



An  
Bord  
Pleanála

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

## Inspector's Report ABP-310104-21

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|                                      |   |
|--------------------------------------|---|
| <b>Strategic Housing Development</b> | Build-to-rent residential development comprising 428 no. Apartments, childcare facility and resident's amenities, and associated siteworks. |
| <b>Location</b>                      | Former Avid Technology International Site, Carmanhall Road, Sandyford Industrial Estate, Dublin 18.   |
| <b>Planning Authority</b>            | Dun Laoghaire-Rathdown County Council   |
| <b>Applicant</b>                     | Atlas GP Ltd.   |
| <b>Prescribed Bodies</b>             | Transport Infrastructure Ireland<br>Irish Water   |
| <b>Observers</b>                     | Sandyford Environmental Construction Ltd.   |
| <b>Date of Site Inspection</b>       | 13th July 2021  |
| <b>Inspector</b>                     | Stephen Ward  |

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## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development application submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. I am satisfied that the proposed development comes within the definition of 'Strategic Housing Development' as set out in Section 3 of the Act and that the application has been made in accordance with all relevant legislative requirements.

## 2.0 Site Location and Description

- 2.1. The site is located centrally within Sandyford, at the junction of Carmanhall Road and Blackthorn Road, with frontages to both roads, and is immediately opposite the junction of Blackthorn Road and Burton Hall Road to the east. The site is visible for some distance along Burton Hall Road and from various vantage points in the surrounding area. This area is currently undergoing transformation from low rise industrial, employment and office use to higher density residential and mixed-use developments. The Stillorgan and Sandyford Luas stops are within c. 350 m of the site (to the north and northeast respectively). Several bus routes also run along Blackthorn Road and Burton Hall Road.
- 2.2. The site has a stated total area of 1.03 ha and falls gradually from south to north. It is above the level of Carmanhall Road and Blackthorn Road. It was previously occupied by a 2-storey warehouse / production building with ancillary offices (c. 3,890 sq.m.) 'Avid Technology International' (now demolished), and a large area of associated surface car parking. The site is currently unused and is bounded by temporary hoardings along the SE and NE boundaries, together with concrete block walls along the NW and SW boundaries. Outside the temporary boundaries, part of the site (0.3 ha) is owned by Dun Laoghaire Rathdown County Council (DLRCC) and a letter of consent has been submitted. These lands include the vehicular carriageway, green verge and pedestrian footpath along Carmanhall Road, as well as the green verge and pedestrian footpath along Blackthorn Road.
- 2.3. The immediate surroundings of the site reflect the ongoing changing nature of Sandyford and includes a single storey commercial building and the 6 storey office building ('Nova Atria', occupied by 'Facebook') on Carmanhall Road to the north; low

profile vacant commercial buildings to the northwest (hereafter referred to as the 'Tack Packaging' site) fronting onto Ravens Rock Road; a newly refurbished 6 storey office complex to the southwest (now known as 'Three Rock Plaza') on Blackthorn Road; and 2-3 storey office and light industrial buildings on the opposite (eastern) side of Blackthorn Road.

### 3.0 Proposed Strategic Housing Development

3.1. The development involves the construction of a Build-To-Rent residential development comprising 428 no. apartment units as follows:

| Apartment Type | No.        | Percentage |
|----------------|------------|------------|
| Studio         | 41         | 9.6        |
| 1 bed          | 285        | 66.6       |
| 2 bed          | 94         | 22         |
| 3 bed          | 8          | 1.8        |
| <b>Total</b>   | <b>428</b> | <b>100</b> |

3.2. The development has a height ranging from 6-17 storeys over basement level, with a maximum height of c. 59 metres at the northeast corner. The proposal has an overall gross floor area of 40,814m<sup>2</sup>. Apart from a gap within the northern perimeter, the scheme comprises a largely continuous perimeter of varying heights surrounding an internal courtyard at first-floor level.

3.3. In addition to the proposed apartments, the development also includes:

- Communal amenity space (2,600m<sup>2</sup>) spread over the 1<sup>st</sup> floor courtyard and roof terraces at 6<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup> floor levels.
- Resident childcare facility (142m<sup>2</sup>) and other dedicated residents' amenities (392m<sup>2</sup>) consisting of concierge/meeting rooms, office/co-working space, and meeting/games room.
- 696m<sup>2</sup> of shared amenities (for use of residents and the local community) consisting of cinema, gym, yoga studio, laundry and café/lounge.

- 145 no. vehicular parking spaces, 5 no. motorcycle parking spaces, stores, plant and associated services at ground floor level.
- 752 no. bicycle parking spaces, stores and plant at basement level.
- Removal of existing vehicular entrance and construction of new vehicular access in the northwest corner of site off Carmanhall Road.
- Improvements along Carmanhall Road and Blackthorn Road to include footpath and cycling infrastructure, landscaping and street furniture, and an upgraded junction through the provision of an uncontrolled pedestrian crossing.
- All ancillary works and services including landscaping and boundary treatment, drainage, lighting, and rooftop telecommunication structure.

3.4. The key figures relating to the proposed development are summarised in the table below. In calculating these figures, I acknowledge that the application site extends to an area of 1.03 ha, 0.3 ha of which is comprised of DLRCC lands (including the Carmanhall Road carriageway). In accordance with the recommendations of ‘Appendix A: Measuring residential density’ of the 2009 ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG)’, I consider that the Cramanhall Road carriageway (estimated at c. 0.08 ha) should be excluded as a ‘distributor road’ from the site area for the purposes of calculating density and other site standards. I have, however, included the remainder of the DLRCC lands on the basis that they comprise ‘incidental open space and landscaping’ as described in the Guidelines. Accordingly, I propose that a site area of 0.95 ha should be used in the assessment of the application.

#### **Key Figures for the Proposed Development**

|                          |   |
|--------------------------|---|
| <b>Site Area</b>         | 0.95 ha (as per commentary above)   |
| <b>No. of apartments</b> | 428 units   |
| <b>Other Uses</b>        | Resident Crèche: 142m <sup>2</sup><br>Resident/Community Infrastructure: 696m <sup>2</sup><br>Resident Amenities: 392m <sup>2</sup> |
| <b>Gross Floor Area</b>  | 40,814 m <sup>2</sup>   |

|                               |                            |
|-------------------------------|----------------------------|
| <b>Density</b>                | 450 units per ha           |
| <b>Plot Ratio</b>             | 1 : 4.3                    |
| <b>Site Coverage</b>          | 40% (at first floor level) |
| <b>Dual Aspect</b>            | 35.05%                     |
| <b>Car Parking</b>            | 145 spaces                 |
| <b>Bicycle parking</b>        | 752 spaces                 |
| <b>Motorcycle Parking</b>     | 5 spaces                   |
| <b>Communal Amenity Space</b> | 2,600m <sup>2</sup>        |
| <b>Public Open Space</b>      | 2,746m <sup>2</sup>        |

3.5. The application outlines that a Property Management Agent/Company will manage the estate and common areas on behalf of the landlord. There will be a designated management/concierge office, which will focus on management of residents and the estate. The application includes a draft Section 47 Agreement between Dun Laoghaire-Rathdown County Council and the applicant which would restrict and regulate the development for the period of 15 years from the date of the planning permission, such that the development shall remain owned and operated by a single entity and no individual residential unit within the development may be sold. A Property Management Strategy Report has been submitted by Aramark Property.

3.6. In addition to the standard drawings and documentation requirements, the application is accompanied by the following documents and reports:

- Environmental Impact Assessment Report (EIAR)
- Operational Waste Management Plan
- Preliminary Construction Management Plan
- Construction Demolition Waste Management Plan
- Construction Environmental Management Plan
- Appropriate Assessment Screening Report
- Assessment of impacts on telecommunication channels

- Preliminary Fire Safety and Access & Use Strategy
- Social & Community Infrastructure Audit
- Statement of Response to Pre-Application Consultation Opinion
- Statement of Material Contravention
- Statement of Consistency & Planning Report
- Property Management Strategy Report
- Architectural Design Statement and Architectural Response to ABP Opinion
- Utilities Report
- Site Lighting Report
- Infrastructure Report
- Building Life Cycle Report
- Flood Risk Assessment
- Traffic and Transport Assessment (Stage 3)
- Quality Audit (Stage 1) relating to road safety, access, walking and cycling
- Photomontage document
- Energy Analysis Report
- Sunlight & Daylight Analysis
- Landscape Design Statement
- Housing Quality Assessment
- Schedule of Accommodation

## 4.0 Planning History

4.1. The following applies to the application site itself:

4.1.1. **ABP Ref. 303467-19:** SHD Permission granted (30<sup>th</sup> April 2019) for 817-bedspace Student Accommodation development with ancillary student facilities, 2 no. commercial units, 57 no. car parking spaces, 586 no. bicycle parking spaces and 5

no. motorcycle parking spaces. The development has a height of 7-9 stories (max. height c. 29m) and an overall gross floor area of 25,459m<sup>2</sup>.

- 4.1.2. **P.A. Ref. D16A/0158:** Permission granted by DLRCC (1<sup>st</sup> September 2016) for development comprising demolition of the existing building and the construction of a 5 - 8 storey mixed use development in 2 blocks comprising 147 no. apartments, crèche, gym, media suite, café; single level undercroft providing 151 no. car parking spaces, 158 no. cycle parking spaces, service and plant areas, waste management areas and storage areas; new vehicular entrance from Carmanhall Road and a fire tender / cycle access from Blackthorn Road, internal landscaped courtyard and all other associated works including the provision of 32 no. surface bicycle parking spaces and the relocation of the existing pedestrian crossing on Carmanhall Road.
- 4.1.3. **ABP Ref. PL06D.227592:** Under P.A. Ref. D07A/0453, permission was sought for modifications to development permitted under Reg Ref D05A/0239 (see details below) comprising provision of an additional floor of 3,352 sq.m. floorspace with 40 additional apartments between the permitted 3<sup>rd</sup> and 4<sup>th</sup> floors, bringing Block C to 7<sup>th</sup> floor level, Block D to 9<sup>th</sup> floor level, Block B partly to 9<sup>th</sup> and partly to 11<sup>th</sup> floor level and Block A to 10<sup>th</sup> floor level, with a portion of Block A on the corner of Carmanhall and Blackthorn Roads rising to 13<sup>th</sup> floor level. Two permitted apartments at second floor level given over to an increased crèche of 370 sq.m. floor area. The total number of apartments is increased by 38 no. to 300 no. Increased basement car-parking area to provide an additional 43 car parking spaces, bringing the total proposed to 380 spaces.
- 4.1.4. After the applicant appealed the decision of DLRCC to refuse permission on grounds of deficiencies in roads and public transport infrastructure, ABP issued an order to refuse permission (2<sup>nd</sup> October 2008) for the following reasons:
1. *The site of the proposed development is located in Sandyford Business Estate, where it is the land use zoning objective, as set out in the Dun Laoghaire-Rathdown County Development Plan 2004-2010, to provide for economic development and employment, with a related objective to support the area as a major employment centre, and for which area the planning authority has a vision for a high quality environment, accessible to sustainable modes of transport with a range of facilities. Having regard to the amount and type of development*



*already existing or permitted in the Estate, to existing and significant constraints in the provision of adequate transport infrastructure to serve the area (in terms of road access and of public transport capacity), of water and drainage services, of social infrastructure (including educational facilities) and of recreation/amenity facilities, and to the absence of specific measures to address these constraints, it is considered that further development of the quantum proposed, notwithstanding the specific objective in the development plan to encourage high density apartment development in Sandyford Business Estate, would militate against the land use zoning objective for the area and conflict with the vision of the planning authority for a high quality and accessible environment. The proposed development would, therefore, by itself and by the precedent it would set for other, similar high density development in the area, be contrary to the proper planning and sustainable development of the area.*

2. *Development of the kind proposed on the land would be premature by reference to:*

*(a) the existing deficiency in the road network serving the area, including considerations of capacity, and the prospective deficiency in the road network serving the area, which would arise because of the increased road traffic likely to result from the development and other prospective development and which would render that road network unsuitable to carry the increased road traffic likely to result from the development,*

*(b) the existing deficiency in the provision of public transport facilities,*

*(c) the existing deficiency in the provision of foul sewerage facilities,*

*(d) the existing deficiency in the provision of recreation/amenity facilities,*

*and the period within which the constraints involved might reasonably be expected to cease. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

4.1.5. **P.A. Ref. D05A/0239:** Permission granted (28<sup>th</sup> July 2005) for development (36,856m<sup>2</sup>) comprising 2,175 sq.m gross retail / commercial floorspace at ground floor level and 265 apartments in 4 blocks up to 12 floors in height; car (337 spaces) and cycle (348 spaces) parking; new service road off Carmanhall Road and access for emergency vehicles to 2<sup>nd</sup> floor podium level from Blackthorn Road.

- 4.2. The following are recent and relevant decisions relating to other sites in the Sandyford area:
- 4.2.1. **P.A. Ref. D16A/0076:** On the opposite side of Blackthorn Road to the southeast, permission granted (1<sup>st</sup> September 2016) on 1.37 ha site for a 27,751 sq.m. development comprising 4 no. 6 storey over basement office buildings with a café on the ground floor of Block D; 277 no. car parking spaces, 168 no. bicycle parking spaces; vehicular access from Arena Road; public plaza incorporating soft and hard landscaping and water features and 80 no. cycle parking spaces and associated site works.
- 4.2.2. **P.A. Ref. D05A/0566:** On the adjoining site to the NW (Tack Packaging site), permission was granted (21<sup>st</sup> August 2006) for demolition of existing buildings; construction of 16,766 sq.m gross floor area mixed-use development comprising retail/commercial at ground floor in 3 units, gym/private health club and 15,947 sq.m of residential development comprising 182 apartments in three blocks ranging in height from 9 to 12 storeys. This permission was not implemented and has now expired. Under **ABP Ref. 308186-20**, a Strategic Housing Development Consultation has taken place in relation to a proposal for 233 no. BTR apartments on this site and an opinion was issued by the Board (dated 22<sup>nd</sup> December 2020) outlining that the proposal requires further consideration/amendment.
- 4.2.3. **ABP Ref. 301428-18:** On the 'former Aldi site' on the opposite Side of Carmanhall Road (c. 350m to the northwest), SHD permission granted by ABP (17<sup>th</sup> July 2018) for the construction of 460 no. apartments in 6 no. 5 to 14 storey blocks above podium. Ancillary on-site facilities including gym, yoga / spin studio, crèche, lounge / café and communal meeting room. Basement with 454 no. car parking spaces and 516 no. bicycle parking spaces. Under **ABP Ref. 305940-19** a revised SHD proposal for the same site was granted (12<sup>th</sup> March 2020) for demolition of existing structures on site and construction of 564 no. build to rent apartments, creche and associated site works in 6 blocks ranging in height from 5 to 17 storeys. This development is now under construction.
- 4.2.4. **ABP Ref. 304405-19** – On a site to the immediate west of the 'former Aldi site' discussed above, SHD permission was granted (19<sup>th</sup> August 2019) for 428 no.

apartments, creche, 4 no. local/neighbourhood retail units and associated site works in 2 blocks ranging from 5 to 14 storeys in height.

- 4.2.5. **ABP Ref. PL06D.303738:** Permission granted by the Board in June 2019 for a development at Beacon South Quarter (c. 600m west of the application site) comprising a mixed use development ranging in height from 1 to 14 storeys to accommodate 3 no. neighbourhood retail units, crèche and 84 apartments including 12 no. 1 bed units and 59 no. 2 bed units served by 65 car parking spaces. This development is now under construction.

## 5.0 Section 5 Pre-Application Consultation

### 5.1. Pre-Application Consultation ABP-307978-20

- 5.1.1. The pre-application consultation related to a proposal for 438 no. Build to Rent apartments and associated works at the application site.
- 5.1.2. A section 5 consultation meeting took place at the offices of An Bord Pleanála on 22nd November 2020, via Microsoft Teams. Representatives of the prospective applicant, the planning authority and ABP were in attendance. An agenda was issued by ABP prior to the meeting and the main issues raised for discussion at the tripartite meeting were as follows:
1. Development strategy, including issues relating to height, design, layout and open space provision.
  2. Impact on Residential Amenity.
  3. Site-Specific Objective SLO 113.
  4. Traffic and Transport
  5. Drainage matters
  6. Any other business.
- 5.1.3. Following consideration of the issues raised during the pre-application consultation process and, having regard to the consultation meeting and the opinion of the planning authority, ABP was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for Strategic Housing Development. The applicant was advised to

address the following issues in the documents submitted that could result in them constituting a reasonable basis for an application for Strategic Housing Development.

### **1. Development Strategy**

Further consideration and/or justification of the documents as they relate to the height strategy and design approach of the proposed development and the potential for any negative impact to the adjoining sites and surrounding environs. The further consideration/ justification should address the proposed design and massing, inter alia the visual impact along the Carmanhall Road and Blackthorn Road and relate specifically to the justification for any material contravention of the height strategy in the development plan and compliance with Section 3.2 of the Urban Development and Building Heights: Guidelines for Planning Authorities (2018). The further consideration of these issues may require an amendment of the documents and/or design proposal submitted.

### **2. Residential Amenity**

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

- The quantum and quality of communal open space including the availability of sunlight and daylight to the courtyard and gardens terraces and the functionality of the pocket park.
- The provision of and/or access to public open space.
- The design, layout and quantum of the dual aspect units and compliance with SPPR 4 of the Sustainable Urban Housing Design Standards for New Apartments, 2018.
- The potential for overlooking into the apartments from the existing building to the west and the permitted scheme north of the site.

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

5.1.4. Furthermore, Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission:

1. A quantitative and qualitative assessment which provides a breakdown of the number of proposed bed spaces and the details for the provision of residential support facilities and amenity areas used to offset the standards and/or compensatory measures proposed. The submitted information should demonstrate compliance of those details with the various requirements of the 2018 Guidelines on Design Standards for New Apartments including its specific planning policy requirements, in particular SPPR 9.
2. Detailed consideration of proposals for upgrade of public realm for the around the ground floor onto Carmanhall Road and Blackthorn Avenue and integration of these requirements of the Council into any proposed development.
3. A specific impact assessment of the micro-climatic effects such as down-draft which shall include measures to avoid/ mitigate such micro-climatic effects.
4. A Traffic and Transport Assessment including, inter alia, a rationale for the proposed car parking provision should be prepared, to include details of car parking management, car share schemes and a mobility management plan.
5. An updated sunlight and daylight analysis to include an assessment of the available sunlight and daylight to the communal areas, bedrooms and open spaces with reference to the BRE Guidance on the subject site, as well as the impact of the proposed development on the adjoining sites.
6. A Social and Community Audit.
7. A report detailing any compliance proposed for Site Specific Local Objective 113.
8. A detailed Phasing Plan.
9. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan,

other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

## 5.2. Applicant's Response to Pre-Application Opinion

5.2.1. The application includes a 'Statement of Response to the Pre-application Consultation Opinion, as provided for under Article 297(3) of the Planning & Development Regulations 2001 (as amended). The response is summarised in the following sections.

### 5.2.2. 1. Development Strategy

- The proposal has been amended by dropping the shoulder heights on the eastern elevation and increasing the height of the central tower feature to provide a landmark element.
- The landmark height proposed is appropriately located in the centre of the industrial estate at a significant distance from any existing residential development.
- The proposal achieves an appropriate balance between the efficient development of the site and the protection of the amenity of the area.
- The proposal represents an appropriate response to section 3.2 'Development Management Criteria' of 'Urban Development and Building Heights: Guidelines for Planning Authorities (2018)'. Details of the applicant's response are outlined and discussed later in this report (Section 10.11 refers).

### 5.2.3. 2. Residential Amenity

- 348 units (or 81.3%) have been designed to exceed the minimum floor area requirements by at least 10%, which safeguards higher quality standards.
- An appropriate quantum of on-site communal facilities is provided to promote a mix of residents and a sustainable community.

- Communal open space (2,600m<sup>2</sup>) is provided in the form of the first-floor courtyard and roof terraces. These spaces will accommodate a variety of amenity and recreational activities. A Sunlight and Daylight Analysis confirms that 79% of the communal amenity space complies with BRE guidance standards, exceeding the 50% recommendation.
- The provision of 2,746m<sup>2</sup> of public open space will exceed the required 1,030m<sup>2</sup> and will involve significant improvements to the public realm along Carmanhall Road and Blackthorn Road. The centrepiece of these improvements will be a pocket park which will provide a transitional area to the central courtyard.
- 150 units (or 35.05%) are dual aspect, thereby exceeding the requirement for 33% as per 'Design Standards for New Apartments, Guidelines for Planning Authorities (DoHLGH)'.
- The separation distance from adjoining sites is sufficient to protect the amenities of existing and future development.

5.2.4. With regard to the 'specific information' requested by the Board, the applicant outlines that the following has been included:

1. A 'Quantitative & Qualitative Assessment' of residential units, including a schedule of accommodation outlining compliance with the floor area standards set out in the 'Apartment Guidelines' and compensatory measures. An outline of compliance with SPPR No.'s 7 & 8 of the Apartments Guidelines is also included as they relate to BTR developments.
2. A Landscape Design Statement presents detailed information of works within the adjoining public realm.
3. Chapter 12 of the EIAR contains a wind and microclimate study.
4. A Traffic and Transport Assessment which provides a rationale for car-parking proposals and details of parking management, car-sharing and mobility management.
5. A Daylight and Sunlight Report which considers availability within the development and the impact on adjoining sites.

6. A Social & Community Audit which details the availability of educational, healthcare, recreational, religious, community, and retail infrastructure.
7. Details of compliance with Site Specific Local Objective 113 (section 5.9.2.1 of the applicant's 'Planning Report').
8. A 'phasing plan' drawing outlines the proposed phasing of the project.
9. A Material Contravention Statement (relating to height and density) detailing why permission should be granted for the proposal having regard to Section 37(2)(b) of the Planning and Development Act 2000.

## 6.0 Relevant Planning Policy

### 6.1. National Policy

#### Project Ireland 2040 - National Planning Framework (NPF)

6.1.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.



- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

### Ministerial Guidelines

6.1.2. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the submissions from the Planning Authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, December 2020 (hereafter referred to as the ‘*Apartments Guidelines*’)
- Design Manual for Urban Roads and Streets (DMURS)
- The Planning System and Flood Risk Management including the associated Technical Appendices
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018 (hereafter referred to as the ‘*Building Height Guidelines*’)
- Childcare Facilities – Guidelines for Planning Authorities (June 2001)
- Housing Supply Target Methodology for Development Planning – Guidelines for Planning Authorities (December 2020)
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).

## 6.2. **Regional Policy**

6.2.1. The primary statutory objective of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. It is underpinned by key principles that reflect the three pillars of sustainability (Social, Environmental and Economic) and it is a key aim of the strategy to promote people’s

quality of life through the creation of healthy and attractive places to live, work, visit and study.

6.2.2. The site is located with the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on several large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The 'Metrolink – Luas Corridor' involves upgrades to the Luas Green Line and will support development in the south of the county at Sandyford, Cherrywood and Ballyogan as new/emerging mixed-use districts.

6.2.3. The following (summarised) RPOs are of particular relevance:

**RPO 4.3** Supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within Dublin City and suburbs and ensure that future development areas are co-ordinated with infrastructure.

**RPO 5.4:** Development of strategic residential development areas shall provide for higher densities and qualitative standards set out in national guidance documents.

**RPO 5.5:** Residential development shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner.

### 6.3. **Local Policy**

#### Dun Laoghaire Rathdown County Development Plan 2016-2022

6.3.1. Sandyford is a 'Secondary Centre' in the development plan Core Strategy. The settlement strategy encourages the consolidation and densification of the existing urban built form. Sandyford Business District is identified as a 'primary growth node' from which a significant portion of the supply of residential units will derive up to 2022 and beyond.

