



An
Bord
Pleanála

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

Inspector's Report ABP-310138-21

Strategic Housing Development

Demolition of existing buildings on site and part of the granite wall along Dundrum Road, excluding Small Hall, construction of 231 no. apartments, childcare facility and associated site works.

Location

Mount Saint Mary's and Saint Joseph's, Dundrum Road, Dundrum, Dublin 14. (www.msmshd.ie)

Planning Authority

Dun Laoghaire Rathdown County Council

Applicant

Winterbrook Homes Ltd.

Prescribed Bodies

1. An Taisce
2. Irish Water

Observers

3. Department of Culture, Heritage and the Gaeltacht - Development Applications Unit (Now referred to as Department of Housing, Local Government and Heritage)
1. Aidan Magennis
2. Alan Pollock
3. Anne-Maree Maher
4. Antoinette Mulholland
5. Aoife Murtagh (Chair of Dublin Rathdown Social Democrats)
6. Brendan and Guadalupe Brassil
7. Caitriona Ryan and Matthew Ryan
8. Catherine Imelda Malin
9. Christine Spillane
10. Churchfields Management Company CLG (Kieran O Malley and Co Ltd)
11. Claire O'Neill
12. Damian Meehan
13. Darragh Graham
14. Declan McGovern
15. Denis Gannon and Mary Tobin (Peter P Gillett and Associates)
16. Dermot Brennan
17. Edith Flood
18. Eoin O'Meara
19. Frank Finlan
20. Gary and Anne Valentine

21. Gaye Cunnane
22. Geraldine Rodgers
23. Hugh and Rahsa Linehan
24. Jennifer Mahon
25. Jimmy and Olwen Redmond
26. John Curtis – Association of
Management of Catholic
Secondary Schools
27. John Kennedy
28. Liam McKenna and Lisa Croke
29. Louise Copas
30. Máire MhicShamhráin
31. Maxwell and Emma Treacy
32. Mervyn Feely
33. Michael and Toni Brosnan
34. Monica Walsh
35. Neil & Simone Harrion
36. Nick and Gwen Adams
37. Noel Clinton
38. Pamela Wallace
39. Patrick O'Dwyer
40. Paul and Christine Hammond
41. Richard and Caroline Godsil
42. Robert Carney
43. Robert Keogh
44. Ronan McGovern
45. Rosemary Dempsey
46. Seamus Fleming
47. Shane Hillan

48. Susan Cooney
49. The Maples Residents
Association
50. Thomas Minterm
51. Tom Mulholland
52. Victoria White
53. Warwick Hadley

Date of Site Inspection

17th June 2021

Inspector

Máire Daly

Contents

1.0 Introduction.....	6
2.0 Site Location and Description	6
3.0 Proposed Strategic Housing Development	7
4.0 Planning History.....	11
5.0 Section 5 Pre-Application Consultation.....	13
6.0 Relevant Planning Policy	20
7.0 Third Party Submissions.....	31
8.0 Planning Authority Submission	37
9.0 Prescribed Bodies.....	51
10.0 Oral Hearing Request	52
11.0 Assessment.....	53
12.0 Environmental Impact Assessment (EIA) Screening.....	140
13.0 Screening for Appropriate Assessment (AA).....	144
14.0 Recommendation	158
15.0 Reasons and Considerations	158
16.0 Recommended Order:.....	159
17.0 Conditions	167

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject site has a stated area of 1.6ha and is located on the former Marist Fathers Mount St. Mary Seminary Complex located on the eastern side of Dundrum Road in Milltown. The site consists of the former Middle House; the Small Hall; The Gate Lodge Bungalow; the former three storey Residence Wing building and two storey flat roofed wing; former Chapel, Oratory and Side Chapels; and associated ancillary outbuildings (stables/lockups and workshops). The site excludes Robert Emmet House (Protected Structure RPS No. 18 listed under the Dun Laoghaire Rathdown County Development Plan (DLRCDP) 2016-2022) which is located immediately adjacent to and surrounded by the subject site in the north-western area of the site. Robert Emmet House and its immediate curtilage will remain in the ownership of and in use by the Joint Managerial Body Secretariat of Secondary Schools.
- 2.2. An existing stone wall forms the boundary along Dundrum Road, a steel fence and hedging forms the western boundary, with an existing stone wall and buildings which include stables, lock-up and workshop along the northern boundaries with the residential development of Churchfields. The site is situated opposite further residential development at St. Luke's Crescent to the west, a mature residential development of terraced and semi-detached dwellings. On its southern boundary, the site adjoins the Catholic University School (hereafter referred to as CUS) Rugby Grounds, home to the school's rugby pitches, cricket field and sports pavilion.
- 2.3. The site is bounded to the north and east by established residential areas which are characteristic of Dublin suburbia. The site is c. 750 m/ and 1.1km from the Milltown and Windy Arbour Luas stops respectively and c. 1.6km north of Dundrum town centre. The development shall be served via the existing vehicular access point from

the Dundrum Road on its western boundary. An existing locked pedestrian gate is located on the site's eastern boundary with the Churchfields housing estate.

3.0 Proposed Strategic Housing Development

3.1. The proposed development provides for the following:

- The demolition (total area of approx. 2,913.8 sq m) of (a) the existing buildings on site (ranging in height from 1 - 3 storeys) and (b) part of the granite wall along Dundrum Road. The existing Small Hall (approx. 170 sq m) is to be retained and reconfigured (afterschool facility).
- Construction of a new residential scheme of 231 no. apartment units, which are broken down as 115 no. 1 bed units and 116 no. 2 bed units, in the form of 5 no. apartment blocks (Villas A to E) ranging in height from 4 to 10 storeys with 23 No. units provided for Part V in Villas A, B, C & D. The Villas/Blocks will comprise of the following:
 - Villa A (4 storeys) comprising 40 no. apartments (23 no. 1 bed and 17 no. 2 bed units)
 - Villa B (4 - 5 storeys) comprising 37 no. apartments (14 no. 1 bed and 23 no. 2 bed units)
 - Villa C (5 - 6 storeys) comprising 40 no. apartments (11 no. 1 bed and 29 no. 2 bed units)
 - Villa D (5 - 10 storeys) comprising 80 no. apartments (51 no. 1 bed and 29 no. 2 bed units)
 - Villa E (4 - 6 storeys) comprising 34 no. apartments (16 no. 1 bed and 18 no. 2 bed units)
- The existing Small Hall is to be reconfigured to accommodate an Afterschool Childcare Facility of approx. 161sq m.
- The proposal will also provide for a café of approx. 83 sq m at the ground floor of Villa E.
- Residential amenity areas of approx. 308 sq m are proposed in the form of resident support services and concierge services of approx. 111 sq m at the

ground floor of Villa A; a gym room of approx. 77 sq m at the ground floor of Villa D; and a glazed pavilion indoor social space of approx. 120 sq m at the fourth floor of Villa D. A roof garden residential amenity area of approx. 130 sq m is also proposed at the fourth floor of Villa D.

- Works to the northern and eastern boundary of Robert Emmet House (a protected structure) which include (a) the closing up of opes to the existing Small Hall; and (b) the partial removal of a link between the existing Middle House on site and the adjacent Robert Emmet House (protected structure) at ground and first floor levels and the subsequent reconfiguration and retention of existing fire escape at ground floor level for this building on the eastern elevation.
- Open space (approx. 8,200 sq m) is proposed in the form of (a) a central public park including formal gardens, lawns, play area and pedestrian and cyclist links (approx. 6,300 sq m) and (b) residential / communal open space (approx. 1,900 sq m) including the roof terrace at Villa D (approx. 130 sq m).
- Basement areas (total approx. 3,372 sq m) are proposed on one level, below Villas A and B, and include parking areas, waste management and plant areas. An ESB substation (approx. 45.5 sq m) and café waste store (approx. 18 sq m) are also proposed at surface level.
- A total of 118 no. car parking spaces (99 no. at basement level and 19 no. at surface level) are proposed. 20 no. spaces are reserved for Robert Emmet House (10 no. at basement level and 10 no. at surface level).
- 463 no. bicycle spaces (365 no. at basement level and 98 no. at surface level) and 4 no. motorcycle spaces are proposed (all at basement level).
- Upgrade works are proposed to the existing vehicular access point off the Dundrum Road. 5 no. new pedestrian and cyclist access points are proposed via Dundrum Road and Churchfields.
- Associated site and infrastructural works include provision for water services; foul and surface water drainage and connections; attenuation proposals; permeable paving; all landscaping works including tree protection, tree removal and new tree planting; green roofs; boundary treatment; internal roads and footpaths; and electrical services.

3.2. Development Parameter Summary

<u>Parameter</u>	<u>Site Proposal</u>	
No. of apartments	231	
Site Area	1.6ha	
Density	144 per ha.	
Creche	161sqm to be provided in the reconfigured Small Hall which will accommodate 30 children.	
Building Heights	Range from 4 to 10 storeys	
No. with dual aspect	131 no. units or 57% of total	
Site Coverage	49%	
Car Parking	118 no. car spaces in total - 98 no. spaces for apartment use with additional 20 no. to cater for demand from Robert Emmet House. 2 spaces to be reserved for childcare facility. Basement carparking to be provided under Villa A and B.	
Motorcycle Parking	4 no. spaces at basement level.	
Bicycle Parking	463 no. bicycle spaces	
Part V	23 no. units or 10% of the total 231 no. units	
Open Space	8,200 sq m total - 51% of the site Public open space – c. 6,300sq m Residential/communal open space – c.1,900sq m including roof terrace (Villa D) – c. 130sq m	
Residential Amenity Area	308sq m to include concierge, gym and indoor pavillion	
Vehicular Access	Via existing entrance from Dundrum Road (R117)	
Unit Mix		
Apartment Type	1 bed and sq.m	2 bed and sq.m
No. of apartments	115 (50 to 56 sq.m)	116 (76.5 to 80sq.m)
As % of total	49.8%	50.2%

3.3. Documentation Submitted

3.3.1. In addition to the drawings, application form and notices, the application was accompanied by, inter alia, the following reports and documentation:

- Statement of Response to An Bord Pleanála Opinion.
- Letter of Consent from Dun Laoghaire Rathdown County Council.
- Planning Report.
- Statement of Consistency.
- Community Infrastructure Statement.
- Material Contravention Statement.
- Environmental Impact Assessment (EIA) Screening Report.
- Appropriate Assessment (AA) Screening Report.
- Ecological Impact Assessment (EclA).
- Resident Services Report.
- Site Specific Management and Lifecycle Report.
- Architectural Design Statement.
- Housing Quality Assessment Report.
- Materials and Finishes Report.
- Part V Report.
- Response to An Bord Pleanala Pre-Application Consultation Opinion – Architecture.
- Universal Design Statement.
- Infrastructure Report.
- Flood Risk Assessment.
- Traffic & Transport Assessment.
- Residential Travel Plan.

- DMURS Compliance Statement.
- Ground Investigation.
- Stage 1 Surface Water Audit.
- Landscape Design Book.
- Construction and Demolition Waste Management Plan.
- Operational Waste Management Plan.
- Outline Construction Environmental Management Plan.
- Hydrological and Hydrogeological Qualitative Risk Assessment.
- Arboricultural Impact Assessment Report.
- Daylight and Sunlight Assessments.
- Report on the Heritage Impact of the Proposed Development.
- Energy Statement.
- Public Lighting Report.
- Noise Impact Assessment.
- Telecommunications Report.
- Wind Microclimate Study.
- Preliminary Fire Safety and Access & Use Strategy.
- Townscape and Visual Impact Assessment.
- Verified Photomontages.
- CGI Views.

4.0 **Planning History**

4.1. **Subject Site**

- 4.1.1. PA Ref. No. D16A/0113 – Permission granted in July 2016 for works to stone boundary wall along the Dundrum Road, consisting of 1) repair and re-pointing, 2) dismantling and reconstruction to original alignment and 3) landscaping remediation.

4.2. Surrounding Sites:

Adjoining site to southeast:

- 4.2.1. ABP Ref. PL06D.249290 – Permission granted by the Board in February 2018 for amendments to previously permitted scheme (P.A. Ref. No. D15A/0191) which included a revised layout in the north east corner of the residential development under construction and associated site work.
- 4.2.2. P.A. Ref. No. D16A/0611 – Permission granted in January 2017 to amend the previously permitted scheme under P.A. Ref. No. D15A/0191. The amendments comprised a 2.1 metre high railing with low-level hedging along the western boundary, shared with the CUS sports grounds. The previously permitted pedestrian access on the western boundary was omitted. A removable section of railing would be provided, however, only to enable access to utilities on the wayleave
- 4.2.3. ABP Ref. PL06D.245621 (P.A. Ref. No. D15A/0191) – Permission granted in July 2016 for 54 number residential units.

To west of subject site to the other side of the Dundrum Road (R117):

- 4.2.4. ABP Ref. 300519-17 - Permission granted in October 2018 for 6 no. houses to rear of existing house, private terraces, car parking, access and all ancillary and site development works on a site.

CUS Sports grounds to south:

- 4.2.5. P.A. Ref. No. D14A/0257 – Permission granted in August 2014 for retention and alterations to existing fencing, remedial works to stone boundary wall on Dundrum Road involving reconstruction of section of block infill and remedial stabilising works and the demolition and reconstruction of stone boundary wall on Bird Avenue to a height of approx. 1.7 metres. The works involved the removal of existing trees and re-grading and landscaping of perimeter landscaped zone.
- 4.2.6. P.A. Ref. No. D12A/0154 – Permission granted in June 2012 to demolish the existing single storey changing rooms and construct two storey sports changing facilities

comprising a new car and coach layout, new exit/entrance route and walls adjacent to church to accommodate traffic to pavilion and adjacent development lands and associated landscaping works and signage.

4.3. Nearby Strategic Housing Applications located approx. 1km to the southeast

4.3.1. ABP Strategic Housing Application 309430-21: Permission granted in June 2021 for 698 no. student bedspace accommodation and associated site works – Our Lady’s Grove Student SHD.

4.3.2. ABP Strategic Housing Application 304420-19: Permission was granted in 2019 for 132 no. residential units (19 no. houses and 113 no. apartments) and a childcare facility on the subject site – Our Lady’s Grove SHD. (This decision was subsequently quashed by the courts).

5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application virtual consultation took place on 7th December 2020 in respect of a development to demolish existing buildings on site excluding the Small Hall, and the construction of 240 no. apartments, childcare facility and associated site works. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- Compliance with local planning policy.
- Development Strategy, including inter alia density, building height, unit mix, open space, connectivity and permeability and architectural response to the site context.
- Architectural Conservation.
- Services, facilities and amenity areas for future occupants.
- Residential Amenities (impact on adjoining properties and within the scheme).
- Car Parking Strategy.
- Any Other Business – surface water outflow, ‘true’ dual aspect units.

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 17th December 2020 (ABP-307557-20) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a reasonable basis for an application for strategic housing development with regard to the following: -

1. Institutional Lands Objective - Further consideration and / or justification of the documents as they relate to compliance with local planning policy. The further consideration and / or justification should address the objectives "*to protect and / or provide for institutional use in open lands*" that pertain to the site having regard to the provisions of the Dun Laoghaire Rathdown Development Plan 2016-2022.
2. Design Strategy - Further consideration and/or justification of the documents as they relate to the design strategy for the site.
3. Traffic and Transportation – Further consideration and/or justification of the documents as they relate to the:
 - a) Use of existing vehicular access to Emmet House off Dundrum Road.
 - b) Car Parking Strategy.
 - c) Response to issues raised in Transportation Division of Dun Laoghaire Rathdown County Council, as contained in the Planning Authority's Opinion dated 21st August 2020.
4. Residential Amenity – Further consideration and / or justification of the documents as they relate to residential amenity, having particular regard to the potential for overlooking, overshadowing and overbearing impacts on existing adjoining residential properties and proposed residential units within the scheme. The response should include a Sunlight, Daylight and Shadow Analysis of inter alia units proposed, communal open spaces, public open spaces and adjoining lands and properties.

5.3. The prospective applicant was notified that the following specific information should be submitted with any application for permission:

- A Housing Quality Assessment.

- A Report that addresses the quantum and quality of services, facilities and amenities proposed having regard to the future needs of the occupants of the proposed development.
- An Architectural Impact Assessment having regard to the impact on Emmet House, its character and setting.
- A response to the issues raised in the Report of the Conservation Division of Dun Laoghaire Rathdown County Council, as contained in the Planning Authority's Opinion dated 21st August 2020.
- Wind micro-climate study.
- A Site-Specific Management Plan.
- A response to the issues raised in the Report of the Drainage Division of Dun Laoghaire Rathdown County Council, as contained in the Planning Authority's Opinion dated 21st August 2020.
- A draft Construction Waste Management Plan, draft Construction and Environmental Management Plan and a draft Operational Waste Management Plan.
- Material Contravention Statement.

5.4. Finally, a list of authorities that should be notified in the event of the making of an application were advised to the applicant and included:

1. Irish Water
2. Department of Culture, Heritage and the Gaeltacht (corrected to Department of Housing, Local Government and Heritage)
3. Heritage Council
4. An Taisce
5. Failte Ireland
6. DLR Childcare Committee

5.5. **Applicant's Statement**

5.5.1. The application includes a statement of response to the pre-application consultation (Statement of Response to An Bord Pleanála's Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which has been summarised as follows:

Response to Item 1 – Institutional Lands Objective

- The site, subject of this strategic housing development is governed by specific objective “*To protect and/or provide for Institutional Use in open lands*”. Provisions that relate to Institutional Lands are included under Section 8.2.3.4 (xi) of the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- The applicant understands that the Institutional Objective has applied to the site since the making of the 1993 Dublin County Development Plan. It has been confirmed that this objective is not a land use zoning objective.
- The Statement of Consistency enclosed with the application provides the full assessment of the proposal regarding these provisions, summarised as follows:

(a) No Demand for Institutional Use

- There is no demand for an alternative institutional use for the site. The Marist Fathers (most recent occupiers) have no desire to continue using the site and have sold the lands to the applicant.
- CUS only use the adjacent site for sports facilities and their main buildings are located on Lower Leeson Street in Dublin 2. It is therefore considered that an appropriate use such as residential can be permitted on the site. This is further supported by the residential zoning objective governing the site.

(b) Master Plan

- A masterplan has been included with the application as part of Appendix 2 of the Architectural Design Statement (page 44). The applicant has no control over the adjoining lands, namely the sports fields. It is therefore not considered appropriate to include these lands as part of the masterplan nor are they covered by the ‘INST’ Development Plan objective.
- Detailed assessments of Built Heritage (Architectural Heritage Impact Assessment, including assessment of Robert Emmet House), Natural Assets (Arboricultural Impact Assessment and Landscape Masterplan) and Recreation Use Patterns have been compiled and included with the application.

(c) Public Access and Open Space

- the proposal will provide for approximately 8,200 sq m open space, which equates to 51% of the overall site. This provision exceeds the 25% requirement required under the Institutional zoning. The open space provision is broken down into 6,300sq m to be provided for Public Open Space and 1,900sq m to be provided for Residential Communal Open Space.
- Access - 4 pedestrian points are provided along the Dundrum Road site boundary and 2 connections are provided along the eastern boundary with Churchfields and Hawthorn residential estate. The later of these eastern connections can be facilitated subject to third party consent.

Response to Item 2 – Design Strategy

(a) Interface with Emmet House, the Public Realm at Dundrum Road and the interface with Churchfields to the east:

- Robert Emmet House – The setting of the protected structure will be significantly enhanced by way of the current proposal and particularly by way of the opening up selected parts of the boundary wall along Dundrum Road and maintaining the open space to the front of the house.
- Public realm with Dundrum Road - The interface at Dundrum Road will provide for 4 new pedestrian access points, which is a significant improvement and will increase the level of permeability and will provide for visual connection to Robert Emmet House, the public park and the wider site. The delivery of a café and afterschool facility along the Dundrum Road boundary also provide for further activity and vibrancy along this site boundary.
- Interface with Churchfields - proposed buildings (Villas B and C) will be setback from the eastern boundary to provide for appropriate separation distances (above 22m) from the existing houses at Churchfields to the east. Existing railing and hedge boundary at this location are to be retained. A new pedestrian connection is delivered at this location to enhance permeability between the development and to provide for improved access to Dundrum Road from Churchfields

(b) Contextual layout plan

- Architectural drawings submitted including contextual layouts and sections highlighting the relationship with adjoining developments. Further supplemented by the visual material provided in the Architectural Design Statement (Section 3.6 is of specific reference) and photomontages.
- (c) Consideration of local statutory policy and national policy and guidelines, in particular section 3.2 and SPPR3 of the Urban Development and Building Heights, Guidelines
- The Statement of Consistency and Material Contravention Statement submitted with the application details the proposal's assessment against the 2018 Urban Development and Building Heights Guidelines for Planning Authorities.
- (d) The quantum and quality of public and communal open space provision.
- A response to this is set out in detail in the landscape design report. Additional cross sections, CGIs and visualisations have also been prepared, which set out the extent of open space proposals.
- (e) Layout of the development, hierarchy of open space, compliance with DMURS and provision of connections with adjoining lands and surrounding area. Response to also address materials and finishes.
- Architectural Design Statement provides further detail on the design strategy for the site and how this has influenced the layout.
 - In terms of the hierarchy of open spaces, the enclosed input from Mitchell Associates provides for a clear breakdown in public and communal areas of open space.
 - DMURS Compliance Statement.
 - A Material and Finishes report and Site Specific Management and Lifecycle Report have also been submitted with the application.

The Statement of Consistency contains details of how the proposal full complies with National Guidelines and the Dun Laoghaire Rathdown Development Plan 2016-2022.

Response to Item No. 3 – Traffic and Transportation

- (a) The use of the existing vehicular access to Emmet House off Dundrum Road.

- Previous use of the subject site and resulting traffic flows through the existing entrance off the Dundrum Road resulted in flows comparable with those proposed. The routing of traffic through the adjacent Churchfield development is not considered appropriate. Further justification is provided in the Traffic and Transport Report.

(b) Car Parking Strategy

- Car Parking Strategy for basement and ground level as set out in drawings prepared and submitted with the application. 10 no. spaces have been allocated at basement car park level for Emmet House. A Residential Travel Plan has also been submitted.

(c) Response to DLRCC Transportation Division

- A full response is contained in Appendix 7 of the Traffic and Transport Assessment.

Response to Item 4 – Residential Amenities

- The Planning Report provides an assessment of the proposed development with regard to residential amenity. Adequate separation distances to adjacent properties are to be provided and appropriate building heights.
- A daylight/sunlight has been submitted which states that all areas assessed continue to meet or exceed the recommendations of the BRE guidelines (page 3). All the proposed units within the development will exceed the recommendations of the BRE guidelines for quality of daylight within the apartment layouts. In addition, an assessment of visual impact, noise etc. have also been provided for a more in-depth analysis on these specific elements of residential amenity.
- There are no instances of direct overlooking within the scheme.
- The proposed layouts provide for deflection of any directly opposing windows, which ensure residential amenity levels are protected for adjoining residents.

5.5.2. In addition to the above the following specific reports and studies have been submitted in response to the Board's Opinion:

- Housing Quality Assessment detailing compliance with the 2018 Guidelines on Design Standards for New Apartments.

- A Resident Services Report describing the quantum and quality of the proposed services, facilities and amenities to be provided onsite for the benefit of future occupants of the development including childcare facility, gym, co-working space, café and support services.
- A Report on the Heritage Impact of the proposed development including a direct response to the issues raised to the Report of the Conservation Division.
- A Wind Micro-climate Study.
- A Site-Specific Management and Lifecycle Report.
- A response to the issues raised in the Report of the Drainage Division is provided in the Infrastructure Report.
- A draft Construction and Demolition Waste Management and Operational Waste Management Plans and Outline Construction and Environmental Management Plan.
- A Material Contravention Statement detailing the basis for consideration of a material contravention of the Dun Laoghaire Rathdown County Development Plan 2016-2022 in relation to building height, residential mix, residential density, trees and transitional zones.

6.0 Relevant Planning Policy

6.1. National Policy

6.1.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion, that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities (2009).

- Design Manual for Urban Roads and Streets (DMURS December 2013) (as updated) (Including Interim Advice note Covid-19 May 2020).
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011).
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the ‘Apartment Guidelines’).
- Regulation of Commercial Institutional Investment in Housing. Guidelines for Planning Authorities (May 2021).

6.1.2. Other relevant national policy includes:

Project Ireland 2040, National Planning Framework (NPF) - The NPF addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Table 4.1 of the framework sets growth targets for Dublin City and Suburbs, proposing a 20-25% growth in population to 2040. In achieving this, it places a great emphasis on compact growth requiring a concentration of development within the existing built-up area, including increased densities and higher building format than hitherto provided for. Brownfield sites, in particular, are identified as suitable in this context. The directly relevant National Policy Objectives as contained within the NPF include:

- National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- National Policy Objective 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

- National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

6.2. **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR)**

- 6.2.1. The RSES provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), Investment Framework and Climate Action Strategy. The Dublin MASP is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area.

6.3. **Local Policy**

- 6.3.1. The Dún Laoghaire-Rathdown County Development Plan 2016-2022 is the operative County Development Plan for the area (here on referred to as the operative CDP).
- 6.3.2. Land Use Zoning - The following is noted pertaining to the development site:

- The site is zoned 'Objective A' which seeks to '*protect and/or improve residential amenity*' – 'Residential' is 'Permitted in Principle' under this zoning objective, with 'Sports Facility', 'Tea Room/Cafe' and 'Childcare Service' being Open for Consideration.
- The lands associated with Mount St. Mary are subject to RES5 'Institutional Lands' designation. The site is subject to the specific local objective 'INST' which seeks "*to protect and / or improve Institutional use in open lands*".
- There is also an objective on site "*To protect and preserve Trees and Woodlands*".
- To the immediate south of the site at the CUS grounds is zoned for Objective F '*To preserve and provide for open space with ancillary active recreational amenities*'
- 'Emmet House' which immediately joins the site is listed in the Record of Protected Structures (RPS No. 18) in Appendix 4 of the Plan and is described as a 'House'.

6.3.3. **Chapter 2** of the Plan notes that the Council is required to deliver 30,800 units over the period 2014-2022. Figure 1.3 of the Plan indicates that there are approx. 410 ha of serviced land available which could yield 18,000 residential units. Chapter 2 includes inter alia policies which seek to increase housing supply and density (**RES3 & RES4**) ensure an appropriate mix, type and range of housing (**RES7**) and promote the development of balanced sustainable communities.

6.3.4. **Policy RES5 Institutional Lands** states: "*Where distinct parcels of land are in institutional use (such as education, residential or other such uses) and are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs*".

6.3.5. **Section 2.1.3.5** states '*It is recognised that many institutions in Dún Laoghaire-Rathdown are undergoing change for various reasons. Protecting and facilitating the open and landscaped 'parkland' settings and the activities of these institutions is encouraged. Where a well established institution plans to close, rationalise or relocate, the Council will endeavour to reserve the use of the lands for other*

institutional uses, especially if the site has an open and landscaped setting and recreational amenities are provided. Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained.

- 6.3.6. Section 2.1.3.5 also says the following, ‘*A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council (Refer also to Section 8.2.3.4(xi) and 8.2.8)*’ and ‘*In the development of such lands, average net densities should be in the region of 35 – 50 units p/ha. In certain instances, higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands.*
- 6.3.7. **Chapter 4 – Green County Strategy**, includes **Section 4.2 ‘Open Space and Recreation and Policy OSR7 ‘Trees and Woodlands’**, that refers to the Tree Strategy for the County, including objectives aimed at promoting the protection of existing trees and the planting of more trees.
- 6.3.8. **Chapter 8** deals with **Principles of Development** and describes the urban design standards for development, including provisions relating to open space. **Section 8.2.3.4** (Additional Accommodation in Existing Built-up Areas) (xi) (Institutional Lands) (relates to ‘INST’ designation on CDP maps) and notes a minimum open space requirement of 25% of the total site area (or population based provision, whichever is the greater).
- 6.3.9. **Section 8.3.2 Transitional Zonal Areas** states that in dealing with development proposals in transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of residential properties.

6.3.10. **Section 8.2.3.3 Apartment Development** states that the minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.

6.3.11. **Policy UD6 Building Height:** *“It is council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County”*. The **Building Height Strategy** is contained in **Appendix 9. Section 4.8** states that a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. Furthermore, it states that there will be situations where a minor modification up or down in height by up to two floors could be considered and these factors are known as ‘Upward or Downward Modifiers’. Upward Modifiers are detailed in **Section 4.8.1**. To demonstrate that additional height is justified, it will be necessary for a development to meet more than one ‘Upward Modifier’ criteria.

6.3.12. Other relevant sections include inter alia:

- **Policy UD1:** Urban Design Principles
- **Policy UD3:** Public Realm Design
- **Chapter 6 -** Built Heritage
- **Policy AR1:** Record of Protected Structures
- **Chapter 22 -** Sustainable Travel and Transportation.
- **Policy ST3:** implementation of the transportation strategy. Modal shift from the private car to more sustainable modes of transport.

Development Management standards of note (but not limited to):

- **Section 8.2.3.1** Quality Residential Design
- **Section 8.2.3.2** Quantitative Standards
- **Section 8.2.3.3-** Apartment Development
- **Section 8.2.3.5** Residential Development- General Requirements
- **Table 8.2.3 -** sets out the residential land use car parking standards as follows:

Apartments - 1 space per 1 bed unit
1.5 spaces per 2 bed unit
2 spaces per 3-bed unit+

- **Section 8.2.4** – Sustainable Travel and Transport
- **Section 8.2.8** – Open Space and Recreation
- **Section 8.2.10.4** – Flood Risk Management
- **Section 8.2.11** Archaeological and Architectural Heritage (including ACAs)
- **Section 8.2.11.2** Architectural Heritage – Protected Structures.

Dún Laoghaire-Rathdown County Council (DLRCC) Standards for Cycle Parking & associated Cycling Facilities for New Developments 2018 - Table 4.1

sets out the cycle parking standards as 1 short stay space per 5 units and 1 long stay space per unit.

6.4. Applicant's Statement of Consistency

- 6.4.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of Section 28 Guidelines and the County Development Plan. This has been examined and noted.

6.5. Applicant's Material Contravention Statement

- 6.5.1. The applicant has submitted a Material Contravention Statement. The statement provides a justification for the consideration of a material contravention of the Dun Laoghaire Rathdown County Development Plan 2016 - 2022 in relation to (i) Building Height, (ii) Residential Unit Mix (iii) Residential Density (iv) Trees and (v) Transitional Zones. The statement is summarised below: -

(i) Building Height:

- 6.5.2. The applicant highlights that Appendix 9 Building Height Strategy of the DLRCDP 2016-2022 predates the publication of the national Building Height Guidelines 2018 and Specific Planning Policy Requirements (SPPRs) referenced therein.
- 6.5.3. The DLRCDP Strategy refers to certain exceptional circumstances where a case may be made for additional height in certain locations. A proposal must meet more than 1 Upward Modifier in order to qualify as a suitable location for additional

building height. The applicant states that on a review of the modifiers they believe that the proposed development meets the criteria for four Upward Modifiers 'b', 'd', 'e' and 'f' of Section 4.8.1 of the Building Heights Strategy.

