/accepted practice within the industry, and subject to all worst-case apartments being assessed, and the assessment continuing to upper levels to a point where one can be satisfied that all possible worst case/below agreed minimum ADF apartments have been identified, that this is a reasonable methodology and allows for a comprehensive analysis of the development.

10.7.16. In relation to ADF, the submitted Daylight and Sunlight Assessment applies a guidance standard of 1.5% for combined kitchen/living spaces. BS 8206-2:2008 recommends that where one room serves more than one purpose, the minimum average daylight factor should be taken for the room with the highest value. The ADF for kitchens is 2% and for living rooms is 1.5%. The assessment methodology (section 5 of the submitted report) states that an ADF of 1.5% has been applied to combined living/kitchen/dining rooms (LKDs) and states the rationale for this is that the primary function of LKDs within apartment development is typically that of a living space. Should a higher target value be sought, design changes would be needed, such as the removal of balconies or a reduction of unit sizes to achieve a LDF of 2% across this larger shared space. It is stated that these possible mitigation measures can reduce the quality of living within the proposed units more than the improvements gained by higher ADF values. The study further notes that where the kitchen of an LKD is completely internal and is not serviced by a window, an additional study has been carried out, in which the living area has been assessed as a standalone space with the kitchen area omitted from the assessment. The results indicated all rooms in compliance with BRE guidance. The assessment states that

the appropriate ADF target value for LKDs is at the discretion of the planning authority, for which there is precedence in applying the 1.5%.

10.7.17. Notwithstanding that the applicant asserts a 1.5% ADF value for combined LKD areas is applicable, I note that the majority of the LKD areas assessed are in excess of the 2% ADF value, with all in excess of a 1.5% ADF value. The ground level western arm of the development block exceeds a 2% ADF for all LKD spaces and all bedrooms exceed the 1% value. In relation to the eastern arm of the block, all LKD areas exceed the 2% ADF value, with the exception of one unit which has a value of 1.97%. A further assessment of the living space alone was undertaken and this was shown to have a value of 2.59%. All bedrooms in the eastern arm meeting the ADF value of 1%. At first floor level across the block, the results indicate all LKDs at/above the 2% value and the bedroom above 1%, with the exception of seven units, which have values between 1.69% and 2%. All bedrooms meet the guidance standards. Overall, 70% of the assessed combined LKD areas have in excess of a 2% ADF value with 100% over a 1.5% value. Of the bedrooms, 100% are in compliance with the 1% standard.

10.7.18. I note that ADF values applicable to living spaces is important, as recognised within the Apartment Guidelines (2020) which states that the daylighting and orientation of living spaces is the most important objective in the orientation of apartments. I am satisfied that an ADF of 1.5% being the value applicable to a living space is acceptable for the proposed combined LKD spaces, and is 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, I 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 with all achieving a minimum of 1.5%. The applicant has not proposed alternative compensatory design solutions for all seven of the apartments which fall below the 2% ADF value, but for four of the apartments in question, the Architectural Design Statement notes that those units front the Grand Canal, which is a significant amenity feature / water body, and the compensatory aspect of these units, in addition to the need to deliver an appropriate architectural and urban design

solution for this site, i.e. to enclose the significant amenity and public transport corridor to the north, is on balance acceptable when ADF values are considered. I consider the overall standard of compliance achieved is acceptable when balanced against achieving the wider planning objectives for this site, specifically the securing of an active public realm and urban edge to the street and the Grand Canal and in support of the regeneration of this derelict site through the delivery of a compact high density development within the Dublin Metropolitan area, at an highly accessible and well serviced location, in accordance with national policy guidance.

10.7.19. In relation to overshadowing of amenity areas, BRE target values are that over 2 hours of sunlight is achieved over a minimum of 50% of existing amenity areas on the 21st March. Six spaces were assessed, that is the courtyard space, the two third floor roof terraces, the two sixth floor roof terraced and the seventh floor roof terrace. All the spaces assessed meet the BRE guidance in terms of sunlight.

10.7.20. 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.

#### Wind Microclimate Assessment

10.7.21. A Microclimatic Wind Analysis and Pedestrian Comfort report was prepared. It is stated that the stepped-back design of the building aids in minimising potential undesirable wind conditions. These steps face into the prevailing SW wind, breaking up the flow of the wind, and preventing downwash or acceleration of wind to ground floor level. The report further states that the u-shaped design provides a self-sheltering effect to the internal courtyard. At ground level, all of the site is in accordance with the Lawson Criteria and is deemed to be suitable for 'short/long

term sitting'. The use of a 1.2m high balustrade at upper levels will provide more shelter, with the majority of spaces at roof terrace level be suitable for 'short/long term sitting'. It is indicated that all balconies within the proposed development are predicted to be suited to 'long/short term sitting', and therefore suited to their intended use as private amenity spaces.

10.7.22. Having reviewed the Lawson Criteria and the applicant's submission, the submitted information is robust and I consider the proposed development will not negatively impact on neighbouring buildings, or its surroundings and reasonable residential amenity will be achieved for future occupants.

## 10.8. Public Open Space and Social Infrastructure

10.8.1. The Dublin City Development Plan under Section 16.3.4 states in relation to the function of public open space, that 'Depending on the location and open space context, the space provided could contribute towards the city's green network, provide a local park, provide play space or playgrounds, create new civic space/plaza, or improve the amenity of a streetscape'. Section 16.10.3 further states that 'Public open space is open space which makes a contribution to the public domain and is accessible to the public for the purposes of active and passive recreation, including relaxation and children's play. Public open space also provides for visual breaks between and within residential areas and facilitates biodiversity and the maintenance of wildlife habitats. In new residential developments, 10% of the site area shall be reserved as public open space'. The development plan goes on to state that in some instances it will be appropriate to seek a financial contribution towards the provision and enhancement of local space in the locality, where it is not feasible to provide the public open space on site, due to for example site constraints.

10.8.2. Given the scale of the application site, the CE Report states it is acceptable to accept a contribution in lieu of open space, which I concur with. The applicant argues that the area of public realm being improved to the front of the site should be considered as public open space and this area off set against the overall financial contribution figure.

10.8.3. The public realm improvements in question relates to the footpath area associated with Davitt Road. A building line setback of approximately 3.6m to 4.2m from the back of the existing public footpath on Davitt Road is proposed. The building

frontage onto Davitt Road is approximately 88m in length. The setback of the building facilitates an increased pedestrian area to the front of the proposed development along Davitt Road, alongside a proposed 2m wide footpath. I note that part of this additional area adjoining the footpath is overhung by the proposed north elevation balconies. A section of the existing public footpath is proposed to be setback/realigned to facilitate a loading/set-down bay including 1 on-street parking space on Davitt Road. While overall the public footpath improvements and additional width adjoining the footpath are a benefit to the pedestrian movement and provide for space between the built edge and the street edge, the additional area does not in my opinion result in the creation of a new civic space/plaza, and while it improves the visual amenity of the streetscape, it does not provide for additional public open space for the purposes of active and passive recreation, including relaxation, as discussed in the development plan but rather allows for the easier movement of pedestrians along a highly trafficked route, which will become busier as a result of this development. It is a functional as well as visual improvement, however, I do not consider it reasonable to offset this area against the required financial contribution for public open space as requested by the applicant.

10.8.4. I note Dublin City Council adopted on 2<sup>nd</sup> March 2020 its current development contribution scheme, 'Development Contribution Scheme 2020-2023'. Section 10 of the document relates to 'Contribution in Lieu of Public Open Space'. The plan states

The Dublin City Development Plan provides the discretion to the Council to determine a financial contribution in lieu of all or part of the public open space requirement for a particular development. The Plan provides that in the event of the planning authority considering a site to be too small or inappropriate to fulfil Dublin City Development Plan requirements for public open space provision a financial contribution of €4,000 per unit towards provision of or improvements to a park and/or enhancement of amenities in the area in line with the City's Park Strategy shall be required.

10.8.5. In the interest of clarity, I suggest, should the Board be minded to grant permission, a condition in this regard be attached to any permission.

Social Infrastructure Assessment / Childcare Demand Audit

- 10.8.6. Observer submissions raise concerns in relation to community facilities and amenities in the area, lack of school capacity and query over lack of childcare provision.
- 10.8.7. The applicant has submitted a Social and Community Infrastructure audit/Assessment. A Childcare Demand Audit (CDA) has also been submitted.
- 10.8.8. As noted in the submitted Community and Social Infrastructure Audit, the site is less than 200m from two Luas Stops and 1km from St. James's Hospital. The site is also within 1.4km of Crumlin Children's Hospital. The site is located on the Grand Canal, which is a significant amenity space, and within a short walking distance to Brickfield Park and Good Counsel GAA Club which provide larger areas of open space. The report notes that the site is also well served with childcare facilities, schools, community facilities and shops in the surrounding Drimnagh / Crumlin Dublin 12 area. I have reviewed the Community and Social Infrastructure Audit Report submitted and I am satisfied that the area is well served in terms of community facilities and retail services. There is no evidence presented to suggest that these amenities cannot accommodate the additional population proposed at this location. I note the Parks Report from DCC (accompanying the CE Report) states this area is not deficient in public open space based on the City Parks Strategy.
- 10.8.9. The Childcare Facilities Guidelines for Planning Authorities recommends a minimum provision of 20 childcare places per 75 no. dwellings. I note that Section 4.7 of the Apartment Guidelines (2020) states that ‘

‘the threshold for provision of any such facilities in apartment schemes should be established having regard to the scale and unit mix of the proposed development and the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One-bedroom or studio type units should not generally 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 proposed development comprises 20 studio apartments and 79 one bed apartments. The 89 two bed apartments, if all two bed units are to be considered, would result in a requirement for 24 childcare spaces. The submitted Childcare Demand Audit states that based on an audit of the existing childcare facilities serving

an area of approximately 1-1.5km from the subject site, that there are sufficient facilities and capacity in the wider area to cater for the limited childcare needs that may arise from the proposed development. I have had regard to the proposed unit mix and likely demand to be generated and given the central location of the site with accessibility to number of childcare options in the area, I accept that a childcare facility is not required as part of this development.