6.3.2. The development site is zoned as A2, with the objective as follows:

*"To provide for the creation of sustainable residential neighbourhoods, and preserve and protect residential amenity".*

- 6.3.3. The sustainable communities strategy (as per section 2.1.3.3 and Policy RES3) encourages higher residential densities subject to the protection of the amenities and character of an area. In line with national policy, densities greater than 50 units / ha will be encouraged within c. 1km of public transport nodes and town / district centres.
- 6.3.4. 'Policy RES14: Planning for Communities' aims to ensure that proper community and neighbourhood facilities are provided in conjunction with, and as an integral component of, major new residential developments. Section 2.1.3.14 states:
- "It is considered reasonable that the developers or promoters of major residential or mixed-use schemes will be required to make provision for new sports, recreational, community and other support infrastructure - including active recreational space for children - commensurate with the needs of the new community as an integral part of their proposal."*
- 6.3.5. 'Policy ST11: Public Transport Improvements' aims to optimise existing / proposed public transport corridors including increased densification and consolidation along strategic corridors to encourage greater usage of public transport. It is an objective of the Development Plan to provide a Quality Bus / Bus Priority Route on Blackthorn Road.
- 6.3.6. Chapter 4 'Green Infrastructure' sets out policy in relation to open space and recreation including OSR5 in relation to public open space provision and OSR14 in relation to play facilities.
- 6.3.7. Chapter 5 'Physical Infrastructure Strategy' sets out policy in relation to water supply and wastewater, waste management, pollution, climate change, energy efficiency, renewable energy and flood risk.
- 6.3.8. Chapter 7 'Community Strategy' sets out policy for the delivery of community facilities in Section 7.1.3, including Policy SIC7: New Development Areas; and Policy SIC11: Childcare Facilities.
- 6.3.9. Chapter 8 'Principles of Development' contains the urban design policies and principles for development including public realm design, building heights strategy, car parking. Section 8.2 sets out Development Management Standards for Residential Development (8.2.3), Sustainable Travel and Transport (Section 8.2.4); Open Space and Recreation (Section 8.2.8), Environmental Management (8.2.9),

Climate Change Adaption and Energy (8.2.10) and Community Support Facilities (Section 8.2.12).

6.3.10. Development plan policy UD6 in Chapter 8 states that: *“It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the county.”* In Appendix 9 ‘Building Height Strategy’, Section 3.1 deals with Sandyford Business District and states that building height limits are set by the Sandyford Urban Framework Plan (SUFP). It states that:

*“The stated building height limits in the SUFP do not represent a ‘target’ height for each site – it is essential that any building makes a positive contribution to the built form of the area. It is intended that building height shall therefore be determined by how it responds to its surrounding environment and be informed by: location; the function of the building in informing the streetscape; impact on open space and public realm (in particular shadow impact), impact on adjoining properties; views into the area and long distance vistas.”*

6.3.11. Specific Local Objective SLO 113 applies at the site:

*“To facilitate the provision of community infrastructure at ground floor along the eastern outer edge of the Carmanhall residential neighbourhood along Blackthorn Road, to create active street frontage and to ensure the appropriate provision of social and community infrastructure to serve the needs of the residents and employee population”.*

#### Sandyford Urban Framework Plan (SUFP) 2016-2022

6.3.12. The SUFP is incorporated as Appendix 15 of the County Development Plan. It envisages the ongoing development of Sandyford primarily as an employment area but with complementary mixed uses including residential development. SUFP section 1.6 describes the Sandyford Business Estate, where the subject site is located, as follows:

*“Sandyford Business Estate is at a pivotal stage of development in terms of type of business. Parts of Sandyford Business Estate are in the process of transforming from an area of low-density freestanding buildings formed around a road network, to higher density development within a tighter urban grain. This transition in form and land use has been driven primarily by landownership rather than by a master plan for*

*the overall area. Recent high density developments have little spatial relationship with their neighbours and as a consequence the area has become fragmented. The current mix of uses lack co-ordination and rationale.”*

6.3.13. The application site is located within Zone 5 ‘Carmanhall Road Neighbourhood’. Residential development is to be the primary land use in Zone 5 and the environment should be designed to be conducive to the development of sustainable residential neighbourhoods. The following points are noted in relation to the Carmanhall Road neighbourhood:

- Located close to existing residential developments at Beacon South Quarter, Rockbrook and at Corrig Road and Ballymoss Road and within walking distance of proposed social, educational and recreational amenities and the proposed transport interchange and Luas along Blackthorn Drive / Avenue.
- The outer edge of this residential area, fronting Blackthorn Road (further southwest of the application site), provides for uses that will create active street frontage and provide a transition between the residential area and the opposing employment areas along Blackthorn Road. It is anticipated that these own door business units will provide appropriate facilities for small businesses (Map 1, SLO 116).
- SLO 113 applies to the application site to ensure the appropriate provision of social and community infrastructure to serve the needs of the resident and employee population. Indoor community facilities (e.g. community rooms, indoor active recreational uses for residents) are to be provided at ground floor level at the junction of Carmanhall Road and Blackthorn Road.

6.3.14. Particular objectives relating to Zone 5 can be summarised as follows:

**A2 1** Requires the provision of indoor community facilities.

**A2 5** Requires a set back building line along Carmanhall Road to protect the existing sylvan character and provide a buffer from employment uses.

6.3.15. Section 2.4.2 states that the overall quantum of residential use already permitted in the Mixed Use Core Areas is sufficient to provide vitality to these areas. Therefore, future residential development is to be primarily focused within the residential zoned land in Zone 5. This will enable the creation of sustainable residential

neighbourhoods, with provision being made for education and recreational needs, and an environment more conducive to protecting residential amenity and able to cater for a mix of home types. In addition to the units already permitted, in September 2011, the SUFP notes that an additional c. 1,000 units are proposed within Sandyford Business District.

6.3.16. SUFP maps identify the following specific standards for the application site:

- Map 2 Plot Ratios / Residential Densities: Residential density of 175 units/ ha.
- Map 3 Building Height: Height limit of 8 storeys.
- Drawing No.'s 6, 10 & 12 indicate green routes / walking and cycling routes along the application site boundaries on Carmanhall Road and Blackthorn Road.

6.3.17. Section 3.5.4 sets out the following principles for the development of the Carmanhall Road residential neighbourhood:

- Carmanhall Road forms the base line for this neighbourhood and is essential in enhancing connectivity with the different aspects of the District.
- This neighbourhood shall be contained by tall buildings at either end of Carmanhall Road where the building line along the southern side of the road shall be set back to provide a linear greenway. This greenway will widen into a substantial Civic Park located at its junction with Corrig Road.
- The urban form shall provide a strong, animated and active outer edge onto Blackthorn Road, with commercial uses at ground floor level. This outer edge will promote permeability, whilst also acting as a buffer.
- The inner 'softer centre' shall comprise of a number of square urban blocks in a grid pattern of suitable scale and size to facilitate good sun penetration
- To promote connectivity, the urban blocks shall be individually modelled to provide visual variety and sufficient density to sustain urban living.
- Street frontages shall be predominately own door access, family type units to promote active frontages with corners emphasised according to orientation.
- Dwelling frontages shall be specific to the dwelling's location and orientation in relation to aspect and street hierarchy. For example, level changes should be

introduced where dwellings front public spaces, which would retain privacy whilst improving surveillance.

- Roads within the zone to be reduced in width and be tree lined to create an Avenue effect, in consultation with the Planning Authority.

6.3.18. Objective TAM1 requires all future development in the Sandyford Business District to achieve a peak hour transport mode split of 45% trips by car drivers (maximum) and 55% trips by walking, cycling and public transport and other sustainable modes (minimum targets) as per Government policy stated in the document published by the Department of Transport entitled, 'Smarter Travel, A Sustainable Transport Future 2009-2020'. Objective TAM7 includes cycle routes on Blackthorn Road, from the junction of Burton Hall Road to Blackthorn Drive and on Carmanhall Road, from the junction of Corrig Road to Blackthorn Drive.

6.3.19. Policy SUFP 9 Community Facilities is to encourage the provision of community facilities within appropriate locations to cater for local needs:

*“Community facilities to cater for neighbourhood requirements such as community centres accommodating local meetings, social events and community activities and spaces for indoor recreational facilities, shall be provided at a local level and in appropriate locations within Zones 1 and 2, Mixed Use Core Area and Zone 5, Sustainable Residential Neighbourhoods. In particular there is a Specific Local Objective (SLO 113) to facilitate the provision of a community facility at ground floor level along the eastern outer edge of the Carmanhall Residential Neighbourhood, along Blackthorn Road.”*

#### 6.4. **Applicant’s Statement of Consistency**

6.4.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of Section 28 guidelines, the County Development Plan, the SUFP and other regional and national planning policies. It can be summarised as follows:

- The development will be consistent with the policies and objectives of the NPF as it involves the re-development of a brownfield site within a growing live/work district situated in close proximity to third level education.

- The development would support National Development Plan investment in high quality sustainable public transport, including the proposed metro line for Sandyford.
- The SPPRs contained within the ‘Urban Development and Building Heights’ Guidelines take precedence over the Development Plan standards. Taller buildings are supported in this case as the development complies with policy, positively contributes to the area, and is highly accessible. The proposal complies with the ‘Development Management Criteria’ set out in section 3.2 of the Guidelines.
- The proposal responds to a recognised need for residential accommodation as set out in ‘Rebuilding Ireland – Action Plan for Housing and Homelessness’ and is consistent with policy in this regard.
- The proposal considerably exceeds the minimum standards for new housing set out in ‘Quality Housing for Sustainable Communities – Guidelines for Planning Authorities’. It is appropriately located in close proximity to recreational, amenities, retail services and public transport, and also provides additional amenities on site.
- The development has been designed to address ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’. It responds to its locational context and the proposed density is justified by its accessibility. The development will promote the efficient use of the land and facilitate significant levels of interaction between residents. The Architectural Design Statement demonstrates compliance with the criteria outlined in the Urban Design Manual which accompanies the Guidelines.
- The proposal supports the Eastern and Midlands Regional Assembly RSES aims to support development along the Luas corridor and to consolidate / re-intensify infill/brownfield sites.
- With regard to the Development Plan, the Statement contends that the development:
  - Promotes a key strand of the settlement strategy through consolidation/densification along a transport corridor and within a defined District Centre.
  - Complies with the ‘A2’ zoning objective for the site.



- Responds to conditions 7 & 8 of ABP Ref. 303467-19 and is consistent with Specific Local Objective (SLO 113) regarding the provision of community infrastructure along Blackthorn Road.
  - Provides sufficient car-parking having regard to public transport links in the area and the provisions of SPPR8 (iii) of the *Apartments Guidelines*.
  - Provides bicycle parking (752 no. spaces and an additional 22 spaces subject to agreement with DLRCC) in accordance with the *Apartments Guidelines* requirements and in excess of the Development Plan requirements (514 no. spaces).
- With regard to the SUFP, the Statement contends that the development:
  - Complies with Objective A2 by providing residential units with indoor community facilities and communal amenity space in a development that is setback along Carmanhall Road. The improvement of the public realm and provision of a pocket park will meet requirements for public open space.
  - Complies with the specific objectives for the site (Site 11) set out in section 3.5.4 of the SUFP.
  - Materially contravenes the building height provisions (8 storeys) with a proposed height up to 17 storeys. A Statement of Material Contravention is included in the application to justify the proposal.
  - Materially contravenes the density provisions (175 units per ha) with a proposed density of 416 units per ha. A Statement of Material Contravention is included in the application to justify the proposal.
  - Complies with the public realm objectives.
- The Statement considers it prudent to have regard to the provisions of the Draft Dun Laoghaire-Rathdown Development Plan 2022-2028. In particular, it highlights proposed changes/additions as follows:
  - 'Build to Rent' is included as being 'open to consideration' within the 'A2' zoning objective. The proposal would contribute to a balanced mix of tenure in accordance with section 4.3.2 of the Draft Plan.
  - The SUFP increases the permitted height for the site to 7-9 storeys.
- The proposal is fully compliant with the *Apartments Guidelines*, including SPPRs 7 & 8. It has been designed and described as a 'build-to-rent' development with appropriate resident support facilities and services. 15 of the proposed units do

not have private amenity space but these units exceed minimum floor areas by 10% and a 142m<sup>2</sup> shared private terrace has been provided, as well as compensatory storage space. 29 units fail to meet ADF standards (as per BRE Guidance) and compensatory storage space has been provided.

- With regard to the Guidelines for Planning Authorities on Childcare Facilities, the proposed childcare facility (142m<sup>2</sup>) can accommodate 27 children and is considered appropriate having regard to the number of units with 2+ bedrooms.

## 7.0 Third Party Submissions

7.1. One third-party submission has been received on behalf of Sandyford Environmental Construction Ltd., which is stated to be the owner of the adjoining site to the northwest. The submission refers to this as the 'Ravensrock' site, but I will continue to refer to it as the 'Tack Packaging' site to avoid any confusion. It is stated that the third-party has engaged in SHD Consultations under ABP Ref. 308186-20. The submission confirms that there is no objection in principle to development of the site. However, concerns are outlined that there will significant and critical impacts on the potential development of their site having regard to the issues summarised below.

### 7.2. Layout / Interface

- The Board's 'opinion' advised the applicant to consider impacts on adjoining sites and environs.
- The proposed layout is unacceptable in design terms due to negative impacts on their site and it fails to respond to the future residential development of the site as envisaged in the SUFP.
- The proposed NW elevation is monolithic and directly overlooks the site at each level and balconies are as close as 5.18m from the site boundary, which has daylight/sunlight implications for both sites.
- The NW elevation drawing fails to properly illustrate solid walled balconies.
- Regarding separation between blocks, the Development Plan states that a 22m clearance will be required between opposing windows (up to 3 storeys) and a greater separation may be required in taller blocks.

- The pre-application proposal for the 'Tack Packaging' site has regard for the application site by incorporating a courtyard at the boundary interface.

### 7.3. Urban Design and Building Height Guidelines

- The applicant must demonstrate that the development meets each criterion referred to in SPPR3 of the Building Height Guidelines.
- At the scale of the city/town, the application fails to address the context of the site as part of a larger redevelopment area identified in the SUFP and eliminates any rationale for place-making onto Carmanhall Road. The proposal does not appropriately provide a new street off Carmanhall Road or setback from the NW site boundary (as per SUFP).
- At district / neighbourhood / street scale, the proposal fails to consider overlooking and overshadowing impacts on their site; the monolithic appearance of the building; the proposed lane along the NW boundary; and legibility in the context of the larger site (i.e. Site 11 as referenced in the SUFP).
- Regarding the scale of the site/building, the third-party submission includes a 'sunlight and overshadowing analysis' to compare the impact on their pre-application SHD proposal (ABP Ref. 308186-20) of both the previously permitted SHD development (ABP Ref. 303467) and the current proposal. The submission contends that the current proposal clearly demonstrates a diminution in standards on their pre-application proposal for the following reasons:
  - Only 40.7% of the proposed courtyard area will receive 2 hrs of sunlight on March 21<sup>st</sup>, (previous proposal was 45.6%).
  - Vertical Sky Component (VSC) values for the lowest level windows in courtyard units will be reduced by 8%.
  - Annual Probable Sunlight Hours (APSH) for the lowest level windows in courtyard units will be reduced by 9% (19% in winter hours).
- With regard to daylight within the proposed units, concerns are raised that the kitchen areas have been omitted from the assessment; that a reduced ADF target of 1.5% has been applied; that protruding balconies and solid side walls have not been factored in; and that alternative, compensatory design solutions have not been included.

- The NW elevation undermines potential for good sun penetration to the lower levels of the application site and adjoining sites as envisaged in the SUFP.

## 8.0 Planning Authority Submission

8.1. The planning authority has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the Dundrum Area Committee, as expressed at their meeting of the 24<sup>th</sup> May 2021. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) is summarised below, incorporating several technical reports from the relevant departments of DLRCC.

### 8.1.1. Views of the Dundrum Area Committee

Concerns are raised in the relation to the following:

- Non-compliance with the Development Plan and SUFP in terms of density, scale, bulk, height.
- Inadequate communal, play and private open space, including the enclosed courtyard and the height and suitability of the proposed roof level spaces.
- Inadequate public open space, including its relationship with other sites and its location on public lands.
- Proximity of the building to site boundaries.
- Units sizes and mix of units is inappropriate, including the proposed Part V mix and an excessive number of 1-bed units.
- Low provision of dual aspect units and sunlight / daylight impacts for units.
- Inadequate facilities for the wider community and compliance with SLO 113.
- Local cycling infrastructure plans need to be resolved and the proposal has inadequate cycling provision / priority.
- Inadequate car-parking and car-sharing proposals.
- Construction traffic management should be detailed.

### 8.1.2. PA Comment on Principle of Development

- Some of the proposed uses (cinema, gym, yoga studio, laundry/laundrette and café/lounge) are not 'permitted in principle' or 'open to consideration' within this zone. However, it is noted that a café use has previously been permitted by the Board on the site.
- Minimal community infrastructure has been proposed to comply with SLO 113, which refers to both social and community infrastructure. However, the social infrastructure proposed is not 'permitted in principle' or 'open to consideration' within this zone (as per above), whereas community facilities, childcare services, cultural uses, doctor/dentist etc are. It is considered that the outward-facing resident services and facilities which are proposed as community and social infrastructure are not in line with Development Plan requirements.
- While the principle of residential development is acceptable, the planning authority has serious concerns about the scale/quantum of development, which is substantially greater than that envisaged in the SUFP and that previously permitted, as well as the significant imbalance in terms of excessive residential floorspace and minimal community floorspace.

### 8.1.3. PA Comment on Density and Quantum of Development

- The density of the scheme is calculated at 586 units per hectare (excluding the 0.3 ha DLRCC lands) which significantly exceeds the density provisions of the Development Plan (175 units per ha.)
- The SUFP provides for an additional 1,000 residential units within Zone 5. Together with the SHD pre-application proposals for the adjoining 'Tack Packaging' site, the proposed development would deliver 651 units (or 65%) of the envisaged 1,000 units. This would be delivered on c. 1.5 ha of the 10 ha Zone 5, which calls into question whether these proposals, individually and in combination, are consistent with the integrated approach of the SUFP.
- The quantum of development provided for in the SUFP is based on existing and planned infrastructure, which was previously considered deficient and is addressed in section 4 of the SUFP. The planning authority has serious concerns

in relation to infrastructural capacity, particularly in relation to community infrastructure and open space.

- The material departure from SUFP density limits would result in a seriously deficient standard of development, including the lack of community and public open space infrastructure, and the density and quantum of development is considered wholly unsustainable.

#### 8.1.4. PA Comment on Layout

- The perimeter block typology is welcomed in accordance with the SUFP and the approach of addressing Carmanhall / Blackthorn roads is acceptable in principle.
- There are serious concerns regarding the separation distance from neighbouring sites / buildings. The distance to the office building to the south ranges from 11.7m to 13.5m (with balconies closer) and would result in mutual overlooking between opposing windows. The distance to the 'Tack Packaging' site is as little as 6.9m (with balconies closer), which may prejudice the future development of the adjoining site.

#### 8.1.5. PA Comment on Height, Massing & Visual Impact

- The SUFP building height and density limits are informed by infrastructural capacity as well as amenity, design and visual considerations. A limit of 8 storeys applies to the subject site but it should be noted that heights of 17 storeys are provided for in more appropriate locations.
- While the Urban Development and Building Height Guidelines (2018) make provisions to permit increased height and density in suitable circumstances, the Planning Authority is not satisfied that the proposal meets the criteria of Section 3.2 of the Guidelines, particularly in relation to the following:

##### *At Scale of the District / Neighbourhood / Street*

- It does not respond to its built environment and the more modest heights of surrounding buildings.
- It fails to make a contribution to the urban neighbourhood by not complying with the building height parameters of the SUFP.

- It fails to positively contribute to the mix of uses in the neighbourhood by reason of an excessive density of residential development and substandard provision of community infrastructure and public open space.

*At Scale of the Site / Building*

- The form, massing and height has not been carefully modulated to maximise daylight, ventilation, views, or to minimise overshadowing and loss of light. Large portions of the courtyard space will receive low levels of sunlight for significant parts of the year and, while the space may meet BRE standards, the height and enclosure of the space militates against the creation of a high-quality space. There are also significant concerns in relation to the development potential of the 'Tack Packaging' site.
- The proposal does not justify exceeding the Development Plan and SUFP height limits and should be refused as a material contravention.

8.1.6. PA Comment on Visual Impact

- The Planning Authority would have serious concerns as to the EIAR conclusions on the visual impact of the proposed development, particularly longer distance views to the coast and mountains.

8.1.7. PA Comment on Residential Amenity

- There is significant potential for overlooking across the courtyard entrance and between the proposed development and existing / future developments to the southwest and northwest of the site. The Development Plan seeks to avoid overlooking and Section 8.2.3.3. states that clearance distances of 22m will normally apply up to 3 storeys in height, while greater separation may be required in taller buildings.
- According to the applicant's analysis, 27 no. units in the lower floors within the courtyard will not meet BRE daylight standards and south-facing units at lower levels also fare less well due to design and proximity to the adjoining office block. Minimal compensatory measures are proposed.
- While sunlight access to external amenity spaces meets BRE requirements, it could be improved with alterations to the layout and reduced density.

- Of particular concern is that the future development potential of the 'Tack Packaging' site has not been assessed and it is considered that the proposed layout places an unreasonable and avoidable burden on that site by reason of overlooking and sunlight-daylight impacts.
- There are concerns about the low provision of dual aspect units and whether these units are all genuinely dual aspect. Concerns are raised about units on inverted corners (e.g. Apt. 01-28) or those with inset elements such as balconies (e.g. Apt. 01-06), particularly where they face NE and/or NW, or are on lower floors. The Planning Authority considers that the site is capable of accommodating 50% dual aspect units in accordance with section 3.17 of the Urban Development and Building Height Guidelines (2018).
- 39 of the units (or 9%) do not provide sufficient storage and compensatory storage is provided at basement level. This aspect of the development is poor and avoidable.
- The proposed proportion of 1-bed and studio units (76%) does not have regard for the provisions of the Development Plan and a greater mix of units should be provided, including more 3 and 4-bed units as required by Policy RES7.
- The general location and layout of community/resident uses is acceptable in providing frontage along the public roads. However, minimal information has been provided to demonstrate that the proposed communal facilities and amenities are appropriate to the intended rental market; there are concerns about the lack of facilities for the wider community; and the proportion of resident support facilities is low (372m<sup>2</sup> out of 40,814m<sup>2</sup>, or 0.9%) compared to other BTR developments. Furthermore, the Apartment Guidelines state that facilities for laundry, communal recreation and other activities should be for residents and not the wider community as proposed. There are concerns that some facilities are being 'double counted' as resident support facilities, resident services, and community facilities.

#### 8.1.8. PA Comment on Community Facilities

- Considering the high number of single bedroom apartments, the proposed creche generally meets requirements. However, the lack of dedicated external play space is poor and highlights the prioritisation of density over quality.



- Given the number of residential units coming forward in the area, concern is raised about future demand for school places and the Board may wish to consider whether a Department of Education input would be helpful in this regard.
- Previously raised concerns in relation to the nature and extent of the proposed community facilities and compliance with the zoning of the site and SLO 113 are again highlighted.
- It is noted that Conditions 7 and 8 of the extant student accommodation permission required access to facilities for the wider community in accordance with a strategy to be agreed with DLRCC.
- The proposed community and social infrastructure is not appropriate to serve the needs of the employee and resident population and are more akin to resident services and amenities as required for BTR developments. Given that the area is changing from a largely employment-based area, the proposal would compound a lack of community facilities and is not considered acceptable in this regard.

