



An
Bord
Pleanála

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

Inspector's Report ABP-310327-21

Strategic Housing Development

1,047 no. residential units (23 no. houses and 1,024 no. apartments), creche and associated site works.

Location

Former O'Devaney Gardens Site and lands previously part of St. Bricin's Military Hospital, Dublin 7. (www.odg-shd.com)

Planning Authority

Dublin City Council

Applicant

Bartra ODG Limited

Prescribed Bodies

Irish Water
National Transport Authority
Department of Housing, Local Government and Heritage
Department of Defence

Observer(s)

Aideen Farrell
Alex Wong
Annie Atkins
Anthony Dowy
Aoife Barron
Brenda Fleming
Brian Thornton
Bridget Hussey
Caitriona Campbell
Ciaran Cuffe
Ciaran Wallace
Cieran Perry
Claire Marinez
Clare Spainneach
Dean Holden and Eimhin Walsh
Denise Mahon
Derek and Elaine Wynn (Sudway and
Company Limited)
Elizabeth Ann Kirwan
Elizabeth Morgan and Gerald Kelly
Eoghan O'Neill
Esther Brady
Fergal McNally and Anthony Berney
Francis and Jacqueline Golden
Inland Fisheries Ireland

Joe Costello
John Conway and Louth
Environmental Group (BSK Solicitors)
Jonathan Hunter
Julien Larderet
Kevin Donovan
Lian Bell
Maire Sherlock
Neasa Hourigan
Neill Treacy
Nial Ring
Nuala Macken
Orla Dunn
Pat Corrigan
Rob Kenny
Sam Coffey
Samuel Deasy
Sean Fogarty
Siobhan Connolly
Stoneybatter Pride of Place
Vincent Donnelly

Date of Site Inspection

12th August 2021

Inspector

Elaine Power

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject site is located in the north west inner city and adjoins the residential area known as Stoneybatter. It comprises the former O'Devaney Gardens residential complex and a small strip of land which was formerly part of St. Bricin's complex. O'Devaney Gardens was constructed by Dublin Corporation in the 1950's and accommodated 278 no. flats in 3 no. 4-storey blocks. All structures associated with this former use have been demolished.
- 2.2. The site has a stated area of 5.2ha. There is an elevational difference of c. 5m between the northern site boundary and the southern site boundary. The site is vacant and overgrown and is currently subdivided by palisade fencing. The former O'Devaney Gardens complex site is separated from the strip of land to the east (formerly St. Bricin's) by a c. 2m high wall and mature trees. This strip of land is currently overgrown.
- 2.3. Although bound to the south by a local public road, Montpelier Gardens, the site is generally disconnected from main public thoroughfares and has an isolated character as it is generally bound by rear and side gardens. It is bound to the north and north east by single storey dwellings on Ross Street, Ashford Place, Ashford Cottages and Ashford Street and Thor Place, to the north and north west by properties on the North Circular Road, to the east by St. Bricin's Military Hospital, which is an Edwardian institutional building set in large grounds with a mid-twentieth century chapel building closest to the site and to the west by 2-storey dwellings on Findlater Street, Kinahan Street, and Montpelier Gardens. All surrounding lands are characterised by older housing stock, with some exhibiting a fine historic character. The north western portion of the site is also bound by Phase 1 of the overall redevelopment of O'Devaney Gardens, which consists of a 4-storey residential development currently under construction (ABP PL.29N.J0024).

- 2.4. There is an existing internal road network within the site, which formerly served O'Devaney Gardens complex, with vehicular access available from North Circular Road to the north, Montpelier Gardens to the south and Thor Place to the east.

3.0 **Proposed Strategic Housing Development**

- 3.1. The proposed development comprises the construction of 1,047 no. residential units in 9 no. Blocks (Blocks 02 – 10) comprising 318 no. 1 bed (30%), 567 no. 2-bed (54%) and 162 no. 3-bed units (16%), 1,110sqm of internal residential amenity space and associated ancillary uses. The scheme also includes 2,194sqm of non-residential uses including retail, commercial, creche and a community facility. A breakdown of the blocks is provided below: -

BLOCK 02 is a 5 to 6 storey apartment building with 74 no. apartments (comprising 44no. 1 bed, 23no. 2 bed and 7no. 3 bed units) with ancillary accommodation and associated private balconies and associated communal amenity space at ground floor level.

BLOCK 03 is a 2 to 3 storey crèche building with associated outdoor play space.

BLOCK 04 comprises 11 no. 2 storey 3-bed houses in two terraces (Blocks 04a and 04b) with associated private gardens. Blocks 04A consists of 4no. 2 storey 3-bed houses. Block 04B consists of 7no. 2 storey 3-bed houses.

BLOCK 05 is a 4 to 9 storey building arranged around 2no. landscaped communal podium courtyards consisting of 294no. apartments (comprising 71no. 1 bed, 143no. 2 bed and 80no. 3 bed units) with ancillary accommodation and 155sqm of internal residential amenity space, associated private balconies, 2 no. landscaped podium levels of communal open spaces and 2 no. communal roof terraces. Block 5 also includes non-residential uses at ground floor level comprising 4no. retail units (1,027sqm) and a community facility (157sqm). 96 no. car parking spaces are provided on a single level, below podium level with access from the new internal street on the eastern side of Block 5.

BLOCK 06 is predominantly a 6 to 12 storey building, with a part 2 storey element. It accommodates 93no. apartments (comprising 24no. 1 bed, 54no. 2 bed and 14no. 3

bed units and 1 no. 2 bed duplex unit) with ancillary accommodation, associated private balconies, communal amenity space at ground level and communal roof terrace.

BLOCK 07 is a 6 to 14 storey building arranged around a central landscaped podium courtyard accommodating 264no. apartments (comprising 87no. 1 bed, 161no. 2 bed and 16no. 3 bed units) with ancillary accommodation and 546sqm of internal residential amenity space, associated private balconies, landscaped podium communal amenity space and 2 no. communal roof terraces. Block 07 also includes non-residential uses at ground floor level comprising 2no. retail units (366sqm) and a café (155sqm). 95 no. car parking spaces are provided over 2 levels, below podium level with access from the proposed new east-west Link Street. Block 07 also includes a 146sqm basement plant room area.

BLOCK 08 comprises 26no. units in 4 terraces of 2 / 3 storeys. Blocks 08A and 08B each consist of 6no. 3 bed houses with associated private gardens. Block 08C consists of a block comprising of 5no. 3 bed duplex apartments over 5no. 2 bed apartments with associated private amenity areas. Block 08D consists of a block comprising 1no. 3 bed duplex unit over 1no. 2 bed apartment and 2no 3 bed triplex units with associated private amenity areas.

BLOCK 09 is predominantly a 6 to 10 storey building, with a part 3 storey element fronting onto Montpelier Gardens. The block is arranged around a central landscaped courtyard and accommodates 192no. units (comprising 68no. 1 bed, 120no. 2 bed and 4no. 3 bed units) with ancillary accommodation and 409sqm of internal residential amenity space, associated private balconies, landscaped podium communal amenity space and 2 no. communal roof terraces. 35 no. car parking spaces are provided on a single level, below podium with direct access from Montpelier Gardens. This block also includes a 154sqm basement plant room.

BLOCK 10 is a predominantly 6 to 12 storey building, with a part 2 storey element opposite Montpelier Park. This block accommodates 93no. apartments (comprising 24no. 1 bed, 54no. 2 bed and 14no. 3 bed units and 1no. 2 bed duplex unit) with ancillary accommodation, private balconies and communal open space at ground level and communal roof terrace.

- 3.2. Vehicular access is proposed via the existing site entrances on North Circular Road, Montpelier Gardens and Thor Place. The existing internal road network would be modified to accommodate a new internal network. The main vehicular routes would comprise a central boulevard between North Circular Road and Montpelier Gardens and an east-west link street from Thor Place towards the central boulevard, with additional local streets to allow for access to podium level car parking spaces. Additional pedestrian / cycle connections are proposed at Montpelier Gardens to the south and Ross Street and Ashford Cottages to the east. Works are also required to tie the development into the previous approved (ABP Ref: PL29N.JA0024) phase 1A currently under construction. The works include a revised on-street parking layout and revised hard and soft landscaping.
- 3.3. The scheme includes 276no. parking spaces with 226no. spaces below podium level in Blocks 05 (96no.), Block 07 (95no.) and Block 09 (35no.) and 50no. on-street spaces, 11no. motorcycle parking spaces are and 1,484no. resident bicycle parking spaces in secure facilities with additional visitor bicycle parking spaces provided in the public realm (380no.) and within private thresholds (136 no.).
- 3.4. Provision is made to retain an existing vehicular access to the rear of 43 Montpelier Gardens between Blocks 08C and 08D at the site's western boundary. Permission is also sought for associated boundary treatments, hard and soft landscaping, public open space, including a central park with a multi-use games area (MUGA) and a northern park with a community garden, 6 no. new ESB substations, mechanical and electrical roof plant and all associated site and development works.
- 3.5. The development includes the demolition of an existing ESB Substation (16.5sqm), the demolition of existing security hut (21sqm) and the removal of the block wall and gate pier at the entrance to St. Bricin's Military Hospital.
- 3.6. The application included the following: -
- Planning Statement / Response to ABP Opinion
 - Statements of Consistency and Material Contravention Statement
 - Design Statement
 - Housing Quality Assessment

- Landscape Architect's Report
- Engineering Services Report
- Traffic and Transport Assessment
- Residential Travel Plan Framework
- Site Specific Flood Risk Assessment
- Site Specific Construction and Demolition Waste Management Plan
- Outline Construction Management Plan
- Operational Waste Management Plan
- Site Lighting Report
- Daylight and Sunlight Report
- Screening for Appropriate Assessment
- Environmental Impact Assessment Report
- Property Management Strategy Report
- Building Lifecycle Report
- Microclimatic Wind Analysis and Pedestrian Comfort Report
- Part V Document

4.0 Planning History

Subject Site

ABP- PL29N.JA0024: Phase 1 of the regeneration of O'Devaney Gardens was approved with conditions in 2011. The development comprised 110 no. residential units in 4 no. blocks on a 2.47ha site. This application was accompanied by an EIAR.

Reg. Ref 3607/10: Part 8 approval was granted in 2010 to demolish five flat blocks at the O'Devaney Gardens site

Reg. Ref. 2945/16: Part 8 approval was granted in 2016 to demolish the remaining four flat blocks at the O'Devaney Gardens site

4.1.1. Surrounding Sites

ABP.TA29S.306569: Permission was granted in 2020 for 321 no. Build to Rent apartments and office, café / restaurant, retail and ancillary uses in 5 no. blocks (B1, B2, C1, C2, and C3) ranging in height from 8 – 13 no. storeys at Parkgate Street c.400m south of the subject site. Block A, which was 29 storeys in height, was refused permission. **ABP. 310567-21:** Current application for a revised Block A, which is 30-storeys in height and accommodates 198 no. Build to Rent units, café and office use. A decision is due in October 2021.

ABP-309657-20: Permission was granted in 2021 for the demolition of the existing Park Shopping Centre and no. 42-45 Prussia Street and the construction of 175no. Build to Rent units and 584 no. student bedspaces in a scheme with a maximum height of 8 storeys at a site c. 600m north east of the subject site.

ABP 308424-20: Permission was granted in 2021 for the construction of 90 no. Build to Rent units in a scheme with a maximum height of 7 storeys at Blackhorse Avenue, c. 380m north of the subject site.

5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application virtual consultation took place on the 28th October 2020 in respect of a development of the construction of 1,053 residential units (1,027 apartments and 26 houses), retail units and a creche. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

1. Site Interface, St. Bricin's and overall height Strategy
2. Permeability and landscape strategy (northern portion of site)
3. Residential Amenity – dual aspect ratio and usability of amenity spaces

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 18th November 2020 (ABP-307984-20) An Bord Pleanála stated that it was of the opinion that further

consideration and amendment in order to constitute a reasonable basis for an application for strategic housing development with regard to the following: -

Height and Placemaking: Further consideration / justification of the documents as they relate to the development strategy for the proposed scheme. While higher densities and changes to the cityscape in terms of higher elements and taller buildings at this location may be appropriate, the applicant is required to provide adequate rationale and justification to support such additions to the area, including further consideration/justification of the documents as they relate to the potential visual impact of the development and its interaction with St Bricin's to the east, in particular in relation to design, integration, materiality and massing. The applicant should reference the development management criteria set out in the Urban Development and Building Heights guidelines, where on larger urban redevelopment sites, proposals 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 to respond to the scale and character of adjoining developments. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

Residential Amenity: Further consideration / justification of the documents as they relate to the residential amenity strategy for the proposed scheme. The perimeter block layout outlined for the central portions of the site should ensure adequate levels of residential amenity for future occupants. In this context the documentation should appropriately and reasonably describe and illustrate good levels of sunlight and daylight penetration to the courtyard amenity spaces at the centre of blocks. At the scale of the building the documentation should demonstrate an adequate design response for ground floor level units at more sensitive locations, such as at the junction of blocks with less favourable orientations, i.e. corner sites and where necessary set out compensatory design solutions. In terms of the wider amenity, convenience and public realm, the documentation should demonstrate how apartment block length and articulation will assist with pedestrian and cyclist permeability through the site. All in the context of assisting modern placemaking and improving the overall quality of the urban environment at this key regeneration location. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

Site Connections: Further consideration/justification of the documents as they relate to the interface between the eastern side of the proposed development site with St Bricin's and the northern portion of the site with Ross Street/Ashford Place/Ashford Cottages to specifically address the following:

- The possibility for future seamless connection between the site and St Bricin's to the east.
- Assessment of visual impacts on St Bricin's to include existing and permitted structures within that site.
- Consideration of potential impacts on the development potential of adjacent lands within St Bricin's.
- The documentation should demonstrate how apartment block length and articulation will assist with pedestrian and cyclist permeability through the site
- Consideration of safe, secure and passively supervised pedestrian and cyclist connections to the north of the site, in the vicinity of Ross Street/Ashford Place/Ashford Cottages.

5.3. The opinion also stated that the following specific information should be submitted with any application for permission.

1. A detailed schedule of accommodation (Housing Quality Assessment) which shall indicate compliance with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018, including its specific planning policy requirements. Particular attention shall be directed to the provision of adequately designed and an appropriate quantum of dual aspect apartments.
2. A building life cycle report shall be submitted in accordance with section 6.3 of the Sustainable Urban housing: Design Standards for New Apartments (2018). The report should have regard to the long term management and maintenance of the proposed development.
3. Site Specific Construction and Demolition Waste Management Plan.
4. A detailed landscaping plan for the site which clearly differentiates between areas of public, communal and private open space and which details exact

figures for same. Details should also include proposals for hard and soft landscaping including street furniture, where proposed, which ensures that areas of open space are accessible, usable and available for all. Pedestrian permeability through and beyond the site should be outlined. Details of the interface between private and communal areas should also be detailed. Additional cross sections, CGIs and visualisations should be included in this regard. The landscaping plan should critically assess the best and most appropriate way to incorporate underground car parking ventilation structures.

5. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants), specifically with regards to overlooking, overshadowing, overbearing and noise. The report shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and adjoining residential development.
6. Given the city centre location and availability of public transport, a rationale for the proposed car parking provision should be prepared, to include details of car parking management and car share schemes.
7. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

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

- Irish Water
- Transport Infrastructure Ireland
- National Transport Authority
- Department of Culture, Heritage and the Gaeltacht

- The Heritage Council
- The Arts Council
- An Taisce
- Dublin City Childcare Committee

5.5. ***Applicant's Statement***

5.5.1. A statement of response to the Pre-Application Consultation Opinion was provided in Section 9 of the Planning Report and Statement of Consistency submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The applicant addressed the items that required consideration and specific information to be submitted with the application.

