



Development	The construction of 58 no. apartments in a part three to part five storey building over basement and all associated services and works.
Location	Sandymount Avenue, Sandymount, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2800/20
Applicant(s)	Klarion Construction Limited
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	<ol style="list-style-type: none">1. Vincent Ryan2. Jeremy And Miranda Humphries3. Paul and Claire O'Dea4. Manahan Planners on behalf of...

Observer(s)

5. Dennis and Deirdre Woods
6. Maura Doyle
7. David and Rosemary
McGovern
8. Grace Hume
1. Sandymount and Merrion
Residents Association
2. Des Harrold
3. Margaret & Tom Moran
4. Joan Murray & Grace Delahunt
5. Marion & Peter Humphries

Date of Site Inspection

10th August 2021

Inspector

Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The site is c. 3.5 km south east of Dublin City Centre on a parcel of land located on Sandymount Avenue, Sandymount, Dublin 4. The site is c. 65 m west of the junction of Sandymount Avenue and Guilford Road. This junction is c. 115m south of Sandymount Village and Green.
- 1.2. The southern boundary of the site adjoins Sandymount Avenue and includes a hoarding style gate and splayed entrance and a c. 2m high block decorative wall (hit and miss style) and a plastered elevation wall to an electricity substation style structure.
- 1.3. The eastern boundary of the site follows the side and rear boundary of No 80 Sandymount Road and properties that front Guilford Road.
- 1.4. The northern and western boundaries of the site appear to enclose lands in private ownership that adjoin Enable Ireland buildings, an access road, a garden centre and a car park.
- 1.5. Existing houses along Sandymount Avenue to the east of the site are generally two storey semi-detached houses. There are terraced housing opposite the site on Sandymount Avenue. The Enable Ireland Building is generally 2 storey with some three storey elements. The Willows apartment development is sited to the west of the Enable Ireland building and appears to be four storey and is accessed from Claremont Road to the north west of the application site.
- 1.6. The application site is an underutilised parcel of land with no apparent existing use. A number of trees are visible within the site but generally it appears as overgrown and unkept. There are some areas of hard standing visible within the site.
- 1.7. The site is c. 400m north east of the Sandymount Dart station. A Dublin Bus stop is located to the front of the site on Sandymount Avenue.

2.0 Proposed Development

- 2.1. Following revisions at Further/Additional Information stage the proposed development comprises-
 - The construction of 58 no. apartments in two Blocks- A.01 and A.02.

- A.01- 5 storey and c.18.6 m high above ffl.
- A.02- Part 2, part 3 and part 5 storey ranging in height from c. 6.4m to c. 10.6 to c. 18.6 m high above ffl .
- FFL is indicated as 2.6m OD
- Block A01 consists of 25 apartments-
 - 2 no. 1 beds,
 - 21 no. 2 beds and
 - 2 no. 3 beds;
- Block A02 consists of 33 apartments-
 - 6 no. 1 beds, and
 - 27 no. 2 beds
- 800 sq.m of 'Communal Amenity Space'
- 625 sq.m of 'Public Open Space' fronting onto Sandymount Avenue
- 39 basement car parking spaces and
- 88 no. cycle parking spaces- 58 in basement and 30 at ground level

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 23/02/21 subject to 22 conditions generally of a standard nature and including-

- C6 Details of materials to be agreed
- C7 Landscaping details of buffers for ground floor windows to be agreed
- C9 A tree retention and protection plan to be agreed
- C11 Car parking shall not be sold, rented or sub-let
- C12 Transportation Division requirements-

- Revised vehicular entrance incorporating set down within the site to be agreed
- Access and egress to be controlled by a traffic light system. Details to be agreed
- 58 basement cycle spaces, 30 short term cycle spaces and other cycle requirements
- An Operational Waste Management Plan to be agreed to include auto track drawings for waste and emergency vehicles without conflict to the vehicular entrance.
- Car Parking Strategy
- 10% car parking to be electric charging with 100% ducting
- C13 Drainage Division requirements including flooding related requirements
- C14 Archaeological requirements
- C15 Applicant/developer responsible for public open space which will operate as such in perpetuity
- C19 The floor of balconies shall be solid and self-draining

4.0 Planning Authority Reports

4.1. Planning Reports

The report of Dublin City Council's (DCC) Planning Officer (dated 23/02/21) reflects the decision of the Planning Authority. The following is noted from the report-

- The site is zoned Z12 in the Dublin City Development Plan 2016-2022 Institutional Land (Future Development Potential) which seeks "To ensure existing environmental amenities are protected in the predominantly residential future use of these lands".
- Section 14.8.12 of the Development Plan states in relation to the zoning that "Where lands zoned Z12 are to be developed, a minimum of 20% of the site, incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public open space. The

predominant land-use on lands to be re-developed will be residential, and this will be actively encouraged.

- The Sandymount ACA designation abuts part of the site to the east and comes within circa.30m of the site to the north.
- A Village Design Statement (VDS) for Sandymount 2011 was prepared by Dublin City Council and the Heritage Council in partnership with local residents and businesses. The VDS includes Sandymount Village and environs (including the subject site).
- The proposed demolition of the existing wall fronting onto Sandymount Avenue and all associated site clearance works would enable development of a vacant, well-serviced site which is welcomed by the planning authority.
- The proposed development is considered to be consistent with the Z12 zoning objective in relation to the residential use, Part V and delivering 20% public open space on the site. The total site area is 3652sq.m comprising 3,120sq.m of Z12 zoned lands equating to a requirement of 625sq.m of public open space.
- The zoning also states that Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. A masterplan has been provided in Section 2 of the submitted Design Statement
- It is accepted that the low-rise and low-density development of surrounding two-storey residential dwellings is inconsistent with what would be sustainable form of development for this well-located site within circa. 300m of the DART station in Sandymount Village.
- The proposed 20m high development at 5 stories is consistent with what is anticipated in the Development Plan for such locations close to transport/rail hubs.
- The proposed height complies with Development Plan maximum height of 24m, with the proposed development measuring approximately 20m overall. The proposed density of 159 units/ha is considered to be in-line with national policy objectives and delivers a high density of housing on a well serviced site

within circa/ 300m of a DART station. The planning authority accepts the proposed density and height in principle at this location.

- It is clear from the submissions that local residents strongly consider that the original design of the building, and pyramid roof in particular, does not reflect the special character of Sandymount Village or the character of the immediate area. The proposed roof profiles are visible above the existing character buildings when viewed from the ACA at View Points 2 and 3 in the submitted photomontages prepared by Digital Dimensions. Overall it is considered that the applicant should be invited to address the concerns of local residents.
- The Council's Drainage Division has reviewed the proposal and raised no objection subject to conditions. In particular, the 2.6m OD FFL is acceptable, however flood resilient construction up to 4m OD is recommended. This involves applying construction techniques and measures which would minimize the potential damage to the property in the event of flooding and speed up the recovery process. Overall, the recommended conditions are considered to be acceptable.
- Having regard to the nature and scale of the proposed development and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.
- The applicant has responded to the issues of concern raised above through Additional Information. The main issue regarding the bulk and scale of the block has been addressed by splitting the block into two and creating a new space between the blocks increasing their open space requirement and providing for more dual aspect units. The blocks have also been slightly repositioned so as to increase the separation distances on the eastern boundary. The applicant has additionally provided sufficient evidence and justification to support the design of pyramid roofs within the scheme.
- The revised proposal includes a substantial area of communal open space with the separation of the block into two parts. The applicant will be required

to ensure a privacy buffer between all ground floor windows by way of condition.

- The Landscaping Plan has been revised and is considered to be satisfactory but it will be conditioned that a landscaping buffer planting scheme is put in place for the ground floor windows and terraces to provide for additional privacy and security.

4.2. Other Technical Reports

- Transportation Division- no objection subject to conditions
- Drainage Division- no objection subject to conditions.
- City Archaeologist- no objection subject to conditions
- Parks and Landscape Division- None on file or on DCC's online planning portal but it is note that the Planners Report refers and states 'Further Information Requested'. A number of issues are then noted in the assessment.

4.3. Prescribed Bodies

- None on file

4.4. Third Party Observations

24 individual third party submissions were received and are on file. Two of these submissions appear to be from one person with different content and submitted online and by hand. The main issues raised are generally those as covered in the Grounds of Appeal and Section 7.1 of this report.

5.0 Planning History

This Site-

- PL29S.246078 (3318/15)- 9 houses, **grant** 30/05/2016

- PL29S.231911(2771/08) - an office/medical and related consultants use scheme, **Grant** 08/06/09
- PL06D.217800 (6249/05)- Construction of 44 no. residential units **Refuse** 06/02/07-
 - The proposal by reason of height, bulk and form, result in overlooking and overshadowing of neighbouring dwellings to the east would seriously injure the residential amenities of these properties.
- PL29S.214350 (2297/05)- Construction of 46 Units, Application **withdrawn**
- 1129/97- construction of a free standing E.S.B. substation and switchroom., **Grant** 19/08/97

6.0 Policy Context

6.1. National Guidelines and Policy

6.1.1. National Planning Framework (NPF) - the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040-

- National Policy Objectives (NPO) 2(a) relates to growth in cities
- NPO 3(a)/(b)/(c) relates to brownfield redevelopment targets
- NPO 4 relates to attractive, well-designed liveable neighbourhoods
- NPO 5 relates to sufficient scale and quality of urban development
- NPO 6 relates to increased residential population and employment in urban areas
- NPO 13 identifies building height as an important measure for urban areas to deliver and achieve compact growth.

6.1.2. Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2020); The following Sections and Specific Planning Policy Requirements are relevant-

Section 1.19 states-

'...An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.'

Section 2.4- 1) Central and/or Accessible Urban Locations

Such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:

- Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;*
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and*
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.*

The range of locations outlined above is not exhaustive and will require local assessment that further considers these and other relevant planning factors.

Section 2.15 states-

In accordance with Section 28 of the Planning and Development Act 2000, as amended, planning authorities must apply the standards set out as planning policy requirements in these guidelines, notwithstanding the objectives and requirements of development plans, local area plans and SDZ planning schemes.

Specific Planning Policy Requirement 1 states-

Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.....

Specific Planning Policy Requirement 3 states-

Minimum Apartment Floor Areas:

- *1-bedroom apartment (2 persons) 45 sq.m*
- *2-bedroom apartment (4 persons) 73 sq.m*
- *3-bedroom apartment (5 persons) 90 sq.m*

Section 3.7 states-

'....no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three person apartment'

Section 3.8 deals with Safeguarding Higher Standards and states-

In the interests of sustainable and good quality urban development these guidelines should be applied in a way that ensures delivery of apartments not built down to a minimum standard, but that reflect a good mix of apartment sizes. Accordingly, it is a requirement that:

- a) *The majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)*

Specific Planning Policy Requirement 4- Dual Aspect

In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

(i) 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.

(iii) For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.

Specific Planning Policy Requirement 5- Ground Floor Ceiling Height

1. Ground floor apartments a minimum 2.7m, for urban infill schemes on sites of up to 0.25ha , planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.

Specific Planning Policy Requirement 6- Apartments per core

2. Maximum provision of 12 apartments per core, maybe increased for urban infill schemes on sites of up to 0.25ha subject to quality.

Section 6.13

....planning applications for apartment development shall include a building lifecycle report which in turn includes an assessment of long term running and maintenance costs as they would apply on a per residential unit basis at the time of application, as well as demonstrating what measures have been specifically considered by the proposer to effectively manage and reduce costs for the benefit of residents.

6.1.3. Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG 2018);

Section 1.9 details –

“these guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.”

Section 1.17 states-

Securing compact and sustainable urban growth means focusing on reusing previously developed ‘brownfield’ land, building up infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.

Section 1.20 states-

A key objective of the NPF is therefore to see that greatly increased levels of residential development in our urban centres and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels.

Section 3.1 states-

‘In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.’

The following Specific Planning Policy Requirements is relevant- SPPR 3A-

It is a specific planning policy requirement that where;

1. *an applicant for planning permission sets out how a development proposal complies with the criteria above; and*
2. *the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

6.1.4. The following are also considered relevant-

- Circular Letter: NRUP 02/2021- Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- Architectural Heritage Protection Guidelines for Planning Authorities (2011)
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
- Urban Design Manual, A best practice guide (DEHLG May 2009)
- Transport Infrastructure Ireland's 'Traffic and Transport Assessment Guidelines May 2014'.
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (DEHLG November 2009)
- Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003)
- Quantitative methods for daylight assessment are detailed in the following documents:
 - BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' and;
 - BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting

- BS EN 17037: 2018 Daylight in buildings

6.2. Regional Guidance

- 6.2.1. Eastern and Midland Region Spatial and Economic Strategy (June 2019);

6.3. Dublin City Development Plan 2016-2022

- 6.3.1. The operative development plan is the Dublin City Development Plan 2016-2022. The majority of the site zoned 'Institutional Land (Future Development Potential)– Zone Z12' with an objective-

“To ensure existing environmental amenities are protected in the predominantly residential future use of these lands.

- 6.3.2. In Z12 lands the Development Plan requires-

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

In considering any proposal for development on lands subject to zoning objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. In particular, the masterplan will need to identify the strategy for the provision of the 20% public open space requirements associated with any residential development, to ensure a co-ordinated approach to the creation of high-quality new public open space on new lands linked to the green network and/or other lands, where possible. In addition, development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards in Chapter 16, Section 16.10 – Standards for residential accommodation in relation to aspect, natural lighting, sunlight, layout and private open space.’