#### 8.1.9. PA Comment on Open Space & Landscaping

- The quantity of proposed public open space (2,746m<sup>2</sup>) largely comprises circulation space within the public realm, which would not be considered 'public open space'. Furthermore, the 'pocket park' at the courtyard entrance comprises significant level changes and offers no meaningful communal or public space.
- The quantity of public/communal space would not meet the requirements based on occupancy as set out in section 8.2.8.2 of the Development Plan.
- There are concerns about the quality of communal open space given the extent of overshadowing in the courtyard and the extent of space proposed at roof level. On the basis of Chapter 12 of the EIAR on 'Wind', it is clear that very significant portions of the roof spaces would not be suitable to sit or stand for large parts of the year and are unsuitable as primary communal space.
- The Parks Service of DLRCC has also raised concerns about the quality and usability of the proposed open spaces.
- It is considered that the proposed communal space and absence of public open space would not provide an acceptable standard of residential amenity and the proposal should be refused in this regard.

- Private amenity space for a number of units at first floor level does not meet the minimum depth requirement. 15 no. apartments (dispersed over floors 1 to 10) have no dedicated private space and must share a space on the 9<sup>th</sup> floor, which constitutes a poor arrangement.

#### 8.1.10. PA Comment on Public Realm

- The Parks Service highlights a number of shortcomings with proposals, including the need to respect and retain the existing planting in agreement with DLRCC.
- The submission refers to existing street sections and outlines the requirements for improvements to the public realm and pedestrian/cycle infrastructure.

#### 8.1.11. PA comment on Access

- There is no objection to the proposed new vehicular access.
- The proposed cycle lane along Blackthorn Road does not provide appropriate connection to the north and south. No cycle facilities are proposed along Carmanhall Road. The Transportation Planning section is not satisfied with the proposals, which conflict with emerging proposals under the Sandyford Cycle Improvement Scheme and the provisions of the SUIP.
- Concerns are raised in relation to the internal basement car-park layout, particularly with regard to refuse collection.
- The proposed car parking ratio of 0.33 spaces per dwelling is too low and Transportation Planning recommends the provision of 1 space per unit (428 spaces). Only 2 club-car spaces have been proposed, which is less than half that proposed in the previous application. The proposal is deficient in relation to car-parking and car storage provision.
- While the overall cycle space numbers are acceptable, too few spaces (22 no.) are proposed at surface level. Concerns are also raised about the accessibility and design of the basement spaces and a more considered approach is required where reduced car parking is proposed.
- A detailed Mobility Management Plan would be required.
- Motorcycle parking provision falls short commensurate with car-parking deficiencies.

#### 8.1.12. PA Comment on Water Services and Flood Risk

- Proposals generally satisfy the requirements of the Drainage Planning section, subject to agreement of various issues by condition.
- The Planning Authority notes the comments of Irish Water regarding water supply and foul drainage connections.
- The conclusions of the submitted Flood Risk Assessment are accepted by Drainage Planning and the proposal is in accordance with the Development Plan.

#### 8.1.13. PA Comment on other matters

- Concerns are raised about the suitability of some of the areas proposed to be taken in charge, and that the extent and design of such spaces would need to be agreed by conditions.
- Detailed Construction Waste Management and Environmental Management Construction plans will need to be agreed by condition, to include any remains of the former development on site.
- Part V requirements can be complied with, subject to agreement by condition.
- The ecological impacts of the development are acceptable.
- An Bord Pleanála is the competent authority for AA and EIA.
- Section 48 & 49 development contributions will apply to any permission.

#### 8.1.14. PA Recommendation

The Planning Authority recommends that planning permission be refused for the following reasons:

1. *Having regard to the proposed density and height of development proposed, which would materially contravene the density and height provisions of the County Development Plan and Sandyford Urban Framework Plan. Further to this, the scheme is not justified against the criteria contained in Section 3.2 of the Urban Development and Building Height Guidelines for Planning Authorities (2018). The overdevelopment of the site on foot of the excessive height and density would give rise to deficiencies in terms of sunlight & daylight access, car parking, amenity space provision, would provide for an unacceptable quality of*

*residential environment, would impact on the amenities and development potential of adjoining lands, and would therefore be contrary to the zoning objective for the area which is “to provide for the creation of sustainable residential neighbourhoods and preserve and protect residential amenity”.*

- 2. The lack of appropriate community facilities as required by Specific Local Objective SLO113 of the County Development Plan, which seeks to facilitate the provision of community infrastructure to serve the needs of the resident and employee population and which applies specifically to the site would materially contravene the County Development Plan and would not provide for appropriate non-residential facilities as required for this site and for the area at large.*
- 3. The proposed mix of units, and notably the larger units of 3+ bedrooms would fail to deliver an appropriate mix of housing types in accordance with Policy RES7 of the County Development Plan. It is considered that notwithstanding the profile of the existing housing stock in the area, that a scheme of this size should provide a more appropriate balance of apartment sizes.*

In the event that the Board is minded to grant permission, the Planning Authority recommends the inclusion of 17 no. conditions. Consideration was given to recommending conditions requiring amendments to address their concerns. However, it was considered that this would require a fundamental redesign of the scheme, which would go beyond the scope of what could be achieved by condition.

## **9.0 Prescribed Bodies**

### **9.1. Transport Infrastructure Ireland**

TII states that it has no observations to make on the application.

### **9.2. Irish Water**

Based on the details provided by the applicant to Irish Water as part of their Pre-Connection Enquiry and the capacity available in IW networks, new connections to service the development are feasible. IW requests that conditions be applied to any grant requiring connections agreements and compliance with IW standards.

## 10.0 Assessment

10.1. Having considered all of the documentation on file, the DLRCC Chief Executive's Report, the submissions from prescribed bodies and third-party submissions, I consider that the main planning issues arising from the proposed SHD development can be addressed under the following headings:

- Principle of Development
- Building Height and Quantum of Development
- Interface with Public Realm and Adjoining Lands
- Visual Impact
- Residential Amenity
- Community / Social Facilities and Public Open Space
- Traffic and Transport
- Drainage, Flood Risk and Water Services
- Other Matters
- Material Contravention

## 10.2. Principle of Development

### Zoning

10.2.1. The site is located within Zone 5 of Sandyford Business District as per the SUFP, which is to consist of areas where residential development should be the primary land use and the environment should be designed to be conducive to the development of sustainable residential neighbourhoods. The A2 zoning objective applies to the site as follows: *'To provide for the creation of sustainable residential neighbourhoods and preserve and protect residential amenity'*. The current proposal involves primarily residential uses, which I consider to be consistent with the zoning objective for the area.

### Tenure and Typology

- 10.2.2. The proposed 'Built to Rent' (BTR) development has been described as such in the public notices. It includes a draft Section 47 Agreement which would restrict and regulate the development for the period of 15 years such that the development shall remain owned and operated by a single entity and no individual residential unit within the development may be sold. Accordingly, I am satisfied that the application has been made in accordance with the requirements of SPPR 7(a) of the *Apartments Guidelines*.
- 10.2.3. BTR developments are not specifically addressed in the current Development Plan. However, the updated 2020 version of the *Apartments Guidelines* continues to recognise that BTR has a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs in Ireland. They can provide a viable long term housing solution to households where home-ownership may not be a priority, such as people starting out on their careers and who frequently move between countries in the pursuance of career and skills development in the modern knowledge-based economy. The *Guidelines* highlight that a key aspect of BTR is its potential to accelerate the delivery of new housing at a significantly greater scale than at present, which can make a significant contribution to the required increase in housing supply nationally, as identified by '*Rebuilding Ireland – Action Plan for Housing and Homeless (Government of Ireland, 2016)*', and the scale of increased urban housing provision envisaged by the National Planning Framework.
- 10.2.4. I consider that the BTR scheme will provide an appropriate accommodation typology for persons looking to rent in the area and I note that only one other BTR development has been permitted in the Sandyford Business Park area (ABP ref. 305940-19 for 564 units). The proposed development would not, therefore, lead to an overconcentration of any particular type or tenure of housing and will bring increased choice and diversity to the housing market.

### Specific Local Objective (SLO 113)

- 10.2.5. Policy RES14 of the Development Plan aims to ensure that proper community and neighbourhood facilities are provided in conjunction with, and as an integral component of, major new residential developments. Consistent with this approach, SLO 113 applies to the development site and aims to facilitate the provision of

community infrastructure at ground floor along the eastern outer edge of the Carmanhall residential neighbourhood along Blackthorn Road, to create active street frontage and to ensure the appropriate provision of social and community infrastructure to serve the needs of the resident and employee population. Section 2.3.5 (a) of the SUIFP indicates that these 'indoor community facilities' could consist of community rooms or indoor active recreational uses for residents. Furthermore, I note that section 8.3.12 of the Development plan defines a community facility as "*A building or part thereof used for (community) activities organised primarily by the local community and to which the public may be admitted on payment of a charge or free of charge*", and section 8.2.3.1 cites examples of 'social and community infrastructure' to include childcare facilities, schools, local shops, facilities for the elderly etc.

10.2.6. The current proposal would provide several facilities along Blackthorn Road, including a Café/Lounge (278m<sup>2</sup>), gym (214m<sup>2</sup>), cinema (105m<sup>2</sup>), yoga studio (77m<sup>2</sup>) and laundrette (22m<sup>2</sup>), with all proposed facilities providing active frontage and own-door access to the street. It is proposed that the Café/Lounge would be a 'resident's amenity' with specified hours for use by the local community, while the remainder of units would be 'shared amenities' for use by both residents and the local community. The applicant contends that this provision compares favourably with those facilities previously permitted as part of the student accommodation proposal on the site (ABP Ref. 303467) by providing a greater quantity and diversity of community infrastructure.

10.2.7. The Planning Authority submission raises concerns that the proposed 'community infrastructure' uses are not 'permitted in principle' or 'open to consideration' within this zone. In this regard, I note that only a limited number of uses are listed as 'permitted in principle' or 'open to consideration' for zoning objective 'A2' as per Table 8.3.4 of the Development Plan, while Section 8.3.5 states that uses which are not so listed will not be permitted. Meanwhile, section 8.3.7 states that 'other uses' not specifically mentioned in any of the 'Use Tables' will be considered on a case-by-case basis. I note that none of the proposed 'café', 'cinema', 'gym', 'yoga' or 'laundry' uses are specifically mentioned in Table 8.3.4 as being 'permitted in principle' or 'open to consideration'. The only use specifically mentioned in the 'Use Tables' is

'café', while a 'cinema' and 'gym' are included within the definitions of a 'leisure facility' and a 'sports facility' respectively.

- 10.2.8. I consider that the Development Plan contains something of a conflict between, on one hand, the requirements of SLO 113 to provide 'social and community infrastructure' (including, for example, 'local shops' as per section 8.2.3.1 of the Development Plan and 'indoor active recreational uses' as per section 2.3.5 (a) of the SUFP) and, on the other hand, its limited scope for potential uses under the 'A2' zoning objective (as per Table 8.3.4). Furthermore, the Planning Authority's current objection to these uses would conflict with their position on the previously permitted SHD application (ABP Ref. 303467), under which DLRCC stated that a similar range of uses were *'acceptable in principle having regard to the A2 zoning of the site and the range of specified uses that are permitted in principle or open for consideration in this zoning'*. In that previous case, the Planning Authority also acknowledged that, under the same planning policy framework, permission was earlier granted by DLRCC itself for a creche, gym, media suite and café on these lands (P.A. Ref D16A/0158).
- 10.2.9. It must also be acknowledged that the proposed community uses are of a scale that would be minor and ancillary use to the main proposed residential use of the site. Furthermore, such ancillary uses are required to be included in BTR developments and the extent of public use is limited and subservient to the main residential use. I am conscious that the nature of BTR residential development and its ancillary uses would not have been envisaged in the drafting of the Development Plan, and I consider it appropriate to consider their acceptability on merit.
- 10.2.10. Therefore, having regard to the nature of the proposed BTR development and the recently permitted uses on the site, and to the site-specific provisions of SLO 113 requiring the provision of social and community infrastructure, which would include uses like 'local shops' and 'indoor active recreational uses', I consider that the hereto held wider interpretation of permissible uses for the 'A2' zone should be retained. Accordingly, I do not consider that any of the proposed uses would materially contravene the Development Plan and I note that, despite raising concerns, the Planning Authority has not raised the issue of material contravention on the issue of land zoning.



10.2.11. Aside from the technicalities of zoning objective compliance, the Planning Authority contends that the proposed community uses are more akin to 'resident services and amenities' and that the proposal would compound an existing shortfall in community facilities for the area. I would acknowledge that there would be an overlap between the resident and community usage of the proposed facilities, and the implications for the prospective residents are discussed further in Section 10.6 of this report. However, in terms of the contribution to community/social infrastructure, I consider that the current proposals are generally consistent with those permitted under the previous SHD permission (ABP Ref. 303467). In that case the Board approved an approach whereby (via Conditions 7 and 8) the proposed facilities were required to be accessible to the wider community and subject to the agreement of a Community Facility Strategy with the Planning Authority. In the event of a grant of permission, I consider that a consistent approach could be adopted in this case.

#### Conclusion

10.2.12. Having regard to the above, I consider that the principle of BTR residential development is compatible with the existing and emerging mix of land uses in the area and would be consistent with the 'A2' zoning objective for the site and the vision for Zone 5 within the SUIFP as a primarily residential use. Furthermore, having regard to the planning history of the site and subject to suitable management conditions, I consider that the proposed social and community infrastructure would comply with the provisions of SLO 113. There is, therefore, no objection to the principle of the proposed development on the subject site.

### **10.3. Building Height and Quantum of Development**

10.3.1. The development has a height of up to 17 storeys and contains 428 no. apartments at a density of 450 units per hectare. I note that permission has previously been granted on the site for a Student Accommodation development of 9 storeys and 131 student apartments (with a total of 817 no. bedspaces). Previous to that, a 5-8 storey mixed use development with 147 apartments and a residential density of 182 units / ha was permitted at the site under D16A/0158. The proposed height and quantum of development has therefore significantly increased compared to previous permissions.

## Density

- 10.3.2. In terms of national policy and guidance, I note that the 2009 Guidelines on 'Sustainable Residential Development in Urban Areas' recommend that increased densities (minimum 50 per hectare) should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station. SPPR 1 of the 2018 *Building Height Guidelines* supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. SPPR 4 of the *Building Height Guidelines* also requires that development in such areas must secure the minimum densities set out in the 2009 Sustainable Residential Development Guidelines and a greater mix of building heights and typologies. Having regard to the location of the site within a significant employment location and its proximity to 2 LUAS stops and several bus routes, I am satisfied that the site would be within a 'Central and/or Accessible Urban Location' in accordance with Section 2.4 of the *Apartments Guidelines*. Such areas are stated to be generally suitable for small- to large-scale and higher density development that may wholly comprise apartments. Consistent with the above provisions, a key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. Having regard to the above, I consider that the site is suitable in principle for increased height and density in accordance with NPF policy and ministerial guidelines.
- 10.3.3. Map no. 2 of the SUFP indicates a residential density limit of 175 units / ha for the subject site, the highest density in the entire SUFP area. The applicant states that the development has a residential density of 416 units / ha based on a site area of 1.03 ha, while the Planning Authority contends that the density is 586 units / ha based on a site area of 0.73 ha. I have previously discussed this matter in Section 3.4 of this report, and I consider that the application should be assessed on the basis of a density of 450 units / ha and a plot ratio of 1 : 4.3 (based on a site area of 0.95 ha). For comparison purposes, the following table below outlines a summary of the site development standards for the proposed development and other permitted SHDs for apartments in Sandyford Business Park.

### Comparison of site development standards with other permitted SHDs

| Scheme              | No. of Units (Tenure) | Site Area (Ha) | Density (Units per Ha) | Plot Ratio | Site Coverage |
|---------------------|-----------------------|----------------|------------------------|------------|---------------|
| Current Application | 428 (BTR)             | 0.95           | 450                    | 1 : 4.3    | 40%           |
| Ref. 305940         | 564 (BTR)             | 1.56           | 365                    | 1 : 3.1    | 31%           |
| Ref. 304405         | 428 (Standard)        | 1.68           | 255                    | 1 : 2      | 30%           |
| Ref. 301428         | 460 (Standard)        | 1.54           | 298                    | 1 : 2.9    | 34%           |

10.3.4. It is clear that the proposed development significantly exceeds the prescribed density limits for the site as per the SUFP (175 units / ha), as well as that of development permitted in the area. And while the SUFP does not prescribe any plot ratio limits for the application site, I note the proposed development exceeds the highest prescribed ratio (1:4) for mixed-use/commercial sites in the SUFP area. I note the Planning Authority's concerns in relation to the proposed quantum and the proportional impact of the proposed development on the additional 1,000 units 'proposed' in the SUFP for Zone 5. However, while these 'proposed' figures are noted, I consider that they refer to an indicative potential yield and that the SUFP does not place any specific policy/objective limit on the cumulative number of units that can be permitted in the area. Therefore, having regard to the suitability of the site location for high-density residential development, I would have no fundamental objection on the basis of density / quantum of units alone. However, the suitability of the proposed density shall be examined further in the context of the various issues discussed throughout this assessment.

#### Building Height

10.3.5. The site is located in an area where a specific building height objective applies, i.e. SUFP Map 3 indicates that it is suitable for a height of 8 storeys. SUFP objective BH1 is to ensure that Sandyford Business District is developed in accordance with the height limits set out in Map 3 subject to the building making a positive contribution to the built form. Objective BH2 also sets out criteria for the consideration of building height including the immediate and surrounding environment, adjoining structures, open space, public realm, views and vistas and

impacts on microclimates. These matters are considered further in later sections of this assessment.

10.3.6. The Urban Development and Building Heights Guidelines issued in December 2018 supersede development plan policy on building height. SPPR 3 of the Guidelines provides that a planning authority may approve development subject to development management criteria set out in Section 3 of same, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. The proposed development may be considered with regard to the development management 'broad principles' set out in section 3.1 as follows:

- *Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?*
- *Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?*
- *Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?*

10.3.7. In response to the first bullet point above, I consider that the scheme will provide a high-density infill development on a brownfield site in an established urban area, thereby contributing to the National Strategic Objective regarding compact urban growth and providing additional housing stock in accordance with the NPF and national housing policies. Therefore, it is considered that the proposal meets this requirement.

10.3.8. On the second bullet point, it is clear that the proposal is not in line with the height requirements of the Development Plan and the applicant has included a Material Contravention Statement to this effect. Given that it is generally accepted that the proposal would materially contravene the Development Plan and given that the

Inspector's assessment in the previous application confirmed that the Development Plan (including the SUFP) does generally address the requirements of Chapter 2 of the *Building Height Guidelines*, I do not propose to discuss the above bullet points any further. Ultimately, the question of building height will be addressed under the criteria set out in Section 3.2 of the Guidelines, which are assessed in various sections throughout my assessment and collectively in Section 10.11 of this report, which deals with the issue of Material Contravention.

### Conclusion

- 10.3.9. Notwithstanding the Development Plan provisions, I consider that the proposal for increased density and height at this location would be consistent with the overarching objectives of the National Planning Framework in promoting compact urban growth on an accessible brownfield site. The suitability of the proposed height and density will be further assessed throughout this report, with particular reference to the criteria outlined in Section 3.2 of the *Building Height Guidelines* and the applicant's Material Contravention Statement (see Section 10.11 of this report for the consideration of Material Contravention under the provisions of Section 37(2)(b) of the Act of 2000).

### 10.4. **Interface with Public Realm and Adjoining Lands**

- 10.4.1. This section considers the design and layout of the proposed development in the context of its relationship with the public realm and adjoining lands. With regard to the layout and footprint of the development, I would highlight that the main difference with the previously permitted proposals on this site was that the southern perimeter was previously left open. The current proposal involves an increased building 'footprint' including the development of the entire length of the southern perimeter, resulting in almost complete enclosure of the central courtyard.
- 10.4.2. The first-floor courtyard open space is raised over the ground-floor undercroft parking and is directly accessed from first floor level. It is also accessed from Carmanhall Road (at a level of c. 83.5m OD) to the north via a proposed 'pocket park' consisting of series of steps and terraces rising from a level of c. 85m OD to 89.5m OD. The courtyard area has hard and soft landscaping, including a play area and play equipment.

## Public Realm

- 10.4.3. Section 3.5.4 of the SUIP states that the building line along the southern side of Carmanhall Road shall be set back to provide a linear greenway, leading to a substantial Civic Park located at the junction of Corrig Road and Carmanhall Road. I also note that a number of transportation objectives apply to the site perimeter, including a bus priority route, Sli na Slainte / Cycling Route, and ESB Link Road upgrade along Blackthorn Road, and an existing walking route and proposed 'green route' along Carmanhall Road. These transportation objectives are addressed further in Section 10.8 of this report.
- 10.4.4. As previously discussed above, the topography of the site is such that there is a level change between the ground floor level and both road roads, which is particularly pronounced at the northern end of the site along Carmanhall Road. There are existing trees and herbaceous planting beds along both road frontages as planted by DLRCC. The layout for the road frontage proposes to address the difference in levels by providing a variety of ramps and steps. The existing planting along Carmanhall Road will be largely retained (an on-road cycleway is proposed), while the herbaceous planting along Blackthorn Road will be relocated to accommodate a proposed new cycleway. Additional trees and streetscape planting, along with 'high-quality street footpath paving' and benches, will be provided along the full length of both frontages.
- 10.4.5. The Planning Authority outlines concerns about the loss of existing vegetation and the quality of the environment for pedestrians and cyclists. It contends that significant revisions are required and that detailed pre-commencement negotiation would be required in the event of a grant of permission.
- 10.4.6. I would acknowledge that the treatment of the public realm is challenging due to the site topography. Furthermore, in comparison to the previous permission, which proposed a strong and continuous frontage along both adjoining roads, the most significant change currently proposed to the public realm design is the introduction of a 'pocket park' space along Carmanhall Road, which the applicant proposes as the 'centrepiece' of the public realm area. In addition to the interruption that this gap space would introduce to the streetscape, I have serious concerns in relation to the design of the space itself. This is a largely enclosed space of c. 300m<sup>2</sup> that rises c.

4.5m from street level through 4 sets of steps and landings, meaning that the accessibility and attractiveness of the space is severely compromised. And while the applicant has not included a sunlight assessment for this space, I note that the 'site shading diagrams' (Appendix A of the Sunlight and Daylight Analysis) indicate that the space would be largely overshadowed. Furthermore, I note from the applicant's 'wind' analysis (Chapter 12 of the EIAR) that the space is not suitable for long-term sitting, an activity which would be reasonably expected given that the space is not suitable for any other activity and given that an outdoor seating space associated with the adjoining café is proposed.

10.4.7. Having regard to the above, I consider that the 'pocket park' space is poorly designed as a public realm 'centrepiece' and is unlikely to function as a usable public space. Not only would it fail to provide a suitable amenity for the prospective residents and the wider community, but I would also have serious concerns that such a space would attract anti-social behaviour and other nuisances. This would detract from the wider public realm treatment along Carmanhall Road, which should form part of a linear park for the area in accordance with the SUFP provisions. Accordingly, I do not consider that the proposal provides an appropriate interface with the public realm and due to the site topography and the design of the overall scheme, I do not consider that there is a readily available solution to these concerns by means of condition.