10.8.10. In relation to schools, I note there are a number of primary and secondary schools in the area and there is no specific objective on this site relating to schools. The requirement and timing of the delivery of additional schools is within the remit of the Department of Education and Skills in conjunction with the planning authority.

### 10.9. Ecology and Landscaping

10.9.1. An Ecological Statement (dated March 2021) was submitted with the application. Ecological Surveys of the site were undertaken in July 2020 and January 2021, which included a habitat survey and invasive flora species survey. A separate Bat Survey Report is also submitted.

10.9.2. Habitats are listed as buildings and artificial surfaces, ornamental/non-native shrub, and Japanese Knotweed (figure 2 of report). The habitats at the site are of minimal biodiversity value and of little to no value to local fauna including birds. Given the low biodiversity value of the site, significant impacts to habitats are not anticipated.

10.9.3. With regard to birds, it is noted that there is a possibility that Light Bellied Brent Geese may utilise the pitches at Good Counsel GAA Club, Brickfield Park and Dolphin's Barn Green (which are in close proximity to the site of the proposed development) as ex-situ feeding habitat. The report states that given the presence of Light-bellied Brent Geese at Good Counsel GAA Club during the 2019/2020 winter period, and the close proximity of the site to this ex-situ habitat, it is possible that the proposed development could cause short-term disturbance and/or displacement to Geese due to disturbance from environmental nuisances such as noise, dust and lighting during the Construction Phase. Black-headed Gull, a QI species associated with South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA, has also been recorded, albeit in low numbers, at Good Counsel GAA Club. This issue is discussed further in Section 11 hereunder.



- 10.9.4. Given the height of the proposed buildings at the site (up to 9 storeys) there is potential for bird collisions to occur during the Operational Phase of the proposed development. Tall buildings can lead to fatal collisions with commuting bird species although once these buildings become part of the landscape birds take measures to avoid them and casualties are minimal. It is stated the blocks of the proposed development have been designed with a low window to wall ratio. Window surface area of the various elevations ranges between 17.5% and 26.2%, which is stated to be well within the recommended value of 25-40 percent glazing relative to the entire façade, which reduces the potential for fatal bird collisions.
- 10.9.5. No breeding birds were observed on the site during the survey that was carried out on 28th July 2020.
- 10.9.6. The site is unsuitable for mammal species. Otter records in the wider area were considered, however, given the current nature of the site (built land) and location in relation to the Grand Canal (the Red Luas line and a busy road lie between the two areas), the site itself offers no Otter potential. A Bat Survey was undertaken. The trees and vegetation in and around the site are considered important as a biodiversity corridor to the wider landscape outside the cityscape. It is noted that a dusk bat activity survey on the 29th of July recorded the emergence of three common pipistrelle bats *Pipistellus pygmaeus* from broken windows on the canal front side of the former Heidelberg/ Miller Building, as well a Leisler's bat *Nyctallus leisleri* foraging over the proposed development site. Given the small number of bats recorded on the night of survey, the recent fire history which has allowed bats enter the building on the site, and the overall low rate of bat activity recorded in the general area (as expected given the landscape suitability) the bat survey states that the roost is an intermittent 'Night Roost'. It is stated that further surveys prior to demolition will be required. The submission from the DAU also recommends a condition be attached to any permission that dusk and dawn bat activity surveys and a bat roost survey of the interior of the former Heidelberg/ Miller Building shall be carried out in the summer of 2021 and repeated immediately before the demolition of this building, such demolition only to proceed under the supervision of bat specialist licensed to handle bats following receipt of a derogation licence from the NPWS to destroy any bat roosts on the premises. In terms of mitigation, lighting which takes account of bats is recommended and bat boxes are proposed along the southern boundary of

the site in proposed trees. Conditions in this regard are also recommended in the DAU submission.

10.9.7. A stand of Japanese Knotweed *Fallopia japonica* occurs within the site boundary (Figure 9) and Butterfly bush *Buddleja davidii* also occurs. Japanese Knotweed is included on Schedule III of the European Communities (Birds and Natural Habitats) Regulations, 2011 (Statutory Instrument S.I. 477 of 2011), as amended. It is highly invasive and extremely difficult to eradicate. Various treatment options are laid out in the report, however, I note it is not stated what the treatment plan is going to be and it would have been beneficial that an Invasive Species Management Plan was prepared as part of the application. Construction control measures are proposed to manage any potential spread. Management measures are outlined in relation to the Butterfly Bush. It is recommended in the report and in a submission from the DAU that a Japanese Knotweed Management Plan is compiled prior to any works being commenced on site. If the Board is minded to grant permission, this issue should be addressed by way of condition.

10.9.8. I consider the landscaping measures proposed will improve the biodiversity of the site overall. I am generally satisfied in this regard.

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

10.10.1. The application has been accompanied by a Traffic and Transport Report and a DMURS Statement. A Parking Management Strategy and Residential Travel Plan have also been submitted.

10.10.2. A number of submissions have raised concerns in relation to the lack of parking and potential for overspill on adjoining residential streets, versus too much parking and potential increase in traffic congestion. Concerns are raised in relation to traffic congestion during construction as well as during the operational phase. Capacity of the Luas in peak times is also raised as a concern.

#### Car Parking

10.10.3. Car parking for the proposed development is at basement level, with 58 spaces for cars and 4 motorcycle spaces. 1 on street parking space/loading bay is proposed. 6 EV charging spaces are proposed and all other spaces are to be future proofed. A 0.25 ratio is proposed, excluding car share and commercial staff spaces.

10.10.4. The Apartment Guidelines state that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria. The subject site is located within an area defined by the guidelines as 'Central and/or Accessible', where the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. Where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired. Provision is also to be made for alternative mobility solutions including facilities for car sharing club vehicles and cycle parking and secure storage. SPPR8 (iii) states 'There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures'.

10.10.5. I note the DCC Transportation Planning Report submitted with the CE Report considers overall that the proposed car parking provision is low and does not facilitate adequate car storage for the proposed development. As on-street parking is not restricted within the area, it is stated that there is the potential for the proposed development to result in overspill parking. It is noted in the report that the requirement for commercial staff parking has not been demonstrated within the submission and is not required. A letter of intent from GoCar has been submitted and this notes that the car share would also be available to staff of the commercial units as well as residents.

10.10.6. The site is within an urban location, within walking distance of James' Hospital and a wide range of other significant employers within a short commuting distance. The site is well served by public transport with two luas stops in proximity, as well as a frequent bus service approx. 5 min walk from the site. The default minimal policy in relation to parking is in my opinion justified at this location, as per SPPR8(iii) of the Guidelines and will support more sustainable travel patterns, particularly given the close proximity to the site to two Luas stops, which, in conjunction with car share

facilities, will provide a real alternative to the need for a private car. While concerns are raised in relation to potential overspill parking given lack of restricted parking in the area, I consider this a traffic management issue for the planning authority/an Garda Síochána. Suitable alternative transport options of walking and cycling are available and are encouraged by virtue of the location of the scheme, its proximity to the Luas line, and to a high frequency peak bus service.

#### Cycle Parking

- 10.10.7. 280 cycle spaces are proposed at basement level and 106 spaces at surface level to the west, south and east of the proposed block. Surface parking is accessed via perimeter gates to the west and east. There is in a number a number of cycle space at the entrance on the adjoining footpath. Access to basement bicycle parking is proposed via bike stairs, with a stairway width of 3 m to facilitate two-way movement, located in the north western corner of the proposed development. The proposed stairs leads directly to the proposed basement level cycle compound.
- 10.10.8. Concern is raised in relation to the lack of cycle infrastructure in the area. The report from the Transportation Department of DCC considers the overall cycle parking provision is acceptable, however, it is stated that it is not clear how access to visitor bicycle parking would be managed and as such, a condition requiring a Cycle Parking Management Plan is recommended.
- 10.10.9. The Transportation Department report notes there is no cycle infrastructure on Davitt Road, but there are advisory lanes in both directions on Suir Road/Dolphin Road connecting to the city centre. Proposals for the Grand Canal Greenway are noted. I am satisfied that the level of infrastructure currently available and the number of cycle spaces proposed will encourage cycling as a sustainable mode of transport.

#### Traffic and Transport Report

- 10.10.10. Given issues around Covid, it is stated that existing traffic flows could not be recorded. It is stated that a desk study was undertaken in order to establish existing traffic flows on Davitt Road and traffic count data submitted under Planning Reg. Ref. ABP-303435-19 (SHD development to the west of the application site) was utilised in order to establish baseline traffic flows in the vicinity of the subject development. I accept the approach taken and I note that the baseline surveys

utilised from the neighbouring development are relatively recent and very relevant to this site given their proximity. I note the CE Report does not raise any issues in relation to the methodology adopted.

10.10.11. The submitted Traffic and Transport Report concludes a negligible impact on Davitt Road based on a proportional increase in traffic of 3.5 % during AM peak hours and 3.3% during PM peak hours. The CE Report notes that the modal split assumptions for the proposed development (as linked to the census data for the area) of 25% commuting by car, would result in a greater car trip generation during peak hours than what has been estimated based on the TRICS database. The CE report states that applying a worst case scenario approach, i.e. the 25% modal split target (the full residential car parking provision), the estimated trip generation would result in increased impact on Davitt Road. The CE Report concludes however that the impact on traffic flows would still be well below the 10% threshold as per the TII Traffic and Transport Assessment Guidelines. I accept that the proposed development can be accommodated within the existing street network and will not give rise to a significant increase in traffic congestion.