- 6.3.3. A small part of the lands to the north east of the site are zoned Z1: Sustainable Residential Neighbourhoods with an objective *‘to protect, provide and improve residential amenities’*.
- 6.3.4. Part of the eastern boundary of the site adjoin, but are not within a designated Architectural Conservation Area generally around Sandymount Village.
- 6.3.5. The following policies are considered relevant-
- Policy SI10 -To have regard to the Guidelines for Planning Authorities on the Planning System and Flood Risk Management when assessing planning applications.
 - Policy SC13 promotes sustainable densities with due consideration for surrounding residential amenities.
 - Policy QH5 - addressing housing shortfall through active land management;
 - Policy QH6 - sustainable neighbourhoods with a variety of housing;
 - Policy QH7 - promotion of sustainable urban densities;
 - Policy QH8 - promote the development of vacant and under-utilised sites;
 - Policy QH11 - promotion of safety and security in new developments;
 - Policy QH13 - new housing should be adaptable and flexible;
 - Policy QH18 - support the provision of high-quality apartments;
 - Policy QH19 - promote the optimum quality and supply of apartments.
 - Policy SN5 - proposals for over 50 units shall be accompanied by a social audit etc.
 - Policy CC4 - encourages building layout and design which maximises daylight, natural ventilation, active transport and public transport use.
- 6.3.6. Other relevant sections of the Development Plan include the following:
- Section 4.5.3 - Making a More Compact Sustainable City;
 - Section 4.5.5 - The Public Realm

- Section 4.5.9 - Urban Form & Architecture;
- Section 9.5.3 - Flood Management
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 16.2 - Design, Principles & Standards;
- Section 16.5 - Plot Ratio Indicative Plot Ratio Z12 Institutional Short Term- 0.5 – 2.5
- Section 16.6 - Site Coverage Indicative Site Coverage Z12 50%
- Section 16.7 - Building Height in a Sustainable City, See also Figure.39 Building Height in Dublin Context.
 - 16.7.2 - sets out building height limits, and for rail hubs permits up to 24m for residential. The site is circa 300m from Sandymount Dart station.
- Section 16.10 - Standards for Residential Accommodation
 - 16.10.1 Residential Quality Standards- Apartments e.g.
 - *‘Glazing to all habitable rooms should not be less than 20% of the floor area of the room. Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011)’*
- Section 16.38 - Car Parking Standards (Area 2 / Zone 2 - maximum of ‘1 per dwelling’).

6.4. Natural Heritage Designations

- 6.4.1. The site is c. 475m west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). The site is also c.4.1km south west of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006).
- 6.4.2. The site is c. 475m west of the Proposed Natural Heritage Area South Dublin Bay and c.1.6 south east of the Proposed Natural Heritage Area Grand Canal.

6.5. Environmental Impact Assessment

- 6.5.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 6.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
 - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- 6.5.3. It is proposed to construct 58 apartments. The number of residential units proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 3,652 sq.m (0.3652 ha) and is located within an existing built up area. The site area is therefore well below the applicable threshold of 2 ha.
- 6.5.4. The site can be described as an existing and undeveloped brownfield site and in my opinion is in need of regeneration. The introduction of 58 residential units will not have an adverse impact in environmental terms on surrounding land uses. Notwithstanding the sites proximity to the Sandymount Architectural Conservation Area it is noted that the site is not designated for the protection of cultural heritage.
- 6.5.5. The proposed development is not likely to have a significant effect on any European Site (as discussed below in section 8.11) and there is no hydrological connection visible such as would give rise to significant impact on existing watercourses nearby (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would not be significant.
- 6.5.6. Having regard to the above I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have

significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

7.0 The Appeal

7.1. Grounds of Appeal

Eight third party appeals have been received from-

- 1) Vincent Ryan
- 2) Jeremy And Miranda Humphries
- 3) Paul and Claire O'Dea
- 4) Manahan Planners on behalf of an identified committee of residents representing an identified and wider group of residents in the general area.
- 5) Dennis and Deirdre Woods
- 6) Maura Doyle
- 7) David and Rosemary McGovern
- 8) Grace Hume

The appeal submissions cover a large range of issues, as can be seen on file. In my opinion the grounds of appeal for the purpose of this assessment can be generally summarised as follows-

- Zoning, provision of 20% public open space and the masterplan
- The proposed height, scale, bulk, massing and general design is out of character with the area having regard to the Sandymount Village Design Statement and the existing pattern of development in the area.
- The proposed development provides excessive density and is considered overdevelopment of the site.
- The proposal negatively impacts on the area having regard to existing Built Heritage having particular regard to the proximity of the site the designated

Sandymount Architectural Conservation Area, a number of Protected Structure and Z2 Residential Conservation Zoning.

- The proposed development will impact negatively on existing Residential Amenity by way of overbearing, overlooking, loss of daylight to existing property (VSC), overshadowing (including impact of trees), noise, general disturbance during the construction stage, loss of views and potential for antisocial behaviour.
- Occupiers of the proposed development will be subjected to poor residential amenity by way of poor daylighting, need for artificial light, poor provision of quality communal amenity space, poor provision and siting of public open space.
- There are significant transport related concerns including the quality and content of the submitted Transport Impact Assessment, implications of transport related planning conditions, lack of car and cycle parking including parking overspill to adjoining areas, safety from the proposed entrance and vehicle turning movements including for emergencies.
- The proposed development will place pressure on existing services where notably water pressure is weak.
- The proposed development and in particular the basement element will impact negatively on the integrity of adjoining properties and structures.
- The proposed development is located in Flood Zone A and has potential to impact on the Water Table.
- Concerns are raised in terms of the accuracy and misleading nature of drawings including dimensions to nearby properties and buildings and the quality and accuracy of photomontages etc.
- A proposal for only apartments is considered an inappropriate housing mix which does not adequately provide for family living. Housing as per previous permission on site would be more appropriate.
- Fire and public safety concerns.

7.2. Applicant Response

The applicants have submitted a response to the third party grounds of appeal. This response can be generally summarised as follows-

- The proposal will introduce a high quality residential development at a suitable location in close proximity to high capacity, high frequency public transport, adjacent to local services and facilities in Sandymount and a number of surrounding amenities.
- The site is categorised as central/accessible location under the Apartment Guidelines 2020.
- The proposal accords with policies of the National Planning Framework (NPF) and provides an infill opportunity within an existing built up area.
- The response sets out a brief overview of how the proposal complies with National, Regional and Local planning policy.
- The total site area is 3,652 sq.m comprising of 3,120 sq.m of Z12 zoned lands. Public open space provision is 625 sq.m which is 20% of Z12 lands. A masterplan document has been prepared and submitted. It identifies the strategy for the provision of 20% public open space.
- The proposal ranges from 5 storey on the southern section of the site stepping down to 3 storey to the north of the site and takes account of existing two storey housing in the area.
- The maximum height of the proposal is 19.8m and below the height limits set out in the Development Plan of 24m with 500m of a rail hub.
- The proposed density is 159 units per hectare and is considered appropriate having regard to national guidelines and policy objectives and proximity to a Dart Station.
- There are no Protected Structures on or immediately adjoining the site. The site is not within an ACA. The Sandymount ACA abuts the site's eastern boundary.
- As per the Further Information (FI) submission the proposal has had regard to the 2011 Village Design Statement (VDS) for Sandymount. A justification for

the proposed design and pyramid roof forms has been submitted. The roof scape is considered to be consistent with the objectives of section 5.6 of the VDS.

- The Social and Community Audit submitted at FI stage demonstrates existing facilities in the area are sufficient to cater for the needs of the proposed development.
- The proposed development complies with Specific Planning Policy Requirements (SPPR) and other requirements of the 2020 Apartment Guidelines.
- The proposal has a plot ratio of 1.5 and site coverage of 38%.
- Significant separation distances and FI design changes address concerns in respect of adverse impacts on the amenity of neighbouring properties including overlooking and loss of privacy. Reference is made to Section 6.10 of the 2009 Sustainable Residential Development in Urban Area Guidelines where 22m separation distances may be impractical.
- In response to concerns about the public open space provision the Board is referred to the Landscape Report. 625 sq.m of public open space is provided. It is a south facing sun lawn presenting a vibrant gathering space offset by granite paved seating, ornamental planting and specimen trees.
- The vehicular entrance to underground parking is not included in the 625 sq.m public open space.
- The space has been designed to significantly improve the public realm in lieu of existing. The area will be managed, monitored and maintained by the management company for the overall residential development.
- In relation to concerns over use of the space, emergency access will be for that purpose only and the space will remain otherwise useable as proposed.
- There is good provision of public parks and spaces in the area and the use of Sandymount Green will not be overburdened.

- The proposal provides 800 sq.m of communal amenity space in three main areas and more than complies with the requirements of the Apartment Guidelines.
- The FI submission provides an additional 130 sq.m of communal amenity space over the original proposal and enhance the proposed provision in terms of quantity, variety and potential for use.
- A children's play area of 92 sq.m is proposed and complies with section 4.13 of the apartment guidelines. It will benefits from passive surveillance.
- Sunlight provision to communal amenity space complies with recommendations of BRE Guidelines.
- Public open space needs to be and is accessible to the public from Sandymount Avenue with clear definition between public and private space.
- The building height accords with Development Plan requirements is part 3 to part 5 storey and references established height of the 4 storey Willows apartment Complex and the Enable Ireland lands.
- The division into two blocks, increased open space and separation distances to neighbouring properties have a positive impact in terms of massing, overshadowing and overlooking.
- The internal layout of apartments of concern have been reconfigured and the massing and layout has been reduced to address overlooking at FI stage. Screens are proposed were necessary.
- Separation distances to no 80 Sandymount Avenue is considered acceptable having regard to infill nature of the site, proximity to DART Station national policy and SRDUA 2009 section 6.10.
- The application site is not located within the ACA and section 8.1 of the Sandymount Architectural Conservation Area Report is therefore not applicable. However the design has been designed having regard to the criteria identified a-f in section 8.1 of the ACA report.

- The development will be slightly visible from some areas within the ACA and its height massing and materials will ensure this visibility will in no way have an adverse impact on the ACA.
- Protected structure at 15 Sandymount Green will be visible at upper levels from the site. Separation distances of c.30m are considered appropriate and the view is screened by existing buildings. The proposal will have a negligible impact on the architectural heritage character of the protected structure.
- The applicants submit a Daylight and Sunlight report/assessment from Digital Dimensions in response to concerns raised by the appellants. Discrepancies relate to minor numerical changes to existing values due to updated survey information and use of more accurate analysis software. The results are consistent with previous. An explanation of the changes to the model is provided which includes for the provision of the 2 storey extension to No. 82.
- The assessment submitted at FI stage looks at the impact upon No. 80 and 82 Sandymount Avenue which are the two closest properties to the site. These met BRE criteria and it was not deemed necessary to look at property further from the proposal.
- The applicants have now addressed this concern and show a minimal reduction to the percentage of amenity space receiving 2 hours sunlight and therefore meets the BRE Guidelines.
- The applicants detail that the proposal meets all the recommendations of BRE 209.
- A Technical Note by JB Barry Consulting Engineers has been submitted to address Traffic and Transport Concern. It includes rationale for trip generation and use of TRICS. It considers the impact of the development will be negligible in terms of traffic congestion. The date chosen for traffic model was while schools were open and prior to Covid restrictions. Car Parking will be assigned and managed.
- Car parking provision is in accordance with 2020 Apartment Guidelines.
- A Construction Traffic Management Plan will be developed and agreed with DCC.

- The proposed entrance is in accordance with the Design Manual for Urban Roads and Streets (DMURS) and achieves 49 and 69m visibility.
- Condition 12 of DCC's grant is not anticipated to alter the nature of traffic generated by the development on the adjoining network.
- The impacts of the low trip generation and Strand Road Cycle Scheme and Irish Rail level crossing plans will be negligible.
- In terms of existing water services Irish Water have confirmed the feasibility of the proposal.
- The established housing mix in the area is 3 and 4 bedroom housing. There is a need for smaller housing units to meet changing demographics and downsizing demands.
- The proposal retains 4 of the 7 trees on the site.

7.3. **Planning Authority Response**

- None received

7.4. **Observations**

Five observations were received from-

- Sandymount and Merrion Residents Association
- Des Harrold
- Margaret & Tom Moran
- Joan Murray & Grace Delahunt
- Marion & Peter Humphries

The issues raised by observers are generally those covered in the grounds of appeal.

7.5. Further Responses

A number of further responses have been received from appellants and observers to the applicants response to the appeal. These generally do not raise any new issues but do reiterate opposition to the development as proposed as detailed in the submitted appeals and observations. It is noted that one response provides modelling of the proposed development demonstrating the impact on existing properties in the area.

8.0 Assessment

8.1. Introduction

- 8.1.1. I have examined the application details and all other documentation on file, including the submissions, observations and further responses received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and in particular Ministerial Guidelines setting Specific Planning Policy Requirements (SPPR).
- 8.1.2. In response to a request for Further/Additional Information by the Planning Authority the applicants have submitted a revised proposal. This assessment shall generally be of the application as submitted in response to the Additional Information request.
- 8.1.3. I therefore consider the substantive issues that arise from the grounds of appeal relate to the following matters-
- Principle of the Development, Zoning and Provision of required Public Open Space.
 - Building Height and Design
 - Apartment Standards
 - Overdevelopment and Density
 - Built Heritage
 - Residential Amenity
 - Transport Related Issues

- Flooding and the Water Table
- Other Matters
- Appropriate Assessment

8.2. Principle of the Development, Zoning and Provision of required Public Open Space.

- 8.2.1. The majority of the site is zoned 'Institutional Land (Future Development Potential)– Zone Z12' with an objective-

“To ensure existing environmental amenities are protected in the predominantly residential future use of these lands.”

On Z12 lands the Development Plan requires-

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

For development other than that directly related to the existing community and institutional uses the Plan requires-

....submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. In particular, the masterplan will need to identify the strategy for the provision of the 20% public open space requirements associated with any residential development, to ensure a co-ordinated approach to the creation of high-quality new public open space on new lands linked to the green network and/or other lands, where possible.

The development plan also details that development at the-

.....perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards for residential accommodation including aspect, natural lighting, sunlight, layout and private open space.

The Plan requires the minimum 20% public open space-

....shall be comprised of soft landscape suitable for relaxation and children's play, unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 20% minimum public open space shall be apportioned otherwise.

