



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-310112-21**

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#### **Strategic Housing Development**

Demolish warehouse buildings and construct 282 apartments, a crèche, a café, a remote office hub, a gym and associated development

#### **Location**

Former Eason's Warehouse, Brickfield House, Brickfield Drive, Crumlin, Dublin 12 ([www.brickfieldhouseshd.ie](http://www.brickfieldhouseshd.ie))

#### **Planning Authority**

Dublin City Council

#### **Applicant**

Durkan (Brickfield Drive) Ltd.

#### **Prescribed Bodies**

1. Irish Water
2. Minister for Culture, Heritage and the Gaeltacht

#### **Observers**

1. Anita Cruise & Francis Cruise
2. Brian O'Connell

3. Brickfield Drive and Keeper Road  
Residence Association
4. Brid Smith & Hazel de Nortuin
5. Cecilia Millane
6. Colette & David Hartigan
7. Daithí Doolan
8. David Ryan
9. Deirdre Cummins & Michelle Kenny
10. Drimnagh Residents' Community  
Group
11. Elizabeth & Thomas Kenny
12. Elizabeth Butler
13. Emma Roycroft & Ian Fitzgerald
14. Evelyn McDonald
15. Gary & Aisling Saunders
16. Gary Saunders & Others
17. Gillian Uí Mhearain
18. Karen Nolan & Family
19. Karina Waters
20. Liam & Angela Keehan
21. Mary & John Gaffney
22. Mary Seery-Kearney
23. Mary McCarthy
24. Michelle Murphy & Joseph Kelly
25. Mick Heneghan
26. Norah Mason
27. Pat Lenihan & Others
28. Pauline Deignan
29. Resident of 64 Brickfield Drive
30. Sean Ryan
31. St. John Bosco Football Club

**Date of Site Inspection**

1<sup>st</sup> July 2021

**Inspector**

Colm McLoughlin

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## **1.0 Introduction**

- 1.1. This report provides an assessment of a proposed strategic housing development submitted to An Bord Pleanála under the provisions of section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (hereinafter referred to as 'the Act of 2016').

## **2.0 Site Location and Description**

- 2.1. Situated 3km to the southwest of Dublin city centre in the Drimnagh area, the application site primarily comprises warehouse buildings and measures a stated 1.37 hectares. The site also includes approximately a 200m stretch of Brickfield Drive leading towards and crossing Crumlin Road. The warehouse buildings are stated to have been most recently used by St. James' Hospital for storage purposes with a car park area and a gated access to the facility off Brickfield Drive. The site is dominated by a building stated to measure 5,408sq.m and varying in height from 4.5m to 12.3m, with lower red-brick elements, cladding to the higher elements and a silo tank located directly to the rear of this adjacent to a service yard for the facility. A single-storey storage building is located on the western boundary, while there is a secondary car park and a lawn area to the south of the main building. There are mature Lawson Cypress trees along the boundary with no.27 Brickfield Drive. The topographical survey submitted with the application reveals that the ground levels on site are relatively level.
- 2.2. The immediate area is characterised by a mix of land uses, including recreational grounds comprising walkways, playing pitches and playgrounds adjoining to the north in Brickfield Park and to the west in the Iveagh grounds. Two-storey semi-detached and terraced housing is situated along Brickfield Drive to the east of the site and the Crumlin College of Further Education, as well as a variety of commercial uses in the Sunshine estate adjoin the site to the south. The boundaries to the site are primarily defined by painted-steel palisade fencing and walls of varying height with security fencing atop.

### 3.0 Proposed Strategic Housing Development

3.1. The proposed strategic housing development would consist of the following elements:

#### Demolition Works

- the demolition and removal of a warehouse building with ancillary office space (5,522sq.m), an ancillary storage building (163sq.m) and a silo tank (72sq.m), as well as site clearance works;

#### Construction Works

- the provision of 282 apartments in 4 no. four to ten-storey blocks (A, B, C and D);
- provision within proposed block C for a childcare facility/crèche (281sq.m), a café (140sq.m) and a public remote-office hub (140sq.m) at ground floor and a public gym and exercise studio (271sq.m) at first floor, alongside residents' ancillary amenity areas, including reception, lounge and meeting room;

#### Ancillary and Supporting Works

- a vehicular access to basement level, as well as shared surface, pedestrian and cyclist accesses, all off Brickfield Drive;
- internal shared surface, fire tender, pedestrian and cyclist routes, lighting and signage;
- a total of 119 car parking spaces, including five set-down / drop-off spaces at surface level and four car-share spaces with one at surface level, 558 cycle parking spaces and seven motorcycle spaces;
- the provision of hard and soft landscaping, including gated-access along Brickfield Drive and the provision of private, communal and public open spaces, comprising two play areas, a central and southern courtyard and external seating areas;
- drainage and civils works to facilitate the development, including attenuation tanks, sustainable urban drainage systems (SUDS), surface and foul drainage infrastructure and all other associated and ancillary development/works.

3.2. The following tables set out the key features of the proposed strategic housing development:

**Table 1. Stated Development Standards**

Site Area (excluding roadway)	1.23ha
No. of apartments	282
Part V units (%)	28 (10%)
Residential Gross Floor Area (GFA)	19,072sq.m
Non-residential GFA	1,088sq.m
Total GFA	24,564sq.m
Gross Residential Density	228 units per ha
Open Space	3,593sq.m
Plot Ratio	2.0
Site Coverage	29%

**Table 2. Unit Mix**

	Studio	One-bedroom	Two-bedroom	Total
Apartments	1	126	155	282
% of units	0.4%	44.7%	54.9%	100%

**Table 3. Maximum Building Heights**

	Storeys	Height
New Build	4 to 10	34.66m
Existing	2	12.3m

**Table 4. Parking Spaces**

Car parking	119
Motorcycle parking	7
Cycle parking	558

3.3. The application was accompanied by various technical reports and drawings, including the following:

- Planning Report;
- Statement of Consistency;
- Material Contravention Statement;
- Statement of Response to Pre-Application Consultation Opinion;

- Community and Social Infrastructure Audit;
- Architectural Design Statement, including Housing Quality Assessment;
- Part V-related Correspondence;
- Landscape Management and Maintenance Plan Design Book;
- Landscape Design and Access Statement;
- Townscape and Visual Impact Assessment;
- Verified Views and Computer-Generated Images (CGIs);
- Daylight and Sunlight Assessment Report;
- Drainage Design Report;
- Traffic and Transport Assessment, including Residential Travel Plan;
- Flood Risk Assessment;
- Environmental Impact Assessment (EIA) Screening Statement;
- Ecological Impact Assessment Report, including Bat Report;
- Appropriate Assessment (AA) Screening Report;
- Natura Impact Statement (NIS);
- Arboricultural Assessment;
- Mechanical and Electrical Utility Report;
- Sustainability and Energy Report;
- Building Lifecycle Report;
- Public Lighting Report;
- Noise and Vibration Impact Assessment;
- Wind and Microclimate Modelling;
- Construction Environmental Management Plan.



## **4.0 Planning History**

### **4.1. Application Site**

4.1.1. The most recent planning application relating to the subject site is the following:

- ABP reference (ref.) PL29S.231778 / Dublin City Council (DCC) planning register (reg.) ref. 1994/08 – permission was granted by the Board in March 2009 for the demolition of buildings on site and the construction of 52 apartments and 12 townhouses in 2 no. two to six-storey blocks (A and B), science and technology-based uses in 2 no. three to five-storey industry/office blocks measuring 9,784sq.m, a crèche and all ancillary site works. Condition two of the permission required a reduction in blocks A, B and C from five to four storeys resulting in the omission of 12 apartments and 889sq.m of science and technology floor area.

### **4.2. Surrounding Area**

4.2.1. Recent planning applications in the neighbouring area are generally reflective of the wide range of land uses in the vicinity. At present, the closest strategic housing development applications in the vicinity of the application site relate to the following:

- ABP ref. 303435-19 – permission was granted by the Board in April 2019 for 265 build to rent apartments, a retail/ café unit and associate development on the former Dulux Factory site located approximately 700m to the northwest of the application site on Davitt Road, Dublin 12;
- ABP ref. 305061-19 – permission was granted by the Board in November 2019 for 317 student bed spaces and a café in a three to seven–storey block, on a site located approximately 700m to the east of the application site at no.355 South Circular Road, Dublin 8;
- ABP ref. ref. 309627-21 – permission was granted by the Board in June 2021 for demolition of buildings and construction of 188 build to rent apartments in three to nine-storey blocks with a maximum height of 27.85m and two commercial units on the former Heidelberg/Miller building and South Circular

Road Garage sites located approximately 700m to the northwest of the application site also on Davitt Road, Dublin 12.

4.2.2. The following application relates to a site 150m to the north of the subject application site:

- DCC ref. 2463/21 – application lodged in March 2021 for the demolition of commercial buildings on Keeper Road and the construction of a five to six storey mixed-use building containing 53 apartments, a crèche and a retail unit. In May 2021 further information was requested in relation to this application.

## **5.0 Section 5 Pre-application Consultation**

### **5.1. Pre-application Consultation**

5.1.1. A pre-application consultation meeting between representatives of An Bord Pleanála, the applicant and the Planning Authority took place on the 30<sup>th</sup> day of November, 2020, in respect of a proposed development comprising 282 apartments, a childcare facility/crèche, café, tenant amenity areas, public gym and associated site works. Copies of the record of this consultation meeting and the Inspector's report are appended to this report. The main topics raised for discussion at the tripartite meeting were as follows:

- principle of the development, including compliance with the 'Z10' zoning;
- design and layout, including building heights and viewpoints;
- proposed residential amenity and development standards, including dual aspect unit provision, internal views of hybrid aspect units, block separation distances and overlooking of the crèche area;
- neighbouring residential amenities, including proposals for existing trees;
- traffic and transportation issues, including cycle infrastructure and refuse collection access;
- ecological and environmental issues, including survey data, tree root protection proposals and boundary details;

- liaison with Irish Water.

## 5.2. Board Opinion

5.2.1. In the Notice of Pre-Application Consultation Opinion (ref. ABP-307259-20) dated the 18<sup>th</sup> day of December, 2020, An Bord Pleanála stated that it was of the opinion that the documentation submitted would constitute a reasonable basis for an application under section 4 of the Act of 2016. In the opinion of An Bord Pleanála, the following specific information, in addition to the standard strategic housing development application requirements, should be submitted with any application for permission arising:

- a statement addressing consistency with the Development Plan;
- additional CGIs/visualisations/3D-modelling;
- a Housing Quality Assessment;
- details and revised proposals addressing transport issues, including connectivity, access, layouts, parking provision, a car park management plan, a mobility management plan and a construction traffic management plan;
- impacts along Brickfield Drive, including impacts on trees and biodiversity;
- materials and finishes details;
- report addressing residential amenity, including potential for overlooking;
- a wind environment report;
- plan of the proposed open space, including delineation of areas;
- a masterplan to address future proposals for the site to the west and southwest.

The applicant was requested to notify the following prescribed bodies in relation to the application:

- Irish Water;
- The National Transport Authority;
- Transport Infrastructure Ireland;

- The Minister for Culture, Heritage and the Gaeltacht;
- The Heritage Council;
- An Taisce;
- Dublin City Childcare Committee.

### 5.3. Applicant's Response to Opinion

- 5.3.1. The application includes a report titled 'Statement of Response to Pre-Application Consultation Opinion'. Section 4 of the applicant's response report outlines the specific application information that has been submitted, while also detailing how the development is considered to comply with the respective planning requirements and meet the Board's opinion.

## 6.0 Planning Policy

### 6.1. National Planning Policy

#### Project Ireland 2040 - National Planning Framework

- 6.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP). The NPF encapsulates the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040, and within this framework Dublin is identified as one of five cities to support significant population and employment growth. National policy objective (NPO) 3(b) aims to deliver at least half of all new homes within the existing built-up footprints of the five largest cities.

The NPF supports the requirement set out in the Government's strategy for 'Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)' in order to ensure the provision of a social and affordable supply of housing in appropriate locations. Section 4.5 of the NPF addresses the achievement of infill and brownfield development, including NPO 11 supporting a presumption in favour of development encouraging more people and generating more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth. Further NPOs for people, homes and communities

are set out under chapter 6 of the NPF. NPOs of relevance to this application include NPOs 13, 27, 33 and 35 relating to densification and compact urban growth.

### Ministerial Guidelines

6.1.2. In consideration of the nature and scale of the proposed development, the receiving environment and the site context, as well as the documentation on file, including the submissions from the Planning Authority and other parties addressed below, I am satisfied that the directly relevant Section 28 Ministerial Guidelines, including revisions to same, comprise:

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020);
- Design Manual for Urban Roads and Streets (2019);
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009);
- The Planning System and Flood Risk Management, including the associated Technical Appendices (2009);
- Childcare Facilities – Guidelines for Planning Authorities (2001).

6.1.3. The following planning guidance and strategy documents are also considered relevant:

- Traffic Management Guidelines (Department of Transport, Tourism and Sport, 2019);
- Climate Action Plan (2019);
- British Standard (BS) EN 17037:2018 'Daylight in Buildings' (2018);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Traffic and Transport Assessment Guidelines (Transport Infrastructure Ireland, 2014);

- Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (BRE, 2012);
- Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities (2009);
- Smarter Travel – A Sustainable Transport Future. A New Transport Policy for Ireland 2009 – 2020 (Department of Transport, 2009);
- Best Practice Guidelines for Delivering Homes, Sustaining Communities – Quality Housing for Sustainable Communities (2007);
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).

## 6.2. Regional Planning Policy

6.2.1. The ‘Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031’ supports the 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. The following regional policy objectives (RPOs) are considered relevant to this application:

- RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city and its suburbs, while a target of at least 30% is required for other urban areas;
- RPO 4.1 – the relevant Local Authorities are to determine the hierarchy of settlements in accordance with the hierarchy, the guiding principles and the typology of settlements in the RSES;
- RPO 4.2 – infrastructural investment and priorities shall be aligned with the spatial planning strategy of the RSES.

6.2.2. According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development land. Key principles of the MASP include compact sustainable growth and accelerated housing

delivery, integrated transport and land use, and the alignment of growth with enabling infrastructure.

### 6.3. Local Planning Policy

6.3.1. Following the adoption of variation no.26 to the Dublin City Development Plan 2016-2022 on the 10<sup>th</sup> day of March, 2020, the application site has a zoning objective 'Z10 – Inner Suburban and Inner-City Sustainable Mixed-Uses', with a stated objective to consolidate and facilitate the development of inner-city and inner-suburban sites for mixed uses, with residential the predominant use in suburban locations, and office/retail/residential the predominant uses in inner-city areas. The adopted variation also requires a Masterplan for the overall subject site and the adjoining Sunshine commercial estate:

- 'Dublin City Council recognises that there is an urgent need to rezone land for housing and mixed uses to meet the demands of the City. This represents an opportunity for Dublin to rejuvenate and grow as a sustainable city comprising vibrant neighbourhoods and sustainable communities.
- Adequate transportation, educational health and recreational amenities must be included. As such Dublin City Council will require the preparation and submission of a masterplan demonstrating how a sustainable mix of uses will be achieved on the overall site as part of the integrated planning and development of the area.'

6.3.2. The varied Plan requires the primary uses on these zoned lands to cater for a relatively intensive form of development. Where significant numbers of employment and or residents are envisaged, a travel plan will be required based on the provisions of the Development Plan. Permissible uses in 'Z10' areas include residential, childcare facility, office and restaurant. There is a requirement for 10% of the 'Z10' lands to be provided as meaningful public open space as part of their development proposals, although this can be addressed via contributions in lieu of a shortfall, if necessary. The indicative plot ratio for 'Z10' lands is stated as 2.0 to 3.0 and a 50% indicative site coverage is also provided for in the Development Plan.

6.3.3. Section 4.5.2 of the Development Plan addressing 'Inner Suburbs and Outer City as Part of the Metropolitan Area' states that amongst other issues the overall challenge is to develop the suburbs as building blocks to strengthen the urban structure of the

city and for these areas to comprise the full range of district centres. Crumlin is identified as an urban village or a 'District Centre' in the Development Plan, which is below the scale of a 'Key District Centre', but above a neighbourhood centre. The district centres 'continue to promote an important economic, social and physical focal point for neighbourhoods and communities' according to the Plan.

6.3.4. Under Policy QH1 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 6.1 above. Policy SC13 promotes sustainable densities with due consideration for surrounding residential amenities. The Plan includes a host of policies addressing and promoting apartment developments. The Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (2011) is referenced in the Plan with respect to the consideration of aspect, natural lighting, ventilation and sunlight penetration for new apartments.

6.3.5. Section 16.7.2 of the Development Plan sets out building height limits, including a 16m restriction for commercial and residential buildings in the subject outer-city area. Relevant sections and policies of the Development Plan include the following:

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.9 – Urban Form & Architecture;
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 16.2 – Design, Principles & Standards;
- Section 16.10 - Standards for Residential Accommodation;
- Section 16.38 – Car Parking Standards (Zone 2 – maximum of one space per residential unit) & Cycle Parking Standards (minimum of one space per residential unit).

6.3.6. Dublin City Council has started the preparation of a new Dublin City Development Plan for the period 2022 to 2028. It is understood that the draft Development Plan is intended to be submitted to the Elected Members for their consideration in late November 2021.



## **7.0 Statement of Consistency**

7.1. The applicant has submitted a Statement of Consistency, as per the provisions of Section 8(1)(iv)(I) of the Act of 2016. Section 2 of the statement refers to the provisions of Project Ireland 2040, while Section 3 of the statement addresses Ministerial guidelines, including those referenced in section 6.1 above. Section 4 of the statement focuses on local planning policy. The statement refers to the various documentation and drawings within the application to assert adherence of the proposals to planning policy, objectives and standards. The statement asserts that the proposed development would be consistent with local planning policy and that where proposals vary from local planning policy, specifically with respect to building height, apartment mix and block configuration, the proposals would be consistent with Ministerial guidelines, thereby allowing for permission to be granted for the proposed development.

## **8.0 Material Contravention Statement**

8.1. The applicant has submitted a Material Contravention Statement, as provided for under Section 8(1)(iv)(II) of the Act of 2016. The applicant asserts that the proposed development would materially contravene the Development Plan solely with respect to the proposed building heights, apartment mix and block configuration. To justify the proposed building heights, apartment mix and block configuration for the proposed development, the applicant sets out the following:

- the site is underutilised in its present planning and environmental context, while the proposals would provide for a high-quality scheme with transition in building scales, alongside planning gains for the area in terms of the housing mix and non-residential uses proposed, and the overall development would contribute to the vibrancy and vitality of the area;
- the site is situated in a low-rise area of the city where new buildings are limited to a height of 16m based on Development Plan provisions. The subject proposals would provide for four to ten-storey buildings, including a maximum building height of 34m close to public transport and various local amenities. Notwithstanding this, the proposed building heights are permissible having regard to national policy, including Specific Planning Policy

Requirement (SPPR) 3(a) of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) (hereinafter the 'Building Heights Guidelines'), which also mandate an allowance for increased building heights in suitable locations that provide an appropriate density for infill sites that are well serviced by public transport and local amenities;

- a total of 45% one-bedroom units and no three-bedroom units are proposed, which is in conflict with Development Plan housing mix requirements seeking a maximum of 25% to 30% one-bedroom units and a minimum of 15% three-bedroom units or larger. SPPR 1 of the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (hereinafter the 'New Apartments Guidelines') allows for up to 50% one-bedroom or studio-type units and no minimum requirement for three or larger bedroom units;
- with respect to block configuration, it is proposed to serve between nine and 11 apartments per floor by a core in blocks A, B and C, and six to eight apartments per floor by two cores in block D. The Development Plan requires that there shall be a maximum of eight units per core per floor, whereas, SPPR 6 of the New Apartments Guidelines allows for a maximum of 12 apartments per floor per core;
- the SPPRs should take precedence over any guidance issued by the relevant Development Plan.

8.2. In conclusion, the applicant asserts that the Board may grant permission for the subject strategic housing development having regard to Section 37(2)(b) of the Planning and Development Act 2000, as amended (hereinafter 'the Act of 2000').