10.10.12. The concerns raised by observers regarding traffic congestion are noted however I consider congestion to be a characteristic of urban areas and should not in itself be a reason to prohibit further development. The development site as stated elsewhere in this report is located within 200m of two luas stops as well as a high frequency peak bus service on Galtymore Road and within short commute of the city centre. This in conjunction with the proposed cycle spaces and improvements to public footpaths/connection into the existing network, will assist in promoting the use of more sustainable modes of movement.

#### Construction Traffic

10.10.13. I note the concerns raised by some observers regarding construction stage impacts, including noise, traffic, working hours, impact of piling on dwellings and potential for hazardous waste.

10.10.14. A Basement Construction Management Plan has been submitted which addresses potential impacts on groundwater, adjoining structures and flood risk. Reference is made to the Dublin City Council Basement Development Policy Document and Guidance Document. It is stated that the basement construction will

adopt standard construction systems incorporated in Dublin. It is stated all adjoining buildings will be monitored during construction in accordance with CIRA 580. The report states that given the relatively shallow proposed excavation and the significant distance to adjoining buildings, coupled with the observed ground conditions, a negligible risk of settlement would arise. I further note the report states that a survey of the condition of adjacent buildings will be undertaken before any work begins and baseline monitoring will be undertaken before the excavation begins and will continue throughout the process to ensure that no negative effects are being observed on the adjacent buildings. It is stated that best engineering practice will be used to minimise any potential settlement issues which may occur. I have no evidence before me to suggest the proposed construction methodology will result in damage to adjoining structures and I am satisfied that sufficient survey and monitoring of neighbouring buildings will take place. To minimise undue nuisance to neighbours, it is stated that strict noise, vibration and dust monitoring will be implemented throughout construction, per the outline Construction Management Plan.

10.10.15. All construction activities by their very nature result in elevated emissions (noise, dust, etc.) and increases in construction traffic above the baseline environment. However, these are temporary and short term in nature and therefore will not have any long term or permanent amenity impacts. The applicant has submitted an outline Construction and Demolition Management Plan. Mitigation measures in relation to traffic management, noise and vibration, air quality and dust control and construction working hours are proposed. The implementation of these mitigation measures will further reduce any adverse amenity impacts during the construction phase. A condition in relation to agreement of a detailed Construction Management Plan with the planning authority is recommended, should the Board be minded to grant permission.

#### Conclusion – Traffic

10.10.16. Overall, I consider that a development of the scale proposed at this site can be accommodated within the existing city road/street network and I do not consider the proposal would give not give rise to an unacceptable level of traffic hazard or be seriously injurious to the residential amenity of those in the immediate area of the site, subject to conditions in relation to construction management.

## 10.11. Infrastructural Services including Flooding Issues

### Water and Wastewater

- 10.11.1. It is proposed to connect the development to the public water and foul sewer network in the area. Irish Water raises no concerns in the submitted report on this application.

### Surface Water Management

- 10.11.2. Surface water is proposed to connect into the existing surface water network. It is stated that the site's small area limits the type of SUDS measures which can be incorporated. A green roof area is proposed and an attenuation tank at basement level. An oil separator will be used to remove any hydrocarbons from surface water runoff in the basement car park. The Drainage Report accompanying the CE Report notes no objection to the development and recommends a condition to develop further the SUDS details.

### Site Specific Flood Risk Assessment

- 10.11.3. A Site-Specific Flood Risk Assessment (FRA) was submitted as part of the application. The application site is indicated to be within Flood Zone C. The report states that the SSFRA did not find any indicators of the proposed development being at risk from fluvial, pluvial or groundwater flooding; and that the proposed development will not give rise to flood risk elsewhere.
- 10.11.4. To address potential for flooding impacts on the surrounding lands, it is stated in the submitted documentation that the proposed development has been designed to allow excessive storm water to be gathered and directed into an attenuation tank located beneath the basement level of the proposed development. From here the storm water is to be pumped to ground level and discharged into the public sewer via gravity. In the unlikely event that both the duty and stand by pumps fail at the same time that the critical design storm is experienced, all storm water generated on site will flood the basement area. This plan will prevent storm water generated on site from the leaving the subject lands, thereby preventing flooding of surrounding lands.

## 10.12. Archaeology

- 10.12.1. The submitted Archaeological Assessment confirms there are no protected structures or National Monuments located within the subject site and the existing

buildings are not of any architectural heritage merit. The site is c. 460m south of the zone of archaeological potential for the historic town of Dublin (DU018-020). The submitted report states that no stray finds have been recorded in the topographical files of the NMI within the study area surrounding the site. It is further stated that a programme of archaeological monitoring (Licence 01E0733) during construction of the LUAS line running immediately north of the proposed development did not reveal anything of archaeological significance within the study area. The report concludes that 'given the results of the baseline analysis and the high level of modern development within the site, it is considered to possess very little archaeological potential'.

10.12.2. The submission from the DAU in relation to archaeology indicates there are no outstanding issues.

### 10.13. **Material Contravention – Building Height**

10.13.1. The applicant has submitted a document titled 'Material Contravention Statement' (see section 5.5 above for a summary). This statement has been advertised in accordance with Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

10.13.2. The applicant considers the development as proposed may be considered to materially contravene the Dublin City Development Plan 2016-2022 in respect of height. The Dublin City Development Plan 2016-2022 states under Section 16.7.2 that a maximum building height of 'up to 24m' for residential developments at rail hubs applies. The proposed development allows for a maximum height of 27.85m and therefore I consider that it materially contravenes the development plan.

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

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



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

or

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

10.13.4. As discussed in Sections 10.3 and 10.4 above, a number of submissions received express concerns in relation to the height of the development and the potential visual impacts and impact on the character of the area. Having regard to the provisions of Section 37(2)(b) of the Planning and Development Act (as amended), and based on the assessment above in relation to height and visual impact, I consider that a grant of permission, that may be considered to materially contravene the Development Plan, would be justified in this instance under sub sections (i), (iii) and (iv) of the Act as examined hereunder.

10.13.5. With regard to S37(2)(b)(i), the development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

10.13.6. In relation to the matter of conflicting objectives in the development plan, S37(2)(b)(ii), I have reviewed the plan and there are no conflicting objectives within the Dublin City Development Plan 2016-2022, insofar as the proposed development is concerned.

10.13.7. With regard to S.37(2)(b)(iii), I consider the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35. The proposed development is furthermore in compliance with the Urban Development and Building Height Guidelines in particular SPPR3, which references section 3.2 Development

Management Criteria. I have assessed the proposed development against the section 3.2 criteria (see section on Height, Scale and Design above). Having regard to the provisions of Section 37(2)(b)(iii), it is justified, in my opinion, to contravene the Dublin City Development Plan 2016-2022 in relation to height.

10.13.8. In relation to the pattern of development/permissions granted in the area since the adoption of the Development Plan, of particular relevance is a previously approved development on a site to the west (ref ABP-303435-19) where a residential SHD development of a maximum height of 24.13m height was permitted. This development is continuing on that pattern of development.

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

#### 10.14. **Other Matters**

##### Public Consultation

10.14.1. I note the submissions received in relation of a lack of consultation by the developer with local stakeholders and the limited time available to review the scale of documents under SHD legislation. While I acknowledge that additional consultation may have been beneficial to both sides, there is no requirement in the legislation for such consultation to take place. Consultation has been undertaken in compliance with the Planning and Development Act 2000, as amended, and the Planning and Development (Housing) and Residential Tenancies Act 2016 and full availability of documentation has been facilitated both in hardcopies at the offices of the Board and online via the dedicated website for the application for the required time period, as specified by the legislation.

##### Greenhouse Gas Emissions

10.14.2. One submission received raises concerns in relation to global warming and the need to adopt every net zero standard where possible.

10.14.3. An Energy Statement is submitted with the application in order to demonstrate compliance to Building Regulations Technical Guidance Document (TGD) Part L 2019 and Section 2.0 outlines the requirements to ensure compliance: outlining the

overarching EU Directive for Near Zero Energy Buildings (NZEB) and how this is implemented in Ireland and detailing associated requirements within Part L 2019. The report examines the methodology in terms of Primary Energy, Renewable Technologies and options between Centralised and Decentralised plant, illustrating how electrically based technologies (Air Source Heat Pumps, Photovoltaic panels etc.) are increasingly favoured within Part L and associated Building Energy Rating (BER) calculations techniques within the approved software Dwelling Energy Assessment Procedure (DEAP). I note Building Regulations come under a separate legal code to planning.

10.14.4. While an increase in greenhouse gases is inevitable with most development, I have no information before me to believe that this increase would be excessive. I note that the matter of climate change has also been addressed in the submitted 'EIA Screening'. I am satisfied with the approach taken in relation to consideration of climate change.

10.14.5. The removal of the filling station and any issues arising in relation to potential for asbestos is governed by separate regulations.

## 11.0 **Appropriate Assessment**

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

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity of each European site

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

11.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive

requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

11.2.2. The proposed development on Davitt Road, a residential development proximate to the Grand Canal (separated from it by a road and Luas line), is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

### 11.3. **Screening the need for Appropriate Assessment**

11.3.1. The first test of Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site. This is considered stage 1 of the appropriate assessment process i.e. screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment carried out.

11.3.2. The applicant has submitted a screening report for Appropriate Assessment and Natura Impact Statement as part of the planning application (Appropriate Assessment Screening Report by Enviroguide Consulting dated March 2021 and Natura Impact Statement dated March 2021).