#### Adjoining Sites

10.4.8. The application site and the adjoining site to the west (the 'Tack Packaging' site) are collectively referenced as 'Site 11' in the SUFP. Site 11 is one of 3 sites that will collectively make up the 'Carmanhall Road Residential Neighbourhood'. The site to the west is currently occupied by vacant 1 to 2 storey commercial / light industrial buildings. It is zoned for residential development under the SUFP, with provisions for a density of 150 units / ha and a height of 8 storeys. The proposed vehicular access to the current proposal runs inside the western site boundary with the 'Tack Packaging' site. The access road is at a significantly lower level than the adjoining land to the NW and is generally adjoined by utilities such as plant rooms and refuse storage facilities. The western elevation is c. 75m long and is set back from the shared boundary by a distance which varies from c. 6.7m to c. 8.2m up to the 6<sup>th</sup> floor level. However, as highlighted in the third-party submission, I would

acknowledge that the projecting balconies reduce the separation to c. 5m in some instances. There are windows/doors to habitable rooms on all floors above ground level and for the full length of the western elevation, resulting in a total of c. 200 openings.

10.4.9. Comparing the previously permitted SHD application, I note that the previous setback from the northwestern boundary was generally greater (from c. 7m to c. 10.6m) and that it had an angled arrangement that did not directly face the boundary. Furthermore, the western elevation of the previous proposal did not include any projecting balconies and the ground floor level contained a more active frontage consisting mainly of bedroom/living spaces. I note the concerns of the Planning Authority and the third-party submission from the adjoining landowner to the west in relation to potential impacts on any forthcoming residential development for that block. I also note that no third-party submissions were received in relation to the previous SHD proposal, but that the adjoining landowner has since commenced the SHD pre-application process for a proposed 233-unit BTR development (ABP Ref. 308186-20).

10.4.10. Section 8.2.3.3 of the Development Plan deals with Development Management standards for 'Apartment Developments' and subsection (iv) states that the minimum clearance distance of 22 metres will normally apply for apartment blocks up to 3 storeys. In taller blocks, a greater separation distance may be applied, while reduced distances may be acceptable in other instances. I note that section 2.24 of the *Apartments Guidelines* states that it would be inappropriate to indicate performance criteria for building separation distance but recognises a need for greater flexibility. The 2009 Sustainable Residential Development in Urban Areas Guidelines also recognise the common application of a 22m separation distance requirement but encourages flexibility in its application. I acknowledge that need for flexibility, particularly in urban contexts where there is a need to achieve higher densities and where closer separation distances contribute to the streetscape and a better sense of scale.

10.4.11. In the current case, I consider that the proposed separation distances from the NW boundary (i.e. c. 6.7m and 5m for balconies), although limited, could be acceptable within an appropriately designed context and I would not object on grounds of separation distance alone. However, having regard to the height and length of the



NW façade and its multiple openings, together with the inactive and unattractive ground level arrangements, I do not consider that a suitable design rationale has been provided for the interface with the adjoining site. Accordingly, I would be concerned that the approach does not contribute to the SUFP intentions for connectivity and co-ordination of development within 'Site 11' and the wider Carmanhall Road residential neighbourhood.

- 10.4.12. The application acknowledges the SHD pre-app proposal for the development of the 'Tack Packaging' site to the west. However, while the application considers, for example, the daylight impacts of the 'Tack Packaging' proposal on the current application proposal (See Appendix D of applicant's Sunlight and Daylight Analysis), it does not reciprocally assess the impact of the proposed development on the 'Tack Packaging' site. Instead, 'Appendix B – Impact on Neighbouring Buildings', concludes that an assessment is not relevant given that there are no existing residences within the neighbouring surrounds.
- 10.4.13. The third-party submission includes a 'sunlight and overshadowing analysis' which compares the impact on the 'Tack Packaging' site pre-app proposal (ABP Ref. 308186-20) of both the previously permitted SHD development (ABP Ref. 303467) and the current proposal. The submission contends that the current proposal clearly demonstrates a diminution in standards, as previously outlined in Section 7 of this report. While I note the content of the third-party analysis, I am reluctant to place too much emphasis on results that are based on a specific pre-application proposal which may never progress to a SHD or other application. However, in response to the third-party submission and the fact that pre-application consultations have commenced in relation to the site, I consider that the matter warrants further assessment in this case.
- 10.4.14. Section 3.2 of the *Building Height Guidelines (2018)* highlights the importance of sunlight and daylight and states that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like *Site Layout Planning for Daylight and Sunlight, A guide to good practice* (Building Research Establishment Report (BRE), 2011) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. The *Apartments Guidelines* (section 6.6) also state that regard should be had to these BRE or BS standards. The DLRCC Development Plan outlines in section 8.2.3.1. that

daylight/sunlight standards will be considered in assessing residential applications but does not specify any particular standard or guidelines that will be applied.

- 10.4.15. On the question of the development potential of land, I note that Section 2.3 of the BRE Guide recognises the potential to reduce the quality of adjoining land by building too close to the boundary. As a first check, the Guide recommends the measurement of the angle between the boundary (at a point 1.6m high) and the proposed new buildings. If this angle is less than  $43^\circ$  then there will normally be good daylighting maintained on the adjoining development land. If the buildings are taller than the  $43^\circ$  angle line, light may still be sufficient provided the building is narrow enough to allow adequate light around its sides if demonstrated by Vertical Sky Component (VSC) calculations of at least 17% at a series of points along the boundary.
- 10.4.16. Based on the applicant's Contextual Section A-A (Drawing No. 6246-205), I have estimated the angle of obstruction in this case. Based on an angle taken from a level of 87.940m OD along the NW boundary to the level of the seventh-floor parapet wall (110.075m OD) on the western elevation, and at a separation distance of 7.8 metres, I have estimated that the angle would be approximately  $70^\circ$ , which significantly exceeds the  $43^\circ$  threshold. According to Table F1 of the BRE Guide, an angle of  $70^\circ$  would result in an extremely low VSC value of less than 4%. And while I acknowledge that a narrow building may still allow sufficient light around its sides, I do not consider this likely given that the proposed western elevation extends to a length of 75 metres at a generally consistent height of c. 29m.
- 10.4.17. For simplicity reasons, the BRE Guide does not provide numerical guidance on sunlighting of land for future development, but it recognises that a proposed development can significantly reduce sunlight availability. And while the applicant has not specifically addressed the sunlight impacts on the site to the west, I note that, according to Appendix A of the applicant's Sunlight and Daylight Analysis, there will be significant overshadowing in the morning hours of the Winter Solstice (21<sup>st</sup> December) and Equinox (March 21<sup>st</sup>).
- 10.4.18. I acknowledge that the  $43^\circ$  angle recommendation as per the BRE Guide is not a limit of acceptability, but rather a threshold to indicate that further analysis is recommended. I would also high highlight that the BRE recommendations are not

mandatory and both the *Building Height Guidelines* and the BRE Guide itself acknowledge that a degree of flexibility is required in such matters in the interests of achieving compact urban development. However, having regard to the significant height, length and proximity of the proposed development in relation to the adjoining lands to the northwest, I would have concerns in relation to impacts on their development potential and I consider that further daylight and sunlight analysis should be required.

10.4.19. Other than impacts to the NW of the site, I note that the northern and eastern surrounds are largely dominated by the Carmnanhall Road and Blackthorn Road, which provide a suitable buffer between the proposed development and the existing commercial uses. The site to the southwest is occupied by an office block that has been built in close proximity (c. 2 - 4m) to the shared boundary. The southern façade of the proposed development is setback c. 9.5m from the SW boundary, with the projecting balconies being set back c. 8m. While I acknowledge that this arrangement falls short of the 22m separation previously discussed, it should be noted that the 22m distance is based on residential blocks. This would not apply to the SW as the site comprises a recently refurbished modern office building and there are no indications of a residential use being developed in the short term. In the event that such a proposal comes forward, it is considered that the issue of separation distances could be satisfactorily addressed at that stage. I acknowledge the overlooking concerns raised by the Planning Authority, but I consider that the periods of intensive usage of the existing offices and the proposed residential units are unlikely to coincide and that overlooking impacts are less sensitive in this context.

10.4.20. Again, the applicant's Sunlight & Daylight Analysis does not specifically assess the impacts on the development to the SW. I would acknowledge that the established office use is not as sensitive as an existing/proposed residential use, and that the location of the office block to the southwest of the application site would effectively eliminate overshadowing impacts. The applicant's 'Site Shading Diagrams in Appendix A of the Sunlight and Daylight Analysis effectively confirm that overshadowing of the building to the south would not occur during the hours 08:00 to 17:00 for the selected days (March 21<sup>st</sup>, June 21<sup>st</sup> and December 21<sup>st</sup>). Accordingly, I am satisfied that sunlight and daylight impacts from the proposed development on the office block to the south are unlikely to be of significant concern.

## Conclusion

- 10.4.21. I consider that the proposed 'pocket park' as the 'centrepiece' of the public realm along Carmanhall Road would result in a substandard space, which would detract from the streetscape and the interface between the proposed development and the public realm. Furthermore, I consider that the significant quantum of development proposed has resulted in a proposal of significant height and proximity to the adjoining lands to the northwest. The application has not demonstrated an appropriate relationship with the adjoining lands to the NW and I am not satisfied that the proposed development will facilitate the orderly and co-ordinated development of the adjoining lands as a result of the inactive ground level frontage and the potential for overlooking and daylight/sunlight impacts at higher levels.
- 10.4.22. Due to the restricted nature of the site and the quantum of development proposed, I do not consider that there is potential to setback the proposed development further from the NW boundary. Furthermore, given that the NW façade forms part of the one single connected block in the scheme, I consider that any options to remove or reduce its height would require significant revisions which would affect the overall integrity of the scheme and would require a comprehensive reassessment.

## 10.5. **Visual Impact**

- 10.5.1. The following assessment is based on the applicant's photomontages, the EIAR, the submissions received, and my inspection of the site and the surrounding area. The existing site context contains a mix lower 2-3 storey office / commercial buildings on the eastern side of Blackthorn Road and to the west of the site, along with the existing 6 storey office developments to the north and south of the site. The area at the western end of Carmanhall Road is more intensively developed with the 8-storey 'Chase' building and the recent permissions for a 5 – 17 storey development at the former Aldi site (ABP Ref. 305940-19) and a 5 – 14 storey development on the adjacent 'Rockbrook' site (ABP Ref. 304405-19). Higher density development of up to 14 storeys has also been permitted in the 'Beacon' area to the west along Blackthorn Drive.
- 10.5.2. Apart from the 'pocket park' entrance section, the proposed scheme extends for the full length of both road frontages. Along Blackthorn Road, the proposal effectively

consists of three elements, i.e. a central 17-storey 'key milestone' opposite Burton Hall Road, flanked by 'shoulders' consisting of a 9-storey section to the south and an 11-storey corner element at the junction with Carmanhall Road. The 11-storey height is largely continued along Carmanhall Road before stepping down to 9-storeys at the northwestern corner of the site. The application contends that the building height strategy has been revised in response to pre-application consultations and that the revised proposals present a more coherent streetscape and a clear definition of the adjoining public space.

- 10.5.3. The applicant's Architectural Design Statement sets out a response to the 'Urban Design Manual – A Best Practice Guide' (DoEHLG, 2009). It outlines that 'feature markers' will be created to serve as visual reference points at the Burton Hall junction and at the 'pocket park' pedestrian entrance. Volumes adjoining these markers are sculpted with vertical elements (projecting balconies) in an attempt to achieve adequate scale and identity. The material palette proposes a hierarchy of architectural treatment consisting of stone for the two marker elements, with light brick facades for the remainder of facades and metallic/timber cladding of some projecting and recessed elements.
- 10.5.4. As will be discussed further in Section 11.14 of this report (i.e. the EIA), the EIAR acknowledges that the proposed development will add considerable scale to the site and immediate surroundings and will be one of the taller buildings when viewed from the wider context. However, the EIAR evaluates the nature/magnitude of the townscape impact to be low and of a 'positive' quality. The magnitude of the visual effects is also evaluated from each of the selected 'viewshed' points and the EIAR considers that any negative impacts on the quality of visual amenity will be only 'slight' at worst. It also acknowledges other permitted development in the area but considers that the cumulative visual impact with the proposed development will be imperceptible.
- 10.5.5. I note that the Planning Authority has raised serious concerns in relation to visual impact, primarily as a result of excessive building height compared to existing development and SUFP parameters. The third-party submission also raises concerns about the failure to consider the monolithic appearance of the building and its legibility in the context of the larger site (i.e. Site 11 as referenced in the SUFP).

- 10.5.6. I acknowledge that the site is located within an established business district with a diverse scale and character of commercial buildings, and that the sensitivity of the localised landscape/townscape is generally low. Nonetheless, the applicant has proposed a development of significant height and density and it is important that the scheme can be suitably absorbed in both its existing context and its future context as a residential neighbourhood. To this end, I propose to assess the visual impact with reference to the applicant's photomontage submission and the 'Views' therein.
- 10.5.7. Along Blackthorn Road, as shown in Views 1, 2 and 5, I consider that the 17-storey height would create a major visual feature at the local level. I would acknowledge that its vertical emphasis and the graduated height approach provided by the lower adjoining shoulders, together with a wide variation in layers and materials, helps to provide a level of articulation and visual interest that reduces the overall scale and massing of this facade. The adjoining roads also help to provide additional space and visual relief, particularly the perpendicular arrangement of Burton Hall Road. From these views, I note that only the eastern façade will be prominent, and that the remainder of the scheme will effectively be screened by existing development and the eastern façade itself.
- 10.5.8. Along Carmanhall Road, the proposed 11-storey height will introduce a significant change in scale compared to the previous use of the site and existing development (6-storey) on the northern side of the road. From View 6, the full scale of the development will again be largely screened by the proposed NE façade and the massing and bulk of the development will be reduced by the opening for the 'pocket park' (notwithstanding the fundamental design concerns that I continue to reserve about this space). However, I consider that the full scale and bulk of development becomes apparent further west on Carmanhall Road, as evidenced by Views 3 & 4. From these viewpoints, not only will the northern and western facades will be of significant height and scale in the foreground, but the higher 17-storey eastern facade will be prominent in the background. Furthermore, the northwestern façade treatment lacks the variation and animation of the northern and eastern facades. These factors combine to demonstrate the true bulk and scale of the proposal and I would have concerns about its suitability in the context of the future development of 'Zone 5' of the SUFP as a sustainable residential neighbourhood.

- 10.5.9. In addition to those localised impacts, the proposed development must be considered in the wider policy context. In this respect it must be acknowledged that the site is part of a wider planning framework (i.e. the SUFP) which outlines that, although high density has been achieved in some localised areas (e.g. Beacon South Quarter), it is unrealistic to expect extensive areas of the district to be built to the same density level in the future. Accordingly, the SUFP establishes building height limits based on an assessment of location and character of an area, as well as the proposed land use. It establishes a hierarchy of existing/permitted and proposed building heights ranging up to 17 storeys and identifies individual sites where 'additional heights' and 'notable design' would be appropriate.
- 10.5.10. In that context, I note that an 8-storey height limit applies to the subject site and that the immediately surrounding lands are also generally subject to similar or lower height restrictions. The site has not been identified for 'additional heights' or 'notable design', and while I accept that the site is prominent in relation to the adjoining road junctions, I consider that this applies similarly to several sites in the area. The SUFP outlines the 'permitted/developed building height limits' of up to 14 storeys within the Sandyford Business Estate (e.g. Zone 1 to the northwest) and I acknowledge that the Board has previously permitted a height of 17 storeys in that zone through a material contravention of the Development Plan (Ref. 305940-19). However, while that involved an area with an identified potential for 14 storeys, the current proposal for 17 storeys on a site with an 8-storey limit clearly involves a more significant departure from Development Plan policy.

### Conclusion

- 10.5.11. Having regard to the above and the previously permitted development of 9 storeys, I have concerns that the quantum of development proposed, including heights up to 11 and 17 storeys and development in close proximity to the entire site perimeter, results in an excessive scale which would be inappropriate for the development of a residential neighbourhood as required under the SUFP. The applicant has submitted a Material Contravention Statement setting out a justification for the proposed building height and this is considered further in Section 10.11 of this report having regard to the provisions of Section 3.2 of the *Building Height Guidelines*.

10.5.12. I have considered the potential for reducing the proposed height, particularly the 17-storey element along Blackthorn Road. However, I note that this 'landmark volume' has been positioned to sit at the junction with Burton Hall Road junction and that the applicant's stepped approach to building height forms an integral part of the development strategy, particularly in relation to massing, height and vertical emphasis and the creation of an appropriate level of articulation and scale. Accordingly, I consider that any significant reduction in height would have a fundamental impact on the integrity of the scheme and would require reassessment.

## 10.6. Residential Amenity

10.6.1. This section assesses the quality of the proposed residential scheme and the standard of residential amenity afforded to prospective occupants, with reference to the proposed mix of units; resident support facilities and amenities; floor areas; ceiling heights; aspects; private amenity space; communal amenity space; micro-climatic factors; daylight and sunlight; and privacy. At the outset, I would highlight that the 'Advisory Note' contained in section 8 of the Development Plan acknowledges that the standards of the *Apartments Guidelines* supersede those of Section 8.2.3.3. (i), (ii), (v), (vii) and (viii) of the Development Plan, and that the SPPRs set out in the *Apartments Guidelines* take precedence over the standards and specifications as set out in Section 8.2.3.3 of the Development Plan.

### Mix of Units

10.6.2. The proposed development will include 41 no. studio units, 285 no. 1 bed units, 94 no. 2 bed units and 8 no. 3 bed units. The need for a wider mix of housing and apartment types is recognised under the County Development Plan with Policy RES7 acknowledging that many of the new households that will form in the County during the period of this Development Plan will be below the current average size, whilst also including the objective that apartment developments contain an acceptable proportion of larger flexible units. Section 8.2.3.3(iii) of the Plan also states that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.

10.6.3. I note that concerns have been raised by the Planning Authority regarding the mix proposed, including an excess of 1-bed units and deficit of 3 & 4-bed units. However,



in the wider context it should be acknowledged that the site is located in a suburban area characterised by large concentrations of low density 3 & 4-bed housing. And while the supply of smaller apartment units in the Sandyford area has significantly increased, the SUFP acknowledges that over 70% of those units had 2 bedrooms. More recently, I acknowledge that the SHD approvals currently under construction (ABP. Ref. 304405 & 305940) would provide a majority of 2-bed units (i.e. 405 1-bed/studio units and 546 2-bed units).

10.6.4. In terms of national policy and guidance, the NPF acknowledges that apartments will need to become a more prevalent form of housing in Ireland's cities, noting that one, two and three person households comprise 80 percent of all households in Dublin City. I also note that SPPR 8 (i) of the Apartment Guidelines states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development and, as acknowledged in the Development Plan 'Advisory Note', such SPPRs shall take precedence in accordance with Section 34(2)(ba) of the Act of 2000.

10.6.5. Given that the current proposal involves a BTR development, and having regard to the historic supply of suburban housing in the wider area, together with a more recent predominance of 2-bed units in the context of existing/permitted apartment developments units in the Sandyford area, I am satisfied that the proposed mix of predominantly studio/1-bed units will provide for greater diversity and choice in the Sandyford area and reflects the changing demographic requirements. I consider that the Development Plan provisions relating to unit mix (Section 8.2.3.3(iii)) apply "generally" and not in a mandatory way. Accordingly, I do not consider that the proposal materially contravenes the Development in this regard.

#### Support Facilities and Amenities

10.6.6. Section 5.5. of the *Apartments Guidelines* states that the provision of dedicated amenities and facilities specifically for residents is usually a characteristic element of BTR. The provision of such facilities contributes to the creation of a shared environment where individual renters become more integrated and develop a sense of belonging with their neighbours in the scheme. SPPR 7 (b) of the Guidelines outlines that BTR developments must be accompanied by detailed proposals for supporting communal and recreational amenities, to be categorised as 'resident

support facilities' and 'resident services and amenities'. Section 5.11 states that the nature and extent of the resident services and amenities may be agreed by the project developer and the planning authority having regard to the scale, intended location and market for the proposed development, and that the developer will be required to provide an evidence basis that the proposed facilities are appropriate to the intended rental market.

- 10.6.7. The applicant's Planning Report (section 5.13) states that the proposal includes 'support facilities' in the form of a concierge/meetings room (159m<sup>2</sup>), bicycle repair area, and waste management facilities, as well as 'services and amenities' in the form of co-working/office space (168m<sup>2</sup>), café/lounge (278m<sup>2</sup>), cinema (105m<sup>2</sup>), Gym (216m<sup>2</sup>), yoga studio (77m<sup>2</sup>), meeting/games room (66m<sup>2</sup>) and external communal space. I also note that the proposal includes a childcare facility (142m<sup>2</sup>) and laundry (22m<sup>2</sup>).
- 10.6.8. I note the Planning Authority's concerns about the lack of evidence that the proposed communal facilities and amenities are appropriate to the intended rental market and that the proportion of resident support facilities is low compared to other BTR developments (calculated by DLRCC as 372m<sup>2</sup> out of 40,814m<sup>2</sup>, or 0.9%). It contends that the *Apartments Guidelines* state that facilities for laundry, communal recreation and other activities should be for residents and not the wider community, and that some facilities are being 'double counted' as resident support facilities, resident services, and community facilities.
- 10.6.9. I would concur that there is an overlap between the facilities / amenities for residents and those for the community and I have already outlined that the proposal satisfactorily complies with SLO 113 regarding the provision of community facilities. However, given that the proposed cinema, gym, yoga studio and laundry spaces have already been used to meet 'community' requirements, together with the *Apartments Guidelines* references to 'dedicated amenities and facilities specifically for residents' (my emphasis), I would consider it inappropriate to include these 'community' spaces as part of the 'dedicated' resident facilities/amenities.
- 10.6.10. Furthermore, while the Café/Lounge is proposed as a 'resident facility', with only specified hours for use by the local community (apparently due to the applicant's concern about zoning compliance), I would have reservations about the desirability

and practicality of those limitations for this prominent and attractive space. Condition no. 7 of the previous student accommodation permission required that a similar Café/Lounge area would be open to the public and I consider that a similar approach would apply in the event of a grant of permission in this case (as has been suggested by the applicant). Therefore, those facilities/amenities that are specifically dedicated to residents are limited to the concierge/meetings room, co-working/office space, meeting/games room and childcare facility (total of 535m<sup>2</sup>). The table below outlines a comparison between this provision and other BTR developments in the area.

#### Comparison of resident facilities / amenities

| Scheme              | No. of Bedrooms | Facilities / amenity space (m <sup>2</sup> ) | Space per bedroom (m <sup>2</sup> ) |
|---------------------|-----------------|--|-------------------------------------|
| Current Application | 538             | 535  | 0.9                                 |
| ABP. Ref. 305940    | 894             | 1095   | 1.2                                 |
| ABP. Ref. 305345    | 430             | 916  | 2.1                                 |
| ABP. Ref. 308157    | 1008            | 3897   | 3.8                                 |

10.6.11. I would highlight that the proposed childcare facility (142m<sup>2</sup>) accounts for a significant extent of the 535m<sup>2</sup> in the proposed development. I note that childcare facilities are not mentioned in this context in the *Apartments Guidelines* and have not generally been included as ‘resident amenities’ in other BTR developments (all other developments in the table above included a separate childcare facility that was excluded from the ‘resident amenities’). However, notwithstanding the high proportion of 1-bed and studio apartments proposed (76%), I accept that the proposed childcare facility would likely provide an amenity for some of the prospective residents.

10.6.12. As demonstrated in the table above, the proposed development would provide a lower proportion of dedicated resident facilities/amenities space compared to other permitted BTR developments. The proposed range of facilities/amenities is also quite limited, consisting of concierge/meetings room, co-working/office space, meeting/games room and a childcare facility. Accordingly, I am not satisfied that the

applicant has demonstrated the provision of a suitable quantum or range of facilities, services and amenities to support residents in accordance with the requirements of SPPR 7 (b) of the Apartments Guidelines.