## **9.0 Observers' Submissions**

9.1.1. A total of 31 third-party submissions in relation to the application were received by An Bord Pleanála within the appropriate period and these were primarily from residents of the immediate area, as well as local-representative groups and local political representatives. The submissions were accompanied by photographs and other details relating to the subject area, as well as extracts from the application

documentation. Issues raised in these submissions can be collectively summarised as follows:

#### Planning and Development Principles

- proposals would result in overdevelopment of the site, particularly when taken in conjunction with the other existing and planned developments in the Drimnagh area, including the adjoining Sunshine commercial estate and the Crumlin College of Further Education sites, as well as applications for 170 apartments on Herberton Road and a six-storey block containing 85 apartments at the junction of Brickfield Drive and Keeper Road;
- a lower density of housing would be more suitable and compliant with the Development Plan standards and the Sustainable Residential Development in Urban Areas Guidelines;
- there is an Integrated Area Plan for Drimnagh since 2008 and a revised plan of this has been prepared for Dublin City Council;
- greater strategic foresight is required in planning for the development of the Drimnagh area;
- other housing within the city that is either under occupied or unoccupied should be used in advance of new build apartments, particularly in light of the post-pandemic implications of increased levels of remote working;
- more comprehensive masterplan proposals for the Sunshine commercial estate and the subject site should have accompanied the application;
- proposals represent an inappropriate infill development for the area, which, if permitted, would lead to a proliferation of further similar developments;

#### Housing Details

- additional housing and employment to the area is welcome, but not in the form proposed, particularly given the extent of smaller apartment units and build-to-rent developments within the area and the need for additional larger affordable family units;
- proposals lack consistency with the housing mix requirements of the Development Plan and the housing typologies would attract occupancy by

transient groups and would not enable adaptive use of the apartments to address evolving needs;

- the costs of the housing should be available and the developer should clarify if this is a cost rental, build-to-rent or shared-equity scheme;
- concerns that the development would be owned and operated by a single investor, which is forcing house prices up and would restrict local persons from owning a property in their community;
- clarification is required regarding the potential access to the proposed services for residents of the Part V units;
- the Part V units should be dispersed throughout the development and not just within proposed block D;
- one-bedroom apartments lack sufficient storage space and smaller units fail to recognise the need for additional space to address situations such as self-isolation;
- a 5m minimum width for the ground-floor studio apartment is not achieved, service shafts have not been detailed and a door to unit B.00.04 conflicts with a wall location;
- the law has changed applying to additional duties on single investor funds purchasing development;

#### Design and Building Heights

- the height, appearance and scale of the development is out of character with the surrounding area, which is predominated by two-storey housing;
- building heights would materially contravene Development Plan standards and would restrict lighting to the park, including a children's playground;
- considering the risks associated with virus spreading, greater consideration for outdoor facilities is now required;
- clarity is required regarding boundary treatments, gates and the potential implications for trees within the park;
- there would be a lack of communal services in three of the four blocks;

- existing and proposed views of the development have been omitted from the visuals submitted;

#### Local Amenities

- the proposals would result in reduced privacy and light to neighbouring homes along Brickfield Drive and also to the park, including proposed new dressing room facilities;
- two storeys should be omitted from proposed block D to address impacts on housing along Brickfield Drive;
- noise and vibration is already a problem along Brickfield Drive and proposals would impact on the pleasantness of Brickfield Park;
- excessive overbearing impacts and direct overlooking of homes would arise, particularly along Brickfield Drive to the rear of nos.21, 23, 25 and 27;
- noise associated with 24:7 activity and heating systems would impact on neighbouring residents;
- construction hours should be restricted to 08:00 to 19:00 hours and construction management details are required to control operation hours and associated parking spilling over into the neighbouring area;

#### Traffic and Transport

- a road safety audit should have been carried given the increase in population and services to the area and the extent of car parking proposed;
- the area already suffers from parking congestion and the proposed development would worsen this situation with insufficient parking proposed, including during the construction and operational phases;
- the development places pressure on the need to open the vehicular access from Brickfield Drive to Crumlin Road, which would be detrimental to the safety of the area;
- car-share parking spaces would not alleviate the shortfall in parking proposed;
- there would be restricted access for emergency vehicles and cyclists in the vicinity, as well as increased road safety concerns;

- proposals include a haphazard approach in the allocation of cycle parking;
- restricting the available car parking on site, fails to recognise that not every person works in the office or does not need a car parking space;
- the nearest bus service, Dublin Bus route 122, is an infrequent service;
- public realm improvements along Brickfield Drive are to be welcomed and this road should be surveyed and resurfaced;
- a Dublin Bike station should be provided as part of the proposals;
- the masterplan proposals would facilitate through traffic from Crumlin Road to Brickfield Drive;

### Supporting Infrastructure

- the existing water supply, sewerage and drainage system is in poor condition and would not be capable of serving the additional loading associated with this development;
- there is limited existing provision of community and other services, including health, childcare, education, recreational, retail, emergency and administrative services, all of which require upgrading and expansion to facilitate this and other proposed housing developments;
- proposals should cater for high quality and sustainable development that aligns with the principles of the '15-minute city';
- local residents should be notified in advance of any interruptions to services or significant construction activity;
- there are inaccuracies within the submitted Social and Community Infrastructure Audit, with some identified services no longer available or not available to the public;
- the provision of non-residential development support services as part of the proposed development, would merely form a token gesture relative to the number of apartments, and a more meaningful provision of non-residential support services should be prioritised given the 'Z10' mixed-use zoning for the site;

- the one-bedroom units would be capable of attracting demand for childcare spaces;
- relocation of the proposed waste collection area along Brickfield Drive to the underground car park should be considered;

### Environment

- spot flooding is already prevalent along Brickfield Drive and Keeper Road, as well as up-gradient of the site;
- ecological impacts would arise for the site and an EIA of the project is required;
- dust emissions would arise and the developer should ameliorate the costs associated with this for local residents;
- history of subsidence in the area, possibly linked to the area formerly being a quarry;
- potential for rodent infestation during demolition works;
- a bat study is required;

### Procedural and Other Matters

- the developer is also building another 265 built-to-rent apartments at a site nearby on Davitt Road and concerns have been raised locally regarding construction impacts;
- the potential for construction works to impact on the structural integrity of neighbouring properties. Condition surveys are required in advance of works;
- the developer should be expected to make a generous financial contribution to the area and the application fee and contributions should be ring-fenced for projects in the immediate area;
- increased security risks and anti-social behaviour;
- devaluation of local property;
- the site notices comply with regulatory requirements, but fail to account for visually-impaired persons;

- clarification is required regarding the ‘other’ site owners and who would operate and manage the non-residential space;
- a lack of engagement and consultation with the local community and appreciation for the local community needs.

## **10.0 Planning Authority Submission**

10.1. In accordance with the provisions set out under subsection 8(5) of the Act of 2016, the Planning Authority submitted the report of its Chief Executive Officer in relation to the proposal, summarising the observations received and providing planning and technical assessments of the proposed development. The Planning Authority’s views can be summarised as follows:

### Principle and Density

- it is accepted that the proposed development generally accords with the relevant land-use zoning and strategic development objectives for this location;
- the masterplan for the rezoned lands does not include details of blocks, density or heights for the Sunshine commercial estate area, although the proposed development would not reasonably impede residential development on this adjoining property;
- the proportion of non-residential floor space could be increased, although this would need to avoid competing with existing services and would need to be cognisant of the vacancy levels within the neighbouring Crumlin shopping centre;
- plot ratio (2.0) and site coverage (29%) would be within Development Plan parameters for development on ‘Z10-zoned’ lands;
- the site is suitable for a high-density of development, given the location proximate to a number of bus routes, LUAS stops and significant employment centres;

### Layout, Design & Height

- the development would be secured by gates;



- the northern boundary of the site provides the most appropriate location on site for higher buildings and would provide a welcome introduction of passive surveillance to the adjoining parklands;
- the separation of the blocks from the site boundaries and the stepped building heights with lower heights along the southern and eastern end of the site would contribute towards the development sitting well within its receiving environment, including the two-storey houses along Brickfield Drive;
- the proposed materials and high-quality contemporary design would add to the visual interest of the area;
- the proposed blocks would be of greater height and mass than those in the immediate context, however, the height of the proposal can be successfully integrated into the area without causing undue harm to the visual amenities of the wider area;
- there are some reservations regarding the public open space provision and a contribution in lieu of public open space is recommended;
- communal open space amounting to 1,1719sq.m is required, and while the applicant has not identified a definitive communal space from the 3,593 open area on site, the central and southern courtyards would measure 2,300sq.m, and two play areas 172sq.m and 95sq.m are also proposed;
- no impacts on sunlight to the playground within Brickfield Park are expected;
- boundary details are acceptable, although clarity is required regarding proposals for the boundary with Sunshine commercial estate;

#### Residential Development Standards

- the layouts, floor areas, floor to ceiling heights, lift and stair core provision, private amenity space, storage areas and the extent of dual aspect units for the proposed development would be acceptable, including the provision of 15 north-facing only units and the exclusion of the 'hybrid-aspect' units from the dual aspect allocation;
- sufficient defensible space is provided around the ground-floor apartments to ensure adequate levels of privacy for their respective residents;

- proposals address the potential for overlooking between units on site and the use of 1.8m-high opaque privacy screens for specific balconies;
- the Building Lifecycle Report submitted reveals how energy performance for the development would be maximised;
- the Council's Housing Division has no objections with respect to Part V proposals;

#### Neighbouring Residential Amenities

- a sufficient separation distance of 40m between block D and the rear gardens of nos.21, 23, 25, and 27 Brickfield Drive would suitably address the potential for overshadowing and overbearing impacts to arise;
- where increased overlooking of neighbouring properties would occur, this would be limited to levels that are typical for urban areas and would be acceptable in the context of policies seeking to increase housing densities in appropriate locations;
- the reduction of sunlight to neighbouring gardens would be within the limitations of the relevant guidance and only imperceptible reductions in lighting would arise for neighbouring properties;
- the nature of the development is such that significant levels of air, noise and light pollution would not arise and a condition can be attached with respect to noise levels;

#### Traffic and Parking

- 0.4 car parking spaces per apartment would be provided with five drop-off car spaces for the crèche, as well as visitor parking in the basement;
- the proposed ratio of car parking is comparable with other recently permitted developments in the vicinity;
- the final construction traffic management details should be conditioned in the event of a permission;

#### Environment and Services

- engagement with Irish Water is noted;

- the scheme is considered acceptable with respect to flood risk guidelines;
- the removal of 20 trees would be acceptable subject to tree protection measures during construction;
- limited bat activity has been recorded on site;
- minor wind funnelling effects near the north west side and landscaping to mitigate the wind effects are noted;
- Appropriate Assessment and EIA are matters for the Board to consider as the competent authority in this regard;

#### Other Matters

- the area is well served by social and community services and the provision of a crèche of adequate capacity relative to the guidelines and a café would add to the social infrastructure of the area;
- a condition is recommended requiring pre-development archaeological assessment to be undertaken given the potential for subsurface remains of kilns/chimney of the Dolphin's Barn Brickworks, which is listed on the Dublin City Industrial Heritage Record (ref. 1814029);

#### Conclusion, Recommendation and Statement

- in principle, the Planning Authority is generally in favour of the development of this site. The Planning Authority is of the general opinion that the proposed strategic housing development would broadly be consistent with the recently revised zoning for the site, while the Development Plan building height exceedances would be appropriate for the site, given the provisions of the Building Heights Guidelines;
- an increase in the area of the remote-working hub would be welcome in terms of providing a greater proportion of non-residential use on site and in the event of a grant of permission for the proposed development, the Planning Authority recommend the attachment of 21 conditions, including those referenced above and the following conditions of note:

**Condition 1** – development contributions apply;

**Condition 3** – submit revised ground floor layouts accommodating an increased area for the remote working hub and ancillary facilities;

**Condition 4** – boundary treatment details;

**Condition 6** – (a) submit details of pedestrian-priority crossings along Brickfield Drive;

**Condition 6** – (h) a shared cargo bike scheme shall be put in place for the exclusive use of residents;

**Condition 9** – café hours of operation restricted to between 07:00 and 22:00 hours Monday through Sunday;

**Condition 10** – (e) pay the sum of €4,000 per residential unit to the planning authority as a contribution under section 48 of the Planning and Development Act 2000, as amended, in lieu of the provision or partial provision of public open space.

## 10.2. Inter-Department Reports

- Drainage Division – no objection, subject to conditions;
- Air Quality Monitoring and Noise Control Unit – should permission be granted, conditions are recommended to be attached;
- Housing & Community Services – applicant’s agent has engaged with the Housing Department and is aware of their Part V obligations;
- Parks, Biodiversity and Landscape Services - no objection, subject to conditions relating to landscaping, open space management, financial contributions and tree protection measures;
- Transportation Planning Division - no objection, subject to conditions addressing DMURS, barriers, management, taken-in-charge details, mobility management, cycle parking, car parkin allocation, costs and codes of practice;
- City Archaeologists Office – outlines matter to consider and recommends attachment of conditions;
- Environment and Transportation Section – details required are listed;

- Planning & Property Development Department – a bond condition, a contribution in lieu of the open space requirement and a section 48 development contribution apply.

### 10.3. Elected Members

10.3.1. The proposed development was presented to the South East Area Committee of Elected Members from the Local Authority on the 25<sup>th</sup> day of May, 2021. In accordance with subsection 5(a)(iii) of the Act of 2016, the comments of the Elected Members at that meeting have been outlined as part of the Chief Executive's Report and these can be summarised as follows:

- redevelopment of the site for housing is welcomed;
- proposals would provide for an excess level of residential floor space relative to the 'Z10' zoning;
- the cumulative impacts of housing developments in the area amounting to in the region of 1,500 apartments is concerning without a local area plan for the Drimnagh area or a masterplan in place;
- the absence of three-bedroom apartments is alarming, and, as such, the development would not serve local families;
- mixed tenure should be provided with Part V units dispersed throughout the development and concerns are raised regarding the potential affordability to purchase the units;
- at double that of the Development Plan maximum provisions, the height of the development is of concern with the possibility for future revisions to the scheme resulting in increased building heights;
- overbearing, overlooking and overshadowing impacts would arise for the surrounding low-rise area;
- the development would have a significant visual impact from Brickfield Drive and it lacks reference to the historic brick type manufactured in the area, while any historic brick walls should be maintained;

- traffic congestion would increase in the area and the city cannot take further vehicular traffic in the absence of an holistic approach to manage same;
- the level of parking would result in overspill car parking onto the immediate streets and proper proposals to address parking and traffic during the construction phase would be required;
- the level of cycle parking proposed is welcomed, but this would not be served by the necessary cycle infrastructure;
- a lack of public infrastructure and community facilities has been proposed and there would be an inability to ensure that these services are actually provided as part of the development;
- lack of community gain or a coordinated approach to development in the area;
- development levies should be ring-fenced for the local area, including enhanced contributions for Brickfield Park;
- public consultation was not undertaken with the local community;
- gates restricting public access should not be installed and allotments for residents should be considered;
- proposals lack a launderette and a storage area for residents;
- concerns regarding the ability for emergency services to access the ten-storey building.

## 11.0 Prescribed Bodies

11.1. The following comments were received from prescribed bodies:

### Minister for Culture, Heritage and the Gaeltacht

- the removal of trees and shrubs should not occur during the bird breeding season;
- proposals to mitigate the impacts on identified bat species are to be welcomed, and conditions should be attached to address the potential for bat roosts and to require the provision of bat boxes;

- the applicant fails to refer to the potential for light spillage from the internal lighting of the apartment blocks themselves, which given the presence of a light-sensitive bat species, such as the long-eared bat, should be avoided. The finalised lighting design plan should be conditioned to minimise light pollution from external and internal areas;

### Irish Water

- the applicant was issued with a confirmation of feasibility in respect of the connection(s) to the Irish Water network(s) for the preliminary development proposals;
- connections to the existing network are feasible, subject to the laying of 175m of a 150mm outer-diameter pipe main connecting with the existing 9-inch foul main. There are no plans to extend or commence upgrade works to the network in this area;
- the applicant has engaged with Irish Water in respect of the design proposal, for which they have been issued a Statement of Design Acceptance for the development, subject to conditions, addressing connection agreements, compliance with standards, codes and practices, and further details should proposals involve building over or diverting existing Irish Water infrastructures.

11.2. The applicant states that they notified the National Transport Authority, Transport Infrastructure Ireland, An Taisce, Dublin City Childcare Committee and the Heritage Council. An Bord Pleanála did not receive a response from these bodies within the prescribed period.

## **12.0 Assessment**

### **12.1. Introduction**

12.1.1. Having regard to the documentation on file, including, the applicant's documentation, the report of the Planning Authority, the observers' and prescribed bodies submissions, the planning and environmental context for the site and my visit to the site and its environs, I am satisfied that the planning issues arising from this

proposed development can be addressed and assessed under the following headings:

- Development Principles;
- Urban Design;
- Visual Impact Assessment;
- Impacts on Local Amenities;
- Residential Amenities and Standards;
- Traffic and Transportation;
- Services and Flood Risk;
- Ecology;
- Material Contravention;
- Other Matters.

## 12.2. Development Principles

### Land-Use Zoning Objectives

12.2.1. The application site and the adjoining Sunshine commercial estate to the south have been assigned a land-use zoning 'Z10' within the Dublin City Development Plan 2016-2022 for 'inner suburban and inner-city sustainable mixed-uses', with a stated objective 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed uses, with residential the predominant use in suburban locations, and office/retail/residential the predominant uses in inner city area'. The playing fields and park lands along the northern and western boundaries of the site are assigned the zoning 'Z9 - Amenity/Open Space Lands/Green Network' with an objective 'to preserve, provide and improve recreational amenity and open space and green networks'. The housing areas to the east along Brickfield Drive are zoned 'Z1 – Sustainable Residential Neighbourhoods' with a stated objective 'to protect, provide and improve residential amenities', while the Crumlin College of Further Education to the south is zoned 'Z15 - Institutional and Community' with an objective to protect and provide for institutional and community uses.



- 12.2.2. Having regard to the nature and scale of development proposed, comprising an application for 282 residential units, as well as 1,088sq.m of non-residential floor space primarily in the form of a remote working office hub, a café, a public gym and a childcare facility representing 5.4% of the overall floor area for the development and not exceeding the 4,500sq.m statutory limitation, all located on lands within a zoning objective 'Z10', I am satisfied that the proposed development falls within the definition of a Strategic Housing Development, as set out in section 3 of the Act of 2016.
- 12.2.3. According to the Development Plan, the primary uses required on these lands will be for residential, office and retail, catering for a relatively intensive form of development. The scale of the development is intense, particularly when compared with the existing scale of development on site and in the immediate area. The dominant use of the site would be for residential purposes, with other uses comprising office space in the form of a remote working office hub, retail services in the form of a café and community facilities in the form of a gym and a childcare facility both open to the public. All proposed uses are permitted in principle based on the land-use zoning objectives contained in the Development Plan and I am satisfied would provide for a complementary and sustainable mix of uses on this site. The existing buildings on site that are proposed to be demolished are not assigned a specific conservation status and their removal would not be contrary to planning objectives.
- 12.2.4. The third-party observers refer to the requirement for the development to be considered against the policies within the Integrated Area Plan for Drimnagh (2008) and an updated plan that has been prepared and submitted by a local community group to Dublin City Council as part of their review of the Development Plan. The Planning Authority has only referred to the Dublin City Development Plan 2016-2022 as providing the local statutory plan for this area, and I am not aware of another statutory plan specifically for this part of the Drimnagh area at present.
- 12.2.5. The Planning Authority has sought an increase in the provision of non-residential floor space within the development, as only the café, gym, and remote working hub measuring a total of 509sq.m would be available to the public. The Planning Authority suggest that consideration of any additional form of non-residential use that could be accommodated within the development would need to be cognisant of the

surrounding uses and vacancy levels. The Planning Authority assert that an increase of the remote working hub might best fulfil this objective. Section 14.8.10 of the Development Plan addressing the 'inner suburban and inner-city sustainable mixed-use zone 10' states that the appropriate mix of uses for a given site should be influenced by the site location and other planning policies applicable to the associated area. The concerns of the Planning Authority regarding the proposed mix of uses are not such that a refusal of planning permission is recommended.

12.2.6. The non-residential elements of the development are situated at ground and first-floor level only in Block C of the development, in the area closest to the proposed entrances off Brickfield Drive. The Planning Authority request failed to account for the crèche facility, which would add another 281sq.m of non-residential floor space to the scheme. While I would accept that the proportion of non-residential floor space relative to residential floor space is limited, the 'Z10' zoning objectives dictate that residential use should form the predominant use in suburban locations outside the canal rings, such as is the case for the subject site. Furthermore, the development would introduce retail services, employment and community uses to the site, providing a mix of uses on site and the Development Plan does not specifically set out the extent of non-residential floor area to be provided or minimum criteria. Based on development patterns, there may be greater scope for non-residential uses along the Crumlin Road side of the 'Z10' land parcel given the greater primacy of this route over Brickfield Drive, which is primarily a residential street. Accordingly, I am satisfied that the mix of uses would be sustainable and acceptable, while being in accordance with the land-use zoning objectives for the site.

#### Masterplan

12.2.7. The adopted variation outlines additional requirements regarding transportation, educational, health and recreational amenities as part of the consideration of proposals on the subject lands, which I address further below where relevant. The Development Plan variation also requires a Masterplan demonstrating how a sustainable mix of uses would be achieved for the subject site alongside the adjoining Sunshine commercial estate, as part of the integrated planning and development of the area. The third-party observers assert that a more

comprehensive masterplan encompassing the Sunshine commercial estate and the subject site should have accompanied the application.

- 12.2.8. As noted above, I am satisfied that a sustainable mix of uses has been proposed on the subject site and the applicant has submitted an indicative masterplan, identifying the potential linkages and connectivity with the Sunshine commercial estate lands, as well as the adjoining open space areas. While the masterplan indicates that the buildings on the Sunshine commercial estate would be demolished, it does not explicitly stipulate the quantum of residential, office, retail or other space replacing the existing uses. The applicant's Wind and Microclimate Modelling illustrates three five-storey buildings on a different layout to that presented in the indicative masterplan. The buildings considered in the Wind and Microclimate Modelling are taller than the existing commercial buildings on the Sunshine estate. I am not aware of a current planning permission relating to proposals within the masterplan area or that the masterplan has any statutory relevance. While the detail of the applicant's masterplan drawing is limited, I am satisfied that adequate development scenarios for adjoining sites have been considered and that the layout, scale, building heights and arrangement of the proposed development would not impede the future development potential on the Sunshine commercial estate with the closest proposed multi-storey blocks (A and D) set off the boundaries by 3.2m to 12.8m. The proposed layout provided appears to provide scope for connectivity between the sites. The suitability of the routes connecting with the development are discussed further below under section 12.3 addressing the proposed development layout.

#### Development Density

- 12.2.9. The proposed development would comprise 282 apartments on a net site area of 1.23ha site, resulting in a density of 228 units per hectare. It would have a plot ratio of 2.0 and a site coverage of 29%, which is within the 2.0 to 3.0 indicative plot ratio and the 50% site coverage normally allowed for in the Development Plan on 'Z10' lands. The applicant asserts that the quantum of development proposed would be acceptable based on the identified housing needs, the site location that is accessible and proximate to bus and Luas public transport, as well as the overall designs with respect to neighbouring properties. A number of submissions received from third parties and the comments of the Elected Members in the Chief Executive's report raise concerns in relation to the quantum of development proposed, asserting that

the proposed development would result in overdevelopment of the site and an excessive scale and density of development relative to the surrounding character.

12.2.10. Planning policy at national and regional levels seeks to encourage higher densities in appropriate locations. The NPF seeks to deliver on compact urban growth and NPOs 13, 27, 33 and 35 of this framework seek to prioritise the provision of new homes at locations that can support sustainable development, while seeking to increase densities in settlements through a range of measures. The site is within the Dublin Metropolitan Area Strategic Plan area identified in the RSES, where consolidation of Dublin city and its suburbs is supported. Section 28 guidance, including the Sustainable Residential Development in Urban Areas Guidelines (2009), the Building Heights Guidelines and the New Apartments Guidelines, provide guidance in relation to areas that are suitable for increased densities. The Sustainable Residential Development in Urban Areas Guidelines (2009) promote minimum net densities of 50 units per hectare within 500m walking distance of bus stops and within 1km of light rail/rail stations. The New Apartment Guidelines define locations in cities and towns that are suitable for increased densities, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations. The New Apartment Guidelines state that 'central and / or accessible' urban locations are generally suitable for small to large-scale and higher-density development that may wholly comprise apartments. The Guidelines note that the scale and extent of development should increase in relation to proximity to core urban centres and public transport, as well as employment locations and urban amenities. Policy SC13 of the Development Plan promotes residential densities that facilitate the creation of sustainable neighbourhoods and the Plan also encourages development at higher densities, especially in public transport catchments.