- 6.5.4. The proposed development will provide for heights of 4 to 10 storeys. Whilst the proposal exceeds the 3-4 storey maximum, the applicant claims it meets more than 1 Upward Modifier, qualifying it as a suitable location for additional building height. Notwithstanding this, it is the applicant's opinion that the Board may consider that the proposed development would give rise to a Material Contravention in respect of building height.
- 6.5.5. In this instance the applicant states that the increased height should be considered in the context of SPPR 3 (A) of the Urban Building Height Guidelines, 2018. The applicant then outlines under Section 3.3.3 of the submitted report how the proposed development satisfies each of the criteria listed under Section 3.2 of the 2018 Guidelines. The applicant submits that the proposal secures the relevant objectives of the National Planning Framework and that there is a clear misalignment under the existing policies and objectives of the DLRCDP 2016-2022 and with the National Planning Framework with regard to height.
- 6.5.6. In light of the foregoing, it is respectfully requested that An Bord Pleanála have regard to the justification set out within the statement and permit the proposed height contravention of the DLRCDP 2016-2022, by reference to the Building Height Guidelines and, in particular, by reference to SPPR 3 and having regard to Section 37(2)(b)(i) and (iii) of the Planning and Development Act, 2000 (as amended).

(ii) Mix of Units

- 6.5.7. Section 8.2.3.3 (iii) of the County Development Plan sets out the requirements in relation to the mix of units provided as part of new apartment development as follows: "*larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.*" However, an Advisory Note contained on the cover page of Chapter 8 of the Development Plan appears to exclude Section 8.2.3.3 (i), (ii), (v), (vii) and (viii) and states that the standards set out in the policy document 2020 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' now superseded the Development Plan written statement. The applicant acknowledges that Part (iii)

of Section 8.2.3.3 is not specifically referred to in the Advisory Note, however they state that these guidelines which contain SPPR 1 specifically refer to dwelling mix requirements, which takes precedence over any conflicting policies and objectives of the 2016-2022 County Development Plan. Therefore, this would appear to include Section 8.2.3.3 (iii) relating to housing mix. The percentage of 1 bed units currently proposed is 49.7%. The proposed development is therefore compliant with SPPR 1 of the Guidelines which states that no more than 50% of the proposed units should be one-bedroom or studio type units.

- 6.5.8. In the context of these requirements, the 2020 Apartment Guidelines contains a Specific Planning Policy Requirement in relation to dwelling mix requirements (SPPR 1), which takes precedence over any conflicting policies and objectives of the 2016-2022 County Development Plan.

(iii) Residential Density

- 6.5.9. Policy RES3 states that *'where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT.....higher densities at a minimum of 50 units per hectare will be encouraged'*. A density of 144 units per ha is proposed at a rate of 231 units on a site area of approx. 1.6 ha. The applicant considers this appropriate and achievable at this location given the quality of the scheme proposed, the proximity to public transport, and the protection of existing levels of residential amenity for sites surrounding. Section 8.2.3.2 of the Plan states: *"In general the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009)'*.
- 6.5.10. In relation to the INST zoning objective on the lands the applicant acknowledges that Policy RES5 provides that densities should be in the region of 35-50 units per ha but that higher densities will be allowed in certain circumstances. The applicant states that the open character and residential amenity of the site is also retained through a high quality, open landscape design that reflects the existing character whilst ensuring that a higher density is delivered.
- 6.5.11. Notwithstanding the above the applicant states that the Board may consider that the proposed development gives rise to a Material Contravention of the Development Plan in respect of residential density and goes on to state the following:

- 6.5.12. The applicant outlines that the proposal clearly supports the key policies of the National Planning Framework to deliver appropriate residential densities and brownfield and infill sites and in particular they refer to NPOs 13, 33 and 35. The applicant also highlights that the Rebuilding Ireland Action Plan, and consequently the 2016 Act, which recognises the strategic importance of larger residential developments (including developments of over 100 residential units) in addressing the ongoing housing and homelessness crisis and states that the proposal contributes positively to the current national shortfall in housing supply.
- 6.5.13. Having regard to this legislative and policy context, it is considered that this proposed Strategic Housing Development is, by definition, of strategic importance for the purposes of section 37(2)(b) (i) of the 2000 Act as amended, and therefore should the proposal be determined to be a material contravention of any of the policies set out above, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended.

(iv) Trees:

- 6.5.14. The eastern boundary of the subject site includes a symbol for an objective to '*protect and preserve trees and woodland*'. In this case, the tree protection and preservation symbol identified for the most part is located outside the boundary of the site. At the location where the symbol is identified there are 3 mature trees within the confines of the site boundary. It has been identified that there are conflicting objectives within the Development with regard to the preservation and protection of trees. Whilst there is an apparent objective to protect and preserve trees and woodlands along the eastern boundary of the site, as identified on the relevant Development Plan zoning map, there is also a Development Plan provision to provide for the removal of trees '*where necessary to facilitate development*' (Section 8.2.8.6).
- 6.5.15. The applicant states that the proposal in this case has been the subject of significant arboricultural input from the outset and that the Design Team has sought to maximise opportunities for tree retention as part of the subject scheme to aid in the assimilation of the scheme into its context. The applicant highlights that the trees (3 no.) identified in the area proximate to the tree objective symbol are retained as part

of the current development proposal, which is considered to accord with the requirements of the Development Plan to protect and preserve the trees subject of the objective. In addition, overall the proposed development would result in the loss of 24 no. trees to accommodate the development and the provision of 154 no. replacement trees, resulting in a net gain of 130 no. trees. It is considered that the proposed development does not contravene the plan.

- 6.5.16. The applicant states that it is a matter for the Board to consider whether there would be a Material Contravention in respect of the objective above relating to tree protection and preservation. If so, the applicant relies sub-paragraph (ii) of Section 37 (2)(b) and on the conflicting objectives above which envisage the removal of trees “where necessary to facilitate development”.

(v) Transitional Zones

- 6.5.17. The site is located proximate to a zoned area of open space to the south at the CUS grounds. Section 8.3.2 of the Development Plan states that *‘it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones’*. It further goes on to state *‘For instance, in zones abutting ‘residential areas’ or abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties’*. The applicant is of the view that the current proposal for residential development along the shared boundary is an appropriate land use with no perceived negative impact on the area of open space to the south. Villas C, D and E provide for passive surveillance of the adjoining park and these blocks have an appropriate setback distance of c.11-14m in order to protect the interest of adjoining lands. The overall visual impact here has been categorised as ‘significant positive’ in the submitted Townscape and Visual Impact Assessment. Notwithstanding this, it is the applicant’s opinion that it could be interpreted that a Material Contravention in respect of a transitional zoning is occurring in this instance and this is a matter for An Bord Pleanála to ultimately adjudicate on.

7.0 Third Party Submissions

7.1. 56 no. submissions on the application have been received from the parties as detailed at the front of this report. Of these submissions, 3 no. submissions have been received from prescribed bodies (again listed at the front of this report), the details of which are expanded upon under Section 9 of this report. Among those who made submissions are local residents, the Churchfields Management Company CLG, The Maples Residents Association, a representative of the Dublin Rathdown Social Democrats, The Joint Managerial Board of the Association of Management of Catholic Secondary Schools and other concerned parties. The issues are summarised below:

Residential Amenity

- The development is oppressive and overly intrusive in scale relative to the adjacent semi-detached and detached housing character of Churchfields estate, Bird Avenue, Hawthorn Estate, Dundrum Road and St. Luke's Crescent.
- The development would result in the overdevelopment of the site and significant loss of residential amenity arising from overlooking (excessive amount of windows and balconies), overshadowing of adjoining properties and overbearing impact when viewed from adjoining properties and those in the vicinity.
- Significant ground level differences between site and Churchfields estate (1.5-2 metres lower than proposed site) have not been accounted for. This will exacerbate the overlooking and overbearing impacts from Villas A and B on the houses to the north.
- The Daylight and Sunlight Analysis and shadow analysis inaccurately model the adjacent existing houses of Churchfields, the topographical land levels as well as boundary walls/structures.
- A submission from local resident (No. 21 Churchfields) raised concerns in relation to the submitted Daylight and Sunlight Assessment and the accuracy of the 3D model submitted and the Diagram/Sketch page 8. A revised

Daylight/Sunlight assessment and Shadow Model has been submitted for this property.

- The daylight impact analysis contained no reference to European Standard EN17037. Churchfield houses along northern boundary of site will lose almost 50% of probable sunlight hours between September and March.
- Serious lack of appropriate transition between the adjacent two-storey development and the new high-density taller buildings. Appropriate transition can be seen in previous developments granted by the Board at Marmalade Lane SHD, Dundrum (ABP Ref. 308157). Fosters Avenue SHD (ABP. Ref. 304063) was previously refused by the Board as the key transitional area was not designed appropriately.
- Abrupt transition between the site and F zoned lands to south.
- Serious concerns regarding security - increased permeability pathway and cycleway from the proposed site to the Churchfield Estate and use by future residents of the proposed apartments of the estate's private green spaces, the insurance for which is paid for by the Churchfield residents.
- The open character and residential amenity of the site will be destroyed by the density, scale and height of the development proposed.
- The proposed new blocks A and B will be up to 13 metres closer than the previous Marist Buildings to the houses to the north at Churchfield.
- Blocks A and B should be omitted and replaced with housing.
- A commissioned professionally verified 3D Visualisation showing what the proposed view would be from the first floor of No. 21 Churchfields has been submitted.
- Air vents for underground car parking along northern boundary will cause noise and air pollution.
- Location of refuse areas are not appropriate.
- Structural integrity and stability of existing northern boundary wall is a concern if existing sheds are to be removed.
- A woodland strip is not provided along the entirety of the northern boundary.

- The applicant has failed to submit a letter of consent for the proposed linkage into Churchfield – this is despite requests for same at pre-app stage by both ABP and DLRCC. No consent for future connection to Hawthorn estate either.

Density and Height

- Density does not comply with RES5 for institutional lands.
- Objection to excessive height of apartments at 10 storeys – 6 storeys max allowed under Dev Plan. Transition in heights is not acceptable.
- The proposed development is more akin to an inner-city site as opposed to a suburban area.
- The scale and height of the buildings appears monolithic and the distances provided between blocks of this scale is not sufficient.
- No photomontage of the 6 to 10 storey blocks has been provided from the western side.
- The applicant is proposing a density 3 times the amount of that indicated in the Development Plan (144 units per hectare) and double that of national guidelines (70 units per hectare) for the upper limits for institutional lands.
- The unit sizes proposed would suggest that the development is aimed at investment. Larger family homes are what is needed in the area and 2- 3 storey houses should be provided on site.
- The separation distance proposed between Villa B and Villa C and the existing dwellings to the east should be reviewed. Section 8.2.3.3 of the development plan requires distances of 22m for apartments up to 3 storeys in height. This is not achieved in the case of no.67 or no.68 Churchfields.

Housing Mix and Dual Aspect

- A greater housing mix is required to comply with RES7 of the Dev Plan. Development Plan states 20% must be 3 bed apartments.
- The large number of north facing single aspect units proposed in Apartment Block Villa A is a concern – they do not meet standards.

Architectural Heritage

- The key setting of the protected structure has not been properly considered. In addition, no allowance is made for the original Pleasure Gardens to the east of the house.
- It is understood that the existing boundary wall along the Dundrum Road is listed yet part of it is proposed for demolition as part of the development.
- The possible archaeological tunnel system around Emmet House has not been considered.
- The development would adversely affect the setting and curtilage of the protected structure which is one of the Downward Modifiers to be taken into account under Section 4.8.2 of the Building Height Strategy.
- Concerns regarding the demolition of buildings with architectural merit – chapel, residence wing building, oratory and other buildings on site.
- A submission from a concerned party (Grade 3 Conservation Architect) raised concerns in relation to the Conservation Report submitted which has not considered alternatives, the extant nature of the curtilage/ attendant grounds or impact on the protected structure to an appropriate extent. The heights of development proposed are extreme within the context of the curtilage of a Protected Structure.
- No assessment of impact of proposed development on Church of the Miraculous Medal at Bird Avenue.

Social Infrastructure, including Open Space

- Concern regarding the provision of services and facilities, and inadequacies in the submitted Community Infrastructure Statement.
- The 51.2% of site allocated as open space as claimed by the applicant includes areas of footpath, cycleways etc. and is therefore misleading and inadequate and also does not protect the past institutional legacy of the site.
- Overconcentration of cafes in the area.
- Failure to contact Department of Education and Skills to ascertain if they have identified any existing or future demand for educational use/schools in the area.

Trees and Habitats

- Serious impact on trees and habitats as the applicant seeks to cut down and remove nearly 50% of the overall number of trees.
- Possible impacts on species such as fox and badger.
- Inaccurate landscape plans – wrong number of trees on Churchfield side of footpath and the trees to the rear of no.s 24 and 25 Churchfield were not included in the survey.

Material Contravention

- The applicant has failed to identify three no. other material contraventions of the development plan – 1. The requirement for a masterplan of the entire INST lands, 2. The Council's carparking standards 3. The applicant is not clear on which density policy is being materially contravened.
- Building Heights – The subject site does not qualify as a suitable location for “upward modifier” allocation for additional building height.
- Institutional Use - In High Court Judgement (Conway/Clonres v ABP) the sale of land does not terminate the use of the objective.
- The applicant makes reference to ‘green roofs’ in their Material Contravention Statement, however, does not address same under the justifications presented under Section 3 of same report.

Adjoining Land uses and Infrastructural impacts

- Serious overlooking of open space lands to the south at the CUS playing fields. If this zoning ever changes from its current F 'Open Space' zoning the CUS site will be seriously impacted by the proposed apartment block heights.
- The water table in the area is likely to be impacted as well as water pressure to existing residents.
- An upgrade of foul and surface water drainage in the area should be investigated.

Property Value

- The proposed development will have a significant impact on the economic value of Churchfield's homes.

Traffic and Transport

Pedestrian Access:

- The proposed pedestrian access to Churchfields leads directly onto the estate road, no footpath and would result in a traffic hazard and there are concerns in relation to pedestrian safety.

Parking:

- Parking availability in the development is insufficient at an estimated 0.34 cars per unit. This will lead to overflow carparking in Churchfield which already suffers from overcrowding in relation to car parking.
- Inadequate provision of disabled parking and provisions for Afterchool and café.

Traffic:

- The proposed development will result in further traffic congestion in the area, along the Dundrum Road and may delay emergency vehicles accessing people in future.
- The vehicular access is not suitable for the size of the development, this was identified at pre-planning stage and has not been addressed.
- The Traffic and Transport Assessment relies on out of date data from 2018, since then an additional 5 developments of approx. 500 units have been constructed in the area and more are currently going through the planning process. The Dundrum road does not have the capacity to take more traffic.

Public Transport:

- The proposed site would be more than 500m from a luas stop – therefore would not satisfy the exceptional public transport accessibility as defined under the Upward Modifier 'e'.
- Significant additional demand on the Luas Green Line as a result of the development. No assessment of capacity on this line has been submitted.

- Similar impacts will occur on the Dublin Bus network and the submitted travel case analysis is outdated as the No.17,44 and 61 bus routes will no longer provide the range of frequent services with changes under the Bus Connect scheme.
- Inadequate provision of pedestrian facilities to cater for increased pedestrian demand in the area e.g. narrow footpaths on Dundrum Road and lack of pedestrian crossings.

EIA Screening and SEA

- The application lacks a statement under Regulation 299B(1)(b)(ii)(II)(C) of the 2001 Planning Regulations.
- The submitted Masterplan should be subject to SEA.

Submissions are augmented by drawings, sketches, maps and photographs. I have considered all submissions and the documentation included with the above observations.

8.0 Planning Authority Submission

8.1. Overview

- 8.1.1. In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dun-Laoghaire Rathdown County Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 30th June 2021. The submission from the Chief Executive includes details in relation site location and description, proposal, zoning, planning history, interdepartmental reports, summary of submissions/observations, summary of views of elected members, policy context and assessment. The report may be summarised as follows:

8.2. Views of Elected Members

- 8.2.1. The views of the relevant Elected Members as expressed at the Dundrum Area Committee Meeting held on 24th May 2021 can be summarised as follows:

Design, Layout, Building Height and Impact on Residential Amenities

- Site is at a higher level than adjoining 2 storey houses at Churchfields Estate and the proposed development due to its proximity and limited separation distance will overlook these dwellings and have an impact on privacy.
- Blocks A and B should be reduced in height by 1 no. floor.
- Verified views 4,7 and 8 are unacceptable and identify impacts on existing residential area.
- Inaccuracies in Daylight and Sunlight Assessment. Detailed shadow survey to show impacts on Churchfields should be required.
- Block A should be removed given it contains mainly single aspect units and it does not respect institutional designation. This would also protect Emmet House.
- Proposed height is a material contravention of Appendix 9 of the Development Plan.

Movement and Transport

- Concerns regarding pedestrian and cyclist access to Churchfields.
- Inadequate parking provision which will result in overspill into neighbouring estates.
- Bus service on Dundrum Road is not adequate to cater for development.
- Concerns regarding traffic impact.
- Luas Green Line is nearly at capacity and should be converted to Metro.
- Cycle and pedestrian infrastructure in area is insufficient.
- Application should be refused until Dodder Greenway is developed.
- Application should be refused until link to Hawthorn Estate can be provided.
- The development will not lead to sufficient modal shift and does not encourage walking.

Open Space

- Poor quality open space. Narrow strips of land around the perimeter should not be included in overall provision.

- Public open space proposed is not open to the public, no evidence of public park. Roof gardens should not be included in open space provision.

Protected Structure and Heritage

- Concerns regarding impact of development on protected structure.

Density and Housing Mix

- The proposed development is not strategic.
- The proposed density is unacceptable and contravenes the development plan. Density does not respect the open character of the site.
- Larger transition zones required between blocks. Blocks A and B should be omitted.
- The housing mix is unsuitable. 50% provision of one bed units is a concern, this does not facilitate home working. 3 bed units should be provided in line with Development Plan.
- Reference to blocks as Villas is misleading.
- The development is in breach of Policies RES 3,4,5 and 7 of Development Plan.

Other Issues

- No noise impact assessment provided.
- No cross sections have been submitted.
- Examination of impact of demolition works on the environment needed.
- No examination of the impact on the Church of the Miraculous Medal.

8.3. Planning Analysis

- 8.3.1. The planning and technical analysis in accordance with the requirements of Sections 8(5)(a)(ii) and 8(5)(b)(i) of the 2016 Act is outlined in Section 5 of the Report under various headings and may be summarised as follows:

Principle of Development

- Site is zoned 'A', and residential development is permitted in principle and childcare facilities and cafes are noted to be open for consideration under this zoning objective.

Mix of Uses

- The provision of apartment units on this site is acceptable.
- Whilst the proposed mix of apartments accords with SPPR1 of the Design Standards for New Apartments, the Planning Authority considers that a greater unit mix should be provided. Provision for 3 and 4 bed units as required under RES7 should also be provided in the scheme.
- The provision of the afterschool facility with capacity for approx. 30 children is welcomed.

Residential Density

- The provisions outlined under Policies RES3 and RES5 are noted and Section 2.1.3.5 of the Development Plan.
- With regard to the quantitative requirements for open space, the planning authority considers that a significant number of these spaces are clearly incidental and cannot be considered open space. It is therefore considered that the proposed development is in excess of what the subject site can absorb.
- Whilst the planning authority is not opposed to higher density, concerns arise that the proposed density is on a site abutting 2 storey housing, in a transitional zoning area with an "INST" designation. The proposed development at gross density 144 units per hectare is an indication of overdevelopment.

Institutional Lands

- It is noted that CUS is under the Trusteeship of the Marist Fathers. It is also noted that the sale of the land does not in itself alter the Institutional designation on the site.
- Furthermore, it is considered that the existing use on the site is institutional in nature until a planning permission for the new use is granted.
- No correspondence from CUS or the Joint Managerial Body Secretariat of Secondary Schools confirming that the subject lands are not required for the expansion of its educational facilities has been submitted. In the absence of this document it is not considered that sufficient information is available to make an evidence-based decision at this stage regarding the use of the lands for a non-

institutional use. The thresholds outlined under Section 8.2.3.4 (xi) of the Development Plan have therefore not been met.

- Section 8.2.3.4 (xi) also requires that a comprehensive masterplan should accompany a planning application for institutional sites which should take account of the built heritage, natural assets and established recreational use patterns. In this regard it is noted that the F zoned lands to the south of the site have not been included and in this regard the submitted masterplan cannot be considered comprehensive.
- Section 8.2.3.4 (xi) also states that public access to all or some of the lands may be required. Unhindered pedestrian and cycle access to the south eastern corner of the site should also be provided. This access should be provided in any future masterplan/application.

Building Height

Local Development Plan policy:

- The size of the site, improvements to the public realm, the built environment and its proximity to public transport are noted which support upward modifiers. However, the protection of residential amenities needs to be fully considered.
- The proposed development ranging from 4-10 storeys materially contravenes the development plan's Building Height Strategy (Appendix 9) and Policy UD6.
- Section 8.3.2 of the development plan details the planning authority's policy in relation to transitional zonal areas. The proposed development is located 11.5m to the north of the CUS sport ground which is zoned objective F. In this location Block D is proposed to measure ten storeys in height, this would create an abrupt transition in scale and the positioning of the proposed development along the southern boundary will negatively impact any future development potential on the CUS grounds, should zoning change in the future.

Material Contravention Statement (Building Heights):

- The applicant contends that a grant of planning permission for increased building heights is justified by reference to SPPR3A of the Urban Development and Building Heights Guidelines. However, it is considered that the statement does not give enough consideration to its impact on the immediate surroundings, in

particular the F zoned lands at the CUS grounds and the houses to the north at Churchfields and the contravention has thus not been sufficiently justified.

Urban Development and Building Heights Guidelines:

- The planning authority are not satisfied that the proposed development meets the criteria of Section 3.2 in relation to the following:
 - At the scale of the relevant city/town: the proposal fails to have regard to the topography of the area and the positioning of the site 1.6m above the Churchfields estate to the north. As outlined in the Townscape and Visual Impact Assessment these houses would experience a high magnitude of change.
 - At the scale of the district/neighbourhood/street: it is not considered the proposal responds to the neighbourhood scale, as an appropriate transition in height in relation to the 2 storey housing in Churchfields and the CUS grounds to the south is not provided.
 - At a scale of site/building: the proposal fails to appropriately orientate and position buildings to minimise single aspect north facing units. 8 no. single aspect north facing units are proposed in Block A, 17m from the rear boundary walls of the dwellings at Churchfields.

Standard of Accommodation (relevant to item 2(c) of ABP's opinion)

- The proposal would appear to comply with SPPR1, SPPR3, SPPR5 and SPPR6 of the Apartment Guidelines 2020, in terms of unit mix, minimum floor areas, floor to ceiling heights and number of apartments per core, as well as the requirements for private amenity space and storage.
- SPPR 4 – whilst the application proposes 57% of the units are dual aspect, the planning authority consider that some units identified are in fact single aspect, that is in Block D on the southern elevation and Block A on the northern elevation. Examples of such units include nos. D-05 and A-12. The Planning Authority does not accept side windows as shown in these instances as providing for dual aspect.
- Concerns regarding the 8 no. single aspect north facing units proposed in Block A. These units are 17m from the boundary wall with Churchfields and would not

be considered to overlook a significant amenity and therefore single aspect at this location would be contrary to national and local planning policy. It is recommended that Block A is omitted.

- The planning authority accepts the findings of the daylight and sunlight report which provides an assessment of the proposed ground, first and fourth floors. It is noted that all rooms assessed exceed the minimum recommendations for ADF.

Impact on Residential and Visual Amenities (Relevant to item no.2 (a) and (b) and 4 of ABP's opinion)

Within Development:

- With regard to the siting of blocks on the subject site the following minimum separation distances of 11.2m between Block A and B, 15m between blocks B and C, 15m between Blocks C and D and 15.3m between Blocks D and E are not considered acceptable and would result in overbearing appearance and overlooking. The limited separation distances represent overdevelopment of the site. 22m separation distance as per Section 16.3.3 of CDP not complied with.

Neighbouring Properties:

- Given the proximity of Blocks A and B to the northern boundary and the rear of the houses at Churchfield (25.6 to 26.4 metres) and the difference in ground levels (1.6m as shown in Section 3.6 of the Architectural Design Statement) it is considered that the proposed development will significantly overbear and overlook the dwellings at Churchfield (Photomontage No. 8).
- CGI no.1 and photomontage no.11 demonstrate the eastern elevations of blocks B and C and how same will overlook properties to east at Churchfields. Balconies on the eastern elevations of these blocks are set back between 18 and 20 metres. Concerns about the negative impact on residential amenities and overlooking.

Daylight and Sunlight:

- The planning authority note that all the windows assessed in St. Luke's Crescent, Churchfields, Chandos and at Coolnahinch are well within the recommendations of the BRE Guidelines.

- The dwellings assessed in Churchfields exceed target values for annual and winter sunlight hours and meet BRE recommendations for sunlight in private amenity areas.
- The proposed development is noted to impact on the vertical sky component (VSC) on 4 no. windows at Emmet House which are reduced below 80% of their former value. While currently in commercial use, the building is also a protected structure. The impacts on the VSC of this building again indicate overdevelopment of the site.

Design and Finishes

- The stone proposed on Block D (tallest building) is a welcome contrast from the remainder of the scheme which is to be finished in buff brick, metal cladding and stone.
- The proposed materials and vertical emphasis on the elevations through the repetition of design elements is also welcomed.

Open Space, Public Realm and Trees

Open Space:

- It is considered that the overall campus subject to INST Objective also includes Robert Emmet House, the site area of which is measured at 769sqm. Therefore, the overall campus should include these lands bringing the site area up to 16,769sqm. 25% of this total area requires 4,192sqm of open space. Based on a population equivalent between 5,197.5sqm and 6,930sqm of open space should be provided. The population equivalent is therefore greater than the 25% requirement and is therefore deemed to be the threshold that should be met.
- The development provides for 6,300sqm of public open space and 1,900sqm of communal open space. With regard to the quality of open space, a significant number of the open spaces proposed are clearly incidental (including thoroughfares, areas between Emmet House and Block A and areas on the site's periphery) and cannot be considered open space or in line with Section 8.2.3.4 (xi). It is considered the layout proposed does not adequately retain the open nature of the site. It is considered same constitutes over development of

the site as it fails to accord with Section 8.2.3.4 (xi) and Policy RES5 in qualitative terms.

Qualitative Standards:

- According to the Daylight and Sunlight report 88% of the open space will receive over 2 hours of sunlight on 21st March and therefore meets the recommendations of the BRE guidelines.

Private Open Space:

- The Housing Quality Assessment indicates that all apartments would have private amenity space in accordance with the Apartment Guidelines.

Public Realm:

- The planning authority welcomes the proposed public permeability across the site between the Dundrum Riad and Churchfields.

Trees:

- It is considered that the applicant has achieved a suitable balance between retention of trees and making sustainable use of the land.
- The retention of the 3 no. category A trees is welcomed, however, concerns still remain in relation to the preservation of the open character of the site under the INST designation.

Access, Car and Bicycle Parking

Access:

- The new pedestrian and cyclist access points proposed off the Dundrum Road to Churchfields on the eastern boundary are welcomed.
- The planning authority urge the Board, if granting permission to ensure that unencumbered access at the proposed pedestrian link to the south-eastern corner is provided.
- It would be preferable for vehicular access to be provided to the site through Churchfields Estate, which is taken in charge by the Council. It is recommended that a revised vehicular access along the eastern boundary is sought under any grant of permission.

Car and Cycle Parking:

- The current provision is considered unacceptable and a provision of 1 no. space per residential unit should be provided, 231 spaces in total.
- The planning authority raise concern in relation to the quality of cycle parking proposed and the quantum of stacked cycle parking spaces.

Surface Water Drainage and Flood Risk

- No issues raised by planning authority.

Conservation (relevant to item no.2(a) of ABP's opinion)

- The buildings proposed to be demolished are noted and no concern is raised in this regard.
- The Conservation Department are satisfied with the proposals to the boundary wall and the planning authority welcomes the proposed works along the Dundrum Road wall also.
- The planning authority consider that the positioning of Block A at 17m from the protected structure would appear overly dominant and would impact on the setting and distinct character of Emmet House, it is therefore recommended that Block A is omitted.

Part V

- 23 no. units proposed. No issues raised by planning authority.

Childcare

- Discounting the provision of 1no. bed units, the development will provide 116 no. 2 bed units, of which 50% would potentially require childcare. This results in 58 no. units requiring childcare. As the number of units is under the 75 no. unit threshold, the planning authority welcomes the provision and reuse of the Small Hall for same on site. Outdoor amenity and drop off spaces are considered acceptable.

Community Infrastructure

- The applicant states that 655 no. post primary places are available in St. Tiernan's Community College. The planning authority raises concerns as to

whether these places are currently available or if perhaps this figure reflects future availability.

Site Specific Management and Lifecycle Report

- Details of the Owner's Management Company should be provided to the planning authority should permission be granted.

Biodiversity

- EclA findings are noted and the Parks Department raised no objection.

Development Contributions

- The proposed development shall be subject to the Council's S.48 Development Contribution Scheme. The site is not located within an area subject to supplementary S.49 Development Contributions.

Taking in Charge

- No part of the proposed development is proposed to be taken in charge.

AA and EIA

- The Board is the competent authority in terms of screening for AA and EIA.

Archaeology

- Submission from the Department is noted which recommends 4 no. conditions. Should the Board grant permission it is recommended these 4 no. conditions are attached.

8.4. Planning Authority Reasons for refusal

1. The proposed development, has not provided open space sufficient to maintain the open character off the lands, and having regard to its layout and massing as well as to the absence of a comprehensive master plan it is considered that the proposed development would materially contravene Policy RES5 - Institutional Lands and Section 8.2.3.4 (xi) of the Dun Laoghaire Rathdown County Development Plan 2016 - 2022 and the proper planning and sustainable development of the area.
2. Having regard to their height, scale and positioning, 1.6m above the ground level of the dwellings in Churchfields , it is considered that blocks A and B

would appear visually obtrusive and overbearing when viewed from properties to the north in Churchfields and from the public realm at this location. The proposed development would significantly detract from existing residential amenity and would depreciate the value of these properties, materially contravening the zoning objective 'to protect and or improve residential amenity' as set out in the Dun Laoghaire Rathdown Development Plan 2016 - 2022.

3. Having regard to the proposed separation distances between the apartment blocks, the planning authority considers that the proposed development would result in overlooking of habitable rooms and would appear visually overbearing when viewed from adjoining apartments resulting in a reduced level of residential and visual amenities for future occupants. The proposed development is, therefore, deemed to be contrary to the proper planning and sustainable development of the area.
4. The proposed development fails to meet the criteria set out in Section 3.2 of SPPR 3 of the Urban Development and Building Heights Guidelines for planning authorities, December 2018, in that at city, neighborhood and site level, the proposed development, ranging from four to ten storeys fails to integrate with the existing character of the area . To proposed development, therefore, would result in a visually dominant and overbearing form of development when viewed from Churchfields and CUS Sports ground and would seriously injure the visual amenities of the area. Furthermore, the proposed development would create an abrupt transition and scale with the F zoned land to the South with the CUS sports ground. The proposal would therefore be contrary to the Urban Development and Building Height guidelines for planning authorities, December 2018 and would therefore be contrary to the proper planning and sustainable development of the area.

8.5. Planning Conditions and Reasons

- 8.5.1. 43 no. conditions are recommended if the Board considers it appropriate to approve the application. The Planning Authority state that some of their concerns cannot be dealt with by way of condition. In this regard an increase in separation distances between the proposed apartment blocks and the southern boundary of the site would

involve a complete redesign of the site layout. The following recommended conditions are of note:

- Condition 2. The development shall be amended as follows:
 - a. Block A shall be omitted and a revised layout identifying the relocation of the concierge to the ground floor of one of the remaining blocks shall be submitted.
 - b. The second floor of Blocks B and C shall be omitted.
 - c. The sixth and seventh floors of Block D shall be omitted.
 - d. Units nos. 4,15, 27 and 39 shall be omitted in Block D.
- Condition 7. Submit details of Owners' Management Company for written agreement.
- Condition 9. Location of vents and other external services shall be located in order to minimise the impact on adjoining amenities.
- Condition 10. Drainage requirements – surface water management.
- Condition 20. Part V
- Condition 24. Applicant to submit revised drawings to demonstrate that the vehicular entrance onto the Dundrum Road has been moved to Churchfields. Applicant also to provide a letter of consent from the Planning Authority or any other legally necessary 3rd Party to allow vehicular/cyclist/pedestrian access/egress through Churchfields. Revised swept path analysis required.
- Condition 25. Revised plans for 231 no. car parking spaces.
- Condition 30. Cycle Parking
- Condition 35. Tree Bond and Arboricultural Agreement.
- Conditions 40,41,42 and 43 Archaeology

8.6. Department Reports

8.6.1. Housing Department

- The on-site proposal has potential to comply with the requirements of Part V, subject to agreement on costs and funding.