5.5.2. The Items that required further consideration are summarised below: -

Height and Placemaking

Summary of Overall Height Strategy and Urban Design Rationale / Justification and Visual Impact

The overall approach to height has been to place the lower buildings on the periphery of the development and stepping up to the centre of the site which is capable of absorbing greater scale and defining a new character for this new neighbourhood. The applicants statement provides a detailed description of each block and its approach to height. This is summarised below: -

The lower buildings comprise Blocks 02, 03, 04 and 08.

Block 02 is a part 5 storey/ part 6 storey block. Its scale is considered to be a reasonable response to the NCR properties which are generous 3 storey houses set back by 40 metres from Block 2.

Block 03 is a 2/3 storey creche building at the Ross Street entrance which sits comfortably with its surrounding context

Block 04 (04A and 04B) houses are set at 2 storeys adjacent to the single storey cottages (i.e. Ross Street, Ashford Cottages, Ashford Street and Thor Place).

Block 08 (08A, 08B, 08C and 08D) are included as a transition between the existing single and two storey housing to the west and the larger apartment buildings now proposed.

The height strategy and justification principally relates to remaining Blocks 05, 06, 07, 09 and 10.

Block 05 ranges in height from 4 to 9 storeys. The higher elements (6 – 9 storeys) have a north south orientation. The links between these elements are lower (4- 5 storeys) allow greater light penetration into the courtyards. The overall height of eastern portion of the block has a maximum height of 6 storeys adjacent to Ross Street and Ashford Cottages/ Ashford Place

Block 07 ranges in height from 6 – 14 storeys. The 14 storey element to this building is a landmark and is positioned at the focal point of the scheme at the junction of Link Street and Central Boulevard. It marks the end of the vista from the NCR entrance and also on the approach from Montpelier Gardens. The 8 storey blocks are orientated north – south adjoining the boulevard and public open space. The 6 storey elements have an east west orientation and reduces overshadowing of Block 05 and the Link Street (to the north) and allows greater light penetration to the central courtyard.

Blocks 06 and 10 are 6 storeys on the Link Street and Montpelier Park respectively and both have 8 storeys to the Central Park. The centre section of both blocks rises to 12 storeys. These elements will be centrally located within the overall SDRA11 lands and will frame the views from the Central Park towards St. Bricin's. In time, they would also frame views from St. Bricin's to the Central Park which is eventually likely to extend towards the Church and to the façade of the main St. Bricin's hospital building.

Block 09 ranges in height from 3-10 storeys. The central element of the southern elevation is 3 storeys in height, adjacent to the existing dwellings in Montpellier Gardens. The corner elements of the southern elevation and the central portion of the northern elevation are 6 storeys. The corner element of the northern elevation adjacent to the boulevard is 8 storeys and corner element overlooking the central park is 10 storeys.

Development Management Criteria - Building Height Guidelines

The proposed development is a Material Contravention of, inter alia, Section 16.7.2 of the Dublin City Development Plan 2016-2022 Plan in relation to Building Heights. Section 3.3 of the Statements of Consistency and Material Contravention Statement outlines how the proposed development meets the development management criteria (SPPR3(A)) set out in the Urban Development and Building Heights Guidelines (2018).

The overall layout and scale and massing of the site has evolved during the process to date and the proposed development as now submitted is appropriate for the site having regard to the site context and the planning policy context within which the development is set. The history of the site is relevant to the proposed height strategy. In conclusion, it is stated that the former O'Devaney Gardens flats complex previously established a form that varies from the housing typologies in the immediate Oxmantown / Stoneybatter area which is predominantly single and two storey housing. Planning policy strongly supports the ODG redevelopment at a much higher density than the 1950's flats and the first phase of the ODG redevelopment which was undertaken by Dublin City Council has already begun the process of increasing density and height on the site. In general terms, the layout and height strategy for the proposed development recognises the scale of the surrounding urban area. This is achieved by placing the 2-3 storey housing and duplex typologies (ie. Blocks 4 and 8) on the more sensitive edges of the site, with the tallest elements located adjacent to the public open spaces and main vehicular routes. The justification for buildings exceeding the Development Plan threshold of 24 metres is provided with reference to the criteria in the Building Height Guidelines 2018.

Residential Amenity

The strategy for residential amenity within the development is set out in the Architects Design Statement and Housing Quality Assessment. The Daylight / Sunlight Assessment Report has been prepared in conjunction with OMP Architects and has been used throughout the design process as a tool to ensure that the residential amenity of the development is of a high standard.

Daylight Assessment for Apartments

Kitchen/living rooms and bedrooms have been assessed under the 'Average Daylight Factor' (ADF) methodology. Over 1,050 rooms tested within the overall development and this allowed results to be extrapolated for all Occupied Rooms within the development

The quantum of spaces meeting the daylight factor targets (87.6%) is greater than 80% which exceeds international environmental assessment standards. Overall, having regard to the nature, scale and density of the proposed development in an inner city location, it is considered that the proposed development achieves a high quality of daylight amenity for apartments and can, therefore, be deemed to meet the qualitative requirements of the Apartment Guidelines (2018).

Open Space & Communal Amenity Spaces

All communal amenity spaces proposed meet the BRE standard for amenity areas and the courtyard areas. The development exceeds the communal amenity space requirements, and this has been achieved through inclusion of 8no. roof garden spaces, all of which receive excellent daylight and sunlight and will represent a choice of high quality amenity areas for residents.

Impact on Adjacent Residents

The daylight and sunlight impact to adjacent residential areas was also assessed and the results fall within the relevant standards for windows and private gardens of adjacent properties.

Apartment blocks and pedestrian and cyclist permeability

In terms of placemaking and permeability, and in the context of the urban form of the proposed development, the Design Statement sets out the principles which guided the form of the proposed development.

The development has been designed with the needs of pedestrian and cyclist permeability to the fore and the layout is strong in this respect. The 3 existing vehicular entrances will have pedestrian and cycle facilities. These will be augmented by new pedestrian and cycle links at Ross Street and Ashford Cottages. The important integration with St. Bricin's has also been factored into the design and the seamless connection to these lands can be achieved at a future date once they are developed.

The possibility of breaking Block 5 with a north-south street was considered in detail but was dismissed due to its impact on the block, impact on the Link Street, impact on below podium parking areas. The layout makes provision for strong links to the east and west of the block and pedestrian/ cycle link is provided along the northern park which links Ross Street to the Central Park area.

In conclusion, it is considered that the site layout plan is a strong framework for the site that will create a strong sense of place and a high quality urban environment at this key regeneration location.

Site Connections

Site Connections to St. Bricin's/ Future Connection

The relationship with St. Bricin's has been a key driver in the site layout and building height strategy for the site. The site is part of the overall SDRA11 lands and is intended to be developed in the short to medium term. While it is not prescriptive, the SDRA diagram indicates how this might be achieved through retaining the existing structures and adding new buildings on the perimeter to the east, north and west.

The St Bricin's complex of buildings is currently used and controlled by the Department of Defence. In the future, it may be transferred to the LDA for regeneration/ redevelopment. The proposed development of O'Devaney Gardens does not preclude either the continuation of the current use or its future redevelopment. In a redevelopment scenario it is envisaged that the public park would be extended into St Bricin's focussed on and around the 'chapel building' and through the removal of 27m of the wall between blocks 6 and 10.

The applicant has consulted with the Department of Defence about the potential of removing the wall as part of the ODG redevelopment. The DoD have indicated that they are not in a position to agree to this at this time for security reasons. A letter from the Department of Defence confirming this is included as Appendix B. However, it is envisaged that its removal will form part of a future redevelopment of St. Bricin's, and this is welcomed.

The important relationship with St. Bricin's is recognised and there is a desire to remove the existing concrete wall to provide physical and visual connection to the military hospital lands.

The visual connection recognises the façade of the main hospital building and the single storey church building in the foreground and the central open space is orientated so that these elements will form a new vista (once the wall is removed) and the heritage buildings will become integrated into the overall SDRA11 lands.

In terms of materials and finishes, the use of brick as a primary material assists with the integration of the development with the area and St. Bricin's in particular.

Buildings 6 and 10 are the closest buildings to St. Bricin's and their 6-8 storey height is considered to be appropriate in the context of the overall ODG site and given the relative scale and level of separation from the St. Bricin's buildings.

Overall, it is considered that the proposed development layout will allow the ODG development to integrate successfully with the future development of St. Bricin's lands.

5.5.3. The following specific information was also submitted with regard to items 1 – 7 outlined above: -

1. A Housing Quality Assessment, Statement of Consistency and a Material Contravention Statement have been submitted.
2. A Building Lifecycle Report has been submitted.
3. A Construction and Demolition Waste Management Plan has been submitted.
4. A Landscape Architects Report and Landscaping proposals/ drawings have been submitted.
5. A Design Statement, architectural drawings, A Daylight / Sunlight Assessment Report, A Landscape and Visual Impact Assessment and an EIAR have been submitted.
6. An analysis and justification for the proposed car and bicycle parking is provided in the Traffic and Transport Assessment and the Residential Travel Plan Framework.

7. A Statement of Consistency and a Material Contravention Statement have been submitted.

6.0 Relevant Planning Policy

6.1. *Dublin City Council Development Plan 2016 - 2022*

The subject site is located on a site zoned Z14: - Strategic Development and Regeneration Areas (SDRA's) with the associated landuse objective 'to seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and 'Z6' would be the predominant uses'.

The subject site is located in Strategic Development and Regeneration Area 11 (SDRA 11 Stoneybatter, Manor Street and O'Devaney Gardens). Section 5.1.1.14 sets out 8 no. guiding principles for the SDRA 11. The relevant guiding principles are outlined below.

- The strategic location context of this site within the city (close to the amenities of the Phoenix Park, Heuston Station and the new Criminal Courts of Justice), its potential positive contribution to the character of the city and the potential that exists for greater synergies to Stoneybatter and Grangegorman will be valued and promoted; there is an opportunity for a mid-rise residential building towards the centre of the site, similar to that within the Grangegorman SDZ.
- The development of a high-quality residential quarter comprising quality new homes supported by a complementary range of mixed commercial, community and recreational facilities will be promoted for this site. The site will provide for a mix of tenure with social, affordable and private housing all provided on site.
- The development of attractive new streetscapes with mixed typologies of high-quality accommodation, a high-quality public realm and active street frontages will be promoted to complement the architectural legacy of streetscapes adjoining this location, including the special streetscapes of the North Circular Road, Infirmary Road and Oxmantown areas.
- The development of a neighbourhood park as a key feature of the design to provide recreational amenities, encourage community interaction and provide a focal point/meeting place for the wider local community; the location will be

bounded by high-quality streetscapes accommodating commercial, community and residential uses to generate activity, encourage active use of the space and provide passive surveillance. To provide space for an all-weather pitch, multiple use games area (MUGA), community centre, and community garden. Provide quality open green spaces consisting of a minimum of 15% of the site area. Green spaces can serve as sites of social exchange and communicate a respect for nature as a guiding design principle for the site.

- The established character of streets and residential amenities for adjoining residents will be respected in the urban design proposals and layout of a new development; opportunities for new building forms to aid legibility through the scheme and create streetscapes of visual interest will incorporate appropriate height transitions from site boundaries and propose locations that avoid negative impact on adjoining residential boundaries.
- Permeability through the site will be promoted to integrate the location more successfully with the adjoining community; the existing bus route will be retained and incorporated along a main boulevard route connecting the North Circular Road to Montpelier Gardens; opportunities for connections with streets to the north-east boundary, with particular emphasis on walking and cycling routes, will be encouraged.

Table E – Capacity of Sub-areas of the City for Residential Development of Chapter 2 of the plan indicates that SDRA 11 – O’Devaney Gardens has an estimated capacity of 1,000 residential units.

Policy SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in Chapter 15 (Guiding Principles) and Chapter 16 (development standards). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

Policy SC18: *To promote a co-ordinated approach to the provision of tall buildings through local area plans, strategic development zones and the strategic development and regeneration areas principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline.*

Policy QH26: *To promote the transformation of the key regeneration areas into successful socially integrated neighbourhoods including those on the Main Inner City Regeneration Areas Map and promote area regeneration in parts of the city which require physical improvement and enhancement in terms of quality of life, housing and employment opportunities, including the Docklands. It is recognised that the nature of some housing regeneration initiatives may warrant the demolition of existing dwellings before proposals for new or replacement dwellings are agreed.*

Section 16.7.2 sets out a 24m height restriction for residential developments in the inner-city. It also sets out assessment criteria for higher buildings.

6.2. ***Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.***

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The following RPOs are of particular relevance:

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

6.3. ***National Planning Framework***

The National Planning Framework 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. Relevant Policy Objectives include

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National 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.

6.4. ***Section 28 Ministerial Guidelines***

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

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

6.5. ***Applicants Statement of Consistency***

The applicant has submitted a Statement of Consistency (as part of the Planning Report) 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 relevant Development Plan.

6.6. ***Material Contravention Statement***

The applicant submitted a Material Contravention Statement. The statement provides a justification for 2 no. material contraventions of the Dublin City Development Plan 2016 - 2022 in relation to height (Section 16.7.2) and Block Configuration / number of units per core (Section 16.10.1) . The statement is summarised below: -

Building Height: Section 16.7.2 of the Development Plan sets out a maximum building height of 24m. This is equivalent to approximately 8 storeys of residential development. The proposed development includes buildings ranging from 3 – 14 storeys and, therefore, elements of the development contravention the height strategy of the development plan.

SDRA 11 does not prescribe maximum heights for the site. It does identify the centre of the site as suitable for a mid-rise building. This is consistent with the justification presented for the 14 storey building (Block 07) in the centre of the site. However, it may not be considered to include the other buildings (Blocks 05, Block 07, Blocks 09, Blocks 6 and 10) which exceed 8 storeys. Therefore, the scheme does not comply with Section 16.7.2 and may not comply with the SDRA11 provisions in relation to building height.

Block Configuration: Section 16.10.1 of the development plan states that a maximum of 8 units per core per floor for the development is permitted. Block 05A and 07A provide 11 no. apartments per core and, therefore, is not in accordance with development plan standards.

Section 37(2)(b)

It is considered that the Board may grant permission for the proposed development in accordance with Section 37(2)(b)(i) and (iii).

Section 37(2)(b)(i)

- The development is a strategic development in the context of the regeneration of the area. The site is 5.2 hectares of prime development lands within Dublin's inner city and such land banks are scarce.
- The subject site is within Strategic Development and Regeneration Area (SDRA 11 - Stoneybatter, Manor Street and O'Devaney Gardens Strategic Development and Regeneration Area). Figure 2 "Core Strategy Map" and Table E "Capacity of Sub-areas of the City for Residential Development" includes O'Devaney Gardens/ SDRA 11 noted that the site has a capacity of c. 1,000 residential units. Therefore, it is considered that Dublin City Council clearly identifies the subject site as being of strategic importance in the context of its statutory Development Plan.
- The National Planning Framework (NPF) (Objective 32) and the Government's Action Plan on Housing and Homelessness - Rebuilding Ireland (Pillar 3) seeks to increase housing delivery.
- The National Planning Framework includes objectives that encourage increased residential densities through a range of measures including increased building heights (Objectives 13 and 35). The proposed development which delivers 1047 residential units is a significant proportion of the residential supply within the inner city and is therefore of national importance in terms of its role in fulfilling the NPF objectives.