11.3.3. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The screening is supported by associated reports, including:

- an ecological survey;
- data from previous bird surveys carried out by Benson (2008/09), Scott Cawley Ltd. (2016/17) and Enviroguide Consulting (2018/19 2019/20, 2020/21) at ex-situ

sites of Good Counsel GAA Club, Brickfield Park and Dolphin's Barn Green, which are in close proximity to the site;

- Site Specific Flood Risk Assessment;
- Engineering Services Report;
- Basement Impact Assessment;
- Construction and Demolition Management Plan; and
- Dublin City Development Plan 2016-2022 and associated environmental reports.

11.3.4. The applicants AA Screening Report concluded that:

'The proposed Build-to-Rent Residential and Commercial Development at Davitt Road, Dublin 12 has been assessed taking into account:

- the nature, size and location of the proposed works and possible impacts arising from the construction works.
- the qualifying interests and conservation objectives of the Natura sites
- the potential for in-combination effects arising from Ringsend WwTP and other plans and projects.

It is concluded, based on objective information, that the possibility **may be excluded** that the Proposed Development will have a significant effect on the Natura 2000 sites listed below: Glenasmole Valley SAC (001209), Wicklow Mountains SAC (002122), Rye Water Valley/Carton SAC (001398), Baldoyle Bay SAC (000199), Howth Head SAC (000202), Rockabill to Dalkey Island SAC (003000), Knocksink Wood SAC (000725), Ireland's Eye SAC (002193), Malahide Estuary SAC (000205), Ballyman Glen SAC (000713), Wicklow Mountains SPA (004040), Howth Head Coast SPA (004113), Dalkey Islands SPA (004172), Ireland's Eye SPA (004117), Malahide Estuary SPA (004025).

However, upon examination of the relevant information including in particular the nature of the Proposed Development and the likelihood of significant effects on Natura 2000 sites, the possibility **may not be excluded** that the Proposed Development will have a likely significant effect on any of the Natura 2000 sites listed below: South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024),

North Bull Island SPA (004006), Baldoyle Bay SPA (004016). Accordingly, a Natura Impact Statement has been prepared for the Proposed Development and is included under separate cover’.

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

#### Stage 1 Screening - Test of Likely Significant Effects

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

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

#### Brief Description of the Development

11.3.8. The applicant provides a description of the project on page 3-4 of the AA screening report. In summary, the development comprises:

- Demolition of existing buildings.
- Construction of a u-shaped residential block of 188 BTR residential units, two commercial units, and resident support facilities, services, and amenities.
- Vehicular entrance from Davitt Road into Basement car park.
- Communal open space areas at surface level, including play facilities, and roof terrace areas at third, sixth and seventh floor level.
- Public realm improvements along the Davitt Road frontage, including a loading bay / drop-off area, 1 no. on-street car parking space, pedestrian and cyclist access from Davitt Road and enlargement of the existing footpath.
- Wastewater from the operational phase of the proposed development will discharge to the public network, for treatment at the Ringsend Wastewater Treatment Works.

- Surface water will discharge to the public surface water network, which currently discharges into the Grand Canal Dock.
- SUDS measures are proposed.
- Construction Environmental Management Plan - outlines measures and standard best practice construction site management measures, including environmental measures.

11.3.9. The habitats on the site to be developed are described as Buildings and Artificial Surfaces (BL3) with some patches of Ornamental/Non-native shrub (WS3).

11.3.10. The site is within the Liffey and Dublin Bay catchment and Liffey\_SC\_090 subcatchment. There are no river bodies within the site. The nearest rivers are the Camac and Poddle. The Grand Canal is c. 20m north of the site. The Grand Canal achieved good ecological potential during the 2013-2018 Water Framework Directive reporting period and is considered Not At Risk of not achieving its Water Framework Directive status objectives. The status of the Upper Liffey Estuary is classed as Good however this transitional waterbody is At Risk of not achieving its Water Framework Directive status objectives.

11.3.11. No Annex I habitats or Annex II plant species associated with any nearby European Sites were recorded within or adjacent to the proposed development site.

11.3.12. Invasive species were recorded on the site.

#### Submissions and Observations

11.3.13. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 7, 8 and 9 of this report.

#### Zone of Influence

11.3.14. A summary of European sites that occur proximate to the proposed development, including their conservation objectives and QIs/SCIs has been examined by the applicant. A precautionary approach in the submitted Screening Report of including all SACs/SPAs within 15km of the development site was taken to be the zone of influence of the development site and all European sites within 15km of the outfall point at Ringsend wastewater treatment plant are included in this analysis, which are listed in the table below:

**Table 4: Neighbouring European Sites**

Site Name & Code	Distance from Site	Distance from WWTP outfall
<p>South Dublin Bay SAC (000210)</p> <p>CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>QIs/SCI: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Embryonic shifting dunes [2110]</p>	6.4km	0.2km
<p>North Dublin Bay SAC (000206)</p> <p>CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>QIs/SCI: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimi</i>) [1330] / Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] / Embryonic shifting dunes [2110] / Shifting dunes along the shoreline with <i>Ammophila arenaria</i> [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] / Humid dune slacks [2190] / <i>Petalophyllum ralfsii</i> (Petalwort) [1395].</p>	8.9km	1.7km
<p>Glenasmole Valley SAC (001209)</p> <p>QIs: Merlin (<i>Falco columbarius</i>) [A098] / Peregrine (<i>Falco peregrinus</i>) [A103]</p>	9.3km	>15km
<p>Wicklow Mountains SAC (002122)</p>	10.8km	13.3km



<p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>QIs/SCI: [3110] Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) / [3160] Natural dystrophic lakes and ponds / [4010] Northern Atlantic wet heaths with <i>Erica tetralix</i> / [4030] European dry heaths / [4060] Alpine and Boreal heaths / [6130] <i>Calaminarian</i> grasslands of the <i>Violetalia calaminariae</i> / [6230] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) / [7130] Blanket bogs (* if active bog) / [8110] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) / [8210] Calcareous rocky slopes with chasmophytic vegetation / [8220] Siliceous rocky slopes with chasmophytic vegetation / [91A0] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles / [1355] <i>Lutra lutra</i> (Otter)</p>		
<p>Rye Water Valley/Carton SAC (001398)</p> <p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>QIs/SCI: [7220] Petrifying Springs / [1014] Narrow-mouthed Whorl Snail (<i>Vertigo angustior</i>) / [1016] Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>)</p>	12.3km	>15km
<p>Baldoyle SAC (000199)</p> <p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>QIs/SCI: [1140] Mudflats and sandflats not covered by seawater at low tide / [1310] <i>Salicornia</i> and other annuals colonizing mud and sand / [1330] Atlantic salt meadows</p>	13.6km	7.2km

( <i>Glauco-Puccinellietalia maritima</i> ) / [1410] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> )		
Howth Head SAC (000202)  CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.  QIs/SCI: [1230] Vegetated sea cliffs of the Atlantic and Baltic coasts /  [4030] European dry heaths	14.6km	6.6km
Roackabill to Dalkey Island SAC (003000)  CO - To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.  QIs/SCI: Reefs [1170] / Harbour Porpoise [1351].	14.6km	6.2km
Knocksink Wood SAC (000725)  CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.  QIs/SCI: [7220] Petrifying springs with tufa formation (Cratoneurion), [91E0] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)	>15km	14.4km
Ireland's Eye SAC (002193)  CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.  QIs/SCI: [1220] Perennial vegetation of stony banks / [1230] Vegetated sea cliffs of the Atlantic and Baltic coasts	15km	10.4km
Malahide Estuary SAC (000205)	>15km	11.1km

<p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>QIs/SCI: Mudflats and sandflats not covered by seawater at low tide [1140] / Salicornia and other annuals colonising mud and sand [1310] / Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] / Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] / Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>		
<p>Ballyman Glen SAC (000713)</p> <p>CO: To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected.</p> <p>QIs/SCI: [7220] Petrifying springs with tufa formation (Cratoneurion), [7230] Alkaline fens</p>	<p>&gt;15km</p>	<p>14.9km</p>
<p>South Dublin Bay and River Tolka Estuary SPA (004024)</p> <p>CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>QIs/SCI: 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] / Knot (<i>Calidris canutus</i>) [A143] / Sanderling (<i>Calidris alba</i>) [A144] / Dunlin (<i>Calidris alpina</i>) [A149] / Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] / Redshank (<i>Tringa totanus</i>) [A162] / Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] / Roseate Tern (<i>Sterna dougallii</i>) [A192] / Common Tern (<i>Sterna hirundo</i>) [A193] / Arctic Tern (<i>Sterna paradisaea</i>) [A194] / Wetland and Waterbirds [A999]</p>	<p>5.9km</p>	<p>0.2km</p>
<p>North Bull Island SPA (004006)</p> <p>CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	<p>8.9km</p>	<p>1.7km</p>

<p>QIs/SCI: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] / Shelduck (<i>Tadorna tadorna</i>) [A048] / Teal (<i>Anas crecca</i>) [A052] / Pintail (<i>Anas acuta</i>) [A054] / Shoveler (<i>Anas clypeata</i>) [A056] / Oystercatcher (<i>Haematopus ostralegus</i>) [A130] / Golden Plover (<i>Pluvialis apricaria</i>) [A140] / Grey Plover (<i>Pluvialis squatarola</i>) [A141] / Knot (<i>Calidris canutus</i>) [A143] / Sanderling (<i>Calidris alba</i>) [A144] / Dunlin (<i>Calidris alpina</i>) [A149] / Black-tailed Godwit (<i>Limosa limosa</i>) [A156] / Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] / Curlew (<i>Numenius arquata</i>) [A160] / Redshank (<i>Tringa totanus</i>) [A162] / Turnstone (<i>Arenaria interpres</i>) [A169] / Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] / Wetland and Waterbirds [A999]</p>		
<p>Baldoyle Bay SPA (004016)</p> <p>CO: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>QIs/SCI: [A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i> / [A048] Shelduck <i>Tadorna tadorna</i> / [A137] Ringed Plover <i>Charadrius hiaticula</i> / [A140] Golden Plover <i>Pluvialis apricaria</i> / [A141] Grey Plover <i>Pluvialis squatarola</i> / [A157] Bar-tailed Godwit <i>Limosa lapponica</i> / [A999] Wetland and Waterbirds</p>	14km	
<p>Howth Head Coast SPA (004113)</p> <p>CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>QIs/SCI: Kittiwake <i>Rissa tridactyla</i> [A188]</p>	15km	
<p>Dalkey Islands SPA (004117)</p> <p>CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>QIs/SCI: Roseate Tern (<i>Sterna dougallii</i>) [A192], Common Tern (<i>Sterna hirundo</i>) [A193], Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>	>15km	
<p>Malahide Estuary SPA (004025)</p>	>15km	