8.6.2. Drainage Report

- No objection subject to conditions.
- The conclusions of the Site-Specific Flood Risk Assessment are accepted.

8.6.3. Environment Section Report

- No objection subject to conditions

8.6.4. Transportation Planning Report

- Trips associated with the use of Robert Emmet House (20no. assigned car parking spaces) and the proposed commercial units have not been considered.
- Transportation Planning still consider that the vehicular access onto Churchfields would be preferable in order to minimise the number of vehicular entrances at this section of Dundrum Road and reduce potential conflicts. Churchfields is taken in charge by DLRCC and could facilitate this – condition attached to address this issue.
- Proposed car parking provision is unacceptable – 231 no. car spaces should be provided – condition recommended to address this.
- The quantity of bicycle parking provided at 488 is acceptable, however the quality is not. 277 Sheffield spaces should be provided, with the remainder of cycle parking as stacked parking – addressed by way of condition.

8.6.5. Conservation Report

- Satisfied with treatment of boundary wall along Dundrum road.
- No other built heritage concerns.

8.6.6. Parks Report

- Retention of 3 no. Category A trees is welcomed.
- Scheme lacks a strong central open space; however, grant is recommended subject to conditions.

9.0 Prescribed Bodies

9.1. An Taisce, Irish Water and the Development Applications Unit responded. The following is a brief summary of the issues raised:

9.1.1. An Taisce

The proposed development is not appropriate for the following reasons:

- **Loss of curtilage for protected structure:** The development would deprive this structure of virtually all the land associated with it and there has been no indication that adequate private open space would remain for the benefit of the protected structure. The fact that these grounds are now in separate ownership does not mean that they no longer fall within its curtilage.
- **Material Contravention of CDP 2016-2022 and Building Height Strategy:** The reasons given are inadequate to justify the insertion of 6 to 10 storey blocks in the public realm and environment of this particular area.
- **Transitional Zone Area:** The transition from 6 to 10-storey buildings in the residential zone to Open Space immediately to the south would be detrimental to the more environmentally sensitive zone.
- **Density:** 144 units per hectare would represent overdevelopment of the site.
- **Traffic, Transport and Car Parking:** The development at its currently proposed scale would be unduly car-dependant. An assessment with regard to the capacity of the Luas Green Line service to accommodate additional passengers would be required.

9.1.2. Irish Water

Based on the details provided by the applicant to Irish Water as part of their Pre-Connection Enquiry, and on the capacity available in Irish Water's networks, a new connection to the existing network, to service this development is feasible. The applicant has engaged with Irish Water and has submitted design proposals and Irish Water has issued a Statement of Design Acceptance. Irish Water has requested that in the event that permission is granted that their conditions be included.

9.1.3. **Department of Tourism, Culture, Art, Gaeltacht, Sport and Media –
Development Applications Unit (DAU)**

Nature Conservation

- The Department note that losses of biodiversity which may result from the removal of woody vegetation should be made up for to a considerable extent by the proposed planting of 154 trees, 111 m of native hedgerow and 302.5 m of ornamental hedging.
- From the submitted EclA the Department note that there was no evidence of the use of any of the buildings on the site as bat roosts, but note that several of the buildings and three trees on the site have features with the potential to harbour such roosts.
- Two conditions were recommended in relation to 1. Avoiding disturbance of nesting birds and limiting the removal of trees/shrubs to the period September to February, and 2. Removal of trees and buildings considered to have the potential to support bats shall be carried out in the presence of a licensed bat specialist and the erection of bat boxes and public lighting that is sensitive to roosting bats.

Archaeology

- The Department noted that given the size of the site there is the potential for archaeological features / materials to be found at the proposed site. 4 no. conditions were recommended pertaining to pre-development assessment to be included in any grant of planning permission that may issue. These included engaging a suitably qualified archaeologist, archaeological test excavations to be carried out, submission of a written report to the Planning Authority and to the National Monuments Service on completion of work and correct preservation of any archaeological material/features.

9.1.4. No comments were received from The Heritage Council, Fáilte Ireland or the Dun Laoghaire Rathdown County Childcare Committee.

10.0 Oral Hearing Request

10.1. None requested.

11.0 Assessment

11.1. The Board has received a planning application for a housing scheme under Section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment considers the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and has full regard to the Chief Executive's (CE) report, 3rd party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- Institutional Designation & Demand for Alternative Institutional Uses/Open Space/Open Character/Density/Masterplan
- Building Heights and Transitional Zone
- Townscape and Visual Impact Assessment
- Residential Amenity – Neighbouring Properties
- Future Residential Amenities/Residential Standards
- Social Infrastructure
- Traffic and Transportation
- Trees
- Drainage and Flood Risk
- Architectural Heritage and Archaeology
- Other Matters
- Ecological Assessment
- Planning Authority Concerns
- Material Contravention

11.2. The attention of the Board is drawn to the fact that a Material Contravention Statement has been submitted with the application. It deals with the matters of (i) Building Height (ii) Residential Unit Mix (iii) Residential Density (iv) Trees and (v) Transitional Zone. I shall deal with each of the matters individually below, but as a summary I consider that the matters addressed in the Material Contravention

Statement above which represents a material contravention of the operative County Development Plan (CDP) relates to Building Height, Transitional Zones and Unit Mix.

11.3. I also note that the planning authority state under refusal reason no.1 that the proposed development has not provided open space sufficient to maintain the open character of the lands, and having regard to its layout and massing as well as the absence of a comprehensive masterplan consider that the development would materially contravene Policy RES5 and Section 8.2.3.4 (xi) of the operative CDP. I would not concur with this and do not believe same represents a material contravention. In addition, the planning authority's refusal reason no.2 states that zoning objective A '*to protect and or improve residential amenity*' would also be materially contravened, again I would not concur with the planning authority in this regard. My reasoning for the above has been set out in the sections that follow.

11.4. Principle of Development

11.4.1. The site is zoned 'Objective A' with the associated land use objective '*to protect and-or improve residential amenity*'. Residential use is listed as 'Permitted in Principle' on these lands, with Childcare Service and Tea Room/Café listed as 'Open for Consideration'.

11.4.2. The subject site has an 'INST' symbol located on it, which is listed on the Map Index under 'Other Objectives' as a 'Specific Local Objective' and is separate to the 'Use Zoning Objectives'. This 'INST' reference is an abbreviation for 'Institutional Lands' designation. The 'INST' designation seeks '*to protect and/or provide for Institutional Use in open lands*'. Specific objectives for Institutional Lands are provided in Section 2.1.3.5, Policy RES5 Institutional Lands and Section 8.2.3.4 (xi) Institutional Lands of the operative CDP. The plan recognises the changing nature of institutional lands and states that where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area. This is subject to a number of caveats. In this regard Section 2.1.3.5 requires that proposed developments on institutional lands retain the open character of the lands, with a minimum provision of 25% of the total site area provided as open space (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater). Average net densities should be in the region of 35 - 50 units p/ha, however it is noted that '*in certain instances higher densities will be allowed where it*

is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands'. In addition, the possible need for the future expansion of the original institutional use may be required to be taken into account. Concerns have been raised by the planning authority and third parties which suggest that proposed development is not in accordance with the site's institutional objective.

- 11.4.3. Section 8.2.3.4(xi) "Institutional Lands" further states that in order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. I note that Appendix 2 of the Architectural Design Statement includes a Masterplan for the proposed development which in my opinion is in accordance with Section 8.2.3.4 (xi). This is discussed further under Sections 11.5.28 to 11.5.31 below.
- 11.4.4. I am of the opinion that the proposal is acceptable in principle with the zoning objective and while the Specific Local Objective for Institutional Use is noted, it does not override the underlying residential zoning objective. The planning authority considers that the proposal represents a material contravention of the operative CDP in relation to the lack of provision of open space to maintain the open character of the lands as required under Policy RES5 – Institutional Lands and in the absence of a comprehensive masterplan as required under Section 8.2.3.4 (xi) of the Plan (Reason for Refusal No. 1). I would question the planning authority's interpretation of Policy RES5 and Section 8.2.3.4 (xi) of the plan and their view that the proposed development has not provided open space sufficient to maintain the open character of the lands. This matter concerning the 'INST' specific local objective is examined further under Section 11.5 below. In addition, I do not agree with the second assertion regarding the masterplan, which is addressed under same section.
- 11.4.5. I also note that there is an objective on the site '*to protect and preserve trees and woodlands*'. Concerns were raised by the planning authority and third parties that the proposed development, would result in an unacceptable loss of trees and, therefore that it is not in accordance with this objective. The application includes an Arboricultural Assessment, tree survey and associated drawings, which I consider further in my assessment below. It is my view that the proposed development is in accordance with this objective and these concerns are addressed in detail below in Section 11.12 – Trees.

11.4.6. I have also given consideration to third party and planning authority concerns regarding the transitional zoning of the site, with particular regard to the proposed height of the development. Section 8.3.2 'Transitional Zonal Areas' of the operative CDP states that it is important to avoid abrupt transitions in scale and use between zones, avoiding developments that would be detrimental to the amenities of the more environmentally sensitive zone they abut. Determining such an impact first requires consideration of the compatibility of a site zoning to an adjacent zoning, and whether adjacent zonings are more environmentally sensitive. I note the lands to the south (CUS grounds) are open in nature with a zoned Objective F '*to preserve and provide for open space with ancillary active recreational amenities*'. The lands to the north and east are zoned Objective A '*to protect and or improve residential amenity*' and consist of the low-density housing development of Churchfields housing estate, while the site is bound to the immediate west by the Dundrum Road (R117) and further residential development on the lands to the west at St. Luke's Crescent. Given the scale of the proposed development and proximity to these land uses, consideration of potential impact upon these areas is required and has been carried out as part of my assessment and I have considered these matters in more detail under Section 11.6 below. Overall, however in my view there is no in principle objection to the proposed development in relation to transitional zoning considerations.

Material Contravention – Zoning

11.4.7. With regard to the planning authority's assertion under refusal reason no.2 that the proposed development would also materially contravene the zoning objective A "*to protect and or improve residential amenity*" I do not concur. As outlined above the site is zoned Objective A and residential use is listed as 'Permitted in Principle' under this zoning. While I acknowledge the concerns raised by the planning authority, I do not consider that the development would materially contravene the zoning objective in this respect. I have carried out a detailed examination of the possible impacts on adjoining residential amenities under Section 11.8 where these concerns have been addressed appropriately.

11.4.8. Therefore, overall, I consider the principle of the proposed development of this site to be acceptable.

11.5. Institutional Designation: Demand for Alternative Institutional Uses/Open Space and Open Character/Density and Masterplan

- 11.5.1. The applicant in both their Statement of Consistency and Statement of Response to the ABP Opinion state that the subject site was formerly in the ownership of the Marist Fathers, who sold the site to the applicant as a result of having no demand to continue using the site.
- 11.5.2. I note the concerns raised in both the submissions received on the application (An Taisce, local residents etc.) and by the planning authority and elected members in the Chief Executive's (CE) Report in relation to the interpretation of the 'INST' Specific Local Objective. I would agree that the institutional designation applies to the lands that were in the ownership of the Marist Fathers religious order as of the date of the adoption of the 2016-22 County Development Plan (March 2016) and that the subsequent transfer of land subject to the 'INST' designation to a non-institutional third party (the applicant) did not relieve the lands sold of that designation as adopted under the Development Plan.
- 11.5.3. From an examination of the operative CDP and Section 8.2.3.4 (xi) of same in relation to Institutional Lands, it is my opinion that the main elements of the institutional designation which need to be considered are as follows and I shall deal with each separately below:
- Is there a demand for an alternative institutional use;
 - Have the open space/open character requirements required under the 'INST' designation been achieved;
 - Do the densities on site accord with the zoning objective;
 - Has an appropriate Masterplan been submitted.

Demand for alternative institutional use

- 11.5.4. Section 2.1.3.5 and Section 8.2.3.4 (xi) of the operative CDP states '*Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained*'.
- 11.5.5. The planning authority note in their CE Report that no correspondence from either the Catholic University School (CUS) or the Joint Managerial Body Secretariat of

Secondary Schools (who are the proprietors of Robert Emmet House) confirming that the subject lands are not required for the expansion of its educational facilities has been submitted and that in the absence of this correspondence it is not considered that sufficient information is available to make an evidence-based decision at this stage regarding the use of the lands for a non-institutional use and therefore that they are not satisfied that the threshold of Section 8.2.3.4 (xi) has been met. However, I note that the planning authority in their submission acknowledge that the CUS is under the Trusteeship of the Marist Fathers and one would defer therefore that the CUS would have been aware of the sale of the lands and planning application on site and would have expressed an interest in same if one existed. I also note that a submission on the application was received from the Joint Managerial Body Secretariat of Secondary Schools, the occupiers of Robert Emmet House, who mentioned nothing in their submission about their desire to expand their services on the adjoining site in the future or indeed any demand for same. The applicant states in the submitted Planning Report that there is limited recent planning history for Emmet House and for the CUS grounds, illustrating no previous demand for use of the site for institutional purposes. They also state that the decision to vacate the site is confirmation the Marist Fathers no longer require the site for any future institutional activities or uses.

- 11.5.6. The applicant states that the lands to the south of the subject site are used solely for sports facilities and that the CUS main buildings are located on Lower Lesson Street in Dublin 2. In addition, I note that the applicant has stated that CUS, has no legal interest in the subject lands. I believe that if either of these bodies had an interest in the lands that they would have raised this as a matter prior to this stage or at the very least in a submission on the planning application. Therefore, having taken account of all the above I see no obvious demand for an alternative institutional use on the subject site and in accordance with Section 8.2.3.4 (xi) consider that alternative uses subject to the area's zoning objective may be permitted. This would be subject to other considerations, which are examined in the following sections.

Open Space Requirement and Maintaining the Open Character of the site

- 11.5.7. Sections 2.1.3.5 and 8.2.3.4 (xi) of the operative CDP state that '*A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on*

Institutional Lands'. It also stipulates that '*this provision must be sufficient to maintain the open character of the site - with development proposals built around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council*'. I note that the operative CDP refers to "open space" as comprising public and/or communal open space.

11.5.8. The applicant states in their Planning Report that a total area of 8,200sq m of open space is proposed as part of the development, which comprises 51.2% of the site area. This total open space is then broken down into 6,300sq m (39.8%) of public open space and 1,900sqm (11.8%) of residential communal open space.

11.5.9. The planning authority in their submission contend that the overall campus subject to the Institutional objective should also include for Robert Emmet House (protected structure), given that it is entirely surrounded by the site. Whilst no area has been provided for this house, the site was measured as approx. 769sq m. The overall campus which should therefore be considered is in fact 16,769sqm and not 1.6ha as originally stated. I would agree with the planning authority on this assertion, given that the area excluded from the site at Robert Emmet House, and the area surrounding it and associated with the building contain minimal open space, therefore provision of open space associated with same building should be provided in the overall development site. In addition, as Robert Emmet House is a protected structure (RPS no.118) and the proposed development is to take place within its curtilage, the need to include an allowance for additional open space is further reinforced. The consideration of the importance of the curtilage of same house is discussed further in Section 11.14 below.

11.5.10. Therefore, having taken account of the above justification, 25% of the total area of the site would in fact require 4,192sqm to be provided as open space. The applicant proposes 8,200sqm, which would equate to 48% of the total adjusted site area. In line with Section 8.2.8.2 of the plan, if a population based equivalent provision of open space were to be applied (in the case of the current development a presumed occupancy rate of 1.5 persons in the case of dwellings with two or fewer bedrooms can be applied) based on a provision of 15sqm to 20sqm of open space per person, then an open space requirement of between 5,197.5sq m and 6,930 sqm would be required. The population-based equivalent is therefore greater than the 25% of site area and I would agree with the planning authority that this should be threshold to be

applied in the case of these institutional lands. Applying this standard, the quantitative requirement (population-based equivalent) would still be met on site, with a maximum requirement of 6,930sqm of open space to be provided and the applicant's stated provision of 8,200sqm, which would equate to 48% of the total site area.

11.5.11. I note that Appendix 1 of the Design Standards for New Apartment Guidelines (2020) sets a lower requirement for communal amenity space in new apartment developments as follows:

- 5 sq m for One bedroom units
- 7 sq m for two bedroom (4 person) units

11.5.12. Applying these standards a total of 1,387sq m of communal amenity open space is required under these guidelines. The applicant confirms in their Statement of Consistency that approx. 1,900 sq m of communal amenity space will be provided within the development and in addition to this communal provision, a public park of 6,300 sq m is proposed. The open spaces provided comprise play equipment and seating for gathering outdoors, and the areas are centrally located within the scheme, and easily accessible to all future residents and passively supervised, being overlooked by the various apartment blocks. Following consideration of the above, I am satisfied that an adequate provision of communal amenity space has been provided.

11.5.13. Submissions received are particularly concerned with the lack of 'quality' open space and the foreseen resultant issues of future residents using the privately managed open spaces within the Churchfields housing estate. It is also the opinion of the elected members and the planning authority, as contained in the CE Report that the proposed development fails in this regard to respond to the institutional designation that applies to the lands and as per their refusal reason No. 1, they consider that the proposal represents a Material Contravention of the operative CDP in this regard. The Board should note that the applicant has not identified same issue in their Material Contravention Statement and instead under Section 2.3 Residential Density states that '*The open character and residential amenity of the site is also retained through a high quality, open landscape design that reflects the existing character whilst ensuring that a higher density is delivered*'. In order to determine if the

proposed provision of open space is sufficient to 'maintain the open character of the site' further examination of Policy RES5 Institutional Lands and Sections 2.1.3.5 and 8.2.3.4 (ix) is required to identify what criteria need to be met.

- 11.5.14. Firstly, it is worth noting that Policy RES5 states '*it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs*' (my underline emphasis added). I note '*wherever possible*' in the context of this policy. With regard to recreational amenity and uses on site, in this instance, the lands would appear to have historically offered very little in the way of recreational amenity, and were fenced off from the general public, which remains the case today. Though I note that some third parties have stated that recreational uses previously existed on the site, no evidence of these was visible on site visit and the lands are not currently openly accessible to the public. I am therefore satisfied that the development of these lands would not result in any net loss of recreational amenity for the wider area.
- 11.5.15. If taking into account the quantity of open space in the 'general environs', one cannot ignore that a large area of Objective F zoned open space exists to the immediate south of the site at the CUS grounds with an objective '*to preserve and provide for open space with ancillary active recreational amenities*'. In addition, a large area of public open space is also available within a short walking distance (c. 100m) to the west of the site in the form of the linear park along the River Dodder. Thus, it would appear that an adequate provision of existing open space exists in the general environs.
- 11.5.16. Both Section 2.1.3.5 and Section 8.2.3.4(xi) then go on to outline the requirement for a minimum open space provision of 25% (or population based equivalent) of the total site area on such institutional lands and further state that "*this provision must be sufficient to maintain the open character of the site - with development proposals built around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council*". In terms of the quantitative open space provision, as stated above, I believe the necessary population based equivalent requirement of open space is being achieved in quantitative terms, the question therefore is if the provision of open space is sufficient to maintain the open character of the site in the context of existing features

and layout, particularly by reference to retention of trees, boundary walls and other features, as referred to under Section 2.1.3.5 of the operative CDP. This point is reiterated again in sections 8.2.3.4(xi) and 8.2.8 of the operative CDP.

11.5.17. In examining this issue, I would draw the Board's attention to pages 16 and 17 of the submitted Landscape Design Book which provide graphic representations of where the proposed areas of open space are to be located within the overall development. The applicant states that open space (approx. 8,200 sq m) is proposed in the form of (a) a central public park including formal gardens, lawns, play area and pedestrian and cyclist links (approx. 6,300 sq m) and (b) residential / communal open space (approx. 1,900 sq m) including the roof terrace at Villa D (approx. 130 sq m). I note that the largest area of 6,300sq m is in fact comprised of several smaller pockets throughout the proposed development. The largest area of these being the 'central public park' to be provided between Block E and Robert Emmet House, with this public space also to include a 120 sq m play space. A larger area of open space is also provided along the western boundary, which is accessible to the general public also. In my opinion the proposed areas of open space are structured around the existing notable features on site which in this case includes the protected structure, which I acknowledge is in fact outside of the site, but still needs to be considered in terms of the overall site context. I note and welcome the applicant's plans to retain a large number of trees on site (27 to be retained out of 51 on site as per the Arboricultural Impact Assessment Report) and to plant 130 new trees and consider that this approach satisfies the requirements of Section 2.1.3.5 and Policy RES5 of the operative CDP. The applicant also proposes to retain the existing prominent western boundary wall, albeit removing certain sections of the upper portions of the wall to open the site to the surrounding environs and the Dundrum Road and introducing 3 no. new pedestrian entrances along the western side. I am satisfied that the impacts on this wall (which is not protected) have been adequately assessed and note that no issues regarding same were raised by the Conservation Officer of the Planning Authority. I also note the boundary wall to the north with Churchfields is to be retained (See further details under Section 11.15.3). The existing boundary screening along the eastern portion of the site is to be maintained also. While I note the observers and the planning authority's concerns in relation to the layout of the proposed open space areas, and the useability and quality of open space provided in

certain areas i.e., to the south of Blocks C, D and E and those areas which separate the proposed blocks, in my opinion the development as proposed satisfies the tests outlined under the operative CDP. The development represents a design solution on site which takes account of existing features on site and provides areas of useable open space both centrally and peripherally. It is worth noting also that the existing situation on site sees the majority of the northern portion of the site currently developed, with the Marists Fathers buildings and hard surfaced area located in this portion the site. The proposed development seeks to break this existing continuous line of structures and provide pocket parks and landscaping in between the proposed new apartment blocks. The southern portion of the site while currently comprised of a large grassed area of open space, is not openly accessible to the public. While I acknowledge that Blocks C, D and E by virtue of their location will see this area of open space largely developed, the proposal also seeks to retain pockets of this open space provision between the proposed blocks and also centrally through several larger linked areas.

11.5.18. Therefore, in conclusion, having examined the proposal, I would consider that the open character of the Institutional Lands has been retained on site and meets the requirements as set out under Policy RES5 Institutional Lands under Section 2.1.3.5 and Section 8.2.3.4(xi) with regard to both the quantitative provision of open space and the consideration of existing features and layout on site. While I note the planning authority's concerns, as set out in refusal reason No. 1, which states that the proposed development fails to maintain the open character of these lands, materially contravening Policy RES5 and Section 8.2.3.4(xi) of the operative County Development Plan, I would not agree with same statement and do not consider that the proposal materially contravenes the operative CDP. In this regard, the attention of the Board is drawn to the fact that the applicant has not addressed the matter of retaining the open character of the lands, in the context of section 37(2)(b) within the submitted Material Contravention Statement and therefore if the Board differ in their opinion it may be problematic for the Board to invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, in this regard. (If, however the Board do consider that the open character of the proposed lands has not been sufficiently retained in compliance with Policy RES5, then I would suggest this could be

addressed by means of the omission of Block A and appropriate landscaping of same area).

Density and Quantum of Development

- 11.5.19. A number of representations have been received regarding the proposed density of the development. Concerns centralise around the appropriateness of the density level for the location, which many observers consider excessive and represents overdevelopment of the site, without the supporting public transport and social infrastructure. The proposed development comprises 231 no. apartment units on a 1.6ha site and has a stated plot ratio of 1.21 and a stated density of 144 units per hectare.
- 11.5.20. Policy RES3 of the operative CDP recognises that higher densities should be provided in appropriate locations. Section 2.1.3.3 of the Plan which supports Policy RES3 states that “*Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged*”. The subject site is located within 750m of the Green Line Luas Milltown stop and the applicant argues that on this basis a higher density is justified.
- 11.5.21. I note that both policy at a national and regional level encourages higher densities in appropriate locations particularly close to public transport nodes. National Policy Objectives 33 and 35 of the NPF promotes increased scale and densities in settlements. At a regional policy level, the site is within the Dublin Metropolitan Area Strategic Plan (MASP) area as contained in the Regional Spatial and Economic Strategy (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 (2018) and the Apartment Guidelines (2020), 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 public transport corridors (500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station) with no upper limit. The Apartment Guidelines defines 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 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. In my opinion national policy would support higher densities on this particular site.

Material Contravention - Density

- 11.5.22. A Material Contravention Statement has been submitted with the application and the applicants have advertised same within their public notices, as required under the legislation. This Statement deals with, amongst other items, the issue of density. Under the Planning and Development Act 2000, as amended, in cases where a material contravention has been identified it is open to the Board to grant permission in the following four circumstances. These circumstances, outlined in Section 37(2)(b), are in the (i) national, strategic interest; (ii) conflicting objectives in the development plan or objectives are not clearly stated (iii) conflict with national/regional policy and section 28 guidelines; and (iv) the pattern of development and permissions granted in the vicinity since the adoption of the development plan.
- 11.5.23. The applicant states in the submitted Material Contravention Statement that the proposed density is appropriate and achievable at this location and in line with Policy RES3 of the operative CDP given the quality of the scheme proposed, the proximity to public transport and the protection of existing levels of residential amenity for the surrounding sites. They state that the proposed development accords with NPO 35 which promotes increased densities, and that the proposal aims to rebalance residential density in the area by providing a variety of 1 and 2 bed unit typologies to cater for the current lack of supply. These points are reiterated in the submitted Statement of Consistency.
- 11.5.24. The applicant also states in their Material Contravention Statement that Policy RES5 (Institutional Lands) provides that densities should be in the region of 35-50 units per ha but that higher densities will be allowed where it is demonstrated that the site is

located within circa a 1km pedestrian catchment of a Luas Line and where there is a quality proposal set out. Having examined Policy RES5 and Section 2.1.3.5 of the plan I would not agree with the applicant's interpretation of this section. What the plan in fact states in relation to institutional lands is '*In the development of such lands, average net densities should be in the region of 35 - 50 units p/ha. In certain instances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands*'.

- 11.5.25. The applicant maintains that the open character and residential amenity of the site is retained through a high quality, open landscape design that reflects the existing character whilst ensuring that a higher density is delivered. Notwithstanding this however they state that the Board may consider the proposed development gives rise to a Material Contravention of the development plan in respect of residential density, in which case they believe that the densities are justified under NPO 35. I note that the planning authority do not state that the proposal represents a material contravention in relation to density.
- 11.5.26. The planning authority state in their CE Report that while they are not opposed to higher density in principle, they do have concerns regarding the current proposal given that the open character of the lands is not retained and the fact that the proposed density is on a site abutting 2-storey housing and in a transitional zoning area with an 'INST' designation. As a result, the proposed density is an indication of overdevelopment. These same concerns are also highlighted in several third-party submissions. Section 2.1.3.5 of the operative CDP and Policy RES5 Institutional Lands allows for densities higher than 35-50 units/ha in circumstances where the open character of the lands is being retained. As stated in Sections 11.5.7 to 11.5.18 above I would consider the proposal has demonstrated compliance with the requirements outlined in the operative CDP in this regard, therefore I consider the density proposed on these lands with 'INST' designation appropriate both under the operative CDP and also national policy.
- 11.5.27. To conclude, I note that the matter of density has been addressed in the submitted Material Contravention Statement, although the applicant does not state that the proposal represents a material contravention in this regard. The planning authority have not stated that the proposal represents a material contravention in relation to

density. I also consider that the proposal does not represent a material contravention in relation to density. However, if the Board do consider this to be a material contravention, they may wish to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii) (NPO 35).

Masterplan

- 11.5.28. Third party submissions received on the application raise issue with the fact that a masterplan of the entire INST lands, which should include the CUS grounds to the south, was not provided and therefore contest that this represents a material contravention of the development plan. Section 8.2.3.4 (xi) of the operative CDP states that *'In order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. Such a masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. Public access to all or some of the lands may be required. Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed masterplan for the overall site. Should any proposed development deviate from the agreed masterplan then a revised masterplan shall be agreed with the Planning Authority'*.
- 11.5.29. The applicant has included a Masterplan with the application as part of Appendix 2 of the Architectural Design Statement (page 44). I note that a Landscape Masterplan has also been included as part of the Landscape Design Booklet submitted. The Masterplan covers the subject site only and does not extend to include the lands to the south at the CUS grounds. The planning authority in their refusal reason no.1 refer to the absence of a comprehensive masterplan and state that this materially contravenes Section 8.2.3.4 (xi) of the operative CDP. They state within the CE Report that it is noted that the "F" zoned lands to the south have not been included and in this regard the submitted masterplan cannot be considered comprehensive. The applicant in their Statement of Consistency outlines that they have no control over the adjoining lands, namely the sports fields at CUS and also that the "INST" designation does not extend to this site to the south. They therefore did not consider it appropriate to include these lands as part of the masterplan. I note from an examination of the relevant zoning Map 1 of the operative CDP that the 'INST' Specific Local Objective 'stamp' is in fact completely located on the subject site

which has a Use Zoning Objective “A” and does not extend onto the Use Zoning Objective “F” lands to the south. In addition, I note from an examination of other “INST” designations in the area that these too are located on Use Zoning Objective “A” lands, all of which relate to residential lands. The planning authority does not explicitly state whether the CUS lands would be considered to be covered by the INST designation, but they do state that the exclusion of same lands from the masterplan would result in an uncomprehensive masterplan.

11.5.30. From an examination of Section 8.2.3.4 (xi) I note that a masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. I would consider the submitted masterplan has adequately addressed these matters and is informed by the other documents and assessments which form part of the application which include the Architectural Heritage Impact Assessment, the Arboricultural Impact Assessment, the Landscape Masterplan and the three environmental assessments submitted, namely the EIA Screening Report, the AA Screening Report and the EclA. I therefore consider that the masterplan adequately addresses the built heritage and natural assets on site. In relation to the established recreational use patterns, I note that the current site is not publicly accessible but that new pedestrian and cyclist links are proposed as part of the development, which will improve connectivity and open the site up for use by the general public and provide new areas of public open space. Section 8.2.3.4 (xi) states that “*Public access to all or some of the lands may be required*”. Four new public access points are to be provided along the western boundary of the site and a new link is also proposed between the site and the Churchfields estate on the eastern boundary, subject to third party agreement. Regarding the lands to the south at the CUS grounds, I note that these lands are currently in use as sports grounds and are under separate ownership. These lands also have a zoning objective F “*to preserve and provide for open space with ancillary active recreational amenities*”. The applicant has made provision for the possible future connections via a pedestrian route from the subject site to the Hawthorn development to the southeast, via the CUS grounds. However, as stated, I note that the applicant does not own the lands in between the subject site and the Hawthorn development and so these connections are dependent on third party approval. While I acknowledge the planning authority’s concerns and the concerns raised by third parties in relation to

the exclusion of the CUS grounds from the overall Masterplan, I believe that the applicant has provided sufficient provision for future links to these lands. Other concerns in relation to the possible impact of the proposed development on these lands to the south is addressed separately under the sections that follow, in particular Section 11.6 Building Heights and Transitional Zones below.