12.2.11. The site is approximately 150m from a designated local centre and bus stop location for Dublin bus route 122 at the junction of Keeper Road and Brickfield Drive and 120m from Dublin bus stops on the Crumlin Road, including the high-frequency route 27, as well as routes 56A, 77A and 151. Proposed Bus Connects route no.9 'Greenhills to City Centre' is intended to run along the Crumlin Road. The site is approximately a 900m walk to the nearest Luas stop at Suir Road (Red Line), which connects directly with Dublin City, Tallaght town centre and to employment destinations such as St. James' Hospital, the National Children's Hospital (under

construction), the Coombe hospital and Ballymount industrial estate. Accordingly, I am satisfied that the site is within a 'Central and Accessible Urban Location' based on the definitions in the New Apartment Guidelines.

12.2.12. Given the site's strategic location within the M50 corridor, its proximity to high frequency bus and Luas services, employment opportunities, as well as connectivity with higher-order urban services and facilities, I am satisfied that the site can sustainably support the density of apartments and mixed-uses that is proposed. The proposed density is appropriate at this location given the need to deliver sufficient housing units within the MASP area, the need to ensure efficient use of land and the maximum use of existing and future public transport infrastructure. The Chief Executive's report also accepts these arguments in support of the development. In conclusion, the proposed density for the application site complies with the Development Plan and Government policy seeking to increase densities and thereby deliver compact urban growth. Certain criteria and safeguards must be met to ensure a high standard of design and I address these issues below.

#### Housing Tenure

12.2.13. The additional supply of new housing is welcomed in submissions to the application, although it is asserted that an alternative mix of unit types should be provided. I address the appropriateness or otherwise of the residential mix under section 12.6 below when addressing the standard of the proposed residential accommodation. Given the number of units proposed and the size of the site, the applicant is required to comply with the provisions of Part V of the Act of 2000, which aims to ensure an adequate supply of housing for all sectors of the existing and future population. Part V Guidelines require a planning application to be accompanied by detailed proposals in order to comply with Part V housing requirements, and the Housing Department should be notified of the application.

12.2.14. Appendix 2A of the Development Plan addresses the supply of social housing in the city and requires 10% of units on all residential zoned land to be reserved for the purpose of social housing. The applicant has submitted Part V proposals that comprise the provision of 28 apartments (10%) in the scheme to Dublin City Council in a mix of 18 one-bedroom and ten two-bedroom units, all within block D of the development. The report of the Planning Authority's Housing Division states that the

preference is to acquire Part V units on site, although they have not stated whether it is proposed to rent or purchase these units. It is recommended that in the event of a grant of permission that there is a requirement to agree details in respect of Part V, including their location within the development.

12.2.15. Third-party observers make reference to the recent publication of section 28 guidelines addressing the regulation of commercial institutional investment in housing. The Building Lifecycle Report outlines that the proposal is for a standard residential scheme with Part V social housing units. It is also stated that the overall scheme would be most likely to be run by a property management company, and it is intended that the property and management costs would be absorbed into the rental value of each of the properties and an annual maintenance/management fee would not directly apply. According to the applicant, a single commercial entity would most likely own and operate the development, although built-to-rent status has not been sought as part of the application. There is not a requirement to regulate investment (based on the aforementioned recently published section 28 guidelines) in the proposed units, as apartments are exempt from the restrictive ownership condition.

12.2.16. The third-party observers seek clarification regarding the costs of the apartments and whether a build-to-rent scheme or similar is being proposed. Cost plan summaries for the Part V housing are included with the details submitted. While I recognise reference to a 'build to rent' scheme on the site location map (drawing no. D1662 D1 Rev.1) appended to the Drainage Design Report, the proposed development has not been advertised as a build-to-rent scheme and on this basis the request of the Planning Authority in respect of the acquisition of Part V units on site would appear reasonable. I am satisfied that a standard Part V condition can be applied and in the event that agreement is not reached the matter in dispute (other than a matter to which section 96(7) applies) may be referred to An Bord Pleanála for determination.

12.2.17. In conclusion, I am satisfied that the details provided accord with the requirements set out within the relevant Guidelines, the proposed Part V provision is in accordance with statutory requirements and the overall social housing provision would help to provide a supply of housing for all sectors of the existing and future population, as well as facilitate the development of a strong, vibrant and mixed-tenure community in this location.

### 12.3. Urban Design

#### Layout

- 12.3.1. Section 16.2.1 of the Development Plan addressing 'Design Principles', seeks to ensure that development responds to the established character of an area, including building lines and the public realm. The proposed development seeks permission to demolish the existing buildings on site and to construct development primarily comprising four apartment blocks of four to ten storeys in height, in a 'T-shape' layout, with three blocks (A, B and C) situated along the northern boundary and one block (D) perpendicular to these blocks situated within the southern portion of the site. Vehicular accesses off Brickfield Drive to a semi-basement level car park and a shared access to a central courtyard space are proposed off Brickfield Drive. A linear walking route is to be provided along the northern and western boundaries alongside a raised podium level with external seating areas surrounding the proposed commercial uses along Brickfield Drive. Various public realm improvements are also proposed along the Brickfield Drive frontage.
- 12.3.2. The applicant has provided a variety of material to rationalise the design, including an 'Architectural Design Statement' and a 'Landscape Design and Access Statement'. Section 01 of the applicant's Architectural Design Statement sets out how the detailed design of the scheme meets the principles of the Urban Design Manual. The layout for the proposed development would appear to be largely dictated by the location of the proposed site entrances and the existing two-storey housing along Brickfield Drive, the open parklands and playing areas to the north and west, as well as the future development potential of the Sunshine commercial estate. The buildings are set back along Brickfield Drive, a similar distance to the houses to the south at nos.21, 23, 25 and 27.
- 12.3.3. The proposed development is the first significant redevelopment proposal to come forward since recent rezoning of the subject lands at Brickfield Drive and Sunshine commercial estate for 'Z10' zoning objectives and the development will therefore set the benchmark for future development of these lands. I consider the proposed block arrangement to be an appropriate design response to the site, including the stepped block arrangement. There is a clear relationship between the blocks, a hierarchy of open spaces, including overlooked play spaces, and a reasonable setback from

neighbouring residential properties to the east, from the community college to the south and from the boundaries with the other rezoned lands to the south and west. Block C would provide for an urban edge and create increased activity along Brickfield Drive.

12.3.4. There is reasonable scope for pedestrian permeability around the site, although greater clarity is needed in order for the proposals to tie-in with the masterplan proposals indicating connectivity between the site and the Sunshine commercial estate lands. The Development Plan clearly indicates a desire for the site to be designed cohesively with the adjoining Sunshine commercial estate. The applicant's masterplan indicates future potential connections with these adjoining lands and this would require the proposed pedestrian routes extending to the shared boundaries with the commercial estate, which would need to be at levels capable of tying-in appropriately with the adjoining lands. I also note the position of ancillary plant, substation and waste storage facilities in two separate buildings along the southern boundaries of the site. Third-party observers assert that this 'Core A Waste Storage Area', as identified on the ground-floor plan drawing (no.BRK\_JFA\_02\_00\_DR\_A\_P2002) adjoining the Sunshine commercial estate, should be relocated to basement level.

12.3.5. Having reviewed the proposals and submissions, I consider that in order to provide for a more appropriate and cohesive future interface with the adjoining masterplan lands, the waste storage and bicycle store structure extending for a breadth of 25m along the southern boundary with the Sunshine commercial estate should be repositioned on site. There would appear to be scope for same within the basement area. Furthermore, for the same reasons, the pedestrian routes should extend to the boundary with the commercial estate and the path along the west side of Block D should extend to the shared surface route providing for the future potential routes indicated in the applicant's masterplan. Boundary treatment proposals would largely appear only to work with and repair existing boundaries and for clarity and to address the above amendment, more comprehensive proposals should be submitted as a condition in the event of a permission. I am satisfied that these are detailed design matters that can be agreed as conditions in the event of a permission, prior to the commencement of development, including the arrangements for bin collection as part of an operational waste management plan. Public lighting details have been



submitted, including layout plans and a report identifying likely illumination levels relative to the proposed lighting stands to be used within the proposed development. Finalised lighting can also be agreed as a condition in the event of a permission. Lighting is also considered under section 12.9 below of this report in the context of minimising disturbance regarding bat activity.

### Open Space

- 12.3.6. Section 16.10.3 of the Development Plan states that ‘the design and quality of public open space is particularly important in higher density areas’. There is a requirement in the Development Plan for 10% of ‘Z10-zoned’ lands to be provided as meaningful public open space in development proposals. The applicant asserts that 3,593sq.m of open space would be provided in total within the development, including play areas, courtyards and an outdoor seating area, which represents approximately 29% of the overall site. The hierarchy and function of the various open spaces to serve the development and the public are indicated on page 18 of the applicant’s Architectural Design Statement, including the proposed public, communal and private open spaces. The Landscape Design and Access Statements reveal open spaces and amenity areas of varying function distributed throughout the development and overlooked by residential buildings.
- 12.3.7. The report from the Parks, Biodiversity and Landscape Services to the Chief Executive asserts that with the exception of the external terrace area associated with the public café, the remainder of the applicant’s identified proposed public open space would not provide countable public open space, as it would comprise vehicular space and planting areas integrated with the development, while other open space areas would only be accessible to residents of the development. I am satisfied that only the external terrace area to the café would provide adequate accessible and functional public open space for the development, which would result in the proposed development not achieving the minimum required 10% of public open space on site. In such situations, the Development Plan does allow for the provision of public open space to be met via financial contributions in lieu of the shortfall in space, which the Planning Authority has requested via the attachment of a suitably worded condition in the event of a permission for the development. Given the site context adjoining extensive public open space within Brickfield Park, the limited proposed provision of public open space on site and the Development Plan

provisions, I am satisfied that a contribution in lieu of the shortfall in open space would be necessary and reasonable as a condition in the event of a permission and the proposed open space provision would not contravene the policies of the Development Plan.

#### Architectural Details, Materials and Finishes

12.3.8. The applicant states that the proposed buildings would primarily feature a brick finish to reflect their suburban context and the surrounding built environment. The proposed use of brick would also provide a warm and human scale to the building façades, while also providing a robust, low maintenance and long-lasting finish. The use of a lighter white brick would also reduce the visual impact of the massing and give a lighter feel to the individual blocks according to the applicant. Use of a taupe brick to vertical elements and sawtooth brick type would also articulate and break up the appearance of the buildings. External metalwork would be finished in a polyester-powder coating. Third-party observations and Elected Members from the Planning Authority refer to the site previously forming part of a brickworks and the original historical brick type should be incorporated into the design of the proposals. The Chief Executive's report asserts that the proposed materials and design would be of visual interest to the surrounding mature residential area and I do not consider it would be necessary to incorporate an historical brick type into the material finishes of the proposed development. The detailing and materials are generally durable and of a high standard, including the hard landscaping finishes, and the final detail of materials, can be addressed via condition in the event of a permission for the development. The applicant's rationale for the materials chosen would appear reasonable. There is variety in the scale and a consistency in the rhythm and proportions of the buildings, and I am satisfied that the proposed scheme is of a contemporary design that would make a positive contribution towards place-making in the area.

#### Conclusion

12.3.9. I am satisfied that the overall layout and design of the scheme would provide a logical, practical and legible response to redeveloping this site from an urban design perspective, particularly considering the primary site development constraints, in

accordance with the principles set out in the Development Plan, the Urban Design Manual and the NPF.

## 12.4. Visual Impact Assessment

12.4.1. The Development Plan does not identify any protected views or landscapes of value effecting the site. Observations from third parties and Elected Members of the Planning Authority raise concerns in relation to the scale and resulting visual impact of the development, particularly along Brickfield Drive. The Chief Executive’s report asserts that the design of the proposed development would add visual interest to the established residential area and that the scale of the development would be appropriate having regard to the stepped building heights and the immediate context. A Townscape and Visual Impact Assessment (TVIA), a booklet of Verified Views and CGIs prepared by suitably qualified practitioners, as well as contextual elevations and sections accompanied the application, which illustrate the proposed development within its current context. A total of 15 short and medium-range viewpoints are assessed in the TVIA.

12.4.2. I have viewed the site from a variety of locations in the surrounding area, and I am satisfied that the photomontages are taken from locations, contexts, distances and angles, which provide a comprehensive representation of the likely visual impacts from key reference points. The 3D-model images and CGIs include visual representations, which I am satisfied would be likely to provide a reasonably accurate portrayal of the completed development in both summer and winter settings and with the proposed and maintained landscaping. The following table 5 provides a summary assessment of the likely visual change arising from the proposed development from the TVIA viewpoints.

**Table 5. Viewpoint Changes**

No.	Location	Description of Change
1	Slievenamon Road – 170m north	Upper-levels of block A (ten-storey northern elevation) and block B (eight-storey northern elevation) clearly visible over mature trees within the parkland. I consider the magnitude of visual change to be medium / high and positive in the context of the receiving urban environment.

<b>2</b>	Brickfield Park – 100m north	Building formation of blocks A, B and C (northern elevations) visible but partially screened by mature trees within the parkland. I consider the magnitude of visual change to be medium in the context of the receiving urban environment.
<b>3</b>	Keeper Road – 160m northeast	Upper levels to blocks A and B visible but partially screened by mature trees and housing, while block C front elevation would be visible onto the front street. I consider the magnitude of visual change to be medium in the context of the receiving urban environment.
<b>4</b>	Brickfield Drive – 20m east	Short-range view with block C and public realm improvements clearly visible along the front streetscape. I consider the magnitude of visual change to be high and positive in the context of the receiving environment and the planning objectives for the site.
<b>5</b>	Brickfield Drive – 45m southeast	Short-range view with block C and upper level to block B visible although partially obstructed via maintained mature trees and housing. I consider the magnitude of visual change to be high and positive in the context of the receiving environment and the planning objectives for the site.
<b>6</b>	Crumlin Road – 120m southeast	Upper levels to blocks A, B and C visible with partial screening via the further education buildings, housing and trees. I consider the magnitude of visual change to be medium and positive in the context of the receiving environment and the planning objectives for the site.
<b>7</b>	Crumlin Road – 425m east	No visibility
<b>8</b>	Crumlin Road – 120m southwest	No visibility
<b>9</b>	Brickfield Park – 420m northwest	Upper-level building formation for blocks A, B and C visible, but partially screened by mature trees within the parkland. The level of change is medium given the absence of similar height buildings in the immediate view.
<b>10</b>	Brickfield Park – 300m west	Building formation for blocks A, B and C only partially visible due to screening by mature trees within the

		parkland. The level of change is only slight, due to the screening, including during winter and summer foliage.
11	Brickfield Park – 290m northwest	Upper-level building formation for blocks A, B and C visible, but partially screened by mature trees within the parkland. The level of change is medium given the absence of similar height buildings in the immediate view.
12	Crumlin Road – 135m south	Upper levels to blocks A and B visible with lower-level screening via the commercial buildings. I consider the magnitude of visual change to be medium and positive in context of the receiving environment.
13	Brickfield Park – 270m northwest	Upper-level building formation for blocks A, B and C visible, but partially screened by mature trees within the parkland. The level of change is medium given the absence of similar height buildings in the immediate view.
14	Brickfield Park – 130m north	Building formation for blocks A and B, and the upper-levels to block C clearly visible behind mature trees within the parkland. I consider the magnitude of visual change to be medium / high and positive in the context of the receiving urban environment and the planning objectives for the site.
15	Iveagh Grounds – 160m southwest	Upper-level building formation for blocks A, B and D visible, but partially screened by mature trees within the recreational grounds. The level of change is medium given the absence of similar height buildings in the immediate view.

12.4.3. The proposed development represents a substantial increase in height and scale relative to the existing residential and commercial developments in the immediate vicinity. The applicant's Statement of Consistency asserts that the proposed scale is appropriate given the site's well connected and accessible location and the massing for the development is appropriate based on the stepped increase in building heights moving back away from Brickfield Drive. The use of a softer palette of materials is also asserted by the applicant to reduce the visual appearance of the blocks. In the immediate area the development would be most visible from the public realm and the housing along Brickfield Drive, from the parklands to the north and west, including Brickfield Park and the Iveagh grounds, and from Sunshine commercial estate to the south, with only intermittent views of the higher building elements from local vantage

points in the adjoining residential and commercial areas, including Crumlin Road and Keeper Road. The development will be viewed from Brickfield Drive as a substantial insertion into the streetscape and from the parklands as a substantive new feature overlooking these spaces. Environmental conditions would also influence the appearance of the development from the viewpoints with screening by mature trees varying throughout the seasons, however, I am satisfied that the visual change would be largely positive and would be expected consequent to the revised zoning for the site requiring an intensive urban form of development.

12.4.4. The proposed development would provide a quality addition to the streetscape that would not unduly dominate or undermine the wider character of the area and the scale of the proposed development can be absorbed at a local neighbourhood level. While the submitted photomontages do not address longer range views, such views would nonetheless be limited due to the visual obstructions of built structures and topographical features. Where discernible from long ranges, the proposed development would read as part of the wider urban landscape. The impact on the outlook from neighbouring houses is considered separately in Section 12.5 below. In conclusion, I am satisfied that the visual impact of the proposed development, would not harm the character of the area and the visual change arising from the proposed development would be positive and consistent with the emerging planning policy for the area.

## **12.5. Impacts on Local Amenities**

12.5.1. When considering applications for development, including those comprising apartments, the Development Plan requires due consideration of proposals with respect to the potential for excessive overlooking, overshadowing and loss of sunlight or daylight. Submissions received from numerous third parties raise concerns in relation to the impact of the proposed development on existing gardens and houses, due to overshadowing and overbearing impacts, reduced sunlight and daylight and excessive overlooking resulting in a loss of privacy. The Planning Authority did not raise any specific concerns with regards to the impacts of the development on neighbouring residential amenities, as they considered building separation distances and design details to largely ensure that the proposals would be acceptable in this regard. The amenities of residents within the proposed

development are considered under section 12.6 below, therefore, this section solely focusses on the amenities of neighbouring residents and properties.

12.5.2. The nearest proposed residential buildings are those backing onto the site at nos.21, 23, 25 and 27 Brickfield Drive, as well as those opposite the site along the east side of Brickfield Drive. The houses backing onto the site feature approximately 14m to 15m deep rear gardens when measured from the original rear building line of these houses. Proposed block D would be five to seven storeys in height and the existing two-storey semi-detached houses at nos.21, 23, 25 and 27 would be directly to the east of this block. The proposed block D would be five storeys where directly facing the rear of the houses at nos.21, 23, 25 and 27 and seven-storeys on the northern end. The setback distances from the five-storey section of block D to the rear elevations and the rear gardens of these closest semi-detached houses are annotated on the proposed site plan drawing (no.BRK\_JFA\_11\_00\_DR\_A\_P2013) and also in the section drawing on page 16 of the applicant's Architectural Design Statement. The five-storey section of block D would maintain a minimum setback of 41m the rear elevation of house nos.21, 23, 25 and 27 and a minimum setback of 26m from the private rear gardens of these properties. The seven-storey section of block D would be closest to house no.27 and would maintain a minimum setback of approximately 35m from the rear elevation of this house and a minimum setback of 19.5m from its private rear garden. The opposing five-storey section of block D would have a stated roof parapet height of +47.675m relative to the roof ridge level at nos.21, 23, 25 and 27 at approximately +38.77m or a difference of approximately 8.9m. The seven-storey section of block D would have a roof parapet height of +53.825m, which would be approximately 15.055m above the roof ridge level at nos.21, 23, 25 and 27. The east-facing elevation to block D would feature windows to apartments and circulation spaces, as well as balconies to apartments. Arising from the applicant's arboricultural assessment, the applicant's landscape masterplan drawing (no.6879-L-201) illustrates the maintenance of existing mature trees, primarily consisting of the Lawson Cypress variety along the boundary to no.27, the loss of trees, including those directly to the rear of nos.21 and 23, and the planting of additional and replacement trees along the boundaries with nos.21, 23, 25 and 27 Brickfield Drive.

- 12.5.3. Proposed block C would be four storeys in height and situated a minimum of 13m to 15m from the rear garden of no.27 Brickfield Drive and a minimum of 16.4m directly to the north of the side elevation to this house, whose main windows are on the front and rear elevations. Where closest to no.27, the four-storey element to block C would have a roof parapet height of +44.6m, approximately 5.8m above the ridge to no.27. The relationship between the existing houses and the proposed blocks is illustrated on the drawing titled 'Blocks A, B, C & D Elevation East' (no.BRK\_JFA\_EL\_00\_DR\_A\_P4008). Proposed block C would be four to six storeys in height and situated approximately 26m directly to the east of the front elevations to the terraced houses at nos.36, 38, 40, 42, 44, 46, 48, 50 and 52 on the opposite side of Brickfield Drive. Where closest to these houses, the four-storey element to block C would have a roof parapet height approximately 7.7m above the roof ridge height to these terraced houses (+36.9m). The relationship between these houses on Brickfield Drive and the proposed blocks is illustrated on page 15 of the applicant's Architectural Design Statement. Building heights step upwards moving in a northwest direction into the site and along the boundary with the park, with building heights noted on the drawings, including the highest roof parapet height of +63.050m for the ten-storey element of block A. Crumlin College of Further Education adjoins the site and the closest building on this campus would be 10m south of a five-storey element to proposed block D.
- 12.5.4. Given this context, a key question for this part of the assessment is whether or not the proposed development would unduly interfere with the amenities of the neighbouring residential properties in a manner that would require refusing permission or altering the proposed development.

#### Overlooking and Loss of Privacy

- 12.5.5. In discussing standards with respect to houses, the Development Plan refers to the traditional separation distance of 22m between the rear of two-storey houses and provisions for this to be relaxed where it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. While not directly applicable in assessing new apartment developments, this traditional standard can be used as a guide in assessing the adequacy of the proposals with respect to the potential for excessive overlooking between the proposed apartments and the existing houses. With a minimum separation distance



of 35m between the upper-floor windows facing the rear windows to the nearest houses and 26m separation distance from the existing house front windows facing the upper levels of the proposed apartment blocks, the guide standard has been met in all instances with the exception of the distance to the rear garden and side elevation of no.27 Brickfield Drive. I consider that in conjunction with the landscaping proposals, as described above, and the orientation of the buildings with the main windows to no.27 not on the side elevation facing block C, reasonable minimum separation distances of 13m to 19.5m from the windows in the proposed blocks, including those serving the first-floor gym area to block C, would be provided from the gardens along Brickfield Drive, including no.27. I am satisfied that no additional measures would be required to reduce the potential for overlooking from the proposed development.