- 8.2.2. A small part of the lands to the north east of the site are zoned Z1: Sustainable Residential Neighbourhoods with an objective 'to protect, provide and improve residential amenities'.
- 8.2.3. The application proposes 58 apartments and as such is considered consistent with the zoning objective of the site. The application site covers the majority of the Z12 lands and in this regard I consider the application itself can be considered a 'Masterplan' for the Z12 lands in its own right as it sets out the vision for the land holding and strategy for provision of public open space. Impact of the development on the perimeter of the site shall be considered in sections 8.3 and 8.7.3 of this assessment.
- 8.2.4. In section 7.3 of the original Planning Report submitted with the application the applicants demonstrate how the proposed development complies with the Z12 requirements. The application site area is indicated as 3,652 sq.m with 3,120 sq.m of this zoned Z12. 20% of 3,120 is 624 sq.m. The application proposes 625 sq.m of 'Public Open Space' within Z12 zoned lands and equates to 20% as required. Section 4 of the report details pre-application discussions. Figure 10 identifies a proposed area of 'public open space 20% (Z12 Zoning)'. This area clearly includes the area to the west of the site and the vehicular entrance area to the underground carpark.
- 8.2.5. Section 5 of the report details the layout and design was finalised following the preplanning discussions. The submitted original site layout plan details 625 sq.m of public open space but it is unclear if the boundary includes the area of the vehicular entrance. The 'Landscape Masterplan' drawing identifies the area to the front of the vehicular entrance as granite paving. However, I note section 5.25 of the report specifically states- *'public open space provision is 625 sq.m which is 20% of the Z12 zoned lands and excludes the entrance area to the basement car park area.'*

- 8.2.6. Following the Planning Authority's request for Additional Information the proposal has been revised. The applicants indicate on page 2 and 4 of the Cover Letter of their Additional Information submission that the provision of 625 sq.m of Public Open Space is remains at the front of the site as required by the Z12 zoning objective. Figure 1 of the submission shows the proposed revised layout and outlines the area proposed for the required minimum 20% public open space.
- 8.2.7. The applicants have also submitted a revised 'Design Statement Amendment' in response to the Additional Information Request. Page 7 of this clearly outlines the proposed changes to the development and in particular the area for Public Open Space (=20% of Z12 Zoned Area). Revised drawings in response to Additional Information are also submitted including a Site Layout Plan and a Landscape Masterplan. The Site Layout Plan identifies a general area and states 625 sq.m of Public Open Space. The Landscape Masterplan shows a similar area of Public Open Space but identifies a 'Boundary Railing' with pedestrian gate with stated keypad access gates for residents. This railing appears to demarcates the area of 'Public Open Space' from communal amenity space.
- 8.2.8. The appellants have raised significant concerns in relation to the sites zoning requirements for public open space. In particular they highlight the location, quantum and the impact of DCC's transport related planning conditions.
- 8.2.9. In response to the appeal the applicants refer to the Landscape Report prepared by SDLA. This appears to be the 'Landscape Design Rationale' submitted with the original application. They have also submitted a Masterplan Document as per the zoning requirement. In general the proposal is for the significant majority of the Z12 lands and accordingly the Masterplan and application set the vision for the landholding including provision of required public open space. The appeal response reiterates the provision of 625 sq.m in accordance with the 20% requirement of the site area. The appeal response detail this excludes the entrance area to the basement car park which is to be demarcated by bollards. Figure 7 of this submission again outlines the area proposed. The appellants also refer to the Landscape Masterplan drawing.
- 8.2.10. The location of the area of public open space is located along the southern boundary of the site. This appears to be the only area of public property that bounds the site

i.e. the path and road along Sandymount Avenue. The site in does not contribute to any 'green network' of note in the area. The proposed location for the public open space will clearly benefit from its southerly aspect. In this context it makes perfect sense for the proposal to locate its public open space along public property to ensure it is accessible and used by the public and not just the intended residents of the development. I am satisfied the location of this space can create a high-quality new public space on lands linked and accessible to existing public property as per the zoning requirement.

- 8.2.11. I appreciate arguments made by appellants in relation to building line and streetscape. However to locate 'public open space' internally within the site and away from existing public areas i.e. road and path would in my opinion create a scenario where such space would not be used as intended by the public and would instead be contrary to the zoning requirement.
- 8.2.12. Appellants have raised concerns in relation to the size of public open space proposed and in particular highlight the location of boundary railing demarcating between public and private/communal open space. I share the appellants concern in this regard as there are discrepancies between the boundary of 'public open space' in the area identified at preplanning discussion as 20% (figure 10 of the Planning Report), the 'Design Statement Amendment' document (p.7), the Landscape Masterplan Drawing the Masterplan Document, (submitted with appeal p.11) and the ABP Response Document. I accept proposals change through the process however it is not clear to me how the 20% as identified at preplanning has been redistributed in the application.
- 8.2.13. The Board are advised that using the dimensions of the submitted drawings and my scaling of the Landscape Masterplan Drawing, I estimate the provision of c. 545 sq.m of public open space. This is based on using dimensions of 16m deep to the railing by 36m wide from the entrance road to the boundary with No. 80 Sandymount Avenue. I have also deducted an area of c. 31.5 sq.m for the existing substation building located within the area. I acknowledge these dimensions may not be exact, however it appears to me that the proposed development is c.79 sq.m short in its provision of public open space and this does not include for a revised entrance and set down area within the site as required by the Planning Authority in Condition 12.

8.2.14. If the estimated public open space is correct then the public open space provided would be c.17.5% of Z12 zoned lands and not a minimum of 20% as required. I do not consider the difference to be significant and may be a matter of the scaling of the drawings, however the impact of Condition 12 could have a further impact on this. Based on the information before me, I consider there is a deficiency in public open space provided. The Board is advised that the location of the boundary railing could be revised by way of condition to bring it closer to the proposed building and along the eastern side of Block A01 to ensure 20% public open space is achieved. However, the proposed location of this railing is in my opinion the appropriate place for such a boundary, would provide sufficient privacy and would not unduly encroach upon ground floor apartments and private amenity spaces.

8.2.15. The Z12 zoning requirement specifically requires *‘a minimum of 20% of the site, incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public open space’*. Therefore strictly speaking anything less than 20% would appear to materially contravene the Development Plan.

8.2.16. Section 37(2)(b) of the Planning and Development Act, 2000, as amended, sets out the circumstances when the Board can consider a **material contravention** of the plan. In this instance I refer to the third circumstances which states-

“(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.”

8.2.17. The Z12 zoning requirement for Institutional Land appears to be based on the provisions of section 28 Ministerial Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (SRDUA) and in particular Sections 5.10 (e). This section is titled ‘Institutional Lands’ and states-

‘In the event that planning authorities permit the development of such lands for residential purposes, it should then be an objective to retain some of the open character of the lands, but this should be assessed in the context of the

quality and provision of existing or proposed open space in the area generally.'

8.2.18. I also note that section 4.20 of the Guidelines when detailing recommended qualitative standards for public open space and safeguards to avoid overdevelopment of sites sets out recommendations for 'Institutional Lands' including-

'any proposals for higher density residential development must take into account the objective of retaining the "open character" of these lands, while at the same time ensuring that an efficient use is made of the land. In these cases, a minimum requirement of 20% of site area should be specified; however, this should be assessed in the context of the quality and provision of existing or proposed open space in the wider area.'

8.2.19. Having visited the site it is clear to me that the site does not have or provide 'open character' in its current condition. The southern boundary of the site which adjoins the public road includes a hoarding style high gate and a high walled splayed entrance, an unsightly c. 2m high block decorative wall (hit and miss style) along the public path and a plastered elevation wall to an electricity substation style structure. Other boundaries to the site are enclosed by private property including the adjoining Enable Ireland buildings, a private access road, a garden centre and a car park to the west. The site is not open to or accessible to the public.

8.2.20. The proposed area of public open space along Sandymount Avenue will 'open' the site to the public road and thereby provide 'open character' from the public realm. It is provided as one large space designed around the existing substation style building, and comprises of a large grass lawn area, paved areas, seating and landscape features including retention of one tree. This area will be suitable for relaxation and children's play as per other requirements of the zoning objective. The provision of a railing demarcating between public open space and private areas associated with the development is considered a suitable boundary treatment that would demarcate from communal open space and public open space while contributing to the 'open character' of the lands to the front of the apartment development. This 'open character' will be achieved while also providing increased density appropriate to the site's current context. Furthermore the proximity of the site

to high quality public amenity spaces such as Dublin Bay, Sandymount Strand, Sean Moore Park and Sandymount Green would more than compensate for the provision of public open space below 20% of the Z12 zoned lands and is in accordance with section 4.20 of the SRDUA Guidelines. This section provides for discretion rather than insistence on the minimum requirement of 20% public open space that informs the zoning requirement. Therefore I am satisfied the application would meet the criteria set out in section 37 (2) (b) (iii) whereby permission for the proposed development should be granted having regard to guidelines under section 28 of the Planning and Development Acts.

8.2.21. In conclusion, the proposed development appears deficient in its provision of 20% Public Open Space which would materially contravene a requirement of the Z12 zoning objective. I am satisfied that the Board is not precluded from granting permission in this instance with regard to the provisions of section 37(2)(b) (iii) of the Planning and Development Acts as amended i.e.

- permission for the proposed development should be granted having regard to guidelines under section 28 i.e the provisions of section 4.20 & 5.10 (e) of the 2009 SRDUA Ministerial Guidelines and proximity of other public open spaces to the site.

Overall, I am satisfied the proposal is consistent with the Z12 zoning objective which seeks to *'ensure existing environmental amenities are protected in the predominantly residential future use of these lands'* whereby 58 residential apartments with the provision of a large high quality area of public open space which will provide an accessible area of 'open character' to Sandymount Avenue.

8.3. **Building Height and Design**

8.3.1. Initially the Planning Authority raised no specific concerns in relation to the height of the development but did request Additional / Further Information in relation to its design, its roof, third party concerns in the context of Sandymount Village, the character of the immediate area and the aims and objectives of the 'Sandymount Village Design Statement'. The Planning Authority also raised residential amenity concerns for future occupant and invited proposals to split the development into two blocks.

- 8.3.2. The original building design statement submitted with the application details the concept for the proposal was one block with a stepped and disaggregated terrace scaled to integrate with the surrounding built form. The height and massing of the block steps down towards Guilford Road at three storey and stepping up to five storey towards the front of the site at Sandymount Avenue and the existing larger buildings west of the site. The development has been configured to integrate with Sandymount Avenue with the provision of the required 'Public Open Space' at this location.
- 8.3.3. In response to the Additional / Further Information request the applicants have revised the proposal and submitted a 'Design Statement Amendment (DSA)'. The proposal now provides for two blocks and a further central area of communal amenity space. Both blocks retain elements of stepping with Block A01 towards Sandymount Avenue part five and part four storey. Block A02 is located towards the rear of the site and closer to Guilford Road and is part 5 ,part 4, part 3 and part (recessed) 2 storey. The revised proposal is also configured and influenced by the zoning requirement to provide 'Public Open Space' with this area located along Sandymount Avenue.
- 8.3.4. The Design Statement Amendment seeks to justify the revised proposal having particular regard to the design, proposed roof pyramids features, existing character and the 'Sandymount Village Design Statement (VDS)'. The submission details that pyramid roof and chimney forms are part of the architecture of the area and are consistent with the Sandymount Village Design Statement. The proposed roof lights to the top of pyramids are a contemporary interpretation of the traditional chimney and an illustration is included showing the proposal without these features and how their removal would be detrimental to the scheme.
- 8.3.5. The Planning Authority have considered the revised proposal to be acceptable. Appellants and observers raise significant concerns in this regard.
- 8.3.6. The area of the site can generally be characterised as residential with two storey houses to the east and opposite the site. There is an existing Enable Ireland Building to the immediate west which is generally 2 storey with some three storey elements. The Willows apartment development is sited to the west of the Enable Ireland

building and appears to be four storey and is accessed from Claremont Road to the north west of the application site.

- 8.3.7. I have reviewed the Sandymount Village Design Statement (VDS) which was developed by the Sandymount Residents in partnership with Dublin City Council and the Heritage Council in September 2011. The VDS is a non-statutory planning document. Objective SCO5 of the Dublin City Development Plan states-

It is an Objective of Dublin City Council:

To prepare a number of local environmental improvement plans, village improvement plans, village design statements, or other non-statutory plans for existing district centres and other areas in need of a relevant plan, in conjunction with the relevant Area Committee insofar as priorities and resources permit (see list of potential list of LEIP's at paragraph 2.2.8.1).

In this regard it would appear to me that the provisions of the Sandymount VDS are not a statutory requirement in this context. However it is considered appropriate to have reasonable regard to the VDS and I note the applicants were requested to consider the VDS as part of the Additional Information request.

- 8.3.8. The VDS area covers a very large area bounded by the Dart line to the west, Dublin Bay to the east, Bath Avenue to the North and Merrion Gates at Strand Road to the south. It is in this context I contend the VDS area is substantially greater than Sandymount 'Village'. Undoubtedly the site of the proposed application is within the VDS area. The site is not however, identified as a 'Key Landmark Feature' e.g. open space, in Figure 2. Appendix C sets out the Planning Context which details the then operative DCC Development Plan 2011-17. The sites zoning at that time remains Z12 and Z1. However the objective for Z12 Institutional Land stated-

"to ensure the existing environmental amenities are protected in any future use of these lands"

The current zoning of the site amends the 2011-17 objective slightly to state

'To ensure existing environmental amenities are protected in the predominantly residential future use of these lands'

In this context it is clear to me that the lands of the subject application have been specifically identified for predominantly residential use since the preparation of the VDS.

I note the Sandymount Conservation Area as identified in the current Development Plan remains the same as that outlined in the 2011-17 Development Plan and as outlined in the VDS.