Material Contravention - Masterplan

11.5.31. To conclude this point, I do not consider that the exclusion of the CUS lands to the south of the subject site from the masterplan would constitute a material contravention of the operative CDP. The submitted masterplan in my opinion has adequately taken account of the built heritage and the natural assets of the site, as well as any established recreational use patterns. Public access has also been taken into account. However, if the Board disagrees in this regard, I draw their attention to the fact that the matter of a masterplan has not been addressed in the submitted Material Contravention Statement and therefore the Board may find it difficult to address the matter under section 37(2)(b) of the Planning and Development Act 2000, as amended.

11.6. Building Heights and Transitional Zone

11.6.1. The proposed development includes for five apartment blocks ranging in height from 4 storeys to a maximum of 10 storeys on the southern boundary overlooking the adjoining CUS sports ground. The heights proposed are summarised as follows: Block A – 4 storeys (13.77 m), Block B – 4 storey stepped to 5 storeys (16.92 m), Block C – 5 storeys stepped to 6 storeys (22.02 m), Block D – 5 storeys stepped to 10 storeys (32.67 m) and Block E – 4 storeys stepped to 6 storeys (22.09 m). I acknowledge that the subject site would be substantially changed by the proposed development, with the existing complex of ageing institutional buildings, with a maximum height of 14.84 m (existing middle house) potentially replaced by a larger cluster of taller, modern apartment buildings and the proportion of built form to open space increased on site. Concerns have been raised in a number of third-party submissions regarding the proposed scale of the development and associated amenity impacts. Particularly the heights of Blocks A, B and C in the context of the established lower rise surroundings and the character of the area and also the ground level differences between the houses to the north at nos. 15 to 30

Churchfields, which are c.1.6m below the proposed location of Blocks A and B. Concerns regarding the impacts of Blocks B and C on the existing dwellings to the east at Churchfields were also highlighted, as well as concerns regarding the height of Block D and in particular the impact of same on the transitional zone and the future viability of developing the site to the south at the CUS grounds should the “F” zoning objective on this site change.

- 11.6.2. The planning authority recommend that the application be refused for four reasons, two of these reasons are in relation to the proposed height of certain blocks. Reason for refusal no. 2 specifically relates to the excessive height, scale, and positioning of Blocks A and B and their impact on the dwellings to the north at Churchfield. This reason for refusal also states that the proposed development would materially contravene the zoning objective A “*to protect and or improve residential amenity*”. This latter issue has already been addressed under Section 11.4.7 above. Reason for refusal no. 4 specifically relates to height and the proposed development’s failure to meet the criteria in Section 3.2 and SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities, 2018, in that at city, neighborhood and site level, the proposed development, ranging from 4 to 10 storeys fails to integrate with the existing character of the area. In addition, this refusal reason states that the proposed development would create an abrupt transition in scale with the “F” zoned lands to the south at the CUS grounds. The planning authority in their suggested conditions recommend that Block A should be omitted in its entirety and that the second floors of Blocks B and C be omitted, with the height of Block D to be reduced by 2 storeys (sixth and seventh floors to be omitted). I note that An Taisce also raised objections based on the height of the proposed development and impact on the surrounding area.
- 11.6.3. My assessment of the impact upon surrounding residential amenity is undertaken in Section 11.8 below. This section of my report appraises the acceptability of the proposed height and design in relation to relevant planning policy and in light of concerns raised. My appraisal of the development considers the impact of the proposed blocks on the site on the surrounding visual amenity, and in light of any particular sensitivities in the receiving environment, including potential impact upon the protected structure on site.

11.6.4. In relation to the planning context for assessing the proposed tall buildings on the subject site, I am cognisant of the planning policy contained within the operative CDP relating to the site. Policy UD6: Building Height Strategy requires that developments '*adhere to the recommendations and guidance set out within the Building Height Strategy for the County*'. I note Appendix 9 of the operative CDP sets out this Building Height Strategy. This strategy allows for a height of 3-4 storeys for apartment development on large redevelopment sites. In my opinion the subject site would be considered one such larger redevelopment site. The operative CDP acknowledges that there are instances where upward or downward modifiers may be applied by up to two floors. Section 4.8.1 and 4.8.2 list these modifiers. The applicant contends within their submitted Statement of Consistency that the proposed development meets more than one upward modifier and therefore the increase in heights should be permitted. The applicant outlines that they meet the criteria in this instance as follows: *b. the development would provide major planning gain* - met through an improved public realm *d. The built environment or topography would permit higher development without damaging the appearance or character of the area* – the area to the south at the CUS grounds provides a context for higher development along this boundary and buildings on the remaining boundaries are lower and also stepped to take account of adjoining residential properties. *e. development would contribute to the promotion of higher densities in areas with exceptional public transport accessibility, whilst retaining and enhancing high quality residential environments* – the development would be located within 750m of the Milltown Luas Stop and *f. size of the site* - the site is over 0.5ha in size. I note that the applicant states that none of the downward modifiers as listed under Section 4.8.2 apply to the site (Page 44 of the Statement of Consistency). The applicant states that while they acknowledge that the proposal exceeds the 3-4 storey maximum it meets more than 1 upward modifier, thereby qualifying as a suitable location for additional building height.

11.6.5. Having reviewed Appendix 9 of the operative CDP I would note the following with regard to the listed upward modifiers:

- b – I would agree that the proposed development through the provision of additional publicly accessible open space would offer significant improvements to the public realm.

- d – I would agree with the applicant that the built environment and topography of the site would allow for a certain increase in the height on parts of the site. Most notably the presence of the CUS grounds to the south allows for consideration of greater building heights along this boundary. In addition, I note the heights of the existing buildings on site, and I would agree that provided sufficient separation distances are provided buildings of 4 to 4/5 storeys may be accommodated on the site.
- e – In my opinion this upward modifier is not met, as the nearest Luas of Milltown stop is approx. 750m from the proposed site, which is greater than the 500m walkband stated.
- f – the site in this case does comply with this upward modifier as it is over 0.5ha in area and I do consider it may have the potential for greater building height.

11.6.6. With regard to downward modifiers under Section 4.8.2 of Appendix 9, I note modifier no. 2 in relation to built heritage. In addition, I note downward modifier no.1 states that '*Downward Modifiers may apply where a proposed development would adversely affect: 1. Residential living conditions through overlooking, overshadowing, or excessive bulk or scale.*' Having taken the above into consideration I do not consider the building heights proposed, of up to 10 storeys, are justified under the local policy, even with the application of the upward modifiers the maximum height that may be permitted on this site would be 6 storeys and as such the proposed development would materially contravene the County Development Plan's Building Height Strategy. I note that the applicant has stated in their Material Contravention Statement that should the Board consider the proposed development would give rise to a Material Contravention in respect of building height then a grant of permission for increased building heights is justified by reference to national policy and SPPR3A of the Urban Development and Building Heights Guidelines (2018). These guidelines provide clear criteria to be applied when assessing applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. SPPR 3 of the Building Heights Guidelines states that where a planning authority is satisfied that a development complies with the criteria under Section 3.2 then a development may

be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. This is alongside consideration of other relevant national and local planning policy standards, including national policy in the NPF, and particularly NPO 13 concerning performance criteria for building height, and NPO 35 concerning increased residential density in settlements.

11.6.7. I acknowledge that the proposed development of 4-10 storeys is higher than the prevailing 2 storey building height in the area. In pursuit of the Building Height 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 NPF 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 which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?
- Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?

The proposed development in my opinion is consistent with Objectives 13 and 35 of the NPF which encourage increased scale and densities in settlements. The Dun Laoghaire Rathdown County Development Plan 2016-2022 and the policies and standards contained therein pre-date the issuing of the Building Height Guidelines in 2018 under Section 28 of the P&D Act, published under a commitment of the NPF to secure more compact forms of development. In principle, 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 and Section 3.2. The proposed development is assessed against each of the criteria in Section 3.2 of the Building Height Guidelines in the table 11.1 below. In making this assessment I have had

regard to the case put forward by the applicant in the Statement of Consistency and in the Material Contravention Statement, as well as the other relevant documents submitted with the application. I note that the planning authority are not satisfied that the proposed development meets the criteria of Section 3.2 and I note that significant objections have been raised regarding the proposed development and its response to both the relevant city/town scale and the district/neighbourhood/street scale. Observers state that the height and scale of the development is overbearing and would have a significant adverse impact on the residential amenities of adjoining properties in terms of overlooking, overshadowing and loss of privacy.

Table 11.1 – Assessment of Section 3.2 Criteria

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.	Subject site is located close to public transport links both in the form Dublin Bus routes no. 44, 61 and 142 and the Luas with the nearest stops located at Milltown LUAS stop (c.750m) and Windy Arbour Luas stop (c.1km) from the proposed site.
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. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.	The site is located in an urban area. While I acknowledge there is a significant difference between the height now proposed on the subject site and the existing structures on site the applicant has sought to integrate the increased heights by stepping down building heights at the site's northern and eastern edges and through the provision of adequate separation distances between the existing two storey houses and proposed Blocks A, B and C. Blocks D and E are cognisant of the protected structure to the north and step down in height accordingly. A Townscape and Visual Impact Assessment has been submitted (inc. photomontages and CGI Views) carried out by suitably qualified professional.

<p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</p>	<p>The proposed development focuses on placemaking and incorporates new landscaped amenity areas, which will also be publicly accessible. The development also provides for further connections to the east and south and increased permeability in the area. The proposed apartment blocks vary in height and reduce in height to the east and north to respond to the two-storey scale of adjoining developments. The site is to be opened up to the west to create visual interest, café and public space and views of the protected structure.</p>
<p>At the scale of district/ neighbourhood/ street</p>	
<p>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</p>	<p>Retention of trees and hedgerow along eastern and northern boundaries provides visual buffer to lower density housing. Varying building heights along sensitive boundaries respond to the existing built environment.</p> <p>Enhanced connectivity is provided to the existing urban neighbourhood and a new public amenity area is created.</p> <p>More sustainable density within this MASP area and close to public transport.</p>
<p>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</p>	<p>The design comprises of 5 separate blocks ranging in height from 4 to 10 storeys. Block structure considered to be of high quality and appropriate.</p>
<p>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The</p>	<p>Site contains public spaces and provides for connection to same from the wider urban area. Site does not contain inland waterway/ marine frontage.</p> <p>The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009) is complied with.</p>

Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).	
The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner	While I note the observations received which raise concerns about the security and privacy of adjoining existing housing developments, 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 potential future linkages).
The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.	The proposed development comprises 1 and 2 bedroom units, and expands the smaller unit typology within this area (which is dominated by 2-3 bed family size homes). Proposed Part V units are well integrated within the scheme and site. Communal facilities include a gym and after school facility. Public Café is also proposed.
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.	Compliance with BRE 209 and BS2008 is achieved, and amenity of existing residents and future residents is satisfactorily addressed and maintained. Sections 11.9 refers.
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’	Compliance with BRE 209 and BS2008 is achieved, and amenity of existing residents and future residents is satisfactorily addressed and maintained. Section 11.9 refers.
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	Wind Microclimate Study has been submitted. This study is considered satisfactory. Section 11.9.30 refers.

<p>downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</p>	
<p>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</p>	<p>The development is not located in proximity to sensitive to bird or bat areas, and AA screening and an EclA have been submitted to demonstrate no significant impact on ecology, and no likely adverse impact on a protected site/species of Natura 2000 sites. No bat roosts were identified in buildings proposed for demolition. Conditions in relation to bat sensitive lighting and appropriate removal of trees are recommended. Section 11.16 and Section 13 refers.</p>
<p>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</p>	<p>Telecommunications Report submitted which concludes that development will not impact on existing microwave links or radio coverage.</p>
<p>An assessment that the proposal maintains safe air navigation.</p>	<p>I note that the Irish Aviation Authority were consulted and had no significant comment. They have requested that they should be notified at least 30 days prior to commencement of crane operations.</p>
<p>An urban design statement including, as appropriate, impact on the historic built environment.</p>	<p>A Design Statement setting out the design rationale for the proposal has been submitted. A Report on the Heritage Impact of the Proposed Development has also been submitted which concludes that the proposal will not undermine the character or significance of Emmet House and will in fact strengthen its setting.</p>
<p>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</p>	<p>SEA not required/applicable – I note that observers raised queries in relation to SEA of submitted Masterplan, this is not required. EIA and AA screening reports submitted.</p>

- 11.6.8. I consider that the criteria above are appropriately incorporated into the development proposal and on this basis that SPPR3 of the Building Height 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.

Building Heights and Transitional Zone – Material Contravention

- 11.6.9. The applicant in their Material Contravention Statement refer to both Building Heights and Transitional Zones. Both of which in my opinion are closely related, in that the building heights along the southern edge of the site (which borders Objective F lands zoned ‘*to preserve and provide for open space with ancillary active recreational amenities*’) in a large way determine the significance of impact on the adjoining lands or open space in this case at the CUS grounds and the surrounding area. Section 8.3.2 of the operative CDP outlines ‘*While the zoning objectives and development management standards indicate the different uses and densities, etc. permitted in each zone, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone*’. The applicant in this case considers the development will result in a positive contribution to this particular transitional zone as evidenced by the ‘significant positive’ outcome outlined in the submitted Townscape and Visual Impact Assessment (TVIA). However, they also acknowledge that it could be interpreted that a material contravention in respect of a transitional zoning is occurring in this instance and that it is a matter for the Board to ultimately adjudicate on in this case.
- 11.6.10. I am of the opinion that the proposed development by virtue of its transition in nature from Zoned F ‘open space’ lands to 6 to 10 storey height buildings with a separation distance of 11.5 metres from the southern boundary to Block D would constitute both a material contravention in relation to Section 8.3.2 Transitional Zone Areas and Appendix 9 Building Height Strategy of the operative CDP, however I believe these

material contraventions would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, on the following basis. In terms of section 37(2)(b)(i), I note that the current application, which provides for 231 residential units, has been lodged under the strategic housing legislation and is considered to be strategic in nature. I also note the potential for the proposal to contribute to the achievement of the Government policy to increase the delivery of housing and to facilitate the achievement of greater density and height in residential development in an urban location close to public transport and centres of employment. The NPF fully supports the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. As referenced previously this is supported under National Policy Objectives 13 and 35 of the NPF. I consider the current site to be one such suitable site and I consider that the proposal will aid in addressing housing shortages in the principal urban areas, which has been highlighted in the national, regional and local planning policy context.

11.6.11. In relation to section 37(2)(b)(iii), I note the Building Heights Guidelines for Planning Authorities (December 2018), which provides a policy basis for increased building heights at appropriate locations. Specific Planning Policy Requirement SPPR 3A of the Guidelines provide that permission can be granted where the height of a proposed development is not consistent with a statutory development plan in circumstances where the planning authority is satisfied that the performance criteria specified in the Guidelines are met. I have had particular regard in assessing this proposal to these development management criteria, as set out in Section 3.2 of these Guidelines, as outlined in Table 11.1 above and I am satisfied that the criteria listed are appropriately incorporated into the development proposal.

11.6.12. To conclude this point, I draw the attention of the Board to the fact that the applicant has raised the issues of both building height and transitional zones within their submitted Material Contravention Statement. The planning authority as outlined in the CE Report believes that the development materially contravenes the plan in this regard also, though I note express concerns in relation to non-compliance with the Building Height Guidelines also. I am also of the opinion that the proposed development materially contravenes the operative CDP in relation to both building height and transitional zones. Having regard to all of the above, I consider that it is

open to the Board to grant of permission in this instance and invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii), due to strategic nature of the application and national policy guidance in this regard.

11.7. Townscape and Visual impact Assessment

- 11.7.1. The application is accompanied by a Townscape and Visual Impact Assessment (TVIA), photomontages, CGI Views, contextual elevations and sections that illustrate the proposed development within its context. A number of the submissions received from third parties and comments from elected members (set out in the CE's Report) raise concerns in relation to the scale and resulting visual impact of the development. The planning authority in their refusal reason no.4 also state that the proposed development would result in a visually dominant and overbearing form of development when viewed from Churchfields and the CUS sports grounds.
- 11.7.2. I have inspected the site and viewed it from a variety of locations in the surrounding area and I am satisfied that the relevant documentation on the file (including photomontages, the architectural design statement, elevational drawings and sections) is sufficient to support an assessment of visual impact. I acknowledge the site itself and visual appearance of same from the surrounding area will be substantially changed by the proposed development, in particular the introduction of the 10-storey element of Block D with a proposed height of 32.67m. The adjoining land uses and structures in the area are all of lower heights with the closest tall building of any significance the Church of the Miraculous Medal at Bird Avenue, which is located to the south east of the site. When examining the visual impact of the proposed development from the south (CUS grounds), CGI View 2 presents an image of what is expected. In my opinion, while presenting a bold proposal, I would consider given the large area of open space available to the south (CUS grounds) that these taller buildings, in particular Block D can be accommodated in this area, Photomontage View 15b Proposed, in particular illustrates this. I note that third party submissions raise concerns regarding the future potential for development of the CUS lands given the proximity of this taller block in this transitional zone. A separation distance of 11.5m is proposed between Block D and the southern boundary at its nearest point, and while I acknowledge this distance is not significant, I would also highlight to the Board that the lands to the south are currently zoned

Objective F '*To preserve and provide for open space with ancillary active recreational amenities*', and therefore assessing the proposal under the current operative CDP zoning, it is my opinion that the development will not have a unduly negative impact on these lands. The applicant notes that while the southern elevation of the development would be prominent it would also be attractive, adding an element of visual interest to the townscape and improving legibility. In my opinion while this block would represent a significant transition in scale and typology from both the houses at Churchfield and the CUS Grounds to the south, this taller 10 storey block can no doubt be supported on the site and should not, in my view, be confined to a maximum of 6-storeys in height as would be suggested under the operative CDP or reduced to 8 storeys as suggested by the planning authority. Therefore, in summary when considering the visual impact of the proposed development from the south I would concur with the conclusion under Section 7.2 of the submitted TVIA and while the magnitude of change to the area would be notable, I would concur that the significance of effect would be significantly positive, and that the area is capable of absorbing such visual change.

- 11.7.3. The other main interface highlighted as a concern by the planning authority, elected members and the third-party submissions relates to the visual impact on the adjacent properties at Churchfields to the north and east, which are comprised of 2 storey dwellings which vary in distance from the proposed blocks. Block A (4 storeys) ranges in distance between c.24m and c.27.86 metres from the rear elevations of the properties at nos. 19 to 24 Churchfields, with Block B (4-5 storeys) ranging in distance between c.23.9 and c.25.8 metres from the rear of house nos. 27 to 30. To the eastern side of the site, the side elevation of dwelling no.67 Churchfields is located c. 20.4 m from Block B, with the dwelling no.68 located c.22 m from Block C (5-6 storeys). Due to the level differences across the site and the removal trees of varying quality along the site boundaries, the blocks will be visible to residents of the properties bordering the site. The difference in levels mean some blocks may appear higher when viewed from outside the site, this would be the case for Blocks A and B and I note the planning authority has flagged this difference of 1.6m in ground level in their second reason for refusal. In addition, I note that it is stated under Section 5.2 of the TVIA that the row of houses at Churchfield that back onto the sites northern boundary would experience a 'high magnitude of change' with two

apartment blocks to be introduced to the houses' 'immediate environs'. The applicant also states however that measures have been taken to minimise these effects, including the setting back of the apartment buildings 14m plus from the northern boundary and proposed planting of a woodland strip inside the boundary. From an examination of the submitted Photomontages View 08 Baseline and Proposed, the difference between the current situation on site and the proposed development is evident. However, it is also noted that the existing Middle House in View 08 Baseline is currently visible.

11.7.4. Notwithstanding the assertion of the applicant that the development will have no impact on the amenities of the dwellings adjoining the site, I have concerns regarding the height of the development and I am particularly concerned about the potential visually dominant impact of Block A on the houses to the north at Churchfields. The submitted verified photomontages illustrate this point and the magnitude of change referenced above as 'high', and Proposed Views nos. 08 and 09 in particular show this, illustrating the proposed development of Blocks A and B to the rear of the dwellings along the northern boundary of the site at Churchfields. In addition, Proposed Views no. 10 and no.12 show the scale of Blocks B and C when compared with the existing dwellings along the eastern boundary at Churchfield.

11.7.5. In addition to the documentation submitted by the applicant, I also note the professionally verified 3-D visualisations submitted by third parties, in particular those concerning views to the rear of house nos. 20, 21 and 22 Churchfields. In my opinion the setbacks and woodland strip to be planted inside the site boundary will not sufficiently address the visual magnitude of change from the heights proposed for Block A. I also note the length of Block A at 36.5m along this northern boundary which adds to its massing and visual impact. While I acknowledge that the National Planning Framework and the Building Height Guidelines clearly advocate effective consolidation of urban sites and increased building heights, these heights must also be balanced with consideration of the site's context and the preservation of amenities of adjacent dwellings and the area of private amenity to the rear of these dwellings in particular nos. 19 to 29 Churchfields. In order to address these concerns, I would suggest that if the Board are minded to grant permission that the third floor of Block A is set back from the northern boundary omitting Apartments A-40, A-31, A-32 and A-33. The set back and reduction in height on the northern

elevation of this block will in my view reduce the visually overbearing impact of the block when viewed from the adjoining properties and protect the residential amenities of these properties. Given the narrower form of Block B (c.21 m in width along the northern boundary) I do not consider the dwellings to the north at nos. 27 to 30 Churchfields will be as significantly affected by this block and therefore I do not consider a reduction in the height of this building is required in this instance.

- 11.7.6. When examining Photomontages View 10, 11 and 12 Proposed, while again I note the significant change in outlook to this area from the east in the Churchfields estate, given that this element of the proposed development which includes the eastern elevations of Blocks B and C faces onto an internal estate road beyond the eastern boundary of the subject site and does not directly face onto the rear private amenity spaces of the houses at Churchfield, I consider this area is more capable of absorbing the visual change in heights proposed and therefore I would consider this 'Medium' magnitude of change as outlined under Section 7.2 of the TVIA acceptable.
- 11.7.7. I have no issue with the location of Block E (4 storeys stepping up to 6 storeys) as it will directly face public open space associated with the CUS grounds to the south and would not have a detrimental visual impact to the west given that the Dundrum Road runs along this boundary of the site and provides a sufficient separation distance to lower density housing to the west. I also consider that the proposed development responds appreciably to the context of the protected structure at Robert Emmet House, Section 11.14 below provides a more detailed assessment.

11.8. Residential Amenity – Neighbouring Properties

- 11.8.1. The site is bounded to the north and east by two storey semi-detached and terraced dwellings in the Churchfields housing estate. The dwellings to the north back onto the proposed site and have relatively short rear gardens. The dwellings to the east at nos. 44, 67 (end of terrace) and 68 (detached) Churchfields have their eastern (side) elevations facing the development site, separated by the internal estate access road and footpath. Given the interface proposed, a key question for this assessment, in my view, is whether or not the proposed development would interfere with the amenities of the neighbouring residential properties in a manner that would justify refusing permission or substantially altering the proposed development. Submissions received from third parties raise concern in relation to the impact of the proposed

development on the existing rear garden areas and dwellings from overshadowing, reduced sunlight / daylight and overlooking. Similar concerns have also been expressed by elected members as detailed in the submitted CE Report.

- 11.8.2. I refer the Board to the Architectural Design Statement (ADS), the response to An Bord Pleanála's Pre-application Consultation, Chapter 9 of the submitted Planning Report and the Daylight and Sunlight Assessment Report and the submitted Noise Impact Assessment. The proposed site layout plan and graphics in the ADS detail the setback distances from a sample of the two storey houses and their associated private gardens to the north and east of the site. The applicant states in their Statement of Response to ABP, that the proposed buildings nearest to the boundaries shared with Churchfields (north and east boundaries) have been setback and limited in height to address any potential for overlooking, overshadowing or overbearing impacts . At the northern boundary, where the site adjoins residential development, Block A and B will not exceed 4 storeys. Block A is restricted to 4 storeys and Block B is 4 storeys along its northern part with a 5th storey setback. These buildings will also be setback approx. 22.3 m to 27.8m from these houses to the north at Churchfields.

Overlooking

Nos.17 to 30 Churchfields:

- 11.8.3. Concerns regarding impacts on residential amenity have been put forward in almost all of the observer submissions received, together with those of the elected members. These concerns include overlooking of rooms within existing dwellings and of rear gardens, in particular for those dwellings to the north and east at Churchfields. I also note the planning authority's refusal reason no. 2 which states that having regard to the height, scale and positioning of the proposed Blocks A and B and the difference in site levels of c.1.6m between the proposed site and the rear gardens at Churchfields, it is considered that the proposed development would seriously injure the residential amenities and depreciate the value of these properties; materially contravening the stated zoning objective which is '*to protect and/or provide for residential amenity*'. I have dealt with this matter in Section 11.4.7 above and as stated I do not consider that the proposal represents a material contravention of the zoning objective.

- 11.8.4. Blocks A (4 storeys with height 13.77m) and B (4 storeys with a 5th storey set back with total height 16.92m) are located along the northern part of the site with a separation distance of approximately 14.24m and 15.32m respectively from the wall delineating the northern boundary of the site, which also separates the site from the rear gardens of nos. 19-30 Churchfields. The distance from Blocks A and B to the dwellings to the north at Churchfields ranges from between c.22.3 to c.28m (from the three-storey element of the proposed blocks to the first-floor rear windows of the opposing houses). Section 8.2.3.3 of the Development Plan deals with Development Management standards for 'Apartment Developments' and subsection (iv) states that the minimum clearance distance of 22 metres will normally apply for apartment blocks up to 3 storeys. In taller blocks, a greater separation distance may be applied, while reduced distances may be acceptable in other instances. I note that section 2.24 of the Apartments Guidelines states that it would be inappropriate to indicate performance criteria for building separation distance but recognises a need for greater flexibility. The 2009 Sustainable Residential Development in Urban Areas Guidelines also recognise the common application of a 22m separation distance requirement but encourages flexibility in its application. While I acknowledge that need for flexibility, I would have reservations about the appropriateness of the proposed separation distances in the current case, in particular given the difference in ground levels, with the Churchfields' sites to the north at levels of up to 1.6m lower than the subject site.
- 11.8.5. I noted this difference in levels on site visit and also note that this issue has been raised numerous times as part of the third-party submissions on the application. The difference in ground levels is evident in the Sections presented under Section 3.6 of the ADS, however these are not scaled. For a detailed account I would refer the Board to the submitted Proposed Elevations 04 which shows the ground level difference between Block A and the houses to the north at Churchfields and also Proposed Contextual Elevation C which accounts for the ground level differences to the dwellings to the north of Block B and to a lesser extent Block A.
- 11.8.6. Section 3.6 of the submitted ADS includes for sections through Blocks A and B and shows the extent of overlooking that would be possible. This section of the ADS incorrectly states that '*The potential for overlooking has been mitigated by stepping the blocks from the northern boundary so that the Villa A and B are set-back over*

24m from the existing boundary wall facing Churchfields'. This is not the case as the separation distances shown on both presented sections range from 13.65m in the case of Block B to the rear garden boundaries with no.29 and no.30 Churchfields and 14.44m to 15.12m to the rear garden boundaries with nos. 17-20 Churchfields and no.29 Churchfields respectively. However, I do acknowledge that a minimum distance of 22m has been provided between proposed Blocks A and B and the rear elevations of the dwellings to the north.

- 11.8.7. The ADS states that balcony screening has been provided to mitigate any potential for overlooking, however I note from submitted Proposed Elevations 01 that Block A has only partial balcony screening in the case of the apartments on the north-eastern corner of the building i.e. A-32 and A-33 on the third floor, and that no above waist level screening is to be provided on the remainder of the balconies on this northern elevation. I do note that the balconies on the side elevations of all floors (apart from ground floor) of Blocks A and B have provided screening to mitigate overlooking to the north in the form of selected metal fins/brise-soleil i.e. apartments at third floor level at A-40, B-32 and B-25. The concern however remains regarding the overlooking possible from the proposed windows at second and third floor levels of Blocks A and B. I am not overly concerned about the fourth floor of Block B given the setback distance of c.33m from the northern elevation of this floor and nos. 27 to 30 Churchfields.
- 11.8.8. The northern facing windows on Blocks A and B include a combination of bedroom and living room/kitchen windows. In the case of Block B, in certain cases secondary windows are provided to living room areas e.g. apartments B-32 and B-25, in my opinion any additional overlooking that these windows may provide could be addressed by way of condition i.e. obscure glazing, if the Board are minded to grant permission. In the case of the bedroom windows in both Blocks A and B which also face north, given the separation distances involved which are over 22 metres to the rear of the dwellings to the north, I consider this provides sufficient mitigation to ensure no adverse overlooking from these rooms. The main concern in this case I believe is in relation to the balconies and living room windows which face north on Block A at third floor level. The section drawings contained in Section 3.6 of the ADS illustrates the potential for overlooking from this floor and the fact that this is exacerbated by the difference in ground levels between the site and the rear gardens

of Churchfields to the north. I note that no views have been generated by the applicant from the rear gardens of the properties, however as part of the submission from third party, a commissioned verified 3-D visualisation (page 18 of submission document) of the what the proposed view would be like from the first floor of no.21 Churchfields was submitted. I believe it is evident from this submitted image and View 08 that there will be an adverse impact from Block A on the residential amenities at this location by way of overlooking from the upper floor of this block. The third-party submission has not included for the proposed boundary planting on this submitted image and I believe this will be sufficient to mitigate undue overlooking from the first and second floors of Block A. Given that the balcony doors provide the main light source to the living rooms for the third floor apartments (apartments A-31, A-32 and A-33) I do not believe mitigation measures in this case i.e. additional balcony screening would be appropriate to address any overlooking concerns, as this would then compromise the quality of accommodation, lighting and residential amenities for the future occupants of these apartments, in particular considering there north facing orientation. Therefore, in order to address the impacts of overlooking from these apartments on the residential amenities of properties to the north I would suggest to the Board that Apartments A-31, A-32 and A-33 should be omitted. I am satisfied that overlooking from the side balconies of Apartments A-40 in Block A, and B-32 and B-25 in Block B is sufficiently mitigated by virtue of the proposed balcony screening and that secondary windows in living rooms can incorporate obscure glazing. I am also satisfied that the proposed site boundary screening and separation distances between Block A and the dwellings to the north will sufficiently mitigate any adverse overlooking from first and second floor level balconies.

Nos. 44, 67 and 68 Churchfields

- 11.8.9. Concerns were also raised by third parties and in the CE Report regarding the impacts of overlooking on the two storey houses to the east at Churchfields. In particular I note submissions received from no.s 44, 67 and 68 Churchfields. No.s 44 and 67 are end of terrace houses and no.68 is a detached end of row house, all of which have their western/side elevations facing proposed Blocks B and C.
- 11.8.10. Block B as outlined previously is a 4-5 storey building, while Block C is a 5-storey block, stepping up to a 6th storey to the south and west with a total proposed height

of 22.02m. No.44 Churchfields is located c.25m to the north east of Block B with its front and western side elevation facing south towards the proposed site. Given the distance involved and orientation of the house, as well as the screening provided on the balconies to the eastern side of Block B, I would not consider that any adverse overlooking of this dwelling will occur.

11.8.11. No. 67 has a separation distance of 21.5m from its gable end and the proposed eastern elevation of Block B. The gable end of same dwelling has one window at first floor level serving its landing (as outlined under page 11 of the submitted Daylight and Sunlight Assessment and also referred to in the submitted 3rd part submission). A velux window serves the attic space on the western facing roof slope. While I note that a certain level of overlooking from Block B would be possible on this house and it's rear amenity space, I would not consider this level of overlooking adverse given the separation distances involved and the screening to be provided on the balconies opposite the rear garden area of no. 67 Churchfields (i.e. balconies at B-12, B-20, B-28), as well as the screening which exists in the form of a treeline along the western side of these end of row houses.