Section 37(2)(b)(ii)

The proposed development is consistent with the regional spatial and economic strategy for the area and adheres to the 'Guiding Principles' in Section 5.3 of the MASP for the following reasons:

- The development of this brownfield and infill development will promote sustainable consolidated growth of the Metropolitan Area.
- It will assist in achieving the target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs
- It will accelerate housing supply
- It will promote higher densities supported by public transport accessibility including 'Bus Connects' and LUAS
- It will assist in social regeneration as well as physical regeneration in an inner city site with has experienced high relative deprivation.
- The Development Agreement promotes more active urban development of these underutilised/ vacant publicly owned land

The proposed development building height is in accordance with the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) which support in principle greater building heights within the city centre areas. The Guidelines allow for increased building heights subject to meeting specific development management criteria (SPPR3). The applicant has assessed the scheme in accordance with the criteria set out in the Building Height Guidelines at The Scale Of The Relevant City/Town, At The Scale Of District/Neighbourhood/Street and At The Scale Of The Site/ Building and in accordance with other specific assessments including a microclimatic Wind Analysis and Pedestrian Comfort Report (IN2), Screening Report for Appropriate Assessment, Design Statement and Environmental Impact Assessment Report (EIAR).

The block configuration of Block 05A and Block 07A is in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018) which allows for a maximum of 12 units per core per floor (SPPR6).

7.0 Third Party Submissions

7.1. 44 no. third party submissions were received. A brief history of the development of the site and the planning history of the site has been provided by a number of third parties. The submissions are generally supportive of the redevelopment of the site. The concerns raised are summarised below: -

Planning Context

- Plans under the 'Housing Land Initiative' agreed a maximum of 5-storeys and 584 no. residential units for the O'Devaney Gardens site. In 2019 the local authority agreed to gift the public lands at O'Devaney Gardens to a private developer. This agreement increased the number of units on the site to 768 no. and no limit was set on heights. The 2019 masterplan was generally well received. The current proposal is overdevelopment of the site and fails to meet the targets set out in the 2019 masterplan.
- There have been years of consultation with the local community regarding the redevelopment of this site, which has all been ignored in the current proposal. The number of units is far in excess of what was agreed.
- This site was previously in public ownership and there should be some community gain.
- The SDRA allows for 1 no. mid-rise building. The proposed scheme is not in keeping with the objectives of the SDRA.

Tenure

- It is unclear which units would be provided as social and affordable. These units should be mixed throughout the scheme. The units which do not reach the BRE guidelines should be fairly distributed between social, affordable and private. There should be no distinction between public and private housing.
- The unit mix does not provide sufficient family homes and would result in a transient population. Dublin 7 has an overconcentration of developments which result in transient populations. In this regard student accommodation, build to rent and co-living schemes. This is not good for sustainable, long term community development. The current proposal offers little in the way of creating a new vibrant community and in fact threatens the cohesion and stability of the surrounding community.

- Concerns that the ratio of owner occupier would have a negative impact on the management of the scheme. It is recommended that a minimum of 50% of the units should be owner occupied.
- There is an overconcentration of social housing in the area. There should be an aim towards affordable housing within the scheme to allow families to purchase a home and to limit the purchase of units by housing bodies or corporate funds.
- Families should not be located above 6th floor level as they cannot see children playing in the areas of open space.

Design Approach

- Disagree with the Landscape and Visual Impact. The submitted documentation clearly indicates that the development would be visually dominant and overbearing. This would have a negative impact on the existing urban character.
- The density is excessive and results in poorer quality residential units.
- The height of the blocks is excessive and does not provide an appropriate transition from the existing pattern of development. Medium rise blocks with spaces and views between them would be more appropriate. The scheme does not integrate well with the character of the local environment or make a positive contribution to urban place making.
- A scheme with a maximum of 6-storeys would be more appropriate for this historic area of the city. The height would result in a scheme that is visually overbearing, obtrusive and incongruous.
- This is an elevated site. The scheme would not integrate into the existing character of the area. The scale of the development is inappropriate having regard to the Z2 zoning objection of the adjacent residential streets.
- The height is a material contravention of the development plan. The proposed development does not comply with the requirements of the Urban Height Guidelines.
- The proposed scheme provides a poor standard of amenity for future residents.
- The scheme is lacking in its quality of urban design. Monotony is a feature of the proposed elevations to the various blocks, exacerbated by excessive

heights. The streetscapes do not offer sufficient variety. The scheme is unimaginative and lacks overall quality.

- Further detail is required regarding the intended use of the retail / commercial units. More mixed uses are required at ground floor level to animate the streets.
- The configuration of the blocks does not represent good urban design principles and does not provide a sense of place or character.
- Concerns regarding poor access to daylight and sunlight for units at the lower levels and regarding the number of single aspect units. Excess number of units accessed from long lightless corridors.
- The residential units reach the minimum standards. However, they should be larger to encourage and support families to live in the development.
- Not in keeping with the historic architecture of the area. The proposed scheme would have a negative impact on the built heritage of the area. Concerns regarding the height, scale and mass of the blocks which has no regard to the topography or sensitive architectural heritage of the area. The site is located adjacent to Collins Barracks, Arbour Hill Church and Cemetery and St. Bricin's, all protected structures. Concerns that insufficient consideration has been given to the impact on these structures.
- The cumulative impact of adjacent developments should be considered, including 38 no. units on Infirmary Road, 300+ units at Parkgate Street and the Phase 1 development currently under construction on O'Devaney Gardens site.

Daylight and Sunlight Assessment

- The submitted Daylight and Sunlight Report does not make any reference to IS EN 17037:2018, but relies on the recommendations of the withdrawn BS 8206-2:2008 and the superseded advice of the BRE
- Guidance. An assessment must be provided with reference to the standards and methodologies of the current guidance which is in force in Ireland. In the absence of a document which references the current guidance it is considered that there is insufficient information to allow An Bord Pleanála to have appropriate and reasonable regard to quantitative performance approaches to daylight assessment set out in relevant guides now in force as

is required by the Apartment Standard Guidelines and the Building Height Guidelines.

- A significant number of units (37%) will fail to achieve a minimum standard of daylight and, therefore, the scheme would provide an inadequate standard of amenity for hundreds of future occupants.
- The proportion of units reaching the BRE standard is 63% not the stated 81.5%.
- It seems unlikely that the proposed development would exceed the recommendations of BREEAM New Construction Non-Domestic Buildings Technical Manual SD5076 – 5.0:2014.
- Insufficient information has been submitted to assess if the development is in accordance with LEED. The methodologies for assessment and the standards to be applied under LEED are entirely different to those set out in the British Standard and BRE Guidance.
- The submitted daylight and sunlight assessment does not clearly identify the extent to which the proposal is unable to meet the requirements of the BRE Guidance or the British Standard. In addition, the report does not set out a rationale for alternative, compensatory design solutions to offset the failure to achieve daylighting standards.
- No shadow diagrams have been submitted showing the impact of the proposed development on the surrounding area. The full extent of the shadow cast is evidently cropped which results in an inaccurate representation of the impact.
- Having regard to Higgins & Ors v An Bord Pleanála & Others the submitted Daylight and Sunlight report does not contain sufficient information to allow the Board to make a decision on the impact of the proposed development on sunlight access to the surrounding area.

Open Space

- There is an overall loss of green space on this site. It is unclear if the open space provision meets the zoning objective that 20% of the lands remain as accessible open space.
- Open space is minimal and disconnected from the blocks.

- Communal space at roof top level would overlook St. Bricin's which is a military institution.
- Internal courtyards are too small and would be unduly overshadowed.
- Open space would be overshadowed and therefore would not provide a sufficient amenity for a development of this scale and the wider environs.
- Concerns regarding the management of open spaces to ensure they do not attract anti-social behavior.
- Details of the proposed boundary treatments need to be agreed.
- Public realm works should be to the highest standard and allow for maximum planting.

Residential Amenity

- The development does not have due consideration to the impact on the wider community. The proposed scheme would unduly overlook, overshadow and have an overbearing impact on existing dwellings. The provisions of the Building Height Guidelines are noted; however, this is also a responsibility to protect existing residential amenities.
- Concerns regarding noise and nuisance from the construction and operational phase. There are on-going issues with noise and disturbance from the construction of Phase 1.
- There is little gain for the existing community.
- Overspill lighting from the scheme will have a negative impact on adjacent residents.
- The proposed scheme negatively impacts on a vehicular access to a house at the rear of 43 Montpelier Gardens which was constructed in 2020. The altered access arrangement is unacceptable and would result in anti-social behavior and illegal dumping.
- The size and scale of Blocks 08C and 08D are higher than the existing dwellings and would result in overlooking.
- Concerns regarding the impact of construction on the stability of existing dwellings surrounding the site.
- Conditions are required to ensure construction does not unduly impact on the adjacent residents, including limiting the hours of work permissible.

Water Services

- The proposed scheme would have a significant impact on water supply, water pressure, drainage and sewerage in the area.
- Irish Water have requested investigation works of downstream networks to guarantee that foul and stormwater are not connected. This has not been carried out, therefore, the likely impact on stormwater and foul water cannot be established.

Social Infrastructure

- There is insufficient capacity in the existing social infrastructure to accommodate a development of this scale, in particular GP practices, schools, community and leisure facilities. Consideration of increased level of community and retail facilities within the development.
- Additional bins would be required in the surrounding areas. There are issues with illegal dumping in the area which is currently cleaned by local volunteers.
- Anti-social behavior is already a problem in this area. The community space is noted; however, it is considered that additional facilities are required and a community policing plan.
- Public art or plaque should be provided to commemorate the history of the area.

Transportation and car parking

- The proposed development would have a negative impact on the capacity of the surrounding road network. Concerns regarding rat running through the adjacent streets.
- There are already serious issues with haphazard car parking on the surrounding road network. Insufficient car parking has been provided to serve the proposed development. This would result in overspill car parking on the surrounding road network.
- The provision of 2,000 bicycle parking spaces is welcomed, however, this is considered aspirational and this level of cycling is unlikely to be implemented.
- The internal layout would allow for speeding.
- The footpaths on the surrounding streets are in some instances only 1m in width and, therefore, inadequate to accommodate the potential increase in

movements generated by the proposed development. Consideration of increasing footpath width and /or altering street layouts is required.

- Further consideration of the impact of delivery vehicles on the capacity of the road network, that a scheme of this size would generate.
- The mobility strategy does not adequately consider the transportation need of people with mobility issues.
- Concerns regarding the negative impact / anti-social behavior on existing streets due to the proposed links from the site to Ashford Cottages, Ross Street and Thor Place and the potential to overwhelm these streets with vehicular, cycle and pedestrian movements. These accesses could be gated to allow for access to the park and creche during daylight hours.
- NCR is a more appropriate route for new residents of the proposed development.
- A construction management plan should be agreed in advance.

EIAR

- The EIAR is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- The process provided for under the 2016 Act contravenes the requirements of the EIA Directive and the public participation requirements set out.
- The Board lacks ecological and scientific expertise and / or does not appear to have access to such expertise in order to examine the EIA Screening Report as required under the EIA Directive.
- The EIAR when read in conjunction with the Construction and Waste Management Plans provide insufficient information to enable a proper and complete assessment of potential pollution and nuisances arising from the development.
- There is insufficient information to assess the impact on risk to human health. The Board cannot, without setting appropriate thresholds to protect against adverse impacts on human health, leave over the determination of appropriate measures needed to protect human health. It is not permissible for the developer to provide vague and generic information in the Construction Management Plan, and to seek to rely on the same for the purposes of EIAR, to assess impacts on human health. If the Board was minded to grant

permission it would effectively be abdicating its responsibilities under the EIA Directive having regard to the lack of specific information presented.

- The population and human health chapter is inadequate in that it fails to assess the impact of an increased population in the area on services including schools, childcare and medical care.
- An EIAR must be prepared with the benefit of best scientific knowledge. The biodiversity chapter is deficient in that the proper methodology has not been provided for the carrying out of bird surveys and mammal surveys and it is, therefore, impossible for the developer to establish that the chapter has been prepared with the benefit of best scientific knowledge.
- The Land, Soils and Geology chapter is deficient in that it identifies 2 no. cumulative impacts but does not provide a quantification for the level of these impacts. It does not provide mitigation measures for avoiding impacts on human health from contaminated soils. In addition, this chapter does not address the implications of subterranean structures such as basements on land, soils and geology.
- The Cultural Heritage Impact Assess is flawed in that it is prepared on the basis that no basements would be constructed as part of the development. However, basement plant rooms are provided in Blocks 7 and 9.
- The EIAR, in particular Chapter 14: Landscape relies heavily on DCC policy and the Building Height Guidelines. There is nothing in the Directive 2011/92/EU which would suggest that government policy should be a factor in determining the quality of effects on the environment. The EIAR describes all visual effects as being either neutral or positive. There are concerns that the likely visual effects would have been characterised in a different way if regard has not been had to the policies outlined in the development plan and the Building Height Guidelines.
- The proposed height may be justified under the Building Height Guidelines, however, in light of the significant legal questions surrounding whether the EIA directive precludes consideration of these guidelines when assessing the environmental impact of a scheme, a decision on this planning application to allow for a development of this height would be premature pending the outcome of referral to the EU Courts.

- The consideration of alternatives is inadequate. The assessment failed to consider alternatives to the proposed 6-storey blocks that face directly onto Montpellier Gardens.
- The Landscape Chapter considers that there will be significant positive impact on the views from Montpellier Gardens, however, this is based on a very low baseline of a vacant site and is not a realistic baseline for an inner-city site.
- The EIAR is deficient in that the developer failed to, ignored or neglected to consult with the Minister for Agriculture, Food and the Marine, the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs (now the Minister for Culture, Heritage and the Gaeltacht), the Environment Protection Agency, the Minister for Communications, Climate action and Environment, and Dublin City Council as the planning authority concerned for an opinion on what information will be required to be contained in an EIAR. No evidence has been provided of consultation with these prescribed bodies.

Appropriate Assessment

- The information present is insufficient, contains lacunae and is not based on appropriate scientific expertise. As such the Board cannot comply with the requirements of the Habitats Directive and Planning and Development Act.
- The AA Screening Report indicates that in the absence of an attenuation system there would be an unrestricted stormwater flow from the site which may likely impact on protected Natura 2000 sites.
- The absence of evidence that poor water quality is currently effecting Dublin Bay does not equate to the absence of effects in circumstances where no comprehensive investigations have been carried out. The screening for AA fails to provide definitive findings capable of dispelling all reasonable scientific doubt as to the effects of the proposed works on the protected areas. species concerned.
- The reference to Ringsend WWTP and the reliance of same for the purpose of AA Screening is flawed having regard to the status of the WWTP.
- The finding in the AA Screening that there is unlikely to be escape of sediment during construction phase is not based on scientific evidence.
- The AA Screening considers mitigation measures, which is impermissible.

- Purported reliance on the Water Framework Directive in a generic sense does not amount to scientific evidence which reliance can be placed as part of the AA screening.

Inland Fisheries Ireland

- The proposed development is located within the catchment of the River Liffey, which supports a regionally significant population of Atlantic Salmon.
- There can be no direct pumping of contaminated water from the works to a watercourse at any time. Any dewatering of groundwater during excavation must be pumped to an attenuation area before being discharged.
- Precautions must be taken to ensure there is no entry of solids during the connection or stripping of old pipework to the surface water system.
- It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the development in order to protect the ecological integrity of any receiving aquatic environment.
- Ringsend WWTP is currently working at or beyond design capacity and will not be fully upgraded until 2023. A high court judge has recently ruled that that planning permission be quashed for a wastewater treatment plant at Clonshaugh, intended by IW to supplement the Ringsend WWTP.
- All discharges must be in compliance with the European Communities Regulations 2010.

Legal Issues

- Permission cannot be granted permission for the proposed development in circumstances, where it would be justified by the Building Height Guidelines in particular SPPR3. These Guidelines are not authorised by Section 28(1C) of the Planning and Development Act, 2000 (as amended). The Guidelines are also contrary to SEA Directive as they purport to authorise contraventions of Development Plans / Local Area Plans without and SEA being conducted, or a screening for SEA being conducted on the variations being brought about to the Development Plan / Local Area Plans as a result of same.
- Having regard to Clonres CLG v An Bord Pleanála & Ors permission cannot be granted under Section 37(2)(b) as the proposed development is not of strategic or national importance.