- 8.3.9. In responding to the Planning Authority's request for Additional Information in the context of the VDS the applicants detail that proposed pyramid style roof lights are contemporary interpretations of the traditional chimney. They also identify a number of examples of pyramid style roofs in the general Sandymount area. The applicants specifically identify section 5.4 'Building Styles & Materials' of the VDS and refer to section 5.6 'New Developments' which outline criteria that future development proposals should meet to respond to the specific and unique character of Sandymount.
- 8.3.10. The proposed development is a bespoke building design that responds to the layout of the site. The overall design is reflective of modern day residential apartment developments in Dublin. The proposal is set back off adjoining boundaries and provides for upward transition from the predominant two storey style development to the east and buildings towards Guilford Road and Sandymount Village.
- 8.3.11. Section 16.7.2 of the Development Plan deals with 'Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development'. This section and Figure 39 'Building Height in Dublin Context' identifies a 24m height restriction in areas within 500 m of existing Rail Hubs i.e. Sandymount Dart station. The height of the revised development appears to be c.18.6 with a proposed finished floor level indicated at 2.6m OD. In this regard the proposed height is comfortably below the specified height restriction of the Development Plan and is acceptable in this regard.
- 8.3.12. The 'Urban Development and Building Heights Guidelines for Planning Authorities (2018)' detail that a criteria-based assessment should be undertaken in accordance with these guidelines when considering proposed tall buildings.
- 8.3.13. Section 2.3 of the Guidelines details that building-up urban infill sites is required to meet the needs of a growing population and '*increased building height is a significant component in making optimal use of the capacity of sites in urban locations where*

transport, employment, services or retail development can achieve a requisite level of intensity for sustainability’.

8.3.14. Section 3.1 of these Guidelines states-

‘it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility’.

This section also details that Planning Authorities must apply broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas. These principles can be summarised as-

- Does the proposal positively assist in securing NPF objectives of focusing development in key urban centres e.g. brownfield, infill development and compact growth in our urban centres?
- Where the Development Plan pre-dates these guidelines, can it be demonstrated that implementation of the policies and objectives do not align with the NPF?

In this regard, I am satisfied that the development as proposed will provide appropriate redevelopment of an underutilised brownfield, serviced site that will contribute to compact growth of Dublin. I am also satisfied the development complies with section 16.7.2 of the DCC Development Plan in terms of building heights proximate to a Rail Hub.

8.3.15. Section 3.2 of the 2018 Guidelines details the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies ‘Development Management Criteria’ including the scale of the relevant city, neighbourhood & street and also the scale of the site/building itself.

8.3.16. In section 7.56 of the original Planning Report submitted with the application the applicants consider that the height of the original design is acceptable given the provisions of the Building Height Guidelines 2018 which emphasise the policies of the National Planning Framework i.e. to significantly increase building heights and overall density. They applicants do not appear to have specifically addressed the ‘Development Management Criteria’ of the Guidelines as would appear to be

required. Furthermore the applicants have not sought to justify the revised proposal submitted in response to Additional Information in the context of the Guidelines.

8.3.17. Specific Planning Policy Requirement (SPPR) 3A of the Guidelines details that-

- where an applicant for planning permission sets out how a development proposal complies with the identified Development Management Criteria and
- the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the NPF and these guidelines;

‘then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.’

8.3.18. Notwithstanding the somewhat perfunctory submission by the applicants in the context of the Development Management Criteria listed in the Guidelines, I have considered the proposal as amended at Additional Information stage. This consideration includes regard to the ‘Design Statement Amendment’, ‘Revised Drawings’ & other documentation submitted by the applicants, the Sandymount Village Design Statement and the current DCC Development Plan. I having visited the site and the general area. In my opinion, the proposal complies with the strategic and national policy parameters set out in the NPF and the 2018 Building Height Guidelines and would contribute to compact growth. Notably the proposed height is in accordance with section 16.7.2 of the Dublin City Development Plan and the development complies with the zoning objectives for the site. The proposed design represents a modern day residential apartment design that has reasonably incorporated contemporary interpretations of the sites context into its features and materials which are reflective of the general character of the area as outlined in the Sandymount Village Design Statement. In my opinion the proposed height and design would make an improved and positive contribution to the site, the streetscape and the city area as a whole and would provide appropriate redevelopment of an underutilised serviced site and is consistent with the Building Height Guidelines and the NPF.

8.4. Apartment Standards

8.4.1. Introduction

Following the request for Additional Information the applicants have submitted revised proposals. The overall proposal remains for 58 apartments. The Planning Authority have granted permission for the development and raised no concerns as regards apartment standards. The proposal will be assessed against the criteria set out in the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities as updated in December 2020.

The proposal is for development of a 0.3652 ha site and is considered to be a 'Central and/or Accessible Urban Location' as described in section 2.4 of the Guidelines. I do not consider the development to be a '*building refurbishment scheme*' or an '*urban infill schemes on sites of up to 0.25ha.*' It is therefore considered appropriate to assess the proposed development against the following Specific Planning Policy Requirements of the Guidelines- SPPR 1, 3, 4, 5 and 6.

8.4.2. SPPR 1

I note concerns raised by appellants and observers in terms of the proposed Housing Mix. This application proposes 58 apartments consisting of 8 no. 1-bed units, 48 no. 2-bed units and 2 no. 3 bed units across two blocks. Having regard to the provisions of SPPR 1 in relation to Housing Mix I am satisfied the provision and range of apartment mix is acceptable.

8.4.3. SPPR 3

SPPR 3 sets out minimum requirements for apartment floor areas and in particular requires-

- 45 sq.m for 1- bedroom apartments (2 person)
- 73 sq.m for 2-bedroom apartment (4 persons) and
- 90 sq.m for 3- bedroom apartments (5 persons)

The applicants have submitted a 'Design Statement Amendment' (DSA) and revised drawings in response to the Additional Information Request. Section 1.4 of the DSA provides a breakdown of floor areas etc. and details the following provision-

- 1 bedroom apartments (2 person) ranging from 46.9 sq.m – 56 sq.m
- 2 bedroom apartment (3 persons) at 70.4 sq.m
- 2 bedroom apartment (4 persons) ranging from 77.1 sq.m – 107.4 sq.m
- 3 bedroom apartments (6 persons) at 111.4 sq.m

I note section 3.7 and Appendix 1 of the Guidelines make provision for 2-bedroom 3 person apartments with a minimum floor area of 63 sq.m. No more than 10% of the total number of units in any private residential development may comprise of such apartments. This application proposes one. I am satisfied the proposed provision of floorspace to all apartments is acceptable.

8.4.4. **Section 3.8- Safeguarding Higher Standards**

Section 3.8 seeks to ensure delivery of apartments that are not built down to a minimum standard, but that reflect a good mix of apartment sizes. Accordingly, it is a stated requirement of the Guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%.

Therefore in the subject application 30 apartments are generally required to exceed the minimum floor space requirement by 10%. I have reviewed the proposed apartment sizes and note 44 apartments exceed the minimum required floor space by 10%. In many cases these exceeds 10% by a significant amount.

I am satisfied, the proposed development complies with the requirements of section 3.8 of the Guidelines.

8.4.5. **SPPR 4**

This SPPR requires a minimum of 33% of dual aspect units in central and accessible urban locations. The guidelines detail this is necessary to achieve a quality design in response to the subject site characteristics and ensure good street

frontage where appropriate. The applicants are proposing 44 apartments that benefit from at least dual aspect orientations. This equates to 75% of apartments in the scheme. I am satisfied the proposed development complies with SPPR 4.

8.4.6. **SPPR 5**

This SPPR requires ground level apartments to have floor to ceiling heights of a minimum of 2.7m. The section drawings appear to show ground floor to ceiling heights of 2.7m. I am satisfied the proposed development complies with SPPR 5.

8.4.7. **SPPR 6**

This SPPR requires a maximum of 12 apartments per floor per core may be provided in apartment schemes. The proposed development appears to provide a maximum of 11 apartments accessing an upper floor from one core. I am satisfied the proposed development complies with SPPR 6.

8.4.8. **Other Requirements**

The apartment guidelines sets out a number of other requirements. The following are considered most pertinent-

Floor Areas (Appendix 1)

- Appendix 1 details requirements in relation to 'Required Minimum Floor Areas and Standards' for living/dining/kitchen areas, bedrooms, storage and private amenity space. Having reviewed the drawings and HQA in the DSA submitted in response to Additional Information, I consider that the proposed development generally appears to meet the majority of these requirements.

Section 3.31 of the guidelines state *'hot presses or boiler space will not count as general storage. As a rule, no individual storage room within an apartment should exceed 3.5 square metres.*

Having reviewed the drawings and the HQA I note that some storage is to be shared with hot presses and some storage areas exceed 3.5m. Although these apartments do not strictly comply with the requirements of the Apartment Guidelines I am satisfied that the spaces are generally large enough to facilitate storage and can serve a hot press function as required. I

also note storage is provided for wholly within individual apartments which in my opinion is to the benefit of residents. Furthermore the significant majority of the apartments in the overall scheme benefit from excessive floorspace which can also facilitate storage to some degree. As such I am satisfied the proposal warrants discretion in this regard.

Communal Amenity Space (Appendix 1 and Section 4.10)

- Section 4.10 details *'The provision and proper future maintenance of well-designed communal amenity space will contribute to meeting the amenity needs of residents. In particular, accessible, secure and usable outdoor space is a high priority for families with young children and for less mobile older people.'*
- Based on the provision of 58 apartments Appendix 1 sets a requirement for 393 sq.m of communal amenity space. The applicant's response to Additional Information indicates 800 sq.m of communal amenity space is proposed. This space is exclusive of the significant area proposed as 'Public Open Space' to the front of the site.
- The proposed 'Communal Amenity Space' also provides for a 92 sq.m 'Children's Play Area' to the west side of the southernmost block. The Landscape Masterplan indicates this space is for toddlers and children up to the age of 6. This generally appears to comply with the requirements of section 4.13 of the Apartment Guidelines.
- I note some concern raised about the siting and access to the playground. In this regard I note the use of the space is intended for children under six and I do not consider there to be any difficulty for users accessing the area through the space between the proposed buildings.
- I accept the proposed play area is narrow and located between the western boundary and the apartment block. However, it will benefit from passive surveillance from apartments and would in my opinion represent an appropriate use of communal space that may otherwise not benefit from active use given its siting. This would in my view encourage use in the larger more central area of communal space between the apartment blocks and to the front of the site by other users who may not wish to be near the noise

associated with children's play areas and is in accordance with section 4.10 of the Guidelines. Furthermore given the intended age profile of the users of the area I do not consider it will have significant negative impacts upon the residential amenity of future residents of those apartments closest to it. Its use will be clear to perspective residents of such nearby apartments in any event.

- I appreciate the concerns raised by appellants and observers in relation to the overall useability and fragmented nature of the proposed communal amenity space. However in my opinion, the proposed development provides significantly more communal amenity space than required and will also benefit from the addition of a sizeable area of 'Private Open Space' that is not a requirement for apartment developments as per the Guidelines. I am satisfied the proposed development complies with the quantum and overall quality requirements of the Apartment Guidelines.

Car Parking

- The development proposes 39 car parking spaces. Having considered the provision of section 4.19 of the 2020 Apartment Guidelines which details that for larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.
- The site is located in very close proximity to existing public transport. In this context I consider the provision of 39 car parking spaces for the apartment element of the development to be acceptable, appropriate and in accordance with the 2020 Guidelines.
- Overall, I am satisfied that the provision of 39 car parking spaces for the proposed development is in accordance with the 2020 Apartment Guidelines.

Cycle Parking

- The applicants indicate that the development proposes 88 cycle spaces with 58 to be located in the basement and dedicated to each apartment and 30 no visitor cycle spaces at ground level.

- Having reviewed the Basement Plan drawing, Site Layout Plan drawing and Landscape Masterplan drawing submitted with the applicants Additional Information response, I have been able to identify 58 spaces at basement level and 30 spaces at ground level.
- Section 4.17 of the Apartment Guidelines details a general minimum standard of 1 cycle storage space per bedroom and 1 space per 2 residential units for visitors. This would indicate a requirement of 139 cycle spaces, 110 for the apartments and 29 for visitors.
- Table 16.2 of the DCC Development Plan sets out Cycle Parking Standards for apartments at 1 per unit with additional requirements for larger units and visitor parking will be decided on a case by case basis. As indicated in section 8.4.5 and 8.4.6 above a number of apartments are larger than minimum requirements including two large three bedroom apartments and pressure for additional cycle spaces is, in my opinion, likely.
- In section 6.29 of their response to the appeal the applicants have sought to justify cycle provision with reference to the Development Plan standards as the Apartment Guideline requirement is not a SPPR. They argue the proposal exceeds the Development Plan standard.
- Condition 12 (iii) of DCC's grant of permission requires 58 cycle parking spaces to be provided within the basement for residents and 30 short term spaces to be provided at grade amongst other requirements.
- The proposed development is significantly short of meeting the cycle parking standards of the Apartment Guidelines and given the large floor space to many apartments, the number of bed rooms proposed and proximity to public transport I consider it reasonable to meet the requirements of the Apartment Guidelines through the omission of a number of the proposed car parking spaces. Should the Board decide to grant permission I recommend a condition be attached to provide for 110 cycle parking spaces in the basement and omission of car parking spaces as required.

Building Lifecycle Report (Section 6.13)

- It is a requirement of the Apartment Guidelines that such proposals shall include a Building Lifecycle Report. This is to include an assessment of the long term running and maintenance costs of the development and would clearly be for the benefit of future apartment owners and residents.
- A report was submitted with the original proposal and has not been amended at Additional Information stage. Notwithstanding this the submitted report is considered generally in accordance with the requirements of the Apartment Guidelines.

8.4.9. **Conclusion**

The site is located in area that can be described as a Central and/or Accessible Urban Location in accordance with the 2020 Apartment Guidelines. The proximity of the site to public transport and particular the Dart is evident. Overall the proposal will provide 58 apartments ranging from 1 bed to 3 beds. Dublin City Council have deemed the proposal acceptable in the context of the Apartment Guidelines. In accordance with Section 28 1 (c) of the Planning and Development Acts (as amended) and Section 1.19 of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2020', I consider that subject to condition the proposed development complies with all relevant SPPR's and is generally in accordance with all other requirements of the 2020 Apartment Guidelines.

8.5. **Overdevelopment and Density**

- 8.5.1. A number of appellants and observers have raised concerns in relation to overdevelopment and the excessive density of the site.
- 8.5.2. The Planning Authority have not raised any concerns in this regard but did highlight that the low-rise and low-density development of surrounding two-storey residential dwellings is inconsistent with what would be sustainable form of development for this well-located site within c. 300m of the DART station. This is a view that I would agree with.