- 12.5.6. In conclusion, the combination of separation distances, reduced building heights closest to neighbouring residential properties and the maintaining and improvement of a landscaped buffer along the boundaries would all combine to prevent undue overlooking and excessive loss of privacy for existing residential properties. Furthermore, the proposed development would not substantially inhibit the future development potential of neighbouring lands, particularly given the indicated provision for connections and boundary setbacks.

#### Outlook and Overbearing Impacts

- 12.5.7. The proposed development would be visible from the private gardens and internal areas of the immediately adjacent houses to the east and would change the outlook from these properties. I consider that the extent of visual change would be reasonable having regard to the constantly evolving and restructuring urban landscape and as a contemporary development of this nature would not be unexpected in this area owing to the rezoning as part of the Development Plan variation for intensive development purposes.
- 12.5.8. A key consideration is whether the height, scale and mass of development and the proximity to neighbouring properties is such that it would be visually overbearing where visible from the adjacent properties. The proposed development clearly exceeds the prevailing two-storey building heights of the area. However, the proposed development is modulated and steps down to four storeys on its eastern

side where closest to neighbouring houses. The height differences and minimum separation distances are detailed in sections 12.5.2 and 12.5.3 above. Views 4 and 5 of the applicant's 'Verified Views and CGIs' illustrates the appearance of the development closest to the neighbouring properties. I am satisfied that the proposed development would not be overly prominent when viewed from the nearest houses. The submitted documents show the interface between the proposed blocks and the existing buildings, revealing that at all points an open outlook and sky view would be maintained for neighbouring houses. The modulated nature of the blocks coupled with the level of setback from existing houses and the intervening proposed and mature screen planting, is such that where visible from neighbouring properties the proposed development would not be excessively overbearing.

#### Impacts on Lighting

- 12.5.9. Third-party observers have raised concerns regarding the potential for the development to overshadow and result in excessive loss of light to neighbouring houses. In assessing the potential impact on light access to neighbouring properties, two primary considerations apply, including the excessive loss of daylight and light from the sky into houses through the main windows to living rooms, kitchens and bedrooms, and the excessive overshadowing of rear gardens to existing houses.
- 12.5.10. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation and views and to minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides such as BRE 209 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (2011) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solution 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 site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban

regeneration and / or an effective urban design and streetscape solution. Section 6.6 of the New Apartments Guidelines also state that Planning Authority's should have regard to BRE 209 and BS 8206-2: 2008 standards.

#### Light from the Sky and Sunlight

12.5.11. The applicant has provided a Sunlight and Daylight Assessment Report relying on the standards of the above BRE 209 and BS 8206-2 documents, which provides an assessment of the effect of the proposed development on the vertical sky component (VSC) and annual probable sunlight hours (APSH) achievable at neighbouring windows, as well as the effect on sunlight to gardens and outdoor amenity areas. I acknowledge that an updated BS EN 17037:2018 'Daylight in buildings' guide replaced the BS 8206-2: 2008 in May 2019 (in the UK), however, I am satisfied that this document/updated guidance does not have a material bearing on the outcome of my assessment and that the relevant guidance documents remain those referenced in the Building Heights Guidelines (i.e. BRE 209 and BS 8206-2: 2008).

12.5.12. The BRE guidance on daylight is intended for rooms in adjoining houses where daylight is required, including living rooms, kitchens and bedrooms. When considering the impact on existing buildings, criteria is set out in figure 20 of the Guidelines and further summarised as follows:

- if the separation distance is greater than three times the height of the proposed building above the centre of the main window, then the loss of light would be minimal. Should a lesser separation distance be proposed, further assessment would be required;
- if the proposed development subtends an angle greater than 25° to the horizontal when measured from the centre line of the lowest window to a main living room, then further assessment would be required;
- if the VSC would be greater than 27% for any main window, enough skylight should still be reaching this window and any reduction below this level should be kept to a minimum;
- if the VSC with the development in place is less than 0.8 of the previous value, occupants would notice a reduction in the amount of skylight;

- in the room impacted, should the area of the working plane that can see the sky be less than 0.8 the previous value, then daylighting is likely to be significantly affected. Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

12.5.13. The tests above are a general guide only and the BRE guidance states that they need to be applied flexibly and sensibly with figures and targets intended to aid designers in achieving maximum sunlight and daylight for residents and to mitigate the worst of the potential impacts for existing residents. It is clear that the guidance recognises that there may be situations where reasonable judgement and balance needs to be undertaken cognisant of circumstances. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues and impacts may arise and also to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Dublin metropolitan area, the need for increased densities within zoned, serviced and accessible sites and the need to address impacts on existing residents as much as is reasonable and practical.

12.5.14. Separation distances from existing houses to the proposed blocks would be less than three times the height of the new building above the centre of the main windows, therefore, based on the BRE guidance a more detailed daylight assessment is required. The baseline and proposed VSC for each of the windows along the rear of nos.21, 23, 25 and 27, along the front terrace of houses between nos.22 and 52A Brickfield Drive and at points along the closest building within the Crumlin College of Further Education campus, are set out in the applicant's Sunlight and Daylight Assessment Report. Assessment criteria is outlined by the applicant, including recognition of the impact of trees on lighting and assumptions with respect to trees to be planted. Appendix H of the BRE guidance states that trees and hedges vary in their effect on skylight and sunlight and most tree species will project a partial shade, although for deciduous trees this will vary depending on the time of year. I am satisfied that the VSC assessment has been targeted to neighbouring windows, rooms and houses that have greatest potential to be impacted and would be representative of the worst-case scenario.

12.5.15. Notwithstanding that the baseline VSC value of between 18.52% and 31.33% outlined in section 6.1.1 of the applicant's Sunlight and Daylight Assessment Report

for half of the tested windows along the rear of each of nos.21, 23, 25 and 27 Brickfield Drive are below the noted 'negligible impact' value of 27%, the level of change in proposed VSC within the range of 17.02% to 28.08%, is estimated as being within 0.89 to 0.93 ratio of the proposed VSC to baseline VSC and, therefore, within the recommended limit of 0.8 of the previous value. As such, I am satisfied that the proposed development would not result in a material reduction in the level of light currently being enjoyed by these residents. Excluding nos.38, 40 and 42 Brickfield Drive, the level of change in VSC for front windows serving the terraced houses between 22 and 52A Brickfield Drive is estimated as being within 0.80 to 0.98 the ratio of the proposed VSC to the baseline VSC and, therefore, within the recommended BRE guidance limits. The level of change in VSC for the closest building in the Crumlin College of Further Education is estimated as being within 0.99 to 1.0 ratio of the proposed VSC to the baseline VSC and, therefore, well within the recommended guidance limits.

12.5.16. For the ground-floor windows in house nos.38, 40 and 42 the level of change in VSC is estimated as being within 0.75 to 0.79 the ratio of the proposed VSC to the baseline VSC and, therefore, below the recommended limit of 0.8 of the previous value. In such circumstances, according to the BRE guidance, daylighting would be likely to be significantly affected. The percentage VSC shortfall below the 27% BRE guidelines is calculated as being between 1.17% and 5.81% for nos.38, 40 and 42, although for no.42 the applicant asserts that the VSC would be at 27% and, therefore, would be in compliance with the standards. Consequently, it is only the windows to two houses (nos. 38 and 40) that would be below the VSC standard as a result of the proposed development.

12.5.17. As part of the VSC study and in accordance with the assessment criteria within the BRE guidance, the applicant has also calculated the effect on the APSH for the windows within an orientation of 90 degrees due south of the proposed development, which comprises the windows to nos.21, 23, 25 and 27 Brickfield Drive and between house nos.22 to 40 Brickfield Drive. The BRE Guidelines state that in order for a proposed development to have a noticeable effect on the APSH of an existing window, the following would need to occur:

- the APSH value drops below the annual (25%) or winter (5%) guidelines and;

- the APSH value is less than 0.8 times the baseline value and;
- there is a reduction of more than 4% to the annual APSH.

12.5.18. The applicant's study indicated that with the exception of the ground-floor window to no.38, the APSH value for all windows tested would not fall below the stated target value of 25% (annual) or 5% (winter), therefore a noticeable effect for the residents of the majority of the properties tested would not arise. The ratio of APSH for window 38a when comparing the baseline APSH with the APSH when the proposed development would be in place, is 0.5 (annual) and the winter APSH would be 0.36 of the baseline value. The minimum APSH for this window (38a) would be at 13.7% for the annual period and 1.7% for the winter APSH and there would be more than a 4% reduction in the annual APSH. Based on the BRE guidance a noticeable effect for residents of no.38 would arise in respect of light from one window.

12.5.19. The effect on VSC has been assessed for 85 neighbouring windows and for 81 of these windows (95%), the reduction in VSC would be within the BRE guidance limits. The effect on APSH has been tested to reveal that of the 55 windows within 90 degrees due south orientation of the proposed development, one window would fall below BRE guidance limits (1.8%). The baseline annual and winter APSH for the ground-floor window identified as 38a to house no.38, reveals that this window receives substantially less light at present when compared with other neighbouring windows along the terrace, which may be consequent to the positioning of a forward projecting porch directly adjoining to the south of this window. Consequently, the applicant asserts that this low baseline exacerbates the effect of the proposed development on the APSH for this window.

12.5.20. The applicant has assumed that the effects of the reduction in VSC for the residents of nos.38, 40 and 42 would not be significant, based on their own adaptation of the definitions of effects arising from the Environmental Protection Agency (EPA) 'Draft Guidelines on the Information to be contained in Environmental Impact Assessment Reports' (2017). For the purposes of EIA, Appendix 1 of the BRE Guidance provides criteria to be used when considering the scale of the impact of a development on skylight and sunlight to its surroundings. Adverse impacts are asserted to occur where there is a significant decrease in the amount of skylight and sunlight reaching an existing building where it is required. The appendix outlines scenarios where

such adverse impacts can be considered to be negligible, minor or major and based on the definitions provided I am satisfied that the adverse impacts arising in this case can be most appropriately categorised as negligible for the majority of properties. Only a small number of the tested windows would be affected by the proposed development and the loss of light would be only marginally outside the ratio of proposed VSC to baseline VSC provided for in the guidelines, and the APSH for window 38a serving house no.38 is already substantially below the annual and winter APSH target value.

12.5.21. Consequent to the limited minor impacts and the predominance of compliance with BRE guidance standards, I am satisfied that the lighting impacts arising from the proposed development for neighbouring properties would not be sufficiently adverse to require amendments to the proposed development, particularly having regard to land use objectives within the Development Plan to provide for an intensive redevelopment of this site, the flexibility afforded in the BRE 209 and BS 8206-2 guidance and the discretion offered by Section 3.2 of the Building Heights Guidelines and Section 6.6 of the New Apartments Guidelines. Accordingly, a refusal of permission or modifications to the development for reasons relating to lighting to neighbouring properties would not be warranted.

#### Loss of Sunlight and Overshadowing

12.5.22. The applicant's Sunlight and Daylight Assessment Report provides an assessment of the effect of the proposed development on sunlight levels to the playground area approximately 30m directly north of proposed block B in Brickfield Park, as well as an assessment of the rear gardens to nos.21, 23, 25 and 27 Brickfield Drive. Concerns were expressed by third parties regarding the potential loss of light to these external amenity spaces. The BRE Guidance indicates that any loss of sunlight as a result of a new development should not be greater than 0.8 times its previous value and that at least 50% of an amenity area should receive a minimum of two hours sunlight on the 21<sup>st</sup> day of March, which is the spring equinox.

12.5.23. A sunlight assessment was undertaken using a 3D model of the development and the adjoining buildings with the results shown in tabular format in the submitted Sunlight and Daylight Assessment Report. The analysis of the four private gardens reveals that with the proposed development in place, between 68.8% and 80.1% of

the rear garden areas would receive at least two hours of sunlight on the 21<sup>st</sup> day of March, in line with the BRE guidance. The level of change in the receipt of sunlight to these gardens from the baseline scenario compared to the proposed scenario was calculated as being between the ratio of 0.96 and 0.99 and, therefore, well within the BRE guidance. A reduction in sunlight arising from the proposed development to the playground to the north has not been calculated to occur. I note the Chief Executive's comments that they would not anticipate a substantial loss of light to this playground as a result of the proposed development, and I concur with the report of the Chief Executive in this regard. I am satisfied that the level of change in sunlight and overshadowing provided for under the BRE guidelines with respect to neighbouring amenity areas would be achieved and a refusal of planning permission for reasons relating to loss of sunlight and overshadowing to neighbouring properties would not be warranted.

### Nuisance

12.5.24. Third-party observers raise concerns regarding the present level of noise and vibration along Brickfield Drive and the potential impacts of the development for local residents arising from the associated increased activity and noise. The applicant's Noise and Vibration Impact Assessment considers the outward noise and vibration impact of the proposed development on its surrounding environment, during both the construction and operational phases. Noise surveys were undertaken along four locations on the boundaries of the application site in January 2021. The assessment refers to thresholds for construction noise at 55dB LAEQ,T for evenings and weekends and 65 dB LAEQ,T for daytime hours (07:00-1900 weekdays and 08:00-14:00 Saturday). Using standard noise level data, noise levels at 10m intervals from the site are calculated to identify potential exceedances in daytime construction hours, revealing potential for the maximum permissible daytime noise level to be exceeded at distances of up to 20m. This indicates that additional mitigation measures may be required to prevent exceedances at the nearest noise-sensitive locations, which are 10m distant at the closest points. The applicant asserts that construction traffic would need to double traffic along the local road network in order to have a greater than negligible increase in noise level (3dB). Operational phase noise impacts including building services plant, deliveries and waste collection, the operation of the crèche and the additional traffic on surrounding roads is also considered in the Noise



and Vibration Impact Assessment. Various mitigation measures are recommended to address noise emissions at both construction and operational phases of the development, including the installation of windows with a rating of at least '35 dB Rw' to some building facades within the proposed development, in order to mitigate the impact of the noise from the crèche play area. Various noise level limitation standards to be adhered to as part of the proposed development are referred to in the applicant's Noise and Vibration Impact Assessment.

12.5.25. Third parties have raised concerns regarding the potential for subsidence on site due to historical use of the area as a quarry. In this regard I note that the applicant has currently proposed a raft foundation based on site investigations, structural engineering considerations and the site constraints, and that should unexpected ground conditions arise during the excavation works foundation solutions may need to be amended. I am satisfied that the applicant has carried out adequate pre-construction testing and that appropriate levels of certainty as to proposed construction methodology is provided, as well as precautionary mitigation if required during construction, and that this is sufficient to obviate potential impacts to neighbours (and should be so conditioned). The applicant's Noise and Vibration Assessment outlines that vibration impacts would be addressed via compliance with the limitations within 'BS 5228-2 - Code of Practice for Noise and Vibration', as well as additional practical measures outlined in section 6.1 of the report.

12.5.26. Third-party observers have raise concerns regarding dust emissions and control of rodents during construction, the need to restrict construction hours and the control of overspill construction-related parking into neighbouring areas. It is also requested that residents should be notified of development works. A construction environmental management plan (CEMP) was submitted with the application, including measures to control noise and dust emissions within prescribed limits during the temporary construction phase of the project. A dust minimisation plan is also included as part of the NIS addressing measures for the construction and operational phases, including a communications plan to engage with nearby stakeholders, a site management plan to record all dust and air quality complaints and actions, and a monitoring plan which will be developed to ensure that no significant nuisance occurs. According to the applicant, site development and building works would only be carried out between the standard construction hours of

0700 to 1900 Mondays to Fridays inclusive, and between 0800 and 1400 hours on Saturdays. It is also asserted by third parties that the project may impact on the structural integrity of neighbouring properties. The planning application includes temporary works plan drawings to show the scale of works subsurface, which I note would be at a remove from neighbouring properties and would feature excavation works primarily only at approximately 2m below the adjacent road level along Brickfield Drive. Such excavation works are not extensive and I note that these works would also be subject to further engineering details at construction stage. I am satisfied that adequate information has been provided at this stage to assess the potential impact, and that appropriate mitigation measures, as applicable will be employed.

12.5.27. As per the request of the Planning Authority, a final CEMP can be agreed in the event of permission, and I am satisfied that finalisation of and adherence to such a plan would ensure the management of demolition and construction activity is carried out in a planned, structured and considerate manner that minimises the impacts of the works on the local residents and properties in the vicinity.

12.5.28. I am satisfied that the methodology used in the assessment for noise, vibration and dust minimisation to be robust and with the proposed reductive, control and monitoring measures to be put in place and compliance with the various stated standards, the proposed development would not have substantial impacts on neighbouring residents.

12.5.29. A condition was requested by the Planning Authority regarding the operational hours for the café and in addition a condition can be attached to curtail the use of external amplification and sound equipment for the gym and café, which both feature external terrace areas proximate to residential uses.

### Conclusions

12.5.30. In conclusion, sufficient information has been provided with the application to allow a comprehensive and thorough assessment of the impacts of the proposals on neighbouring residential amenities, as well as the wider area. I am satisfied that the proposed development would not result in excessive overshadowing or overlooking of neighbouring properties and would have not have excessively overbearing impacts when viewed from neighbouring residential properties. Accordingly, the

proposed development would comply with the central objective for these lands, as contained in the Development Plan and the proposed development should not be refused for reasons relating to impacts on neighbouring amenities.

12.5.31. Having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the enjoyment or value of property in the vicinity.

## 12.6. Residential Amenities and Standards

12.6.1. The amenities of the proposed development relative to quantitative and qualitative standards for residential development is undertaken below having regard to the guidance set out in the New Apartments Guidelines, the Development Plan and the Building Heights Guidelines, which also refer to documents providing guidance for daylight / sunlight assessments within new developments. I am satisfied that the subject development would not come within a category of refurbishment development that would be open to relaxed development standards based on the provisions of section 16.10 of the Development Plan. Section 16.10.1 of the Development Plan requires proposals for apartments to comply with the standards set out in the 2015 version of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, which were subject of revisions in 2018 and 2020.

### Apartment Mix – SPPRs 1 and 2

12.6.2. Table 2 of my report above, provides details of the mix of apartments proposed, which would comprise 0.4% studio, 44.6% one-bedroom and 55% two-bedroom apartments. Third-party observers assert that the mix of units would be inappropriate for the area with a bias in proposed units on site and within neighbouring developments for smaller size units. The Development Plan requires a mix of no more than 25% to 30% of one-bedroom units in a development and a minimum of 15% of three or more bedroom units in a development, while SPPR 1 of the New Apartment Guidelines states that apartment developments may include up to 50% one-bedroom or studio type units and that there shall be no minimum requirement for apartments with three or more bedrooms. The Planning Authority

acknowledge that the unit mix complies with the standards in the New Apartment Guidelines and I am satisfied that this would be the case and the proposed development would contribute to the overall residential mix of the locality, which is predominated by three and four-bedroom houses. I specifically address material contravention with the apartment mix standards of the Development Plan within section 12.10 below, but ultimately I am satisfied that the housing mix complies with SPPR1 of the New Apartment Guidelines.

- 12.6.3. Measuring 1.23 hectares, the site is surrounded by an established urban environment, including houses, a community facility, commercial facilities and open spaces, therefore, SPPR 2 does not apply for this urban infill scheme on a site of greater than 0.25 hectares.

#### Apartment Size – SPPR 3

- 12.6.4. The applicant asserts that the proposed apartments have been designed to fully accord with the New Apartments Guidelines. A Housing Quality Assessment has been submitted with the application, which provides details of apartment sizes, floor to ceiling heights, public and private open space, room sizes and storage.
- 12.6.5. The minimum size of the apartments proposed at 40.6sq.m for a studio unit, 45.7sq.m for a one-bedroom unit and 78.9sq.m for a two-bedroom four-person unit would exceed the 37sq.m, 45sq.m and 73sq.m respectively required for these units in the New Apartment Guidelines. The internal design, layout, configuration and room sizes for each of the apartments, would accord with or exceed the relevant standards, as listed in appendix 1 of the New Apartment Guideline. It is asserted by a third-party observer that the ground-floor studio apartment (B.00.01) in block B would not meet the minimum width required for the living/dining/bedroom in such units. The New Apartment Guidelines require a minimum living/dining/bedroom width of 4m and this is provided for based on the ground-floor plan drawing (no.BRK\_JFA\_02\_00\_DR\_A\_P2002). Third-party observers assert that additional space should be provided to facilitate self-isolation in apartments, but I note that this is not a requirement of the New Apartment Guidelines or any recent Departmental circulars for that matter. A conflict between the position of a hotwater tank press and an access door to unit B.00.04 on the ground-floor plan layout drawing is a relatively minor discrepancy referenced by a third-party observer, which can be readily

resolved via condition in the event of a permission and without any substantive implications for the apartment floor area. The New Apartment Guidelines require 3sq.m internal storage room for a one-bedroom apartment and 6sq.m for a two-bedroom four-person apartment. Third-party observers assert that the one-bedroom apartments lack sufficient storage space, however, having reviewed the Housing Quality Assessment and the individual apartment plans, sufficient storage space of 3.0sq.m to 5.7sq.m would be provided for all of these units.

- 12.6.6. In safeguarding higher standards, the 10% additional floor space required for the majority of apartments in section 3.8 of the New Apartment Guidelines would also be achieved with 228 apartments, or 81% of the apartments exceeding the 10% additional floor space standard. Private amenity space for each of the apartments, including balcony and terrace sizes and depths, would meet or exceed the minimum requirements.
- 12.6.7. Appendix 1 of the New Apartment Guidelines sets out a minimum requirement of 4sq.m communal amenity space per studio apartment in a development, 5sq.m for a one-bedroom apartment and 7sq.m for a two-bedroom four-person apartment. This would require 1,719sq.m of communal amenity space, which can be provided in a central courtyard and a southern courtyard amounting to 2,300sq.m. Two playgrounds measuring 172sq.m and 95sq.m are also proposed adjacent to blocks A and D. The Daylight and Sunlight Assessment Report submitted by the applicant includes shadow study drawings for differing dates and times throughout the year and calculated that the proposed central and southern courtyard amenity areas, the two playgrounds and the crèche play area would all receive sufficient sunlight based on the relevant standards outlined in the BRE guide 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2011). Of the five outdoor amenity areas assessed, the applicant's analysis indicates that the crèche play area would receive the lowest levels of sunlight with 72% of the amenity area meeting or exceeding the minimum recommended standard of two hours of sunlight on the 21<sup>st</sup> day of March (Spring Equinox). The two playground areas on site would receive the highest levels of sunlight with 97% of these amenity areas meeting or exceeding the minimum recommended standard of two hours of sunlight on the 21<sup>st</sup> day of March. I am satisfied that the open space proposals would provide a reasonable level of amenity for future residents based on the relevant applicable standards.