#### Floor areas

- 10.6.13. Sections 8.2.3.3 (i) and (iv) of the Development Plan outline that apartment developments shall comply with the national guidelines. However, it refers an older version of the Guidelines (2007) and larger minimum floor areas are specified, including 55m<sup>2</sup> for a 1-bed, 85-90m<sup>2</sup> for a 2-bed, and 100m<sup>2</sup> for a 3-bed.
- 10.6.14. The application includes a 'Housing Quality Assessment' which outlines how all the proposed units comply with the requirements of the current version of the *Apartments Guidelines*. I have reviewed the report in comparison to the application drawings and I am satisfied that the figures provided are consistent. For each unit, I consider that the gross floor area and area/width requirements for living areas, bedrooms and storage areas comply with the minimum requirements set out in SPPR 3 and Appendix 1 of the Guidelines. Furthermore, as per SPPR 8 (iv) of the Guidelines, the requirement that the majority of all units exceed the minimum standards by 10% does not apply. Nonetheless, the applicant highlights that 83.4% of the proposed units exceed the minimum requirements by at least 10%.
- 10.6.15. I acknowledge that the gross unit sizes do not meet the Development Plan requirements outlined in Section 10.6.13 above. However, as acknowledged in the Development Plan 'Advisory Note', I am satisfied that compliance with the provisions of SPPR 3 shall take precedence in accordance with Section 34(2)(ba) of the Act of 2000 and I have no objections in this regard.

#### Ceiling Heights

- 10.6.16. The *Apartments Guidelines* require ceiling heights of at least 2.7m at ground floor, with 3.0m recommended for multi-storey buildings. Otherwise, a minimum height of 2.4m is required and 2.7m is recommended where achievable. The proposed ground floor ceiling height is 2.935m and at least 2.635m is achieved on all upper floor levels. Proposals in this regard are considered acceptable.

## Aspect

- 10.6.17. SPPR 4 of the *Apartments Guidelines* requires that a minimum of 33% of units shall be dual aspect in more central and accessible urban locations, while a minimum of 50% will be required in suburban or intermediate locations. The applicant contends that the development is situated within a central and accessible urban location and that the proposal for 35.05% dual aspect units exceeds the SPPR 4 requirements. It is stated that single aspect units will not be north-facing and will exceed the minimum floor area requirement by at least 10%. The Planning Authority has raised concerns about the low proportion of dual aspect units and considers that the site can deliver a minimum of 50%. It also questions the extent to which a sizeable proportion of the proposed apartments are genuinely dual aspect. I note that section 8.2.3.3 of the Development Plan outlines a requirement for 70% of units to be dual aspect, but that a relaxation may be considered on a case-by-case basis. Notwithstanding this, I am satisfied that SPPR 4 shall apply, and that, given the scope for relaxation of the 70% requirement, a lesser proportion would not constitute a material contravention of the Development Plan.
- 10.6.18. I note that section 3.17 of the Guidelines elaborates on the 33% requirement for 'more central and accessible and some intermediate locations' by citing examples to include '*on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design*'. I have previously outlined in this report that the site is within a 'central and/or accessible urban location' and, together with the need to ensure good street frontage on two extensive sides of the site, I am satisfied that the 33% requirement applies in this case.
- 10.6.19. I have reviewed the applicant's classification of dual aspect units and I am satisfied that they are accurately described as such. I note that no north-facing single aspect units are proposed and that all proposed 3-bed units are dual aspect. I also note that some of the units of concern for the Planning Authority (e.g. unit 1-06) have not actually been included by the applicant as 'dual aspect'. Accordingly, I consider that the proposed dual aspect ratio of 35% meets the *Apartments Guidelines* (SPPR4) requirements of 33%. I acknowledge that it is a marginal exceedance and I consider that this is mainly as a result of the quantum of development proposed and the enclosed nature of the proposed layout.

### Private Amenity Space

- 10.6.20. The private amenity area requirements are set out in Appendix 1 of the *Apartments Guidelines*. However, SPPR 8 (ii) states that flexibility shall apply in relation to the provision of a proportion of the private amenity space for individual units on the basis of alternative, compensatory communal support facilities and amenities within the development. The applicant states that 413 of the 428 units comply with the requirements of the Guidelines. The remaining 15 no. 1-bed apartments have been designed to exceed floor area requirements by 10%, will have access to a shared private roof terrace (142m<sup>2</sup> at the 9<sup>th</sup> floor level), and will have additional storage space at basement level. I note that the Planning Authority has raised concerns in relation to private amenity space proposals. However, I also note that the Development Plan acknowledges that the *Apartments Guidelines* standards apply in this respect.
- 10.6.21. I have reviewed the applicant's 'Housing Quality Assessment' in comparison to the application drawings and I am satisfied that the balcony/garden areas provided for the 413 units comply with requirements. I note that the width of the 'gardens' serving 5 first floor units on the northwestern façade does not comply with the minimum requirement of 1.5m (1.371m is indicated but the width to the inside of the boundary would appear to be <1m). However, this matter could be easily resolved.
- 10.6.22. While no private amenity space is provided for 15 individual units, I acknowledge that the floor area of the subject units exceeds floor area requirements by 10%, that additional storage has been identified for each unit at basement level, and that a shared private amenity space is proposed for these units at the 9<sup>th</sup> floor level. I would have concerns about the accessibility of the 9<sup>th</sup> floor space to serve 15 units spread over 10 floors, as well as the practicalities of reserving this space for 'semi-private' use and excluding all other units, particularly the adjoining units on the 9<sup>th</sup> floor. I would also have reservations about the effectiveness of additional basement storage space as compensation for the absence of private amenity space. However, I acknowledge that the Guidelines allow flexibility in this regard and that the 15 units are a minor element (3.5%) of the overall scheme. In accordance with SPPR 8 (ii) of the Guidelines, my assessment in this regard will ultimately be based on the overall quality of facilities and standard of amenity for residents.

10.6.23. I note that Section 8.2.8.4 (iv) of the Development Plan outlines private amenity space requirements for apartment developments (including 6m<sup>2</sup> for a 1-bed, 8m<sup>2</sup> for a 2-bed, and 10m<sup>2</sup> for a 3-bed), which exceed the current *Apartments Guidelines* standards. However, I am satisfied that the provisions of the *Apartments Guidelines* apply and that SPPR 8(ii) allows for flexibility in relation to private open space, which shall take precedence in accordance with Section 34(2)(ba) of the Act of 2000.

#### Communal Amenity Space

10.6.24. Based on the floor area requirements set out in Appendix 1 of the *Apartments Guidelines*, the proposed development would require a total of 2309m<sup>2</sup> communal open space. Again however, SPPR 8 (ii) states that flexibility shall apply on the basis of alternative, compensatory communal support facilities and amenities within the development. The applicant indicates that 2600m<sup>2</sup> is provided through a combination of the 1<sup>st</sup> floor courtyard (1083m<sup>2</sup>) and roof terraces at the 6<sup>th</sup> floor (515.7m<sup>2</sup>), 8<sup>th</sup> floor (761.7m<sup>2</sup>), and 9<sup>th</sup> floor (239m<sup>2</sup>), thereby exceeding the *Apartments Guidelines* quantitative requirements. The application includes a 'Landscape Design Statement' and drawings which outline the landscaping concept, layout and specification for the communal areas.

10.6.25. The Planning Authority has raised concerns in relation to the quantity of space compared to Development Plan standards, as well as quality of the space as a result of light and wind factors. In relation to quantity, section 8.2.8.2 of the Development Plan refers to a combination of 'public/communal open space' and there is no specific standard provided for communal space alone. I acknowledge that the proposal does not meet the stated requirement of 15m<sup>2</sup> – 20 m<sup>2</sup> per person (which would result in a sizable area of at least 9,870m<sup>2</sup>). However, section 8.2.8.2 also states that an absolute default minimum of 10% of the site area shall apply irrespective of the occupancy parameters outlined above. As previously outlined, I consider that the site area should be treated as 0.95ha and, therefore, the combined public (2746m<sup>2</sup>) and communal (2600m<sup>2</sup>) areas proposed would constitute c. 56% of the site. Even when communal space alone is considered, it still amounts to 27% of the site. Accordingly, I am satisfied that the quantitative provision significantly exceeds the default minimum requirements of the Development Plan. The central courtyard includes a children's play area (245m<sup>2</sup>), which is in accordance with the recommendations of the *Apartments Guidelines*.

10.6.26. In addition to the quantitative requirements, the quality of the proposed communal spaces must also be considered. This is addressed in relation to wind and sunlight/daylight impacts in the following sections.

#### Wind

10.6.27. Chapter 12 of the EIAR assesses the impacts of the wind environment on the proposed development. It presents the results of wind simulations for critical areas and aims to identify areas where pedestrian safety/comfort may be compromised with reference to the 'Lawson comfort categories'. At ground floor level, it predicts that no areas will be unacceptable for pedestrian comfort, and that only the building corners and main entrance to the courtyard are unsuitable for 'long-term sitting' (while being suitable for all other activities). Within the courtyard, it is stated that long-term sitting and all other activities are always suitable, although I note that there are limited occasions of western winds making the northern edge of the courtyard unsuitable for long-term sitting.

10.6.28. Regarding the roof terraces at 9<sup>th</sup> floor level, it would appear that significant portions of Terrace 1 (i.e. communal space at the SE corner) are unsuitable for long-term sitting, standing or short-term sitting. Terrace 4 (i.e. shared private space to the NW corner) would appear to have less significant impacts, with discomfort restrictions generally confined to the margins of the space. Similarly, the 6<sup>th</sup> floor terrace (Terrace 2) would not appear to be significantly affected, with the exception of the rarely occurring south-east winds. Significant areas of the 8<sup>th</sup> floor terrace (Terrace 3) would be unsuitable for long-term sitting, with smaller portions being unsuitable for standing or short-term sitting.

10.6.29. The *Apartments Guidelines* acknowledge that, where climatic and safety factors are fully considered, roof gardens offer a satisfactory alternative to 'ground level' communal space. I would accept the EIAR position that the analysis considers worst-case scenarios throughout the whole year and that that a roof terrace would not be used all year round, and I acknowledge that the Board has permitted developments with roof terraces and similar conditions in the Sandyford area (e.g. ABP Ref. 304450-19). Therefore, despite the limitations that may apply to the roof terraces, particularly Terrace 1 and 3, I would feel that they can be considered subject to the provision of an acceptable overall quality of communal space.



10.6.30. I note that the wind analysis submitted has not assessed the impact on the private balcony areas. However, I would accept that balconies are not usually included for such 'pedestrian' studies and I note that the proposed balconies are largely enclosed by solid walls, particularly at the upper levels. I am satisfied that any outstanding concerns relating to balconies could be satisfactorily mitigated through additional screening.

#### Sunlight and Daylight

10.6.31. The DLRCC Development Plan outlines in section 8.2.3.1 that daylight/sunlight standards will be considered in assessing residential applications. However, it does not specify any particular standard or guidelines that will be applied. Section 3.2 of the *Building Height Guidelines (2018)* highlights the importance of sunlight and daylight and states that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like 'Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report (BRE), 2011)' or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It states that, where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the PA or ABP should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The *Apartments Guidelines* (section 6.6) also state that regard should be had to these BRE or BS standards.

10.6.32. I have had appropriate and reasonable regard to these documents (and associated updates) in the assessment of this application. However, it should also be noted at the outset that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines also state in paragraph 1.6 that '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The BRE Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. In addition, industry professionals

would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

- 10.6.33. I have considered the reports submitted by the applicant and have had regard to the BRE and BS (2008) documents referenced in Section 28 Ministerial Guidelines. I note that the BS (2008) document has been replaced by the updated British Standard (BS EN 17037:2018 'Daylight in buildings') and I consider that the updated version would have no material bearing on the outcome of the assessment. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party submissions which have raised concerns in relation to daylight and sunlight.
- 10.6.34. For the *external communal spaces*, the applicant's 'Sunlight and Daylight Analysis' report is based on the BRE guidance that '*at least half of a garden area should receive at least two hours of sunlight on 21<sup>st</sup> March*'. The report considers the cumulative extent of external amenity space and states that 79% of all proposed amenity space will be compliant.
- 10.6.35. While I acknowledge the results of the cumulative analysis of all spaces and I accept that the roof terraces would comply with sunlight requirements, I have serious concerns that the central courtyard will receive limited sunlight levels. According to the applicant's analysis, significantly less than half of this area would comply with the BRE standard. This is particularly significant given that the courtyard is the central and largest space within the development and that residents would otherwise be dependent on the roof terraces, which are not conveniently accessible to all residents and are seasonally affected by wind and other weather factors.
- 10.6.36. I consider that the limited availability of sunlight to the central courtyard is largely as a result of the significant height of the perimeter facades and the enclosed nature of the layout. This differs significantly from previously permitted proposals which left the southwest perimeter open to achieve good levels of sunlight. I have considered the possibility of reducing the height of one of the perimeter facades in order to facilitate increased sunlight levels to this space. However, given that the entire scheme is a single interconnected block, I consider that any such approach would have significant implications for the overall design and layout of the scheme. Furthermore,

I consider that a revised sunlight assessment would be required to confirm that any such alterations would successfully achieve the required sunlight levels within the central space. Accordingly, I do not propose to address this matter through an amending condition.

- 10.6.37. For *internal apartment spaces*, the applicant's report acknowledges the BRE guide and BS 8206-2, and specifically the recommended minimum values for average daylight factor (ADF) in dwellings, which are 2% for a kitchen, 1.5% for a living room, and 1% for bedrooms. However, the report submits that the 2% recommendation for kitchens is based on the premise that such a space within a traditional house would be continuously occupied throughout daytime. The report contends that the proposed kitchenettes would only be intermittently occupied, and the analysis is therefore based on a target ADF of 1.5% for living areas. The target ADF for bedrooms (1%) remains unchanged.
- 10.6.38. I note that the third-party submission questions the applicant's approach to ADF values and whether the applicant's assessment model accounts for the impact of projecting balconies on ADF values. It cites an example of the 2<sup>nd</sup> floor plan drawings shown in the applicant's Sunlight & Daylight Analysis report and I acknowledge that this drawing does not include all balconies as per the architectural drawings. However, the other floor plans are consistent with the architectural drawings and I note that the report states that the analysis accounts for the building form and details in accordance with the architectural drawings. The 2<sup>nd</sup> floor drawings may, therefore, be the result of a simple error and I am satisfied that the submitted analysis appears to take into account the detailed design features of the building.
- 10.6.39. The applicant's analysis outlines that 36 of the 925 spaces (96%) exceeded the targets and that an average ADF of 3.5% would apply to all living/dining space. The average daylight factor in the bedrooms was in excess of 2.5%. The report also acknowledges that BS 8206-2 has been replaced by BS EN 17037:2108 and outlines the results of a 'Median Daylight Factor' analysis, which was found to be generally aligned with ADF results.
- 10.6.40. I note that the applicant's approach effectively excludes any assessment of the kitchen areas and restricts an ADF target of 1.5% to only the living/dining portions of the overall combined kitchen/living/dining space. The proposed scheme does not

include any separate kitchen areas or galley kitchens. On that basis, 403 living spaces (or 94%) out of the total of 428 comply with the 1.5% ADF value.

Furthermore, according to Fig 3.3 of the applicant's analysis, more than 80% of the living spaces would comply with the 2% ADF value recommended for kitchens and more than 50% would exceed the 3.5% value. Therefore, while values have not been provided for the immediately adjoining kitchen areas, it is reasonable to assume that they would enjoy similar ADF levels to those of the living spaces, even if somewhat reduced due to their recessed location.

10.6.41. I acknowledge that the approach towards ADF values needs to be balanced having regard to the nature and design of the proposed scheme, the location and nature of the site and the need for its regeneration, and having regard to the need to consider the density of the scheme and the depth and orientation of apartments. The application acknowledges that the kitchen areas have not been assessed and that ADF values do not meet the BRE recommendations in all cases. It proposes additional storage space at basement level for all affected units (29 no.) as a means of compensation. I would have reservations about the effectiveness of additional basement storage space as a means of compensation for deficiencies in daylight. However, I acknowledge that the daylight levels to internal spaces are generally in accordance with BRE guidance. Consistent with section 3.2 of the Building Height Guidelines, I consider that this issue should ultimately be considered in the context of the overall quality of the scheme and the desirability of achieving wider planning outcomes.

#### Privacy

10.6.42. Given that the proposed apartments are raised above street level and are significantly separated from surrounding development by the Blackthorn Road and Carmanhall Road, there would no significant impacts on the privacy of the proposed units from the east or north of the site. The site is bounded by the existing 'Tack Packaging' site to the NW, which generally consists of low-level commercial development that would not significantly impact on the privacy of the proposed units. I acknowledge that the future development of the adjoining site should be considered, and I have previously outlined concerns in relation to inadequate separation distances and potential overlooking issues.

10.6.43. The planning authority raises concerns about overlooking with the adjoining office development to the south and internally within the proposed development. I have previously addressed the overlooking issue relating to the office block to the southwest and I consider that separation distances are adequate given that periods of intensive usage of the existing offices and the proposed residential units are unlikely to coincide. Within the proposed development, either side of the proposed 'pocket park', I note that the separation distance between opposing units is c. 16m and c. 14.5m when projecting balconies are included. As previously outlined in this report, I consider that flexibility should be applied in relation to 22m requirement for separation distances. I note that only a limited number of units would be affected in this case and that the majority of affected units are dual aspect, thereby allowing the potential for mitigation measures such as obscured glazing etc. Accordingly, I would have no objection in this regard.

#### Conclusion on Residential Amenity

10.6.44. Having regard to the above, I consider that the significant quantum of development proposed has led to a design based on an enclosed layout with significant building height around the site perimeter and a dual aspect ratio which only marginally exceeds minimum standards. This approach has resulted in deficiencies for the proposed units relating to private amenity space and daylight levels. I acknowledge that the *Building Height Guidelines* and the *Apartments Guidelines* allow for flexibility in the application of standards relating to these matters and that the applicant has proposed alternative and compensatory measures in the form of increased floor areas, additional storage space and shared 'private' amenity space.

10.6.45. In accordance with SPPR 8 (ii) of the Guidelines, my conclusion on this matter is based on the overall quality of facilities and standard of amenity for residents. In this regard I have serious and outstanding concerns about the quality of the proposed communal open spaces as a result of the sunlight deficiencies within the central courtyard and the seasonal limitations for use of the roof terraces, together with the inadequate quantum and range of dedicated internal facilities, services and amenities to support the prospective residents in accordance with the requirements of SPPR 7 (b) of the Apartments Guidelines. I do not consider that the applicant's compensatory measures adequately address the deficiencies within the

development, and I consider that the proposed development would result in an overall level of residential amenity that is substandard and unacceptable level.

## 10.7. **Community / Social Facilities & Public Open Space**

- 10.7.1. The application includes a Social & Community Infrastructure Audit which aims to establish the existing level of services and facilities that are available within the vicinity of the site.

### Schools

- 10.7.2. The applicant's report calculates that the proposed development is likely to accommodate 141 children and that the current school enrolment in the Goatstown / Stillorgan area is 3,373 for primary schools and 2,362 for post-primary. It acknowledges relatively consistent growth in historic enrolments but highlights Department of Education predictions for a decrease in enrolments as a result of a falling birth rate since 2009. It outlines plans for the provision of 8 new schools and the designation of 5 local sites for educational use as per the DLRCC Development Plan. The report concludes that the school-going population from the proposed development can be accommodated within the existing and planned schools in the area.
- 10.7.3. The applicant has included a copy of a letter (sent 30<sup>th</sup> April 2021) informing the Department of Education and Skills about the proposed development and I note that no submissions have been received in response from this department. I consider that the estimated number of children (141) is reasonable having regard to the nature and design of the proposed development, which includes only 102 units of 2+ bedrooms. The additional children would represent a minor portion (2.4%) of the overall existing capacity of 5,735 places. While I acknowledge that other substantial developments have been permitted in the area, I consider that, having regard to the projected decrease in demand and the planned new school facilities, there would not be any significant shortfalls in capacity such as would warrant reason to refuse permission in this instance.

### Childcare

- 10.7.4. The report outlines that there are 17 childcare facilities operating within 3.5km of the site and that creche facilities extending to 730m<sup>2</sup> have been permitted as part of the recent SHD applications in the area. It also highlights that the application includes the provision of facilities to accommodate 27 children, which is in accordance with Childcare Facilities Guidelines on the provision of 20 places for each 75 dwellings of 2+ bedrooms. While the Planning Authority raises concerns in relation to the absence of external play space, I note that an indoor play area is included, and that the facility has safe and convenient access to the external play area in the courtyard, which is considered acceptable as per the Childcare Facilities Guidelines. Having regard to the above, I consider that the proposed development will adequately cater of childcare requirements and will not lead to a shortfall in such facilities within the wider area.

### Other Social Infrastructure

- 10.7.5. The applicants report outlines a range of other social facilities and services in the vicinity of the site. This includes 9 healthcare facilities within the Sandyford Industrial Estate area (including the Beacon Hospital); 19 recreation/sport facilities within 3.5km of the site; 12 religious centres within 14kms (including 9 within 4.1kms); 4 community centres within 3kms; and 6 retail centres within 3.2kms (including a District Centre at Stillorgan and a Major Town Centre at Dundrum). The report also outlines the range of resident and community facilities included in the proposal. Having regard to the range and extent of these social facilities and services, I am satisfied that the proposed development will be adequately served and will not contribute to any significant shortfall in the capacity of this infrastructure to serve the wider community.

### Public Open Space

- 10.7.6. The application submits that the proposed public realm upgrade along Blackthorn Road and Carmanhall Road, including surfacing landscaping and street furniture, together with the proposed 'pocket park', provides an appropriate quantum of public open space (2,746m<sup>2</sup> or 26.75% of the site) which will allow for a unique contribution to placemaking. It is stated that the proposal far exceeds the Development Plan requirement of 10% and provides a landscaped setback in accordance with the

requirements of the SUIP. However, the Planning Authority has concerns about the design and nature of the proposal as largely circulation space within the public realm (on public lands), as well as the quality of the proposed 'pocket park' design. It also states that the quantity of space would not meet the Development Plan requirements (section 8.2.8.2) based on occupancy.

10.7.7. As previously outlined, section 8.2.8.2 of the Development Plan deals with a combination of public and communal open space. I acknowledge that the proposal does not meet the stated requirement of 15m<sup>2</sup> – 20 m<sup>2</sup> per person (which would result in a sizable area of at least 9,870m<sup>2</sup>). However, section 8.2.8.2 of the Plan outlines that the absolute default minimum of 10% of the site area shall apply irrespective of the occupancy parameters outlined above. The combined public (2746m<sup>2</sup>) and communal (2600m<sup>2</sup>) areas proposed would constitute c. 56% of the site. Even when public open space alone is considered, it still amounts to 29% of the site. Accordingly, I am satisfied that the quantitative provision significantly exceeds the default minimum requirements of the Development Plan.

10.7.8. I acknowledge the concerns of the Planning Authority that the proposed open space is on existing public lands. However, I would envisage that there would be an inevitable legal agreement between the Local Authority and the developer in advance of the development of these public lands and it would be open to DLRCC to dictate the terms of that agreement. Ultimately the developer would be providing the public open space and I am satisfied with that provision in quantitative terms. In any case, if the Board feels that this approach is not appropriate, a financial contribution in lieu of open space could be applied by condition in accordance with section 8.2.8.2 (iii) of the Development Plan.

10.7.9. Responding to the concerns of the Planning Authority about the layout and configuration of the public open space, I would submit that the nature of the site effectively demands a strong urban edge along Blackthorn Road and Carmanhall Road and that the potential for public open space is generally limited to the eastern and northern perimeter of the site. The applicant has generally provided for these arrangements in accordance with the design principles of the SUIP and, more particularly, the requirement to provide a 'linear greenway' along the site edge. I feel that any public space on this site would always largely function as a circulatory space rather than a 'destination' space for active recreation.