Overdevelopment

- 8.5.3. Section 4.20 of the 2009 Sustainable Residential Development in Urban Areas Guidelines (SRDUA) details some recommended standards to ensure that there are adequate safeguards in place to avoid overdevelopment and to assist in the assessment of planning applications.
- 8.5.4. As set out in section 8.2 above the lands are zoned Z12 Institutional Lands. In terms of overdevelopment on such lands the SRDUA guidelines recommend proposals for higher density residential development must take into account the objective of retaining the “open character” of these lands. This application proposes a stated 20% of the Z12 lands as public open space. I also note the provision of a stated 800 sq.m of communal amenity space which is considered far in excess of the requirements of the Apartment Guidelines as discussed in section 8.4 above.
- 8.5.5. As discussed in section 8.2.19 I do not consider that the site currently provides ‘open character’. However I am satisfied the significant area of proposed public open space adjoining and accessible from the public road at Sandymount Avenue and the significantly larger than required quantum of communal amenity space will contribute to opening up the character of these lands. The public open space will be for the benefit of the proposed residents and existing population in the area.
- 8.5.6. Section 8.4 of this assessment also demonstrates that the proposed development generally complies with all requirements of the 2020 Apartment Guidelines, such as floor areas, private amenity space and communal amenity space.
- 8.5.7. Section 16.5 and 16.6 of the Dublin City Development Plan identifies ‘Plot Ratio’ and ‘Site Coverage standards. Plot Ratio is described as a tool to help control the bulk and mass of buildings. Site Coverage is described as a control for the purpose of preventing the adverse effects of overdevelopment, thereby safeguarding sunlight and daylight within or adjoining a proposed layout of buildings. For Z12 zoned lands the development plan sets indicative requirements of 0.5-2.5 for plot ratio and 50% for site coverage.
- 8.5.8. The applicants propose a plot ratio of 1.5 and site coverage of 38%. These are in accordance with the indicative plot ratio and site coverage standards as outlined in the Development Plan. The Planners Report has raised no concerns in relation to these metrics.

8.5.9. I am satisfied that the development as proposed does not represent overdevelopment of the site.

Density

8.5.10. National Policy Objective 35 of the National Planning Framework promotes increasing residential density in areas such as the subject site, through a range of measures including increased building heights. Policy SC13 of the DCC Development Plan also promotes sustainable densities particularly in public transport corridors.

8.5.11. As detailed in section 8.4 above, the site can be described as a 'Central and/or Accessible Urban Location' under the 2020 Apartment Guidelines which details that such locations are generally suitable for small to large scale and higher density developments. This specifically includes sites within easy walking distance of high capacity urban public transport stops such as the DART as well as proximity to urban bus services. The sites location c. 400m to the Sandymount Dart Station as well as bus services to the front of the site is clearly evident and accordingly is suitable for residential development.

8.5.12. The SRDUA 2009 guidelines encourage more sustainable development through the promotion of higher densities in appropriate locations. Section 5.4 details 'Appropriate Location for Increased Densities' and paragraph (a) section 5.5 deals specifically with 'Cities and Town Centres' and discussed how the increase of population within city or town centres with their range of uses can help to curtail travel demand. These locations have the greatest potential for the creation of sustainable patterns of development. Increasing populations in these locations can also assist in regeneration, make more intensive use of existing infrastructure, support local services and employment, encourage affordable housing provision and sustain alternative modes of travel such as walking, cycling and public transport.

8.5.13. Section 5.6 outlines how in order to maximise inner city and town centre population growth, there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre sites.

8.5.14. The applicants propose 58 units on a site of 0.3652 ha at a density of 159 units per ha. This is considered acceptable.

Conclusion

8.5.15. Having regard to the NPF, the 2020 Apartment & 2009 SRDUA Guidelines, the Dublin City Council Development Plan, the nature of the proposed development, the proposed density and the site's proximity to public transport, I consider the proposed development is an appropriate density for the site and the development does not represent overdevelopment of the site.

8.6. Built Heritage

8.6.1. Appellants and observers raise concerns in relation to the proposed development and how it negatively impacts upon the area having regard to existing Built Heritage. In this regard the proximity of the site to the designated Sandymount Architectural Conservation Area, Protected Structures and the Z2 Residential Conservation Zoning is identified.

8.6.2. Following a request for Additional Information which highlighted some concerns in relation to how the proposal does not reflect the character of Sandymount Village or the immediate area, the Planning Authority have granted permission for the development as redesigned.

8.6.3. The applicants have submitted a Conservation Report with the original application. This report provides a general survey of the area and concludes that the proposed development will have little impact on the character of the ACA given the nature of buildings and uses within the ACA, screening in places to the ACA and the separation between the site and the ACA. The report finds that no Protected Structures are within view of the site. Overall it details the development will have no adverse impact on architectural heritage.

8.6.4. I note two Appellants specifically challenge the assertion that no Protected Structures are within view of the site. It is argued that the development would be visible from 15 and 15a Sandymount Green. 15 is a Protected Structure and 15a is within a Conservation Area.

8.6.5. One appellant raises significant concerns of the impact of the development from within the ACA referring specifically to the 'Sandymount Village and Environs Architectural Conservation Area Report Character Appraisal and Policy Framework'.

8.6.6. A further appellant refers to Policy CHC4 and specifically section 11.1.5.6 Conservation Area – Policy Application of the Development Plan which states-

‘Development outside Conservation Areas can also have an impact on their setting. Where development affects the setting of a Conservation Area, an assessment of its impact on the character and appearance of the area will be required. It should be recognised that this setting can be expansive and development located some distance away can have an impact.’

8.6.7. In response to the Appeal the applicants have submitted a further Conservation Report. This report details that reference to the ACA Character Appraisal relates specifically to development within the ACA and not that outside of it such as the proposed development. The report argues that the proposed buildings closest to the ACA will be 3 storey and that two Protected Structures on Sandymount Green (no’s 17 and 18) are also three storey. Proposed materials facing the ACA include brick and render in keeping with older houses in the ACA. The report details how the proposal complies with section 8.1 ‘New Development’ of the ‘Architectural Conservation Area Report Character Appraisal and Policy Framework’ in terms of how the development will not have an adverse or significant impact upon the ACA.

8.6.8. The report also details that it is correct to say that ‘no protected structures are in view of the site’ and that this is different to the proposed development being seen from any protected structure in the area. The report highlights an existing two storey building between the site and the protected structure at 15 Sandymount Green. The development will be seen from 15 Sandymount Green but there will be no adverse impact.

8.6.9. In terms of Built Heritage I note c. 20m of the eastern most boundary of the site adjoins lands that are zoned Z2 Residential Neighbourhoods (Conservation Area). These lands have a zoning objective-

‘To protect and/or improve the amenities of residential conservation areas.’

8.6.10. The eastern boundary also adjoins lands that are designated as the Sandymount Architectural Conservation Area (ACA). Section 11.1.2 of the DCC Development Plan details that there are 21 designated ACA’s in Dublin City. Sandymount was designated between 2012-15.

- 8.6.11. I have reviewed the Sandymount Village and Environs Architectural Conservation Area Report Character Appraisal and Policy Framework¹. The location of the proposed development is not located within this ACA and the provisions of Section 8.1 in the ACA report as highlighted by an appellant, do refer specifically to new development within the ACA. The ACA report does not appear to provide guidance for development outside of the ACA which may affect its setting.
- 8.6.12. A large area around Sandymount Green is also designated a red-lined Conservation Area within the Development Plan. The boundaries of this do not reflect the ACA but it is noted they do not adjoin the application site.
- 8.6.13. The nearest protected structures to the application site appear to be No.'s 15-18 Sandymount Green and listed as RPS Ref No. 7469, 7470, 7471 and 7274 in DCC's Record of Protected Structures (RPS). The description of these Protected Structures are listed as 'House' for all four buildings. The building identified as Merton and 15a does not appear to be identified as a Protected Structure in the Development Plan.
- 8.6.14. Having reviewed the information on file it is clear to me that the proposed development is not located on Z2 zoned lands and is not located within the designated ACA for Sandymount Village. I am also satisfied that the development is adequately set back from existing Protected Structures on Sandymount Green to sufficiently protect the integrity and character of those structures.
- 8.6.15. Section 11.1.5.6 of the Development Plan does detail that development outside of ACA's can also have an impact on their setting. In my opinion the most likely impact in this regard will be a Visual Impact. Section 13.8 of the Architectural Heritage Guidelines 2011 provides guidance for assessing development affecting the setting of an ACA. Section 13.8.3 states-

'Large buildings, sometimes at a considerable distance, can alter views to or from the protected structure or ACA and thus affect their character. Proposals should not have an adverse effect on the special interest of the protected structure or the character of an ACA.'

Section 5.1 of the 'Sandymount Village and Environs Architectural Conservation Area Report Character Appraisal and Policy Framework' details 'Character and

¹ https://www.dublincity.ie/sites/default/files/media/file-uploads/2018-05/13_Sandymount_Village_ACA_adopted_02.09.13.pdf

Special Interest (as prescribed by the Planning and Development Act 2000 as amended). The elements that contribute to the character and special interest of Sandymount Village are listed and explained as Architectural, Historical, Cultural and Setting. Section 6 details 'Building Features which Contribute to the Character'

- 8.6.16. In response to the request for Additional Information the applicants have submitted a revised Architectural Visualisation of the proposed development. This include a number of photomontages from within the designated ACA and also from Sandymount Avenue towards the ACA. While I accept that the location and angle for each photomontage is selective, that is to be expected for any such visualisation reports. I have however, also visited the site and walked the surrounding areas and viewed towards the site from a number of locations that are not shown in the photomontages.
- 8.6.17. I am satisfied the report does provides an acceptable number and reasonable choice of locations for the purpose of this application including a number of images from within and around Sandymount Green. This would appear in my opinion to be the most sensitive location in terms of Built Heritage. I consider there will be intermittent views of the development from the general area and these views would not have an adverse effect upon the identified elements that contribute to the character and special interest of Sandymount Village and ACA .
- 8.6.18. I also note the views of the development from the junction of Sandymount Avenue and Gilford Road. The proposal will be clearly visible over the roofs of houses identified as No's 80, 82, 84 and 86 Sandymount Avenue. These properties are not located within the identified ACA with only a small part of the front garden to No. 86 identified within the 'red-lined Conservation Area' as identified in the Development Plan. The impact of the development on views towards the ACA and Sandymount Village from the junction of Sandymount Avenue and Gilford Road will, in my opinion, be peripheral, minimal and/or negligible at best. I do not consider the elements that contribute to the character and special interest will be adversely impacted by the development from this location.
- 8.6.19. The proposed development will be very visible from Sandymount Avenue towards the ACA as demonstrated in view 9 of the Photomontages. It is, however, clear that existing views to the ACA are not readily available from this location. Therefore I am

satisfied the development will not adversely affect the identified elements that contribute to the character and special interest of Sandymount Village and ACA in this regard.

8.6.20. Section 6 of the 'Sandymount Village and Environs Architectural Conservation Area Report Character Appraisal and Policy Framework' details 'Building Features which Contribute to the Character' of the ACA. It details that most the buildings in the village are 19th Century with no uniform house design. Houses are generally two storey with facades of brick and render. The proposed development is clearly modern in its design and purpose given current planning policies and the need for compact development and higher densities in such locations. The proposal is to be finished in with contemporary pyramid style roof lights and brick finishes that the that the applicants have demonstrated are reflective of similar building features in the area. I consider such features and finishes to be generally acceptable in this context.

8.6.21. The application site is located outside the designated ACA, the Z2 Residential Conservation Zoning and the red-lined Conservation Area as shown in the Development Plan. The proposed developed is reasonably set back from nearby Protected Structures. I am satisfied the proposal development will not negatively or adversely impact upon the Built Heritage of the area.

8.7. Residential Amenity

8.7.1. Introduction

A number of residential amenity related concerns have been raised by the appellants and observers. These can be summarised as follows-

- Overlooking
- Overbearing
- Overshadowing/loss of daylight/loss of Sunlight
- Average Daylight Factor
- Other Matters
 - Noise and general disturbance during the construction stage,
 - Loss of views and

- Potential for antisocial behaviour.

I propose to look at each of these in turn.

8.7.2. **Overlooking**

- a) Significant concerns have been raised in relation to overlooking of property in the area. The Planning Authority sought proposals to address such concerns at Additional Information stage.
- b) The applicants submitted revised proposals in response including a number of design changes such as revised blocks, reconfigured apartment layouts, revised siting and increased separation distances. Section 1.3 of the 'Design Statement Amendment' deals specifically with Overlooking and loss of privacy. The Planning Authority have considered the revised proposal acceptable.
- c) Having considered existing properties in the area it is my opinion that the residential properties No's 80, 82, 84 and 86 Sandymount Avenue and 15A, 15 and 16 Gilford Road to the east of the proposed site are at risk from overlooking and impacts upon privacy.
- d) I have reviewed the drawings submitted at Additional Further Information stage. In my opinion the proposed buildings have been significantly set back off eastern site boundaries compared to the original proposal. Above ground floor windows to functional apartment rooms and balconies are also sufficiently set back from adjoining boundaries and/or orientated southwards toward Sandymount Avenue.
- e) Where sufficient setbacks cannot be achieved from balconies a number of 'Privacy Screens' are proposed to restrict direct views into private open space and towards existing houses.
- f) Three large 'Private Amenity Spaces' are identified in Blocks A01 and A02 at third and fourth floor levels. Notwithstanding the distance of these terraces from nearby residential properties, given the height of these floors, the nature of terrace uses and the size of the spaces, it is considered that existing residents in the area may suffer from a general perception of overlooking that

would unduly impact their privacy and residential amenity. This concern can be addressed by condition and imposition of appropriate screening.

g) Overall and having regard to the urban location of the development, the fact that certain amounts of oblique overlooking cannot be avoided in such environments and subject to amendments by condition, in my opinion the proposed development will not lead to significant overlooking and loss of privacy that would significantly detract from residential amenity. Should the Board decide to grant permission I consider the following conditions appropriate.