<p>CO: To maintain the favourable conservation status for all relevant habitats and species.</p> <p>QIs/SCI: Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] / Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] / Shelduck (<i>Tadorna tadorna</i>) [A048] / Pintail (<i>Anas acuta</i>) [A054] / Goldeneye (<i>Bucephala clangula</i>) [A067] / Red-breasted Merganser (<i>Mergus serrator</i>) [A069] / Oystercatcher (<i>Haematopus ostralegus</i>) [A130] / Golden Plover (<i>Pluvialis apricaria</i>) [A140] / Grey Plover (<i>Pluvialis squatarola</i>) [A141] / Knot (<i>Calidris canutus</i>) [A143] / Dunlin (<i>Calidris alpina</i>) [A149] / Black-tailed Godwit (<i>Limosa limosa</i>) [A156] / Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] / Redshank (<i>Tringa totanus</i>) [A162] / Wetland and Waterbirds [A999]</p>		
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11.3.15. In terms of the zone of influence, I would note that the site is not within or immediately adjacent to a European site and therefore there will be no loss or alteration of habitat, or habitat/species fragmentation as a result of the proposed development. The nearest European sites are those in Dublin Bay (see table above).

11.3.16. I note there is no direct hydrological pathway between any European site and the application site whereby the proposed residential development would have the potential to have likely significant effects upon them. There is no groundwater link between the site and the Grand Canal, given the Grand Canal is a manmade structure. The River Camac is located to the west and north of the Site. It is highly unlikely that any surface water would enter this river during the Construction Phase of the proposed development, as drainage from the site will flow into the Grand Canal Trunk Sewer, which flows in an easterly direction towards Dublin Bay via Grand Canal Dock. There is no surface water link between the site and the Grand Canal immediately north of the site, on the opposite side of the road and Luas track.

11.3.17. Section 3.7 of the applicant's screening report identifies all potential impacts associated with the proposed development taking account of the characteristics of the proposed development in terms of its location and scale of works related to the construction and operational phases, European sites within the zone of influence, and assesses whether there is any risk of a significant effect or effects on any

European sites, either alone or in combination with other plans or projects. The issues examined are impacts on water quality and resource, surface water due to surface water run-off and discharges during construction and operational phases. The possibility of a hydrological connection between the proposed development and habitats and species of European sites in Dublin Bay is identified due to surface water. This is discussed further below. The potential for a hydrological connection to any site through groundwater is excluded due to the hydrological and hydrogeological conditions underlying the site. The potential for significant impacts such as displacement or disturbance of species caused by construction activities is examined due to the proximity of ex-situ feeding sites in proximity to the application site, in addition to impact from changes in population density, which are discussed further hereunder.

- 11.3.18. The submitted Screening Report states there is an indirect pathway between the site and European sites through the public surface water network and storm overflows. The surface water network adjoining the site discharges to Grand Canal Dock approx. 5km east of the site, which discharges to the River Liffey Estuary and consequently Dublin Bay (approx. 2km further east), and its associated European sites of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA. The submitted Screening Report states in the event of rainfall, and the absence of standard appropriate mitigation measures, that there is potential for sediments/pollutants from the site to enter Grand Canal Dock and ultimately Dublin Bay via surface water run-off during the Construction Phase of the proposed development. It is stated that this could result in impacts on water quality in South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA.
- 11.3.19. In applying the 'source-pathway-receptor' model in respect of potential indirect effects, all sites outside of Dublin Bay are screened out for further assessment at the preliminary stage based on a combination of factors including the intervening minimum distances, the lack of suitable habitat for qualifying interests of SPAs, and the lack of hydrological or other connections.
- 11.3.20. I have examined the surface water network from the site to the proposed outfall at Grand Canal Dock. I note surface water would be discharged at rates and by means compliant with the Greater Dublin Regional Code of Practice for Drainage

Works to the public surface water drainage system, after passing through an attenuation tank and flow-control hydrobrakes, which are standard requirements on development sites such as this. These systems and features have not been specifically introduced or tailored to avoid or reduce an effect on any European site. Any potential pollutants or sediment arising from surface waters on site draining into the neighbouring surface water network and any subsequent entry into the surrounding surface water network draining into Dublin Bay, would not be significant to impact on water quality and would be further diluted by the point of discharge into Dublin Bay, given the distance involved and the volume of water relative to the volume of potential pollutants/sediment. Even with SUDS systems failing, there would be a significant dilution effect should any sediment enter the surface water network. Given the nature and scale of the proposed development, the insignificant loading in terms of surface water, the intervening distances and the significant marine buffer and dilution factor that exists between the sites, and having regard to the conservation objectives of the sites in question, I conclude that it is reasonable to conclude on the basis of the available information that the potential for likely significant effects on these sites can be excluded and I consider a stage two assessment in relation to surface water is not warranted.

11.3.21. With regard to the treatment of foul water at Ringsend Wastewater Treatment Plant, it is noted that the proposed units would result in an increase of a maximum load of 548 Population Equivalent (PE). I consider this to be an insignificant increase given the overall scale of the facility. This potential maximum increase would not alter the effluent released from the WwTP to such an extent as to result in likely significant effects on the SACs and SPAs connected hydrologically with Ringsend WwTP. Furthermore, upgrade works are currently on-going at Ringsend WwTP to increase the capacity of the facility from 1.6 million PE to 2.4 million PE. The pollutant content of future discharges to Dublin Bay is likely to decrease in the longer term due to permissions granted for upgrade of the Ringsend WWTP (2019). It is also an objective of the GDSDS and all development plans in the catchment of Ringsend WWTP to include SUDS within new developments and to protect water quality in the receiving freshwater and marine environments and to implement the WFD objective of achieving good water quality status in Dublin Bay. On the basis of the foregoing, I conclude that the proposed development will not impact the overall

water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

11.3.22. Light-Bellied Brent Geese (a QI species of South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA) have been recorded in Good Counsel GAA Club, which is used as an ex-situ feeding site. Good Counsel GAA Club is 100m east of the application site at its closest point. It is possible that the proposed development could cause disturbance and/or displacement to Geese here due to disturbance from environmental nuisances such as noise, dust and lighting. Black-headed Gulls, a QI species associated with South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA, have also been recorded, albeit in low numbers, at Good Counsel GAA Club. Light-Bellied Brent Geese have been recorded in Brickfield Park, another nearby ex-situ feeding site. Oystercatcher and Black-headed Gull, two species associated with South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA, have also been recorded in Brickfield Park and Dolphin's Barn Green in recent years. I note the submitted Screening Report refers to Brickfield Park and Dolphin's Barn Green, but these latter parks are not included in 'Table 3: Identification of Potential Impacts on Natura 2000 Sites', however they are assessed in the submitted NIS. With regard to anthropogenic disturbance, I note a high level of human activity already occurs at the ex-situ sites which are urban parks, with the Good Counsel lands also a GAA Club. Given the limited increase overall in the population as a result of the development, I consider no significant impact is likely to occur on these species as a result of the proposed development and changes in population density.

11.3.23. Having examined the assessment submitted and further to my own examination, there is no requirement to further consider all the sites listed in table 2 above, other than those related to South Dublin Bay and River Tolka Estuary SPA



(004024), North Bull Island SPA (004006), and Baldoyle Bay SPA (004016) where there is a possibility of disturbance and/or displacement of SCI species utilising ex-situ feeding sites in proximity of the application site during the Construction and Operational Phases of the proposed development. I consider effects on South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), and Baldoyle Bay SPA (004016) cannot be ruled out without further analysis and assessment.