11.8.12. The western gable of No. 68 Churchfields which contains a bedroom at first floor level is located at a separation distance of 22.2m to the direct west of proposed Block C and similar concerns are raised by the occupants of this dwelling with regard to overlooking and the overbearing impacts of this proposed 6 storey building. No. 68 is the only dwelling at this location which overlaps with Block C. In this regard I would draw the Board's attention to photomontage View no.12 submitted by the applicant. In my opinion this structure at a height of 20.07m on its eastern elevation, stepping gradually up to 22.02m in height to provide a stepped back 5th floor is acceptable at this location, given the separation distances involved from the dwellings to the east, in particular the 22.2m separation distance to no.68. In addition, it is worth noting that Block C will be significantly screened by existing planting along the eastern boundary which is to be retained as part of the development (Arboricultural Impact Assessment Report nos. 1482, 1483, 1484. See Section 11.12 for further details). It should also be noted that the eastern facing apartments and balconies of Block C do not face directly onto rear gardens as is the case with Blocks A and B, but instead face onto the existing internal Churchfields estate road.

11.8.13. Therefore, in summary, considering the significant level of screening to be maintained along the eastern boundary of the site, as well as proposed additional planting and existing tree screening provided along the western boundaries of Nos. 67 and 68 Churchfields and the separation distances provided between Blocks B and C and the aforementioned properties, I am satisfied that no undue overlooking will occur.

11.8.14. I am not overly concerned about the possible overlooking from Block C to the south given that the CUS grounds are located in this area. In addition, in this regard I also consider the proposed separation distance of c.11.5m from the southern elevation of Block C to the southern site boundary sufficient and would not foresee it limiting the future development of lands to the south at the CUS should the zoning on this site change in time. I note this issue had previously been raised in third party submissions.

Other adjoining sites

11.8.15. Given the proposed separation distances from the proposed blocks to other developments in the area to the west (St. Lukes and Dundrum Road) and south (Hawthorns Estate) I do not foresee any impacts in relation to overlooking on these residential properties or their amenity areas.

Loss of Daylight/Sunlight/Overshadowing

11.8.16. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning

objectives. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE and BS standards.

- 11.8.17. Section 8.2.3.1 Quality Residential Design of the operative CDP states that the following criteria will be taken into account when assessing applications “*Levels of privacy and amenity, the relationship of buildings to one another, including consideration of overlooking, sunlight/daylight standards and the appropriate use of screening devices*”. The Daylight and Sunlight Assessment submitted with the application states that it has regard to the provisions of the ‘Building Research Establishment’s ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) and BS 8206-2: 2008 – ‘Lighting for Buildings - Part 2: Code of Practice for Daylighting’.’ I have considered the reports submitted by the applicant and have had regard to BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 ‘Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK) I am satisfied that this document / updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Building Heights Guidelines 2018. I also note that the use of appropriate guidance was highlighted by third parties and consider that this has been adequately addressed as explained above.
- 11.8.18. I have given a detailed description of the interface between the proposed development and existing housing in the sections above. I have also carried out a site inspection, considered the third-party submissions that express concern in respect of potential impacts as a result of overshadowing/loss of sunlight/daylight, including independent assessment submitted and reviewed the planning drawings. In considering the potential impact on existing dwellings I have considered – (1) the loss of light from the sky into the existing houses through the main windows to living/ kitchen/ bedrooms; and (2) overshadowing and loss of sunlight to the private amenity spaces associated with the houses (rear gardens in this instance).

Light from the Sky

11.8.19. The BRE guidance on daylight is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. Criteria set out in Section 2.2 of the guidelines for considering impact on existing buildings are summarised as follows:

- (i) Is the separation distance greater than three times the height of the new building above the centre of the main window? In such cases the loss of light will be small. If a lesser separation distance is proposed further assessment is required.
- (ii) Does the new development subtend an angle greater than 25° to the horizontal measured from the centre line of the lowest window to a main living room? If it does further assessment is required.
- (iii) Is the Vertical Sky Component (VSC) $>27\%$ for any main window? If VSC is $>27\%$ then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum.
- (iv) Is the VSC <0.8 of the value before? The BRE guidance states that if VSC with the new development in place is both $<27\%$ and <0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.
- (v) In the room impacted, is area of working plan which can see the sky less than 0.8 the value of before? (i.e., if 'yes' daylighting is likely to be significantly affected). Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

11.8.20. The tests above are a general guide only and the BRE Guidance states that they need to be applied flexibly and sensibly. To this end, I have used the guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues/impacts may arise and to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Dublin Metropolitan Area, and increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical.

- 11.8.21. A Daylight and Sunlight Assessment was submitted with the application dated April 2021. I note several of the submissions received on the application state that the model does not take proper account of the actual significant level difference (c.1.6m) between the application site and the rear gardens and ground floor levels of the houses in Churchfields to the north and east and also does not accurately model the correct shape/ disposition/ actual window locations of a number of the houses in Churchfields or accurately show the boundary wall structures.
- 11.8.22. Separation distances are generally less than three times the height of the new buildings above the centre of the main windows being considered (at the closest point) so based on the BRE guidance a more detailed daylight assessment is required. The zone of influence 3 times the height of the proposal is plotted in yellow in Figure 3 on page 7 of the submitted report and 8 no. locations have been identified for further assessment. Sections through the window wall for each of these locations is provided on pages 8 and 9 of the submitted report. At locations A (no.68 Churchfields), B (no. 67 Churchfields) C (no.27 Churchfields), D (no. 21 Churchfields) and H (1 Coolnahinch, Dundrum Road) the 25° line would be subtended by the proposed development, indicating further assessment was required. I am satisfied based on the information submitted that the remaining locations at no. 15 Churchfield, no.30 St. Lukes Crescent and Chandos, Dundrum Road the 25° line would not be subtended.
- 11.8.23. For completeness the applicant provided an assessment of all the houses adjacent to the proposed development within the zone of influence for the VSC as recommended in the BRE guidelines. The BRE guideline recommends that if a window retains a VSC in excess of 27% with the proposed development in place then it will still receive enough daylight. If the existing VSC is below 27% or is reduced below 27% and below 0.8 times its former value then the diffuse light maybe adversely affected. Test points representing windows in the dwellings at locations identified in Section 3.3 of the submitted report are indicated in Figures 6 – 12 (pages 10 to 15). While I note that the majority of the 3D images of the dwellings listed from no. 14 to no.30 Churchfields are accurate, I note that there are discrepancies in the layout of the ground floor rear extensions of no. 21 and no. 24 Churchfields as presented on page 13 of the report. This is an important point to note as this affects the results of the assessment for these dwellings. While the results of the assessment state that all of the 98 no. windows

assessed in the Churchfields estate meet the criteria, a separate third-party submission in relation to no. 21, through an independent assessment shows that there would be a more considerable and noticeable 30% reduction to less than 70% of the current available light to the accurately presented layout of the rear ground floor extension and window (no. 66) if Block A were to be constructed. The occupant of no. 22 Churchfields contend that the same impact would occur to their property, though I note that the applicant's assessment of this property has taken account of the correct ground floor layout. While I acknowledge that the Sections presented on pages 8 and 9 of the submitted Daylight and Sunlight Assessment are not to scale, I do note that each of the relevant Sections has included for the topographical changes in relation to the lower ground level of the houses at Churchfield, therefore apart from the discrepancies in relation to the omission of certain ground floor extensions at no. 21 and no. 24, I would consider the results presented appear accurate. I also note that as part of the third-party submission from the occupant of no. 21 Churchfields that the Average Daylight Factor (ADF) for the shared kitchen/dining room would still meet the required standards if assessed under the BS8206 – Part 2 as an ADF well above the 2% required is evident for this ground floor room.

11.8.24. From the information submitted by the applicant, I note one other discrepancy, that window no.20 of no.67 Churchfields would appear to fail the criteria, however I also note that this window relates to a landing window and therefore as this is not a habitable room the level of negative impact expected on residential amenity would not be significant. In addition, I note that bedroom windows no.9 and no.10 of no.68 Churchfields are assessed as dual aspect and although would fall below the required 80% cumulatively, as the separate VSC for window no. 9 still remains in excess of 27% then this room would be deemed to meet the criteria. Therefore, from an examination of 98 windows within the Churchfield estate, it would appear from the information received as part of application and presented by third parties that all but one window would not meet the criteria, however same windows (no.21 Churchfields) would achieve an adequate ADF level. Having regard to the objectives for comprehensive urban regeneration at this location and the constraints offered by the site in terms of its position immediately south and west of existing housing, coupled with the limited impact that arises in respect of the existing dwellings, I consider that the potential for undue impacts on the amenities of the neighbouring

residential properties can be reasonably discounted in this case and that the discretion offered by Section 3.2 of the Sustainable Urban Development and Building Height Guidelines and Section 6.6 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) is such that, a refusal of permission is not warranted.

- 11.8.25. The VSC for the remainder of the windows assessed at Chandos (Dundrum Road), no.s 29 and 30 St Lukes Crescent and no.s 1 and 2 Coolnahinch all indicate that they meet the criteria.
- 11.8.26. The BRE guidelines also recommend assessing window walls for the Annual Probable Sunlight Hours (APSH) that face within 90° of due South. House nos. 14 to 30, 44, 67 & 68 Churchfields are the relevant houses which have a living space with a window facing within 90° of due South. These were assessed and all windows have an APSH percentage greater than the recommended 25% (414 hours) and 5% (75 hours) from 21 September to 21 March. Based on the above I am therefore satisfied that the assessment undertaken is robust and comprehensive, and indicates that the impact on daylight reception to the neighbouring dwellings with the proposed development in place would meet the recommended standards set out in the BRE document "Site Layout and Planning for Daylight and Sunlight – a Guide to Good Practice" 2011.

Loss of Sunlight/Overshadowing

- 11.8.27. In relation to overshadowing, the BRE guidelines state that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21st March. The submitted Sunlight, Daylight and Shadow Assessment includes shadow diagrams to illustrate the predicted impact of the proposed development in relation to overshadowing. I refer the Board to the Section 7 of the submitted Daylight and Sunlight Assessment Report. The 2011 BRE Guidance indicates that any loss of sunlight as a result of a new development should not be greater than 0.8 times its former size.
- 11.8.28. The submitted report provides an assessment for the availability of sunlight on the ground of the private amenity spaces to the neighbouring properties which is generally the rear garden space. Nos. 14 - 30 Churchfields to the North of the proposed development and Nos. 67 & 68 to the East were assessed. The existing

and proposed radiation maps are illustrated in Figures 20 – 22 of the report and the results can be seen in Table 15. A marginal reduction to the percentage of the amenity spaces receiving at least 2 hours sunlight to the gardens at nos. 22, 23, 26, 27, 29, 30, 67 and 68 Churchfields was noted but the reductions recorded are not reduced to 80% of their former value, therefore I am satisfied that the proposed development meets the recommendations of the BRE guidelines.

- 11.8.29. The CUS grounds are entirely to the south of the proposed buildings and therefore there will be no significant reduction in sunlight to this amenity space.
- 11.8.30. An assessment of overshadowing is presented in Section 8 of the submitted report. The BRE guidelines recommend using the 21st March for plotting shadow. The shadow cast diagrams presented compare the existing situation on site with that of the proposed development. I note from the results illustrated that the proposed development will cast additional shadow on the properties to the north most notably on the rear garden of nos. 24 and 25 Churchfields on the morning of 21st March, as well as to the front garden of no.30 St. Lukes Crescent. The rear garden of no. 68 Churchfields will be impacted in the mid-afternoon on 21st March. By 5pm on 21st March a much larger shadow will be cast eastwards over the properties at Churchfields. Overall however, the diagrams support the conclusion that the proposed development achieves recommended BRE values with respect to overshadowing, with over 2 hours of sunlight over a minimum of 50% of existing amenity areas on the 21st March. There will be no shading to the CUS grounds which lie entirely to the south of the proposed development.
- 11.8.31. I note third party comments relating to the detail of the shadow diagrams submitted, with some shadow diagrams cut short on one side (to the east), and therefore essentially omitting illustration of the full extent of the shadow cast by the proposed development. As described above, I am satisfied that there is no significant impact from the proposed development upon existing dwellings' sunlight to windows or overshadowing of amenity areas. However, I consider it unfortunate that figures to illustrate this analysis are 'cut off', particularly figure no. 29 in the submitted assessment. In my view, while this does not alter the compliance of the proposed development with recommended values in the BRE guidelines, the predicted impact upon sunlight and from overshadowing could have been more comprehensively

presented by the applicant. This would have benefited third party understanding of predicted effects.

Conclusion

- 11.8.32. I am satisfied that the submitted assessment follows BRE methodology adequately and that the data presented is sufficient for me to carry out my own assessment of potential impact. Based upon the foregoing, I am satisfied that the proposed development will not have significant impact upon existing dwellings' daylight, sunlight or result in undue overshadowing of garden/amenity areas.

11.9. **Future Residential Amenities/Residential Standards**

Daylight and Sunlight

- 11.9.1. In relation to the BRE 209 guidance, with reference to BS8206 – Part 2, this sets out minimum values for ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room. This BRE 209 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. The applicant's submitted Daylight and Sunlight Assessment report states that where there are two room uses within a space then the higher ADF value should be used (i.e. 2% for living rooms that include kitchens). The higher target value of 2% is selected for all the main living rooms because they contain a kitchen and the BRE guide and BS 8602:2 recommend that the higher value should be used where there are multiple uses in a room. I accept this as being the appropriate approach for this application and following BRE recommendations that kitchens are attached to well day-lit living areas. On this basis, the analysis demonstrates that all selected units comply with BRE minimum target daylight levels. All habitable rooms on the ground, first and fourth floors were assessed and it is evident from the results that the ADF values improve with the higher the floor level. Priority in the design is given to main living spaces over bedrooms and where possible they are positioned away from inner corners or projecting stair cores to maximise available daylight. In my view, as the 'worst case scenario' rooms (i.e. ground and first floors) achieve target ADF values,

it can therefore be logically assumed that all rooms in the proposed development will achieve satisfactory daylight levels. I acknowledge that the results for the assessment of the 4th floor have also been presented. Based on the aforementioned I am satisfied that the proposed development meets the recommendations of the BRE Guidelines and BS8206 Part 2:2008 Lighting for Buildings, Code of Practice for Daylighting.

- 11.9.2. In relation to sunlight, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The submitted assessment does not provide analysis in this regard, however I note that the Building Height Guidelines do not explicitly make reference to an assessment of sunlight to proposed accommodation. The Building Height Guidelines state in criteria under Section 3.2 that '*The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light*'. Therefore, while daylight and overshadowing are explicitly referenced, there is no specific reference to sunlight, and reference is only to daylight, overshadowing or more generally 'light'. I describe the predicted overshadowing of amenity areas within the proposed development below, and I have set out my assessment of daylight impact above. While there is no analysis provided in the submitted report with respect to potential sunlight levels to proposed units (following the APSH methodology in the BRE guidelines); I note the orientation of the site with many units in the proposed development facing south, east or west. I also note that there is no specific requirement in relation to sunlight levels to proposed residential accommodation. As a result, I do not consider the omission of APSH data for units in the proposed development to be significant.

Amenity Areas

- 11.9.3. I refer the Board to Section 7.4 of the submitted Daylight and Sunlight Assessment which considers the level of sunlight access and potential overshadowing to proposed open spaces/amenity areas within the development. The BRE guidance recommends that at least 50% of the amenity areas should receive a minimum of two hours sunlight on 21st March (spring equinox). To this end, an analysis of the sunlight exposure levels for the amenity areas in the proposed scheme was carried out using a computer-generated analysis and the results are shown in tabular format. The calculations for sunlight on the ground within the development were taken at two

locations, ground level (S1 – southern amenity area located centrally to Blocks A, B, C and D) and the roof terrace of Block D (S2). The results of the assessment state that 88.4% of ground level areas and 92% of the roof terrace areas receive 2 hours of sunlight on 21st March. I note from the proposed radiation map generated (Figure 24 of the submitted report) that the playground area/public park area between Block E and Robert Emmet House is particularly well lit. Based on the assessment submitted and having regard to the referenced guidance, I am satisfied that the proposed amenity areas will meet and exceed sunlight standards recommended under BRE guidance.

Overlooking within the proposed development

11.9.4. I note the planning authority's concerns regarding the separation distance between the proposed apartments. Refusal reason no.3 reflects these concerns which states that the layout of the apartment blocks as currently proposed would '*result in overlooking of habitable rooms and would appear visually overbearing when viewed from adjoining apartments resulting in a reduced level of residential amenity for future occupants*'. I note the same concerns were also raised by several third parties who state that the resultant overlooking is a clear indication of overdevelopment on the site. The minimum separation distances in this case are as follows:

- 11.2m between blocks A and B
- 15m between blocks B and C
- 15m between C and D
- 15.39m between D and E
- 13.5m between D and A
- 17m between the protected structure and A

11.9.5. Regarding guidance on this issue, I note that Section 8.2.3.3 (iv) of the operative CDP highlights that separation distances in new development should be responsive to building heights and adjacencies and states the following "*All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and*

provide sustainable residential amenity conditions and open spaces. The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design.”. In this regard and contrary to the above, I note that the NPF signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes. In addition, Sections 2.23 and 2.24 of the Apartment Guidelines (Dec 2020) in particular note that “*general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location*” and that “*it is recognised that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland’s cities*”.

- 11.9.6. Having examined the current proposal, I would not concur with the planning authority in relation to their concerns outlined in refusal reason no.3. In my opinion the applicant has sought to address any overlooking between apartment blocks by resisting directly opposing balconies and also through the incorporation of smaller angled windows along the elevations onto which opposite balconies face. While I acknowledge that separation distances are below the 22m outlined in the operative CDP, I would highlight that national policy and guidelines allow for a greater flexibility in this regard. In the case of the current development, I do not believe that the proposed distances between blocks will reduce the residential amenities of future occupants as a result of overshadowing and lack of available light, and this is evidenced in the results of the submitted Daylight and Sunlight Assessment. The separation distances proposed allow for a higher density development on this centrally located urban site without compromising the privacy or quality of residential amenity for future occupants.

Potential Impact on Robert Emmet House

- 11.9.7. As stated above the separation distance to Robert Emmet House (protected structure) is 17m from the western elevation balconies of the proposed 4-storey Block A. It should be noted that currently the protected structure is attached to the Middle House via a narrow link corridor and separated from this main building by a distance of 7m. The Middle House has a current ridge height of 14.71m and I note the proposed parapet

height of Block A is to be 13.77m. While I acknowledge that Block A will have a larger footprint on site, I would not consider its impact on the protected structure adverse, given that its proposed height is a reduction on that of the existing Middle House and also the increased separation distance to now be provided between buildings. In addition, I would consider the proposed planting and pathways to be provided to the east of the protected structure will significantly enhance its setting and its clear distinction from the adjacent proposed development.

- 11.9.8. I note that an assessment of the VSC has been carried under Section 4.3 of the submitted Daylight and Sunlight Assessment to assess any impacts that Block A may have on the availability of light to the protected structure's eastern elevation windows/rooms. The results of this assessment show that 4 of the 15 no. windows would be below 80% of their former value, however there will be an increase in VSC for 5 windows. Two of the windows that are impacted are located at basement level and two at ground floor, however the rooms which host these windows would also appear to have windows on the southern elevation. Given that the current building is in commercial use and the minimal impact that Block A will have on same with regard to VSC, I am satisfied that the proposed separation distance to Block A would be adequate.

Noise and Air

- 11.9.9. Several third-party submissions have raised concerns in relation to the potential for noise disturbance to existing residents in the area, as a result of the proposed development. In particular, concerns are raised in relation to the location of the proposed basement carpark access ramp in such close proximity to the residents at Churchfield to the north.
- 11.9.10. The applicant has submitted a Noise Impact Assessment (NIA) completed by iAcoustics. Due to Level-5 COVID restrictions in place at the time of writing, iAcoustics were not in a position to undertake a site noise survey. However, they state that a reliable alternative assessment was attainable in the form of Noise Maps produced by the Environmental Protection Agency (EPA), available at <https://gis.epa.ie/EPAMaps/>. Having reviewed the report I am satisfied that the EPA Maps provide sufficient information from which an assessment can be carried out. The EPA Maps are based

on the most frequently used average noise indicators in Europe: Lden and Lnight. Overall, the EPA Noise Maps indicate a good quality acoustic environment for outdoor living areas and the report considers this site to be a favourable location for a residential development from an acoustics perspective. The results of this assessment show that for outdoor living areas, the majority of the site will experience noise levels below 55dB LAeq,16hr. It is expected that the noise environment will be even lower in practice given that the apartment buildings situated along the western boundary will provide significant acoustic screening from road traffic noise which will benefit the rest of the development situated further east. The highest noise levels were recorded along the western boundary of the site, which is attributed to transport related noise from the Dundrum Road.

- 11.9.11. With regard to the night-time noise environment, the report notes that dwellings situated within the 45-49dB & 50-54dB zones as shown in Figure 5.2 (page 7) of the NIA, which include Block E and the western side of Block D, will be impacted more by road traffic noise than units situated further east towards Churchfields. I note that it is proposed to minimise the noise impacts on these blocks by incorporating measures such as ventilation systems to reduce the requirement to open windows, apartment layouts and the layout of communal open space. The majority of the site will experience free-field external noise levels of less than LAeq,8hr 45dB at night-time. A minimum acoustic performance glazing of Rw 34dB+ctr is recommended for the northern, western and southern facades of Block E to reach the desired performance levels.
- 11.9.12. The report recommends that an up to date on site assessment is carried out when road traffic volumes in the city are deemed to have returned to pre-COVID levels and that at least a 24-hour monitoring period should be carried out at 1 no. location representative of the façade of the most exposed block (Block-E). In the unlikely event that noise survey data shows higher levels than the EPA Maps, the glazing acoustic performance values as outlined in Section 5.5 of the report may be subject to change slightly. If the Board are minded to grant planning permission, I would suggest a condition is attached to ensure appropriate measures to address possible noise impacts are included, in the interest of the residential amenity of future occupants.

11.9.13. The report also assessed the likely operational noise impact of fixed mechanical installations within the proposed development on nearby noise sensitive locations. The results of this examination identified no significant negative impact on nearby properties. I note that no assessment of potential noise from vehicles accessing and exiting the proposed basement car park has been carried out. The basement car park ramp is located within 1.5metres of the northern boundary of site and approximately 12m at its closest point to the rear elevation walls of the dwelling houses at nos. 15 to 20 Churchfields to the north. I accept the stated concerns of neighbouring residents that this aspect of the development could have noise impacts particularly on those dwellings closest to the access and ramp. The applicant proposes to cover the initial exposed section of the ramp with intermittent pergolas as detailed in the submitted Landscape Masterplan. The submitted Boundary Details (Mitchell and Associates Drawing no.106) provides no details of the height or consistency of the northern boundary wall to the site and merely states that the existing boundary wall is to be retained along Churchfields. I noted on site visit that the wall at this location varies in height. To the rear of nos.15 and 16 Churchfields the wall is in fact lower at approximately 2m in comparison to that of the adjacent sections. Also, the rear walls of nos. 17, 18, 19, 20 and 21 have existing stables and lockups located along them, which provide for a combined height of c.3.94m (as per submitted Demolition Elevations drawing). In my opinion it will be important that the existing heights of this northern boundary wall are retained to ensure a sufficient barrier exists to prevent overspill of vehicular noise. I note from Figure 5.1 of the submitted NIA report that noise contours for the area in which the basement car parking ramp is to be located are currently at a level of 55-59dB (no.15 – 19 Churchfields) and I also note that the current site area to the rear of these houses at Churchfield was historically used as a carparking area for Emmet House and also the former Marist Fathers complex. As part of the former use on site a number of vehicular movements would have occurred, these are detailed under Section 2.4 of the Traffic and Transport Assessment (TTA) submitted with the application. The weekday AM traffic flow count for the existing site (prior to the Marist Fathers complex closing) as detailed under table 2-1 of the TTA states that 42 vehicular movements were recorded entering/exiting the site and for the Weekday PM count 37 trips were recorded. For the proposed development the typical projected Weekday AM volumes entering and exiting the site are shown in table 4-2

as 46 and for Weekday PM entering/exiting the site a total figure of 52 is given. Following an examination of the figures I would not consider there will be any significant increase in the level of traffic volumes expected entering and exiting the site. While I acknowledge that a certain proportion of this traffic will need to access car spaces at basement level, given the reduced speeds on site and also the screening proposed through landscaping to the southern boundary of the site I would not consider that noise from these traffic movements would impact the residential amenities of adjacent properties to any adverse level. It is also noted that the planning authority raised no objection in this regard.

11.9.14. Several submissions have also been received in relation to the impacts of the proposed development on air quality, the adjoining residents to the north at Churchfield in particular raise concerns in relation to the proposed vents from the basement car parking level, some of which are located along the northern boundary of the site and the potential for both noise and air pollution from traffic/fumes rising from same vents. No assessment of same air or noise impacts has been submitted by the applicant. The vent in question travels along the area to the south of the boundary wall with no.17 east to no.30 Churchfields. I note as per the submitted Ground Floor Plan (Drawing no. 20019-RAU-ZZ-00-DR-A-02.1100) that several other vents are located more centrally on the site adjacent to proposed Blocks A and B. I acknowledge the observers concerns and would suggest that if the Board are minded to grant permission that a condition is attached to ensure same vents are moved to the area adjacent to the southern side of the access path which runs along this area, bordering the north of Blocks A and B.

11.9.15. In relation to impacts on adjoining residents at construction stage, I note that the Outline Construction Management Plan reviews air quality (Section 5.5) and references a number of mitigation measures, which will be put in place during the construction stage of the project. These include dust control measures for site access routes, demolition / excavation, stockpiling, site traffic etc. I am satisfied that following the application of these mitigation measures, the impacts on adjoining properties will be managed appropriately and will not be significant.

Apartment Design and Layout – Residential Standards

- 11.9.16. The following assessment considers the quality and amenity of the development relative to relevant quantitative and qualitative standards for residential development. The assessment has regard to guidance set out in the 'Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities' 2020 and the operative CDP.
- 11.9.17. The Housing Quality Assessment submitted with the application includes tables outlining Compliance with the Sustainable Urban Housing Design Standards for New Apartments, listed under Section 4 (pages 20 to 25). However, the Board should note that the schedule submitted does not accord with the submitted floor plans and there would appear to be discrepancies in how the apartment units are numbered. All blocks referred to in the schedule apart from Block E and the 5th floor of Block C have their apartment numbers incorrectly numbered when compared with the submitted floor plans. Having examined the floor plans however I can confirm that all the other details listed in the remaining columns of the schedules page 20 to 25 are correct, and therefore the facts as presented in the remainder of the Housing Quality Assessment Report and discussed further below are correct.

Unit Mix

- 11.9.18. The proposed development would provide for the following housing mix: 115 one bed apartments (49.78% of overall apartment supply) and 116 no. two bed apartments (50.22% overall housing supply). Specific Planning Policy Requirement no. 1 (SPPR1) of the 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 CE's Report acknowledges that the unit mix complies with the standards in the guidelines however considers that a greater mix should be provided in a development of this scale. The CE Report notes that provision of 3 and 4 bed units should be included in addition to the 1 and 2 bed units as required by Policy RES7 of the operative CDP. I also note that concerns in relation to unit mix were also raised in several third-party submissions, who stated that the current demand is for family sized units and that the proposal should provide a greater mix of units. Third parties also consider that the applicant is disingenuous in terms of who the apartments are designed for, stating that it would appear they are not

designed for long term occupancy and in fact would accommodate residents of a more transient nature.

Material Contravention - Unit Mix

11.9.19. I note that Section 8.2.3.3 (iii) of the operative CDP sets out the requirements in relation to the mix of units provided as part of new apartment development as follows: *“larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m.”* As proposed the development comprises 49.7% one bed units, therefore, it may be determined that the proposal materially contravenes the development plan in terms of unit mix. However, as outlined previously under Section 6.5.8 above the applicant in their Material Contravention Statement has highlighted that an advisory note attached to the front of Chapter 8 of the operative CDP states that the standards set out in the policy document 2020 ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ now superseded the Development Plan written statement. The Material Contravention Statement states however that notwithstanding the Advisory Note cover page of Chapter 8 of the development plan, the Board may still determine that the proposed development would give rise to a material contravention of the development plan. I consider that it is open to the Board to grant of permission in this instance and invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, as follows:

- 37(2)(b): (i) due to strategic nature of the application - the development is in accordance with the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The proposed development is of strategic importance to the consolidation of development in the Dun Laoghaire Rathdown area, in line with national policies to provide for compact growth within existing urban footprints, as supported by the NPF, and consolidation of existing suburban areas of Dublin, as set out the Dublin MASP within the RSES. The site is in proximity to public transport (Luas greenline) and has the potential to contribute to the achievement of the Government’s policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

- 37(2)(b) (ii) due to conflicting objectives in the operative development plan in relation to Section 8.2.3.3 (iii) and the contradictory Advisory Note to the front of Chapter 8 of same development plan; and
- 37(2)(b) (iii) national policy guidance in this regard as justified under SPPR 1 of the Apartment Guidelines, 2020 i.e. the mix of apartment types complies with SPPR 1 of the guidelines as more than half of the units would have more than one bedroom.

11.9.20. Therefore, in summary, I am satisfied that the units and overall development is such as would accommodate a range of age cohorts and household types, including downsizing and freeing up underoccupied larger units in the vicinity, all of which is appropriate in terms of achieving a sustainable mix of household sizes and types. While I note the comments contained within the submissions and from the planning authority, I am satisfied that the proposed development meets the requirements of SPPR 1 of the Apartment Guidelines, 2020 and on this basis, I consider that the proposed housing mix is acceptable given the larger mix of alternative residential unit types in the vicinity.

Other Apartment Standards

11.9.21. 11 no. different apartment types are proposed within the development as detailed on submitted 'Proposed Apartment Types' drawing and also detailed in the submitted Housing Quality Assessment Report, these apartments range in size from 49.53sqm (Type A, B and D – 1 bed unit) up to 80.73sqm (Type B -2 bed unit), all proposed apartments comply with the minimum apartment sizes as required under SPPR3 as over half the apartments (139 no. units) are more than 10% over minimum size standards.

11.9.22. SPPR 4 requires a minimum of 33% dual aspect units for developments in more central and accessible urban locations and a minimum of 50% dual aspect units for developments in suburban or intermediate locations. The applicant states in their Statement of Consistency that a total of 131 no. of the 231 no. units proposed will have the benefit of dual aspect equating to 57% of the total number of units, from an examination of the submitted floor plans I would concur with this number. I note that several third parties have raised issue with Block A and the fact that two of the

apartments on each floor's northern elevation claim to be dual aspect, even though the second windows face into an indented area in the building e.g. A-11 (1-bed Type E) and A-12 (2-bed Type G) on first floor. Again, I note here the discrepancies in the submitted schedule within the Quality Housing Assessment and having examined same and reassessing based on the correct apartment numbers I note that the applicant has not claimed that any of these apartments are dual aspect, and therefore the third parties in this case are mistaken. In addition, I note the planning authority's comments with regard to A-12 and D-05. In the case of A-12 as outlined above the applicant does not claim this is dual aspect, instead the schedule presented is incorrect. In relation to D-05 of Block D, I would consider this apartment is dual aspect as its second window to the living area on the south-eastern elevation is unimpeded by any other structure. Having reviewed the submitted floor plans and elevations I am therefore satisfied that 57% of the total units proposed are dual aspect and therefore meet SPPR4.