10.7.10. However, as I have previously outlined, I have serious concerns regarding the design of the 'pocket park' as the 'centrepiece' of this public open space and I consider that it would detract from the overall quality of the public realm.

### Conclusion

10.7.11. Having regard to the extent of existing and proposed social/community infrastructure in the wider area, together those facilities included in the current application, I do not consider that there is a demonstrable infrastructure deficit that would warrant objection to the proposed development. I consider that the proposed public open space is acceptable in quantitative terms, but that the proposed 'pocket park' is of an unsuitable design and would establish an unacceptable interface between the proposed development and the public realm.

## **10.8. Traffic and Transport**

10.8.1. The development site has a highly accessible location close to two Luas stops on Blackthorn Avenue and several existing bus routes. The Development Plan also includes an objective to accommodate a bus priority route on the adjoining Blackthorn Road, as well as objectives for improved pedestrian / cyclist facilities at Blackthorn Road and Carmanhall Road.

10.8.2. The proposed layout indicates a vehicular access to the car park from Carmanhall Road at the northwest corner of the site. Footpaths are proposed along both roads and a dedicated cycle lane is included along Blackthorn Road. The existing pedestrian crossing on Carmanhall Road is to be relocated and an uncontrolled pedestrian crossing is proposed near the junction at the northeast corner of the site. The application includes a Traffic and Transport Assessment and a Quality Audit (Stage 1 Road Safety).

10.8.3. I note that the Planning Authority has no objection to the proposed vehicular entrance but raises concerns in relation to the quality and prematurity of cycling infrastructure proposals. The Planning Authority also recommends that an improved parking layout and additional spaces should be provided for cars, bicycles and motorbikes.

## Car Parking

10.8.4. The table below summarises the Development Plan car-parking standards for the proposed uses based on floor areas/units. I have not included the 'resident-only' facilities as these would coincide with the proposed apartments. In addition, it is an objective of the Council to require developments to provide motorcycle parking spaces at a minimum of 4 or more spaces per 100 car parking spaces.

### **Development Plan Car-Parking Requirements**

| <b>Use</b>                  | <b>Parking Standard</b> | <b>Floor Area / Units</b> | <b>Spaces Required</b> |
|-----------------------------|-------------------------|---------------------------|------------------------|
| 1 bed Apt                   | 1 space                 | 326 units                 | 326                    |
| 2 bed Apt                   | 1.5 spaces              | 94 units                  | 141                    |
| 3+ bed Apt                  | 2 spaces                | 8 units                   | 16                     |
| Café                        | 1 per 15m <sup>2</sup>  | 278m <sup>2</sup>         | 18                     |
| Cinema                      | 1 per 5 seats           | 39 seats                  | 7                      |
| Gym                         | 1 per 20m <sup>2</sup>  | 216m <sup>2</sup>         | 10                     |
| Yoga Studio (gym)           | 1 per 20m <sup>2</sup>  | 77m <sup>2</sup>          | 3                      |
| Laundry (comparison retail) | 1 per 50m <sup>2</sup>  | 22m <sup>2</sup>          | 0                      |
| <b>Total</b>                |                         |                           | 521                    |

10.8.5. National policy, as per the *Apartments Guidelines*, does not specify any minimum car parking provision. As per section 4.19 of the Guidelines, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in larger scale and higher density developments at central and / or accessible urban locations including within 10 minutes walking distance of Luas stops. This also applies specifically to Build to Rent developments as per SPPR 8 (iii). I also note that the Development Plan allows for reduced car-parking standards depending on criteria relating to location, public transport facilities, and other factors.

10.8.6. The proposed car park provides 145 no. car parking spaces, including 8 no. mobility-impaired spaces, 45 no. electric vehicle spaces, and 2 no. car share scheme spaces. A total of 5 no. motorcycle parking spaces is also provided. It is acknowledged that the car-parking provision represents a significant shortfall on Development Plan standards and the recommendations of the Planning Authority in their submission (428 spaces). However, the applicant contends that the proposed range of vehicular

parking is acceptable having regard to national policy, the proximity to public transport, and the inclusion of a Mobility Management Plan.

- 10.8.7. While the concerns of the Planning Authority are acknowledged, I consider the subject site to be suitable for the accommodation of reduced car-parking standards in accordance with the outlined national policies, while also having regard to Objective TAM1 of the SUFP, which is to require all future development in the Sandymount Business District to achieve a peak hour transport mode split of 45% trips by car drivers (maximum) and 55% trips by walking, cycling and public transport and other sustainable modes (minimum targets). The implementation of a Mobility Management Plan will encourage alternative transport modes and the development will be centrally managed via a management company that will make prospective occupiers clearly aware of the parking management strategy. Furthermore, the development will incorporate dedicated car club spaces which have the potential to replace a significant number of private car journeys. In this context, the reduction in provision can be justified and I consider that proposals are generally acceptable.

#### Bicycle Parking

- 10.8.8. The development provides 774 no. bicycle parking spaces, with 752 at basement level and 22 at surface level. This exceeds the DLRC Standards for Cycle Parking and Associated Cycling Facilities for New Developments (January 2018) which would require 512 spaces, as well as the standards contained within the *Apartments Guidelines* which would require 752 spaces.
- 10.8.9. However, while the overall quantum of spaces proposed is acceptable, I would have serious concerns about the accessibility of the 752 no. spaces at basement level. Section 4.17 of the *Apartments Guidelines* states that cycle storage facilities should be directly accessible from the public road or from a shared private area that gives direct access to the public road avoiding unnecessarily long access routes with poor passive security or, slopes that can become hazardous in winter weather. In this case the spaces are not directly or easily accessible as users would have to use a lift or stairs from the car park / ground floor level to the basement level and just one dedicated core has been provided for bicycles. Furthermore, I would acknowledge that the proportion of 'short stay' surface level provision (22 spaces) is extremely low

compared to the Apartments Guidelines standard of 1 space per 2 units, which would require 214 spaces.

- 10.8.10. Having previously outlined my acceptance of the principle of severely reduced car-parking requirements due to the nature of the development and the location of the site, I consider that the quantity and quality of bicycle parking is extremely important. However, I consider that the approach of prioritising car-parking at ground level, while providing a poor level of accessibility for bicycle parking at basement level, represents a substandard approach which is not in accordance with the *Apartments Guidelines* and does not promote more sustainable forms of transport in accordance with national policy.

#### Road Network

- 10.8.11. The predicted trip rates for the proposed development were generated using the 'TRICS' standard and it was predicted that there will be an additional 107 vehicular trips during the AM peak hour and an additional 99 trips during the PM peak hour. Future growth was also considered in accordance with TII Guidelines and thresholds. Traffic impacts at 9 junctions were assessed and none were found to warrant further assessment. However, in order to provide a robust approach, traffic modelling was carried out for the 2 closest junctions and impacts were deemed to be within operating capacity. I would concur that the development will have a limited impact on established traffic conditions at this location, particularly given its proximity to public transport services and limited car parking provision.

#### Cycle Lanes

- 10.8.12. I note the Planning Authority's concerns regarding the absence of cycling facilities along Carmanhall Road, the substandard cycle connectivity proposals along Blackthorn Road, and the general prematurity of these proposals prior to the completion of the Sandyford Cycle Improvement Scheme. However, I consider that these matters could be satisfactorily resolved by condition in the event of a grant of permission, particularly given that the Planning Authority controls the land likely to be affected by any future cycling infrastructure.

#### Conclusion

- 10.8.13. Having regard to the above assessment, I am satisfied that the development will not result in undue adverse traffic or transport impacts such as would warrant a refusal

of permission. I consider that the bicycle parking proposals are substandard but that any other outstanding issues could be satisfactorily resolved. The application includes a Preliminary Construction Management Plan which indicates that detailed traffic management measures will be agreed, and this is considered acceptable.

## 10.9. Drainage, Flood Risk and Site Services

### Surface water

10.9.1. There are existing public surface water sewers on Blackthorn Avenue and Carmanhall Road, and it is proposed to discharge surface water from the development to the Carmanhall Road sewer via a new connection. The application states that the storage network has been designed for the 1 min 100-year storm event, with an allowance of 20% for climate change. Two attenuation tanks are proposed (total volume of 286m<sup>3</sup>) and a range of SUDS measures are proposed, including green roofs, swales, and a petrol interceptor. It is stated that the calculated discharge rate (4.9 l/s) is significantly lower than the current rate leaving the site, which is 100% impermeable and unattenuated, and that the treatment of run-off is satisfied in accordance with the Greater Dublin Strategic Drainage Study. The application also examined the Flow Exceedance Route for the case of 50% blockage at the Hydrobrake and it was determined that excess flow would enter the existing gullies on Carmanhall Road.

### Flood Risk

10.9.2. The application also includes a Flood Risk Assessment (Stage 3). The FRA outlines that the OPW database does not indicate any historic flooding associated with the site. It is stated that the site is within Flood Zone C as per CFRAM predictive mapping, while Blackthorn Road is classified as Zone B. The modelled climate change future scenarios do not predict a further increase in the 'present day' Zone B extent on Blackthorn Road. In terms of vulnerability, the FRA outlines that the proposed residential use is 'highly vulnerable', which is appropriate within Flood Zone C. Furthermore, it contends that the proposed ground floor uses (i.e. non-residential) would be appropriate even if a portion of the site was re-classified as Flood Zone B. The FRA concludes that, together with the proposed drainage

network and SUDS/mitigation measures, the proposed development will not result in an increased flood risk.

#### Foul Water and Water Supply

10.9.3. The development is to discharge to an existing foul sewer on Arkle Road. Details of foul water discharge volumes are provided based on a population equivalent (PE) of 2.7 persons per dwelling. There are existing watermains along both adjoining roads and there is a current connection off Blackthorn Road. The existing water supply connection is to be removed and replaced with a new 150mm connection and calculations for water demand are included.

#### Conclusion

10.9.4. Both Irish Water and DLRCC Drainage Planning state that there is no objection to the water services proposals and the flood risk assessment. Having regard to the above, I am satisfied with the proposed foul and surface water drainage and water supply arrangements, subject to conditions, and I am satisfied that the proposed development will not be subject to flood risk or result in an increased flood risk elsewhere in the area.

### 10.10. **Other Matters**

#### Part V

10.10.1. Section 5.15 of the *Apartments Guidelines* provides that Part V requirements under the Planning Act of 2000 (as amended) apply to BTR developments. The application proposes to fulfil Part V obligations through the transfer of 43 of the proposed apartments to the ownership of the Planning Authority. The proposed Part V units are concentrated on the lower floors in the southwest corner of the scheme and I would feel that a more varied dispersal of units would be desirable. However, I note that the DLRCC Chief Executive's report indicates that the proposal can comply with Part V requirements, subject to agreement by condition. Accordingly, I have no objections in this regard.

#### Waste management

10.10.2. The proposed development includes 4 waste storage areas dispersed over the ground floor level. An Operational Waste Management Plan has been included

which estimates the waste types and quantities arising from the development. Through a mixture of conventional storage and waste compaction for 'dry mixed recyclables' and mixed non-recyclables', the plan outlines that the proposed development will ensure appropriate procedures in relation to storage, collection and recycling/reuse in accordance with policy requirements. A Construction Demolition Waste Management Plan is also included, and it is stated that further detail will be agreed on the appointment of a main contractor.

- 10.10.3. I note that the Planning Authority has raised issues in relation to refuse vehicle circulation and any remaining waste associated with the previous demolition on site. I am satisfied that the proposals generally address waste management requirements in a satisfactory manner and that any outstanding concerns could be agreed by condition in the event that the Board is minded to grant permission.

#### Accuracy of Drawings

- 10.10.4. The third-party submission contend that the northwest elevation drawings do not accurately include the proposed solid wall balconies. I acknowledge that the solid wall balconies serving floors 4 to 6 on the northwest façade are not depicted on the northeast contextual elevation. This may be as a result of their setback position from Carmanhall Road. In any event, I consider that the drawing details submitted with the application are sufficient to assess the impact of the development and I do not consider that the participatory rights of the third-party have been adversely affected.

### 10.11. **Material Contravention**

#### Legislative Provisions

- 10.11.1. Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 outlines that the Board may grant permission for an SHD even where the proposed development materially contravenes the Development Plan or LAP concerned, except in relation to the zoning of land. In any such case, the Board must be satisfied that the provisions of section 37(2)(b) of the Act of 2000 would apply, which are as follows:

*(i) the proposed development is of strategic or national importance,*

*(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,*

*or*

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

*or*

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

10.11.2. The application includes a 'Statement of Material Contravention' which relates to the height and density of the proposed development with regard to the policies of the SUFP (Policy SUFP 3 and Objective BH1 in relation to height, and Policy SUFP 2 and Objective A2 1 in relation to density). This statement has been referenced in the public notices for the application in accordance with the requirements of the Act of 2016 and the Regulations of 2017.

#### Height and Density

10.11.3. As previously outlined in this report, and as is acknowledged by the applicant, the proposed development clearly materially contravenes the height limit (8 storeys) and density (175 units per ha) set out in the SUFP by proposing a development of up to 17 storeys and 450 units per ha. The applicant sets out a justification for the proposed development with reference to provisions (i) to (iv) of section 37(2)(b) of the Act of 2000, which are assessed in the following sections.

*(i) The proposed development is of strategic or national Importance*

10.11.4. The applicant contends that the proposal falls within the definition of 'Strategic Housing Development' as per section 3 of the Act of 2016 and is of strategic importance in light of national policies to deliver additional housing in the form of



compact sustainable development in serviced urban areas. It is also argued that the proposal provides significant improvements to the adjoining public realm.

10.11.5. I note the classification of the proposed development as ‘strategic housing development’ as per the definition in section 3 of the Act of 2016 and its significant scale comprising 428 residential units and other uses. Having regard to the identification of Sandyford Business District in the Development Plan as a ‘primary growth node’ and the RSES support for the development of Sandyford as a new/emerging mixed-use district, together with the current national housing shortage and national policy to provide additional housing as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, I consider that the proposed development would be of strategic and national importance and that the proposed material contravention would comply with the terms of section 37(2)(b)(i) of the Act of 2000.

*(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned*

10.11.6. The applicant has not put forward any argument for material contravention on this point. I consider that the Development Plan objectives are clear in relation to the height and density limits for the site and I do not consider that the provisions of section 37(2)(b)(ii) apply.

*(iii) Permission for the proposed development should be granted having regard to the 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.*

10.11.7. The applicant contends that the proposal complies with *NPF* and *RSES* objectives to deliver additional housing within existing built-up and serviced areas through increased height and density; the *Sustainable Residential Development in Urban Areas Guidelines (2009)* in respect of the development of zoned lands in accordance with the sequential approach and the provision of community facilities to support sustainable neighbourhoods; the *Apartments Guidelines (2020)* with regard to the

promotion of higher density development within 'central and/or accessible urban locations'; and the *Rebuilding Ireland (2016)* action plan, particularly in relation to 'pillars' 3 & 4 which seek to increase housing output and improve the rental sector, including support for 'build-to-rent' developments. I would acknowledge that the proposal is generally in accordance with the provisions of the above policies and guidelines.

10.11.8. However, I would consider that the *Building Height Guidelines (2018)* is the key provision in relation to the issues in question i.e. height and density. The applicant sets out a detailed analysis of compliance with the criteria specified in SPPR 3 and Section 3.2 of the Guidelines as follows:

At scale of the City / Town

The site benefits from an excellent public transport network. It is not within an architecturally sensitive area and the scheme has been designed to offer visual interest akin to the site's prominent position. The maximum building height has been separated from sensitive amenities. The proposal includes public realm improvements and a pocket park.

At scale of the District / Neighbourhood / Street

The design avoids undue impacts on existing residential amenity, while the public realm proposals and communal amenity spaces will address the needs of existing and future residents. An Architectural Design Statement has been submitted which addresses the criteria outlined in the 'Urban Design Manual – A Best Practice Guide (2009)' and outlines how the proposal responds to its neighbourhood context; enhances connections; facilitates inclusivity and accessibility; and promotes a good mix of activities. A variety of communal / community uses provide animation at ground floor level and the building will add legibility by acting as a focal point. The BTR residential model will benefit the evolving landscape of Sandyford as a live-work neighbourhood.

At scale of the Site / Building

The proposal will ensure adequate daylight for existing and proposed residents, will minimise impacts on existing views, and will create a landmark viewpoint. Any units that are deficient in respect of ADF (Average Daylight Factor) are compensated with storage space at basement level.

## Specific Assessments

A 'Wind and Microclimate Report' has been submitted and the EIAR confirms that the site is largely devoid of ecological interest. Measures have been included to address impacts on telecommunication channels and air navigation. An EIAR and AA Screening report has been submitted with the application.

- 10.11.9. Having considered the applicant's 'Statement of Material Contravention', together with the documentation and submissions relating to the application, my assessment of compliance with SPPR 3 and Section 3.2 of the Building Height Guidelines is summarised in the table below.

| <b>At the scale of the relevant city/town</b>   |   |
|---|---|
| The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.   | Within 500m of 2 Luas stops at, as well as several bus services (Route No.'s 11, 47, 75a, 114, 116, 700) including frequency of less than 20 mins at peak times.  |
| Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. | As per Section 10.5 of this report, it is considered that the quantum of development, together with the proposed heights of 11 and 17 storeys and the proximity of the development to the site boundaries, results in a development of excessive scale which would be inappropriate for the development of a residential neighbourhood.<br><br>The proposed 'pocket park' would also form a substandard relationship with the public realm. |
| Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified   | The applicant has submitted a photomontage assessment. As per Section 10.5 of this report, the excessive quantum and height results in an inappropriate scale.  |

|   |  |
|---|--|
| <p>practitioner such as a chartered landscape architect.</p>  |  |
| <p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</p> | <p>Public open space is proposed around the site perimeter, and resident/community facilities provide activity at street level. As above, concerns apply in relation to the 'pocket park' and there are concerns that the proposal does not respond to the scale and layout of existing and proposed development, including the adjoining site to the northwest (see Section 10.4 of this report).</p> |
| <p><b>At the scale of district/ neighbourhood/ street</b></p>   |  |
| <p>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape</p>  | <p>While the redevelopment of the site with higher density housing and street-level activity is welcomed, the proposed quantum of development results in an excessive height and scale which would not contribute towards the creation of a sustainable residential neighbourhood.</p>   |
| <p>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered</p>  | <p>The proposal effectively comprises one block in an almost continuous arrangement around the site perimeter. While the building heights, finishes and depths are varied, the quantum of development results in an excessive height and scale, particularly evident when viewed from the north and west of the site.</p>  |
|   |  |

|  |  |
|--|--|
| <p>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).</p> | <p>Generally attempts to provide a strong urban edge and public realm to Blackthorn Road and Carmanhall Road. However, the proposed ‘pocket park’ is unsuitable and would detract from the streetscape and wider urban design context which aims to create a linear park at this location.</p> <p>The provisions of ‘The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)’ have been complied with.</p>  |
| <p>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner</p>   | <p>The perimeter public realm (including cycle lanes and footpaths) would improve legibility with the wider urban area. However, I consider that further agreement would be required in relation to the landscaping and cycleway/footpath design details, and I have concerns about integration with the future development of adjoining land to the northwest.</p>  |
| <p>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</p>  | <p>The proposed development comprises studio, 1, 2 and 3-bed units, although mainly studio/1-bed units. The proposal would expand the smaller unit typology within this area (which is dominated by 2-bed apartments and larger suburban family-size homes). The ground floor level contains a mix of other non-residential uses. However, it is not considered that an appropriate quantity and range of resident support facilities have been provided for this BTR development.</p> |

| <b>At the scale of the site/building</b>   |  |
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| <p>The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</p>   | <p>The form, massing and height proposed has led to deficiencies regarding light and overshadowing, both within the proposed units and in the main communal open space.</p>  |
| <p>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'</p>  | <p>As outlined in Section 10.6 of this Report, 29 no. units would not comply with BRE and BS standards for daylight. Furthermore, the central courtyard, the main communal open space within the scheme, does not comply with sunlight requirements.</p>   |
| <p>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</p> | <p>The application states that the 29 units which fail to meet ADF standards are to be provided with individual storage rooms at basement level 'as a direct means of compensation'. I would be concerned about the suitability of this storage proposal to compensate for identified amenity deficiencies. No alternative, compensatory measures have been proposed for the sunlight deficiencies associated with the courtyard space and I am not satisfied that the roof terraces offer adequate compensation.</p> <p>The need for the regeneration of the site is acknowledged but there are concerns about the overall level of residential amenity</p> |

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|   | proposed for this scheme which is within a proposed residential neighbourhood.   |
| <b>Specific Assessments</b>   |  |
| Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered. | The EIAR includes an assessment of 'wind' impacts within the proposed development and in surrounding areas. It includes a cumulative assessment of the impact of other 'taller buildings' permitted at this location. The impacts will restrict some activities within the roof terrace and 'pocket park' areas of the scheme.   |
| In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision   | The development is not located in proximity to sensitive to bird or bat areas. An AA Screening Report has been included and the EIAR addresses potential impacts on 'Ecology and Biodiversity'. The EIAR concludes that the implementation of mitigation measures will ensure that any residual effects will not be significant. This is considered reasonable.  |
| An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links   | A report has been submitted to confirm that the proposal will impact on 3 no. existing microwave links but will have a negligible impact on radio coverage. In the event that affected links cannot be realigned to alternative 'hop sites', the applicant is committed to assisting in mitigation measures where possible. A pole is proposed at roof level which will be able to accommodate 6 no. dishes. |

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| An assessment that the proposal maintains safe air navigation.   | The application confirms that all requirements of the Irish Aviation Authority will be complied with.                           |
| An urban design statement including, as appropriate, impact on the historic built environment.                           | An Architectural Design Statement has been included and there are no historic built environment features in the immediate area. |
| Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate. | An EIAR and an AA Screening Report have been submitted. Impacts on Ecology and Biodiversity have been covered in the EIAR.      |

10.11.10. Strategic Planning Policy Requirement 3(A) of the *Building Height Guidelines* states that 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.*

10.11.11. Having considered the applicant's 'Statement of Material Contravention', and while taking into account the wider strategic and national policy parameters set out in the NPF and the *Building Height Guidelines*, I do not consider that the proposal complies



with the criteria set out in section 3.2 of the Guidelines. I consider that the excessive quantum of development proposed has led to a design of excessive height and scale, and that the enclosed nature of the proposed layout would result in a substandard level of communal open space, as well as daylight and private amenity space deficiencies for individual units. Furthermore, the proposed design around the site perimeter would not satisfactorily integrate with the public realm or facilitate the future development of the area as a residential neighbourhood in accordance with the SUFP. Notwithstanding the desirability of achieving wider planning objectives to develop sites such as this, it is not considered that alternative, compensatory design solutions have must been set out to justify the proposed development. Accordingly, I do not consider that the provisions of section 37(2)(b)(iii) of the Act of 2000 apply in this case.

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

10.11.12. The applicant contends that precedent exists for the approval of developments exceeding the height specified in the SUFP and refers to ABP Ref. 305940-19 which permitted 17 storeys on a site (c. 300m to the northwest) where a SUFP limit of 14 storeys applies. In that case, I acknowledge that the Board's Inspector recognised a *'strong case in planning and architectural terms to permit a high building at this location and for it to act as a key landmark improving legibility and wayfinding immediately adjacent to the Luas public transport interchange'*.