- It is considered that a decision on this planning application would be premature pending the outcome of referral to the Court of Justice of the European Union under *Keirns & Anor v An Bord Pleanála*.
- The application is invalid as it was not available to view at the offices of An Bord Pleanála.

8.0 Planning Authority Submission

- 8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 7th July 2021. The report includes a summary of the site description, the proposed development, the sites relevant planning history, a summary of the third party observations, a summary of internal reports received and policy context. A summary of the views of the elected members of the Central Area Committee, at a meeting held on the 21st June 2021 are provided as an appendix. The members generally welcome the redevelopment of the site. However concerns are raised regarding impact of the proposed height, density, design and layout, which is not what was envisaged when the land was disposed to the developer; the housing mix should include larger units; under provision of car parking; Part V provision and phasing of public open space. Reports from the Transportation Planning Division, City Archaeologist, Drainage Division, Environmental Health Officer, Housing Department, Parks Biodiversity and Landscaping Services and Waste Regulation Sections have also been provided.
- 8.2. The key planning considerations of the Chief Executive's report are summarised below.

Principle of the Development The proposed uses are all permissible with the Z14 zoning objective.

Masterplan and Overall Site Layout the proposed open space provision is acceptable and welcomed. The provision of a MUGA complies with the requirements of SDRA11.

The applicant's justification for the proposed block layout and pedestrian and cycle linkages is acceptable.

The layout of Northern Park would provide a high standard of amenity. The retention of the community gardens is supported, however, concerns regarding the proposed access and boundary treatment to this area. There are also concerns that the community gardens have been included in the calculation for public open space.

The revised design for the access from Ashford Cottages is considered to be of good quality and is supported.

The location of the MUGA to the west of the central park is considered acceptable.

Plot ratio and Site Coverage The proposal would comply with development plan standards.

Building Height and Massing A significant portion of the scheme would exceed the maximum building height as set out in the development plan. SDRA11 does not prescribe a maximum building height for the site, however, it does identify the site as suitable for a mid-rise building towards the centre of the site. It is considered that the scheme does not comply with development plan standards. Therefore, a full assessment of the scheme against the provisions of the Building Height Guidelines is provided.

The PA accepts that the 14 storey building is located upon a key junction and pivotal arrival point within the scheme. Furthermore, the PA concur with the applicant that the positioning and design of the building successfully proclaims a sense of arrival to the new regenerated neighbourhood. Accordingly it is considered that the proposed 14 storey building is located at an important street junction and its associated height, form and restrained architectural language would provide an appropriate sense of arrival, assist in modern placemaking and provide a positive contribution to the legibility of this new residential quarter within the local, town and city context.

There are, however, significant concerns in relation to the 12-storey elements of the proposed scheme which would be located on the eastern side of the site, adjacent to the hospital lands (B06 and B10). While the positioning of these elements away from neighbouring sensitive receptors is supported, the placemaking rationale for the proposed positioning has not been demonstrated, and it is considered that these buildings do not mark an important route or location within the overall scheme.

Furthermore, it is considered that the Visual Impact Assessment illustrates that the proposed development would have a significant and unacceptable impact on the views east of the site, including from within St. Bricin's Hospital Lands. It is, therefore, recommended that Blocks 06 and 10 be amended by condition or the upper 4-storeys be omitted, reducing the blocks to a maximum of 8-storeys.

The use of high quality materials is welcomed. However, concerns regarding significant portions of render, which is not considered a durable material. It is considered this could be addressed by way of condition.

Mixed uses at ground floor is welcomed. However, it is recommended that an additional commercial unit be provided along the southern frontage of Block 7 to facilitate the provision of an active frontage on to the neighbourhood park.

There are also concerns regarding a potential negative impact on the residential amenities of units opposing the MUGA, due to undue noise and light. It is recommended that detail of the operation and management of the MUGA be agreed by way of condition.

Details of the management, operation and layout of the community and residential amenity facility is required.

Daylight and Sunlight: based on the submitted report it is clear that a significant proportion of rooms would not meet BRE recommended standards.

Microclimate: the submitted report demonstrates that the proposed development would meet the pedestrian setting and walking comfort criteria, which is welcomed.

Residential and Neighbourhood Quality:

Tenure Mix: It is proposed to allocate 10% of the development for Part V. These units would be distributed throughout the development. There are no objections to the proposed arrangements.

Unit Mix: The proposed mix is in accordance with the Apartment Guidelines.

Minimum Floor Area: The proposed development is in accordance with the standards set out in the Apartment Guidelines.

Dual Aspect Ratio: 37% of units are dual aspect, which exceeds the requirements of the Apartment Guidelines.

The scheme includes 52 no. single aspect north facing units. It is noted that the floor area of these units has a gross floor area +10% above the minimum standards.

It is noted that the applicant has sought to locate single aspect units overlooking areas of open space. There concerns regarding the north facing single aspect units in Block 05 and 07 which front onto the podium level area of open space. This is not considered to accord with Section 3.19 of the development plan, which states that north facing single aspect apartments may be considered, where overlooking a significant amenity.

The Daylight and Sunlight Assessment indicates that a number of north facing single aspect units fall significantly short of the BRE standards. It is recommended that these units be omitted and / or designed.

Private Open Space: Private open space provision is deemed acceptable.

Communal Amenity Space: The overall provision of communal open space would exceed the minimum standard. The information submitted indicates that the proposal communal and public open spaces would significantly exceed the minimum BRE Guidelines. This is welcomed.

Children's Play Space: No objection to the play space, which is considered to be of a high quality and appropriate design.

Childcare Facility: The shortfall in capacity of the childcare facility is noted. However, the applicant has highlight that there are a number of other providers in the area. the PA supports the proposed creche which is considered to be of a high quality design and is acceptable.

Floor to Ceiling Heights: the proposed floor to ceiling heights are in accordance with the Apartment Guidelines and area considered to be acceptable.

Storage: The scheme would comply with the minimum standards

Lift and Stair Core: The layout would comply with the minimum standard of 12 no. units per core as set out in the Apartment Guidelines. However, there are concerns

regarding the length and configuration of Buildings B04a, B04b, B05, B07 and B09. It is considered that the corridors would be overly long and narrow, resulting in poor quality residential environments.

Landscaping and Public Open Space: The development would meet the minimum requirement of 15% open space. It is considered that the 3 no. main public open spaces would be of high quality design and layout. It is considered that the design of the proposed spaces would ensure informal supervision by residents and be visually and functionally accessible to the maximum number of dwellings.

Transportation: The findings of the TIA are noted and accepted.

Having regard to the central location, access to public transport and the proposed mobility management strategy the proposed level of car parking is acceptable in principle in this instance. It is, however, considered that the phased delivery of the car share spaces should be provided to ensure travel behaviour is influenced from the first phase of development.

The quantum of cycle parking is largely considered acceptable.

It is intended that the internal street network would be taken in charge, this includes all on-street car parking spaces.

Environmental Impact Assessment A summary of the EIAR has been provided. The PA generally accepts the findings of the EIAR. However, the conclusions within the Landscape / Townscape and Visual Impact chapter of the EIAR are not accepted by the PA.

Appropriate Assessment: The AA Screening report is noted.

Conclusion

If permission is being contemplated the planning authority have provided 16 no. recommended conditions. Condition no. 2 is of note -

2. Prior to commencement of development, revised plans shall be submitted to and agreed in writing, which detail the following:

- The omission of the upper most 4 storeys of Blocks B06 and B10;

- The omission of all render elements from all buildings and the replacement with brick finish;
- The omission of units B07B.G102 and B07B,G103 and the inclusion of additional commercial units along the southern frontage of Block 7 to facilitate the provision of an active frontage to the public open space area;
- The omission of the proposed Single Aspect North Facing units in Block 05 and Block 07, which face into the internal podium level courtyard amenity space.

Reason: To ensure a satisfactory standard of development.

9.0 Prescribed Bodies

9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

- Irish Water
- Transport Infrastructure Ireland
- National Transport Authority
- Department of Culture, Heritage and the Gaeltacht
- The Heritage Council
- The Arts Council
- An Taisce
- Dublin City Childcare Committee

The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 7th December 2020. A summary of the comments received are summarised below:

Department of Defence: Having regard to the proximity to Air Corps landing sites in the Phoenix Park, all planned crane activity should be coordinated with Military Air Traffic Services.

Department of Housing, Local Government and Heritage – Development Applications Unit (DAU):

Archaeology: On the basis of the information in Chapter 13: Cultural Heritage of the EIAR it is recommended that the proposed archaeological mitigation measures for archaeological testing are carried out in advance of any construction works as a condition of any grant of planning permission.

Nature Conservation: Having considered the documentation submitted in support of the present application, it is noted that several common bird species have been identified as nesting in a tree row and small area of bramble dominated scrub in the south east of the development site, and that while the numerous trees which are to be included in the proposed development should compensate to some extent for the removal of the tree row, there is the potential for the direct destruction of bird nests, eggs and nestlings, if the removal of vegetation is carried out during the bird breeding season.

It is also noted that the invasive alien plant species Japanese knotweed has been found to be present on the development site and has been the subject of an eradication programme by Dublin city Council, but that some regrowth of this species was identified on the site in 2020.

Due to the proposed erection of various tall buildings on the site the opportunity exists to install nest boxes for swifts in the new development. This species is currently considered to be declining in Dublin, partially as the result of nest sites in older buildings.

Irish Water

Water: In order to facilitate connection(s) for this proposed development local upgrade works will be required as follows:

- Connection main – c.35m of new 200mm ID pipe main to be laid to connect the site development to the newly laid 200mm ID main and connect up to the existing 150mm DI. Bulk meter to be installed on connection main with capability to link up to the online telemetry system. Connection between the new 200mm ID main and 150mm DI main will replace the existing 4" CI.

- Secondary connection main – c. 20m of new 200mm ID pipe to be laid to connect the site development to the existing 12” CI. Operational valve to be installed on the connection main, to be set closed for normal operation.
- Pipe Upgrades – c. 140m of new 200mm ID pipe to replace the existing 6” and 4” CI.

Irish Water currently does not have any plans to extend its network in this area. The applicant will be required to fund these local network upgrades and will be delivered as part of a connection agreement between the applicant and Irish Water.

Wastewater: The development must incorporate Sustainable Drainage Systems / Attenuation in the management of stormwater and to reduce surface water inflow into the receiving combined sewer. Full details of these must be agreed with the planning authority’s Drainage Division.

Design Acceptance: The applicant has engaged with Irish Water in respect of design proposals within the redline boundary of their proposed development site and has been issued a Statement of Design Acceptance for the development.

National Transport Authority:

- Consolidation of development into central sites is a key mechanism to achieve a reduction in the demand for travel and in the facilitation and promotion of public transport, walking and cycling as modes of transport. The proposed development would be considered consistent with the land use planning principles of the Transport Strategy.
- Car sharing schemes can play a key role in facilitating mobility needs of future occupants without the need to own a car, and in reducing overall car use. Such schemes could facilitate lower numbers of dedicated parking spaces at central sites such as this without risk of overspill parking onto neighbouring streets or onto public transport and cycling corridors. The car-sharing scheme should be communicated to all potential future occupants via the Travel Plan.
- It is recommended that a condition be attached requiring monitoring of on-street parking in the vicinity of the proposed development is required.

- A higher rate of cycle parking provision is recommended to further encourage cycling.
- The proposed development will contribute significant numbers of cyclists to the local road network. The TTA states that there are currently no existing cycle facilities within the vicinity of the site. It is recommended that a condition be attached to any grant of permission that a cycle investment programme, be agreed with the planning authority and the NTA, which demonstrates how cyclists can safely travel to and connect with existing and proposed cycle infrastructure, namely North Circular Road, Thor Place, Montpelier Gardens and Swords Street. It is the view of the NTA that such public infrastructure would benefit the proposed development and is, therefore, subject to financial contributions from the applicant under a Section 48 agreement.

No comments were received from Transport Infrastructure Ireland, the Heritage Council, The Arts Council, An Taisce or Dublin City Childcare Committee.

10.0 Oral Hearing Request

10.1. A request was received for an oral hearing. Section 18 of the Act provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board:

- (i) Shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and
- (ii) Shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

10.2. In my opinion there is sufficient information on file to allow for a proper and full assessment of the case without recourse to an oral hearing. I note the observer submissions received and the contents thereof. Having regard to the information on file, to the nature of the proposed development and to the location of the development site, I do not consider that there is a compelling case for an oral hearing in this instance.

11.0 The Assessment

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 focuses on 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 local plan and has full regard to the chief executive's report, 3rd party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development / Planning Context
- Design and Layout
- Quantum of Development
- Building Height
- Housing Tenure and Housing Mix
- Open Space
- Residential Amenity
- Transportation and Car Parking
- Water Services
- Material Contravention

11.1. Principle of Development / Planning Context

11.1.1. The proposed development comprises the redevelopment and regeneration of an underutilised brownfield site within Dublin city centre. The site is located on lands zoned Z14: - Strategic Development and Regeneration Areas (SDRA's) with the associated land use objective '*to seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and 'Z6' would be the predominant uses*'. The Z6 zoning relates to Employment / Enterprise with the associated land use objective '*to provide for the creation and protection of enterprise and facilitate opportunities for employment creation*'. SDRA 11 encompasses lands at Stoneybatter, Manor Street and O'Devaney Gardens. The subject site forms part of the SDRA, which has been designated to deliver a significant scale of residential accommodation. It is noted that in general the planning authority and third parties welcome the redevelopment of the former O'Devaney Gardens site. I am satisfied

that the proposed development, which comprises residential uses with some commercial / community uses is appropriate at this location and in accordance with the land use zoning objective.

- 11.1.2. Section 15.1.1.14 of the development plan sets out 8 no. guiding principles for SDRA 11. In summary these guiding principles aim to; create greater synergies to Stoneybatter and Grangegorman with the opportunity for a mid-rise building in the centre of the site; the provision of a high quality residential quarter supported by mixed commercial, community and recreational facilities; attractive new streetscapes; neighbourhood park with 15% of the site as open space; permeability and high quality urban design and layout to aid legibility. The development plan also includes an indicative layout plan for the overall SDRA 11 lands.
- 11.1.3. A Masterplan for SDRA11 lands was produced by Dublin City Council in 2010 as part of the planning application for Phase 1, which was granted (ABP PL29N.JA0024) in 2011 and is currently under construction. The masterplan was reviewed in 2016 and is available to view on the Dublin City Council website. The applicant's Design Statement includes a revised masterplan for the lands and states that the proposed masterplan aligns with the key parameters of the 2010 / 2016 DCC Masterplan and the SDRA objectives set out in the development plan. However, it notes that the revised masterplan also reflects the policies of the Apartment Guidelines and the Building Height Guidelines.
- 11.1.4. Concerns are raised by third parties that the quantum of development and the proposed height does not comply with the masterplan or the agreement reached with locals during a public consultation process in 2019 undertaken by Dublin City Council. It is noted that no details of the proposed layout or quantum of development as proposed during the 2019 public consultation have been included with the application. However, from the information submitted it would appear that the proposals issued for public consultation related to the DCC masterplan (2016).
- 11.1.5. Section 16.7.2 of the development plan sets a maximum building height of 'up to 24m' for residential developments in the city centre. Block 05 has a maximum height of 9 storeys (30.9m), Block 06 has a maximum height of 12 storeys (40.5m), Block 07 has a maximum height of 14 storeys (46.8m), Block 9 has a maximum height of 10 storeys

(33m) and Block 10 has a 12 storeys (40.5m). Therefore, the height of these blocks (05, 06, 07, 09 and 10) exceed this height does not accord with the height strategy set out in the development plan. It is noted that SDRA 11 allows for the provision of 1 no. mid-rise building within the centre of the scheme. The development plan considers a mid-rise building to be up to 50m. Therefore, Block 07 could be considered in accordance with the provisions of SDRA11. However, if the Board were to consider a material contravention applies, the provisions under Section 37(2)(b) as outlined in Section 11.10 below should be considered.