- Privacy Screens shall be installed along all boundaries of the terrace areas of-
 - Apartment Type 2PA on the fourth floor of Block A.01
 - Apartment Types 2PD and 2PE on the third floor of Block A.02.
- A privacy screen shall be installed along the eastern boundary of the balcony to apartment Type 1C on the first floor of Block A.01.
- All privacy screens shall be a minimum 1.8m high and of obscure glass.

8.7.3. Overbearing

- a) As discussed in Section 8.3 the Planning Authority did initially raise some concerns in relation to the design of the original proposal having regard to the character of Sandymount Village and the immediate area. Following the submission of Additional Information the Planning Authority have not raised any concerns in relation to overbearing.
- b) Appellants have raised concerns in relation to the height, bulk, massing and subsequent overbearing impact of the development.
- c) In response to the Additional Information request the applicants submitted revised proposals breaking the development into two blocks separated by an area of communal amenity space. The revised proposal sets the development further back from the eastern boundary of the site and existing two storey residential properties. The height of the building is not uniform and Block A.02

transitions in height from east to west from a recessed 2 storey to 5 storeys. Block A.01 transitions from 4 to 5 storey.

- d) The proposal represents a modern day residential apartment design that has reasonably incorporated contemporary interpretations of the sites context into its features and materials which are reflective of the general character of the area as outlined in the Sandymount Village Design Statement and discussed further in section 8.3 of this assessment.
- e) In my opinion the development as revised at Additional Information stage is an appropriate design that is adequately set back from boundaries and creates a suitable transition from the adjoining two storey houses to the east in the context of this city area in close proximity to public transport. It would not in my opinion have an unduly overbearing effect on existing properties in the area.

8.7.4. Daylight and Sunlight Impacts

- a. The residential amenity impacts in this regard relate to Overshadowing and loss of Daylight and Sunlight. These impacts will be considered in the context of existing properties in the area as well as the future amenity of occupants to the proposed development.
- b. Section 3.2 of the Urban Development and Building Height Guidelines (2018) in discussing the scale of the site/building, detail that proposed developments should be designed to minimise overshadowing and loss of light. They also detail that ‘appropriate and reasonable regard’ should be taken of quantitative performance approaches to daylight provision outlined in guides like BRE 209 and ‘BS 8206-2: 2008.
- c. The Guidelines also outline considerations should a proposal not fully meet all the requirements of the ‘daylight provisions’ listed above. They ‘must’ be clearly identified and a rationale for any alternative, compensatory design solutions must be set out. An Board Pleanala may apply discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning

objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

- d. Section 6.6 of the 2020 Apartments Guidelines also detail regard should be had to 'daylight provision' outlined in BRE 209 or BS 8206: 2008.
- e. The applicants have submitted 'Daylight Analysis and Sunlight Assessment' Reports with the Application and the Additional Information. A further report is submitted as a Response to the Appeals. Section 2 of these reports all indicate the Methodology used includes the standards of BRE 209 and BS 8206-2 2008.
- f. I note that BS-8206 2008 was replaced by BS EN 17039:2018 Daylight in Buildings. I am satisfied this replacement document does not have a material bearing on the outcome of this assessment.
- g. While the criteria under 3.2 of the Building Height Guidelines 2018 refer to 'quantitative performance approaches to daylight provision', it is also clear that 'appropriate and reasonable regard' is required, rather than an insistence that proposed developments adhere to the 'approaches'. It is important to note that section 1.6 of BRE 209 specifically details that the advice given is not mandatory and should not be seen as an instrument of planning policy.

8.7.4.1. Daylight

- a. BRE 209 details that obstructions such as the proposed development can limit access to light from the sky to existing properties such as houses. Figure 20 of BRE 209 provides a 'Decision Chart' or flow chart for considering diffuse daylight in existing buildings and the impact of proposed developments.
- b. The recommended measure to assess the level of skylight received to existing buildings is called the Vertical Sky Component or VSC. BRE209 recommends that existing neighbouring properties should retain a VSC of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels and that electric lighting will not be needed more of the time.

- c. In term of the subject application section 3.1 of the Daylight and Sunlight Assessment Report submitted at Additional Information stage identifies six section planes of adjacent residential properties (A-F). Three of these section drawings B, C and D have windows directing fronting the proposed development. Windows to section Planes A, E and F do not front the proposed development. The report then provides three section drawings for B, C and D from existing windows at ground floor level, demonstrating the proposed development does not subtend more than 25 degrees from these windows. According to the 'Decision Chart' Figure 20 of BRE 209 it appears that daylighting is unlikely to be significantly affected by the proposed development.
- d. Notwithstanding this the applicants have proceeded to further assess the impact of the development on existing properties. In Table 1 of the Applicants report they identify existing and proposed VSC values to windows on the properties of No. 80, 82, 84, and 86 on Sandymount Avenue and the house known as Nutgrove on Gilford Road.
- e. This table identifies that one windows to No.80, two windows to No 82, one window to No. 84, one window to No. 86 and zero windows to Nutgrove will record a VSC below 27 degrees as a result of the proposed development. Three of the identified windows have an existing value below 27 degrees and notwithstanding this none of the five identified windows achieve a reduction below 80% of existing. It is noted that a separate window to No 80 does record a reduction below 80% from existing, however its VSC remains above 27 degrees.
- f. I acknowledge the concerns raised by Appellants and Observers as regards to the differing existing VSC values provided by the Applicants in their original Daylight and Sunlight Assessment Report. It is reasonable to expect that existing figures would remain the same throughout the application.
- g. The applicants have sought to justify this in section 3 of the Daylight and Sunlight Assessment Report submitted in response to the Appeal. They detail that the changes were explained in section 3.3 of the Additional Information Report and are because of updated survey information and use of more

accurate analysis software. The response to the appeal further justifies the revised figures and details that the two storey extension to the rear of No. 82 was accounted for.

- h. It is clear that the applicants detailed the revised figure at Additional Information Stage. I do not consider this to be an attempt to mislead or confuse the situation. Notwithstanding this I refer to the 'Decision Chart' set out in Figure 20 of BRE 209 and again note that based on section 3.1 of the applicants Daylight and Sunlight Assessment Reports the proposed development does not subtend more than 25 degrees at the lowest windows of existing property and as a result it is unlikely that existing daylighting to the identified existing properties would be significantly affected. A more detailed assessment of VSC was therefore not necessarily required.
- i. I am satisfied that the Daylight Assessments undertaken by the applicants are robust and comprehensive. They indicate that daylight to existing neighbouring properties is unlikely to be significantly affected and the proposed development does comply with the recommended standards in this regard, as set out in the BRE 209 "Site Layout and Planning for Daylight and Sunlight – a Guide to Good Practice" 2011.

8.7.4.2. Sunlight to Amenity Spaces of Existing Neighbouring Property

- a. Section 3.3 of BRE 209 considers the impact of development on sunlight to existing amenity spaces such as Gardens and Open Spaces. Section 3.3.7 recommends that at least half of the amenity space should receive at least two hours of sunlight on March 21st (the Equinox) and in scenarios where detailed calculations cannot be carried out it is suggested that the centre of the area should receive at least two hours of sunlight on March 21st.
- b. Significant concerns are raised by Appellants and Observers in relation to the effects of impact of the proposed development on existing private amenity spaces i.e. overshadowing and the loss of light to back/side gardens as a result of the siting and height of the proposed development. Concerns also identify the potential for impacts from trees and landscaping along the site's eastern boundary. A particular concern raised identifies that many of the

properties currently receive significantly in excess of two hours sunlight and it is the reduction of this that is considered detrimental to residential amenity.

- c. In response to the appeals the applicants have submitted updates to their Daylight and Sunlight Assessment Report and include for an hourly shadow study on March 21st. These add to the contents of the reports submitted with the application and at Additional Information Stage. They deal specifically with observations set out in the appeals including seven properties not identified prior to this on Sandymount Avenue and Sandymount Green.
- d. The updated report carries out additional assessments of sunlight on the ground to private amenity spaces as identified in Table 2 of the report. This assessment compares the existing and proposed levels of sunlight to the identified spaces and finds minimal reduction to the percentage of amenity spaces already receiving two hours of sunlight. On this basis the proposal complies with the requirements of section 3.3 of BRE209.
- e. The shadow survey demonstrates the existing and proposed pathway of shadows every two hours from 9am to 6pm. This clearly demonstrates the impact of the development on existing properties to the east will not be received until 4pm and from later on. Existing drawings suggest that shadows from existing boundary walls already cast considerable shadows over the identified private amenity spaces.
- f. I note the Landscaping Masterplan submitted at Additional Information Stage and in particular proposals along the eastern boundary of the site which include for 'buffer planting of tall columnar trees' and other planting. I acknowledge the concerns raised in the appeal in this regard but note section 3.3.9 of BRE 209 details that normally trees and shrubs need not be included in calculations as their shapes are almost impossible to predict and as the partial shade provided (especially deciduous trees) is more pleasant than the deep shadows of buildings.
- g. Having considered BRE209, the submitted Daylight and Sunlight Assessment Reports, the siting and orientation of the development and the planning context of the site where compact, high density and increased building height development is considered appropriate, I am satisfied the proposed

development will not have a significant impact that will unduly detract from existing residential amenity in terms of provision of sunlight to existing private amenity areas. These spaces will still retain a minimum of two hours sunlight on March 21st as per the recommendations of section 3.3.7 of BRE209.

8.7.4.3. Sunlight to Interiors of Existing Houses

- a. Section 3.2 of BRE209 provides guidance in relation to safeguarding access of sunlight to interiors of existing houses. In order to consider if sunlighting to Interiors is an Issue Section 3.2.2 details that the following-
 - Some part of the new development is situated within 90 degrees of due south of a main window wall of an existing building
 - If the new development subtends an angle greater than 25 degrees from the centre of the lowest windows in a main living room.
- b. Houses of concern are considered No's . 80, 82, 84 and 86 on Sandymount Avenue. These have front elevations with windows that are within 90 degrees of due south. The windows on the front elevation of Nutgrove on Gilford Road appear to be within 90 degrees of due south and also has at least four large windows on its southern facing gable elevation.
- c. The section drawings shown in Figure 3 of the Daylight & Sunlight Assessment submitted at Additional Information Stage show windows at ground level to rear and side elevations of the above properties that do not subtend greater than 25 degrees from the lowest windows to the proposed development.
- d. I consider rear elevations of residential properties further north of Nutgrove do not directly oppose the proposed development and as such their ground level windows cannot subtend to the proposed development as recommended in the guidelines.
- e. Having considered the above I am satisfied the proposed development passes the provisions of section 3.2.2 of BRE209 and obstruction of sunlight to existing houses is not an issue. A further examination of Annual Probable Sunlight Hours (APSH) is therefore not required. Although I note the

applicants have examined this for two west facing windows of No 80 Sandymount Avenue, in accordance with section 3.1.10 of BRE209.

- f. They find the development will provide 44.32% and 42.34% for APSH to the two windows. This exceeds the >25% target. They also indicate 17.3% and 17.4% for the Winter months from September 21st to March 21st where >5% is the target for Probable Sunlight Hours (PSH).
- g. I am satisfied the proposed development will not have a significant adverse impact upon existing residential amenity as regard sunlight to the interiors of existing properties.

8.7.4.4. Sunlight to Proposed Communal Amenity Spaces

- a. I note concerns raised by applicants and observers in relation to the quality of proposed communal amenity spaces.
- b. Section 4.11 of the 2020 Apartment Guidelines states-

Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.

- c. Section 3.3.7 of BRE 209 recommends that at least half of (listed) gardens and open spaces should receive at least two hours of sunlight on March 21st (the Equinox).
- d. The Daylight Analysis and Overshadowing Reports submitted at Additional Information Stage and in response to the appeal indicates that 90.5% of the proposed amenity space (communal and Public) will receive at least two hours of sunlight on March 21st (and is in accordance with recommendations of section 3.3.7 of BRE 209).
- e. I note that a large portion of the amenity space identified for the purpose of the study is that of the proposed public open space which is on the south side of the development. However it also appears that in excess of 50% of the communal amenity spaces benefits from more than 2 hours of sunlight on March 21st. On this basis I am satisfied the amenity spaces of the proposed development will benefit from sufficient direct sunlight.

- f. I am satisfied the development as proposed complies with the recommendations of BRE209 in terms of sunlight provision to amenity spaces. Accordingly the proposed development will not significantly detract from residential amenity for proposed residents.

8.7.4.5. **Average Daylight Factor (proposed development)**

- a. The Average Daylight Factor (ADF) relates to the quality of light the proposed apartments receive. Appendix C of the BRE209 Guidelines sets out Interior Daylighting Recommendations and details minimum standards of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms in proposed developments. BS EN 17037:2018, provides that where rooms are used for combined purposes e.g. kitchen and living rooms, the appropriate standard is the ADF that is highest for any of the uses. Thus, insofar as kitchens are combined with living rooms the appropriate ADF would be 2%.
- b. The Planning Authority initially raised concerns in relation to the original design and impact on internal sunlight and amenity for potential residents. The applicants submitted revised proposals splitting the block in two and increasing the number of dual aspect apartments in the overall scheme to 75%.
- c. Appellants have raised concerns in relation to long corridors and reliance on artificial lighting.
- d. The 2018 Urban Development and Building Heights Guidelines and the 2020 Apartment Guidelines require '*appropriate and reasonable regard to*' and '*regard to*' quantitative performance approaches to daylight provision as outlined in guides like BRE 209 or BS 8206-2 (now superseded by BS EN 17037: 2018 'Daylight in buildings'. The DCC Development Plan requires development to be '*guided by the principles*' of BRE 209.
- e. Section 5 of the Daylight and Sunlight Assessment submitted in response to Additional Information provides information in relation to 'Daylight to Habitable Rooms in the Proposed Development'. The report details that all ground floor habitable rooms were assessed as it is assumed upper floors will have a

better ADF. The results are listed in Table 3 and identify that all habitable rooms on the ground floor meet the recommendations of BRE 209.