#### Aspect – SPPR 4

The Development Plan refers to the standards contained in SPPR 4 of the New Apartment Guidelines, which require 50% dual aspect apartments in suburban and intermediate locations or 33% dual aspect apartments in central and more accessible urban locations. A total of 148 apartments are stated to form dual aspect units, which would equate to 52% of the apartments within the scheme. As discussed in Section 12.2 addressing the density of the proposed development, I consider the site to be within a central and accessible urban location, and as a consequence the minimum standards required in SPPR 4 would be exceeded by the proposed development. Section 3.18 of the New Apartment Guidelines states that where single-aspect apartments are provided, the number of south-facing units should be maximised, with west or east-facing single-aspect units also being acceptable. It states that north-facing single-aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature. The submitted documents state that a total of 105 apartments (37.2%) are single aspect units and of these I note that 22 apartments or 8% of the total apartments would be north-facing single-aspect apartments. The applicant refers to these north-facing units as overlooking the central podium courtyard and the parklands to the north of the site. The applicant also refers to 29 'hybrid' apartments as not being considered to be either single or dual aspect, as they feature a secondary aspect comprising windows of limited size to address the potential for reduced privacy. The Planning Authority are satisfied that the proportion of units with dual aspect would comply with the provisions of SPPR 4 and I am satisfied that this would be the case. Furthermore, I am satisfied that each of the north-facing single-aspect units would have a reasonable standard of outlook and the overall provision of aspect for the units would be reasonable in the context of the Guideline standards.

#### Floor to Ceiling Heights – SPPR 5

- 12.6.8. SPPR 5 of the New Apartment Guidelines requires a minimum floor to ceiling height of 2.7m for the ground-floor level of new build apartments. The applicant asserts that the proposed floor to ceiling heights would be in excess of 3m. The drawings submitted suggest that 2.75m to 2.8m floor to ceiling heights would be provided in blocks A, B and C. Section BB on drawing no.BRK\_JFA\_SE\_00\_DR\_A\_P5002

indicates floor to ceiling heights of 2.575m for the ground-floor apartments in block D, although this is illustrated as 2.8m on the section DD drawing (no.BRK\_JFA\_SE\_XX\_DR\_A\_P6003). I am satisfied that the discrepancy in the floor to ceiling heights can be addressed via internal alterations only and without the necessity for alterations in overall building heights, and the minimum standard of 2.7m ground-floor apartment floor to ceiling heights can be achieved throughout the development, in compliance with SPPR 5. A condition can be attached in the event of permission to clarify same.

#### Sunlight and Daylight Provision

- 12.6.9. The applicant's Daylight and Sunlight Assessment Report provides an assessment of daylight access within the proposed scheme having regard to the quantitative standards that I have addressed in section 12.5 above. In respect of the proposed residential units, the aforementioned BRE and BS standards and guidelines recommend that for the main living spaces/living rooms of residences, a minimum average daylight factor (ADF) of 1.5% should be achieved with a 1% ADF for bedrooms and 2% ADF for kitchens. The applicant has referred to these targets in their assessment, as well as a 2% ADF target for the studio apartment. The applicant does not use a target of 2% ADF for the completely internal kitchen areas forming part of living/kitchen/dining rooms, where the respective kitchen areas are not directly served by a window. I am satisfied that the use of this methodology is provided for in section 2.1.8 of the BRE Guidelines. A target ADF of 1.5% is used by the applicant for these living/kitchen/dining room spaces.
- 12.6.10. According to the applicant, a representative sample of daylight access for rooms within the proposed development was studied using those rooms that would be most likely to feature obstruction of daylight or lower levels of daylight, primarily due to their lower level position. Of the 282 apartments proposed, the results of testing for 41 apartments and 129 rooms were provided, and the applicant asserts that this revealed a 100% pass rate for each bedroom (1.19% to 7.49% ADF) and living space (1.78% to 9.03% ADF), well in excess of their minimum recommended respective ADFs (1% bedrooms and 1.5% living rooms). An ADF of between 1.61% and 9.36% has been calculated by the applicant for the 29 tested living, kitchen and dining spaces, which would be in compliance with the minimum ADF standard in the BRE guidelines for living rooms (1.5%). However, of the tested living, kitchen and

dining areas, ten of these rooms featuring kitchen areas, with an ADF between 1.61% and 1.95%, would fall below the 2% ADF target for kitchens. While it would be more preferable for a 2% ADF target to be achieved for these kitchen areas, as highlighted in section 12.5 above, the BS and BRE guidance allow for flexibility in regard to targets and do not dictate a mandatory requirement. I also note that of the extent of non-compliance with the 2% ADF for kitchens, would equate to less than 3% of the total number of apartments. Furthermore, the New Apartment Guidelines recognise that a discretionary approach should be taken with regards to compliance with daylight provision in certain circumstances and I am satisfied that such an approach would be reasonable given the limited shortfall in ADF relative to the standards for the 7.75% of the total tested rooms, which represent the worst-case scenario. Furthermore, with much similarity in floor plan layouts moving upwards through the blocks and the provision of apartments recessed on the upper levels, the overall proportion of rooms falling below the ADF target would be likely to decrease substantially below the 7.75% tested rooms considered to fall short of the ADF standard. In conclusion, I am satisfied that in measuring the adequacy of the provision of sunlight/daylight by the proportion of rooms meeting ADF standards, I am satisfied that the lighting to the proposed development would adequately meet the residential amenity levels for future residents.

12.6.11. The ground-floor units where ADFs of 2% have not been achieved for shared kitchen, living, dining spaces would have the benefit of good aspect and 2.75m floor to ceiling heights, and therefore have a good level of residential amenity and daylight/sunlight. The discrepancy noted in relation to floor to ceiling heights in block D do not have a material bearing on this conclusion, as 2.75m ground floor to ceiling height can be achieved throughout. I am satisfied that in order to achieve good urban and architectural design ambitions in respect of the scheme, relaxation of the standards as provided for in the BRE Guidelines and the section 28 Building Heights Guidelines, is appropriate.

#### Lift and Stair Core Access – SPPR 6

12.6.12. SPPR 6 specifies a maximum of 12 apartments per floor to be served by lift and stair core access. The applicant states that a maximum of between nine to 11 apartments per floor would be served by the cores in blocks A, B and C, while less than eight apartments per floor would be served by the two cores in block D. I



address material contravention of the proposed development with respect to 'block configuration' standards of the Development Plan under section 12.10 below. I am satisfied that SPPR 6 of the New Apartments Guidelines would be complied with as part of the proposed lift and stair core access.

#### Privacy and Overlooking

- 12.6.13. The ground-floor plans omit the positions of numerous windows serving apartments D2.00.04 and D2.00.05, but these are picked up in the elevation drawing (no.BRK\_JFA\_EL\_D\_DR\_A\_P4004) and considered as part of my assessment below. Vertical privacy screens are proposed for specific balconies to address the potential for overlooking between units and the potential for excessive loss of privacy when using these balconies (see drawing no.BRK\_JFA\_XX\_XX\_DR\_A\_P6004).
- 12.6.14. There is sufficient space fronting the buildings to ensure that the privacy of a majority of the residents of the ground-floor apartments would not be substantially undermined, however, some improvements via repositioning of pedestrian paths and the provision of landscaped privacy strips serving as defensible space in locations proximate to terraces and windows would be necessary, including the area fronting the living room window serving the one-bedroom apartment on the east side of core D1 to Block D and along the terraces on the north side of block B requiring the path to be realigned fronting unit B.00.05. This can be provided for as a condition in the event of a permission.
- 12.6.15. To address the potential for excessive overlooking between apartments given the proximity of block A to block B and block B to block C, the applicant has proposed the use of high-level windows only on the elevations facing each other, as illustrated using a section drawing on page 17 of the applicant's Architectural Design Statement. I am satisfied that this design approach would restrict the potential for excessive direct overlooking between units and I also note that the separation of 29m between the directly opposing balconies serving apartments in blocks B and D would also be sufficient in eliminating the potential for excessive direct overlooking between the apartments in these blocks.

#### Wind and Microclimate

- 12.6.16. The applicant's Wind and Microclimate Modelling report provided information to avoid introducing a critical wind impact on the surrounding areas and buildings. It is

predicted that the proposed development would experience some minor funnelling effects near the north west side of the development and the southwest corner of block A, but that with landscape mitigation measures, including tree planning, the flow velocities would still allow the areas to be used for their desired purposes. In addition, wind speed velocities would not be critical in the use of the balconies. The applicant's modelling also found that the proposed development would not impact or give rise to negative or critical wind speed profiles at adjacent roads or neighbouring buildings. The applicant's modelling includes three five-storey buildings on a different layout and taller than the existing commercial buildings on the Sunshine commercial estate. While these three buildings do not presently exist on the adjoining site and I am not aware of a permission for same, the use of these buildings in the modelling presented would not appear to substantially interfere with the wind environment arising for the proposed development. I am satisfied that significant microclimate impacts are not likely to arise such as would warrant refusal of permission or amendments to the scheme.

#### Communal Facilities

12.6.17. The New Apartment Guidelines promote the provision of communal rooms for use by residents in apartment schemes, particularly in larger developments. Within block C of the proposed development it is proposed to be provide a gym, a childcare facility, a café and a remote office working hub that would be open to the public, alongside communal facilities in the form of a residents' lounge (162 sq.m) with external seating area and a meeting room. Communal satellite dish locations at roof levels are proposed on each of the blocks, as well as a basement level dog wash and bicycle maintenance area.

12.6.18. The applicant's Statement of Consistency asserts that the need for the crèche / childcare facility is based on the standards within the Childcare Facilities Guidelines for Planning Authorities (2001), which require a facility with space for 20 children for a development comprising 75 dwellings. A case is made by the applicant for a reduced level of childcare provision based on the guidance contained in the New Apartments Guidelines, which state that the threshold for the provision of childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. While third parties assert that

one-bedroom apartments would attract a demand for childcare spaces, the Childcare Facilities Guidelines state that one-bedroom or studio apartments should generally not be considered to contribute to a requirement for childcare provision and, subject to location, this may also apply in part or whole to units with two or more bedrooms. The proposed development contains a total of 155 two-bedroom apartments. Based on the provisions within the Childcare Facilities Guidelines, 155 units would generate a requirement for just over 40 childcare spaces. Given the flexibility provided for in the New Apartments Guidelines and to facilitate external users, the applicant considered it prudent to provide for a facility to cater for 49 children and I am satisfied that this level of provision would be acceptable relative to the standards, site context and the proposed unit types.

12.6.19. In summary, I am satisfied that the proposed communal facilities would be sufficient and comparable with the provision for similar size recently permitted apartment developments.

#### Social/Community Infrastructure

12.6.20. The observers assert that there is limited provision of social communal facilities within the wider area and a need for further social and community supports, whereas the Planning Authority do not consider this to be the case. The applicant has provided a Community and Social Infrastructure Audit as part of the application, identifying a total of 60 facilities within approximately 1km of the site, including 11 retail shops, 11 healthcare facilities, 15 sports clubs, three public parks, three youth clubs, a library, two community centres, a theatre, a further education facility, three crèches, a nursing home and six places of worship. While the accuracy of the information provided in the applicant's audit are contested by third-party observers, the audit broadly identifies the main services and resources in the immediate area, considerate of guidance contained within the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.

12.6.21. Increased residential density in locations such as this, ensure the efficient and increased use of existing and planned services, including public transport, shops and social infrastructure. Such services, whether commercial or social, are dependent on a critical mass of population to remain viable and to justify the creation of additional services. In the wider environs of the site there are schools, shops,

medical facilities, parks and open spaces, all of which would benefit from a development that is a comfortable walking or cycling distance from the site. I am therefore satisfied that the area and development would be reasonably well serviced in respect of social/recreational/commercial infrastructure and that this context should not inhibit the subject proposals.

12.6.22. With the exception of the recommendation to extend the remote office hub facility on site, the Planning Authority do not require any additional facilities to those proposed to be provided as part of the development and, as noted in section 12.2 above, I am satisfied that from a planning policy perspective there is not a necessity to provide any additional non-residential uses on the site.

#### Building Lifecycle and Management

12.6.23. As required within the New Apartment Guidelines, a Building Lifecycle Report assessing the long-term running and maintenance costs and demonstrating the measures that have been considered by the applicant to manage and reduce costs for the benefit of residents, has been included with the planning application. While the measures and sinking fund details are lacking in specification for this development, prior to the sale or lease of individual units the developer would have to achieve compliance with the terms of the Multi-Unit Development Act 2011, inclusive of the establishment of a development specific Owners Management Company and a development specific sinking fund.

#### Sustainability and Energy Efficiency

12.6.24. Objective CCO12 of the Development Plan promotes high energy efficiency standards in existing and new developments. The applicant states that the proposed development would meet the latest energy efficiency standards and nearly zero energy building (NZEB) requirements. A Sustainability and Energy Report has been submitted with the application outlining specific mechanical and electrical measures to address energy efficiency, including the use of an exhaust air to heat pump and mechanical extract ventilation. The applicant's Building Lifecycle Report outlines other means of addressing energy efficiency and carbon emissions over the life of the development. I am satisfied that the information provided with the application reveals that due consideration for energy efficiency has been undertaken as part of the design of the development, in compliance with Development Plan provisions.

Further consideration of energy efficiency matters will be evaluated under a separate code, including Part L of the building regulations.

### Conclusion

12.6.25. In conclusion, subject to conditions, I am satisfied that the proposed development would provide a quality and attractive mix of apartments, open space and communal facilities, meeting the relevant design standards and providing a suitable level of amenity for future residents.

## **12.7. Traffic and Transportation**

12.7.1. A substantial proportion of the third-party observations have raised concerns in relation to the implications of the proposed development for ongoing traffic congestion issues within the area, road safety concerns primarily based on the present condition of local roads infrastructure, the distance from the site to neighbouring support services, and the potential environmental impacts along Brickfield Drive. It is also asserted that the proposed development would not be sufficiently served by on-site car parking and may facilitate through traffic from Crumlin Road through to Brickfield Drive.

### Access and Connectivity

12.7.2. The site is accessed from Brickfield Drive a local access road off Keeper Road finishing as a turning circle for vehicular traffic adjacent to the Crumlin Road. Vehicular access is not directly available from Crumlin Road to Brickfield Drive. Permission is sought to create a new vehicular access to a semi-basement level off Brickfield Drive, in a similar location to the existing vehicular access on site. A secondary shared access and a pedestrian-only access are also proposed either side of the basement access off Brickfield Drive. The internal layout includes a shared access road 4.8m in width running centrally through the site leading to five set-down parking spaces for the crèche facility, a car share / car club space and a loading/deliveries bay. Emergency vehicle access through the site is facilitated with sections of grasscrete to be used, as illustrated on the swept path analysis drawings in appendix C to the applicant's Traffic and Transport Assessment. It is proposed to undertake public realm improvements along Brickfield Drive as part of the access

works, including a raised table along the entrances and controlled access points set back from the roadway to avoid the queuing of traffic along the roadway.

- 12.7.3. A DMURS Compliance Statement is included within the applicant's Traffic and Transport Assessment outlining that the development carriageway widths, junction radii, parking, pedestrian paths and crossings, as well as hard landscaping materials, horizontal and vertical deflections would be in line with DMURS requirements. The Planning Authority has sought additional details as conditions in the event of a permission and noted that a drawing had not been included to show sight visibility at 2.4m set back from the roadside for a distance of 23m in both directions, as would be required under DMURS. Having visited the site and reviewed the drawings I am satisfied that the necessary sightlines can be readily achieved at both proposed vehicular accesses onto Brickfield Drive, providing for safe and convenient connections into local transport infrastructure.
- 12.7.4. While I recognise that the subject development would feature controlled and gated accesses, the Development Plan clearly requires development on this site to be designed cognisant of the future development potential for the rezoned Sunshine commercial estate and the applicant has attempted to undertake this via provision of an indicative masterplan layout showing two possible future pedestrian route connections into the Sunshine commercial estate. In order to facilitate this, and as highlighted above with respect to the development layout (see section 12.3), in the event of a permission a condition should be attached requiring the layout of the pedestrian paths to be revised to provide the indicated two pathway connections up to the boundary with Sunshine commercial estate.
- 12.7.5. The development does not seek permission for a vehicular access to the adjoining Sunshine commercial estate, therefore, in response to third-party concerns I note that there is no scope for through vehicular traffic between Crumlin Road and Brickfield Drive to be facilitated via the development. I also note that the applicant undertook an audit of a potential cycle route between Brickfield Drive and Crumlin Road, but the Planning Authority did not require this infrastructure to be provided as part of the subject development and I would not consider it necessary to facilitate the subject development.

### Public Transport

12.7.6. The applicant's Traffic and Transport Assessment provides details of public bus services available in the environs of the site, including the 122 Dublin bus route operating along Keeper Road and the 27 route operating every 10 to 15 minutes during peak times to and from the city centre from a stop 170m to the south of the site along Crumlin Road. Seven other bus services are identified to be operating from stops within 850m of the site, while red line Luas services operate from Suir Road, 900m to the north of the site. Based on the information available, I am satisfied that the site would have reasonable access to amenities via public transport, and it is further intended that these services would improve in future with Bus Connects (route 9 services).

### Car Parking Standards

12.7.7. The applicant is proposing a total of 119 car parking spaces, five of which would serve the childcare facility and four of which would be car share / car club spaces. Observers to the application raise concerns that the proposed development would feature an undersupply of car parking, while the planning authority assert that the ratio of parking per residential unit (0.4) is akin to similar recently permitted development in the area and acceptable based on the level of access to public transport and car club / car share spaces proposed. Based on the Development Plan standards and the quantum of development, a maximum of 282 car parking spaces would be permissible for the residential units, therefore, the overall provision would be well within the prescribed limits.

12.7.8. The applicant argues that the site is within an accessible urban location and highlights travel patterns in the area and car ownership rates that support the level of car parking proposed. The New Apartment Guidelines advocate the consideration of reduced overall car parking in urban locations served by public transport or close to urban centres, particularly in residential developments with a net density of greater than 45 units per hectare. A Framework Residential Travel Plan is provided with the applicant's Traffic and Transport Assessment, and this outlines various measures to influence use of more sustainable modes of transport as part of the development, including the appointment of a travel plan coordinator to promote and support the provisions of travel plans serving the development. Based on the provisions of the

variation to the Development Plan, where significant numbers of employment and or residents are envisaged on the subject lands at Brickfield Drive, it is stated that a travel plan would be required. The Planning Authority require the implementation of this travel plan to be a condition in the event of a permission. A car-parking management strategy has also been submitted as part of the Traffic and Transport Assessment, which the Planning Authority are agreeable to, and this outlines how the residential, crèche and car share / car club parking spaces would be assigned and managed.

12.7.9. The applicant proposes to provide ten car parking spaces (9%) equipped with electric-vehicle charging points, while the remainder of the car parking spaces would be provided with the necessary infrastructure required to enable future upgrade to accommodate electric vehicles. The Planning Authority require one of the car club / car share spaces to feature an electric-vehicle charging point, which would appear practical and reasonable and should be required as a condition in the event of a permission.

12.7.10. I am satisfied that car parking standards below the Development Plan maximum standards would be reasonable in this location accessible to a high capacity public transport services and major destinations, including employment centres and the city centre. Furthermore, I am satisfied that the proposed development would be sufficiently served by car parking at the ratio proposed based on the car club / car share alternatives, the extensive provision of cycle parking, car parking management proposals and the implementation of a residential travel plan based on the framework plan submitted.

#### Cycle Parking Standards

12.7.11. A total of 558 cycle parking spaces would be provided throughout the development, which would provide for almost two spaces per apartment and these spaces would be both at surface and basement level. A residents' cargo-bike sharing scheme with six spaces is to be implemented. The Planning Authority note that the cycle parking provision would comply with Development Plan requirements and despite the provision of cycle parking falling short of the New Apartment Guidelines for the quantum of visitor spaces, the Planning Authority are satisfied with the overall provision. I am satisfied that the quantum of cycle parking exceeding the



Development Plan requirements, would be welcome in supporting sustainable transport options, and the provision of a 'Dublin Bike' station, as requested by third parties, would not be necessary to facilitate the development.

### Traffic

12.7.12. Observers assert that proposals and other permitted developments in the area would add to traffic congestion. Based on the modelling used, the additional trips associated with the proposed development exiting onto Brickfield Drive towards the Keeper Road junction during the morning peak hour (08:00 – 09:00) would be 101, with 104 returning trips during the evening peak hour (17:00 – 18:00). The submitted Traffic and Transport Assessment asserts that, if permitted, the proposed development would result in an increased impact on the operational traffic volumes in the opening year (2022) at the Brickfield Drive and Keeper Road junction north of the site by 73% during the morning peak hour and 98% in the evening peak hour, and along Keeper Road the two-way traffic flows would increase by 8% and 12% respectively during these peak hours. Based on Transport Infrastructure Ireland (TII) Traffic and Transport Assessment Guidelines (2014) modelling is required for the Brickfield Drive and Keeper Road junction and the applicant's modelling calculated that the junction would operate well within capacity in the opening year, the interim year (2027) and the design year (2037), while there is sufficient capacity in the local road network to adequately absorb the traffic increase associated with the proposed development.

12.7.13. The site is located on zoned development lands, within the built-up area of Dublin city with reasonable access to an array of services. There are plans in place for the improvement of public transport in this area, which the project may directly support in future by providing critical mass to support these services. There would undoubtedly be some increase in traffic numbers as a result of the proposed development, which would invariably add to existing congestion that is acknowledged by observers. However, traffic congestion at peak periods in an urban area such as this, would be anticipated to occur and various measures and design features have been set out within the application and as part of the proposed development to support the use of public transport, cycling and walking, as an alternative to the use of private vehicles. I am satisfied that based on the information provided in the Traffic and Transport Assessment, a reasonable approach to modelling future traffic scenarios on the local

road network with the development in place have been set out and this does not reveal substantive impacts on traffic, particularly when considering the background traffic levels.