11.3.24. The following screening table relates to those European sites within the zone of influence which cannot be excluded at screening stage and the associated screening conclusion for each site is set out:

**Table 5: Screening Summary Matrix and possibility of significant effects**

<b>European Site (code) &amp; Distance from Development</b>	<b>Conservation Objectives (CO) &amp; Qualifying Interests (QIs)/Special Conservation Interest (SCIs)</b>	<b>Possible Effect</b>	<b>Screening Conclusion</b>
South Dublin Bay and River Tolka Estuary SPA (004024)  Distance - 5.9km	CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.  QIs/SCIs:  [A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A130] Oystercatcher <i>Haematopus ostralegus</i> [A137] Ringed Plover <i>Charadrius hiaticula</i> [A141] Grey Plover <i>Pluvialis squatarola</i> [A143]	Given the presence of Light-bellied Brent Geese and Black-headed Gulls at Good Counsel GAA Club in the survey carried out during the 2019/2020 season, it is possible that the Proposed Development will cause disturbance and/or displacement to these species due to disturbance from environmental nuisances of noise, dust and lighting.	Effects cannot be ruled out without further analysis and assessment

	<p>Knot <i>Calidris canutus</i>  [A144] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina alpina</i> [A157] Bar-tailed Godwit <i>Limosa lapponica</i> [A162]  Redshank <i>Tringa totanus</i> [A179] Black-headed Gull <i>Chroicocephalus ridibundus</i> [A192] Roseate Tern <i>Sterna dougallii</i> [A193] Common Tern <i>Sterna hirundo</i> [A194]  Arctic Tern <i>Sterna paradisaea</i> [A999]  Wetlands</p>		
<p>North Bull Island SPA (004006)  Distance – 8.9km</p>	<p>CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>QIs/SCIs:</p> <p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A048] Shelduck <i>Tadorna tadorna</i> [A052] Teal <i>Anas crecca</i> [A054] Pintail <i>Anas acuta</i> [A056] Shoveler <i>Anas clypeata</i> [A130] Oystercatcher <i>Haematopus ostralegus</i> [A140] Golden Plover <i>Pluvialis apricaria</i> [A141] Grey Plover <i>Pluvialis</i></p>	<p>Given the presence of Light-bellied Brent Geese and Black-headed Gulls at Good Counsel GAA Club in the survey carried out during the 2019/2020 season, it is possible that the Proposed Development will cause disturbance and/or displacement to these species due to disturbance from environmental nuisances such as noise, dust and lighting.</p>	<p>Effects cannot be ruled out without further analysis and assessment</p>

	<p>squatarola [A143] Knot  Calidris canutus [A144]  Sanderling Calidris alba  [A149] Dunlin Calidris  alpina alpina [A156] Black-  tailed Godwit Limosa  limosa [A157] Bar-tailed  Godwit Limosa lapponica  [A160] Curlew Numenius  arquata [A162] Redshank  Tringa totanus [A169]  Turnstone Arenaria  interpres [A179] Black-  headed Gull  Chroicocephalus  ridibundus [A999]  Wetlands.</p>		
<p>Baldoyle Bay  SPA (004016)    Distance –  14km</p>	<p>CO: To maintain or restore  the favourable  conservation condition of  the bird species listed as  Special Conservation  Interests for this SPA.    QIs/SCI: [A046] Light-  bellied Brent Goose  <i>Branta bernicla hrota</i> /  [A048] Shelduck <i>Tadorna</i>  <i>tadorna</i> / [A137] Ringed  Plover <i>Charadrius</i>  <i>hiaticula</i> / [A140] Golden  Plover <i>Pluvialis apricaria</i> /  [A141] Grey Plover  <i>Pluvialis squatarola</i> /  [A157] Bar-tailed Godwit</p>	<p>Given the presence of  Light-bellied Brent Geese  and Black-headed Gulls at  Good Counsel GAA Club in  the survey carried out  during the 2019/2020  season, it is possible that  the Proposed Development  will cause disturbance  and/or displacement to  these species due to  disturbance from  environmental nuisances  such as noise, dust and  lighting.</p>	<p>Effects  cannot be  ruled out  without  further  analysis  and  assessment</p>

	<i>Limosa lapponica</i> / [A999] Wetland and Waterbirds		
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#### 11.4. Screening Determination

- 11.4.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA) and European Site No. 004016 (Baldoyle Bay SPA) in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore required.
- 11.4.2. I confirm that the sites screened in for appropriate assessment are included in the NIS prepared by the project proponent.
- 11.4.3. The possibility of significant effects on other European sites has been excluded on the basis of the nature and scale of the works proposed, scale of intervening distances involved, lack of a direct hydrological link, dilution effect of Dublin Bay, capacity of Ringsend Wastewater Treatment Plant, and lack of substantive ecological linkages between the proposed works and the sites in question.
- 11.4.4. In reaching the conclusion of the screening assessment, no account was taken of measures intended to avoid or reduce the potentially harmful effects of the project on any European Site.

#### 11.5. The Natura Impact Statement and associated documents

- 11.5.1. The application is accompanied by an NIS (dated March 2021), which examines and assesses the potential adverse effects of the proposed development on the following European Sites:
- South Dublin Bay SAC (000210)
  - North Dublin Bay SAC (000296)
  - South Dublin Bay and River Tolka Estuary SPA (004024)
  - North Bull Island SPA (004006), and

- Baldoyle Bay SPA (004016).

11.5.2. As noted in my report above, I have excluded in my screening assessment South Dublin Bay SAC and North Dublin Bay SAC, therefore I am only considering South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), and Baldoyle Bay SPA (004016) in this stage 2 assessment.

11.5.3. The NIS was informed by a number of studies, surveys and consultations, as set out in Section 11.3.3 of this report above.

11.5.4. The applicant's NIS was prepared in line with current best practice guidance and provides a description of the development (see section 11.3.4 of this report above).

11.5.5. The NIS identifies and assesses possible adverse effects of the proposed development on specific QIs and SCIs of South Dublin Bay, North Dublin Bay, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and Baldoyle SPA, in section 7 of the report. Details of mitigation measures, how, and when they will be implemented, are detailed in Section 9 of the NIS. An assessment of residual effects is set out in Section 6 and cumulative effects are considered in Section 7. Monitoring is also provided for which is in line with best practice. Mitigation and monitoring will be managed by the appointed contractor and a detailed Construction and Environmental Management Plan (CEMP) will be in place and incorporate measures detailed in the NIS.

11.5.6. The applicant's NIS concluded that:

'The Appropriate Assessment investigated the potential direct and indirect impacts of the Proposed Works, both during Construction and Operation on the integrity and qualifying interests of the above Natura 2000 sites alone and in combination with other plans and projects, taking into account the site's structure, function and conservation objectives.

Where potentially significant impacts were identified, a range of mitigation and avoidance measures have been suggested to help offset them. As a result of this Appropriate Assessment it has been concluded that, ensuring the avoidance and mitigation measures are implemented as proposed, the Proposed Development at Davitt Road, Dublin 12, will not have a significant adverse impact on the above Natura 2000 sites'.

## 11.6. Appropriate Assessment of implications of the proposed development

- 11.6.1. The following is a summary of the assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field (as provided by the applicant). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.
- 11.6.2. I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009); Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002); Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).
- 11.6.3. The following sites are subject to appropriate assessment:
- South Dublin Bay and River Tolka Estuary SPA (004024),
  - North Bull Island SPA (004006), and
  - Baldoyle Bay SPA (004016).
- 11.6.4. A description of these sites and their Conservation Objectives and Qualifying Interests are set out in the submitted NIS and outlined in table 4 of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

### Aspects of the Proposed Development

- 11.6.5. The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites assessed include:
- Construction and operation related noise, dust and lighting disturbance resulting in potential disturbance and or displacement of certain bird species, namely Light-bellied Brent Geese, Oystercatcher and Black-headed Gull (Table 2), which are qualifying interest species for South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and Baldoyle SPA, as they utilise a number of ex-situ feeding sites in the vicinity of the proposed development.

11.6.6. As noted in the screening report there is no direct hydrological pathway from the site to European Sites. The hydrological pathway to the nearest European Site is via an indirect surface pathway, which I have considered in the screening section above. There are no Annex I habitats or Annex II plant species on site. Invasive plant species were identified on the site. No other Annex II species or SCI bird species associated with any nearby European Sites were recorded during the site ecological surveys undertaken. The application site does not provide important habitat for any species listed on Annex II of the EU Habitats Directive or Annex I of the EU Birds Directive species or any other bird species that is among the SCIs of any nearby SPA. No potential for direct effects on any European Site exists.

#### Potential Construction Phase Impacts

11.6.7. A potential for indirect effect on the QIs of Light-bellied Brent Geese, Oystercatcher and Black-headed Gull associated with South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA, as a result of construction disturbance, related to noise, dust and lighting, has been identified.

11.6.8. The survey results submitted in the NIS relate to the Good Counsel GAA Club (c.100m east from the site at its closest point), Brickfield Park (c.278m south from the site) and Dolphin's Barn Green (c.470 southeast from the site) and date back over a minimum of three years over the winter months. The numbers of Black headed Gull and Oystercatcher observed utilising these ex-situ sites are small in numbers and the sites are used on such an infrequent basis as not to be deemed significant. Usage by Light-bellied Brent Geese was also infrequent and in numbers considerably below that of National Importance.

11.6.9. As discussed in my screening assessment above, I do not consider that surface water run-off/discharges from the proposed development has the potential to negatively impact the status of habitats and foraging resources which the bird species listed as QIs for the aforementioned SPAs rely on.

#### Mitigation

11.6.10. Arising from the review of the survey results of the ex-situ sites, given the small numbers of Light-bellied Brent Geese, Oystercatcher and Black-headed Gull utilising ex-situ habitats proximate to the site, given the lack of a direct link between the site and the identified ex-situ sites, and given the availability of other nearby ex-

situ sites, no significant impact is likely to occur on these species as a result of the proposed development.

- 11.6.11. Section 9 of the NIS sets out mitigation measures which is stated will further underpin that no significant impact will occur.
- 11.6.12. Construction stage mitigation measures are proposed in relation to noise, and construction and operational mitigation measures in relation to dust, surface water and waste management to mitigate potential impacts.
- 11.6.13. With regard to noise, Noise Control Audits will be undertaken at regular intervals and measures are set out within the CEMP, and will address hours of operation, noise control at source, optimum siting of plant etc. I consider given the distance from the site, that such measures will ensure that no significant noise nuisance occurs.
- 11.6.14. With regard to dust, the submitted NIS notes that while construction dust tends to be deposited within 200m of a construction site, the majority of the deposition occurs within the first 50m. Dust deposition impacts on biodiversity can occur due to chemical or physical effects. These include reduction in photosynthesis due to smothering from dust on the plants and chemical changes such as pH changes in the soil. Often impacts will be reversible once the works are completed, and dust deposition ceases. A Dust Minimisation Plan is submitted to ensure that no significant nuisance occurs at the nearby ex-situ sites, as well as the Grand Canal. The plan has been formulated based on best practice guidance from Ireland, the UK (BRE 2003), (The Scottish Office 1996) (UK Office of Deputy Prime Minister 2002) and the USA (USEPA 1997), (USEPA 1986). The plan includes measures for the construction and operational phases, including a communication plan to engage with nearby stakeholders, a site management plan to record all dust and air quality complaints and actions, and a monitoring plan which will be developed to ensure that no significant nuisance occurs.
- 11.6.15. With regard to surface water, a Construction Environmental Management Plan (CEMP) will be put in place which will include general surface water mitigation measures, such as measures in relation to the importing and storage and handling of materials; refuelling at designated location, emergency breakdown maintenance and drip trays and spill kits, training of staff in relation to pollution incident control



response, and storage of diesel, fuel or hydraulic oils in bunded area. A Waste Management Plan will also be implemented.