11.1.6. While it is noted that the proposed height exceeds the parameters set out in the masterplan and the SDRA it is my view that, in general, the proposed scheme achieves many of the criteria set out in the SDRA and the masterplan, with specific regard to the provision of a high quality residential quarter; attractive new streetscapes; neighbourhood park with 15% of the site as open space; permeability and high quality urban design and layout to aid legibility and would result in the regeneration of this inner city centre site, which would significantly contribute to the consolidation of the urban environment. The specific concerns relating to quantum of development and height are addressed below in Sections 11.3 and 11.4.

11.1.7. In conclusion, it is my view that the proposed scheme is considered it to be compliant with the sites the Z14 zoning objective and the 8 no. guiding principles set out in Section 15.1.1.14 of the development plan for SDRA 11. It is also noted that the planning authority raised no concerns in this regard.

11.2. **Design and Layout**

11.2.1. The proposed scheme represents the comprehensive and significant regeneration of an underutilised 5.2 ha brownfield site within the inner city. The site is located to the west of the residential area known as Stoneybatter and is bound by a variety of architectural styles. It is bound to the north and north west by 3 storey red brick Georgian dwellings on North Circular Road, to the south and west by 2-storey red-brick and render dwellings, to the north east by single storey rendered dwellings and to the south east by St. Bricin's, which is an Edwardian institutional building set in large grounds with a mid-twentieth century chapel building closest to the site. The site is also located c. 200m south east of the Phoenix Park and c. 1.8km west of

Grangegorman campus. While the site is located within the city centre, it does not have frontage onto any main thoroughfares and is generally bound by rear and side gardens of existing low density housing and a high wall and mature trees at its boundary with St. Bricin's. There is frontage onto a local public road, Montpellier Gardens, however, the general character of the site is isolated.

- 11.2.2. The proposed scheme has a contemporary design approach, with 9 no. urban blocks (Blocks 02 -10) centred around areas of public open space with vehicular, pedestrian and cycle links to adjacent streets. The blocks range in height from 2 - 14 storeys. The proposed blocks vary in scale and mass to respond to the existing adjacent properties, with the taller buildings located in the centre of the scheme. The development provides for a new hierarchy of streets with a main vehicular north-south boulevard connecting North Circular Road to Montpellier Gardens and a secondary east – west street connecting the Boulevard to Thor Place (to the east). The layout also includes 4 no. additional pedestrian and cycle linkages are provided from Montpellier Gardens (to the south) and from Ross Street and Ashford Cottages (to the east). The layout also provides for future connectivity to St. Bricin's to the east via the central park area of open space.
- 11.2.3. Permission was granted (ABP PL29N.JA0024) in 2011 for Phase 1 of the regeneration of O'Devaney Gardens, which comprised 110 no. residential units in 4 no. blocks, on a 2.47ha site in the north western portion of the overall site. 56 no. residential units are currently under construction. The unit's range in height from 2-3 storey houses to 3-5 storey apartments. This development has a buff brick finish.
- 11.2.4. Proposed blocks 02, 03, 04 and 08 are located at the site's boundaries with existing dwellings and are relatively low in scale and height. Blocks 05, 06, 07 are generally located in the centre of the scheme and Blocks 09 and 10 are located at the site's southern boundary with Montpellier Gardens (public road). These blocks (05, 06, 07, 09 and 10) are larger in height, scale and mass. A breakdown of the blocks is provided below.

Blocks 02 and 03 are linear in nature and are located on the northern portion of the site, to the rear of properties on North Circular Road and to the west of Ross Street. A

new shared surface laneway is proposed between the rear gardens of the properties on NCR and Blocks 02 and 03.

Block 02 is located to the south of 3 storey over basement dwellings on NCR and to the north of the proposed Block 05. It is a 5-6 storey apartment building accommodating 74 no. apartments. The proposed external materials include brown brick and light render. The brick finish is reflective of the existing properties on NCR.

Block 03 is located immediately adjacent to no. 23 Ross Street to the east of the site. It comprises a creche facility with an associated outdoor play area. It is 2-3 storeys in height and has a gross floor area of 489sqm. The proposed external materials include light render which is reflective of dwellings to the east of the site.

Block 04 is L-shaped and is generally located along the sites north eastern boundary with the rear gardens of existing single storey dwellings of Thor Place and Ashford Street. Block 04 comprises 11no. 2 storey 3-bed houses in two terraces (Blocks 04a and 04b) with associated private gardens located on the north-eastern and eastern boundary. Blocks 04a consists of 4no. 2 storey 3 bed houses. Block 04b consists of 7no. 2 storey 3 bed houses. It is proposed that these dwellings would have a render finish, which is similar material to the existing dwellings to the east.

Block 08 is linear in nature and is generally located along the site's eastern boundary with the rear gardens of existing 2-storey dwellings on Findlater Place and Montpellier Gardens. This block is also located to the south of Block 01, which is currently under construction. Block 08 comprises 26no. units in 4 no. terraces (Blocks 08a, 08b, 08c and 08d) of 2 / 3 storeys in height. Blocks 08a and 08b each consist of 6no. 2-storey 3-bed houses with associated private gardens. Block 08c is 3-storeys in height and consists of 5no. 3 bed duplex apartments over 5no. 2 bed apartments with associated private amenity areas. Block 08d is 3-storeys in height and consists of 1no. 3 bed duplex unit over 1no. 2 bed apartment and 2no 3 bed triplex units with associated private amenity areas. Block 08 has been designed to retain an existing vehicular access to the rear of 43 Montpellier Gardens between Blocks 08C and 08D. It is proposed that these units would have a red brick finish, which reflects the materials of dwellings to the west.

Block 05 is located in the centre of the scheme, to the north of the proposed new east-west link street and to the south of the proposed new northern park and Block 02. It is 4 - 9 storeys in height and arranged around 2no. landscaped communal podium courtyards. The block accommodates 294no. apartments with 155sqm of residential amenity space and non-residential uses at ground floor level comprising 4no. retail units (1,027sqm) and a community facility (157sqm). 96 no. car parking spaces are provided on a single level, below podium level with access from the new internal street on the eastern side of Block 5. The taller element of the building is located in the centre of the scheme adjacent to the proposed north – south boulevard and to the north of Block 7. The proposed external materials comprise a mix of buff brick, dark render and light render.

Block 06 and 07 are located in the centre of the site and form the southern boundary of the proposed new east – west link street and the northern boundary of the central park area of public open space.

Block 06 is located to the west of St. Bricin's. It is predominantly 6 - 12 storeys in height with a 2 storey element. It accommodates 93no. apartments with communal open space at ground level and a communal roof terrace. The proposed external materials include red brick and dark render.

Block 07 represents the focal point of the scheme. This block ranges in height from 6 - 14 storeys. The building is arranged around a central landscaped podium courtyard. It accommodates 264no. apartments with 546sqm of communal amenity space (288sqm at ground floor, 91sqm at second floor and 167sqm at 6th floor level), a landscaped podium, and 2 no. communal roof terraces. Block 07 also includes non-residential uses at ground floor level comprising 2no. retail units (totalling 366sqm) and a café (155sqm). 95 no. car parking spaces are provided over 2 no. levels below podium level with access from the east-west street. This block includes a 146sqm basement plant room. The proposed external materials include a combination of red brick, buff brick, dark render and light render.

Blocks 09 and 10 form the southern boundary of the site. They are located to the north of Montpellier Gardens (public road) and the south of the proposed Central Park area of open space.

Block 09 is predominantly 6 to 10 storeys in height and is arranged around a central landscaped courtyard. The central section of the southern elevation, fronting Montpelier Gardens, is 3-storeys in height. The block accommodates 192no. units with 409sqm of communal amenity space (268sqm of ground floor and 141sqm at 6th floor), a landscaped podium and 2 no. communal roof terraces. 35 no. car parking spaces are provided on a single level below podium with direct access from Montpelier Gardens. This block includes a 154sqm basement plant room. The proposed external materials include red Brick, dark render and light render.

Block 10 is located to the west of St. Bricin's. It is predominantly 6 - 12 storey in height with a 2-storey element. The block accommodates 93no. apartments with a communal open space at ground level and communal roof terrace. The proposed external materials include red brick and dark render.

11.2.5. In my view that Blocks 02, 03, 04 and 08 provide an appropriate transition in scale and height from the site's sensitive boundaries and that the scale and heights of Blocks 05, 06, 07, 09 and 10 are appropriate at this city centre site, as would they would help to create a distinct character for the site, which would aid with placemaking and legibility. Overall it is my view that the form, massing and height of the blocks, the relationship between the blocks and the proposed the hierarchy of streets and open spaces results in a high quality and coherent urban scheme that would have a significant positive impact on the consolidation of the urban environment and the visual amenities of the area.

11.2.6. It is proposed that the development would be split into three phases with the accompanying infrastructure and green spaces. Phase one is generally located in the southern and eastern portion of the site and comprises Blocks 06, 09 and 10 and a portion of the Central Park. Phase two is generally located in the centre and western portion of the site and includes Blocks 07 and 08 and the majority of the Central Park. Phase three is generally comprises the northern portion of the site and includes Blocks 02, 03, 04 and 05 and the northern park. It is envisioned that the construction phase would take between 3-5 years to complete. I have no objection to the proposed phasing.

- 11.2.7. As outlined above the scheme includes a variety of high quality external finishes which reflect the existing palette of material in the wider environs. The use of high quality materials is welcomed. However, I would agree with concerns raised by the planning authority regarding the proposed significant portions of render, which is not considered a durable material, especially on the taller elements of Blocks 05, 06, 07, 09 and 10. It is considered this could be addressed by way of condition.
- 11.2.8. With regard to the non-residential uses, it is noted that SDRA11 aims to create a high quality residential quarter supported by mixed commercial, community and recreational facilities. Non-residential uses are generally provided at the ground floor levels of Blocks 05 and 07. A total of 1,393sqm of mixed use retail and a 157sqm community centre at the ground floors of Blocks 5 and 7 on opposing sides of the new local street that links to Thor Place. An additional 157sqm café is proposed on the south western corner of Block 7 with frontage onto the central park area. Block 3 accommodates a crèche facility immediately adjacent to Ross Street. The planning authority welcome the mixed uses at ground floor level and recommend that an additional commercial unit be provided along the southern frontage of Block 7 to facilitate the provision of an active frontage on to the neighbourhood park.
- 11.2.9. Concerns are raised by third parties that insufficient non-residential uses are provided within the scheme to support the proposed level of development and enliven the streetscape. The DCC Masterplan states that the site has a maximum capacity of 585 no. residential units, and included limited retail and community uses on the basis that existing neighbourhood shops and the services proposed at Grangegorman were sufficient to serve the area. The proposed number of units (1,047) is almost double the maximum capacity outlined in the DCC Masterplan. It is also noted that permission was granted (ABP-309657-20) in 2021 to demolish the existing Park Shopping Centre c. 600m north east of the subject site. Therefore, having regard to the changing context of the area and the increased number of residential units proposed, it is my view that the scheme should also include increased non-residential uses to provide supporting facilities to future residents and the wider environs of the site, ensure active street frontages and to ensure compliance with the criteria outlined in SDRA11. I agree with the planning authority's recommendation that additional non-residential uses be provided with frontage onto the central open space to allow for passive surveillance.

However, having regard to the orientation of the scheme it is my view that these non-residential uses should replace the single aspect north facing units at the ground floor level of Block 09. In this regard, it is recommended that a condition be attached to any grant of permission that (3 no.) units B09B.GU01, B09A.GU01 and B09A.GU02 as indicated on drawing No 19045-OMP-ZA-00-DR-A-1000 be replaced with non-residential uses. It is noted from the submitted Housing Quality Assessment that these 3 no. units have a gross floor area of 190.2sqm (89sqm, 51sqm and 50.2sqm). Therefore, a total of 2,484.2 sqm of non-residential uses would be provided within the scheme.

11.2.10. A Schedule of Accommodate was submitted with the application. It is noted that the proposed units reach and exceed the minimum standards for room sizes as set out in the Apartment Guidelines. In addition, 37% of the units are dual aspect, which is in accordance with SPPR4(i) which allows for a minimum of 33% of units to be dual aspect in more central and accessible urban locations. I have no objection to the room sizes or percentage of dual aspect units and consider them appropriate at a city centre site.

11.2.11. Concerns are raised by the planning authority and third parties regarding the provision of single aspect north facing units. The exact number of north facing units has not been provided by the applicant, however, from the drawings submitted and the information provided in the applicants Design Statement it would appear that single aspect units are provided in Blocks 05, 07 and 09 only. The Apartment Guidelines state that north facing single aspect apartments may be considered, where overlooking a significant amenity. The drawings submitted indicate that there are 34 no. single aspect north facing units in Block 05, 27 no. of which front onto Northern Park. As this Block accommodates 294 no. units this equates to 11.5% of the units within this block. It is noted that the majority 31 no. within Block 05 are north west facing. There are 41 no. single aspect north facing units in Block 07, 25 no. of which front onto an internal east – west street and 16 no. front into the internal courtyard. As this Block accommodates 264 no. units this equates to 15.5% of the units with this block. There are 26 no. single aspect north facing units which front onto Central Park in Block 09. As this block accommodates 192 no. apartments this equates to 13.5% of the units within this block. It would appear that the units in Block 09 generally face

north – northeast. As noted above, it is my opinion that 3 no. ground floor units in Block 09 should be replaced with non-residential units, therefore, reducing the total number of single aspect units to 23 no. (12%).

11.2.12. Overall, the proposed layout includes 101 no. single aspect north facing units, this equates to c. 9.5% of the units within the scheme, which in my opinion could be further reduced (by 3 no.) way of condition. It is noted that the planning authority's recommended condition no. 2 required the omission of the proposed single aspect north facing units in Block 05 and Block 07, which front into the internal podium level courtyard amenity space. While it is acknowledged that not all single aspect north facing units front onto an area of significant amenity as recommended in the Apartment Guidelines, having regard to the internal layout of the scheme it is considered that these units cannot be easily incorporated into adjacent units or fully omitted without significant alterations to the internal layout or alterations of stair / lift cores and in my view is unreasonable to request by way of condition.

11.2.13. I would also note that in such urban schemes there can be challenges to achieve all recommended standards, and to do so would unduly compromise the design / streetscape. It is my opinion that the applicant has endeavoured to limit the number of single aspect north facing units and maximise the number of these units fronting onto areas of amenity space, in particular the Central Park and Northern Park. It is also considered that adequate compensatory design measures are provided within these units, in particular the gross floor areas of these units are +10% above the minimum standards and large windows / doors have been provided to living and dining spaces. The applicant has also justified the provision of these units stating that they provide for passive overlooking or areas of public open space. In addition to the above, internal communal residential amenity space has been provided within Blocks 05, 07 and 09. It is, therefore, my opinion that having regard to the city centre location, the high quality design and layout of the scheme and its contribution towards placemaking and consolidating the urban environment and the provision of compensatory measures that the low number of single aspect north facing units is acceptable in this instance.