10.11.13. I consider that there are significant differences between that case and the current case. The previous case involved a prominent site that is immediately adjacent to the Stillorgan Luas stop and is within the 'inner core' mixed use area of the SUFP. While a 17 storey development was permitted on the site, it should be seen in the context of the height limit for the site (14 storeys), which was effectively exceeded by c. 20%. The current proposal involves 17 storeys on a site with an 8-storey limit (an exceedance of c. 110%) and, as previously outlined in this report, I do not consider that there are circumstances to justify such a departure from Development Plan policy in this case. Accordingly, I do not consider that this or any other permissions

granted in the area would justify the approval of the proposed development in accordance with the provisions of section 37(2)(b)(iv) of the Act of 2000.

10.11.14. In conclusion regarding the question of material contravention relating to the Development Plan height and density provisions, I consider that, should the Board be minded to grant permission, only the provisions of section 37(2)(b)(i) of the Act of 2000 apply to this case. I consider that parts (ii), (iii) and (iv) of that subsection do not apply having regard to the reasons and considerations outlined above.

#### Other Material Contravention Matters

10.11.15. In addition to the questions of height and density, I note that the Planning Authority recommends refusal on the basis of a lack of appropriate community facilities as required by Specific Local Objective SLO113. It also contends that proposals would materially contravene the County Development Plan. However, as previously outlined in Section 10.2 of this report, and having regard to the similar extent and range of community infrastructure previously accepted by the Board under the previous student accommodation permission on this site (ABP Ref. 309486-21), I consider that the proposal would not materially contravene objective SLO113.

10.11.16. In Section 10.6 of this report, I have also outlined that the proposed development does not comply with the Development Plan standards relating to unit sizes (section 8.2.3.3 (vii) of the Plan); storage space (section 8.2.3.3 (v) of the Plan); and private amenity space (section 8.2.8.4 (iv) of the Plan). Notwithstanding these Development Plan provisions, I am satisfied that, under normal circumstances, permission could be granted having regard to the provisions of the *Apartments Guidelines* and, therefore, the provisions of Section 37(2)(b)(iii) of the Act of 2000 would apply. However, in this case, I draw the Board's attention to the fact that these issues have not been addressed in accordance with the requirements of Section 8(1)(a)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended). Therefore, I consider that the Board cannot invoke Section 37(2)(b) of the Act of 2000 in this case.

## 10.12. **Planning Authority Recommendation for Refusal**

10.12.1. Section 8.1.14 of this report outlines the Planning Authority's recommendation that the proposed development should be refused. The recommended reasons for refusal are summarised below and are addressed in the following sections.

1) The proposed density and height would materially contravene the Development Plan and SUFP and has not been justified against the criteria in section 3.2 of the Building Height Guidelines. The proposal would provide for an unacceptable quality of residential environment, would impact on the amenities and development potential of adjoining lands, and would be contrary to the zoning objective for the area.

2) The lack of appropriate community facilities as required by SLO113 of the Development Plan, would materially contravene the County Development Plan.

3) The proposed mix of units, and notably the larger units of 3+ bedrooms would fail to deliver an appropriate mix of housing types in accordance with Policy RES7 of the County Development Plan.

10.12.2. With regard to the proposed density and height (Reason 1), I have outlined throughout this report that I would concur with the Planning Authority's view that the proposal is of excessive height and scale, would result in a substandard level of residential amenity, and would militate against the appropriate development of the adjoining lands and wider area as a residential neighbourhood. Furthermore, I would concur that a material contravention of the Development Plan is not justified with reference to the criteria outlined in Section 3.2 of the Building Height Guidelines.

10.12.3. With regard to Objective SLO113 of the Development Plan (Reason 2) and having regard to Section 10.2 of this report and the extent and range of community infrastructure previously accepted by the Board under the previous student accommodation permission (ABP Ref. 309486-21), I consider that the proposal includes a sufficient range and quantity of social/community infrastructure and would not materially contravene SLO113.

10.12.4. Finally, in respect of the proposed mix of units (Reason 3), I note that SPPR 8 (i) of the Apartment Guidelines states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development. This SPPR takes precedence over the provisions of the Development Plan in accordance with Section 34(2)(ba) of the Act of 2000 and I have no objection in relation to the proposed mix of units. Furthermore, as outlined in Section 10.6 of this report, I consider that Development Plan provisions relating to the mix of units is not mandatory and, therefore, there would be no material contravention of the Plan on this basis.

### 10.13. **Planning Assessment Conclusion**

10.13.1. Having regard to the above assessment, I consider that a high-density BTR residential development would be acceptable in principle with regard to the zoning of the site under the SUFP and the location of the site in close proximity to public transport infrastructure and a wide range of other facilities and services. Furthermore, the proposal to include social/community infrastructure at ground floor level on Blackthorn Road is acceptable in accordance with Objective SLO113 of the Development Plan. Subject to the agreement of detail, it is considered that the development would enhance pedestrian and cycle connectivity in the area and would not result in undue adverse traffic impacts. I am also satisfied that the development does not result in a significant flood risk at the development site or elsewhere, and that the development can be serviced with appropriate water and wastewater infrastructure.

10.13.2. However, I conclude that the proposed quantum of development has led to a design of excessive height and scale, and that its enclosed layout would result in a substandard level of residential amenity relating to communal open space and other deficiencies including daylight and private amenity space for the individual units. In addition, the proposed indoor communal facilities / amenities and bicycle parking facilities are inadequate for a BTR development, resulting in an overall substandard quality of residential amenity for the prospective residents. Furthermore, I consider that the proposed perimeter block design does not satisfactorily integrate with the public realm along Cramanhall Road by reason of the unsuitable 'pocket park' design, and that the height, scale and proximity of the development to the northwest

boundary does not facilitate the co-ordinated development of adjoining lands or the creation of a residential neighbourhood.

- 10.13.3. I have considered the possibility of amending the proposal to address the above concerns, including potentially reducing the building height and/or increasing the building setback. However, given that the entire scheme is a single interconnected block, I consider that any such approach would have significant implications for the overall design and layout of the scheme and that the range and multiplicity of issues involved would require a comprehensive reassessment. Accordingly, I do not propose to address these matters through an amending condition(s).
- 10.13.4. Furthermore, in my opinion there is sufficient information on file to allow for a proper and full assessment of the case and I do not consider that there is a compelling case for an oral hearing in this instance. Having regard to the information on file, to the nature of the proposed development and to the location of the development site, I do not recommend that an oral hearing should be held.

## **11.0 Environmental Impact Assessment (EIA)**

### **11.1. Introduction**

- 11.1.1. This application was submitted to the Board after 1st September 2018 i.e. after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, which transpose the requirements of Directive 2014/52/EU into Irish planning law.
- 11.1.2. The application includes an Environmental Impact Assessment Report (EIAR). The proposed number of dwellings (428) and site area (1.03 hectares) do not exceed the thresholds for mandatory EIA (i.e. 500 dwellings or an area greater than 2 hectares) as per Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). However, having regard to the criteria for sub-threshold development set out in Schedule 7 of the Regulations, and the characteristics of the site and the size of the proposed development, an EIAR has been prepared to accompany the application.
- 11.1.3. The EIAR contains a Non-Technical Summary. Chapters 1-3 inclusive set out an introduction and background to the proposed development, details of scope and

methodology used, and a description of the proposed development. Chapters 4 to 16 consider the likely significant direct, indirect and cumulative effects of the proposed development under the relevant headings listed in Article 3(1) of the 2014 EIA Directive.

11.1.4. This section of my report evaluates the information in the EIAR and carries out an independent and objective environmental impact assessment (EIA) of the proposed project in accordance with the requirements of relevant legislation. In carrying out an independent assessment, I have examined the information submitted by the applicant, including the EIAR, as well as the written submissions made to the Board as set out in Sections 7 to 9 of this report. This EIA section should, where appropriate, be read in conjunction with the relevant parts of the planning assessment in Section 10.

11.1.5. I am satisfied that the information contained in the EIAR has been prepared by competent experts to ensure its completeness and quality; that the information contained in the EIAR and supplementary information adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment; and that it complies with article 94 of the Planning and Development Regulations 2001 (as amended).

## 11.2. **Consideration of Alternatives**

11.2.1. Article 5(1)(d) of the 2014 EIA Directive requires the following:

*“a description of the reasonable alternatives studied by the developer, which are relevant to the development and its specific characteristics, and an indication of the main reasons for selecting the chosen option, taking into account the effects of the development on the environment.”*

11.2.2. Section 3.6 of the EIAR deals with ‘Project Alternatives’, which I consider to be an adequate assessment, and which can be summarised as follows:

- Previously granted Development: The proposal offers additional positive social effects through increased land efficiency and the standard of accommodation and amenities. The proposal is appropriate based on its

proximity to transport links and its contribution to the character and public realm of the area.

- Location: Alternative locations were not considered having regard to the zoning and objectives that relate to the site, as well as its brownfield nature.
- Technology / processes: Given the residential nature of the project, reasonable alternative technologies or processes were not considered. However, an energy analysis was carried out as part of the design and demonstrates that the proposal can meet future benchmarks on carbon targets.
- Design, Size and Scale: As part of the pre-application process the building height has been increased to provide a landmark feature. The effects of the higher building have been evaluated as part of the EIA process.
- Phasing: Given the limited site area, construction over a number of phases is not practical.
- Mitigation: The measures identified in Chapter 16 of the EIAR are considered appropriate.
- 'Do-Nothing': The socio-economic benefits of the proposal would not be realised in accordance with policy objectives. It would likely result in less suitable sites being developed and negative impacts on spatial patterns and transportation.
- Current Design: The scheme has been designed having regard to the amenities of adjoining sites. It will be close to employment centres and public transport and can be accommodated on the site to respond to the current housing shortage.

### 11.3. **Consideration of risks associated with major accidents and/or disasters**

11.3.1. Article 3(2) of the 2014 EIA Directive includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and/or disasters that are relevant to the project concerned are considered. I note that there are no Seveso sites within 5km of the site.

11.3.2. Section 3.7 of the EIAR deals with 'Major Accidents and Disasters'. Fire risk mitigation has been incorporated into the design of the scheme. Potential events at the construction and operational phases are also considered and the EIAR concludes that there are no likely individual or cumulative risks associated with the proposed development. I am satisfied that this is a reasonable conclusion.

#### **11.4. Assessment of the likely significant direct and indirect effects**

11.4.1. The likely significant effects of the development are considered below under the headings used in the EIAR, which generally follows the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU.

#### **11.5. Population and Human Health**

- 11.5.1. This Chapter of the EIAR describes the human environment and identifies and assesses the potential impacts of the proposed development on the 'quality of life'. The geographical study area covers the development area and a buffer of 500m from the site boundary, while the study area for demographic trends is the Electoral Division of Dundrum-Balally.
- 11.5.2. The EIAR anticipates that the construction phase will provide temporary employment for 400-500 construction staff, but that the population/demographic impacts associated with the phase will only be of 'slight' significance. The construction phase has potential for environmental impacts on the existing population relating to noise, dust, visual, water and traffic, which is evaluated in the EIAR as a 'slight' adverse effect. Mitigation measures are set out in various chapters and are to be addressed by good construction practice and mitigation as defined in the Construction Environmental Management Plan (CEMP). It is stated that the operational stage will have a positive effect on the local population of 'slight' permanent significance.
- 11.5.3. The EIAR states that the economic effects of direct and indirect employment during the construction phase will be short-term beneficial, and the construction works will have only a slight impact on existing businesses and workers. It states that the operational phase will add to the local economy through demand for local services and will result in a slight permanent beneficial effect.



- 11.5.4. The EIAR acknowledges that the construction phase has potential to impact on existing amenities through construction nuisance and traffic but predicts that these impacts will be addressed through mitigation measures and the CEMP. It states that the operational stage will see existing amenities and services benefitting from increased population and that the proposal will include additional open space, resulting in a slight permanent beneficial effect.
- 11.5.5. With regard to 'Land-use', the EIAR acknowledges that the construction stage has potential for short-term adverse impacts on the local environment. Mitigation measures and the CEMP / Construction Management Plan (CMP) are proposed to address these issues and the EIAR evaluates impacts as 'imperceptible'. It states that the operational land-use will be consistent with planning policy and will result in a 'moderate' permanent beneficial effect.
- 11.5.6. In terms of 'Human Health', the EIAR assesses the air quality impacts of construction dust and traffic as being slight adverse effects. Similarly, the noise / vibration and water impacts at construction and operational stages are evaluated as being 'slight adverse'. The Sunlight and Daylight analysis for the proposed development indicates 'negligible' impacts on prospective residents, which the EIAR evaluates as being a 'slight' adverse effect. The Sunlight and Daylight analysis was not deemed relevant for neighbouring commercial buildings and effects were evaluated in the EIAR as 'imperceptible'. The EIAR states that mitigation measures relating to 'human health' will prevent significant effects and that this will include effective construction and operational management practices.
- 11.5.7. The EIAR also addresses 'Health & Safety' and outlines that construction and operational management practices (including COVID-19 protocols) will be implemented to avoid significant impacts. The impacts of 'wind' have been assessed and the EIAR evaluates effects on the health and safety of pedestrians as 'imperceptible'. With the proposed construction site management and CEMP, the EIAR anticipates that residual effects on the local population and receptors will be 'slight' and therefore 'not significant'.
- 11.5.8. I note that the third-party submission has raised concerns about the potential sunlight and daylight impacts on the adjoining lands to the southwest. While I have addressed these concerns in Section 10.4 of this report, I do not consider that the

effects would constitute significant effects on population or human health in the context of EIA, particularly given the existing commercial nature of the site.

### Conclusion

- 11.5.9. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I am satisfied that impacts predicted to arise in relation to population and human health would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of population and human health.

## **11.6. Ecology and Biodiversity**

- 11.6.1. This Chapter of the EIAR evaluates the importance of ecological resources present and defines the significance of potential impacts. The study includes a desktop review of available information (January 2021) and a walkover survey (February 2020). The evaluation of relevant ecological features outlines that surrounding 'Designated Sites' are 'scoped out' due to their separation distance and the absence of connections.
- 11.6.2. The EIAR states that the loss of 2 trees on the site does not represent a loss of a valuable biodiversity resource and that their removal will be timed to avoid the bird nesting season. It acknowledges that the increased nutrient and suspended sediments loading has the potential to impact aquatic receptors but concludes that this will be addressed by mitigation measures and the upgrade of the Ringsend Wastewater Treatment Plant (WTP), which will also address cumulative effects.
- 11.6.3. The EIAR highlights 'embedded design mitigation' relating to surface water and wastewater, as well as best practice measures relating to construction, lighting, landscaping and invasive species, and concludes that the implementation of mitigation measures will ensure that any residual effects will not be significant.
- 11.6.4. I acknowledge that the site is not particularly sensitive in terms of ecology and biodiversity. I note the submission of the Planning Authority and its desire to retain existing planting along the perimeter of the site. I consider that this matter could be

satisfactorily dealt with by condition and will not result in significant effects on ecology or biodiversity.

#### Conclusion

- 11.6.5. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I am satisfied that impacts predicted to arise in relation to ecology and biodiversity would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of ecology and biodiversity.

### **11.7. Land, Soils and Geology**

- 11.7.1. This Chapter addresses the magnitude and significance of impacts on land soils and geology, as well as potential impacts to human health from contaminated land and the effect from soils and geology on the proposed development. The geographical study area covers the development area and a buffer of 500m from the site boundary
- 11.7.2. The EIAR does not identify any geological heritage or mineral sites and states that the superficial tills and bedrock geology on site are unlikely to represent significant resources. The development would not sterilise any limited geological resources and there are no soils mapped at the site. Site investigations (undertaken in 2020) do not indicate any widespread contamination and the proposed development should not lead to new contamination.
- 11.7.3. The EIAR identifies potential impacts relating to land (soil/sub-soils) and human health (construction workers and occupiers). These impacts relate to excavation stability; dewatering; disturbance of existing contamination; importation of contaminated soil/materials; leakages; and wheel-washing etc. In addition to embedded mitigation, additional measures relating to contamination investigation, construction waste disposal and operational management will apply. It is stated that any subsequent residual effects are not predicted to be significant.

#### Conclusion

- 11.7.4. I have considered all the information on file, including the EIAR, and I note that no submissions have been received in relation to land, soils and geology. Having regard

to the above, I am satisfied that impacts predicted to arise in relation to land, soils and geology would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of land, soils and geology.

## 11.8. **Water**

- 11.8.1. This Chapter addresses the potential and significance of impacts on surface water and groundwater receptors, including levels, flow, regime, quality and flood risk. The geographical study area includes the application site and a surrounding buffer zone.
- 11.8.2. The EIAR has assessed the local aquifer properties and states that site investigations concluded that the site was suitable for dispersal of storm/surface water via public drainage systems. Investigations also outline that depth to groundwater is typically between 2-3 metres and that groundwater flow would be limited at shallow depths. With regard to surface water, there are no watercourses on site but the EIAR acknowledges the presence of the Stillorgan reservoir, as well as the Carrickmines / Racecourse and Brewery / Carysfort Maretimo streams. The existing surface and wastewater drainage systems are outlined, and it is stated that there are localised areas of low to medium flood risk to the east of the site (along Blackthorn Road). No likely private water sources are identified and the nearest 'designated site' is 1.6km from the application site.
- 11.8.3. The EIAR acknowledges that the construction phase has the potential to impact on water quality through discharges of contaminants, dewatering and suspended solids, some of which could result in high adverse impacts. Potential impacts on surface water flow are evaluated as negligible (adverse) having regard to the intended management system and practices. The EIAR also considers that impacts on the groundwater flow regime and secondary receptors will be negligible (adverse), as will the likely after-use phase impacts.
- 11.8.4. In addition to embedded mitigation, additional measures relating to pre-construction surveys, contamination investigation, construction waste disposal and piling activities will apply. Any subsequent residual effects are not predicted to be significant

- 11.8.5. The submissions received from Irish Water and DLRCC Drainage Planning effectively outline that there is no objection to the water services proposals. A Flood Risk Assessment (FRA) has been submitted with the application. I note that the Planning Authority submission does not raise any objection in relation to flood risk and having reviewed the FRA I am satisfied that the proposed development will not be subject to flood risk or result in an increased flood risk elsewhere in the area.

#### Conclusion

- 11.8.6. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I am satisfied that impacts predicted to arise in relation to water would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of water.

### **11.9. Air Quality and Climate**

- 11.9.1. This Chapter assesses the potential air quality and climate effects and includes a qualitative assessment of dust impact from the construction phase (Appendix 8.1) and a quantitative assessment of road traffic emissions at the operational phase (Appendix 8.2).
- 11.9.2. The study area for the construction phase assessment is up to 350m from the site boundary and/or within 50m of construction routes on the public highway (up to 500m from the site entrance). Approximately 20 receptors have been identified within this area. The EIAR combines the magnitude of potential effects relating to earthworks, construction and trackout activities (medium to large) with the low sensitivity of the area and concludes that the risk of impacts (prior to mitigation) is medium to low. A wide range of dust management mitigation measures will be incorporated into the CEMP for agreement with the planning authority and no significant residual effects are predicted.
- 11.9.3. The operational phase assessment study area extends to 200m either side of all affected roads and 27 discrete receptors are identified within this area. The assessment models scenarios for the 'current baseline', the 'future baseline 2038'

without the development, and the 'future 2038' with the development. In all cases, the EIAR predicts that changes in air quality associated with the proposed development will be negligible and no mitigation measures are deemed necessary.

- 11.9.4. The EIAR considers that effects on climate will not be significant at construction stage or operational stage (as it relates to air, noise, landscape/visual, water and flood risk, geology and groundwater, or ecology and biodiversity). Additional mitigation measures are suggested in relation to landscaping and no significant residual effects are predicted in relation to climate.
- 11.9.5. The EIAR identifies the potential for greenhouse gas generation relating to vehicle emissions, waste disposal and energy/water usage. However, due to the estimated quantum to be generated, they are not predicted to be significant. The cumulative effects with 4 other significant developments in the area have also been considered in the EIAR and are not predicted to be significant.

#### Conclusion

- 11.9.6. I have considered all the information on file, including the EIAR, and I note that no submissions have been received in relation to air quality and climate. Having regard to the above, I am satisfied that impacts predicted to arise in relation to air quality and climate would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of air quality and climate.

#### **11.10. Noise and Vibration**

- 11.10.1. This Chapter consider the noise and vibration impacts of the proposed development at noise sensitive receptors (NSRs) within the site and off-site (within 100m). A selection of the proposed first-floor apartments were assessed as NSRs. The closest non-commercial/industrial off-site NSR (NSR8) is Bloom Health midwifery clinic (c. 100m to NW).
- 11.10.2. Potential worst-case noise effects during the construction phase were evaluated for NSR8 and the EIAR predicts that there will be neutral impacts during weekday daytimes and Saturday mornings. While effects of 'large' significance would be

predicted at other times, the EIAR highlights that it is not proposed to carry out construction activities during these hours. Noise effects for the proposed apartments (NSRs 1-7) and external amenity areas have also been calculated and are evaluated as 'not significant'.

- 11.10.3. A wide range of mitigation and management measures (including working hours) will be incorporated into the CMP and CEMP at construction stage and appropriate monitoring will be carried out. At operational stage, appropriate specifications and materials will be incorporated into the building to ensure that on-site NSRs are not significantly affected by noise. After mitigation measures are incorporated it is not predicted that residual noise impacts will be significant.

#### Conclusion

- 11.10.4. I have considered all the information on file, including the EIAR, and I note that no submissions have been received in relation to noise and vibration. Having regard to the above, I am satisfied that impacts predicted to arise in relation to noise and vibration would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of noise and vibration.

### **11.11. Cultural Heritage**

- 11.11.1. This Chapter assesses the impact of the proposed development on cultural heritage, which refers to all assets of archaeological, architectural, and historical or cultural value. It is informed by the results of desk-based and archival research, as well as the results of a separate archaeological impact assessment, and includes a study area of more than 1km surrounding the site.
- 11.11.2. The EIAR study of 'baseline conditions' identifies no archaeological assets on site, the nearest being c. 450m to the NE. There are 9 architectural assets listed on the NIAH Building Survey (8 of which are Protected Structures), the nearest being Burton Hall c. 350m to the SE. The remainder of structures are at least 730m from the site and are concentrated within Leopardstown Park and Glencairn Estate.

11.11.3. The archaeological impact assessment prepared for the site concludes that the potential for significant remains is low and that an historic field boundary is the only known feature present. It states that previous ground disturbance is likely to have disturbed shallow archaeological deposits, but not deeper substrates. As such there is potential for disturbance during construction works. The EIAR predicts that there will be no indirect effects on cultural heritage assets as a result of air or noise emissions and that, while the development may be visible from cultural heritage sites, it is not expected that visual changes will result in material effects when considered in the context of existing development. The EIAR proposes archaeological supervision as a mitigation measure during construction works and predicts no significant residual effects thereafter.

#### Conclusion

11.11.4. I have considered all the information on file, including the EIAR, and I note that no submissions have been received in relation to cultural heritage. Having regard to the above, I am satisfied that impacts predicted to arise in relation to cultural heritage would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of cultural heritage.

### **11.12. Traffic and Transport**

11.12.1. This Chapter considers the potential traffic impacts of the proposed development and its access arrangements on the local road network. It includes a comprehensive baseline study of existing and proposed transport infrastructure, as well as a description of the characteristics of the development relating to traffic and transport i.e. access, circulation, parking etc.

11.12.2. The EIAR acknowledges that the construction phase will involve additional traffic including deliveries and removal of waste. It states that a traffic management plan will be agreed and implemented to ensure that the effects will be imperceptible and short-term in duration.