### Construction Traffic

12.7.14. The volume of traffic generated during construction will be lower than that generated during the operational phase. The applicant has submitted an outline construction traffic management plan as part of the Traffic and Transport Assessment indicating likely traffic volumes, delivery routes and measures to address traffic and parking during the construction phase. The Planning Authority has requested that a Construction Management Plan with traffic management details is submitted for agreement prior to the commencement of the development and I am satisfied that this would be necessary and reasonable as a condition in the event of a permission for the proposed development. While there would be likely to be some disruption for local residents and occupants during the 24-month construction period for the development, in the long term the revised use of the land and the removal of the warehouse premises would be likely to reduce the necessity for HGV traffic to access the immediate local road network, which is largely defined by residential streets with limited capacity for such vehicles.

### Conclusion

12.7.15. In conclusion, subject to conditions, the proposed development would not result in traffic hazard or significant additional traffic congestion in the area, and it would feature an appropriate provision of car and cycle parking.

## 12.8. **Services and Flood Risk**

### Services

12.8.1. The application was accompanied by a Drainage Design Report addressing site services, including foul sewers, surface water drainage and water supply. SUDS measures, including permeable paving and green roofs, would be incorporated into the development to provide interception storage, underground attenuation tank storage and a flow control to limit the rate of discharge to greenfield run-off rates. A silt trap and a bypass petrol interceptor would be installed downstream of a hydrobrake or similar feature prior to discharge of storm waters to the existing

stormwater system running along Brickfield Drive in a 225mm-diameter surface water drain. The proposed attenuation tank would have sufficient capacity to accommodate 1-in-100 year storm events and climate change factors can be built into the detailed design. Consultation with Irish Water and the Planning Authority following the submission of the application, confirmed the acceptability of the drainage proposals, subject to conditions agreeing the final detailed designs and compliance with the Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0). In conclusion, I consider the drainage proposals to serve the development are satisfactory, subject to appropriate conditions.

12.8.2. It is proposed to discharge the foul water effluent from the proposed development at a single connection point and by gravity in an eastern direction into the existing 225mm-diameter foul water sewer running along Brickfield Drive. Irish Water have no objection to the proposals noting that the connections to wastewater can be facilitated without upgrade of this infrastructure.

12.8.3. It is proposed to connect into a 9-inch cast-iron watermain running along Crumlin Road, in order to supply water to the development. To enable this a new watermain of approximately 175m in length and 150mm in diameter would have to be laid under Brickfield Drive running through the turning circle and across Crumlin Road. The applicant forwarded correspondence from Irish Water with respect to a pre-connection enquiry and this outlined that Irish Water does not have any plans to extend or commence upgrade works to the network in this area and the applicant would be required to obtain any consents or permissions for works not in the public domain. I note that the new watermain route works form part of the advertised development description with consent from the stated landowner to allow for the application to be made and the subject works are contained within the public road network. Irish Water have no objection to the proposals and they have recommended standard conditions are attached in the event of a grant of permission.

#### Flood Risk

12.8.4. Third-party observers refer to spot flooding events having previously occurred along Brickfield Drive and Keeper Road, up-gradient of the site. The applicant submitted a site specific flood risk assessment and this asserted that based on information

available, including Office of Public Works mapping, the site is at low risk of fluvial and groundwater flooding and at no risk of tidal or coastal flooding. Historic flood events were not noted on site or adjacent to the site. As the storm-water system has been designed to retain a 1-in-100 year storm event, the applicant asserts that the proposed development would reduce the risk of pluvial flooding on site and would not increase the potential for flooding to neighbouring properties. To further address the potential risk of pluvial flooding impacting the site, the applicant suggested keeping the finished ground-floor level of the development at least 150mm above external hardsurfaced level.

- 12.8.5. Following the approach set out within 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities', the site is within an area of low probability for flooding (flood zone C) and the proposed development is 'less vulnerable' and therefore appropriate for the site. In conclusion, based on the information available, I am satisfied that the development would be at low risk of flooding and it would not increase the risk of flooding to other lands.

## 12.9. **Ecology**

### Local Ecological Impacts

- 12.9.1. This site lies within an urban area and current land uses in the vicinity are detailed in section 2 above. Observers assert that the wildlife of the site should be protected. An Ecological Impact Assessment (EclA) report was submitted with this application following bird surveys in May 2020, bat surveys in May 2020 and March 2021, habitat surveys in July 2020 and invasive species surveys in May and July 2020. This EclA report outlines the habitats and species identified on site during surveys, as well as referring to designated sites for nature conservation in the vicinity, including the Grand Canal proposed Natural Heritage Area, which is situated 470m to the northeast.
- 12.9.2. The site primarily comprises modified habitats dominated by buildings, artificial surfaces and amenity grassland. Numerous trees would be removed as part of the development and protected plant species were not identified. Grey squirrel and red fox were observed using the site and the site may attract hedgehogs. The site is too distant from watercourses to be likely to be used by otters. Two amber-listed bird

species, namely Greenfinch and Goldcrest were recorded within the site, although no birds were observed using the site for breeding. Light-bellied Brent Geese and other birds are known to use neighbouring parks for foraging, including Brickfield Park. The site has no habitats suitable for fish and protected amphibians or invertebrates using the site were not identified during surveys. Habitat listed in Annex I of the Habitats Directive or species listed in Annex II have not been identified on the subject site.

- 12.9.3. The applicant sets out various avoidance, remedial and alleviation measures to address the potential negative impacts of the development on local ecology, including the provision of five hedgehog highways, supplementary planting to address the loss of trees, noise and dust minimisation measures during construction and the introduction of pollinator-friendly shrub species to the northern boundary with the parklands. Various SUDS and pollution-control measures form part of the surface water drainage proposals, limiting runoff and addressing water quality, including during the construction and operation phases. Collision risk for birds has been reduced to negligible levels based on the designs and surrounding built-up context.
- 12.9.4. Butterfly Bush and Sycamore, both medium impact invasive species were identified within the site. Sycamore would form part of the landscaping plan, while options for the removal of Butterfly Bush are presented based on National Roads Authority (NRA) (2010) 'Guidelines for the Management of Noxious Weeds and Non-Native Plant Species on National Roads' and biosecurity measures to control the spread of this species. Non-native species listed in schedule 3 to the European Communities (Birds and Natural Habitats) Regulations 2011 were not recorded on site.
- 12.9.5. After alleviation, the applicant asserts that no significant negative residual effects are likely to arise to the local ecology arising from this project. With the implementation of the identified alleviation measures, I am satisfied that the residual impact on local ecology would be no more than negligible. Specific impacts on bats and trees are examined under separate subheadings below.

#### Bats

- 12.9.6. All Irish bats are protected under national (Wildlife Acts, 1976-2012) and EU legislation (under Annex IV of Habitats Directive, with Lesser Horseshoe Bat

included under Annex II also). Observers to the application assert that a bat survey should be undertaken, and I note that such a report was appended to the EclA report submitted with the application. This report identified the likely suitability of the site for bats and outlined that three bat species were detected passing through the site in May 2020 and two bat species in March 2021. Bats were not detected or observed using the buildings or structures on site and of the 20 trees to be removed, only three would be of low to moderate bat roosting potential according to the applicant. I am satisfied that the applicant has undertaken an adequate number of bat surveys and that the appropriate methodology was employed. The survey confirmed that no roosting or breeding sites were identified, although it is accepted that the site has some potential in this regard. Foraging /commuting bats were only observed.

12.9.7. The National Parks and Wildlife Service (NPWS) welcomed proposals to address the potential impacts on bats, including proposals to address any potential bat roosts and to provide bat boxes. Lighting proposals, as stated and detailed in the public lighting report submitted, have been specifically designed to address the impacts on commuting and foraging bats and followed through into the development design. Light spillage from internal areas is already a feature of the site and a common feature of the surrounding urbanised environment that is used by various identified bat species. To address the potential impacts on possible bat roosting, the applicant has set out proposals to alleviate disturbance of bats during the construction phase, including methods statements for the timing and undertaking of the proposed tree felling, the acquiring of a derogation licence from the NPWS, if required, and the ceasing of any work should bats be discovered during works. At least ten bat boxes are proposed to be placed on trees within the site.

12.9.8. Based on the surveys undertaken there would be limited potential for disturbance of bats over the construction and operational phases, and I am satisfied that, subject to the stated measures being implemented in full, there would not be a significant adverse impact on bat populations as a result of the proposed development.

#### Trees

12.9.9. Following a tree survey, the applicant's Arboricultural Assessment outlines that 20 of the 37 trees on site were identified for removal to facilitate the development, including two grade 'U' trees of a condition that any existing value would be lost

within ten years, 14 grade 'B' trees of moderate quality with an estimated remaining life expectancy of at least 20 years, 16 grade 'C' trees, which are trees of low quality with an estimated remaining life expectancy of at least ten years and five shrub borders also of grade 'C'. The applicant's tree survey states that the majority of trees are located along the northern and southern boundaries of the site, featuring a variety of eight tree species. A total of 17 trees are to be maintained as part of the overall proposals, including a line of sycamores along the southwestern boundary and a line of Lawson Cypress trees along the southeastern boundary. I am not aware of any tree preservation orders relating to the site. While third parties have raised concerns regarding the potential impacts of the development on trees within Brickfield Park, the applicant has also provided details clarifying how the proposals would not impact on the root protection zones and the canopies of these trees.

12.9.10. Proposals with respect to tree protection were submitted as part of the Arboricultural Assessment and drawings identifying the trees to be protected and removed are included (see drawing nos.BFH001 and BFH002). As per the requirements of the NPWS, it is proposed that any clearance of vegetation would ideally be carried out outside of the main bird breeding season. Replacement tree planting would be planted throughout the site, as illustrated and listed on the Landscape Framework Plan drawing (no.6879-L-201). Detailed work methods are provided in the Arboricultural Assessment and the Landscape Management and Maintenance Plan. The Planning Authority acknowledge that the loss of trees would be acceptable subject to tree protection measures as a condition in the event of a permission, including the protection of the tree canopy along the Brickfield Park tree belt.

12.9.11. I am satisfied that given the extent of trees to be maintained on site and the trees within the park to be protected, the stated condition of the trees on site and the proposed provision of replacement tree planting, a sustainable approach to redeveloping the site has been set out in this regard.

## 12.10. **Material Contravention**

12.10.1. The application contains a statement indicating why permission should be granted for the proposed development, having regard to the provisions specified in section 37(2)(b) of the Act of 2000, notwithstanding that the proposed development materially contravenes the Development Plan other than in relation to the zoning of

the land. The material contravention of the Development Plan is stated to arise in respect of the proposed building heights, apartment mix and block configuration (lift / stair core access). Under the provisions of section 9(3) of the Act of 2016, where SPPRs of section 28 guidelines differ from the provisions of a Development Plan, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the Development Plan.

- 12.10.2. I have also addressed the issue of building heights, specifically with respect to lighting impacts, visual and residential impacts, microclimate and block modulation above, and in the interest of clarity, I address the policy context for the proposed building heights further below. I am satisfied that the strategic housing development does not materially contravene Development Plan policy with respect to any other issues, including plot ratio, site coverage, public open space provision and car parking.
- 12.10.3. A key concern of third-party observations, as well as the Elected Members, relates to the proposed building height and the contravention of Development Plan standards for building heights. The application documentation, including the Material Contravention Statement provides the applicant's justification for the proposed building heights, including the standard of accommodation, the site context relative to public transport and services and planning policy provisions.
- 12.10.4. The existing buildings on site are stated to have a maximum height of 12.3m. The development ranges from single-storey support structures to four to ten-storey buildings with block A the highest with a stated maximum height of 34.66m. Blocks B and C would have maximum heights of 27.4m and 19.75m respectively, while the block D would have a maximum height of 24.3m. The site is not at a location specifically identified in the Development Plan as being suitable for mid-rise or high-rise development and section 16.7.2 of the Development Plan set 16m as the maximum height permissible for residential buildings in this low-rise area of the outer city. Plant, flues and lift overruns are excluded from the height considerations. Given that the proposed building height substantially exceeds the height of the existing structures on site and the 16m height limitation recommended for this area, it therefore materially contravenes Development Plan policy on building height.



12.10.5. The proposed mix of apartments would comprise 0.4% studio, 44.6% one-bedroom and 55% two-bedroom apartments, whereas the Development Plan requires a mix of no more than 25% to 30% of one-bedroom units in a development and a minimum of 15% of three or more bedroom units in a development. With no flexibility for the development to avail of a relaxation of the standards in the Development Plan, I am satisfied that the applicant's assertion that the proposals materially contravene the apartment mix objectives of the Development Plan could reasonably be considered to be the case.

12.10.6. Under the heading 'Block Configuration', the Development Plan requires that there shall be a maximum of eight apartments per floor per core. A maximum of between nine to 11 apartments per floor would be served by the cores in blocks A, B and C, while less than eight apartments per floor would be served by the two cores in block D. Given the absence of scope for relaxed standards in this case, I am satisfied that the proposed development could reasonably be considered to materially contravene Development Plan standards with respect to 'block configuration'.

12.10.7. Section 37 of the Act of 2000 provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in circumstances where at least one of the following applies:

- (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;
- (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;
- (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.

12.10.8. The Building Heights Guidelines state that it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city

cores and in other urban locations with good public transport accessibility. The proposed development is higher than the prevailing two storey buildings in the area. In pursuit of the guidelines, Section 3.1 requires Planning Authorities to apply the following broad considerations in considering development proposals for buildings that are taller than prevailing building heights in urban areas:

- does the proposal positively assist in securing National Planning Framework objectives of focusing development into 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 such a plan has taken clear account of the requirements set out in Chapter 2 of the Building Heights 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?

12.10.9. The proposed development is consistent with objectives 13 and 35 of the NPF, which encourage increased scale and densities in settlements, as addressed in section 12.2 above. The Dublin City Development Plan 2016-2022 and the policies and standards contained therein pre-date the issuing of the Building Heights Guidelines. Based on their consideration of the scheme, the Planning Authority accept the exceedance of the building height limit prescribed in the Development Plan for various reasons, including the provisions of the Building Heights Guidelines.

12.10.10. The Building Heights Guidelines provide clear criteria to be applied when assessing applications for increased height, including SPPR3(a) which provides that where an application for planning permission sets out how a development proposal complies with the criteria in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters set out in the NPF and the Building Heights Guidelines, then permission for such development can be granted, even where specific objectives of the relevant Development Plan may indicate otherwise. The

applicant has provided a statement of consistency that sets out compliance with SPPR3(a) of the Building Heights Guidelines. In principle, I am satisfied that there is no issue with the height in terms of compliance with national policy, therefore the issue of height should be considered in the context of SPPR3(a), which refers to the criteria in section 3.2 of the Building Heights Guidelines, as per table 6 below.

**Table 6.** Assessment against section 3.2 building height criteria

Criteria	Considerations
At the scale of the relevant city/town	
The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.	Existing and proposed high frequency bus stops <200m (Dublin Bus routes 27, 56A, 77A, 122 and 151, as well as proposed Bus Connects Route 9). Luas Red Line at Suir Road <1km.
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	Visual impact assessment above concludes that the proposed development in this urban area would not be unduly obtrusive or detract from the character of the wider area. No protected views, ACA, or other architectural/visual sensitives apply.
Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.	TVIA, including CGIs, carried out by suitably qualified practitioners and submitted with the application.
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	Proposed landscaped public realm with potential for pedestrian route connection to future redevelopment lands in the Sunshine commercial estate.

respond to the scale of adjoining developments and create visual interest in the streetscape.	
At the scale of district/ neighbourhood/ street	
The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape	Proposals respond positively to Development Plan policy for an intensive form of development on this site. Protection measures for trees along the northern and southeastern boundaries provides a visual buffer to the park and lower-density housing. Modulated building heights along sensitive boundaries responds to the existing built environment. Proposals also provide for a more sustainable density within this MASP area, close to public transport.
The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered	Design comprises four blocks ranging in height from four to ten storeys with the block structure considered to be of high quality and appropriate for the context.
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).	Strong urban edge to the key thoroughfare, Brickfield Drive, would be created. Positive response to the setting along Brickfield Park by providing for passive surveillance of this area. The site does not contain key public spaces and/or inland waterway/ marine frontage.  The requirements of ‘The Planning System and Flood Risk Management – Guidelines for Planning Authorities’ (2009) have been complied with.
The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is	I am satisfied that the proposed development makes a contribution to legibility and includes options to integrate with adjoining sites and wider footpath/cycleway network (providing for

situated and integrates in a cohesive manner	potential future linkages). Positive precedence for other redevelopment sites in this area.
The proposal positively contributes to the mix of uses and/ or building / dwelling typologies available in the neighbourhood.	The proposed development comprises studio, one and two bedroom units, and would, therefore, expand the smaller unit typology of housing units within this area, which is predominated by three to four bedroom houses. A sustainable and appropriate mix of communal facilities and commercial facilities in suitable locations on site has also been provided for.
At the scale of the site/building	
The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.	Stepped building height approach adopted. Compliance with BRE209 and BS2008 is achieved, and the amenity of existing residents and future residents is satisfactorily addressed and maintained.
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'	Broad compliance with BRE209 and BS2008 is achieved and the amenity of existing residents and future residents is satisfactorily addressed and maintained.
To support proposals at some or all of these scales, specific assessments may be required and these may include: Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic	Micro-climate issues have been considered, including an assessment to clarify that all spaces would be able to function as provided for in the designs.

effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered	Daylight and overshadowing analysis has been submitted to demonstrate compliance with the relevant standards.
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	No bat roosts were recorded on site and only relatively low numbers of bats were observed. Birds, such as Light-bellied Brent Geese and Black-headed Gull, are known to forage on the adjacent parklands. The applicant states that the architectural design was steered by ecological guidance and a combination of design suggestions, including low window to wall ratio, potential for fly-through conditions and visual cues, were incorporated into the final design to address the potential for bird strikes. AA screening, NIS and an EclA report have been submitted to demonstrate no significant impact on ecology, and no likely adverse impact on a protected sites or species, including bats and birds.
An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links	n/a – not a tall building in this context.
An assessment that the proposal maintains safe air navigation.	n/a – not a tall building in this context.
An urban design statement including, as appropriate, impact on the historic built environment	Urban design is addressed in the applicant's Architectural Design Statement. There are no historic built environment features on site or in the immediate adjoining area.
Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.	SEA not required/applicable. EIA and AA screening reports have been submitted, alongside an NIS and an EclA report.

- 12.10.11. I consider that the above criteria have been addressed in the application and are appropriately incorporated into the development proposals, and on this basis that SPPR3(a) of the Building Heights Guidelines can be applied. I am satisfied that the proposal positively assists in securing NPF objectives to focus development into key urban centres, fulfilling targets related to brownfield, infill development and to deliver compact growth in our urban centres.
- 12.10.12. The proposed strategic housing development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase the delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment. Accordingly, I am satisfied that the provisions set out under section 37(2)(b)(i) are applicable with respect to the material contravention of the building height, apartment mix and block configuration standards of the Development Plan.
- 12.10.13. In relation to section 37(2)(b)(iv) of the Act of 2000, I note that the Board has previously approved a 24.1m high building (ABP-303435-19) and a 27.8m high building (ABP-309627-21) on sites 700m to the northwest of the application site subject of similar Development Plan height restrictions. The proposed development is continuing on that pattern of development.
- 12.10.14. SPPR 1 of the New Apartment Guidelines states that apartment developments may include up to 50% one-bedroom or studio type units and that there shall be no minimum requirement for apartments with three or more bedrooms. In providing for a total of 45% studio and one-bedroom apartments and no three-bedroom or larger apartments, I am satisfied that the housing mix complies with SPPR1 of the New Apartment Guidelines. Accordingly, the provisions set out under section 37(2)(b)(iii) are applicable with respect to the proposed 'apartment mix'.
- 12.10.15. SPPR 6 specifies a maximum of 12 apartments per floor per core, whereas a maximum of between nine to 11 apartments per floor would be served by the cores in blocks A, B and C, while less than eight apartments per floor would be served by the two cores in block D. While the Development Plan standards with respect to 'block configuration' or lift/stairs access per apartment, the requirements under

SPPR 6 of the New Apartments Guidelines would be complied with as part of the proposed development. Accordingly, the provisions set out under section 37(2)(b)(iii) are applicable with respect to the proposed 'block configuration'.

12.10.16. Should the Board be minded to invoke the material contravention procedure, as relates to Development Plan objectives pertaining to building heights, apartment mix and block configuration, I consider that the provisions of Section 37(2)(b)(i) and (iii) have been met with respect to the proposed apartment mix and block configuration and that the provisions of Section 37(2)(b)(i), (iii) and (iv) have been met with respect to the proposed building heights. In this regard I am satisfied that the Board can grant permission for the proposal.

## 12.11. Other Issues

### Documentation and Consultation

12.11.1. Concerns have been expressed by third parties regarding the absence of consultation by the applicant with local residents and groups. As part of this assessment I have had due regard to all observations received in considering the acceptability or otherwise of the various aspects of the proposals and public participation was facilitated in line with the regulatory requirements. Consultation with neighbouring groups is not a mandatory requirement for this planning application.

### Archaeology

12.11.2. An archaeological assessment was not submitted as part of the application. The Planning Authority has requested that a condition is attached requiring pre-development archaeological assessment to be undertaken given the potential for subsurface remains of kilns/chimney of the Dolphin's Barn Brickworks, which is listed on the Dublin City Industrial Heritage Record. An aerial image of this facility is included in the applicant's TVIA.

12.11.3. While no archaeological assessment was carried out, I am satisfied that the results of such an assessment would not give rise to a situation that would preclude the granting of permission or the construction of the proposed development. It is accepted as likely that there may be some subsurface remains of kilns/chimneys of the Dolphin's Barn Brickworks, and that were these features to be found it would be



reasonable that they be recorded and removed. Given the potential for unknown archaeological features to survive on site, such a condition would appear reasonable and necessary to attach.

## **13.0 Environmental Impact Assessment Screening**

13.1.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within an EIA screening statement and I have had regard to same in this screening assessment. This report contained information to be provided in line with Schedule 7A of the Planning and Development Regulations 2001-2021 (hereinafter 'the Regulations'). The EIA screening submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Where an application is made for sub-threshold development and Schedule 7A information is submitted by the applicant, the Board must carry out a screening determination, therefore, it cannot screen out the need for EIA at preliminary examination.