- 11.9.23. Section 3.18 of the 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 also states that north facing single aspect apartments may be considered, where overlooking an amenity such as a public park, garden or formal space, or a water body or some other amenity feature. The CE Report raises concerns regarding the 8 no. single aspect north facing units proposed in Block A, which are located 17m from the rear boundary wall of the dwellings at Churchfield to the north and would not be considered to overlook any significant amenity area. The applicant on page 16 of their Statement of Consistency in response to SPPR4 states that *'the development will avoid any north facing single aspect units, these units will face either east or west'*, this statement however appears to be at odds with Section 4.4 of the submitted Quality Housing Assessment which states *'North facing single aspect apartments where considered overlook a significant amenity such as the pocket public park, woodland gardens and landscaped formal spaces and amenity feature'*. From an examination of the submitted plans and the Housing Quality Assessment Report, I can confirm that there are in fact 8 no. single aspect north facing units in Block A (Units A-01,A-02,A-11,A12,A-21,A-22,A-31,A-32). These apartments overlook the area to the north of Block A which comprises new boundary planting, landscaped residential open space, pathways and the access ramp to basement level.

The applicant has sought to improve the attractiveness of this area by including planted pergolas to cover the basement access ramp. I consider the measures incorporated in the design of this area provide an acceptable level of visual amenity from these single aspect apartments and given the flexibility included in the Apartment Guidelines I am satisfied that a sufficient level of residential amenity will be provided for the future occupants of these apartments.

- 11.9.24. SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. This requirement is complied with. SPPR 6 specifies a maximum of 12 apartments per floor per core. This requirement is complied with. Appendix 1 of the guidelines set out minimum storage requirements, minimum aggregate floor areas for living / dining / kitchen rooms, minimum widths for living / dining rooms, minimum bedroom floor areas / widths and minimum aggregate bedroom floor areas, all of which are complied with. Private open space is provided in the form of balconies and the minimum space and depth standards are met.

Communal Facilities

- 11.9.25. The Apartment Guidelines, 2020 promote the provision of communal rooms for use by residents in apartment schemes, particularly in larger developments. The proposed development includes c.521 sq m of communal facilities, with a public Café space (83sq m) to be provided at ground floor level in Block E, a Gym (77sq m) to be provided at ground level in Block D, which will be serviced by the Management Company for the use of the residents, within Block D a 120sq m glazed pavilion is to be provided on the 4th floor which will provide shared social space, this area is also provided with a shared roof garden with BBQ, seating and dining spaces of 130m². Finally, a dedicated concierge space 111sq m in area is to be provided at ground floor level in Block A. This will be serviced by the Management Company for use by the residence. I consider the level of provision of communal facilities to be sufficient.

Waste Management

- 11.9.26. The Operational Waste Management Plan submitted as part of the application provides the details on how waste will be managed during the operation of the scheme. Three dedicated communal Waste Storage Areas (WSAs) have been allocated within the development design for the residents of the apartments and the residential

facilities. The WSAs have been supplied at basement level for use by the residents who will access the basement via elevators in Block A and B or the external elevator located adjacent to Block A. The café will have its own WSA allocated externally next to Block E, along the western boundary wall and the after school childcare facility will be required to allocate space within their own unit for the storage of waste.

11.9.27. The applicant states that it will be the responsibility of the Facilities Management Company to ensure that all waste generated by apartment residents and commercial tenants is managed to ensure correct storage prior to collection by an appropriately permitted waste management company.

11.9.28. I note that several submissions raise issues with the location of the waste storage areas in particular the Café's WSA (18sq m) along the western boundary wall, however having reviewed this location I see no issue with its use in this area which is conveniently located for the café's use and also will not obstruct any pedestrian or cyclist thoroughfares. Therefore, in summary, I would consider the refuse storage proposed as part of this application complies with the requirements under the Apartment Guidelines, 2020.

Wind Microclimate

11.9.29. A Wind Microclimate Study has been submitted with the application. The study notes that wind flow speeds at ground floor level are shown to be within tenable conditions. Some higher velocity and funnelling effects are found, depending on the wind direction, around the development and on the road path in-between Block E and D, however the findings note that these conditions are not occurring at a frequency that would compromise the pedestrian comfort within these spaces, according to the Lawson Criteria. Thus, it can be concluded that at ground floor level, good shielding is achieved predominantly. Regarding the roof terrace of Block D at a height of 13.93m, the report states that velocities are kept low. Higher velocities can be found at the corners, often corresponding to the edges, however, these velocities are below critical values for safety. Regarding the balconies, the report states that velocities are always below the threshold values defined by the acceptance criteria and therefore there is no critical impact for safety. Having reviewed the submitted report, I am satisfied that significant microclimate impacts are not likely to arise.

11.10. Social Infrastructure

Childcare

11.10.1. As part of the development the applicant proposes to provide an accessible afterschool facility within the existing converted Small Hall (c. 161sq m) which is located in the north western area of the site close to the main vehicular entrance and to the rear (north) of Robert Emmet House. The facility is to have provision for 30 pupils and staff - there is to be 88sqm of dedicated open play areas also provided externally. I note that one bedroomed units are not considered to contribute to childcare demand under the 2020 Apartment Guidelines. Therefore, a total of 116 no. 2 bed units (with typically one child) have the potential to require childcare. Additionally, the 2001 Childcare Guidelines have identified that only 50% of units will require childcare. This results in a total of 58 no. units considered to require childcare provision. The submitted Statement of Consistency notes the standard set out in the S28 Childcare Facilities Guidelines 2001 for 20 childcare spaces for every 75 no. dwellings. While the demand arising from the proposed development is less than 75 units (so a facility is not normally required), the applicant considered it prudent to include a childcare facility as part of the proposed development. I am satisfied that the level of provision is acceptable and similar to the planning authority would welcome the reuse of the existing building. The location of the facility is considered acceptable having regard to the provision of outdoor amenity space and I also consider that appropriate drop off and car parking is provided to cater for this facility in the form of 2 spaces to the north of the building.

11.10.2. While I note concerns regarding the lack of childcare facilities in the area, the proposed development, in particular given the inclusion of an after-school facility as proposed, will not exacerbate this situation, and may through the inclusion of the facility on site enhance social infrastructure within this area.

School Capacity

11.10.3. A large number of submissions have raised concerns in relation to the capacity of surrounding primary and secondary schools, and the impact of the proposed development on same. Errors within the applicant's assessment as relates to schools within the catchment area and capacity of same are highlighted in the submissions.

11.10.4. The applicant has submitted a Community Infrastructure Statement with the application and utilises the average household size (2.6) in the area (local electoral division) to generate a demand for school places. The proposed development is estimated to potentially require 72 primary school places. A 5km radius was used as a catchment in this case and the results of an examination of the schools in the area show that there are 91 primary schools with a total of 290 available spaces. It is estimated that 48 no. post primary places may be required as a result of the development and that there are currently 657 places available in the area, of which 655 are listed as being available at St. Tiernan's Community College. The planning authority has raised concerns in this regard as to whether these places are currently available or if this figure is for future availability. I note that the capacity to serve the demand may be derived by using capacity within the private school places within the area. However, I am satisfied that these schools are used and would serve some households/pupils from within this general area, and as such should not be excluded from the report. I also note that the above projected demand figures are based on the proposed development of 231 units with a total estimated population of 600 no. persons (average household size of 2.6×231). The applicant then uses guidance provided in the "Provision of Schools and the Planning System" document to estimate that the demand for primary and post primary spaces. However, it is my view that the demand from the 1 bed units would be significantly less than for the 2 bed units and also that 2 bed units would still not generate the same demand as would be expected in larger households. Therefore, while I note the comments from third parties, I do not believe there to be any significant shortfalls in capacity such as would warrant or provide a reason to refuse permission in this instance.

Other Social infrastructure

11.10.5. Milltown is a mature residential area with a wide range of social infrastructure including sports, recreation and medical facilities. There is a public park which runs along the River Dodder within a short walking distance (120m) to the northwest and west of the site (Dartry and Milltown Parks). The site is also proximate to amenities in the wider city area including third level institutions, hospitals, local shops, neighbourhood centres and services, and larger retail facilities in Dundrum and the City Centre. I am therefore satisfied that the area and development are well serviced in respect of social, recreational and retail infrastructure.

11.11. Traffic and Transportation

Traffic and Access

- 11.11.1. Most observers and local residents are concerned about the existing traffic situation in the area. Concerns centre around the capacity of the existing road infrastructure and the likely negative impact from the increase in traffic from new development. It is proposed to serve the development via the existing vehicular access point on the western boundary of the site from the Dundrum Road. The applicant bases this rationale on the fact that the previous use of the subject site and resulting traffic flows through the existing entrance resulted in flows greater or at least comparable with those proposed. The roads in the immediate area of the site are typical suburban roads though I note that no dedicated cycle infrastructure is in place on the Dundrum Road. Access to St. Luke's Crescent is located across the Dundrum Road to the immediate north west of the site, with a second entrance to same housing estate c.40m to the southwest. The entrance to Churchfields is located c.30m north of the existing site entrance.
- 11.11.2. It is proposed to carry out works to improve and widen the existing site entrance at the north-west corner of the site. The existing vehicle entrance to Robert Emmet House office building (Protected Structure which is outside of the Applicant's ownership) and adjacent parking will be retained, however the existing access will be widened – refer to Proposed Entrance & Sightlines drawing for further details. This route will also permit access to the proposed development basement via an access ramp. I note the planning authority's comments regarding the proposed access and the concerns expressed by the Transportation Division of DLRCC who state that in order to minimise the number of vehicular entrances on Dundrum Road and reduce potential conflicts, it would be preferable for vehicular access to be provided to the site through the adjoining Churchfields housing estate. The planning authority state that the roads in same estate are taken in charge by the Council and therefore could accommodate access. The applicant does not consider that the routing of traffic associated with the development through the adjacent Churchfield's development entrance is appropriate in this case.

11.11.3. The applicant has submitted a Traffic and Transport Assessment (TTA) as part of the application. Traffic surveys were undertaken in May 2018 to establish baseline traffic conditions. The applicant is satisfied that the traffic generated by the proposed development can be accommodated on the existing road network and no specific junction improvements are necessary in the area. Trip generation rates for the development are forecast using the NRA / TII approved TRICS database. It is forecast that in the AM peak would generate 10 no. arrivals and 36 no. departures, while the PM peak would generate 34 no. arrivals and 18 no. departures. The report notes that in the post-development phase, Robert Emmet House, which will also use the same entrance, will have only 20 no. available car parking spaces and will therefore generate approximately 20% of the volumes detailed above, with those flows predominantly in the non-peak direction relative to the generated residential flows. They were thus considered to be of an insignificant level and are therefore not allowed for within the analysis. The TTA also contains an analysis of the former uses on the Marist Fathers site which includes for Emmet House offices, student accommodation and the Montessori Training College, trips generated from these uses amounted to an AM peak of 34 no. arrivals and 8 no. departures, while in the PM peak it would generate 7 no. arrivals and 30 no. departures.

11.11.4. The existing Churchfields estate borders the subject site to the north and east and contains a total of 76 no. houses which are arranged around a series of cul-de-sacs. There are two access points to the estate with the first via Milltown Bridge Road providing access to a single cul-de-sac of 11no. units. The remaining majority of the estate of 65 no. units are accessed via the Dundrum Road. The network analysis within the TTA indicates that the 2 no. existing critical junctions (Dundrum Road/Development access and Milltown Road/Dundrum Road) in the vicinity of the proposed development presently work within capacity, and will continue to do so in 2028, with the Milltown Road / Dundrum Road junction slightly over capacity by 2038. The traffic flows at the existing site access onto Dundrum Road associated with the proposed development are reasonably modest, and I note are similar in volume to previous site use levels and although an increase in traffic flows is expected this would not constitute an intensification of the access.

11.11.5. While I acknowledge the planning authority's concerns, in my opinion as all junctions proximate to the site are predicted to function within operational parameters, adequate capacity is demonstrated and therefore access to the site via Churchfields is not justified in this instance. In addition, while the concerns raised by the third parties are noted, it is my view that having regard to the information submitted, which is evidence based and robust, the proposed development would have a negligible impact on the capacity of the surrounding road network.

Carparking

11.11.6. I note third party objections raised concerns regarding the low car parking level to be provided as part of the proposed development and the resultant potential impact on parking provisions in surrounding streets and in particular the Churchfield estate. 118 no. car parking spaces in total are to be provided as part of the development. The following is a breakdown of the car parking provision on site:

- 20 no. spaces are to serve the existing Robert Emmet House (10 at basement level and 10 at surface level)
- 96 no. spaces are proposed to serve the 231 no. apartments.
- 2 no. spaces to serve the after-school facility which are also to accommodate drop off where necessary.

11.11.7. I note the 20 no. car spaces which are to serve Robert Emmet House would be classified as an 'other use' as per Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, however I am satisfied that the sqm area generated by these spaces (i.e. 2.5m X 4.75m X 20 = 237.5sqm) would be significantly less than the maximum of 4,500 sqm allowable under same section for such other uses.

11.11.8. 96 no. car parking space for residential use on site equates to a ratio of 0.4. This is significantly less than the standards described under the operative CDP. The Transport Division has requested a level of 1 space per a residential unit (i.e 231) which is substantially more than the number of car parking spaces included in the proposed development. The applicant states that given the accessible nature of the site and proximity to key public transport modes, that a car parking ratio of 0.4 is considered appropriate for the site.

11.11.9. The Apartment Guidelines states that in central and / or accessible locations, the default policy for car parking is to be minimised, substantially reduced or wholly eliminated in certain circumstances. This Section 28 Guidance takes precedence over the Development Plan Standards for car parking and aims to encourage the reliance of future occupiers upon more sustainable travel modes compared to the private car. The proposed development is located a short walking distance (less than 10 minutes) to Milltown Luas stop, with access to high frequency public transport. The proposed development is also in close proximity to bus services, including a bus stop near the existing entrance to the site on the Dundrum Road. From this stop three bus services are available which include the 44, 61 and 142 (nos. 44 and 61 go via Dublin City Centre). The proposed development also incorporates extensive cycle storage (discussed below) and is situated proximate to amenities and employment opportunities. I note that 4 motorcycle spaces are also proposed for resident use, and this is an acceptable provision in my view. Of the car parking proposed, 5 are identified to accommodate disabled parking requirements and this is in accordance with the Development Plan minimum of 4%. 12 no. wall mounted car charging points are identified at basement car parking level, each point providing a twin head (see drawing no. E020 Basement Plan Car Charging Services) and provision for future charging points has been made at surface level. I am satisfied that adequate provisions have been made in this regard.

11.11.10. I therefore do not agree with the Transport Division that car parking provision should be increased as part of the proposals. I am satisfied that the location of the proposed development can support the car parking ratio of 0.4 spaces per residential unit. I am also satisfied that adequate car parking provision is made for non-residential uses in the proposed development.

Cycle Access and Parking

11.11.11. Provision is made for 463 no. cycle spaces across the site. 347 no. long stay spaces at basement level and 116 no. short stay spaces (98 no. at surface level and 18 no. at basement). The bicycle parking is to be accessed at basement level via an access ramp along the eastern boundary, this access feature is welcomed. I am satisfied that the cycle storage provision exceeds the minimum recommended levels described in both the operative CDP and the Apartment Guidelines. I note that while

the planning authority are satisfied with the quantity of cycle parking to be provided, they consider 'Sheffield' type storage to be preferred to the long stay storage type detailed in the submitted 'basement plan'. However, I am satisfied that the type of long stay storage shown for cycles is suitable and therefore overall, I consider the proposed cycle storage provision to be acceptable. I am also satisfied that the location can support the level of cycle movements expected, noting the future plans under the Greater Dublin Area Cycle Network Plan to incorporate Route no.11 and 11b within close proximity to the site along the Lower Churchtown Road, Milltown Road and Clonskeagh Road. In addition, the Dodder Valley Greenway is in close proximity at Milltown, linking Tallaght to the south city area.

Public Transport

11.11.12. I note the concerns of third parties who state the subject site is not well served by public transport. The applicant has submitted a Residential Travel Plan as part of the application. The plan details existing public transport and cycling facilities in the area. As noted previously above, Dublin Bus services in the area provide direct linkage to the city and orbitally via 3 No. routes – 44, 61 and 142, with frequency of services stated at 1 per hour for nos. 44 and 61. While I note that these routes are to be overhauled in the near future under the Bus Connects project, routes 87 and 88 will maintain the current services and links to the city centre via Ranelagh. I also note that a new orbital route (S4) is also to be incorporated which will pass outside the subject site and have a higher frequency of service.

11.11.13. I can confirm that I visited the site via the Luas Station at Milltown and that the subject site is a reasonable walking distance (less than 10 minutes) to this high frequency Green Luas Line. In relation to capacity, I note that the planning authority have not suggested any issue in this regard, however An Taisce have raised concerns. I am satisfied that there is no evidence to suggest inadequate capacity on the Luas for the proposed development, as well as in combination with other anticipated development in the area. While I acknowledge that Luas capacity may be lower at rush hours, I would consider the incorporation of substantial bicycle parking in the scheme should encourage a shift to this mode of transport as envisaged by the submitted Residential Travel Plan. In addition, the availability of a regularly serviced bus route adjacent to the site will also provide a public transport alternative to the Luas.

Connectivity and Permeability

- 11.11.14. It is proposed to remove three narrow sections of the existing western boundary wall between the subject site and Dundrum Road to provide three pedestrian/cycle access points permitting permeability through the site. The new pedestrian entrance mid-way along the western boundary with the Dundrum Road will draw future occupants toward focal points including the central communal open space and landscape features. It is also proposed to re-open the site boundary along the eastern boundary of the site with Churchfields where an existing locked gate exists, allowing a cross connection route for pedestrians and cyclists to access the Dundrum Road. A future pedestrian link is also indicated in the south eastern corner of the site adjacent to the CUS grounds, with a connection to be provided through same grounds to the Hawthorn residential estate to the southeast, however, it is important to note that this area (CUS grounds) is outside of the current site boundary and under separate ownership.
- 11.11.15. The DMURS Compliance Statement submitted as part of the application outlines how the proposed development has been designed to achieve the objectives set out in DMURS (2019). The development will contain a number of pedestrian and cyclist routes through the development running in both north-south and east-west directions between landscaped areas and between the buildings. These routes will permit ease of access to the proposed 5 no. pedestrian and cyclist access points, as outlined above and which are spread around the site perimeter. I note however that two of the proposed access points along the eastern and south-eastern boundaries respectively are dependant on third party agreements and that the need for 'Letters of Consent' for same was highlighted as a requirement by the Board and the planning authority at pre-application stage. The applicant does not appear to have any formal consent either for the works proposed to the mouth of the gateway which links into Churchfields. I note that although the roads within the estate have been taken in charge by DLRCC the mouth of this gateway has not and similarly the green spaces within the estate are privately owned, maintained and insured by the Churchfields Management Company (CMC)
- 11.11.16. I note that this issue of consent and access to third party lands has been raised under several third-party submissions received. Concerns are also raised by third

parties regarding the two-way bicycle traffic and pedestrian links proposed directly into the adjacent Churchfields estate at the eastern boundary of the proposed development. Observers have raised concerns in relation to pedestrian, cyclist and vehicular safety at this proposed access point. I note that no cycle infrastructure exists in the Churchfield estate currently and that in the vicinity of the access point a footpath is only available on the eastern side of the internal estate road. While I acknowledge the observers concerns in relation to traffic safety, I do not consider these issues insurmountable and subject to third party consent I believe that appropriate measures could be put in place to provide connectivity in this area i.e. appropriate barriers/cyclist dismount at site boundary. Similarly, if third party consent were to be attained, I believe that the access point on the south-eastern boundary to the lands at the CUS grounds and onto the Hawthorn estate would significantly improve connectivity in the area, while promoting higher levels of permeability and legibility for all users, and in particular more sustainable forms of transport in line with DMURS.

11.11.17. I therefore consider, if the Board is of a mind to grant permission that these pedestrian links on the eastern/south-eastern boundaries should be shown up to the site boundaries to facilitate their future provision subject to the appropriate consents. Provision of these links in my opinion will greatly improve accessibility and linkages in the area, increase their usage and by association security through active usage.

11.12. Trees

- 11.12.1. Section 8.2.8.6 of the operative CDP outlines that *“New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow and new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps’*. Section 8.2.8.6 then goes on to further state that *“Where it proves necessary to remove trees to facilitate development, the Council will require the commensurate planting or replacement trees and other plant material. This will be implemented by way of condition”*.
- 11.12.2. An Arboricultural Impact Assessment Report has been submitted with the application. This describes the existing tree coverage on the site, by species and quality category. A total of 24 trees out of 51 trees surveyed are proposed for removal to facilitate the

development. The location of each of these trees is presented on the submitted Existing Tree Schedule drawing. Of the 24 trees to be removed to accommodate the proposed design, these consist of 0 no. category A trees, 13 no. category B and 11 no. category C trees and 0 no. category U trees. Therefore, the majority of the trees to be removed are of low quality. Their proposed removal equates to a loss of 47% of trees on site. While I note that the planning authority state that the retention of these trees would be desirable, they also consider that the applicant has achieved a suitable balance between retention and making sustainable use of the land. This view is also reflected by the Parks Department of DLRC and they conclude that the overall proposal is satisfactory with regard to tree protection and planting on site.

11.12.3. Several third parties have highlighted that two no. trees along the northern boundary of the site were not included in the arboriculturist survey. I noted these trees on site visit, and their location in the area close to the northern boundary (south of the boundary with Nos. 25 and 26 Churchfields). From a comparison of the records submitted in the arboriculturist report these trees would appear to be a Swedish Whitebeam and Cherry tree, both of which are Category B trees. While their removal is regrettable, I note that the applicant proposes to plant replacement trees in this area along the northern boundary of the site, I consider this approach acceptable.

11.12.4. An objective is identified on the zoning map No.1 of the operative CDP along the eastern boundary of the site "*To protect and preserve Trees and Woodlands*". This level of protection is denoted by the tree symbol on the map and I note that for the most part this symbol would appear to be located outside of the confines of the site boundary. However, the applicant has outlined in their Statement of Consistency that close to the location where the symbol is identified there are 3 no. mature trees within the confines of the site boundary and therefore believes that the objective may include this stand of trees on the eastern boundary of the site. These trees which include trees nos. 1482 Monterey cypress – category B2, 1483 Norway maple – category B2 and 1484 Monterey cypress Category B2, are all proposed for retention as part of the development. I note that a London Plane tree (no. 1476) which is located within the CUS grounds, outside the site boundary to the south is proposed for removal, third party agreement will be required prior to this tree's removal. I note no such approval has been submitted with the application.

11.12.5. Overall, I believe that the design has been cognisant of the significant trees on the site and has allowed for the retention of the majority of the high-quality trees and the fact that no Category A trees are to be removed highlights the efforts made by the applicant to incorporate these trees into the overall landscape strategy. I have examined the documentation on file, including the Arboriculture report and Landscape Design rationale which sets out proposals for the adoption of controlled construction techniques and tree protection measures. I believe that the potential for tree retention has been maximised as best as possible and tree loss has been mitigated by what is a substantial planting scheme of an additional 154 trees. This is considered reasonable. Additional mitigation measures set out in the EclA and the DAU submission with regard to tree felling/removal should be included by condition if permission is granted. These measures are further discussed in Section 11.16 below.

Material Contravention - Trees

11.12.6. It should be noted that the trees (3 no.) identified in the area proximate to the tree objective symbol are retained as part of the current development proposal, which is considered to accord with the requirements of the Development Plan to protect and preserve the trees subject of the objective. Notwithstanding this, the applicant has included the matter of the removal of other trees on site within their Material Contravention Statement stating that it is a matter for the Board to decide whether there would be a material contravention in respect of the objective above relating to tree protection and tree preservation on the site. If so the applicant states that they rely on sub-paragraph (ii) of Section 37(2)(b) and on the conflicting objectives listed above under Section 8.2.8.6 which envisages the removal of trees “*where necessary to facilitate development*”. I note the planning authority have not identified this issue as a material contravention. Having reviewed the information above I would not consider the proposed removal of trees on site would conflict with any of the objectives in the operative CDP and therefore would not constitute a material contravention of the plan. The applicant has sought to retain the 3 no. trees along the eastern boundary of the site which are located closest to the tree protection objective symbol (namely trees no. 1482 Monterey cypress – category B2, 1483 Norway maple – category B2 and 1484 Monterey cypress Category B2) and proposes to plant 154 no. trees on site while removing only 24 no. category B and C trees, achieving an overall net gain of

130 trees on site. In my opinion these measures accord with the requirements of the Development Plan in that commensurate planting and replacement trees are delivered within the proposal.

11.13. Drainage and Flood Risk

11.13.1. In relation to site services, an Infrastructure Report (dated April 2021) has been submitted with the application and I have had regard to same. All of the buildings, (with the exception of Robert Emmet House and the Small Hall) are to be demolished and therefore all existing foul and surface water outfalls from the site to the Dundrum Road foul sewer will be removed. The existing drainage system serving Robert Emmet house is to be retained and the outfall pipes serving this building, carrying combined flows, will also be retained and will continue to discharge to the existing foul sewer on Dundrum Road.

Water Supply

11.13.2. The proposed development will be served by a new 150 mm diameter watermain, which will be installed and connected to the existing 150 mm diameter/ 6 inch diameter cast iron watermain at the western boundary of the site. Observers raised issues with excessive demand on water in the area and the possible impacts that the proposed development may have on the existing water pressure. No water supply capacity issues have been identified by Irish Water (IW), and a new connection will be made from the supply along the Dundrum Road. The applicant has engaged with Irish Water and has submitted design proposals and Irish Water has issued a Statement of Design Acceptance. I am therefore satisfied that the existing Irish Water infrastructure should be capable of serving the site. Irish Water has requested that in the event that permission is granted that conditions be included.

Foul Water Drainage

11.13.3. The new development will be served by a gravity foul drainage network and it is proposed to connect to the existing 225mm diameter foul sewer via the existing foul manhole at the south-eastern boundary of the site. I note the submission from Irish Water stating that network connections can be facilitated. Having regard to the above, I consider that the proposed arrangements for foul water are acceptable, subject to conditions.

Surface Water Drainage

- 11.13.4. The development will be served by a gravity drainage system with run-off attenuated in the catchment prior to discharging to the existing network at the south-eastern boundary of the site. The catchment will be developed through a number of mechanisms including sedum green roof finishes and suspended decking with underlying drainage boards for interception of storage on the roof areas/suspended decking/paving of Blocks A to E. Surface water from the new development, including run-off from the impermeable areas of Blocks A to E will be collected and stored to comply with interception requirements, ensuring that the surface water discharge from the site matches the Qbar flow.
- 11.13.5. The surface water discharge from the proposed development will be directed to the existing surface water pipe at the south-east corner of the site which discharges to the existing 450mm diameter surface water sewer in Churchfields. The existing site entrance and hardstanding area at the north-west corner of the site will be remodelled, removing the existing hardstanding and road gullies and replacing with new permeable paving finishes served by perforated water pipes, collecting infiltrated run-off from the area and directing to the buried surface water network.
- 11.13.6. As previously mentioned, the proposed development of the site also includes the retention of a large number of existing trees and large soft landscaped areas throughout, both within the feature central area and between the various Blocks. These areas are incorporated to reduce surface water drainage as outlined in the SuDS strategy which is illustrated in Figure 2.2 of the submitted Infrastructure Report.
- 11.13.7. No objection has been raised by the Drainage Department of DLRCC in relation to surface water proposals, however a number of conditions have been attached to the report submitted, these relate to further details in relation to green roofs, attenuation tanks, SUDs measures, wayleave agreements, flow control devices, run off rates and stormwater audit. Having regard to the above, I consider that the proposed arrangements for surface water are acceptable, subject to conditions.

Flood Risk

- 11.13.8. A Site-Specific Flood Risk Assessment (FRA) and Stage 1 Surface Water Audit have been submitted with the application. The contents of these documents appear reasonable and robust. According to the CFRAMS Flood Extent maps gathered, the site is located within Flood Zone C, it therefore has a low probability of flooding. However, the report did identify that the proposed site is in close proximity to Flood Zone A and B to the north along the Dodder River and to the west/south west along the River Slang and so a more detailed assessment of the risk of flooding associated with factors such as future climate change was carried out.
- 11.13.9. The risk of fluvial flooding on site is identified as very low. The site is not at risk of flooding from storm events, however, it was identified that flooding will occur on the adjacent roads for a 10% AEP, 1% AEP and 0.5% AEP storm events. As the topography survey shows (attached as an appendix to the FRA), the AOD level of the subject site is above 300mm to the adjacent roads so the risk of flooding due to pluvial storm events is low. The proposed development will not negatively affect the current situation. The run-off from the existing site currently discharges un-attenuated into the existing surface water network. I note that the proposed development will include SUDS measures which will significantly reduce the volume and rate of run-off from the site resulting in a positive effect on the surrounding area. I also note that there is no historical evidence of groundwater flooding at the site. No risk of flooding has been identified for the protected structure Robert Emmet House and no risk has been identified in relation to the proposed basement for either groundwater or pluvial flooding. I note that the Drainage Department of DLRCC states that the submitted FRA is acceptable and in accordance with Appendix 13 Strategic Flood Risk Assessment of the operative development plan.
- 11.13.10. Having regard to the above and to flood mapping (accessed at www.floodinfo.ie), I do not consider that the proposal will increase flood risk on this site or on surrounding areas, subject to conditions. The issue of flooding would not appear to be a significant concern among third parties. The development is in compliance with the Flood Risk Management Guidelines, and DLRCC requirements. I am therefore satisfied that the proposed development will not result in an adverse impact by reason of flood risk, whether on existing or future residents.

Conclusion

11.13.11. I am generally satisfied in relation to the matter of drainage and flood risk. The concerns of the planning authority can be adequately dealt with by means of condition and Irish Water have not raised concerns on this matter, subject to conditions.

11.14. Architectural Heritage and Archaeology

Architectural Heritage

11.14.1. Numerous third-party observers including those from adjoining residents, and An Taisce have raised concerns relating to the loss of architectural heritage within the development site, the removal of structures and the proposed infilling of its gardens/grounds. Concerns in relation to the impact of the development on the protected structure have also been raised by Elected Members in the CE's Report.

11.14.2. As noted previously the proposed development site is in the curtilage of a Protected Structure, Robert Emmet House (RPS No.18), which was originally built as "Milltown Casino" constructed in the late 18 Century and at the time had extensive gardens to the east and grounds to the south. The present-day subject site contains several buildings associated with the Marist Fathers who have owned the property for the last 100 years, these include the Middle House; the former Residence Wing building; former Chapel, Oratory and Side Chapels; and associated ancillary buildings including the Gate Lodge. In addition, there are a number of single storey outbuildings located to the rear (north) of the protected structure along the northern boundary, these include workshops and former stable buildings and lockups. Aside from Robert Emmet House which adjoins the subject site, the remainder of the buildings within the application site are not listed on the Record of Protected Structures nor is the site within an Architectural Conservation Area. I note that some observers have highlighted that the existing buildings should be considered historic and worthy of protection and therefore should be retained on site. As part of the application a Report of the Heritage Impact of the proposed development (dated April 2021) has been submitted. This report which was carried out by a Grade 1 Conservation Architect identified that these buildings, constructed in the 19th and 20th century, are not considered to have any heritage value and that same buildings have been significantly modified over time. Having considered the architectural and heritage assessments for these buildings contained

in same report, I would agree with the conclusion reached that these buildings have no outstanding heritage value and therefore I have no objection to their removal.