11.2.14. Concerns were also raised by both third parties and the planning authority regarding the high number of units per core and the resulting long and narrow corridors. Section 16.10.1 of the development plan states that a maximum of 8 no. units per core per

floor are permissible. The proposed development exceeds this in two of the apartment blocks, Block 05A and 07A and is, therefore, considered to be a material contravention of the development plan. The applicant has submitted a material contravention statement and this issue is addressed below in Section 11.10. The Apartment Guidelines state that a maximum 12 apartments per floor be served per individual stair/lift core and that this is particularly applicable to higher density schemes in more central and accessible locations. The block configuration varies throughout the scheme and it is noted that where more than 12 no. units are provided along a corridor they are served by 2 no. stair / lift core areas. The proposed development is, therefore, considered to be in accordance with the Apartment Guidelines. I have no objection to the proposed layout, however, if the Board have concerns regarding the length of some corridors, in particular in Blocks 05, 07 and 09, is my view that the internal layout could be amended to reduce the length of the corridors by incorporating part of the corridor space into 1 no. residential unit per floor. This would result in shorter corridors with a maximum of 12 no. units served by 1 no. stair / lift core.

11.2.15. It is noted that concerns were also raised by the planning authority regarding the length and configuration of Block 04. As Block 04 comprises 2 no. terraces of 2-storey dwellings I have no objection to the layout and configuration of this block and consider it appropriate for the site's boundary with rear gardens of existing single storey dwellings to the east.

11.2.16. In conclusion, I have no objection to the design and layout of the scheme, including the number of single aspect north facing units or the block configuration, and consider that it is in accordance with the guiding principles of SDRA 11 to develop attractive new streetscapes with mixed typologies of high-quality accommodation and the provision of a high-quality public realm and active street frontages to complement the architectural legacy of adjoining streetscapes. Having regard to the current isolated character of the site, it is my view that the proposed development would result in the creation of a new distinct quarter with wider benefits, such as the delivery of a significant quantum of housing and public open space and the regeneration of an underutilised brownfield site in the city centre.

11.3. Quantum of Development

- 11.3.1. Concerns are raised by third parties that the proposed scale represents overdevelopment of the site. The development has a density of c.200 units per ha. The development plan does not set out density standards, however, it states that an urban design and quality-led approach to creating urban densities will be promoted. To control the scale and mass of a development and to prevent overdevelopment of a site the development plan does set out indicative plot ratio and site coverage standards. In this regard a plot ratio of 1.0 - 3.0 and site coverage of 50% are envisioned for Z14 lands. The proposed development equates to a plot ratio of 2.0 and site coverage of 45%. The proposed development is, therefore, in accordance with the indicative standards set out in the plan. Having regard to the site's city centre location, its proximity to public transport and the positive benefits from the comprehensive redevelopment and regeneration of the site, it is my view that the proposed scale of the development is appropriate. It is noted that the planning authority raised no objection to the proposed quantum of development.
- 11.3.2. There have been a number of recent grants of planning permission in the wider environs on the site for large scale schemes which are changing context of the north west inner city, with a transition towards a higher density urban area with a mix of different types of accommodation including residential, commercial and educational uses of varying heights and significantly increased densities. In this regard recent grants of permission include a mixed use development (TA29S.306569) granted in 2020 comprising 321 no. Build to Rent apartments, office, café / restaurant use, retail and ancillary uses in 5 no. blocks (B1, B2, C1, C2, and C3) ranging in height from 8 – 13 no. storeys at Parkgate Street c.400m south of the subject site. Block A, which was 29 storeys in height, was refused permission. There is a current application (ABP. 310567-21) for a revised Block A, which is 30-storeys in height and accommodates 198 Build to Rent Units, café and office use. A decision is due in October 2021. Permission was also granted (ABP-309657-20) in 2021 for the demolition of the existing Park Shopping Centre and no. 42-45 Prussia Street and the construction of 175no. Build to Rent Units and 584 no. student bedspaces in a scheme with a maximum height of 8 storeys at a site c. 600m north east of the subject site. Permission was granted (ABP 308424-20) in 2021 for the construction of 90 no. Build to Rent

apartments in a scheme with a maximum height of 7 storeys at Blackhorse Avenue, c. 380m north of the subject site. The subject site is also located c. 600m south west of the TUD campus at Grangegorman which provides for building up to 6 and a half storeys. It is also noted that the site previously accommodated the O'Devaney Gardens complex which comprised 13 no. 4-storey blocks. In the context of the changing profile of the surrounding area it is my view the proposed site is capable of absorbing a high density urban scheme and would make a positive contribution to the streetscape.

- 11.3.3. While it is acknowledged that the quantum of development is significantly denser than the adjacent housing it is my view that the wider environs of the site is in transition and undergoing a major change in its profile of development and that the proposed development would reinforce that changing profile and introduce significantly contribute towards consolidating the urban environment which is in accordance with Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO 5.4 and RPO 5.5 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, which support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.
- 11.3.4. Chapter 2 of the Design Standards for New Apartments Guidelines, 2020 also notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. The apartments guidelines identify accessible urban locations as sites within a reasonable walking distance (i.e. up to 10 minutes or 800 - 1,000m) to / from high capacity urban public transport stops, such as DART or Luas. Having regard to the site's city centre location, proximity to high frequency public transport in this regard, Dublin Bus, Heuston Station and Luas and proximity to employment and educational hubs and significant urban amenities, it is my opinion that the proposed development complies with national guidance and, therefore, is suitable for higher density.
- 11.3.5. In conclusion, having regard to the sites zoning objective, the significant delivery of residential and associated commercial / community uses in a compact form comprising

well-designed, higher density units, on this prime underutilised city centre site, the site's size, its proximity to public transport and to the changing context of the area, it is my view that that the proposed quantum of development is appropriate in this instance and would be in accordance with the provisions of SDRA 11 to provide a high-quality residential quarter.

11.4. **Building Height**

- 11.4.1. The scheme incorporates 9 no. blocks ranging in height from 2 -14 storeys. The development plan acknowledges the intrinsic quality of Dublin as a low-rise city and states that it is policy that it should predominantly remain so. Section 16.7.2 of the development plan sets out maximum building heights which restricts the height of a residential development in the inner-city to 24m. As outlined above, blocks 02, 03, 04 and 08 are located at the site's sensitive boundaries with existing dwellings and are relatively low in scale and height ranging from 2 – 6 storeys. These blocks range in height from 8.2m (Block 04) to 21.5m (Block 02) and are, therefore, in accordance with the height strategy set out in the development plan.
- 11.4.2. Blocks 05, 06, 07 are generally located in the centre of the scheme and Blocks 09 and 10 are located at the site's southern boundary with Montpelier Gardens (public road). These blocks (05, 06, 07, 09 and 10) are larger in height, scale and mass and range from 4 – 14 storeys. Block 05 has a maximum height of 9 storeys (30.9m), Block 06 has a maximum height of 12 storeys (40.5m), Block 07 has a maximum height of 14 storeys (46.8m), Block 9 has a maximum height of 10 storeys (33m) and Block 10 has a 12 storeys (40.5m). Therefore, the height of these blocks does not accord with the height strategy set out in the development plan.
- 11.4.3. SDRA11 states that there is an opportunity for a mid-rise residential building towards the centre of the site. The development plan identifies a mid-rise building as up to 50m in height. Therefore, the 14-storey / 46.8m height of Block 07 in the centre of the site, could be justified in this regard. However, in my view Blocks 05, 06, 09 and 10, which range from 30.9m to 40.5m are material contraventions of the development plan. The applicant has submitted a Material Contravention Statement which justifies the height of Blocks 05, 06, 07, 09 and 10. The issue of Material Contravention is addressed below in Section 11.10.

- 11.4.4. The planning authority raised no concerns regards the height of Blocks 05 or 09, which are 9 and 10 storeys respectively, and consider that the proposed 14 storey building (Block 07) is located at an important street junction and its associated height, form and restrained architectural language would provide an appropriate sense of arrival, assist in modern placemaking and provide a positive contribution to the legibility of this new residential quarter within the local, town and city context. However, concerns were raised in relation to the 12-storey elements (blocks 06 and 10) of the proposed scheme which would be located on the eastern side of the site, adjacent to St. Bricin's. While the positioning of these elements away from neighbouring sensitive receptors is supported by the planning authority, it is considered that the placemaking rationale for the proposed positioning has not been demonstrated, and that these buildings do not mark an important route or location within the overall scheme. The planning authority recommended a condition be attached to reduce the height of the blocks to a maximum of 8-storeys.
- 11.4.5. Concerns are also raised by third parties that the overall height provided within the scheme is excessive and would result in a development that is visually overbearing and obtrusive and, therefore, would not integrate into the existing character of the area. SDRA 11 notes that the development proposals should provide opportunities for new building forms to aid legibility through the scheme and create streetscapes of visual interest with appropriate height transitions from site boundaries and proposals should also respect the established character of streets and residential amenities for adjoining residents.
- 11.4.6. A Landscape and Visual Impact Assessment (LVIA) forms part of the EIAR and Appendix 14A includes 30 no. verified views of the scheme, which provide a comparison of the existing site and the proposed development. It is my view that the submitted photomontages provide a comprehensive and reasonable representation of how the proposed development would appear. Table 14 of the applicants LVIA provides an assessment of the visual impact of the development from the 30 no. viewpoints. There are 5 no. categories used to classify sensitivity and magnitude of change, Very High, High, Medium, Low and Negligible. Details of these categories are provided within Chapter 14 of the EIAR. To classify the significant effects the magnitude of change is assessed against the sensitivity. Of the 30 no. views assessed

the applicant notes that the scheme would result in significant effects on the composition, character and quality of views in the immediate environs. However, it is considered that in general these effects can be considered positive with the assessment ranging from a significant positive impact to no effect. It is noted that third parties disagree with the findings of the LVIA with regard to the significance of the impacts and state that the submitted documentation clearly indicates that the development would be visually dominant and overbearing, which would have a negative impact on the existing urban character. The planning authority consider that the LVIA illustrates that the proposed development would have a significant and unacceptable impact on the views east of the site, including from within St. Bricin's.

11.4.7. With regard to the concerns raised by third parties, it is noted that the existing adjacent residential properties (visual receptors) are more sensitive to change and that the value of that change is largely subjective. The site is locally elevated, with a 5m difference between the northern boundary and the southern boundary, and it is acknowledged that the blocks would be highly visible when viewed directly from the site boundaries and adjacent streets. It is accepted that the proposed height is significantly taller than the existing adjacent buildings and would introduce new features in the skyline. However, I agree with the findings of the LVIA and consider that the proposed height would not significantly detract from the visual amenities of the area and would not be visually obtrusive. In my opinion the visual impact from short range views, would be generally positive due to the current derelict / overgrown nature of the site, the high quality contemporary design of the scheme and the transition in height with lower scale buildings located at the sites boundaries and taller elements located away from these sensitive boundaries. Concerns raised regarding the potential negative impacts on existing residential amenities from the proposed height are addressed in Section 11.7 below.

11.4.8. With regard to the potential impact on medium and long distance views, I also agree with the findings of the LVIA that the scheme would have a slight positive to neutral impact. It is my view that due to the city centre location and the relatively large size (5.2ha) of the site it has the capacity to absorb the proposed height and scale of the blocks. The proposed height should also be viewed in the changing context of the environs of the site. As noted above in Section 11.3 there have been a number of

recent grants of planning permission within 1km of the site for large scale schemes ranging in height from 7 – 13 storeys, which are changing context of the north west inner city. It is, therefore, considered that the proposed development would have a minimal impact on the visual amenity of the environs when viewed from the middle or long distance views. It is also noted that the proposed buildings do not impact or impede any protected views within the city.

- 11.4.9. With specific concerns raised by regarding the impact on proposed development on St. Bricin's, it is noted that no buildings within the St. Bricin's complex are protected structures, however, the Military Hospital building is located on the NIAH (ref. 50070109). The complex is currently in institutional use and is maintained and operated by the Department of Defence. The submission from the Department of Defence raises no concerns regarding the principle of the development.
- 11.4.10. Both Block 06 and 10 are located a minimum of c. 10 from the site's eastern boundary, (which comprises a c. 2m high wall), c. 30m from the chapel building and c. 50m from the western elevation of the Military Hospital Building. Blocks 06 and 10 are separated by the Central Park, with a separation distance of c. 37m between the southern elevation of Block 06 and the northern elevation of Block 10. The positioning of the blocks ensures that the chapel building and, in general, the Military Hospital Building directly oppose the area of public open space and not the blocks.
- 11.4.11. Blocks 06 and 10 range in height from 6 – 12 storeys, with the higher elements of both blocks stepped back from the northern and southern elevations. While it is noted that the 12 storey elements of these blocks' do not directly oppose the existing buildings within St. Bricin's complex it is acknowledged that they would be highly visible from within the adjacent site. The applicant's Planning Statement addressed the potential impact on St. Bricin's and notes that the overall St. Bricin's complex is located within the lands designated SDRA11. The DCC masterplan indicates that existing structures within the site may be retained with new perimeter blocks provided along the north, west and eastern boundaries. The applicant has provided an indicative layout for the future development of St. Bricin's which includes the future extension of Blocks 06 and 10 to provide U-shaped blocks (in lieu of the proposed rectangular blocks) to the west of the Military Building. While there are no current plans for the redevelopment of the site, having regard to the SDRA designation of

lands within the St. Bricin's complex, it is my view that these lands could be redeveloped in the medium term.

- 11.4.12. It is acknowledged that the Military Building has significant architectural merit, however, it is not a protected structure and it is noted that there is potential for future buildings of scale to be provided within the complex. Having regard to the information provided it is my view that the applicant has given sufficient consideration and justification for the proposed height of Blocks 06 and 10 and the potential impact on St. Bricin's. While it is noted that the proposed development would be visible from within the complex it is my view that it would not negatively impact on the setting or character of the buildings or impede the future development of the adjacent lands.
- 11.4.13. The planning authority's concern regarding the height of Blocks 06 and 10 is noted. However, in my view, the proposed variation in height throughout the scheme forms an integral part of the overall design approach and is appropriate at this urban location. In my view the height of these blocks is not excessive and I do not consider the rationale for reducing the height presented by the planning authority or third parties to justify a reduction in the height of these blocks. It is also considered that the high quality design would support the regeneration of this underutilised brownfield site and the consolidation of the urban area, which is welcomed.
- 11.4.14. Third parties have also raised concerns regarding the potential negative impact that the proposed development would have on the setting of surrounding protected structures, in particular Collins Barracks and Arbour Hill Church and Cemetery. It is acknowledged that the proposal would alter the character of the site and would introduce new features in the skyline. However, it is my view that the contemporary design approach is appropriate for this city centre location and that it would not seriously injure the visual amenities of this sensitive site or have any negative impact on the setting of protected structures within the vicinity of the site. It is also noted that the planning authority did not raise any concerns regarding the impact on the development on any protected structures in the surrounding area.
- 11.4.15. Concerns are also raised by third parties that the proposed development would not be in accordance with the Urban Development and Building Heights Guidelines. Section 3.2 of the guidelines sets out criteria for assessing the scale of the development with

regard to the city, street and site level including, proximity to high frequency public transport; integration / enhancement of the character and public realm of the area; response to overall natural and built environment; architectural response; urban design; improved legibility; mix of uses and building typologies. Additional specific assessment may also be required for issues including daylight and sunlight; microclimate; communication. Section 3.3 of the applicant's Statement of Consistency assessed the proposed development against each of the criteria outlined in the Building Height Guidelines. Having regard to the information outlined above it is my view, that the proposed development would be in compliance with SPPR3, having specific regard to the high-quality design and layout of the scheme and its contribution to the regeneration of the site and the consolidation of the urban area as outlined above.

11.4.16. In conclusion, having regard to the high quality design and layout, the changing character of the area and the established transition towards higher density residential development, the criteria set out in the Building Height Guidelines and the guiding principles of SDRA 11, I am satisfied that the proposed height is not excess and that the proposed development represents a reasonable response to its context.