- f. Section 1.6 of BRE 209 details that the advice given is not mandatory and the advice should not be seen as an instrument of planning policy. In this regards I consider it reasonable for ground floor habitable rooms to be assessed in this context and note there is no requirement for hallways/communal internal areas etc to achieve specified ADF levels.
- g. I note two rooms are identified as 'living dining' rather than living kitchen. These rooms appear to have internal kitchens (that may not be daylight). Section 2.1.14 of BRE209 details that such kitchens should be linked to well daylight living rooms. The applicants indicate the ADF requirement for the two rooms identified as 'living dining' is 1.5. The ADF for these room is proposed as 2.02% and 2.69%. I am satisfied the rooms are consistent with the recommendations of BRE209.
- h. Based on the information submitted with the application, I am satisfied that all habitable rooms i.e. living/kitchens and bedrooms comply with the standards recommended in BRE209 Guidelines.

8.7.4.6. **Conclusion on Daylight and Sunlight Impacts**

- a. I have considered the height, bulk, massing, orientation and proximity of the site and proposed development to existing houses and their private amenity spaces.
- b. I have given detailed consideration to the proposed development in the context of BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', BS EN 17037: 2018 'Daylight in buildings' (now superseded by BS EN 17037:2018).
- c. I consider the Daylight and Sunlight Assessments submitted by the applicants through the course of the application to be detailed, robust and comprehensive. The methodologies used appear to comply with BRE 209.
- d. The site is located in a central and accessible urban location as per the 2020 Apartment Guidelines. It is served by existing public services and is in close proximity to public transport. The site is zoned Z12 in the Dublin City

Development Plan 2016-2022 which specifically provides for residential development.

- e. Having considered the above and other relevant provisions of the Development Plan, the NPF and in particular the 2020 Apartment Guidelines & 2018 Urban Development and Building Heights Guidelines, I am satisfied the proposed development would strike an appropriate balance between necessary urban development in terms of resulting Daylight and Sunlight impacts while providing for residential amenities for future occupants and protecting existing residential amenity of nearby properties.

8.7.5. Loss of Views

- a. I note concerns raised by appellant in relation to loss of westerly views from private amenity spaces of existing residential properties. I acknowledge these concerns and accept the proposed development will be visible from these private amenity spaces most notably those of No's 80, 82, 84 and 86 Sandymount Avenue and Nutgrove on Guilford Road.
- b. However a right to a view or protection of a view from private properties such as these, is not considered a reasonable planning objective or requirement. It is acknowledged that within suburban/urban areas, that views from private residents will change, and that this change of view is generally acceptable where the design of the development viewed is of a high standard and where the development and associated view is not overbearing. As discussed in section 8.7.3, I do not consider the proposed development would have an unduly overbearing effect on existing properties in the area, and the visual impact is reasonable and the design is well considered and reflects the constraints and sensitives in the area.
- c. Ultimately the lands of the subject site are undeveloped, zoned and residential development is considered appropriate for the site. Government Policy as detailed in the NPF, many Ministerial Guidelines and as set out in DCC Development Plan clearly promotes compact development, higher density developments, increased building heights, increased use of existing public

services having particular regard to principles of sustainable development including proximity to public transport.

8.7.6. Noise and Disturbance

- a. Some concerns have been raised in relation to noise and general disturbance during the construction stage of the proposed development
- b. I acknowledge the reasonable and understandable concerns of the appellants in this regard. However the site is a city location and zoned for development. Unfortunately noise is a consequence of the construction stage of any development.
- c. I am however satisfied, that such concerns can be reasonably managed through noise and disturbance mitigation measures such as those recommended through conditions 3 and 4 by the Planning Authority. These can also be addressed through the provisions of a Construction Management Plan. Should the Board decide to grant permission I recommend conditions be attached in this regard.

8.7.7. Anti-Social Behaviour

- a. I note concerns have been raised in relation to the area of proposed public open space along Sandymount Avenue and the potential risk of this space being used for anti-social behaviour and the effects this will have on residential amenity.
- b. The applicants have clearly indicated in their response to the appeal that the space has been designed to significantly improve the existing public realm at this location and I note the existing underutilised and vacant appearance of the site.
- c. The applicants also indicate the proposed space will be managed, monitored and maintained by the management company for the overall residential development.
- d. In my opinion the proposal is acceptable in this regard and matters of Anti-Social behaviour that could occur would be ones for the Gardai to investigate.

8.8. Transport Related Issues

- 8.8.1. A number of Appellants and Observers raise concerns in relation to transport related matters including the quality and content of the submitted Transport Impact Assessment, implications of transport related planning conditions- set down area, lack of car and cycle parking including parking overspill to adjoining areas, safety from the proposed entrance and vehicle turning movements including for emergencies.
- 8.8.2. The Planning Authority have granted permission subject to Condition 12 with outlines a number of requirements including a revised vehicular entrance incorporating set down within the site boundaries.
- 8.8.3. In response to the Appeal the applicants have sought to address Traffic and Transport Issues. A technical report has been submitted in response to the appeal from JB Barry Consulting Engineers.

8.8.3.1. ***Traffic and Transport Statement***

- a. Table 2.1 of Transport Infrastructure Ireland's Traffic and Transport Assessment Guidelines 2014 details Traffic Management Guidelines Thresholds For Transport Assessments. This aligns with the requirements of DCC Development Plan Appendix 4, section 4.1.3.
- b. The applicants indicate in section 1.2 of their Traffic and Transport Statement submitted with the original application and the response to Additional Information that consultation was undertaken in February 2020 with DCC to agree the scope and extent of traffic counts. This consultation is confirmed in DCC's Transportation Planning Division Report which is on file.
- c. Concerns are raised over the timing of a traffic count on March 11th 2020 during the onset of restrictions related to Covid 19. The Transportation Division of DCC have indicated their general satisfaction with the timing of the survey despite traffic levels not necessarily being at normal levels. The report details that modelling for the junction of Gilford Road/Sandymount Avenue operates within the normal design threshold for a non-signalised junction and the junction of Merrion Road/ Sandymount Avenue operates above the normal threshold for a signalised junction.

- d. The applicants have employed the TRICS database to model trip generation rates for the proposal. Transport Infrastructure Ireland's Traffic and Transport Assessment Guidelines 2014 describes TRICS as a database containing empirically obtained trip generation data for a wide range of different types of developments and the Guidelines recommend it as suitable for trip generation.
- e. In the context of the proposed development and the timing of the traffic count survey while schools were still open and prior to Covid lockdowns, I am satisfied the Traffic and Transport Statement is a reasonable examination of the transportation issues for the subject development. Modelling for the site concludes the impact of the development was demonstrated to be negligible. DCC have generally raised no concerns in this regard subject to a number of conditions.
- f. Overall the assessment concludes that from a traffic and safety perspective the proposed development does not pose any significant residual risk. The provision of 58 apartments with parking limited to 39 spaces will not in my opinion, lead to significant increase of traffic in the area. In this context I am satisfied the proposed development would not create a traffic hazard or endanger road safety.

8.8.3.2. **Visibility at Entrance**

- a. Concerns have been raised in relation to traffic turning movements into and from the site including visibility splays from the proposed entrance.
- b. The applicants have submitted a drawing in response to the request for Additional Information demonstrating sightlines of 49m to the west and 69m to the east from the proposed entrance.
- c. In their response to the Appeal the applicants Technical Note refers to forward visibility and stopping sight distance requirements as set out in section 4.4.4, Table 4.2 and section 4.4.5 of the Design Manual for Urban Roads and Streets (DMURS).
- d. Section 4.4.5 of DMURS details the Y distance along the visibility splay should correspond to the SSD for the design speed of the major arm, taken

from Table 4.2 i.e. 49m. DMURS also details that junction visibility splays should be kept clear of obstructions, however, objects that would not be large enough to wholly obscure a vehicle, pedestrian or cyclist may be acceptable providing their impact on the overall visibility envelope is not significant. I note existing obstacles such as a utility pole and a bus stop. I do not consider these will significantly impact upon visibility in this urban environment.

- e. I am satisfied that visibility from the proposed development complies with the requirements of DMURS and the proposed entrance would not create a traffic hazard or endanger road safety.

8.8.3.3. ***Access for Emergency Vehicles***

- a. Concerns have been raised in relation to the applicants proposals for access of emergency vehicles to the site. These concerns appear to be generally based on the 'Fire Tender Access Autotrack 1' drawing submitted at Additional Information Stage which appears to show emergency vehicle access conflicting with the proposed 'Landscape Masterplan Drawing' also submitted at Additional Information Stage and access to the Playground Area.
- b. I note the Planning Authority have not raised concerns in this regard and condition 12 (i) seeks a set down area which may facilitate emergency vehicles and delivery vehicles as well as doubling as a waste marshalling area once a week. Condition 12 (iv) seeks revised autotrack drawings for emergency vehicles without conflict to the proposed entrance, which may need to be revised.
- c. I acknowledge the Landscape Masterplan Drawing and Fire Tender Access Drawings do appear to conflict with seating areas clearly in the path of the Autotrack Route. I am satisfied this matter can be addressed through condition should the Board decide to grant permission. I do not consider there to be any difficulties with access to the children's playground as discussed in section 8.4 above.

8.8.3.4. ***Other Issues***

- a. I note concerns of the appellants and observers in relation to impacts of the development on traffic turning movements into existing houses on Sandymount Avenue, overspill car parking and competition for existing on street parking spaces.
- b. Having inspected the site and surrounding area, I have noted existing entrances to houses generally opposite the entrance to the proposed site, the existing entrance to the proposed site and existing on-street car parking provision on the opposite side of Sandymount Avenue.
- c. While I accept the proposed development may create conflicting traffic turning movements at times when cars may be accessing or egressing houses opposite the site or into and from the site. I do not however, consider such movements would have a significant impact from a road safety perspective with vehicles likely to be moving very slowly at this location on such occasions.
- d. There is existing provision of public pay and display parking in the immediate area and residents or visitors of the proposed development would be entitled to avail of these spaces if they are available, as are existing residents in the area. The applicants have proposed 39 car parking spaces which complies with the Apartment Guideline requirements. It is the intention of national and local policy to reduce car parking provision to disincentivise car ownership and usage particularly in areas with good quality public transport provision and accordingly the proposed provision is acceptable. I do not consider the proposed development will necessarily lead to car parking over spill having regard to the proximity of the site to public transport and the existing usage of these spaces.
- e. I note some concerns have been raised about the accessibility of car parking spaces within the basement area. I accept that the parking configuration is tight in places, however I do not consider them inaccessible. Notwithstanding this, the allocation of spaces will be a matter for the management company of the development and shall be for residents of the development only. This can be addressed by condition should the Board decide to grant permission.

- f. I note concerns raised in relation to the Strand Road Cycle Scheme and Irish Rail level crossing plans. The applicants have indicated such impacts will be negligible. I note that plans for the Strand Road Cycle Scheme are subject to legal proceedings and have not been confirmed. Notwithstanding this and Irish Rails Level Crossing Plans it is considered that the provision of car parking to the site is not of a significant scale in this regards and as such in my opinion will not have a significant impact.

8.9. Flooding and the Water Table

- 8.9.1. Concerns have been raised by appellants in relation to the sites location within Flood Zone A and the impact of the development on the existing water table.
- 8.9.2. The site is located c. 500m west of Dublin Bay and c. 700m south east of the River Dodder. Volume 7 of the Dublin City Development Plan provides a Strategic Flood Risk Assessment (SFRA). Appendix 1 details Existing Flood Defence Infrastructure and I note paragraph G details the provision of same in Sandymount and generally identifies those along the coast line. Appendix 3 sets out Justification Test tables and provides flooding maps. The subject site is identified as Site:8- Coastal: Sandymount, is within Flood Zone A and is in a defended area.
- 8.9.3. I have also reviewed OPW mapping at floodinfo.ie and it mapping available to An Bord Pleanála. I am satisfied the site is located with Flood Zone A.
- 8.9.4. The Planning System and Flood Risk Management Guidelines 2009 detail residential development located with Flood Zone's A site are considered a 'Highly Vulnerable Use'. Accordingly the applicants are required to carry out a justification test in accordance with Box 5.1 of the Guidelines.
- 8.9.5. Section 4.4.1 of the applicants Flood Risk Assessment (FRA) seeks to justify the development in accordance with the Guidelines. It indicates the site has been zoned and residential development is acceptable within the zoning as per the current DCC Development Plan 2016-22. The FRA identifies the site as lying within the 0.1% AEP Floodplain of the River Dodder and Dublin Bay and acknowledge that development on flood plains has the potential to increase flood risk elsewhere by potentially increasing runoff and decreasing the volume of available flood storage.

8.9.6. The FRA refers to section 4.8 of DCC's Strategic Flood Risk Assessment which states-

'In a defended site, compensatory storage is not required as the floodplain was removed through implementation of the flood defence scheme.'

The applicants, therefore, contend that the development will have no impact on flood risk elsewhere.

8.9.7. The FRA proposes the use of Sustainable Urban Drainage measures to minimise flood and residual risk, a ffl of +2.6m OD which allows for 0.5m for climate change and a further 0.3m, incorporation of flood warning systems and flood resilient construction techniques.

8.9.8. Based on the submitted FRA I am satisfied that the development as proposed adequately justifies the proposed development at this site in accordance with the flooding guidelines. The proposal would be compatible with the achievement of wider planning objectives such as compact urban development and increased densities etc.

8.9.9. DCC's Drainage Division have not raised any concerns in relation to flooding and I note the addition of flood related conditions to their standard requirements as set out in Condition 13 including the provision of flood resilience measures and a flood warning system in accordance with sections 5.22 and 5.23 of the Guidelines.

8.9.10. Appellants have also raised concerns in relation to the impact of the development on the Water Table. In particular the extent of development to facilitate the basement and foundations are noted and the impact of same on adjoining properties is significant.

8.9.11. The applicants have submitted a 'Basement Impact Assessment' with the application. This examines the potential impacts of the development and proposes mitigation measures.

8.9.12. Site Investigations were carried out with details of a number of trial holes and percolation tests submitted. These generally identify the water table at c. 2.4 - 2.8m deep. The report details excavations to c. 3.1m deep with retaining walls generally along the western boundary of the site with works reasonably located off the eastern site boundaries.