13.1.2. This proposed development, is of a class of development included in Schedule 5 to the Regulations. Class (10)(b) of Schedule 5 to Part 2 of the Regulations provides that mandatory EIA is required for the following classes of development:

- (i) construction of more than 500 dwelling units,
- (iv) urban development which would involve an area greater than 2 ha in the case of a business district\*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

\*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

13.1.3. Class 14 of Schedule 5 to Part 2 of the Regulations relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of Schedule 5, where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

13.1.4. The development would provide for the demolition of buildings and the construction of 282 dwelling units, as well as a childcare facility/crèche, a café, a public remote office hub, a public gym and an exercise studio, all on a site in a built-up urban area

with a gross site area of 1.37 hectares. Having regard to classes 10(b)(i) and 10(b)(iv) of Schedule 5 to Part 2 of the Regulations, the proposed development is sub-threshold in terms of the mandatory submission of an EIA. The nature and the size of the proposed development is well below the applicable thresholds for EIA.

13.1.5. The criteria within Schedule 7 to the Regulations are relevant to the question as to whether this proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. The residential and commercial uses proposed would be similar to the predominant land uses in the area. The proposed development would not increase the risk of flooding and it would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The former use of the site is noted, alongside the potential for contaminated material to be encountered during demolition and excavation. The potential for impacts on the environment with regard to land and soils, are considered and assessed in the submitted CEMP. The development would be served by municipal drainage and water supply. The site is not subject to any architectural or nature conservation designation and does not contain habitats or species of conservation significance.

13.1.6. The various reports submitted with the application, as listed in section 3.3 of the above, address a variety of environmental issues and the impact of the proposed development, in addition to the cumulative impacts with regard to other permitted and existed developments in proximity to the site. The reports demonstrate that, subject to the various recommended construction and design-related mitigation measures, the proposed development would not have a significant impact on the environment. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information that accompanied the application including the following:

- Architectural Design Statement, including Housing Quality Assessment;
- Townscape and Visual Impact Assessment;
- Verified Views and CGIs;
- Daylight and Sunlight Assessment Report;

- Traffic and Transport Assessment, including Residential Travel Plan;
- Flood Risk Assessment;
- Environmental Impact Assessment (EIA) Screening Statement;
- Ecological Impact Assessment Report, including Bat Report;
- Arboricultural Assessment;
- Sustainability and Energy Report;
- Public Lighting Report;
- Noise and Vibration Impact Assessment;
- Wind and Microclimate Modelling;
- Construction Environmental Management Plan.

13.1.7. In addition, noting the requirements of Section 299B(1)(b)(ii)(II)(C) of the Regulations, the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. In this regard I note the various statements directly and indirectly addressing EU directives.

- An Energy Report has been submitted with the application, which has been undertaken pursuant to Part L of the Building Regulations and the requirement for Near Zero Energy Buildings.
- A Flood Risk Assessment that addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
- An AA Screening Report and NIS Report in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) have been submitted with the application, which also address requirements arising from the Water Framework Directive and the Urban Wastewater Treatment Directive.

13.1.8. Under the relevant themed headings, the EIA screening report prepared by the applicant has considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states

that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR.

13.1.9. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects of which would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 of the Regulations to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application. I am satisfied that information required under Section 299B(1)(b)(ii)(II) of the Regulations has been submitted. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

## **14.0 Appropriate Assessment**

### **14.1. Introduction**

14.1.1. The requirements of Article 6(3) of the Habitats Directive, related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Act of 2000, are considered in the following section. The specific issues assessed in this section include:

- compliance with Article 6(3) of the EU Habitats Directive;
- screening the need for appropriate assessment;
- NIS and associated documents;
- AA of the implications of the proposed development on the integrity of relevant European sites.

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

- 14.2.1. The Habitats Directive deals with the conservation of natural habitats and of wild fauna and flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to AA of its implications for the site, in view of the site's conservation objectives. The competent authority must be satisfied that the proposal would not adversely affect the integrity of a European site before consent can be given. The proposed development on Brickfield Drive, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

## 14.3. Stage 1 AA Screening

- 14.3.1. The applicant has submitted an AA Screening Report and a NIS, both of which are dated April 2021 and prepared by Enviroguide Consulting. The AA Screening Report provides a description of the proposed development and identifies European Sites within the possible zone of influence of the development. The AA screening report is supported by associated reports, including an EclA report and data from bird surveys between 2008 and 2021.

### Site Location

- 14.3.2. A description of the site is provided in section 1 above and also within section 3.2 of the applicant's AA Screening Report. The site is a brownfield site that contains a disused warehousing building and associated yard area and is serviced by public water and drainage networks. The site is dominated by buildings and artificial surfaces with an amenity grassland area along the southern boundary. It is enclosed by a mix of security fences and walls and also features stands of trees along the eastern sections of the northern and southern perimeter, as well as ornamental and non-native shrub planting along the entrance and Brickfield Drive. There are no watercourses within or immediately adjoining the site. The Camac River is located approximately 1km to the north of the site and the River Poddle is located 1.4km to the southeast. The Grand Canal is situated 470m to the northeast. No Annex 1

habitats were recorded within the application site during the applicant's habitat surveys.

- 14.3.3. Breeding bird surveys did not record Annex 1 species breeding within the site. Grey squirrel, bats and red fox were recorded on site during field surveys. Butterfly Bush and Sycamore, both medium impact invasive species were identified within the site. The AA states that Sycamore would form part of the landscaping plan, while options for the removal of Butterfly Bush are presented based on National Roads Authority (NRA) (2010) 'Guidelines for the Management of Noxious Weeds and Non-Native Plant Species on National Roads'.

#### Proposed Development

- 14.3.4. A detailed description of the proposed development is provided in section 2 above and expanded upon below where necessary. A 24-month construction phase is estimated for the project. Wastewater from the operational phase of the proposed development would discharge to the public network for treatment at the Ringsend Wastewater Treatment Plant (WWTP). Surface water from the development would drain to a surface water sewer that discharges into the Grand Canal dock. SUDS measures are proposed alongside a CEMP, including best practice construction site environmental management measures.
- 14.3.5. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- increased noise, dust and/or vibrations as a result of construction activity;
  - increased lighting in the vicinity as a result of construction activity;
  - surface water drainage from the proposed development site;
  - increased wastewater being sent to Ringsend Wastewater Treatment Plant during the operational phase of the proposed development.

#### Submissions and Observations

- 14.3.6. The submissions and observations from the Planning Authority, prescribed bodies, and third parties are summarised in sections 9, 10 and 11 of this Report.

## European Sites

14.3.7. The nearest European sites to the application site, including SACs and SPAs, comprise the following:

**Table 7.** European Sites

Site Code	Site Name / Qualifying Interests	Distance	Direction
004024	South Dublin Bay and River Tolka Estuary SPA <ul style="list-style-type: none"> <li>• Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046]</li> <li>• Oystercatcher <i>Haematopus ostralegus</i> [A130]</li> <li>• Ringed plover <i>Charadrius hiaticula</i> [A137]</li> <li>• Grey plover <i>Pluvialis squatarola</i> [A141]</li> <li>• Knot <i>Calidris canutus</i> [A143]</li> <li>• Sanderling <i>Calidris alba</i> [A149]</li> <li>• Dunlin <i>Calidris alpina</i> [A149]</li> <li>• Bar-tailed godwit <i>Limosa lapponica</i> [A157]</li> <li>• Redshank <i>Tringa totanus</i> [A162]</li> <li>• Black-headed gull <i>Chroicocephalus ridibundus</i> [A179]</li> <li>• Roseate tern [A193]</li> <li>• Arctic tern [A194]</li> <li>• Wetland and waterbirds [A999]</li> </ul>	5.9km	east
000210	South Dublin Bay SAC <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Annual vegetation of drift lines [1210]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Embryonic shifting dunes [2110]</li> </ul>	6.0km	east
004006	North Bull Island SPA <ul style="list-style-type: none"> <li>• Light-bellied brent goose [A046]</li> <li>• Shelduck <i>Tadorna</i> [A048]</li> <li>• Teal <i>Anas crecca</i> [A054]</li> <li>• Pintail <i>Anas acuta</i> [A054]</li> <li>• Shoveler <i>Anas clypeata</i> [A056]</li> <li>• Oystercatcher [A130]</li> <li>• Golden plover <i>Pluvialis apricaria</i> [A140]</li> </ul>	8.7km	northeast

	<ul style="list-style-type: none"> <li>• Grey plover [A141]</li> <li>• Knot [A143]</li> <li>• Sanderling [A144]</li> <li>• Dunlin [A149]</li> <li>• Black-tailed godwit <i>Limosa</i> [A156]</li> <li>• Bar-tailed godwit [A157]</li> <li>• Curlew <i>Numenius arquata</i> [A160]</li> <li>• Redshank [A162]</li> <li>• Turnstone <i>Arenaria totanus</i> [A169]</li> <li>• Black-headed gull [A179]</li> <li>• Wetland and waterbirds [A999]</li> </ul>		
000206	<p>North Dublin Bay SAC</p> <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Annual vegetation of drift lines [1210]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows [1330]</li> <li>• Mediterranean salt meadows [1410]</li> <li>• Embryonic shifting dunes [2110]</li> <li>• Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>• Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> <li>• Humid dune slacks [2190]</li> <li>• Petalwort <i>Petalophyllum ralfsii</i> [1395]</li> </ul>	8.8km	northeast
001209	<p>Glenasmole Valley SAC</p> <ul style="list-style-type: none"> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>• Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</li> <li>• Petrifying springs with tufa formation (Cratoneurion) [7220]</li> </ul>	9.0km	south
002122	<p>Wicklow Mountains SAC</p> <ul style="list-style-type: none"> <li>• Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</li> </ul>	10.1km	south



	<ul style="list-style-type: none"> <li>• Natural dystrophic lakes and ponds [3160]</li> <li>• Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</li> <li>• European dry heaths [4030]</li> <li>• Alpine and Boreal heaths [4060]</li> <li>• Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</li> <li>• Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</li> <li>• Blanket bogs (* if active bog) [7130]</li> <li>• Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</li> <li>• Calcareous rocky slopes with chasmophytic vegetation [8210]</li> <li>• Siliceous rocky slopes with chasmophytic vegetation [8220]</li> <li>• Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</li> <li>• <i>Lutra lutra</i> (Otter) [1355]</li> </ul>		
004040	<p>Wicklow Mountains SPA</p> <ul style="list-style-type: none"> <li>• Merlin (<i>Falco columbarius</i>) [A098]</li> <li>• Peregrine (<i>Falco peregrinus</i>) [A103]</li> </ul>	10.2km	south
004113	<p>Howth Head Coast SAC</p> <ul style="list-style-type: none"> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>• European dry heaths [4030]</li> </ul>	13.6km	northeast
001398	<p>Rye Water Valley / Carton SAC</p> <ul style="list-style-type: none"> <li>• Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</li> <li>• <i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014]</li> <li>• <i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</li> </ul>	12.8km	northwest
000199	<p>Baldoyle Bay SAC</p> <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• <i>Salicornia</i> and other annuals colonising mud and sand [1310]</li> </ul>	13.7km	northeast

	<ul style="list-style-type: none"> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> </ul>		
004016	<p>Baldoyle Bay SPA</p> <ul style="list-style-type: none"> <li>• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>• Shelduck (<i>Tadorna tadorna</i>) [A048]</li> <li>• Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>• Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>• Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>• Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>	14.0km	northeast

14.3.8. In determining the zone of influence I have had regard to the nature and scale of the project, the distance from the development site to European sites, and any potential pathways that may exist from the development site to a European Site, aided in part by the Environmental Protection Agency (EPA) AA Tool ([www.epa.ie](http://www.epa.ie)). I do not consider that any other European Sites potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

Potential for Likely Significant Effects

14.3.9. Section 3.7 of the applicant’s screening report identifies all potential impacts associated with the proposed development taking into account the characteristics of the proposed development in terms of the site location and the scale of works.

14.3.10. **Water Quality at Construction Phase** – Surface water from the proposed development would drain to an existing public surface water sewer along Brickfield Drive. This sewer drains to the Grand Canal sewer, which drains to the River Liffey at Grand Canal dock, and in turn drains to the Liffey Estuary Lower transitional waterbody, and then flows into Dublin Bay coastal waters. According to the EPA, the water quality of the Liffey Estuary transitional waterbody and Dublin Bay coastal waterbody is classified as ‘moderate’ and ‘good’ respectively and Dublin bay coastal waterbody has a WFD risk score of ‘not at risk’. The applicant states that the surface water pathway creates the potential for an interrupted and distant hydrological

connection between the proposed development and European sites in the inner-section of Dublin Bay.

14.3.11. Having regard to the information submitted with the application, including the Construction Environment Management Plan, pollution sources will be controlled through the use of normal best practice site management. The proposed construction management measures outlined are typical and well proven construction methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. Their implementation would be necessary for a residential/commercial development on any site, in order to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site. These practices are not designed or intended specifically to mitigate any potential effect on a European site. As such, I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the absence of a likely pollution source from the site into the surface water network, the levels of dilution within the network, the considerable intervening distances, and the volume of water separating the application site from European sites in Dublin Bay (dilution factor).

14.3.12. **Water Quality at Operational Phase** - During the operational stage surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system after passing through an attenuation tank and a flow-control hydrobrake. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from European sites in Dublin Bay (dilution factor).

14.3.13. Water quality is not a target for the maintenance of any of the qualifying interests within the SACs closest to Ringsend WWTP (i.e. South Dublin Bay SAC and North Dublin Bay SAC). Their qualifying interest targets relate to habitat distribution and area, as well as vegetation structure and control of negative indicator species and scrub. The development would not lead to any impacts upon these qualifying

interests, by virtue of changes to the physical structure of the habitats or to the vegetation structure that defines their favourable conservation status.

14.3.14. With regard to the treatment of foul water at Ringsend WWTP, it is noted that the proposed apartments would result in an increase of a maximum load of 861 Population Equivalent (PE). I consider this to be an insignificant increase given the overall scale of the WWTP facility. This potential maximum increase would not alter the effluent released from the WWTP to such an extent as to result in likely significant effects on the SACs and SPAs connected hydrologically with Ringsend WWTP. First phase upgrade works are ongoing at the WWTP and would facilitate a 400,000 population equivalent extension. Further upgrade works will enable the WWTP to treat wastewater for up to 2.4 million population equivalent and are expected to be complete in 2025. In addition, Irish Water was granted planning permission for the Greater Dublin Drainage Project on 11<sup>th</sup> November 2019, which will help alleviate capacity issues at Ringsend WWTP. Having regard to the scale of development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would in any event be subject to Irish Water consent, and would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached. On the basis of the foregoing, I conclude that the proposed development would not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay via impacts on water quality.

14.3.15. While I acknowledge that the applicant screened in sites, including South Dublin Bay SAC (Site Code: 000210) and North Dublin Bay SAC (Site Code: 000206), with respect to potential changes in water quality or resource arising from the proposed development, I am satisfied that this may have been out of an abundance of caution and that there is no likelihood that pollutants arising from the proposed development either during construction or operation that could reach the European sites in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

14.3.16. **Disturbance / Displacement** - the development would not increase disturbance effects to birds in Dublin Bay, including during construction phases, given the

separation distance from these sensitive areas across an extensive urban area. It is possible that the construction phase of the proposed development could lead to disturbance and/or displacement to Light-bellied Brent Geese and Black-headed Gull using the adjoining Brickfield Park due to disturbance from environmental nuisances such as noise, dust and lighting. Consequently, in light of the conservation objectives for Light-bellied Brent Geese and Black-headed Gull, effects on the integrity of South Dublin Bay and River Tolka Estuary SPA, Baldoyle Bay SPA and North Bull Island SPA, in view of their Conservation Objectives, cannot be excluded at this stage. The table below provides a summary of my assessment with respect to the sites and the features of the development that have potential for likely significant effects.

**Table 8.** European Sites – Summary Assessment of Potential for Likely Significant Effects

Site Name	Potential for Likely Significant Effect due to:	Further Assessment Required?
South Dublin Bay and River Tolka Estuary SPA	Possibility of disturbance and/or displacement of qualifying interests during the construction and operational phases of the proposed development, which encompasses a known ex-situ feeding site for qualifying interests of this SPA Intervening distance Distance and marine buffer/dilution factor Insignificant increase in loading at Ringsend WWTP	Yes No No No
South Dublin Bay SAC	Intervening distance Distance and marine buffer/dilution factor Insignificant increase in loading at Ringsend WWTP	No No No
North Bull Island SPA	Possibility of disturbance and/or displacement of qualifying interests during the construction and operational phases of the proposed development, which encompasses a known ex-situ feeding site for qualifying interests of this SPA Intervening distance Distance and marine buffer/dilution factor Insignificant increase in loading at Ringsend WWTP	Yes No No No
North Dublin Bay SAC	Intervening distance Distance and marine buffer/dilution factor Insignificant increase in loading at Ringsend WWTP	No No No

Glenasmole Valley SAC	Intervening distance Lack of hydrological connection	No No
Wicklow Mountains SAC	Intervening distance Lack of hydrological connection	No No
Wicklow Mountains SPA	Intervening distance Lack of suitable habitat for qualifying interests	No No
Howth Head Coast SAC	Intervening distance Lack of hydrological connection	No No
Rye Water Valley / Carton SAC	Intervening distance Lack of hydrological connection	No No
Baldoyle Bay SAC	Intervening distance Lack of hydrological connection	No No
Baldoyle Bay SPA	Possibility of disturbance and/or displacement of qualifying interests during the construction and operational phases of the proposed development, which encompasses a known ex-situ feeding site for qualifying interests of this SPA	Yes

14.3.17. As listed above, sites have been screened out from further assessment based on a combination of factors including the intervening minimum distances, the marine buffer/dilution factor, the insignificant increase in the loading at Ringsend Wastewater Treatment Plant, the lack of suitable habitat for a number of qualifying interests of SPAs within or within close proximity to the proposed development (as applicable) and the lack of hydrological connections. I am satisfied that there is no potential for likely significant effects on:

- South Dublin Bay SAC [000210];
- North Dublin Bay SAC [000206]
- Glenasmole Valley SAC [001209]
- Wicklow Mountains SAC [002122]
- Wicklow Mountains SPA [004040]
- Howth Head Coast SAC [000202]
- Rye Water Valley / Carton SAC [001398]
- Baldoyle Bay SAC [000199].

14.3.18. Further assessment is required with respect to the following European sites:

- South Dublin Bay and River Tolka Estuary SPA
- North Bull Island SPA
- Baldoyle Bay SPA

14.3.19. The impacts identified in the Screening Report which could result in likely significant effects, and which I concur with, relate to:

- given the usage of Brickfield Park by Light-bellied Brent Geese and Black-headed Gulls, it is possible that the proposed development will cause disturbance and/or displacement to these species due to disturbance from environmental nuisances such as noise, dust and lighting.

14.3.20. The applicant states that the design of the proposed development was developed in close collaboration with the environmental consultants, in order to mitigate the potential for bird strikes. Specifically it is stated that given the proximity of the development to Brickfield Park, which is used by Light-bellied Brent Geese as ex-situ habitat, the architectural design was steered by the ecological guidance and a combination of design suggestions were incorporated into the final design.

14.3.21. The possibility that the introduction of high buildings at the site could constitute a collision risk to birds moving between roosting sites in Dublin Bay and inland feeding sites was not considered in the submitted AA Screening Report (or NIS), but it was addressed in the applicant's EclA.

14.3.22. The design of the proposed development is stated to feature low window to ratio surface areas, visual cues in the form of balconies and setbacks, as well as fly-through conditions to reduce to negligible levels the collision risk for birds within the development area. In general, studies suggest that it is smaller passerine birds and nocturnal migrating passerines in particular (migrating in large flocks), that are more susceptible to collision with buildings with extensive glass facades or very high buildings with extensive lighting. While large birds such as swans and geese are known to be potentially at risk from collision with less visible structures, such as overhead wires, particularly if they are located between feeding and roosting sites, there is little evidence to suggest that buildings could pose a significant risk to these species in the context of the proposed development. There are much higher

buildings in and around Dublin Bay and city centre that are crossed daily by birds moving out of the coastal area to inland feeding sites without incident. Furthermore, the supporting documents for the conservation objectives and the Natura 2000 data forms for the SPA sites do not refer to any collision risks. Buildings of similar heights to those proposed are common in urban environments and there is no objective evidence to suggest that they would present a significant risk of collision for birds. Therefore, I consider it reasonable to screen out the potential for bird collisions with the proposed buildings to be a likely significant effect of the proposed development in view of the conservation objectives for the SPA sites.

#### In-combination Impacts

- 14.3.23. This project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased volumes to the Ringsend WWTP.
- 14.3.24. The expansion of the city is catered for through land use planning by the various Planning Authorities in the Dublin area, including the Dublin City Development Plan 2016-2022 covering the location of the application site. An indicative masterplan has been prepared to show the potential for connections with the adjoining Sunshine commercial estate, although development is not presently proposed on this serviced urban site forming the remainder of the 'Z10-zoned' lands. Future proposals for development on the masterplan lands would be subject of their own screening for AA in due course. The Development Plan, including variation 26, has been subject to AA by the Planning Authority, which concluded that its implementation would not result in significant adverse effects on the integrity of any European sites. The proposal would not generate significant demands on the existing municipal sewers for foul water and surface water. While this project would marginally add to the loadings to the municipal sewer, evidence shows that negative effects to European sites are not arising. Furthermore, I note that upgrade works have commenced on the Ringsend WWTP extension permitted under ABP – PL.29N.YA0010 and the facility is currently operating under EPA licencing that was subject to AA Screening.
- 14.3.25. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any



SAC or SPA. I am satisfied that there are no projects which can act in combination with the development which could give rise to significant effects to European sites within the zone of influence.

#### AA Screening Conclusion

14.3.26. The proposed development was considered in light of the requirements of Section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually (or in combination with other plans or projects), could have a significant effect on European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA) and European Site No. 004016 (Baldoyle Bay SPA) in view of the sites' Conservation Objectives, and Appropriate Assessment is therefore required.

14.3.27. The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment:

- South Dublin Bay SAC [000210];
- North Dublin Bay SAC [000206]
- Glenasmole Valley SAC [001209]
- Wicklow Mountains SAC [002122]
- Wicklow Mountains SPA [004040]
- Howth Head Coast SAC [000202]
- Rye Water Valley / Carton SAC [001398]
- Baldoyle Bay SAC [000199].