11.6.16. Operational mitigation measures are identified in relation to waste and surface waste. Operational waste will be management in accordance with the waste plan. Surface Water will be managed through sustainable drainage systems. I note the Engineering Services Report details the SUDS measures proposed. I further note the SUDS system proposed is not required to avoid or reduce the potentially harmful effects of the project on any European Site and I have considered this issue fully in the screening section above. A site lighting plan for the site is set out within the submitted Site Lighting Report. Having regard to the level of lighting arising from this residential development (and the more limited level of lighting that would apply at construction state), to the number of birds occurring on the ex-situ sites as per the submitted surveys, and having regard to the intervening distances between the proposed development and these sites, I consider that no significant impact is likely to occur on the identified species as a result of the proposed development and associated plan.

11.6.17. Overall, I consider that the proposed mitigation measures are clearly described, and precise, and definitive conclusions can be reached in terms of avoidance of adverse effects on the integrity of European sites based on the mitigation measures submitted. Overall, the measures proposed are effective, reflecting current best practice, and can be secured over the short, medium and longer term and the method of implementation will be through a detailed management plan.

#### In-Combination Effects

11.6.18. Section 7 of the NIS considers the potential for in-combination impacts on the SAC and SPAs arising in combination with other plans and other permitted developments. The application site is a discrete piece of land that is zoned for residential use in the development plan. The future development is in accordance with the development plan and subsequent variation to the zoning, which was itself subject to appropriate assessment. Overall, cumulative impacts are not anticipated.

#### Appropriate Assessment Conclusion

- 11.6.19. The proposed residential development at Davitt Road has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 11.6.20. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA) and European Site No. 004016 (Baldoyle Bay SPA).
- 11.6.21. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 11.6.22. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA) and European Site No. 004016 (Baldoyle Bay SPA), or any other European site, in view of the sites Conservation Objectives.
- 11.6.23. This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and monitoring in relation to the Conservation Objectives of European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA) and European Site No. 004016 (Baldoyle Bay SPA).
  - Detailed assessment of in combination effects with other plans and projects including historical projects, plans and current proposals.
  - No reasonable scientific doubt as to the absence of adverse effects on the integrity of European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA) and European Site No. 004016 (Baldoyle Bay SPA).

## 12.0 Environmental Impact Assessment Screening

- 12.1. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:
- Construction of more than 500 dwelling units
  - Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- 12.2. 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.
- 12.3. The development provides for 188 residential units and two commercial units on an area of 0.57ha. The site is located within the area of Dublin City Council and is within an inner suburban area. The site is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001-2017.
- 12.4. 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 Statement which includes the information required under Schedule 7A to the planning regulations. The nature and the size of the proposed development is well below the applicable thresholds for EIA. The residential and commercial uses proposed would be similar to predominant land uses in the area. The proposed development will not increase the risk of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The former use of the site is noted and potential for contaminated material to be encountered during demolition and excavation, with the potential for impacts on the environment with regard to land and soils, considered and assessed

in the submitted Construction and Demolition Management Plan (C&DMP), will not give rise significant environmental impacts. The development is served by municipal drainage and water supply. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. I have considered the ACA status of the Grand Canal which comes within a portion of this site and the site will not negatively impact the Grand Canal ACA.

12.5. The various reports submitted with the application (as listed in section 1.4 of the submitted EIA screening report) 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:

- Landscape / Townscape Visual Assessment Report prepared by Murray and Associates, and CGI and Verified Views Brochure prepared by 3DDB;
- Archaeology Report prepared by IAC, Archaeological Consultants;
- Site-Specific Flood Risk Assessment prepared by CS Consulting;
- Engineering Services Report, and Engineering drawings, sections and drawing schedule prepared by CS Consulting;
- Traffic and Transport Report and Residential Travel Plan, Construction & Demolition Management Plan, and Basement Impact Assessment prepared by CS Consulting;
- Daylight and Sunlight Impact Assessment Report prepared by 3D Design Bureau;
- Appropriate Assessment Screening Report, Natura Impact Statement, and Ecological Statement prepared by Enviroguide Consulting;
- Energy Analysis Report;

- Construction and Demolition Waste Management Plan and Operational Waste Management Plan prepared by AWN;
- Public Lighting Report and Drawings prepared by IN2 Consulting;
- Microclimatic Wind Analysis and Pedestrian Comfort Report prepared by IN2 Consulting; and
- Construction & Demolition Management Plan (C&DMP) prepared by CS Consulting.

12.6. In addition, 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. An Energy Analysis 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. A Site Specific Flood Risk Assessment that addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive. An AA Screening Report and NIS Report in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) have been submitted with the application, which also address requirements arising from the Water Framework Directive and the Urban Wastewater Treatment Directive. An Outline Construction and Demolition Waste Management Plan has been submitted which was undertaken having regard to the EC Waste Directive Regulations 2011, European Union (Household Food Waste and Bio-waste) Regulation 2015, European Communities (Transfrontier Shipment of Waste) Regulations 1994 (SI 121 of 1994) and to European Union (Properties of Waste which Render it Hazardous) Regulations 2015. 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 other relevant assessments have been identified for the purposes of screening out EIAR.

- 12.7. I have completed an EIA screening assessment as set out in Appendix A of this report.
- 12.8. 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.
- 12.9. I am overall satisfied that the information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted.
- 12.10. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

### **13.0 Recommendation**

I recommend that permission is granted, subject to conditions.

### **14.0 Reasons and Considerations**

Having regard to the following:

- (a) the policies and objectives set out in the Dublin City Development Plan 2016-2022
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013

- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) Architectural Heritage Protection – Guidelines for Planning Authorities, 2011
- (i) the nature, scale and design of the proposed development
- (j) the availability in the area of a wide range of social, community and transport infrastructure
- (k) the pattern of existing and permitted development in the area
- (l) the planning history within the area
- (m) the submissions and observations received,
- (n) the report of the Chief Executive of Dublin City Council

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

## 15.0 Recommended Draft Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 9th day of March 2021 by John Spain Associates on behalf of Heidelberg Davitt Limited.

### Proposed Development

A permission for a Build-to-Rent residential development, on a site at the Former Heidelberg / Miller Building and S.C.R. Garage sites, Davitt Road, Dublin 12.

Permission is sought for a Build-to-Rent development consisting of:

- The demolition of all existing buildings on the application site (comprising the former Heidelberg / Miller Building, S.C.R. Garage and associated outbuildings);
- The construction of a part 3 to part 9 storey building in a U-shaped block layout, over basement level, including 2 no. commercial units (with a GFA of 101 sq.m and 193 sq.m, for Class 1- Shop or Class 2- Office / Professional Services or Class 8- Medical Centre or Class 11 – Gym or Restaurant / Café use), 188 no. Build-to-Rent (BTR) apartments, resident support facilities, and resident services and amenities;
- The 188 no. BTR apartments comprise 20 no. studio units, 79 no. 1 bedroom units, and 89 no. 2 bedroom units. 144 of the apartments are provided with balconies / terraces on the south, western, eastern and northern elevations of the building;
- The development includes BTR resident support facilities and resident services and amenities with a total GFA of 1,165 sq.m, including a resident's store, laundry room, bin store, and cycle storage at basement level and a reception / management area, residents lounge, residents workspace, games room, and gym at ground floor level;
- Public realm improvements are proposed along the Davitt Road frontage of the development, including a loading bay / drop-off area, and enlargement of the existing footpath;
- The proposal includes communal open space areas at ground level, including play facilities, and roof terrace areas at third, sixth and seventh floor levels;
- The basement level contains 58 no. car parking spaces, 4 no. motorcycle spaces, 280 no. bicycle parking spaces, plant rooms, a bin storage area, cores, and residential amenities;
- 106 no. bicycle parking spaces are provided at surface level; and
- The proposal includes a vehicular entrance to the basement from Davitt Road, a loading bay, 1 no. on street car parking space, pedestrian and cyclist access from Davitt Road, foul and surface water drainage, boundary treatments, hard and soft landscaping, an ESB sub-station, and all ancillary site development works necessary to facilitate the development.



## **Decision**

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

## **Matters Considered**

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

## **Reasons and Considerations**

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

- (a) the policies and objectives set out in the Dublin City Development Plan 2016-2022
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing, Design Standards for New Apartments, 2020
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) Architectural Heritage Protection – Guidelines for Planning Authorities, 2011
- (i) the nature, scale and design of the proposed development

- (j) the availability in the area of a wide range of social, community and transport infrastructure
- (k) the pattern of existing and permitted development in the area
- (l) the planning history within the area
- (m) the submissions and observations received
- (n) the report of the Chief Executive of Dublin City Council, and
- (o) the report of the Inspector.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for the Screening for Appropriate Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), and Baldoyle Bay SPA (004016), which are European Sites for which there is a likelihood of significant effects.