11.14.3. It should be noted that Robert Emmet House (a Protected Structure) is effectively an island within the main development site, adjoining the site on all sides, but is not included in the application site. For clarity, minor works are proposed to the southern wall of the Small Hall which currently has 2 no. doors linking this building with the protected structure (see Demolition Plan – Ground Floor Drawing). The Small Hall which is to be converted to an after-school facility as part of the proposed development does not form part of the protected structure. As part of the proposed demolition works a link to the adjoining Middle House at ground floor and first floor level is also to be partly removed and reconfiguration of a fire escape on the eastern elevation of the protected structure is proposed (detailed on Robert Emmet House and Hall Demolition & Proposed Drawing No. P20-019D). These works are proposed to the existing link corridor which does not form part of the protected structure and Figure 49 of the Report on the Heritage Impact illustrates the extent of these works. While I have no objection to the aforementioned works, I would suggest that given the proximity of the works to the protected structure, in particular the works proposed to the opes on the southern wall of the Small Hall, that should the Board be minded to grant permission, a condition should be attached to ensure that all works to these areas should be carried out under the supervision of a specialised conservation expert. Additional works within the setting of the protected structure relate primarily to landscape proposals, which provide for a new setting for the building. The applicant states that all these works remain within lands controlled by the applicant and do not require the consent of the owners of Robert Emmet House. I note that a submission has been received from the current owners of the protected structure, the Joint Managerial Body Secretariat of Secondary Schools, who state that the building is currently in use as offices and they raise concerns both about its long-term status in the context of the surrounding proposed development and also the need to protect the setting of the house. Same observer also states that the proposed development fails to comply with the development plan's objectives in relation to Institutional Lands as outlined under Section 8.2.3.4 (xi) of the operative CDP. Although I acknowledge that there is an interrelationship between the setting of the protected structure and the INST objective on the site, as I have already addressed matters in relation to the Institutional objective and concerns in relation to

the adequacy of the submitted Masterplan in Section 11.5 above, the remainder of this section will concentrate solely on the impact of the proposed development on the protected structure.

11.14.4. I note the comments received from the Conservation Officer of DLRCC which are solely concerned with the treatment of the western boundary wall of the site which front onto the Dundrum Road. I have carried out an assessment of these proposed works under Section 11.15.3 and 11.15.4 below and in summary see no issue with the proposals for this area and note that this wall is not protected, nor has it been identified as having any heritage value. The Conservation Officer notes no other built heritage concerns with the remainder of the proposed development. The planning authority however raise concerns in relation to the positioning of Block A to the east of Robert Emmet House and state that the resultant impact on the VSC is a clear indication of overdevelopment on the site. As stated previously in Section 11.9.8 above I would not agree with the planning authority on this point and consider the location of Block A acceptable. RES3 at Section 2.1.3.3 of the operative CDP refers to the impact of new development on protected structures and states '*In some circumstances higher residential density development may be constrained by Protected Structures and other heritage designations...*' and '*To enhance and protect Protected Structures and their settings new residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity*'. I consider that the applicant has sufficiently addressed these effects by ensuring a sufficient separation distance of 17m between the eastern elevation the protected structure and Block A and also by restricting the height of Block A to 4 storeys or 13.77m which is in fact a lower height than the existing Middle House at ridge height 14.71m.

11.14.5. I note the planning authority have raised issue with the height and proximity of Block D to the protected structure and recommended this block be reduced in height to 8-storeys. Block D which flanks the central square to the front (southeast) of Robert Emmet House is comprised of a structure with three main height components, the applicant in my opinion has been cognisant of the protected structure by restricting the height of the closest element to Robert Emmet House to 5 storeys or 16.92m. A sufficient separation distance is also provided at c. 26m from the southern elevation of the house to this element of the proposed block. The proposed taller element of

Block D at 32.67m is located a sufficient distance in my opinion at c.50m from the protected structure. The proposed landscaping to the front and sides of the protected structure in my view provides a renewed setting for this historical building, one which is currently unsympathetically attached to the Middle House. Regarding the location and height of Block E, which although located to the immediate front (south) of the protected structure, given the proposed 44.72m separation distance, public thoroughfare and intermediate landscaping/open space, in my opinion this will not significantly impact on the setting of the protected structure. Therefore, in summary, I do not believe the proposed development will have any detrimental impact on the protected structure which adjoins the site, and in fact see the development as enhancing its setting and accessibility to the general public. I also note that the Conservation Officer of the Council raised no concerns regarding the impact of the surround proposed blocks on Robert Emmet House.

11.14.6. I acknowledge the submission from An Taisce and their concerns regarding the impact on the vistas from and to the front of Emmet House, which will now be curtailed by proposed Blocks D and E. While I note that certain views of the protected structure will be truncated by the development, as evidence in submitted CGI 02 and Photomontage 15b, I also note that the house as it currently stands is significantly obstructed from view from the south due to the presence of significant tree screening along the southern boundary. In addition, views from the Dundrum Road are currently for the most part obstructed by the existing western boundary wall and significant tree screening along this part of the site. The proposed development in my opinion will enhance certain views of the protected structure from the public realm, in particular from the area to the west of the site and the Dundrum Road as a result of the lowering of the western boundary wall and incorporation of new oversail railing above the retained lower element of this wall. The proposed development has in my view taken the opportunity to enhance the setting of the protected structure in this area. In addition to the above I note that the original entrance from Bird Avenue (as evidenced in the Ordnance Survey Map dating from 1843 contained in the Heritage Impact Report) no longer exists and is currently in use as part of the CUS playing fields. In addition, I am of the view that the singularity of Robert Emmet House and its attendant structures was changed by the addition of the various buildings constructed by the Marist Fathers

and therefore original views of this house, as well as the layout of the associated gardens has significantly changed over time.

11.14.7. In summary while I acknowledge that the setting of the protected structure will be permanently altered in a noteworthy way, this will not in my opinion have a significant negative impact on the architectural heritage of the area. Also, I consider the manner in which the western boundary walls are being altered, will contribute positively to the opening up of views of the protected structure to the west.

Archaeology

11.14.8. Several of the third-party submissions have raised concerns regarding the possible presence of underground tunnels in vicinity of the protected structure. Historically it is thought that Robert Emmet famously created an elaborate network of tunnels to hide/ evade capture after his failed uprising. The DAU in their submission noted the potential for archaeological features / materials to be found at the proposed site. I note the submission received from the DAU which recommended that a condition pertaining to Pre-development Archaeological Assessment be included in any grant of planning permission. I am satisfied that a pre-development assessment of the site will address the concerns raised by third parties and ensure that any archaeological materials/features present can be addressed appropriately by way of preservation in situ, preservation by record (excavation) or monitoring as may be required by the National Monuments Service. In order to address the above concerns, I would recommend that a condition in relation to pre-development assessment as recommended by the DAU should be attached to any grant of permission. The assessment should include for archaeological test excavations and no site preparation or construction work should be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the National Monuments Service.

11.15. Other Matters

Part V

11.15.1. The applicant proposes to comply with the requirements of Part V of the Planning and Development Act 2000, as amended by way of provision of 23 units on site. These units are to be provided in the form of both one bed and two bed apartments with

Blocks A (9 units), B (8 units), C (4 units) and D (2 units). The planning authority have not raised issue in this regard and recommend a condition to deal with the matter, in the event of permission being granted for the proposed development. This is considered acceptable.

Materials and Finishes

11.15.2. In relation to the architectural treatment of the proposed buildings, in my view there is sufficient detailing and use of good quality materials proposed. The predominant materials of the buildings is mottled buff brick. The exception to the use of brick and metal is the taller element of Block D which is clad in a white natural stone, I see this variation in finishes as appropriate and acknowledge its function in emphasising this taller building on site. The proposed facades feature shallow vertical recesses, various expressed balconies and in parts larger windows with vertical emphasis. In my opinion the proposed materials are robust, creating distinctiveness and character in the design, whilst ensuring a relationship between the blocks. This would assist in establishing an identity for the development as a whole.

Boundary Treatment

11.15.3. Some of the third-party submissions received raise concerns regarding proposed boundary treatments and the structural integrity of the northern boundary wall, in particular that which they state is attached to the existing stable/lockup and workshop buildings which are located against the northern boundary of the site and are proposed for demolition. I have already acknowledged that for residential amenity purposes in relation to noise that the existing height of the northern boundary walls, which vary from c.2m to 3.94m should be retained (See Section 11.9.13). This wall along the northern boundary is a random rubble granite wall, apparently raised at the time of the construction of the Churchfields Estate. The wall is higher where it forms part of the north stables' wall. I note that Section 7.2 of the submitted Outline Construction Environmental Management Plan which in fact relates to Basement Excavation enabling works also makes reference to works to those structures located along the northern boundary wall as referenced above. The report states *'It is noted that there are existing shed structures within the site which abut the northern and eastern boundary wall and which are proposed to be demolished. At this stage it has not been*

possible to determine the exact abutment detail between the shed walls and the existing northern boundary wall. Prior to demolition of these elements commencing, a detailed inspection of these junctions and some localized opening up works will be undertaken by the Contractor in order to develop a Risk Assessment and Method Statement outlining the most appropriate method of removing the shed structure walls whilst retaining the existing boundary walls'. In this regard I note that the applicant seeks to retain the existing boundary walls along the northern boundary, however a contradictory statement can be found within the submitted Report on Heritage Impact (April 2021) which states on page 15 that 'Where the sheds are removed, the extra height provided by the mass concrete/block/rubble extension will be taken down to an original level. The wall will then be capped to match that of the boundary wall on Dundrum Road as described above'. Given the differences in works proposed as outlined above and in order to maintain an appropriate height to ensure the protection of adjoining residential amenities, I recommend that if the Board is disposed towards a grant of permission, exact details relating to same should be agreed with the planning authority prior to the commencement of any works on site.

11.15.4. The boundary wall with the Dundrum Road which runs along the western boundary of the site is comprised of a random rubble construction, approx. 3m high. The stone is a mix of granite and calp, not laid to courses and it has been rendered on the road side in sand/cement wet dash approximately 10 years ago. The wall is considered to be in a stable condition but in poor quality and the applicant proposes to open this wall at three new points, one adjacent to the main vehicular entrance, one centrally and another at the southern end of the western boundary, to the south of Block E. I note the submission received from the Conservation Officer of DLRCC who states that while they would have a preference to see a greater proportion of this wall retained with minimum lowering of the wall and use of railings, they accept the findings of the Report on the Heritage Impact and are satisfied that the proposal has achieved a suitable and balanced treatment of the boundary wall along the Dundrum Road. Having examined the proposed works I would concur with the Conservation Officers view and would also add that it is my opinion that the integration of sections of railing flanking the new proposed pedestrian entrances along this wall with add to the integration of the site with the surrounding streetscape and Dundrum Road and also

provide enhanced views of the protected structure. I am therefore satisfied with the works proposed.

11.16. Ecological Assessment

11.16.1. A number of submissions have raised the issue of impacts on ecology, including inter alia impacts on birds, badgers and foxes. The applicant has submitted an Ecological Impact Assessment (EclA) with the application. Having regard to the nature of the proposed development, which will include connections to public foul and surface water networks, and the suburban nature of the area, I consider that potential impacts on ecology primarily arise during the construction phase, as a result of site clearance, disturbance of species and removal of potential habitats. A number of surveys were carried out on the site which included habitat and flora surveys and these are detailed in the submitted EclA. With regard to habitats currently present on the site, these comprise a mix of amenity grassland, dry meadows and grassy verges, scattered trees and parkland, ornamental non-native shrub, hedgerows, treelines and buildings and artificial surfaces. No rare or protected habitats or plant species were noted. No invasive species listed on the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011 were recorded on the proposed development site.

Mammals

11.16.2. No badger setts were identified by surveyors in 2020 and although signs of possible foraging were noted these were considered to form only a small part of a larger badger territory. The nearest suitable waterbody for otter is the River Dodder, located c. 150m west of the proposed development. No evidence of otter was recorded within the proposed development site during field surveys undertaken in 2020. The habitats found within the proposed development are unlikely to be used by commuting and foraging otters.

Bats

11.16.3. The EclA reports notes the importance of bats, and notes that all bats and their breeding and resting places, are protected under the Wildlife Acts and that all bat species are also listed on Annex IV of the EU Habitats Directive (with the lesser horseshoe bat also listed on Annex II) and are afforded strict protection under the

Habitats Directive and the European Communities (Birds and Natural Habitats) Regulations, 2011. No bats were observed emerging from or returning to any of the buildings in the proposed development site during the roost presence/absence surveys conducted in June 2020. Three species of bat, common pipistrelle bat, soprano pipistrelle bat and Leisler's bat were recorded during the surveys, flying through the lands at high elevation (50m+) or flying along hedgerows/treelines within the proposed development site. Notwithstanding the availability of suitable bat foraging habitat in the site, it is not well-connected with higher quality foraging habitats in the vicinity (e.g. riparian woodland along the River Dodder to the north-west). The local bat populations are considered to be of local importance (higher value) for bats. This is because the lands have some, albeit low, suitability for foraging bats.

- 11.16.4. Most of the existing buildings on site have relatively few defects which could provide opportunities for roosting bats. The exception to this being lean-to sheds along the northern boundary wall, which are roofed generally in corrugated metals. Most aspects of the buildings are lit by security lighting or by light spill from adjacent residential dwellings or public street lighting, which reduces the likelihood of use by bats.
- 11.16.5. 3no. trees were identified as having bat roost potential within the proposed development. Two of these are located along the western boundary and one to the southeast of the site. However, I note that these trees are considered to have low suitability for roosting bats due to only a small number of potential roost features recorded.

Breeding Birds

- 11.16.6. Common bird species including blackbird, coal tit, woodpigeon, dunnock and robin (all species green listed on BoCCI) were observed foraging and perching within the western treeline. A single sparrowhawk was also noted hunting other bird species along this western treeline. Other species encountered in the proposed development site included bullfinch, goldfinch, and hooded crow, jackdaw, siskin and wren (all green-listed on BoCCI), black-headed gull and starling (amber-listed on BoCCI), and grey wagtail (red-listed on BoCCI). The following species were observed in the lands and vicinity: blue tit, goldfinch, great tit, jackdaw, magpie, mallard, pied wagtail, rook, woodpigeon and wren (all green-listed).

Wintering Birds

11.16.7. The proposed development site contains a bird fauna that is typical of similar sites in the Dublin area. It is of local importance (higher value) for breeding and wintering (non-SCI) birds on this basis. The amenity grasslands in the adjacent CUS site regularly attract relatively high numbers of black-headed gulls (highest mean count across all surveys: 34.75 individuals) and curlews (highest mean count across all surveys: 34 individuals) during winter months, however these numbers do not reach the 1% national population threshold that would make the site nationally significant in terms of number of either species recorded, therefore the wintering SCI species is valued as local importance (higher value). The proposed site itself is not considered suitable for wintering birds given that it is small and forms mosaics with ornamental/non-native shrubs and is cluttered with scattered trees, hedgerows and treelines.

Possible Impacts

11.16.8. Construction-related disturbance and displacement of fauna species could potentially occur within the vicinity of the proposed development. There are no European sites within the disturbance Zone of Impact (Zoi); the next nearest European site to the proposed development is c. 2.8km away. A detailed assessment of possible impacts on Natura 2000 sites is detailed further under Section 13 below. As set out in the Appropriate Assessment (AA) Screening Report, in concluding that the proposed development, whether considered on its own or in combination with other plans or projects, is not likely to have a significant effect on any European sites, mitigation measures intended to avoid or reduce any harmful effects of the proposed development on European sites were not required or taken into account in the AA Screening Report.

11.16.9. Construction of the proposed development will result in the loss of habitat area; including c.185m of hedgerow and treeline. None of the habitats directly affected by the proposed development are considered to be any greater than of local biodiversity importance (lower value). There are no habitats of local importance (higher value) or higher within the proposed development site and therefore the overall loss of habitat is likely to be insignificant at all scales. The planting of trees (154 individual trees), shrubs and hedgerows (total c. 413.5m) throughout the proposed development site

will mitigate against the loss of the existing sections of hedgerows and treelines. The submission received from the DAU notes that the losses of biodiversity which may result from the removal of this woody vegetation should be made up for to a considerable extent by the proposed planting of 154 trees, 111 m of native hedgerow and 302.5 m of ornamental hedging.

Mitigation Measures

- 11.16.10. The EclA recommended various measures regarding the timing of building demolition and the monitoring and methodology of tree felling during site clearance to ensure the avoidance of injury to bats which might potentially be present. In addition, emergence surveys were also recommended to be carried out on those trees on the night proceeding felling. Furthermore, as an additional mitigation measure the installation of bat friendly lighting and bat boxes was recommended for the proposed development. Mitigation measures were also recommended in relation to retention and protection of vegetation during construction and habitat enhancement including the planting of wildflower meadows. Measures to protect breeding birds during construction were also included, with vegetation removal to take account of bird nesting season.
- 11.16.11. As there is no risk of the proposed development impacting the local badger populations, mitigation measures intended to avoid or reduce any harmful effects of the proposed development on the species populations were not required or taken into account.
- 11.16.12. In addition to the mitigation measures recommended in the EclA, I also note that the DAU have reiterated the importance of the timing of tree clearance to be carried out outside of the main bird nesting season and have recommended a condition is attached to any grant of permission in relation to same. They also recommended that a condition is attached which requires the presence of a licensed bat specialist on site during demolition and tree felling. Two other conditions in relation to the location and type of bat boxes and a finalised lighting plan were also recommended to ensure appropriate consideration of any bat species which may use the site.

Conclusion

11.16.13. Overall, it was concluded that the proposed development does not have the potential to result in significant negative effects on flora or fauna at a local or any other geographic level. No significant impact on the water environment and on aquatic habitats are predicted. I generally concur with the observation and conclusions contained within the EclA and I consider that the issues raised in the submissions, as relate to Ecology, have been adequately addressed. I am satisfied that provided all mitigation measures are implemented in full and remain effective throughout the lifetime of the facility, no significant negative residual impacts on the local ecology or on any designated nature conservation sites, are expected from the proposed works.

11.17. Planning Authority Concerns

11.17.1. The planning authority have recommended that the application be refused for four reasons. Firstly, in relation to a lack of provision of open space sufficient to maintain the open character of the lands in compliance with Policy RES5 and Section 8.2.3.4 (xl). Secondly in relation to the excessive height, scale and positioning of Blocks A and B and the resultant visual and overbearing impacts the development of these blocks would have on the residential amenities of adjoining properties at Churchfields. Thirdly in relation to the inadequate separation distances proposed between apartment blocks and the resultant overlooking and visual overbearing impacts that would occur. The fourth and final reason for refusal recommended by the planning authority relates to building heights and the abrupt transition in scale with 'F' zoned open space lands to the south of the subject site.

11.17.2. In relation to the open character of lands, I have assessed the proposals in detail in Section 11.5 of my report above and I consider that the proposed development has sufficiently addressed the requirements as outlined under Policy RES5 and Section 8.2.3.4 in relation to the quantity of open space provision and the retention of existing features on site including trees and boundary walls.

11.17.3. Having regard to the height, scale and positioning of the development 1.6m above the ground levels with Churchfields to the north and also the impacts the development would have on the existing housing to the east I have addressed this in Sections 11.6 and 11.7 above and have recommended that apartments A 40, A-31, A-32 and A-33

are removed from Block A to create an appropriate set back at third floor level from the northern boundary.

- 11.17.4. In relation to the inadequate separation distances proposed between the apartment blocks, I have considered this issue under Section 11.9 above and I consider that adequate separation distances have been provided and that any potential for overlooking of habitable rooms has been mitigated by appropriate design measures.
- 11.17.5. Section 11.6 above describes in detail my assessment of the height and design of the proposed development. This assessment is undertaken in the context of national policy (NPF) and guidance, particularly NPO 13 concerning performance criteria for building height and NPO 35 concerning increased residential density in settlements, and the criteria under Section 3.2 and associated SPPR 3 of the Building Height Guidelines, 2018 and I am satisfied the proposed heights would be acceptable on the site.
- 11.17.6. I have fully considered the planning authority recommendation to refuse the application for the four reasons stated in full in Section 8.4 above. Having regard to the foregoing matters, alongside the wider assessment set out in my report (both above and below), I have decided to recommend that the application be approved subject to conditions, including a condition to remove Apartments A31, A-32, A-33 and A-40 from the third-floor level of Block A.

11.18. Material Contravention

- 11.18.1. This is a complex file in terms of the number of material contraventions being put forward by the various parties, including submission received from third parties, An Taisce and the planning authority relating to material contraventions of the operative CDP resulting from the proposed development. Differences between parties are evident as to what matters constitute material contraventions or otherwise. Having regard to all of the information received and in the interests of clarity, I will summarise the matters of material contravention, as I see it. I will not reiterate the points made within my assessment above but refer to relevant sections within this report.
- 11.18.2. The applicant has submitted a Material Contravention Statement. The public notices make reference to a statement being submitted indicating why permission should be

granted having regard to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended). The issue raised in the applicant's Material Contravention Statement relates to the following:

- Building Height and compliance with the DLRCDP Appendix 9 Building Height Strategy
- Transitional Zone – Section 8.3.2
- Unit Mix – Section 8.2.3.3 (iii)
- Density – RES3
- Trees – Objective on Zoning Map 1 '*To protect and preserve Trees and Woodland*'

11.18.3. The planning authority considers the development also represent a material contraventions of the operative CDP under the following:

- Policy RES5 and Section 8.2.3.4(xi) in relation to Open Character of lands and absence of Masterplan Space (Reason for Refusal No. 1))
- Zoning objective '*to protect and/or improve residential amenities*' (Reason for Refusal No. 2)

11.18.4. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that: -

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

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

Having regard to the characteristics of the proposed development, Section 37 (2) (b) (i), (ii) and (iii) are considered relevant in this instance, the details of which are outlined as follows:

11.18.5. Section 37 (2) (b)(i)

The proposed development of 231 apartment units falls within the definition of strategic housing as set out in the Planning and Development (Housing) and Residential Tenancies Act 2016 and by the government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the proposed material contravention is justified by reference to section 37(2)(b)(i) of the act.

11.18.6. Building Height – See Section 11.6.9 - 11.6.12 above for further details

Open to the Bord to invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, having regard to section 37(2)(b)(i) and (iii), as matter has been addressed in Material Contravention Statement. I consider that the proposal does represent a material contravention.

11.18.7. Transitional Zone – See Sections 11.6.9 - 11.6.12 above for further details

11.18.8. Open to the Bord to invoke section 37(2)(b) of P&D Act 2000 having regard to section 37(2)(b)(i) and (iii) as matter has been addressed in Material Contravention Statement. I consider that the proposal does represent a material contravention.

11.18.9. Unit Mix - See Sections 11.9.19 – 11.9.20 above for further details

Open to the Board to invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, having regard to section 37(2)(b)(i), (ii) and (iii), as matter has been addressed in Material Contravention Statement. I consider that the proposal does represent a material contravention.

11.18.10. **Density** – See Sections 11.5.22 – 11.5.27 above for further details

Open to the Board to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii) (NPO 35) as matter has been addressed in Material Contravention Statement. I consider that the proposal does not represent a material contravention.

11.18.11. **Trees** – See Section 11.12.6 above for further details

Open to the Board to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (ii), due to strategic nature of application and conflicting policies within the operative CDP. I consider that the proposal does not represent a material contravention.

11.18.12. **Policy RES5 and Section 8.2.3.4 (xi) in relation to Open Character of lands**
– See Sections 11.5.7 – 11.5.18 above for further details.

In relation to retaining open character of the lands being retained- Matter not addressed in Material Contravention Statement in context of section 37(2)(b); difficult for Bord to invoke section 37(2)(b). I consider that the proposal does not represent a material contravention.

11.18.13. **Absence of Comprehensive Masterplan** – See Sections 11.5.31 above for further details.

Matter not addressed in Material Contravention Statement in context of section 37(2)(b); may be difficult for Board to invoke section 37(2)(b). I consider that the proposal does not represent a material contravention.

11.18.14. **Zoning Objective** – See Sections 11.4.7 above for further details.

Matter not addressed in Material Contravention Statement in context of section 37(2)(b); may be difficult for Board to invoke section 37(2)(b). I consider that the proposal does not represent a material contravention.

12.0 Environmental Impact Assessment (EIA) Screening

- 12.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report (dated May 2021) and I have had regard to same. The report concludes that the proposed development is below the thresholds for mandatory EIAR and that a sub threshold EIAR is not required in this instance as the proposed development will not have significant impacts on the environment.
- 12.2. Section (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- (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. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- 12.3. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that an EIA is required for:
- “Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”*
- 12.4. The proposed development involves the demolition of existing buildings on site and the construction of 231 no. apartments and ancillary facilities split over 5 blocks. The site has an overall area of c. 1.6ha and is located within an existing built-up area but not in a business district. The site is currently zoned for residential use and serviced. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended), in that it is less than 500 units and is below the 10ha (that would be the applicable threshold for this site, being outside a business district but within an urban area). In addition, Class 14 relates to works of demolition carried out in order to facilitate a project listed

in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. I would note that the uses proposed are similar to predominant land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The AA Screening set out in Section 13.0 concludes that the potential for adverse impacts on Natura 2000 site can be excluded at the screening stage

12.5. The criteria at Schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. The submitted EIA Screening Report (dated May 2021) includes the information required under Schedule 7A to the planning regulations. In addition, the various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts regarding other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Architectural Design Statement
- Townscape and Visual Impact Assessment
- Landscape Design Book
- Appropriate Assessment Screening Report
- Traffic and Transport Assessment
- Flood Risk Assessment
- Stage 1 Surface Water Audit

- Wind Microclimate Study
- Planning Report
- Site Specific Management and Lifecycle Report
- Public Lighting Report
- Construction and Demolition Waste Management Plan
- Outline Construction Environmental Management Plan
- Operational Waste Management Plan
- Hydrological and Hydrogeological Qualitative Risk Assessment
- Ecological Impact Assessment
- Arboricultural Impact Assessment Report
- Daylight and Sunlight Assessments
- Report on the Heritage Impact of the Proposed Development
- Energy Statement
- Noise Impact Assessment

12.6. I note third party submissions to the application raise concern regarding the lack of a statement under Article 299B(1)(b)(ii)(II)(C) of the Planning Regulations 2001 (as amended). Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive have been taken into account I would note and have considered that the following assessments / reports have been submitted:

- Report in Support of the Habitats Directive Screening has been undertaken pursuant to the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) and also addresses requirements arising from the Water Framework Directive (and River Basin Management Plans) and the Urban Wastewater Treatment Directive.

- An Energy Statement has been submitted with the application, which has been undertaken pursuant to the EU Energy Performance of Buildings Directive and requirement for Near Zero Energy Buildings.
- The Flood Risk Assessment addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
- An Outline Construction Environmental Management Plan, Construction and Demolition Waste Management Plan and Operational Waste Management Plan have been submitted that addresses requirements under the EC Waste Framework Directive and EC Environmental Noise Directive and EU Ambient Air Quality Directive.
- The Noise Assessment relies on standards derived under or related to the EU Environmental Noise Directive.

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

12.8. I have completed an EIA screening assessment as set out in Appendix A of this report and recommend to the Board 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 (EIAR) would not therefore be required. The conclusion of this assessment is as follows:

Having regard to: -

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands zoned Objective 'A' *To protect and-or improve residential amenity* and with a specific local objective *to protect and/or provide for Institutional Use in open lands* in the Dun Laoghaire Rathdown Development Plan

2016-2022. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).

- (c) The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- (d) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (e) 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),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) 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 Outline Construction Environmental Management Plan, Construction and Demolition Waste Management Plan and Operational Waste Management, Ecological Impact Assessment, Flood Risk Assessment, Arboricultural Impact Assessment Report and Report on Heritage Impact.

12.9. I am satisfied that the proposed development, by reason of the nature, scale and location of the subject site, would not be likely to have significant effects on the environment and that the preparation and submission of an EIAR would not therefore be required.

13.0 Screening for Appropriate Assessment (AA)

13.1. An Appropriate Assessment Screening Report completed by Scott Cawley (dated April 2021) was submitted with the application and I note that the site surveys described in the report were undertaken in February 2020 and June 2020, with winter bird surveys undertaken in October 2020 and March 2021. The applicant’s Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The report

also examined other associated reports including the EclA, and the Hydrological and Hydrogeological Qualitative Risk Assessment.

13.2. I have had regard to the contents of same. The submitted report concludes on the basis of objective information, that the proposed development, whether considered on its own or in combination with other plans or projects, will not have a significant effect on any European sites.

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

13.4. **The Project and Its Characteristics**

13.4.1. See the detailed description of the proposed development in section 3.0 above. The development site is described on page 9 of the submitted report with the following habitat types assigned using the Heritage Council classification system (Fossitt, J.A. 2000) identified within the proposed development site: Amenity grassland (improved) (GA2), Dry meadows and grassy verges (GS2), Scattered trees and parkland (WD5), Hedgerows (WL1), Treelines (WL2), Ornamental/non-native shrub (WS3) and Buildings and artificial surfaces (BL3).

13.5. **The European Sites Likely to be Affected - Stage I Screening**

13.5.1. In carrying out the Stage 1 screening, the question to be addressed is 'Is the project likely to have a significant effect, either individually or in combination with other plans and projects, on the European site(s) in view of the site's conservation objectives?' The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European Site(s).

13.5.2. The development site is not within or directly adjacent to any Natura 2000 site. This site lies within an urban area and current land uses in the vicinity predominantly comprise residential areas to the west, north and east and the CUS Sports Grounds flank the site to the south. There are no surface waterbodies within the proposed development site, and I note that the nearest water course to the site is located 100 metres to the west, the River Slang. This river joins the River Dodder, c. 160m north-

west of the site, before merging with the Lower Liffey Estuary waterbody, c. 5.2km downstream of the proposed development site.

13.5.3. As outlined in the submitted screening report, I accept their assessment that the possible risks to any European Site relate to:

- Habitat loss and fragmentation;
- Habitat degradation as a result of hydrological impacts;
- In combination impacts of water quality in Dublin Bay;
- Habitat degradation as a result of introducing/spreading non-native invasive species; and
- Disturbance and displacement impacts in relation to otter and bird species.

13.5.4. I have had regard to the potential zone of influence as identified within the submitted Appropriate Assessment (AA) Screening Report which identifies the following 16 no. Natura 2000 sites as in the vicinity of the site (15km radius):

- South Dublin Bay SAC [000210] - 2.8km from site
- North Dublin Bay SAC [000206] - 7.2km from site
- Wicklow Mountains SAC [002122] - 8.1 km from site
- Glenasmole Valley SAC [001209] - 9.7km from site
- Rockabill to Dalkey Island SAC [003000] - 10.3km from site
- Knocksink Wood SAC [000725] - 10.8km from site
- Howth Head SAC [000202] - 12km from site
- Ballyman Glen SAC [000713] - 12.8km from site
- Baldoyle Bay SAC [000199] - 12.6km from site
- Rye Water Valley/Carton SAC [001398] - 17.4km from site
- South Dublin Bay and River Tolka Estuary SPA [004024] - 2.8km from site
- North Bull Island SPA [004006] - 5.6km from site
- Dalkey Islands SPA [004172] - 10.4km from site

- Wicklow Mountains SPA [004040] – 8.4km from site
- Baldoyle Bay SPA [004016] - 12.6km from site
- Howth Head SPA [004113] - 14.1km from site

13.5.5. In determining the zone of influence for the purposes of my assessment, I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (<https://gis.epa.ie/EPAMaps/AAGeoTool>) and having regard to the content and considerations in the applicant's Appropriate Assessment Screening Report.

13.5.6. The proposed development does not overlap with any European sites. While I note the 16 sites listed in the applicant's AA Screening Report, in determining the zone of influence, I do not agree with the inclusion of all of the sites identified. I have excluded 5 of the sites (all SACs) as my assessment has not relied solely on the 15km radius of the project site for their inclusion and I have only included those sites where there is evidence of a source-pathway-receptor link that may give rise to potential for likely significant impacts on the Natura 2000 site. I have also in forming this view considered the qualifying interests (QI)/species of conservation interest (SCI) relating to these sites.