14.3.28. Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process.

#### **14.4. Appropriate Assessment – Stage 2**

##### Submitted NIS Details

14.4.1. The application is accompanied by an NIS that was informed by a number of referenced studies, surveys and consultations. The applicant's NIS was prepared in

line with current best practice guidance and provides a description of the development. An assessment of residual effects is set out in Section 6 and cumulative effects are considered in Section 7. Section 8 of the NIS identifies and assesses possible adverse effects of the proposed development on specific QIs and SCIs of European sites. Details of mitigation measures, how, and when they will be implemented, are detailed in Section 9 of the NIS. Monitoring is provided for, which is in line with best practice. Mitigation and monitoring will be managed by the appointed contractor and a detailed CEMP will be put in place and will incorporate measures detailed in the NIS. The applicant's NIS concluded that:

- where potentially significant impacts were identified, a range of mitigation and avoidance measures have been suggested to help offset them. As a result of this Appropriate Assessment it has been concluded that, ensuring the avoidance and mitigation measures are implemented as proposed, the proposed development would not have a significant adverse impact on European sites.

14.4.2. The applicant asserts that there are no substantive sources of light or noise over and above that which is already experienced in this built-up urbanised location.

AA of the implications of the proposed development on the integrity of relevant European sites

14.4.3. The following is a summary of the assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field, as provided by the applicant. All aspects of the project that could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. I have relied on the following guidance:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009);
- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002);

- Managing Natura 2000 sites - The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

#### Relevant European Sites

14.4.4. Following the Stage 1 Screening conclusion, the following sites are those subject to appropriate assessment:

- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024);
- North Bull Island SPA (Site Code: 004006);
- Baldoyle Bay SPA (Site Code: 004016).

Table 9. Relevant European Sites – Conservation Objectives

<b>Site Name &amp; Code</b>	<b>Conservation Objectives</b>
South Dublin Bay and River Tolka Estuary SPA [004024]	<p>To maintain the favourable conservation condition of Common Tern;</p> <p>To maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it;</p> <p>Grey Plover is proposed for removal from the list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA. As a result, a site-specific conservation objective has not been set for this species;</p> <p>With the exception of Grey Plover, to maintain the favourable conservation condition of the qualifying interest species (as listed in table 8 above).</p>
North Bull Island SPA [004006]	<p>To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it;</p> <p>To maintain the favourable conservation condition of the qualifying species (as listed in table 8 above).</p>
Baldoyle Bay SPA [004016]	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p>

	Shelduck ( <i>Tadorna tadorna</i> ) [A048]
	Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137]
	Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]
	Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]
	Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157]
	Wetland and Waterbirds [A999]

14.4.5. I have examined the Natura 2000 data forms, as relevant, and the conservation objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

#### Assessment of Significant Effects

14.4.6. The element of the proposed development that could adversely affect the conservation objectives of the European sites assessed comprises:

- construction and operation-related noise, dust and lighting disturbance resulting in potential disturbance and or displacement of bird species, comprising Light-bellied Brent Geese and Black-headed Gull, which are qualifying interest species for South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and Baldoyle SPA, as they utilise a number of ex-situ feeding sites in the vicinity of the proposed development, including Brickfield Park.

14.4.7. There is potential for indirect effects on Light-bellied Brent Geese and Black-headed Gull associated with South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA, as a result of construction disturbance, related to noise, dust and lighting. The winter bird survey results for Brickfield Park summarised in table format within the NIS indicate that Light-bellied Brent Geese were last recorded using the adjacent park in 2008/2009 and in 2020/2021 droppings were recorded. It is stated that between 48 and 110 Black-headed Gulls were observed using the park between 2018 and 2021 and the ex-situ site is used on such an infrequent basis as not to be deemed significant. Usage by Light-bellied Brent Geese was also infrequent and in numbers considerably below that of National Importance. Given that there would be no loss of habitat to the local ex-situ site and as there are other known ex-situ sites, such as Dolphin's Barn Green and Good Counsel GAA Club, that are used by these birds in the vicinity and which could be used as a temporary refuge if birds are

disturbed, no significant effects are likely to occur on these species as a result of the proposed development.

- 14.4.8. As discussed in my screening assessment above, I do not consider that surface water run-off/discharges from the proposed development have the potential to negatively impact the status of habitats and foraging resources that Light-bellied Brent Geese and Black-headed Gull rely on.

#### Mitigation

- 14.4.9. Arising from the review of the survey results of the ex-situ sites, given the small population of Light-bellied Brent Geese and Black-headed Gulls utilising ex-situ habitats proximate to the site, given the lack of a direct link between the site and the identified ex-situ site, and given the availability of other nearby ex-situ sites, no significant impact is likely to occur on these bird species as a result of the proposed development.
- 14.4.10. Section 9 of the NIS sets out mitigation measures that would further underpin that significant impacts would not occur. Construction stage mitigation measures are set out in relation to noise and dust minimisation, as well as construction and operational mitigation measures in relation to surface water. The NIS outlines that noise control audits would be undertaken at regular intervals and measures are set out within the Noise and Vibration Impact Assessment and the CEMP to restrict construction noise impacts, including via restricted hours of operation, noise control at source, optimum siting of plant, maintenance, screening etc. The proposed noise reduction mitigation measures are extensive in obviating significant noise nuisance for birds.
- 14.4.11. With regard to dust, the submitted NIS notes that while construction dust tends to be deposited within 200m of a construction site, the majority of the deposition occurs within the first 50m. Dust deposition impacts on biodiversity can occur due to chemical or physical effects. A dust minimisation plan is included as part of the NIS to ensure that no significant nuisance occurs at the ex-situ site and this comprises measures for the construction and operational phases, including a site management plan to record all dust and air quality complaints and actions, and a monitoring plan that will be developed to ensure that no significant nuisance occurs. Measures for accessing the site, preparing and maintaining the site, demolition works and earthworks, as well as operating the site and plant are detailed.

14.4.12. A range of lighting measures for the site have been outlined within the Public Lighting Report and in the EclA report. Several of these lighting measures have been specifically proposed to address impacts on bats, while also designing out excessive light spillage, including via the avoidance of flood lighting on site and by restricting the installation of lighting shining directly onto trees in Brickfield Park. The level of lighting arising from the operational proposed development, the additional light restriction measures and the more limited level of lighting that would apply at the construction stage, relative to the number of birds occurring on the ex-situ site, as per the submitted surveys, would ensure that no significant impact would be likely to occur on the identified species arising from the proposed development.

14.4.13. In conclusion, I am satisfied that the proposed mitigation measures are clear and precise, and definitive conclusions can be reached in terms of avoidance of adverse effects on the integrity of European sites based on the mitigation measures submitted. Overall, the measures proposed would be effective, reflecting current best practice, and can be secured over the short, medium and longer term and the method of implementation would be through a detailed schedule management plan.

#### In-combination Effects

14.4.14. Section 7 of the NIS considers the potential for in-combination impacts on the subject European sites arising from in combination effects with other plans and other permitted developments. The application site is a discrete piece of land that is zoned for intensive development in the Development Plan. The proposed development is in accordance with the Development Plan objectives and the subsequent variation to the zoning, which was itself subject to appropriate assessment. Development on the Sunshine commercial estate is not specifically proposed as part of this project. Overall, in-combination effects are not anticipated.

#### Appropriate Assessment Conclusion

14.4.15. The proposed development at Brickfield Drive has been considered in light of the assessment requirements of Sections 177U and 177V of the Act of 2000. Having carried out screening for Appropriate Assessment of the project, it was concluded that the project individually, or in combination with other plans or projects, could have a significant effect on South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), North Bull Island SPA (Site Code: 004006) and Baldoyle Bay SPA (Site

Code: 004016) in view of the Conservation Objectives of those sites and an Appropriate Assessment was required.

14.4.16. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the three European sites referenced directly above, or any other European site, in view of the sites Conservation Objectives. This conclusion is based on:

- a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and monitoring in relation to the Conservation Objectives of South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), North Bull Island SPA (Site Code: 004006) and Baldoyle Bay SPA (Site Code: 004016);
- detailed assessment of in combination effects with other plans and projects including historical projects, plans and current proposals;
- no reasonable scientific doubt as to the absence of adverse effects on the integrity of South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), North Bull Island SPA (Site Code: 004006) and Baldoyle Bay SPA (Site Code: 004016).

## **15.0 Conclusion and Recommendation**

15.1. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be granted for the proposed development, subject to conditions, for the reasons and considerations set out in the draft Order below.

## **16.0 Recommended Order**

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 30<sup>th</sup> day of April, 2021, by Durkan (Brickfield Drive) Ltd. care of Brock McClure Planning & Development Consultants, 63 York Road, Dun Laoghaire, County Dublin.

## **Proposed Development:**

The development will consist of:

- the demolition and removal of a warehouse building with ancillary office space (5,522sq.m), an ancillary storage building (163sq.m) and a silo tank (72sq.m), as well as site clearance works;
- the provision of 282 apartments in 4 no. four to ten storey blocks (A, B, C and D);
- provision within proposed block C for a childcare facility/crèche (281sq.m), a café (140sq.m) and a public remote-office hub (140sq.m) at ground floor and a public gym and exercise studio (271sq.m) at first floor, alongside residents' ancillary amenity areas, including reception, lounge and meeting room;
- a vehicular access to basement level, as well as shared surface, pedestrian and cyclist accesses, all off Brickfield Drive;
- internal shared surface, fire tender, pedestrian and cyclist routes, lighting and signage;
- a total of 119 car parking spaces, including five set-down / drop-off spaces at surface level and four car-share spaces with one at surface level, 558 cycle parking spaces and seven motorcycle spaces;
- the provision of hard and soft landscaping, including gated-access along Brickfield Drive and the provision of private, communal and public open spaces, comprising two play areas, a central and southern courtyard, and external seating areas;
- drainage and civils works to facilitate the development, including attenuation tanks, sustainable urban drainage systems (SUDS), surface and foul drainage infrastructure and all other associated and ancillary development/works.

at the Former Eason's Warehouse Building, Brickfield Drive, Crumlin, Dublin 12.

## **Decision**

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



## **Matters Considered**

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

## **Reasons and Considerations**

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

- a) the policies and objectives of the Dublin City Development Plan 2016-2022, as varied;
- b) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- c) the National Planning Framework, Project Ireland 2040, which identifies the importance of compact growth;
- d) Urban Development and Building Heights Guidelines for Planning Authorities, 2018;
- e) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020;
- f) The Design Manual for Urban Roads and Streets 2013;
- g) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) 2009;
- h) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- i) The pattern of existing and permitted development in the area;
- j) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development that materially contravenes a Development Plan;
- k) The submissions and observations received;

- l) The Chief Executive's report from the Planning Authority;
- m) The report of the Inspector.

### **Appropriate Assessment Screening**

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

### **Appropriate Assessment Stage 2**

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

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

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects;

- (b) the mitigation measures that are included as part of the current proposal, and;
- (c) the conservation objectives for the European sites.

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

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

### **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Impact Assessment Screening Statement submitted by the applicant, which contains the information set out in Schedule 7A to the Planning and Development Regulations 2001-2021, as well as identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i) and 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021;
- Class 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021;
- the location of the residential, childcare facility, café, gym and remote office hub development on lands zoned 'Z10' for inner suburban and inner-city sustainable mixed-uses within the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of this Plan, including the adopted variation no.26;

- the existing development on site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001-2021;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2021, and;
- the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Noise and Vibration Impact Assessment, the Construction Environmental Management Plan and the Ecological Impact Statement.

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

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

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of impacts on traffic and pedestrian safety and convenience and would provide an acceptable form of residential amenity for future occupants.

The Board considered that with the exception of building heights, apartment mix and block configuration, the proposed development would be compliant with Dublin City Development Plan 2016-2022 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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

- the proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase the delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment. Accordingly, the provisions set out under section 37(2)(b)(i) are applicable;
- it is considered that permission for the proposed development should be granted having regard to Government policies, as set out in the National Planning Framework, in particular objectives 13 and 35, the Urban Development and Building Heights Guidelines for Planning Authorities (2018), in particular Specific Planning Policy Requirement 3(a) and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020), in particular Specific Planning Policy Requirement 1 and Specific Planning Policy Requirement 6. Accordingly, the provisions set out under section 37(2)(b)(iii) are applicable.
- the Board has previously approved a 24.1m high building (ABP-303435-19) and a 27.8m high building (ABP-309627-21) on sites 700m to the northwest of the application site. The proposed development is continuing on that pattern

of development. Accordingly, the provisions set out under section 37(2)(b)(iv) are applicable with respect to the proposed building heights.

## 17.0 Conditions

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

**Reason:** In the interest of clarity.

2. Revised details shall be submitted with regard to the following:
  - (a) repositioning of 'Core A Waste Storage Area', as identified on the ground-floor plan drawing (no.BRK\_JFA\_02\_00\_DR\_A\_P2002) adjoining the Sunshine commercial estate to basement level or an alternative location on site;
  - (b) floor to ceiling heights at least 2.7m for the ground-floor apartments in block D;
  - (c) revised landscape layout to provide privacy strips fronting the living room window serving the one-bedroom apartment on the east side of core D1 to block D and along the apartment terrace areas on the north side of block B;
  - (d) resolution of the conflicting location of a hotwater tank press and an access door to unit B.00.04 on the ground-floor plan layout drawing no.BRK\_JFA\_02\_00\_DR\_A\_P2002;

- (e) provision of the two routes on site indicated in the applicant's Masterplan extending to the southern boundary with Sunshine commercial estate to provide for a future potential level connection to these adjoining lands;
- (f) extension of the path along the west side of Block D to the shared surface route providing for the future potential route indicated in the applicant's Masterplan.

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

**Reason:** In the interests of visual and residential amenity, traffic and pedestrian safety.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

4. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations. Audio equipment / speakers shall not be operated from the external terrace areas to the café and gym.

**Reason:** In the interests of residential amenity.

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

**Reason:** To protect the visual amenities of the area.

6. The following requirements shall apply to the proposed café unit:
- i) Prior to the occupation of the café, details of any proposed signage to be applied to the elevations of the building, including details of the materials, colour, lettering and depth of the signage shall first be submitted to and agreed in writing with the Planning Authority.
  - ii) The glazing to the café unit shall be kept free of all stickers, posters and advertisements.
  - iii) The café use shall operate only between the hours of 0700 to 2200 hours Monday through Sunday.
  - iv) Permission is for café use, where no hot food preparation on the premises is permitted. Any change to this arrangement shall be subject to a separate grant of planning permission.

**Reason:** In the interest of the proper planning and orderly development of the area.

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

**Reason:** In the interest of urban legibility.



8. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Five clearly identified car parking spaces for the childcare facility and four clearly designated spaces for car share use shall be assigned permanently. Off-street loading bays/set-down areas for the café unit, shall be identified and allocated for this use. Residential car parking spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how car parking shall be continually managed.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

9. Prior to the occupation of the development, a Mobility Management Strategy (travel plan) shall be submitted to and agreed in writing with the planning authority. This shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

10. A minimum of 10% of all car parking spaces should be provided with electric vehicle (EV) charging stations/points, at least one of which should serve a car club / car share space, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date.

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

11. The developer shall enter into water and / or waste water connection agreement(s) with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

12. a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.
- c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

13. Public lighting shall be provided in accordance with a scheme, which shall include lighting along finalised pedestrian routes through open spaces and the mitigation measures to address impacts on bats, details of which shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. The design of the lighting scheme shall take account of existing public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.

**Reason:** In the interests of amenity and public safety.

14. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

15. a) The site shall be landscaped and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, including the Landscape Management and Maintenance Plan Design Book, which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development.
- b) details of the boundary treatment shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity

16. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of

the hedge for its full length, and shall be maintained until the development has been completed.

- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be maintained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be maintained.
- (c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees identified for protection and retention on Tree Protection Plan drawing no. BFH002, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
- (d) No trench, embankment or pipe run shall be located within three metres of any trees, shrubs, hedging which are to be maintained on the site or in the adjoining park.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

- 17.** A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

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

- 18.** Prior to commencement of development the developer shall submit, for the written agreement of the Planning Authority, a schedule of Ecological

Avoidance, Remedial and Alleviation Measures, as detailed in Section 6 of the Ecological Impact Assessment Report (dated April 2021) submitted with the application. The schedule shall set out the timeline for implementation of each measure and assign responsibility for implementation. All of the mitigation measures shall be implemented in full and within the timescales stated.

**Reason:** In the interests of clarity, protection of the environment and the proper planning and sustainable development of the area.

19. Trees to be removed on site shall be felled in late summer or autumn outside bird nesting season and winter (bat hibernation). Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of nature conservation.

20. Bat roosts shall be incorporated into the site and the recommendations of the Ecological Impact Assessment Report shall be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority

**Reason:** To ensure the protection of the natural heritage on the site.

21. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and

communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

22. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment and non-residential unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for secure communal bin stores for the development, the locations and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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

site development works and shall undertake a pre- and post-construction survey for potential burial grounds on site.

The assessment shall address the following issues:

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

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

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

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

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

**Reason:** In the interest of sustainable waste management.

- 25.** The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
  - b) Location of areas for construction site offices and staff facilities;
  - c) Details of site security fencing and hoardings;
  - d) Details of on-site car parking facilities for site workers during the course of construction;
  - e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
  - f) Measures to obviate queuing of construction traffic on the adjoining road network;
  - g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
  - h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
  - i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.



- j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

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

- 26.** Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where proposals have been submitted and agreed in writing with the Planning Authority.

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

- 27.** Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the

matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

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

- 29.** Prior to the commencement of development, the developer shall enter into an agreement with the Planning Authority to provide for the payment of a financial contribution to the Planning Authority in lieu of the on-site shortfall in public open space as provided for under section 16.3.4 of the Dublin City Development Plan 2016-2022. The manner of payment and amount of payment shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

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

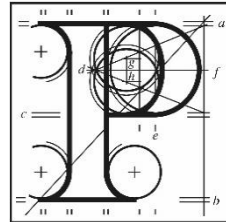
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Colm McLoughlin  
Planning Inspector

11<sup>th</sup> August 2021

## Appendices

### Appendix A: EIA Screening



An  
Bord  
Pleanála

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

#### A. CASE DETAILS

<b>An Bord Pleanála Case Reference</b>		ABP-310112-21
<b>Development Summary</b>		Demolition of former warehouse buildings and the construction of 282 apartments with associated amenities, a childcare facility/crèche, a café, a remote office hub, a public gym and associated development at Brickfield House, Brickfield Drive, Crumlin, Dublin 12.
	<b>Yes / No / N/A</b>	

1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report and a Natura Impact Statement, as well as an EIA Screening Statement and an EclA report, including Bat Report, were submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA and AA were undertaken in respect of the Dublin City Development Plan 2016-2022, including variation 26 of this Plan, which specifically related to rezoning of this site.

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	<b>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			

<p><b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The development comprises the demolition of existing warehouse buildings and associated structures, and the construction of four blocks largely comprising apartments with associated communal and commercial uses. There is variety in the nature and scale of development in the surrounding area, including residential buildings and various commercial buildings, and the proposed development is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development.</p>	<p>No</p>
<p><b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The proposed development would take place on a brownfield site within Dublin city and any changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area.</p>	<p>No</p>
<p><b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p>No</p>
<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the measures outlined in the submitted CEMP will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and with the implementation of measures outlined in the Noise and Vibration Impact Assessment and the CEMP would satisfactorily mitigate the potential impacts.</p> <p>Operational waste will be managed through a waste management plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risks are identified. There is no direct connection from open water on the site to waters. Operation of a CEMP will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services within the site.</p>	<p>No</p>

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



<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed would result in an intensification of use, an increase in population and employment in the crèche, café and remote office hub. The development would provide housing that would serve towards meeting an anticipated demand in the area.</p>	<p>No</p>
<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>Yes</p>	<p>An indicative masterplan has been provided to show the likely connectivity from the site with the adjoining Sunshine commercial estate, which measures approximately 1 hectare and is zoned for similar planning objectives, but does not form part of the subject project, is a serviced urban site and is not subject of an extant permission that could result in cumulative effects on the environment.</p>	<p>No</p>
<p><b>2. Location of proposed development</b></p>			
<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> <li>1. European site (SAC/ SPA/ cSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> </ul>	<p>No</p>	<p>Conservation sites are not located on site. The nearest European sites are listed in table 5 of this report. The Grand Canal proposed Natural Heritage Area is situated 470m to the northeast. Annex II habitats or habitat suitable for protected species of plants were not found on site during ecological surveys. The proposed development would not result in significant impacts to any of these sites.</p>	<p>No</p>

<p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>			
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>Yes</p>	<p>The project incorporates measures set out in a Bat Report and addressed in the EclA Report and Public Lighting report to avoid, remediate or alleviate impacts on foraging bats, or in the case that roosting bats were found to be using the site prior to construction. Design and mitigation measures to address birds, such as Light-bellied Brent Geese using the neighbouring parklands, have been addressed as part of the application NIS. With measures in place and proposed the development would not result in significant impacts to bats or other species.</p>	<p>No</p>
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>The site and surrounding area does not have a specific conservation status and there would be no alteration to the urban fabric and grain.</p>	<p>No</p>
<p><b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>	<p>No such features arise in this urban location.</p>	<p>No</p>

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

**3. Any other factors that should be considered which could lead to environmental impacts**

<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	The subject application includes an indicative masterplan to show the project context relative to the future development potential for the adjoining Sunshine commercial estate. There are no extant permissions for developing the adjoining lands, including the Sunshine commercial estate. No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	No
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise	No
<b>3.3</b> Are there any other relevant considerations?	No	No	No

<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	✓	<b>EIAR Not Required</b>	EIAR not required
<b>Real likelihood of significant effects on the environment.</b>		Refuse to deal with the application pursuant to section 8(3)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended)	

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i) and 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021;
- Class 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021;
- the location of the residential, childcare facility, café, gym and remote office hub development on lands zoned 'Z10' for inner suburban and inner-city sustainable mixed-uses within the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of this Plan, including the adopted variation no.26;
- the existing development on site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001-2021;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2021, and;
- the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Noise and Vibration Impact Assessment, the Construction Environmental Management Plan and the Ecological Impact Statement.

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

Inspector: \_\_\_\_\_ Colm McLoughlin

Date: 11<sup>th</sup> August 2021