8.9.13. The report details extraction works may require interaction with the water table to allow for construction of the basement and localised dewatering will be required. This has the potential to cause settlement of adjoining property ranging in potential damage from minor to significant which could be adverse, permanent and profound in significance. The report details mitigation measures in this regard include sealing the excavation area to prevent ingress from the water table. As a result impacts to adjoining properties would be imperceptible.

8.9.14. I acknowledge and appreciate concerns of the applicants in this regard. However I consider the content of the Basement Impact Assessment to be robust and comprehensive. The risks are appropriately identified and mitigation measures to manage these are proposed. Localised dewatering is a common requirement for basements and foundations. Sealing of such area is required and appropriate to mitigate against the risk. As with all development, responsibility to ensure damage to adjoining property lies with the developer. I am satisfied the mitigation measures proposed are reasonable.

8.10. **Other Matters-**

8.10.1. ***Water Services***

- a. Concerns have been raised in relation to the impact of the development on water pressure in the area.
- b. The applicants have submitted a Water Services Report with the original application in which they attach a copy of a letter from Irish Water detailing a pre-connection enquiry to water and wastewater services. This letter indicates the proposed connection can be facilitated.
- c. A report is also on the file from DCC's Drainage Division which recommends that permission be granted subject to a number of standard conditions.
- d. I am satisfied there are no water services related concerns in this regard.

8.10.2. ***Misleading drawings, dimensions and CGI images etc***

- a. The appellants and observers raise concerns in relation to the accuracy of the drawings and in particular highlight separation distances between all existing structures and the site.
- b. The application with its drawings and documentation have been accepted and validated by Dublin City Council in accordance with the requirements of the Planning and Development Regulations 2001-21 as amended.
- c. Having visited the site, reviewed mapping and aerial photography available to An Bord Pleanála, and in particular, the contents of the appeals and observations I am satisfied the drawings and documentation submitted with the application are sufficiently accurate and of an acceptable standard to allow for a reasonable analysis of the development including, such matters as separation distances from existing property and setbacks from boundaries.

8.10.3. **Fire and Building Regulations**

- a. I note some matters raised by appellants and observers in relation to the fire and building regulations. Such issues of compliance are generally evaluated under separate legal codes and thus not a material consideration for the Board for the purposes of this appeal.

8.11. **Appropriate Assessment**

8.11.1. **Introduction**

A screening report for Appropriate Assessment was submitted with this application compiled by Pádraic Fogarty, Openfield Ecological Services in May 2020. It concludes that-

'the possibility of any significant impacts on any European Sites, whether arising from the project itself or in combination with other plans and projects, can be excluded beyond a reasonable scientific doubt on the basis of the best scientific knowledge available.'

8.11.2. **Stage 1 Screening**

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 European sites. 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 such European Sites.

8.11.3. *The Proposed Development and Receiving Environment*

The proposed development comprises of the construction of a 58 apartments and associated development. The site is not located within or adjoining a designated European site.

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

- discharge of surface water from the site
- discharge of foul water from the site.

8.11.4. *European Sites*

Given the location of the site, and the nature and scale of the proposed development, I consider the following designated sites as set out in Table 1 to be within the zone of influence of the subject site-

Table 1-

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
South Dublin Bay SAC [000210]	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]	c. 475m to the east
North Dublin Bay SAC [000206]	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]	c. 4.1km to the

	<p>Atlantic salt meadows [1330]</p> <p>Mediterranean salt meadows [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalwort <i>Petalophyllum ralfsii</i> [1395]</p>	north east
South Dublin Bay and River Tolka Estuary SPA [004024]	<p>Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046]</p> <p>Oystercatcher <i>Haematopus ostralegus</i> [A130]</p> <p>Ringed plover <i>Charadrius hiaticula</i> [A137]</p> <p>Grey plover <i>Pluvialis squatarola</i> [A141]</p> <p>Knot <i>Calidris canutus</i> [A143]</p> <p>Sanderling <i>Calidris alba</i> [A149]</p> <p>Dunlin <i>Calidris alpina</i> [A149]</p> <p>Bar-tailed godwit <i>Limosa lapponica</i> [A157]</p> <p>Redshank <i>Tringa totanus</i> [A162]</p> <p>Black-headed gull <i>Chroicocephalus ridibundus</i> [A179]</p> <p>Roseate Tern <i>Sterna dougallii</i> [A192]</p> <p>Common Tern <i>Sterna hirundo</i> [A193]</p> <p>Arctic Tern <i>Sterna paradisaea</i> [A194]</p> <p>Wetland and waterbirds [A999]</p>	c. 475 m to the east
North Bull Island SPA [004006]	<p>Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A046]</p> <p>Shelduck <i>Tadorna</i> [A048]</p> <p>Teal <i>Anas crecca</i> [A052]</p> <p>Pintail <i>Anas acuta</i> [A054]</p> <p>Shoveler <i>Anas clypeata</i> [A056]</p> <p>Oystercatcher <i>Haematopus ostralegus</i> [A130]</p> <p>Golden Plover <i>Pluvialis apricaria</i> [A140]</p> <p>Grey Plover <i>Pluvialis squatarola</i> [A141]</p> <p>Knot <i>Calidris canutus</i> [A143]</p> <p>Sanderling <i>Calidris alba</i> [A144]</p> <p>Dunlin <i>Calidris alpina</i> [A149]</p> <p>Black-tailed Godwit <i>Limosa</i> [A156]</p>	c. 4.1 km to the north east

	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]	
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I note the applicant's screening report has looked at other European Sites within a general 15km from the site and 15km from the Ringsend wastewater treatment plant, of which the four identified above and Poulaphouca Reservoir SPA 004063 are considered to lie within the zone of influence of the project (see Table 14 of applicants screening report).

I am satisfied that other such European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site. In particular Poulaphouca Reservoir SPA (004063) is considered significantly distant at c. 25km from the site and has no direct hydrological connection or pathway to the site.

8.11.5. ***Test of Likely Significant Effects***

The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible interaction (direct or indirect) with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

I note section 2.3 of the Archaeology and Built Heritage Report (ABHR) submitted with the application refers to 1864 mapping (Figure 6) and details a possible watercourse along the eastern boundary of the site where it appears to terminate within the site. This mapping also identifies a well and pump at the northern and southern points of the watercourse as shown in Figure 6 along the eastern boundary of the site. Section 2.3 of the ABHR also details there are no historical sources for a watercourse and it is possible that it was a feature of a planned garden.

Section 4.2 of the ABHR however, details this watercourse is quite likely to extend further north and will be directly impacted by the proposal. I understand this to mean Block A.02 which wraps around the northern part of the site and extends further east across the part of the site where the watercourse would appear to end as per Figures 6 and 7 of the ABHR.

Section 1.2 of the second Archaeology and Built Heritage Report (ABHRAI) submitted in response to the Additional Information request, details that there is no evidence of this feature on the ground and it was presumably placed in a culvert at some period between c. 1912-1943.

There is no reference to this possible feature in the applicants AA Screening Report.

Having reviewed the information on file I consider this feature is not and was not a water course. Instead it was man-made infrastructure where water was extracted from groundwater via the well, and brought to the pump located along the road/Sandymount Avenue. I am satisfied this feature is no longer in situ and was not a watercourse.

Based on the source-pathway-receptor model, I am not aware of any hydrological connections to European Sites in close proximity to the application site. The site is surrounded by existing urban development and I am satisfied that significant effects from the development would not be likely in this context as there are no obvious pathways to European Sites.

8.11.6. **Potential Effects**

Having regard to the urban context of the site and the nature of the proposed development, I consider that the only potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation. I consider standard construction methods would generally be sufficient to address these considerations during both the construction and operational phase.

Due to the nature of the application site and the proposed development, there is a potential indirect pathway to coastal SACs and SPAs via surface and foul drainage networks and Ringsend WWTP.

Section 5 of the Water Services Report submitted with the application details proposals for surface water drainage to the existing combined sewer in Sandymount Avenue and to utilise Sustainable Urban Drainage Systems (SUDs) including green roofs, and permeable paving. Run off from these will drain to Pluvial Cube Retention Systems for attenuation purposes prior to discharge to the public system. It is clear there will be no discharge to the underground watercourse along the site's eastern boundary (under the assumption the watercourse exists). On this basis I consider there will be no adverse change to the quantity or quality of surface water leaving the site.

All foul water from the proposed development would be discharged via the public system with discharge to the Ringsend Wastewater Treatment Plant (WWTP). Permission has been granted (ABP Ref. 301798-18) for works that would increase the capacity of the plant. I note there is evidence to suggest that some nutrient enrichment is benefiting winter birds for which the SPAs have been designated in Dublin Bay (Nairn & O' Halloran eds, 2012). Increased flows from this project to Ringsend WWTP, individually or cumulatively are not likely to have a significant impact on European sites.

I consider that the distances are such that any pollutants in discharge post treatment from the Ringsend WWTP would be minimal and would be sufficiently diluted and dispersed. Therefore, there is no likelihood that pollutants arising from the proposed development, either during construction or operation, could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.

8.11.7. ***In-combination Impacts***

Having regard to the above findings of no likely significant effects from the proposed development, I am satisfied that likely significant in-combination impacts would not arise in this context.

8.11.8. ***Conclusion***

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, and notwithstanding the possible existence of a culverted underground watercourse within the site, it has been concluded that the project individually (or in combination with other plans or projects) would not be likely to have a significant effect on the following European Sites-

- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024),
- South Dublin Bay SAC (Site Code: 000210),
- North Bull Island SPA (Site Code: 004006) and
- North Dublin Bay SAC (Site Code: 000206),
- or any other European sites, in light of the sites' Conservation Objectives', and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

9.0 Recommendation

9.1. I recommend that permission is granted subject to the following conditions

10.0 Reasons and Considerations

Having regard to the provisions of-

- the National Planning Framework and in particular National Policy Objectives 11, 13 and 35,
- the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH, 2020),
- the Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG, 2018) and in particular Specific Planning Policy Requirement 3A
- the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Sustainable Residential Development in Urban Areas Guidelines (DEHLLG, 2009)

- the Planning System and Flood Risk Management Guidelines 2009 (DEHLG, 2009)
- Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan
- and the provisions of the Dublin City Development Plan 2016 - 2022,

it is considered that, having regard to the nature of development in the area, the site's Central and Accessible location, the site's close proximity to existing public transport links and subject to compliance with the conditions set out below, the proposed development, would represent an acceptable height, density and design for the site, would be acceptable in terms of the amenities of adjoining properties, would not seriously injure the visual amenities, built heritage or character of the area and would be acceptable in terms of traffic and road safety. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 27th day of January, 2021 and by the further plans and particulars received by An Bord Pleanála on the 20th day of April, 2021, 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) Privacy Screens shall be installed along all boundaries of the terrace areas of-
- Apartment Type 2PA on the fourth floor of Block A.01
 - Apartment Types 2PD and 2PE on the third floor of Block A.02.
- (b) A privacy screen shall be installed along the eastern boundary of the balcony to apartment Type 1C on the first floor of Block A.01.
- (c) All privacy screens shall be a minimum 1.8m high and of obscure glass
- (d) The vehicular entrance layout shall be revised to facilitate a set down area within the site. The set down area shall be used for servicing, deliveries, emergency and waste collections unless otherwise agreed with the Planning Authority. The set down area shall not facilitate private car parking at any time.
- (e) Emergency and waste vehicle access to the site shall be facilitated and agreed.
- (f) 110 cycle parking spaces shall be provided in the basement. Cycle spaces shall be assigned to apartments on the basis of bedrooms numbers. The cycle spaces shall be facilitated through the reduction of car parking provision as required.

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

Reason: In the interest of residential amenity and clarity

3. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- a. notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

- b. employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- i. the nature and location of archaeological material on the site, and
- ii. the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation and foundation layout) prior to commencement of construction works.

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

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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

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

5. Details of the materials, colours and textures of all the external materials and finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. A Building Lifecycle Report in accordance with section 6.13 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2020) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

7.

- a. Car parking spaces shall be for the use of residents of the development only and as detailed in a Car Parking Management Strategy to be submitted and agreed with the Planning Authority.
- b. Car parking spaces shall not be sold, rented or otherwise sub-let or leased.
- c. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

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

- a. Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b. Location of areas for construction site offices and staff facilities;
- c. Details of site security fencing and hoardings;
- d. Details of on-site car parking facilities for site workers during the course of construction;
- e. Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f. Measures to obviate queuing of construction traffic on the adjoining road network;
- g. Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h. Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i. Details of appropriate mitigation measures for noise, dust, excavation and vibration, and monitoring of such levels/works;
- j. Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k. Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l. Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

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

9. 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.

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

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

Reason: In the interests of amenity and public safety.

11. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the public open space, external fabric of the buildings, all communal open spaces, landscaping, paths, vehicle set down area, the basement car park, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the development is made available for occupation and operation.

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

12.

- a. Drainage arrangements shall comply with the requirements of the planning authority for such works and services.
- b. All flood risk mitigation measures as detailed in the Flood Risk Assessment submitted with the application shall be fully implemented.
- c. The development shall be constructed to flood resilient standard up to 4m OD.
- d. The management company shall install, operate and maintain an adequate flood warning system including preparing and regularly updating an emergency plan for all users of the site.

All details of a - d shall be agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interest of public health

13. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

14. Proposals for the development name and apartment numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the development name and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

15. The site (including the area of public open space) shall be landscaped in accordance with a final landscape scheme which shall account for

amendments elsewhere in these conditions. Details of the 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 approved landscaping scheme shall be implemented fully in the first planting season following completion 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. Landscaping in accordance with the scheme shall be managed and maintained in perpetuity by the legally constituted management company unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of residential and visual amenity.

16. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff, users and residents of the development and to reduce and regulate the extent of parking in the area. The mobility strategy shall be prepared and implemented by the management company for the development.

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

17. 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 for each apartment and the Mosque shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

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

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

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

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

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Adrian Ormsby
Planning Inspector

23rd of September 2021