13.5.7. In respect of the Rye Water Valley/Carton SAC (001398), the Glenasmole Valley SAC (001209), Knocksink Wood SAC (000725), Howth Head SAC (000202), and the Ballyman Glen SAC (000713), I do not consider these sites to fall within the zone of influence of the project, in particular having regard to:

- the lack of any identified hydrological connection or obvious pathway to these sites from the development site.
- the lack of any faunal species listed as qualifying interest for these SACs.

13.5.8. I consider that the following 11 no. sites listed in Table 13.1 below lie within the zone of influence of the project due to surface water and wastewater direct or indirect pathways ultimately leading to Dublin Bay, with potential impacts on these sites. In addition, given the potential for otter along the Dodder River, which is located approximately 150m west of the site, and as same waterbody is in the same sub-

catchment as the Wicklow Mountains SAC, notwithstanding its distance of 8.1km south of the proposed site, this SAC has also been included within the zone of influence for further examination.

Table 13.1: Natura 2000 Sites within ‘Zone of Influence’ of the Project.

<i>European Site (Site Code)</i>	<i>Distance</i>	<i>Qualifying Interests/Species of Conservation Interest (Source: NPWS)</i>
Special Area of Conservation (SAC)		
South Dublin Bay SAC [000210]	2.8km	1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 <i>Salicornia</i> and other annuals colonising mud and sand 2110 Embryonic shifting dunes CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
North Dublin Bay SAC [000206]	7.2km	1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 <i>Salicornia</i> and other annuals colonising mud and sand 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) 1395 Petalwort <i>Petalophyllum ralfsii</i> 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes) 2190 Humid dune slacks CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Wicklow Mountains SAC [002122]	8.1 km	3110 Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) 3160 Natural dystrophic lakes and ponds 4010 Northern Atlantic wet heaths with <i>Erica tetralix</i> 4030 European dry heaths 4060 Alpine and Boreal heaths

		<p>6130 Calaminarian grasslands of the <i>Violetalia calaminariae</i></p> <p>6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)</p> <p>7130 Blanket bogs (* if active bog)</p> <p>8110 Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>8210 Calcareous rocky slopes with chasmophytic vegetation</p> <p>8220 Siliceous rocky slopes with chasmophytic vegetation</p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>1355 <i>Lutra lutra</i> (Otter)</p> <p>CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
Rockabill to Dalkey Island SAC [003000]	10.3km	<p>1170 Reefs [1170]</p> <p>1351 Harbour Porpoise <i>Phocoena phocoena</i></p> <p>CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
Baldoyle Bay SAC [000199]	12.6km	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p><i>Salicornia</i> and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
Special Protection Area (SPA)		
South Dublin Bay and River Tolka Estuary SPA [004024]	2.8km	<p>A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>A130 Oystercatcher <i>Haematopus ostralegus</i></p> <p>A137 Ringed Plover <i>Charadrius hiaticula</i></p> <p>A141 Grey Plover <i>Pluvialis squatarola</i></p> <p>A143 Knot <i>Calidris canutus</i></p> <p>A144 Sanderling <i>Calidris alba</i></p> <p>A149 Dunlin <i>Calidris alpina</i></p> <p>A157 Bar-tailed Godwit <i>Limosa lapponica</i></p>

		<p>A162 Redshank <i>Tringa totanus</i> A179 Black-headed Gull <i>Croicocephalus ridibundus</i> A192 Roseate Tern <i>Sterna dougallii</i> A193 Common Tern <i>Sterna hirundo</i> A194 Arctic Tern <i>Sterna paradisaea</i> A999 Wetland and Waterbirds CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
North Bull Island SPA [004006]	5.6km	<p>A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> A048 Shelduck <i>Tadorna tadorna</i> A052 Teal <i>Anas crecca</i> A054 Pintail <i>Anas acuta</i> A056 Shoveler <i>Anas clypeata</i> A130 Oystercatcher <i>Haematopus ostralegus</i> A140 Golden Plover <i>Pluvialis apricaria</i> A141 Grey Plover <i>Pluvialis squatarola</i> A143 Knot <i>Calidris canutus</i> A144 Sanderling <i>Calidris alba</i> A149 Dunlin <i>Calidris alpina</i> A156 Black-tailed Godwit <i>Limosa limosa</i> A157 Bar-tailed Godwit <i>Limosa lapponica</i> A160 Curlew <i>Numenius arquata</i> A162 Redshank <i>Tringa totanus</i> A169 Turnstone <i>Arenaria interpres</i> A179 Black-headed Gull <i>Croicocephalus ridibundus</i> A999 Wetlands & Waterbirds CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
Dalkey Islands SPA [004172]	10.4km	<p>A192 Roseate Tern <i>Sterna dougallii</i> A193 Common Tern <i>Sterna hirundo</i> A194 Arctic Tern <i>Sterna paradisaea</i> CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
Wicklow Mountains SPA [004040]	8.4km	<p>A098 Merlin <i>Falco columbarius</i> A103 Peregrine <i>Falco peregrinus</i> CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
Baldoyle Bay SPA [004016]	12.6km	<p>A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> A048 Shelduck <i>Tadorna tadorna</i> A137 Ringed Plover <i>Charadrius hiaticula</i> A140 Golden Plover <i>Pluvialis apricaria</i></p>

		A141 Grey Plover <i>Pluvialis squatarola</i> A157 Bar-tailed Godwit <i>Limosa lapponica</i> A999 Wetland and Waterbirds CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Howth Head SPA [004113]	14.1km	A188 Kittiwake <i>Rissa tridactyla</i> CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

13.6. Potential for Likely Significant Effects on Designated Sites

- 13.6.1. In considering whether the project is likely to have a significant effect, either individually or in combination with other plans and projects, on the above noted European site(s) in view of their conservation objectives, consideration has been given to the construction, as well as operational phases. The proposed development does not overlap with the boundary of any European site, therefore, there are no European sites at risk of direct habitat loss impacts. As the proposed development does not traverse any European sites there is no potential for habitat fragmentation to occur.
- 13.6.2. The proposed development site does not support populations of any fauna species linked with the QI/SCI populations of any European site(s). As the proposed development will not result in habitat loss or habitat fragmentation within any European site, there is no potential for any in combination effects to occur in that regard. I also note that no non-native invasive species were recorded within the proposed development site as part of the surveys conducted or noted as part of my site visit, and therefore there is no risk of their accidental spread or introduction to habitats within European sites.

Habitat degradation as a result of hydrological impacts

- 13.6.3. As outlined in the submitted AA Screening Report surface water run-off and discharges from the proposed development will drain to the existing local surface water drainage network. Foul waters from the proposed development will be discharged to Ringsend WWTP for treatment, via the existing foul water drainage network, prior to discharge into the Liffey Estuary/Dublin Bay. Therefore, the Zone of

Influence (Zol) of potential effects on water quality from the proposed development could extend to Dublin Bay.

Surface Water

- 13.6.4. In relation to surface water, I note that a 'Hydrological and Hydrogeological Qualitative Risk Assessment' report was prepared for the proposed development by Awn Consulting (dated April 2021) which has informed the AA Screening Report submitted. This assessment was carried out using a conceptual site model (CSM) which was based on an understanding of the hydrological and hydrogeological environment, plausible sources of impact and knowledge of receptor requirements, which in turn allow possible source-pathway-receptor linkages to be identified. At its closest point, the site is over 2.8km away from the boundary of the Natura 2000 areas within Dublin Bay. Any potential sources of impacts during construction and operation are considered in the CSM and all potential sources of contamination are considered without taking account of any measures intended to avoid or reduce harmful effects of the proposed development (i.e. mitigation measures). I note that attenuation and SuDS are incorporated into the scheme to ensure no negative impact to the quality or quantity of run off to the surface water drainage network. These installations have not been introduced to avoid or reduce an effect on any Natura 2000 site and are in fact required for new developments under the objectives of the Greater Dublin Strategic Drainage Study and Dún Laoghaire-Rathdown County Development Plan 2016-2022. Surface water runoff from the proposed development will be attenuated to greenfield runoff rates and conveyed to the existing surface water network before its discharge to the River Slang, which would be subsequently carried downstream to the Dodder and then on to the River Liffey and then Dublin Bay. While I note that there is a hydrological link to the Natura 2000 sites at Dublin Bay, given the distance and relatively low volume of surface water run-off or discharge events associated with the proposed development, any potential contaminate would be attenuated, diluted (through the Slang River or River Dodder) and dispersed near the subject site. Therefore, I am satisfied that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of the European sites in, or associated with, Dublin Bay as a result of surface water run-off or discharges.

Foul Water

- 13.6.5. It is proposed that foul water from the site will be discharged to a local authority foul sewer. There is therefore an indirect hydrological pathway between the application site and the coastal sites listed above via the public drainage system and the Ringsend WWTP. As outlined in the submitted AA Screening Report, the most recent information from Irish Water indicates that the Ringsend WWTP is operating above its capacity of 1.64 million P.E. (Irish Water, 2017), with a current operational loading of c. 2.2 million P.E. Ringsend WWTP operates under a discharge licence from the EPA (D0034-01) and must comply with the licence conditions. Despite the capacity issues associated with the Ringsend WWTP, the Liffey Estuary Lower and Dublin Bay are currently classified by the EPA as being of “Unpolluted” water quality status and ‘Good’ WFD status. Furthermore, I note that planning permission was granted by the Board (ABP Ref. 301798) for an upgrade to the Ringsend Wastewater Treatment (WWTP) in April 2019 which will result in the WWTP achieving a population equivalent of 2.4 million and are to be completed between by 2027 to 2028. In addition, upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is also noted that the planning authority and Irish Water raised no concerns in this regard in relation to the proposed development.
- 13.6.6. Having regard to the current unpolluted status of Dublin Bay, the scale of the proposed development which as outlined in the AWN report would equate to a very small percentage (0.064%) of the overall discharge volumes sent to Ringsend WWTP for treatment and on-going upgrade works to Ringsend ensuring capacity and compliance with EU’s Urban Wastewater Treatment Directive, I am satisfied that the proposed development will not impact on the overall water quality status of Dublin Bay and that there is no likelihood that pollutants arising from the proposed development would undermine the conservation objectives of any of the qualifying interests or special conservation interests of the European sites in, or associated with, Dublin Bay as a result of foul water discharges.

Disturbance and Displacement impacts

- 13.6.7. Otter - I note that the site is within 150m of the River Dodder which supports qualifying interest species otter. The nearest SAC designated for otter is the Wicklow Mountains SAC, c. 8.1km south-west of the proposed development and the Dodder is located in the same sub-catchment as this SAC. In addition, considering the size of otter territories, any otter potentially using the River Dodder may form part of the or support the SAC population. However, considering the distance between the proposed site and the River Dodder at 150m it is not considered that these species will be impacted as a result of construction or operation activity as the River is outside of the zone of influence for this species. Regarding hydrological impacts from the proposed development on otter or its prey species, the AWN Report submitted with the application concluded that pollution related impacts from the proposed development on the River Dodder will be negligible, even in the absence of mitigation.
- 13.6.8. Bird Species - SCI species, black-headed gull, common gull, curlew, herring gull and lesser black-backed gull were recorded using the amenity grassland for foraging to the south of the proposed development at the CUS Sports Grounds. No suitable habitat for foraging was recorded within the subject site, therefore the only impacts possible on these species are from disturbance or displacement on the adjoining site at the CUS, as a result of construction or operational phase impacts associated with the proposed development. I note that the nearest SPA to the proposed development site designated for wintering special conservation interest species is the South Dublin Bay and River Tolka Estuary SPA, located c. 2.8km east of the proposed development. I also note reference is made within the AA Screening Report to occasional roosting of herring gulls on the seminary buildings located within the proposed site. The nearest SPA designated for Herring Gull is at Ireland's Eye SPA (site code: 004117) which is located circa. 15.6km north-east of the subject site and therefore was not included in the initial ZOI. I note that those gull species identified often have foraging ranges of up to 20km and considering the large areas of suitable habitat (within the surrounding urban areas) for the above listed SCI species within proximity of the site, to both forage and roost in, I would not consider that the proposed development would result in displacement of SCI populations for which there are European sites designated for within the vicinity of the proposed development.

- 13.6.9. With regard to curlew, the nearest designated site for this SCI is the North Bull Island SPA, located c. 5.6km north-east of the proposed development. No suitable foraging habitat was found on the proposed site; however the species has been recorded previously on the CUS site to the south of the subject site. Having regard to the relatively short-term of construction disturbance however, it is not expected that the construction stage of the proposed development would result in displacement of curlew that will have any population level effects for the SPA populations of European sites designated for curlew within the vicinity of the proposed development. In addition, any disturbance related to the operational phase of the development is not expected to be above and beyond that currently experienced through the regular use of the sports grounds/pitches at CUS and other noises and impacts associated with the surrounding urban environment i.e. traffic along the Dundrum Road or disturbance from housing development at Hawthorns.
- 13.6.10. Therefore, having considered the above, I am satisfied that the proposed development will not result in any long-term disturbance/displacement of the qualifying/special conservation interest species of any European site, and therefore there is no potential for any in combination effects to occur in that regard.

In-Combination Effects

- 13.6.11. 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 increased volumes of wastewater to the Ringsend WWTP.
- 13.6.12. The subject site is identified for development through the land use policies of the Dun Laoghaire Rathdown Development Plan 2016-2022. This statutory plan was adopted in 2016 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. Plans and developments within the other local authority areas which could influence conditions in Dublin Bay via rivers and other surface water features, also must comply with the policies and objectives relevant to the protection of European sites and water quality. These include the Dublin City Development Plan 2016-2022 (Dublin City Council, 2016), the Fingal Development Plan 2017-2023 (Fingal County Council, 2017), the South Dublin County Development Plan 2016-2022

(South Dublin County Council, 2016), the Kildare County Development Plan 2017-2023 (Kildare County Council, 2017) and the Wicklow County Development Plan 2016-2022 (Wicklow County Council, 2016).

13.6.13. While I note that there are capacity issues associated with the Ringsend WWTP, the permitted major upgrade to the WWTP is now underway and will allow the Ringsend WWTP to treat the increasing volumes of wastewater arriving at the plant to the required standard, enabling future housing and commercial development. The project will deliver, on a phased basis, the capacity to treat the wastewater for a population equivalent of 2.4 million while achieving the standards of the Urban Wastewater Treatment Directive. In February 2018, work commenced on the first element, the construction of a new 400,000 population equivalent extension at the plant. These works are at an advanced stage with testing and commissioning stages expected to be completed in the first half of 2021. Works on the first of four contracts to upgrade the secondary treatment tanks at the plant with Aerobic Granular Sludge (AGS) Technology are also due to commence. The addition of AGS technology will allow more wastewater to be treated to a higher standard within the existing tanks. The second contract is at procurement stage and is expected to commence in Q3 2021, following the completion of the capacity upgrade contract. These contracts are phased to ensure that Ringsend WWTP can continue to treat wastewater from the homes, businesses, schools and hospitals of the Greater Dublin Area at current treatment levels throughout the upgrade works¹

13.6.14. I also note the development is for a relatively small residential development providing for 231 no. units, on serviced lands in an urban area. The peak effluent discharge calculated for the proposed development is 7.146 litres/sec which would equate to 0.064% of the licensed discharge at Ringsend WWTP and thus it is my view that its impact on the overall discharge would be negligible. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water.

13.6.15. The assessment of the current proposal has also considered the effect of cumulative events, such as release of sediment laden water combined with a hydrocarbon leak

¹ <https://www.water.ie/projects-plans/ringsend>

on site. As there is adequate assimilation and dilution between the site and the Natura sites (Dublin Bay) given by the distance between the potential source and this receptor (c. 2.8 km), it is concluded that no perceptible impact on water quality would occur at the Natura sites as a result of the construction or operation of this proposed development.

13.6.16. It is also an objective of the Greater Dublin Strategic Drainage Study, and all development plans within the catchment of Ringsend WWTP, to include Sustainable Urban Drainage Systems (SuDS) within new developments. The relevant development plans also have protective policies/objectives in place to protect water quality in the receiving freshwater and marine environments, and to implement the Water Framework Directive in achieving good water quality status for Dublin Bay. There are also protective policies and objectives in place at a strategic planning level to protect water quality in Dublin Bay. Therefore, and having regard to the policies and objectives referred to under the relevant development plans, it is concluded that the possibility of any other plans or projects acting in combination with the proposed development to give rise to significant effects on any European site in, or associated with, Dublin Bay can be excluded.

13.6.17. Having regard to the scale of development proposed, and likely time for occupation if permitted and constructed, it is considered that the development would result in an insignificant increase in the loading at Ringsend Wastewater Treatment Plant, 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. Taking into consideration the average effluent discharge from the proposed development, the impacts arising from the cumulative effect of discharges to the Ringsend WWTP generally, and the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to Natura 2000 sites within the zone of influence of the proposed development.

AA Screening Conclusion

13.6.18. In conclusion, therefore, having regard to the nature and scale of the proposed development on zoned and serviced lands, the nature of the receiving environment

which comprises a built-up urban area, the increasing capacity of Ringsend WWTP, and the distances to the nearest European sites, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

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

14.0 Recommendation

14.1. Having regard to the above assessment, I recommend that Section 9(4)(a) of the Act of 2016 be applied and that permission is granted for the reasons and considerations and subject to the conditions set out below.

15.0 Reasons and Considerations

15.1. Having regard to the following:

- (a) The site's location within an area with a zoning objective that permits residential development in principle;
- (b) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- (c) Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- (d) The policies and objectives set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (e) The Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (f) The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009;
- (g) The Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020;

- (h) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- (i) The Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- (j) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (k) The Design Manual for Urban Roads and Streets, DMURS 2013;
- (l) The pattern of existing and permitted development in the area;
- (m) the nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure, including the Luas Green Line;
- (n) the submissions and observations received; and
- (o) the Chief Executive's Report of the planning authority and associated appendices, including its recommended reasons to refuse permission;

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

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 06th day of May 2021 by Brook McClure, Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin on behalf of Winterbrook Homes (MSM) Ltd.

Proposed development:

- The demolition (total area of approx. 2,913.8 sq m) of (a) the existing buildings on site (ranging in height from 1 - 3 storeys) and (b) part of the granite wall along Dundrum Road. The existing Small Hall (approx. 170 sq m) is to be retained and reconfigured as part of the overall proposal (afterschool facility).
- Construction of a new residential scheme of 231 no. apartment units, which are broken down as 115 no. 1 bed units and 116 no. 2 bed units, in the form of 5 no. apartment blocks (Villas A to E) ranging in height from 4 to 10 storeys with 23 No. units provided for Part V in Villas A, B, C & D. The Villas/Blocks will comprise of the following:
 - Villa A (4 storeys) comprising 40 no. apartments (23 no. 1 bed and 17 no. 2 bed units)
 - Villa B (4 - 5 storeys) comprising 37 no. apartments (14 no. 1 bed and 23 no. 2 bed units)
 - Villa C (5 - 6 storeys) comprising 40 no. apartments (11 no. 1 bed and 29 no. 2 bed units)
 - Villa D (5 - 10 storeys) comprising 80 no. apartments (51 no. 1 bed and 29 no. 2 bed units)
 - Villa E (4 - 6 storeys) comprising 34 no. apartments (16 no. 1 bed and 18 no. 2 bed units)
- The existing Small Hall is to be reconfigured to accommodate an Afterschool Childcare Facility of approx. 161sq m.
- The proposal will also provide for a café of approx. 83 sq m at the ground floor of Villa E.
- Residential amenity areas of approx. 308 sq m are proposed in the form of resident support services and concierge services of approx. 111 sq m at the ground floor of Villa A; a gym room of approx. 77 sq m at the ground floor of Villa D; and a glazed pavilion indoor social space of approx. 120 sq m at the fourth floor of Villa D. A roof garden residential amenity area of approx. 130 sq m is also proposed at the fourth floor of Villa D.
- Works to the northern and eastern boundary of Robert Emmet House (a protected structure) which include (a) the closing up of opes to the existing

Small Hall; and (b) the partial removal of a link between the existing Middle House on site and the adjacent Robert Emmet House (protected structure) at ground and first floor levels and the subsequent reconfiguration and retention of existing fire escape at ground floor level for this building on the eastern elevation.

- Open space (approx. 8,200 sq m) is proposed in the form of (a) a central public park including formal gardens, lawns, play area and pedestrian and cyclist links (approx. 6,300 sq m) and (b) residential / communal open space (approx. 1,900 sq m) including the roof terrace at Villa D (approx. 130 sq m).
- Basement areas (total approx. 3,372 sq m) are proposed on one level, below Villas A and B, and include parking areas, waste management and plant areas. An ESB substation (approx. 45.5 sq m) and café waste store (approx. 18 sq m) are also proposed at surface level.
- A total of 118 no. car parking spaces (99 no. at basement level and 19 no. at surface level) are proposed. 20 no. spaces are reserved for Robert Emmet House (10 no. at basement level and 10 no. at surface level).
- 463 no. bicycle spaces (365 no. at basement level and 98 no. at surface level) and 4 no. motorcycle spaces are proposed (all at basement level).
- Upgrade works are proposed to the existing vehicular access point off the Dundrum Road. 5 no. new pedestrian and cyclist access points are proposed via Dundrum Road and Churchfields.
- Associated site and infrastructural works include provision for water services; foul and surface water drainage and connections; attenuation proposals; permeable paving; all landscaping works including tree protection, tree removal and new tree planting; green roofs; boundary treatment; internal roads and footpaths; and electrical services.

Decision:

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations set out hereunder 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 site's location within an area with a zoning objective that permits residential development in principle;
- (b) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- (c) Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- (d) the policies and objectives set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022
- (e) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (h) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- (i) The Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- (j) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (k) The Design Manual for Urban Roads and Streets, DMURS 2013,
- (l) The pattern of existing and permitted development in the area

- (m) The nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure, including the Luas Green Line;
- (n) The submissions and observations received,
- (o) The Chief Executive's Report of the planning authority and associated appendices, including its recommended reasons to refuse permission;
- (p) The report of the Inspector.

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for the Screening for Appropriate Assessment submitted with the planning application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Thus, having regard to:

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10 (b) (i) and (iv) of Schedule 2, Part 5 of the Planning and Development Regulations, 2001 (as amended),
- (b) the location of the site on land zoned "A" in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, with the objective "to protect and/or

improve residential amenity” and the compliance of the proposed development with the policies, objectives and development management standards outlined in the Plan,

- (c) the pattern of development on the lands in the surrounding area,
- (d) the availability of mains water and wastewater services to serve the development,
- (e) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001 (as amended),
- (f) 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),
- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),
- (h) the features and measures proposed by the applicant to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Environmental Management Plan, Construction and Demolition Waste Management Plan and Operational Waste Management, Ecological Impact Assessment, Flood Risk Assessment, Arboricultural Impact Assessment Report and Report on Heritage Impact.

It is considered that the proposed development, by reason of the nature, scale and location of the subject site, would not be likely to have significant effects on the environment and the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considers that the proposed development is, apart from the Building Height, Transitional Zone and Unit Mix, broadly compliant with the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the

Development Plan, it would materially contravene the Dún Laoghaire-Rathdown County Development Plan 2016-2022 as outlined below: -

- Building Height: Appendix 9 - Building Height Strategy of the Plan
- Transitional Zone – Section 8.3.2
- Unit Mix – Section 8.2.3.3 (iii)

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 County Development Plan would be justified for the following reasons and consideration.

Building Height and Transitional Zone:

In relation to section 37(2)(b) (i) and (iii) of the Planning and Development Act 2000 (as amended):

- The proposed development is considered to be of strategic and national importance having regard to the definition of ‘strategic housing development’ pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government’s policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport.
- 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) and the Urban Development and Building Height Guidelines for Planning Authorities 2018, in particular SPPR3.

Unit Mix:

In accordance with section 37(2)(b) (i), (ii) and (iii) of the Planning and Development Act 2000, (as amended):

- The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport.
- Due to conflicting objectives in the operative CDP in relation to Section 8.2.3.3 (iii) and the contradictory Advisory Note to the front of Chapter 8 of same development plan;
- Having regard to SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, the proposed mix of apartment types complies with SPPR 1 of the guidelines as more than half of the units would have more than one bedroom. That SPPR restricts the extent to which planning authorities can impose additional restrictions on housing mix in their development plans unless they have completed a Housing Needs and Demand Assessment, which the Council has not. A grant of permission in contravention of that provision would therefore be justified under section 37(2)(b)(iii) of the planning act to give effect to guidelines on Design Standards for New Apartments, 2020.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) (ii) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development 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 and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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. The proposed development shall be amended as follows:
 - (a) Apartments A-31, A-32, A-33 and A-40 shall be omitted from Block A.
 - (b) Secondary windows located on the northern elevation of Block B to the living areas of Apartments, B-17, B-24, B-25 and B-32 at second and third floor level shall be permanently fitted with obscure glazing or a suitable louvered solution to prevent overlooking to the north.
 - (c) This grant of planning permission permits 227 number apartment units.
 - (d) The extension of the proposed future pedestrian routes/cyclist permeability links to the Churchfields, the CUS grounds and the Hawthorns, shall be provided right up to the site's eastern and south-eastern boundaries, and gates in the development's proposed inner boundary treatments, as indicated on drawing: Proposed Site Plan, drawing number 20019-RAU-ZZ-00-DR-A-02.1003 Rev: P02, shall be provided to allow for the potential future pedestrian/cyclist links.
 - (e) The vents along the northern boundary shall be relocated in order to minimise their impact on adjoining residential amenities in terms of noise and vehicular fumes.

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

Reason: In the interests of visual and residential amenity.

3. Details of signage relating to the childcare facility and café shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Prior to commencement of development a detailed inspection of the junctions between the existing buildings along the northern boundary and the existing northern boundary wall will be undertaken by a suitably qualified person and a risk assessment and method statement outlining the most appropriate method of removing these structures whilst retaining the existing boundary walls shall be submitted for the written agreement of the planning authority.

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

5. The internal noise levels, when measured at the windows of the western elevation of Block E of the proposed development, shall not exceed:

(a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and

(b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

Reason: In the interest of residential amenity

6. 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.

7. Proposals for an apartment naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names

shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

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

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

9. Not more than 50% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed at this time.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

10. The developer shall ascertain and comply with all requirements of the planning authority in relation to conservation matters and works which may impact on the protected structure. In that regard:

(a) Prior to the commencement of development, the applicant shall submit proposals for the infill of the opes on the southern wall of the Small Hall and details of the fire escape to be installed to the eastern elevation of Robert Emmet House for writing agreement with the planning authority.

(b) All repair works shall be carried out in accordance with best conservation practice and the department of Culture, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities'

(c) All works are to be carried out under the professional supervision of an appropriately qualified person with specialised conservation expertise (RIAI Grade 2 or higher) who shall manage, monitor and implement the works on site

and to ensure adequate protection of the retained and historic fabric and to certify upon completion that the specified works have been carried out in accordance with good conservation practice.

Reason: in the interest of architectural conservation

11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

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

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

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

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

12. 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.

Reason: In the interests of visual and residential amenity

13. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

14. The mitigation measures outline in the Ecological Impact Assessment submitted with this application, shall be carried out in full, except where otherwise required by conditions of this permission.

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

15. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development, apart from the 20 no. car spaces designated to serve Robert Emmet House. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

16. The internal road network serving the proposed development, including parking areas, footpaths and kerbs and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

17. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/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. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

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

Reason: In the interests of amenity and public safety.

19. The construction of the development shall be managed in accordance with a Construction Management Plan and Environmental Management Construction 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 hours of working, noise and dust management measures, traffic management arrangements/measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety.

20. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan and 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 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.

Reason: In the interest of sustainable waste management.

21. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

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

22. Prior to commencement of development, the developer shall submit full details of any PV panels proposed for the site to ensure the green roof proposals are not compromised.

Reason: In the interest of public health.

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

Reason: In the interest of public health.

24. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

25. In the interest of residential and visual amenity 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.

26. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the apartment units are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

27.(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 retained 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 retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees numbered 1482, 1483 and 1484 on drawing Landscape Masterplan, 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 or hedging which are to be retained on the site.

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

28. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

29. 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

30. 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.

31. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the

protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of [three] years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

32. 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.

Máire Daly

Planning Inspector

9th August 2021

Appendix 1:

**EIA Screening Determination
for SHD Application ABP 310138-21**

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-310138-21
Development Summary		Demolition of existing buildings on site (excluding Small Hall) and part of the granite wall along Dundrum Road and construction of 231 no. apartments, childcare facility and associated site works.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report and a Stage 1 AA Screening Report was submitted with the application
2. Is an 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 SFRA undertaken in respect of the Dun Laoghaire Rathdown Development Plan 2016-2022. Please refer to Section 11.0 of the Inspector's Report for further details.

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of residential units and mixed uses on zoned lands. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	Demolition of disused buildings associated with Mount Saint Marys at transitional location between institutional uses and residential. Uses proposed consistent with land uses in the area and with the Objective A zoning. The lands associated with Mount St. Mary are also subject to RES5 'Institutional Lands' designation with 'an objective "to protect and / or provide for	No

		institutional use in open lands". Residential uses are permitted in principle. No changes to topography or waterbodies -save for surface water run-off to public sewer that drains to Slang/Dodder River catchment.	
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of an urban environment. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of an Outline Construction Environmental Management Plan and Construction and Demolition Waste Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

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

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

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses. No social environmental impacts anticipated.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>This is a stand-alone development, comprising the redevelopment of a site and is not part of a wider large scale change. There are no permitted / proposed development on immediately adjacent lands. Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development 	<p>No</p>	<p>No European sites located on the site. An AA Screening Assessment accompanied the application which concluded the development would not be likely to give rise to significant effects on any European Sites.</p> <p>This brownfield site does not host any species of conservation interest.</p>	<p>No</p>

<p>plan/ LAP/ draft plan or variation of a plan</p>			
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>No – any impacts on bird species that use the site for roosting or the adjoining site to the south at CUS for foraging were examined as part of the AA Screening and no species were identified as being significantly affected. An Ecological Impact Assessment was also carried out for the proposed development, subject to mitigation measures no adverse impacts were expected.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>While there are no known monuments or other archaeological features on the subject site, archaeological testing will be undertaken in advance of construction.. It is considered that the receiving environment has sufficient capacity to absorb the proposed development and no likely significant effects are envisaged. Robert Emmet House which is a protected structure is located outside of the site boundary, however minor works are proposed as a result of demolition of an adjoining link corridor in relation to the subsequent closing of opes to the north of the building and the reconfiguration of the fire escape, these works are not considered significant.</p>	<p>No</p>

<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>	<p>No such features arise in this urban location.</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The site is not traversed by any watercourses or drains and there are no 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.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>Site investigations identified no risks in this regard.</p>	<p>No</p>
<p>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban road network. There are sustainable transport options available to future residents. A Traffic and Transport Assessment has been carried out on the proposed development and did not identify any significant impacts. No significant contribution to such congestion is anticipated.</p>	<p>No</p>
<p>2.8 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>The development is adjoined to the south by the CUS sports grounds and to the north and east by residential development. No significant impacts are envisaged. The development would not be likely to generate significant additional demands on educational facilities in the area.</p>	<p>No</p>

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

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

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned Objective A 'To protect and-or improve residential amenity' and with a specific local objective 'to protect and/or provide for Institutional Use in open lands' in the Dun Laoghaire Rathdown Development Plan 2016-2022. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- (c) The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- (d) the availability of mains water and wastewater services to serve the development.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (f) 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),
- (g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(h) 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 Outline Construction Environmental Management Plan, Construction and Demolition Waste Management Plan and Operational Waste Management, Ecological Impact Assessment, Flood Risk Assessment, Arboricultural Impact Assessment Report and Report on Heritage Impact.

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: Máire Daly

Date: 09th August 2021