11.12.3. In order to establish a baseline for operational traffic, traffic surveys were carried out over a 12-hour period on 25<sup>th</sup> February 2020. The predicted trip rates for the



proposed development were generated using the 'TRICS' standard and it was predicted that there will be an additional 107 vehicular trips during the AM peak hour and an additional 99 trips during the PM peak hour. Future growth was also considered in accordance with TII Guidelines and thresholds. Traffic impacts at 9 junctions were assessed and none were found to warrant further assessment. However, in order to provide a robust approach, traffic modelling was carried out for the 2 closest junctions and impacts were deemed to be negligible and imperceptible.

- 11.12.4. In terms of mitigation and management, the EIAR proposes that a Construction Management Plan will be agreed to address any significant environmental degradation or safety concerns, and that a Mobility Management Plan will be implemented at operational stage to prioritise sustainable modes of transport. Once these measures are implemented, the EIAR predicts that impacts on traffic and transport will be negligible and imperceptible.
- 11.12.5. Transport Infrastructure Ireland has confirmed that it has no observations to make on the proposed development. The Planning Authority submission raises no objection to the proposed vehicular entrance. However, it raises concerns in relation to the quality and prematurity of cycling infrastructure proposals and recommends that an improved parking layout and additional spaces should be provided for cars, bicycles and motorbikes. As outlined in Section 10.8 of this report, I would concur that bicycle parking proposals are substandard, but I do not consider that this would result in a significant environmental effect in the context of EIA. I am satisfied that any other outstanding issues could be dealt with by conditions, including construction traffic management measures and mobility management at operational stage, and that the development will not result in significant adverse traffic or transport impacts.

### Conclusion

- 11.12.6. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I am satisfied that impacts predicted to arise in relation to traffic and transport would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of traffic and transport.

### 11.13. Wind

- 11.13.1. This Chapter incorporates a 'Wind and Micro-climate Modelling Study' to identify the possible wind patterns around the existing environment and the impacts on the proposed development, together with the impacts of the development on the existing environment. The report models 18 different wind scenarios/directions and focuses on 8 worst-case and most relevant wind speeds. The wind profile for the area has been built using historical data from Dublin Airport and a weather station near the site (March 2020).
- 11.13.2. The EIAR states that the construction stage effects of the development on wind micro-climate have been evaluated on professional judgement and that, as finalisation proceeds, the wind setting would progressively conform to that of the completed development. It concludes that windier conditions are acceptable within a construction area and impacts are not considered to be significant.
- 11.13.3. For the operational phase, the EIAR presents the results of wind simulations for critical areas in terms of pedestrian safety and comfort. For the ground floor (including courtyard) and roof terraces, it finds that some higher velocities, recirculation, and tunnelling effects are experienced, but that the implementation of tree landscaping will mitigate these effects to slight/imperceptible levels.
- 11.13.4. The EIAR aims to identify areas where pedestrian safety/comfort may be compromised as a result of 'wind' with reference to the 'Lawson comfort categories'. At ground floor, it predicts that no areas will be unacceptable for pedestrian comfort, and that only the building corners and main entrance to the courtyard are unsuitable for 'long-term sitting' (while being suitable for all other activities). Regarding the roof terraces, it is stated that areas are not suitable for 'long-term sitting', and some areas that are not suitable for 'short-term sitting'. However, it is stated that the analysis considers worst-case scenarios throughout the whole year and that a roof terrace would not be used all year round, with long-term sitting only taking place during the spring-summer. The EIAR concludes that boundaries and planting will mitigate effects on comfort and that there will be no critical issues with regard to safety having considered Lawson's 'distress criteria'. The EIAR considers permitted developments at the Rockbrook site (ABP Ref 304405-19) and the Sandyford Central site (ABP Ref

305940-19) but concludes that there will be no significant effects as a result of cumulative impacts.

- 11.13.5. Subject to the implementation of landscaping mitigation measures, the EIAR predicts that the residual impacts will be slight or imperceptible, and safety and pedestrian comfort will always be maintained.
- 11.13.6. The Planning Authority submission raises concerns in relation to the wind impacts on the proposed terraces and I have acknowledged in Section 10.6 of this report that this would limit the quality and usability of the spaces for prospective residents. However, I do not consider that this would constitute a significant environmental effect in the context of EIA. The main potential for significant environmental effects would relate to the surrounding public realm and I am satisfied that the EIAR study has demonstrated that significant effects will not occur.

#### Conclusion

- 11.13.7. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I am satisfied that impacts predicted to arise in relation to wind would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of wind.

#### **11.14. Landscape and Visual**

- 11.14.1. This Chapter assesses the impact of the proposed development on the receiving environment, both in terms of townscape character and visual amenity. The study area extends to a radius of 3km from the site, with Sandyford Business District dominating the central study area. A Zone of Theoretical Visibility (ZTV) map has also been included to show the extent of visibility for different building heights within the proposed development. Fourteen 'Viewshed Reference Points' were also selected based on various categories of receptor.
- 11.14.2. Considering the medium-low magnitude and short-term duration of construction phase impacts, together with the low sensitivity of the receiving townscape, the EIAR predicts that construction stage impacts will be slight / negative. It acknowledges

that, post-construction, the proposed development will add considerable scale to the site and immediate surroundings and will be something of a landmark building that will be one of the taller buildings when viewed from the wider context. However, the nature/magnitude of the townscape impact is deemed to be low and of a 'positive' quality. The magnitude of the visual effects is also evaluated from each of the selected 'viewshed' points and the EIAR considers that any negative impacts on the quality of visual amenity will be only 'slight' at worst. It also acknowledges other permitted development in the area but considers that the cumulative visual impact with the proposed development will be imperceptible.

11.14.3. The EIAR states that mitigation measures relating to landscape / townscape and visual effects are wholly embedded in the proposed design and therefore the 'residual effects' will be as previously discussed.

11.14.4. The Planning Authority submission raises serious concerns about the EIAR conclusion on visual impact, particularly in relation to distant views to the surrounding coast and mountains. As outlined in Section 10.5 of this report, I consider that the proposed development is of excessive height and scale and that its visual impact would militate against the future development of a residential neighbourhood at this location. In the wider landscape context, I would acknowledge that the proposed development would be consistent with the visual impact of a limited number of isolated landmark buildings in the area.

### Conclusion

11.14.5. I have considered all the information on file, including submissions received and the information contained in the EIAR. While I have raised concerns in relation to the height and scale of the development in the context of the future planning and development of the area, I do not consider this constitutes a significant effect on the existing environment in the context of EIA. I am satisfied that impacts predicted to arise in relation to the existing landscape and visual amenity would be avoided, managed, or mitigated by the measures which form part of the proposed scheme, or by proposed mitigation measures. Therefore, I consider that the proposed development would not have any unacceptable direct impacts in terms of landscape and visual amenity.

## 11.15. **Material Assets**

- 11.15.1. This Chapter assesses the impact of the proposed development on built services and infrastructure including drainage, telecommunications, electricity, gas, and water supply. The EIAR acknowledges that construction stage activities may have temporary negligible impacts but states that construction management measures will ensure that potential impacts will be imperceptible. There will be an increased demand on infrastructure at operational stage, but impacts are likely to be negligible and imperceptible. Microwave links will experience impact and the proposed development facilitates a 3m high pole which will be able to accept replacement dishes to facilitate mitigation if necessary.
- 11.15.2. The EIAR proposes mitigation measures in the form of construction management practices and consultation with the relevant service providers, and no significant residual effects are predicted.

### Conclusion

- 11.15.3. I have considered all the information on file, including the EIAR, and I note that no submissions have been received in relation to material assets. Having regard to the above, I am satisfied that impacts predicted to arise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of material assets.

## 11.16. **Interactions, Cumulative and Combined Effects**

- 11.16.1. This Chapter assesses the interactions/inter-relationships between environmental effects and cumulative effects of the proposed development in combination with other relevant committed development in the area. The main interactions identified in the EIAR apply to 'population & human health', which has the potential to interact with water, air quality & climate, noise and vibration, traffic & transport, wind, landscape & visual, and material assets. It also states that 'Land, Soils and Geology' has interactions with water, air quality & climate, noise and vibration, traffic & transport, and material assets. The EIAR states that the identified interactions have been considered in the relevant chapters.

11.16.2. With regard to cumulative and combined effects, 4 other permitted schemes were selected based on their size, scale and proximity. The EIAR considers the cumulative effects in respect of each specific discipline and conclude that any effects will be imperceptible.

### Conclusion

11.16.3. I am satisfied that the predicted interactions, cumulative and combined impacts have been adequately identified and that potential impacts have been satisfactorily addressed and mitigated in relevant sections throughout the EIAR. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I am satisfied that impacts relating to interactions, cumulative and combined effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, combined or cumulative interactions.

### **11.17. Mitigation and Monitoring Measures**

11.17.1. Chapter 16 of the EIAR collectively presents all of the mitigation and monitoring measures that are considered necessary to protect the environment prior to, and during, the construction and operation phases of the proposed development.

### **11.18. Reasoned Conclusion**

11.18.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, the reports from the planning authority and submissions by prescribed bodies in the course of the application, I am satisfied that the potential effects of the proposed development have been adequately identified, described and assessed, and I am satisfied that there will be no other likely significant environmental effects arising from the proposed development. Therefore, I consider that the proposed development would not have any unacceptable, direct, indirect or cumulative effects on the environment.

## 12.0 Appropriate Assessment Screening

The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the Planning and Development Act 2000 (as amended), are considered fully in this assessment.

### 12.1. Background to the application

12.1.1. As part of the application, an Appropriate Assessment Screening Report was compiled by Golder Associates Ireland Limited in April 2021. In summary, the report's assessment of the significance of effects on Natura 2000 sites is as follows:

- Impacts on 'water' - Given proposals to connect to existing surface and wastewater services; the absence of watercourses on or near the site; the separation distance from Natura 2000 sites; and measures to contain construction emissions; no risks would be afforded to Natura 2000 sites as defined by the source-pathway model of likelihood.
- Impacts on 'air quality' – Given the low risk of dust mobilisation; embedded design parameters; and the separation distance from Natura 2000 sites; it is highly unlikely that dust deposition will have an impact on Natura 2000 sites.
- 'Noise' impacts – Given the distance of SPAs from the site and relative ambient noise levels, noise from the development will have a negligible impact on SPAs.
- 'Cumulative impact' – Based on the upgrade of the Ringsend Wastewater Treatment Plant and the incorporation of similar design parameters and good practice in other developments, cumulative impacts regarding nutrient loading and the potential for eutrophication of freshwater and marine habitat will be imperceptible.

12.1.2. The applicant's AA Screening Report concludes that it is *'likely that the residential development of the site will not have a likely significant effect on the Natura 2000 sites pertinent to this assessment'*. The conclusion is mainly based on the absence of aquatic or terrestrial connectivity and the distance between the application site and Natura 2000 sites.

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

12.1.4. 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 would have any possible interaction that would be likely to have significant effects on a European Site(s).

## 12.2. **Description of the development**

12.2.1. The proposed development comprises the construction of a build-to-rent residential development with 428 no. apartment units. A detailed description of the development is set out in Section 3 of this report. With particular relevance to this AA screening exercise, I note that the following 'embedded design parameters' are included:

- Surface water from the site will be discharged to the existing sewer network. The proposed surface water storage network has been designed for the 1 in 100-year storm event (with a 10% allowance for climate change); a proposed 'green roof system' and SUDS measures will provide additional storage; discharge flows from the site will be reduced to a 'greenfield rate'; and, an oil and grit interceptor will be included to prevent material and contaminant discharge.
- Wastewater will discharge to the existing sewer network and will be processed at the Irish Water wastewater treatment plant at Ringsend.

12.2.2. The site is located in an existing built-up residential and commercial zone and is predominantly composed of artificial surfaces. In terms of habitat classification, the site is almost entirely composed of 'Hardstanding', with just a minor inclusion of 'Scattered trees'.

## 12.3. **Submissions and observations**

12.3.1. None of the submissions or observations received have raised the issue of Appropriate Assessment. The Irish Water submission confirms that, based on the details provided by the applicant and the capacity available in IW networks, new connections to service the development are feasible. IW requests that conditions be



applied to any grant requiring connections agreements and compliance with IW standards.

## 12.4. European Sites

12.4.1. The applicant's AA Screening Report lists the following Natura 2000 sites within a 15km radius of the application site:

| European Site                                | Site Code | Distance (km) |
|--|-----------|---------------|
| South Dublin Bay and River Tolka Estuary SPA | 004024    | 3.6           |
| South Dublin Bay SAC                         | 000210    | 3.6           |
| Wicklow Mountains SAC                        | 002122    | 6.4           |
| Wicklow Mountains SPA                        | 004040    | 6.7           |
| Knocksink Wood SAC                           | 000725    | 7.0           |
| Dalkey Islands SPA                           | 004172    | 7.5           |
| Rockabill to Dalkey Island SAC               | 003000    | 7.9           |
| Ballyman Glen SAC                            | 000713    | 8.0           |
| North Bull Island SPA                        | 004006    | 8.6           |
| North Dublin Bay SAC                         | 000206    | 8.7           |
| Glenasmole Valley SAC                        | 001029    | 10.4          |
| Bray Head SAC                                | 000714    | 11.9          |
| Howth Head SAC                               | 000202    | 12.6          |
| Howth Head Coast SPA                         | 004113    | 14.0          |
| Baldoyle Bay SPA                             | 004016    | 14.3          |
| Baldoyle Bay SAC                             | 000199    | 14.3          |

12.4.2. Having regard to the significant separation distances from Natura 2000 sites, I consider that that any potential for significant effects is limited to the question of surface water and wastewater emissions and their potential downstream impacts on the receiving environment in Dublin Bay. My screening assessment will therefore focus on the impact of the proposal on the conservation objectives of Natura 2000

sites around Dublin Bay and their qualifying interests (as set out in the table below). I am satisfied that no other European Sites fall within the possible zone of influence.

| <b>European Site</b>                         | <b>Conservation Objectives and Qualifying Interests (QI's)</b>  |
|--|---|
| South Dublin Bay SAC                         | To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide.  |
| South Dublin Bay and River Tolka Estuary SPA | To maintain the favourable conservation condition of the following QI's (excluding 'Grey Plover' which is proposed for removal): Light-bellied Brent, Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern, Arctic Tern, Wetland and Waterbirds   |
| North Bull Island SPA                        | To maintain the favourable conservation condition of the following QI's: Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Black-headed Gull, Wetland and Waterbirds  |
| Rockabill to Dalkey Island SAC               | To maintain the favourable conservation condition of Reefs and Harbour Porpoise.  |
| Dalkey Islands SPA                           | To maintain or restore the favourable conservation condition of Roseate Tern, Common Tern, Arctic Tern.   |
| North Dublin Bay SAC                         | To maintain or restore the favourable conservation condition of the following QI's: Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes), Fixed coastal dunes with herbaceous vegetation (grey dunes), Humid dune slacks, <i>Petalophyllum ralfsii</i> (Petalwort). |
| Howth Head SAC                               | To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts, European dry heaths  |

|                  |  |
|------------------|--|
| Howth Head SPA   | To maintain or restore the favourable conservation condition of Kittiwake  |
| Baldoyle Bay SAC | To maintain the favourable conservation condition of the following QI's: Mudflats and sandflats not covered by seawater at low tide, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows |
| Baldoyle Bay SPA | To maintain the favourable conservation condition of the following QI's: Light-bellied Brent Goose, Shelduck, Ringed Plover, Golden Plover, Grey Plover, Bar-tailed Godwit, Wetlands   |

## 12.5. Potential Effects on Designated Sites

12.5.1. Having carried out AA screening for other developments in the Dublin area and having reviewed the recent SHD applications on this site and the surrounding Sandyford area, I am aware that the development is connected to European Sites within Dublin Bay via the surface water and foul water networks. Surface water from the development will connect to the local surface water sewer network which, according to the current EIAR and previous applications, will discharge to the Carysfort Maretimo / Brewery Stream and ultimately discharge to the Irish Sea/Dublin Bay at Blackrock. Wastewater from the development will connect to the existing foul sewer network and ultimately to Ringsend WWTP prior to discharge to Dublin Bay at Poolbeg. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.

### Surface Water

12.5.2. The development incorporates SUDS measures and a surface water management system to regulate discharge flows in terms of quantity and quality. There is also potential for surface water contamination during construction works but I am satisfied that best-practice construction management will satisfactorily address this matter. These are standard design measures and are not considered to provide mitigation for any negative effect to a Natura 2000 site. I am satisfied that there is no possibility of significant impacts on European sites within Dublin Bay from surface water pressures from the development for the following reasons:

- Any pollution event is likely to be short in duration (i.e. confined to storm events during the construction phase) and contained at the scale of the site;
- There would be significant dilution capacity within the existing drainage network and receiving water environment;
- There is known potential for waters in Dublin Bay to rapidly mix and assimilate pollutants; and
- The incorporation of attenuation and filtration measures within the design of the development prior to discharge to the surface water network, which will reduce the effects of storm flows on downstream European Sites during operation.

### Wastewater

12.5.3. The development will result in an increased P.E. loading to the Ringsend WWTP. Although Ringsend WWTP currently operates above its capacity of 1.64 million P.E., there is no possibility that the additional foul water loading resulting from the development will result in significant effects on European sites within Dublin Bay for the following reasons:

- The coastal waters in Dublin Bay are classed as ‘unpolluted’ by the EPA and there is no evidence that pollution through nutrient input is affecting the conservation objectives of sites within Dublin Bay;
- The Ringsend WWTP extension is likely to be completed in the short term (with a PE of 2.1 million in 2023 and 2.4 million in 2025) to ensure statutory compliance with the WFD. This is likely to maintain the ‘Unpolluted’ water quality status of coastal waters despite potential pressures from future development;
- The proposed development involves an estimated PE of 1156 and a peak flow discharge of 6.62 l/s, which will not be significant in the context of existing and proposed wastewater capacity; and
- Enriched water entering Dublin Bay has been shown to rapidly mix and become diluted such that the plume is often indistinguishable from the rest of bay water.

12.5.4. No other European sites are connected downstream of the application site, which has a brownfield location within a zoned and serviced urban area. No Qualifying Interest (QI) fauna or habitats were noted within the development site during

inspection. There is, therefore, no potential for significant effects on a European Site resulting from loss of habitats or direct loss of ex-situ QI species as a result of the proposed development.

## **12.6. In Combination or Cumulative Effects**

12.6.1. The applicant's AA Screening Report has considered cumulative impacts, including 4 other permitted / under construction developments of a similar scale. However, it concludes that, based on the upgrade of the Ringsend Wastewater Treatment Plant and the incorporation of similar design parameters and good practice in other developments, cumulative impacts regarding nutrient loading and the potential for eutrophication of freshwater and marine habitat will be imperceptible.

12.6.2. Having reviewed the AA screening for other projects in the area, I am satisfied that there is no possibility of significant effects on any European site arising from surface and foul water discharges during the construction and / or operation of the proposed development in combination with other plans or projects. Similar to that outlined in Section 12.5 above, I have reached this conclusion on the basis of the 'unpolluted' classification and dilution capacity of coastal waters in Dublin Bay; proposals to upgrade the Ringsend WWTP in the short-term; and the incorporation of best-practice SUDS and construction management measures.

## **12.7. Mitigation Measures**

13.7.1. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

## **12.8. AA Screening Determination**

12.8.1. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), Dalkey Islands SPA (004172), Rockabill to Dalkey Island SAC (003000), Howth Head SAC (000202), Howth Head Coast SPA (004113), Baldoyle Bay SPA (004016) or Baldoyle Bay SAC (000199), or any European Sites,

in view of the sites' conservation objectives, and Appropriate Assessment (Stage 2), including the submission of Natura Impact Statement is not, therefore, required

12.8.2. This determination is based on the following:

- The nature and scale of the proposed development and the location of the site on serviced lands;
- The distance of the proposed development from European Sites and the limited potential for pathways;
- The incorporation of best-practice construction management and surface water management;
- The dilution capacity within the existing drainage network and the receiving water environment in Dublin Bay;
- Proposals to upgrade the capacity of the Ringsend WWTP in the short-term to facilitate future development in compliance with the provisions of the Water Framework Directive.

## 13.0 Recommendation

Having regard to the foregoing, I recommend that permission be **refused** for the proposed development for the reasons and considerations set out hereunder.

## 14.0 Recommended Draft Board Order

**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dun Laoghaire-Rathdown County Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 30th day of April 2021 by Atlas GP

Ltd., care of Hughes Planning and Development Consultants, 70 Pearse Street, Dublin 2.

**Proposed Development comprises of the following:**

(i) construction of a Build-To-Rent residential development within a new part six, part eight, part nine, part eleven storey rising to a landmark seventeen storey over basement level apartment building (40,814sq.m) comprising 428 no. apartments (41 no. studio, 285 no. one-bedroom, 94 no. two-bedroom & 8 no. three-bedroom units) of which 413 no. apartments have access to private amenity space, in the form of a balcony or lawn/terrace, and 15 no. apartments have access to a shared private roof terrace (142sq.m) at ninth floor level;

(ii) all apartments have access to 2,600sq.m of communal amenity space, spread over a courtyard at first floor level and roof terraces at sixth, eighth and ninth floor levels, a 142sq.m resident's childcare facility at ground floor level, 392sq.m of resident's amenities, including concierge/meeting rooms, office/co-working space at ground floor level and a meeting/games room at first floor level, and 696sq.m of resident's amenities/community infrastructure inclusive of cinema, gym, yoga studio, laundry and café/lounge at ground floor level. The café/lounge will primarily serve the residents of the development and will be open for community use on a weekly/sessional basis;

(iii) provision of 145 no. vehicular parking spaces (including 8 no. mobility parking spaces, 2 no. club-car spaces and 44 no. electric charging spaces), 5 no. motorcycle parking spaces, bin stores, plant rooms, switch room and 2 no. ESB sub-stations all at ground floor level; provision of bicycle parking (752 no. spaces), plant and storage at basement level; permission is also sought for the removal of the existing vehicular entrance and construction of a replacement vehicular entrance in the north-western corner of the site off Carmanhall Road;

(iv) provision of improvements to street frontages to adjoining public realm of Carmanhall Road & Blackthorn Road comprising an upgraded pedestrian footpath, new cycling infrastructure, an increased quantum of landscaping and street-planting, new street furniture inclusive of bins, benches and cycle parking facilities and the upgrading of the existing Carmanhall Road & Blackthorn Road junction through provision of a new uncontrolled pedestrian crossing; and,

(v) All ancillary works including provision of play equipment, boundary treatments, drainage works - including SuDS drainage, landscaping, lighting, rooftop telecommunications structure and all other associated site services, site infrastructure and site development works, all located at the Former Avid Technology International Site, Carmanhall Road, Sandyford Industrial Estate, Dublin 18.

## **Decision**

**Refuse permission for the above proposed development based on the reasons and considerations set out below.**

## **Matters Considered**

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

## **Reasons and Considerations**

1. Having regard to the proposed quantum and resulting form of development, in particular the enclosed nature of the scheme layout and height on this restricted site, it is considered that the proposed development would result in a substandard quality of communal open space and an inadequate range and extent of resident support facilities and amenities serving the entire development. Furthermore,



substandard bicycle parking facilities have been provided, in particular with regard to accessibility for all residents and the quantum provided for visitors, and the residential amenity of some individual apartments is deficient in relation to private amenity space and daylight availability. In the absence of suitable alternative proposals to compensate for design deficiencies in the proposed units and the scheme as a whole, the Board considered that the proposed development would result in a substandard level of residential amenity for the future occupants of the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would materially contravene the height and density provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, including the Sandyford Urban Framework Plan. The Board is not satisfied that a material contravention of the Development Plan is justified in this instance, in that the proposed development fails to meet the criteria set out in Section 3.2 and Specific Planning Policy Requirement 3 of the Urban Development and Building Height Guidelines for Planning Authorities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Stephen Ward  
Senior Planning Inspector  
29<sup>th</sup> July 2021

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