### **Appropriate Assessment Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), and Baldoyle Bay SPA (004016) in view of the above sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the

sites' Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

### **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Having regard to:

- a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

- b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- c) The location of the site on lands governed by zoning objective Z1, 'to protect, provide and improve residential amenities', in the Dublin City Development Plan 2016-2022,
- 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 Construction and 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.

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

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or

of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is, apart from the building height parameters, broadly compliant with the current Dublin City Council Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the plan with respect to building height limits. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dublin City Development Plan 2016-2022 would be justified for the following reasons and considerations:

- With regard to S.37(2)(b)(i), the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and delivers on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.
- With regard to S.37(2)(b)(iii), the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35, and is in compliance with the Urban Development and Building Height Guidelines, in particular SPPR3
- In relation to section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended), the Board has previously approved a 24.13m high building on a site to the west (ABP-303435-19) and the proposed development is continuing on that pattern of development.

## 16.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Statement and Bat Survey Report submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p><b>Reason:</b> In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>Prior to commencement of any works on site, the developer shall submit and agree in writing with the planning authority a comprehensive Invasive Species Management Plan, which shall include detailed measures for the elimination of Japanese Knotweed, on the site and dispose of any Japanese knotweed contaminated material by either its destruction or burial in sealed cells on site, or its removal off site under licence from the National Parks and Wildlife Service of the Department of Housing, Local Government and Heritage for its disposal or destruction in an approved facility.</p> <p><b>Reason:</b> To ensure the eradication from the development site of invasive plant species and to protect biodiversity.</p>

4.	<p>The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area and in the interests of clarity.</p>
5.	<p>Prior to the commencement of development, the owner shall submit, for the written consent of the Planning Authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first apartments within the scheme.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development of the area.</p>
6.	<p>Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.</p> <p><b>Reason:</b> In the interests of orderly development and clarity.</p>
7.	<p>Prior to commencement of any works on site, revised details shall be submitted with regard to the following:</p> <ul style="list-style-type: none"> <li>(a) Full details of proposed green roof.</li> <li>(b) Privacy screens between balconies of the apartments.</li> </ul>

	<p>(c) Privacy screens, including height and materials, to all of the roof terraces.</p> <p>(d) Higher level roof terraces shall provide weather proof seating areas/ facilities to allow continued use of these spaces by residents in adverse weather, details of which shall be submitted.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development and to safeguard the amenities of the area.</p>
8.	<p>Access to the roof terraces shall be restricted to residents of the scheme between the hours of 0700 and 2200 Monday to Sunday.</p> <p><b>Reason:</b> In the interests of residential amenity.</p>
9.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings and detailed public realm finishes, including pavement finishes and bicycle stands, shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
10.	<p>Prior to the occupation of the development, a schedule of proposed uses for the proposed ground floor commercial units shall be submitted for the written agreement of the planning authority. Class 2 office/professional uses shall not be permitted without a separate grant of planning permission. In addition, prior to the occupation of these units, details of openings, signage, lighting, shopfronts and layout/window treatment of the subject unit shall be agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interests of clarity and the proper planning and sustainable development of the area.</p>



11.	<p>No external security shutters shall be erected for any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of the amenities of the area/visual amenity.</p>
12.	<p>All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
13.	<p>No additional development shall take place above roof parapet level of the shared accommodation buildings, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess the impact of any such development through the planning process.</p>
14.	<p>Proposals for a development name, commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
15.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for</p>

	<p>occupation.</p> <p><b>Reason:</b> In the interest of public safety and visual amenity.</p>
16.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
17.	<p>(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, with the exception of the car share spaces, unless the subject of a separate grant of planning permission.</p> <p>(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.</p> <p><b>Reason:</b> To ensure that adequate parking facilities are permanently available to serve the proposed residential units and also to prevent inappropriate commuter parking.</p>
18.	<p>Details of the bicycle parking space location, layout, access to the basement, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.</p>
19.	<p>The developer shall comply with all requirements of the planning authority in relation to all works to be carried out on the public road, and areas to be</p>

	<p>taken in charge, including changes to the footpath by provision of an indented loading/set-down area and a vehicular entrance on Davitt Road</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
20.	<p>A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p><b>Reason:</b> To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
21.	<p>Prior to the opening or occupation of the development, a Mobility Management Strategy including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Streets Interim Advice Note – Covid Pandemic Response (May 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p><b>Reason:</b> In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.</p>

22.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
23.	<p>The site shall be landscaped in accordance with a revised scheme of landscaping, which shall have full regard to the Invasive Species Management Plan to be prepared for the site.</p> <p>This scheme shall include the following:</p> <p>(a) proposed locations of trees at appropriate intervals, including details of tree root protection having regard to proximity to boundaries, and other landscape planting in the development, including details of the size, species and location of all vegetation, including biodiversity enhancement measures;</p> <p>(b) provision for nesting for swifts shall be installed in the proposed development, and the number, types and locations on the apartment block shall be agreed with the planning authority.</p> <p>(c) a bat friendly lighting regime and bat boxes and bat bricks shall be installed in accordance with the proposals set out in the Ecological Statement and Bat Report submitted with this application.</p> <p>Details of the revised landscaping scheme shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The</p>

	<p>approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.</p> <p><b>Reason:</b> In the interest of residential and visual amenity and to support biodiversity.</p>
24.	<p>Proposals for dusk and dawn bat activity surveys and a bat roost survey of the interior of the former Heidelberg/ Miller Building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To avoid the injury or death of bats afforded a regime of strict protection under the Habitats Directive (92/43/EEC).</p>
25.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
26.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and</p>

	<p>disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
27.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide a demolition management plan, together with details of intended construction practice for the development, including a detailed traffic management plan, hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
28.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
29.	<p>The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
30.	<p>Prior to commencement of development on site, the developer shall submit, for the written agreement of the Planning Authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-rent scheme will operate.</p>

	<p><b>Reason:</b> In the interests of orderly development and the proper planning and sustainable development of the area.</p>
31.	<p>Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
32.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
33.	<p>Prior to the commencement of development, the developer shall enter into an agreement with the Planning Authority to provide for the payment of a financial contribution to the Planning Authority in lieu of open space as provided for under section 16.3.4 of the Dublin City Development Plan</p>

	<p>2016-2022. The manner of payment and amount of payment shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
34.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Una O'Neill  
Senior Planning Inspector

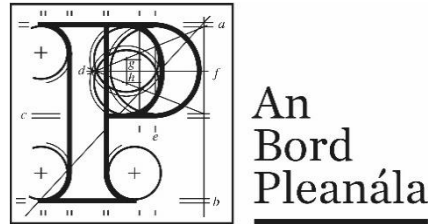
18<sup>th</sup> June 2021







**Appendix A: EIA Screening Form**



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

<b>A. CASE DETAILS</b>		
<b>An Bord Pleanála Case Reference</b>		ABP-309627-21
<b>Development Summary</b>		Demolition and construction of 188 residential units and two commercial units, over basement.
	<b>Yes / No / N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	An EIA Screening Report and a Stage 1 AA Screening Report and NIS was submitted with the application
<b>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?</b>	<b>No</b>	

<p><b>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</b></p>	<p><b>Yes</b></p>	<p>SEA undertaken in respect of the Dublin City Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan. Amendment to development plan involving rezoning of site to Z1 and associated AA.</p>
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<p><b>B. EXAMINATION</b></p>	<p><b>Yes/ No/ Uncertain</b></p>	<p><b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>   <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)  <b>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</b></p> </p>	<p><b>Is this likely to result in significant effects on the environment?</b>  <b>Yes/ No/ Uncertain</b></p>
<p><b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b></p>			
<p><b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b></p>	<p><b>No</b></p>	<p>The development comprises the construction of residential units and mixed uses on zoned lands. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.</p>	<p>No</p>

<p><b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b></p>	<p><b>Yes</b></p>	<p>The proposed development is located on brownfield lands within Dublin City Centre. The proposed development is not considered to be out of character with the pattern of development in the surrounding area.</p>	<p>No</p>
<p><b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b></p>	<p><b>Yes</b></p>	<p>Construction materials will be typical of such an urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p>No</p>
<p><b>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

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

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p><b>No</b></p>

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



<p><b>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b></p>		<p>000210 (South Dublin Bay SAC), European Site No. 000206 (North Dublin Bay SAC), European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA) and European Site No. 004016 (Baldoyle Bay SPA), or any other European site, in view of the sites Conservation Objectives.</p>	
<p><b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</b></p>	<p><b>No</b></p>	<p>No such species use the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p><b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b></p>	<p><b>No</b></p>	<p>Part of the scheme is located within an ACA. The scheme does not negatively impact on the Grand Canal ACA.</p>	<p>No</p>
<p><b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b></p>	<p><b>No</b></p>	<p>No such features arise in this urban location.</p>	<p>No</p>

<p><b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b></p>	<p><b>No</b></p>	<p>There are no direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding. Potential indirect impacts are considered with regard to surface water, however, no likely significant effects are anticipated.</p>	
<p><b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b></p>	<p><b>No</b></p>	<p>Site investigations identified no risks in this regard.</p>	<p>No</p>
<p><b>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b></p>	<p><b>No</b></p>	<p>The site is served by a local urban road network. There are sustainable transport options available to future residents. No significant contribution to traffic congestion is anticipated.</p>	<p>No</p>
<p><b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b></p>	<p><b>Yes</b></p>	<p>There are no such adjoining landuses. The development would not be likely to generate additional demands on educational facilities in the area.</p>	<p>No</p>

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

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

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- c) the location of the site on lands governed by zoning objective Z1 'To protect, provide and improve residential amenities' in the Dublin City Development Plan 2016-2022,
- 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

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

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

**Inspector:** \_ Una O'Neill\_\_

**Date:** \_\_18/06/2021\_\_