11.5. **Housing Tenure and Housing Mix**

Housing Tenure

11.5.1. Concerns raised by third parties regarding the housing tenure is mixed, some third parties state that additional social housing units should be provided as outlined in the 2019 agreement with Dublin City Council and others state that there is an overconcentration of rented developments in the area, which has resulted in transient populations that have a negative impact on the long term, sustainable development of the community. SDRA 11 states that the site will provide for a mix of tenure with social, affordable and private housing all provided on site.

11.5.2. In general, the documents submitted including the Part V Document state that it is proposed to allocate 10% (104 no. units) of the development for Part V with these units distributed throughout the development. The planning authority raised no objection in this regard. However, Section 3.2 and 4.2 of the applicants Statement of Consistency notes that the proposed development is the subject of a development agreement

between the applicant and DCC and will deliver significant social housing provision comprising 30% of the total units on the site with a further 20% comprising affordable housing. The remaining 50% would be private tenure. It is noted that the proposed development is located on publicly owned lands which is subject to a development agreement with the applicant, the details of which have not been submitted with the application. I have no objection to either ratio of social / affordable / private housing provided within the site and consider that, subject to the provisions of the Regulation of Commercial Institutional Investment in Housing Guidelines, this is an agreement to be reached between the local authority and the developer. Having regard to the agreement reached to date in terms of the delivery of social and affordable units (50%) and that the development is primarily apartments (1024), with only 23 houses, some flexibility in terms of the ownership and management of private housing within this development would in my opinion be appropriate. As such, I am satisfied that it would be more appropriate to attach a site and development specific condition in relation to this issue as opposed to that outlined in the Commercial Institutional Investment in Housing Guidelines 2021, that may comprise the viability or future management of the scheme.

Housing Mix

- 11.5.3. The proposed development comprises 1,024 no. apartments and 23 no. houses with a breakdown of 318 no. 1 bed (30%), 567 no. 2-bed (54%) and 162 no. 3-bed units (16%). Concerns are raised by third parties regarding the ratio of apartments to houses and consider that more family homes should be provided within the site.
- 11.5.4. Section 16.10.1 of the development plan limits the number of one bed apartments to a maximum of 25-30% and the number of three or more bed apartments to a minimum of 15%. SPPR1 of the Apartment Guidelines states that for developments over 50 units housing developments may include up to 50% one-bedroom type units and there shall be no minimum requirement for apartments with three or more bedrooms. The proposed mix is, therefore, in compliance with both the development plan and the Apartment Guidelines.
- 11.5.5. I agree with the applicant's Planning Statement which considers that the proposed development would make a positive contribution to the mix of dwelling typologies by

introducing apartments with a limited number of duplex units and houses, to a part of the city centre that is dominated by low density housing. It is also my view that as the scheme includes 162 no. 3-bed units, adequate provision has been made for family homes within the scheme. It is noted that the planning authority raised no concerns regard the propose housing mix.

11.6. **Open Space**

Public Open Space

- 11.6.1. As noted above, the subject site forms part of a larger SDRA parcel of land. The development of a neighbourhood park is one of the guiding principles of SDRA 11. SDRA 11 states that the park should consist of a minimum of 15% of the site area and provide space for an all-weather pitch, multiple use games area (MUGA), community centre, and community garden. The scheme includes the provision of 8,247sqm of open space which equates to 16% of the site. The public open space is generally provided within the central park and northern park, with additional public spaces provided along the new vehicular routes.
- 11.6.2. Concerns are raised by third parties that the proposed public open space provision is minimal and disconnected from the blocks. Central Park is c. 5,500sqm and is the largest open space proposed within the development. It is located in the centre of the scheme, to the north of Blocks 09 and 10, to the south of Blocks 06 and 07, to the east of the north – south boulevard and to the west of St. Bricin's. It is noted that there is an existing c. 2m high wall located along the site's eastern boundary with St. Bricin's, however, the central park has been designed to allow for future connections to the east. The space is also linked to a north – south linear route between Blocks 06 and 07 and Blocks 09 and 10 which provide pedestrian and cycle connectivity through the site towards northern park and Thor Place (to the east) and Montpelier Gardens (to the south). Central Park comprises a number of active and passive spaces, including a playground, a multi-area games area (MUGA), seating areas and an area for market stalls. Blocks 07 and 09 provide own door units onto the park, which provides passive surveillance. It is my opinion this area provides high quality public open space and that the variety of large informal passive spaces with pockets of active uses positively

contributes to the character of the scheme and would provide a significant amenity for both future occupants and the wider community.

11.6.3. Northern Park is located in the north-eastern portion of the site. It is generally bound to the north by existing adjacent dwellings on Ross Street, Ashford Place, Ashford Cottages and Ashford Street, to the south by Block 05, to the east by Block 04 and to the west by Block 03 (creche). This area of open space incorporates informal play areas and seating. A new pedestrian link is proposed from this area of open space to Ross Street. It is my opinion that the Northern Park would provide a high quality area of open space and an appropriate transition from Ross Street, which is welcomed. Northern park also includes the retention and expansion of the existing (260sqm) Ashford Community Garden by providing a new 300sqm community garden. It is noted that both third parties and the planning authority welcome the retention of a community garden. However, concerns were raised regarding the proposed access and boundary treatment to this area. It is proposed to remove the existing palisade fencing and wall and provide a mesh fence. In my opinion this is an appropriate boundary treatment. The planning authority also raised concerns that the community garden has been included in the calculation for public open space. Having regard to the relatively limited size of the community garden and its availability to the local community I have no objection to its inclusion in the calculation for public open space.

11.6.4. The central park and northern park are connected by a north-south internal pedestrian / cycle route. This route accommodates own door units and a linear strip of planting. It is my opinion that the public open spaces are well connect and there is a clear hierarchy of open space within the scheme. The scheme includes landscaping, trees and seating areas along the north-south Boulevard and east – west link road, a small plaza is also provided along the boulevard. While it is acknowledged that these routes are primarily vehicular routes through the site, it is my opinion that these spaces result in a high quality public realm which contributes to creating a distinctive character of the scheme.

11.6.5. It is also noted that concerns were raised by third parties that the areas of open space would be unduly overshadowed by the proposed blocks, and, therefore, would not provide a sufficient amenity for a development of this scale and the wider environs. The applicants Daylight and Sunlight Report demonstrates that all areas of public open

space achieve the BRE Recommendation of that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March.

11.6.6. Concerns were also raised by third parties regarding the future management of open spaces to ensure they do not attract anti-social behavior. It is noted that all public open spaces are to be taken in charge by Dublin City Council.

11.6.7. In conclusion, it is my opinion that the proposed scheme would result in a high quality of public open space and is in accordance with the provisions of SDRA11. It is noted that the planning authority also considered the design and layout of the areas of open space to be high quality.

Communal Open Space

11.6.8. The scheme includes 8,335sqm of communal open space provide throughout the scheme. The breakdown for each block is as follows:

- Block 2 (480sqm) at ground floor level, adjacent to northern park.
- Block 5 (2,246sqm) 1,328sqm within 2 no. courtyards at podium level and 918sqm at roof terrace
- Block 6 (786sqm) 356sqm at ground floor level at the site's eastern boundary, and 430 at roof terrace
- Block 07 (2,197sqm) 730sqm within a courtyard at podium level and 1,466sqm at roof terrace
- Block 8c (200sqm) adjacent pocket park for upper level duplex units
- Block 9 (1,594sqm) 800sqm within a courtyard at podium level and 872sqm at roof terrace
- Block 10 (832sqm) 402 at ground floor level adjacent to the site's eastern boundary and 430sqm at roof terrace.

11.6.9. It is noted that all areas of communal open space within each block reaches and exceeds the standards set out in the Apartment Guidelines. The applicants Landscape Design Statement states that the communal open spaces include passive recreational spaces with seating. The roof terraces are provided with screening elements to protect from wind and prevent overlooking. Concerns are raised by third parties that the internal courtyards are too small and would be unduly overshadowed. The applicants Daylight and Sunlight Report demonstrates that all areas of communal open space

associated with apartments achieve the BRE Recommendation of that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March. I have no objection to the proposed quantity or quality of the proposed communal open space and consider that it would provide sufficient amenity for future occupants. It is noted that no concerns have been raised in this regard by the planning authority.

Private Open Space

- 11.6.10. Private open space is provided for each unit in the form of a balcony / terrace or rear garden. The applicants Housing Quality Assessment indicated that all areas of private open space reach and exceed the standards set out in the Apartment Guidelines.

Microclimate

- 11.6.11. The applicants Microclimatic Wind Analysis and Pedestrian Comfort Report assessed ground floor level, roof terraces and balconies. With regard to ground floor level, the report also notes that the majority of areas fall within Categories A-C of the Lawson Criteria, which indicates the spaces are suitable for Outdoor Dining and / or Pedestrian Sitting / Standing. The results indicate that an area between Blocks 04 and 07 a relatively small area falls into category D – Pedestrian Walking. This area is located in the centre of the proposed new east-west street. The report indicates that all roof terrace have areas that are suitable for Outdoor Dining and the majority of roof terraces are suitable for Pedestrian Sitting / Standing. Mitigation measures were required at roof top level of Block 06 to improve wind conditions. It is noted that some area within this terrace remain more suited to Pedestrian Walking. The report recommends that seating areas at this terrace be located away from this area and provided in more sheltered areas. The report also assessed private balconies and states that all balconies throughout the scheme are located in zones suitable as either Outdoor Dining or Pedestrian Sitting. This indicated that the proposed development would produce a high-quality environment that is attractive and comfortable for pedestrians of all categories and does not impact or give rise to negative or critical wind speed profiles. I am satisfied that the proposed layout would achieve a high-quality environment for the intended use and would not introduce any critical wind impact on the surrounding areas or existing buildings.

Trees

11.6.12. An Arboricultural Assessment was submitted with the application. The report notes that there are 52 no. trees and very little vegetation within the site. It is proposed to remove 46 no. trees. There are no category A trees within the site. There is a staggered double row of mature trees along the site's eastern boundary, many of which have suffered damage due to anti-social behaviour. It is proposed to remove all trees from this area. The trees along the northern boundary will generally be retained. The scheme includes 250+ new trees to be planted along with significant landscaping works and new boundary treatments. The report of the planning authority's Parks and Biodiversity Department recommends that all trees within the site be retained. It is noted that the planning authority and third parties have not raised any concerns in this regard. It is my view that the proposed tree loss would be more than adequately compensated for by the proposed planting and the significant areas of open space and landscaping proposed. Therefore, I have no objection to the loss of 42 no. trees within the site.

Boundary Treatments

11.6.13. The sites boundaries generally consist of existing treatment with side and rear garden walls of existing residential dwellings and a minimum 2m high wall with St. Bricin's. It is generally proposed to retain these boundaries. New mesh fence boundary treatment is proposed for areas where no boundary currently existing, which generally refers to the north eastern site boundary at the community garden and Ashford Place. full details of the location and type of boundary treatment is provided on the Landscape Masterplan (drawing no. 1737_PL_P_01.03) I have no objection to the proposed boundary treatments and consider that the removal of large sections of palisade fencing within the site will improve the visual amenities of the area.

11.7. Residential Amenity

11.7.1. Concerns are raised by third parties that the scale and height of the proposed development would negatively impact the existing residential amenities in terms of overlooking, overshadowing and overbearing impact. The planning authority did not raise any concerns regarding the impact on existing residential amenities, however, both the planning authority and third parties raised concerns regarding undue

overshadowing within the scheme and the potential for a significant negative impact on future residential amenities.

Overlooking / Overbearing Impact

- 11.7.2. As noted above, the scheme comprises 9 no. urban blocks (Blocks 02 -10) centred around areas of public open space with new vehicular, pedestrian and cycle links to adjacent streets. The blocks range in height from 2 - 14 storeys and vary in scale and massing to respond to the existing adjacent properties, with the taller buildings located in the centre of the scheme.
- 11.7.3. Block 02 is located c. 9m – 14m with the sites north western boundary with the rear gardens on NCR and c. 25m – 40m from the rear elevations of these dwellings. The properties on NCR immediately adjacent to the development are 3 storeys. Drawing 19045-OMP-ZZ-ZZ-DR-A-3001 indicates that these properties are c. 14m in height. Block 2 varies from 5-6 storeys with a maximum height of 21m, with balconies at all levels directly opposing the rear elevation of properties on NCR. It is proposed to provide a shared surface / mews laneway along the north eastern site boundary to facilitate the potential future development of the rear gardens of properties on NCR. It is my view that due to the relatively limited height of Block 02, when compared to the existing properties on NCR and the separation distances proposed that Block 02 would not result in any undue overlooking or overbearing impact on existing properties. These properties on NCR are also located c. 70m from the 8-storey element of Block 05 and over 115m from the 14 storey element at Block 07. While it is acknowledged that the overall scheme would be visible from NCR, it is my opinion that due to the proposed separation distances, that the proposed development would not result in an overbearing impact of properties located to the north west of the scheme.
- 11.7.4. Block 03 is a 2-3 storey building that accommodates the proposed creche facility. The 2 storey element of this building is located c.8.5m the 3 storey element is located c. 14m from the side elevation of no. 23 Ross Street. it is noted that there are no first or second floor windows on the side (eastern) elevation of the creche and, therefore, there is no potential for overlooking of existing properties on Ross Street. Block 03 is also located c. 10m from the sites north western site boundary with the rear gardens of properties on NCR and c. 40m from the rear elevation of these properties. Having

regard to the limited height of Block 03 and the proposed separation distances it is my opinion that Block 03 would not result in any undue overlooking or have an overbearing on existing properties.

11.7.5. Block 04 which comprises 2- storey dwellings with a maximum height of c.8.2m. The rear elevation of Block 04 is located c. 6m – 8m from the boundary with rear gardens of existing single dwellings on Ashford Street and Thor Place and c. 6.5 -20m from the rear elevation of the dwellings. It is noted that there are no windows serving habitable rooms on the first floor rear elevation. Therefore, Block 04 would not result in any due overlooking. In my opinion due to the relatively limited height of Block 04, and the proposed separation distances, Block 04 would not result in an overbearing impact on the single storey dwellings located to the north east of the scheme. These existing dwellings are also located c. 30m from the 5-storey element and c. 50 m from the 8-storey element of Block 05 and over 100m from the 14 storey element at Block 07. While it is acknowledged that the overall scheme would be visible from existing single storey dwellings to the north east of the scheme (Ross Street, Ashford Street, Ashford Cottages and Thor Place), it is considered that due to the proposed separation distances, that the proposed development would not result in an overbearing impact on the single storey dwellings located to the north east of the scheme.

11.7.6. Block 08 comprises 2 / 3 storeys houses and duplexes with a maximum height of c. 11m. The rear elevation of Block 08 is located c. 4m – 12m from the site's western boundary with side and rear gardens of existing two storey dwellings on Findlater Street, Kinahan Street and Montpelier Gardens and c. 7 - 14m from the rear elevation of these dwellings. It is noted that there are no windows serving habitable rooms on the first floor or second floor rear elevation. Therefore, Block 08 would not result in any due overlooking. In my opinion due to the relatively limited height of Block 08, and the proposed separation distances, it would not result in an overbearing impact on the two-storey dwellings located to the west of the scheme. These existing dwellings are also located a minimum of c. 70m from the 14 storey element at Block 07. While it is acknowledged that the overall scheme would be visible from existing dwellings to the west it is my opinion that due to the proposed separation distances, the proposed development would not result in an overbearing impact dwellings located to the west of the scheme.

- 11.7.7. Block 09 is predominantly 6 to 10 storey building, with part 3 storey element fronting Montpelier Gardens and Block 10 is predominantly 6 to 12 storey building, with part 2 storey element opposite Montpelier Gardens. The southern elevation of these blocks are located c. 7m from the site's boundary with Montpelier Garden (public road). The 2 – 6 storey element are located and between c. 19 – 24m and the 6 – 12 storey elements are located over c. 50m from the front and side elevations of existing dwellings on Montpelier Gardens and Montpelier Park. In my view having regard to the separations distances, and the transition in height with taller elements located away from the sites boundary, the proposed scheme would not result in any undue overlooking or overbearing impact on existing dwellings to the south of the site. It is noted that these dwellings are also located over 180m from the 14 storey element of Block 07.
- 11.7.8. Overall, it is my opinion that the design and layout of the blocks provides for a hierarchy of streets and spaces within the scheme. Separation distances between the blocks within the scheme range from c. 17m to 64m. It is my opinion that the proposed separation distances achieves a balance between protecting the residential amenities of future and existing occupants from undue overlooking and overbearing impact and achieving high quality urban design, with attractive and well connected spaces that ensure a sense of enclosure and passive overlooking of public / communal spaces.

Daylight / Sunlight

- 11.7.9. 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. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards.

11.7.10. The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the following documents:

- BRE Report "Site Layout Planning for Daylight and Sunlight"; and
- British Standard BS 8206-2:2008 Lighting for Buildings – Part 2 Code of Practice for Daylighting.

11.7.11. I have considered the reports submitted by the applicant and have had regard to BRE 2009 – 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 Urban Development and Building Heights Guidelines.

Internal Daylight and Sunlight

11.7.12. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values for Average Daylight Factor (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 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.

11.7.13. The proposed apartment layouts include a combined kitchen/living/dining room. As these rooms serve more than one function the 2% ADF value was applied to the apartments. The applicant has stated that given the typical layouts for apartment designs, where the kitchen is located at the back of the living space, with usually no direct access to daylight, it is challenging to achieve the 2% ADF. In this regard alternative, compensatory design solutions are explored and implemented throughout the scheme.

11.7.14. As noted above, the proposed apartments contain combined K/L/D layouts, and no completely internal kitchens are proposed. The applicant has undertaken a calculation of the amount of daylight received at all rooms at levels 00-02 within the scheme, full details of which are provided in Appendix 1, and samples across all levels of Blocks 05 and 07. This is considered a representative sample within each block. As the lower levels receive the least amount of daylight, due to their location, I am satisfied that these units represent the worst case scenario.

11.7.15. In the interest of clarity, I have provided a summary of the information provided within Appendix 1. As can be seen below, this indicates that 46% of the K/L/D rooms within the apartment units at levels 00-02 achieve 2% ADF or above with 61% achieving above a 1.5% ADF.

Table 1: ADF for Kitchen / Living / Dining Rooms Assessed

Levels 00-02	Total K/L/D	2%+	1.5% - 2%	Below 1.5%
Block 02	42	27	12	3
Block 05A	25	11	4	10
Block 05B	33	13	6	14
Block 05C	26	2	8	16
Block 05D	41	24	2	15
Block 06	31	17	7	7
Block 07A	30	20	3	7
Block 07B	41	9	1	31
Block 08C	10	1	4	5

Block 08D	2	1	1	0
Block 09	76	39	1	36
Block 10	31	18	5	8
Totals	388	182	54	152
% Totals		46%	61% (> 1.5%)	39%

11.7.16. Concerns have been raised by third parties and the planning authority regarding the number of rooms within the scheme that would not reach the BRE standards. The Daylight and Sunlight Report provides the breakdown for individual blocks and extrapolates the estimates ADF for all levels within each block, this information is provided in Tables 10 – 15 of the report. The report states that within the overall scheme over 62% of the K/L/D rooms achieve 2% ADF and over 76% achieve 1.5% ADF. It is considered that the discrepancy between the ADF figures outlined in Appendix A, which relates to levels 00-02 only and the stated ADF in the report, which relates to all levels, is due to an estimated higher ADF at the upper levels. Tables 8 and 9 of the Daylight and Sunlight report provide a sample of estimated ADF, at levels 03 – 07, in Block 07 and levels 03 – 08 in Block 05A. The results indicate increased ADF at the higher levels within the scheme (as would be expected). Having regard to the information provided I would agree with the assessment in the Daylight and Sunlight report that over 62% of the K/L/D rooms achieve 2% ADF and over 76% achieve the alternative 1.5% ADF.

11.7.17. In my opinion, the higher 2% ADF is more appropriate in a traditional house layout, and I consider that in apartment developments, it is significantly challenging for large open plan kitchen/living/dining rooms to achieve 2% ADF. I would also note, in urban schemes there are challenges in meeting the 2% ADF in all instances, and to do so would unduly compromise the design/streetscape and that an alternate 1.5% ADF target is generally considered to be more appropriate. It is noted that 76% of K/L/D rooms in the apartments achieve this alternative 1.5% target, and it is also noted that a number of K/L/D rooms significantly exceed the 2% ADF target.

11.7.18. As noted above, the Building Height Guidelines state that where a proposal may not be able to fully meet all the requirements of the daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be

set out. Tables 6 and 7 of the Daylight and Sunlight Report, provides a comparison of ADF for units, in Blocks 02 and 07, with and without the balconies. It is noted that without balconies ADF significantly increased for these units. The applicant has stated the overall approach has been to balance the quality of the residential units while achieving good urban design. Therefore, while it is acknowledged that balconies impact on the ADF achieved, they are required to ensure overall residential amenity. Section 5.3 of the Daylight and Sunlight Report also details how the design process considered a number of different iterations in relation to daylight and sunlight within the proposed scheme. The design solutions include staggering balconies, increasing window sizes and altering positioning, increased floor to ceiling heights for lower level units, provision of dual aspect units and carefully modulating building form, massing and height to achieve maximum access to daylight, ventilation and views and to minimise overshadowing and loss of light. Table 16 – 18 of the report indicate the iterations of the scheme and how ADF has been improved by implementing the design solutions outlined above. Having regard to the above, it is my view that the applicant has endeavoured to maximise access to daylight for the apartments and has clearly identified and provided a rationale for alternative, compensatory design solutions.

11.7.19. With regard to ADF for bedrooms, Appendix A indicates that 82% of the rooms, at levels 00-02 achieve above 1% ADF compared to 91.6% compliance for the overall scheme, as outlined in the report. Again, the results indicate increased ADF at the higher levels within the scheme (as would be expected) and I agree with the assessment in the Daylight and Sunlight report.

11.7.20. Overall, Table 27 indicates that 81.5% of all rooms within the apartments reach or exceed the BRE target of 2% for K/L/D and 1% for bedrooms. As a reasonable alternative, and utilising flexibility in the BRE guidance, Table 28 indicates that 86.5% of all rooms within the apartments reach or exceed the BRE target of 1.5% for K/L/D and 1% for bedrooms. This indicates that the apartments would achieve good levels of light.

11.7.21. The scheme also includes a number of traditional houses in Block 04 and 08. Appendix B provides a breakdown for ADF for these units. It is noted that all 11 no. houses in Block 04 reach the recommended standard of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. With regard to the 12 no. houses in Block 08 all Kitchen / Dining

rooms achieve a minimum 2% ADF and all living rooms achieve a minimum 1.5% ADF. Of the 36 no bedrooms 32 no. achieve a 1% ADF. This indicates that the kitchens and dining rooms achieve 100% compliance with the BRE recommendation of 2% for kitchens and 1.5% for living rooms and the bedrooms achieve 94% compliance with the BRE recommendation of 1%. This indicates that the houses would achieve good levels of light.

11.7.22. Overall, having regard to the information outlined above the scheme (apartments and houses) achieves 91.3% compliance with the alternative ADF target of 1.5% for K/L/D and 1% for bedrooms, which is considered to be reasonable compliance with the BRE standards, in particular noting that the BRE standards allow for a flexible and reasonable alternative for ADFs, and which in any event K/L/Ds are not specifically stipulated in the BRE guidance. I also note that SPPR3 allows compensatory proposals where non-compliance is proposed.

11.7.23. The report assesses the development against both 2% and 1.5% ADF for K/L/D rooms. The full extent of the shortfalls can be ascertained from Appendix A and B of the Daylight and Sunlight Report. Having regard to the proposed density and urban location, it is my view that the shortfalls are not significant in number or magnitude. Regard is also had to the need to development sites, such as this, at an appropriate density, and, therefore, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. I am satisfied that adequate justification for non-compliance exists, and that the design and associated design solutions are appropriate. It is also noted that the ADF for rooms is only one measure of the residential amenity and in my opinion the design team have maximised access to daylight and sunlight for all apartments and I am satisfied that all of the rooms within the apartments would receive adequate daylight.

Internal Open Spaces and Gardens

11.7.24. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March. Table 20

of the applicants Daylight and Sunlight Report demonstrates that all areas of communal open space associated with apartments Blocks 02, 05, 06, 07, 09 and 10 achieve the BRE Recommendation. Section 7.2 of the report states that the proposed building heights were considered with the objective of avoiding unnecessary and loss of light to amenity spaces.

11.7.25. The report does not appear to assess the rear private amenity spaces for units in Blocks 04 and 08. However, having regard to the eastern and western orientation of these private amenity space and the limited 2-3 storey height of the proposed dwellings / duplexes in Block 04 and 08 and the limited 1 - 2 storey height of the adjacent properties, I am satisfied that the proposed rear amenity spaces would receive adequate access to daylight and sunlight.

External Daylight and Sunlight

11.7.26. The Daylight and Sunlight report also assessed the potential impact of the development on the neighbouring properties. The report states that the design approach was to locate the lower blocks at the site's boundaries to minimise the impact to daylight and sunlight for existing occupants.

11.7.27. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a windows) within a structure. The BRE guidelines state that if the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value occupants of the existing building would notice the reduction in the amount of skylight.

11.7.28. In the interest of clarity Table 21 from the applicants Daylight and Sunlight Report is provided below. The information provided indicates that the most significant impact on loss of light would be on Dublin City Council Phase 1 of the development, with only 28% of units meeting the VSC recommendation. The report states that 128 no. windows were assessed in the Phase 1 development. Appendix C includes an illustration of Phase 1 which indicates the location of 80 no. windows. The illustrations refer to Blocks 1 and 2 of Phase 1. It is noted that permission was granted for 4 no. blocks (Blocks A, B, C and D). From the information provided it is unclear which windows in Phase 1 have been assessed.

11.7.29. The information submitted indicates that, excluding the Dublin City Council Phase 1 development, 94.8% of the windows assessed at adjacent properties would meet the VSC recommendation of 27%.

Table 21: BRE 'Light from the Sky' Summary Results

Reference	Windows Assessed	Windows Meeting 'Light from the Sky' Guidelines	Percentage of Windows Meeting 'Light from the Sky' Guidelines
North Circular Road	52	47	90.4
Ross St., Ashford St., Ashford Place, Ashford Cottages, Thor Place	108	102	94.4
Montpelier Gardens, Kinahan St.	50	47	94.0
Montpelier Park, Montpelier Gardens	94	94	100.0
DCC Phase 1	128	37	28.9
Total	432	327	81.5

11.7.30. A Loss of Sunlight assessment has also been carried out for the existing adjacent properties. The BRE recommends an Annual Probable Sunlight Hours (APSH) of 25% and Winter APSH of 5%. Table 22 of the Daylight and Sunlight Report which provides a summary of the results is provided below. Again, the information provided indicates that the most significant impact on loss of light would be on Dublin City Council Phase 1 of the development. The full details of the assessment are provided in appendix D. Excluding the Dublin City Council Phase 1 development 91% of windows assessed in adjacent properties would meet the BRE recommendation.

Table 22: BRE 'Loss of Sunlight' Summary Results

Reference	Windows Assessed	Windows Meeting 'Loss of Sunlight' Guidelines	Percentage of Windows Meeting 'Loss of Sunlight' Guidelines
North Circular Road	52	43	82.7
Ross St., Ashford St., Ashford Place, Ashford Cottages, Thor Place	68	61	89.7
Montpelier Gardens, Kinahan St.	24	22	91.7
Montpelier Park, Montpelier Gardens	21	21	100.0
DCC Phase 1	22	16	72.7
Total	187	163	87.2

11.7.31. Having regard to the information submitted it is my opinion that, excluding Dublin City Council Phase 1 development, the proposed development would have a negligible impact on VSC and APSH for existing adjacent properties, and, therefore, would not result in undue overshadowing of existing properties.

11.7.32. With regard to the DCC Phase 1 development, it is noted that this development ranges in height from 3 – 4 storeys and is located to the north east of the proposed development. Having regard to the information provided in Appendix C the proposed development would have a significant impact on the loss of light for 14 no windows in Phase 1. In this regard 8 no. windows in Block 2 north east (20, 27, 34, 41, 55, 62, 70, 75) and 6 no. of windows in Block 2 south east (1, 2, 3, 4, 5, 6) with VSC ranging from 2.3% to 4.6%. The remaining windows, which are below the recommended standard of 27%, would receive a VSC between 12 – 27. It would appear from the information submitted that the loss of light is generally limited to ground floor windows and does not have a significant impact on the upper level windows. It is noted that 72.7% of windows assessed in the Phase 1 development would meet the APSH recommendation of 25% and Winter APSH of 5%. While it is acknowledged that the proposed scheme would have a negative impact on VSC for units within Phase 1, it is my opinion that Phase 1 should be seen in the wider context of the redevelopment / regeneration of the subject site and that the positioning of the blocks is generally in accordance with the masterplan for the site. It is also noted that the Building Height Guidelines state that where a proposal may not be able to fully meet all the requirements of the daylight provisions the Board 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. Therefore, having regard to the wider benefits such as the delivery of housing and the comprehensive redevelopment and regeneration of an underutilised city centre site, it is my view that the impact on phase 1 is considered acceptable.

Amenity Space

11.7.33. The report also assessed the impact of the development on the amenity spaces of the adjacent properties. The BRE guidelines recommend that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March. The applicant's analysis indicates that of the 43 no. amenity spaces assessed 42 no would receive at

least 2 hours of sunlight on the 21st March. It is noted that the amenity space which does not achieve the BRE standard is located to the east of the site, within the Ross Street, Ashford Street, Ashford Place, Ashford Cottages and Thor Place grouping, however, no further details are provided. Therefore, it is unclear if the amenity space currently achieves the recommended BRE standard.

Conclusion

11.7.34. As outlined above the proposed development does not achieve all of the standards set out in the BRE, with particular regard to the ADF for some of the rooms within the proposed scheme and the impact on VSC for Dublin City Council Phase 1. The Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out 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'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution. Throughout the Daylight and Sunlight Report the applicant has provided a clear rationale for alternative and compensatory design solutions. The information provided indicates that access to daylight and sunlight formed an integral part of the design approach and that the design team endeavoured to maximise sunlight/daylight within the scheme and ensure a minimal impact on existing adjacent properties.

11.7.35. While it is noted that the scheme does not achieve all recommended standards, it is my view that it would not result in undue overlooking, overshadowing or have an overbearing impact on existing adjacent residents. While it is acknowledged that the scheme would negatively impact on the VSC of Dublin City Council Phase 1 development it is considered that this development (Phase 1) forms part of the overall redevelopment of the site, as outlined in the masterplan and SDRA 11 lands, and that the form, massing and height of the blocks and the relationship between the blocks results in a high quality and coherent urban scheme that provides a clear hierarchy of

streets. It is also considered that this development results in wider planning benefits, such as the delivery of a significant quantum of housing and the comprehensive redevelopment and regeneration of an underutilised city centre site which would support the consolidation of the urban environment and, therefore, the shortfall outlined above are considered acceptable in this instance.

11.8. Transportation and Car Parking

11.8.1. The subject site is located within the inner city and is, therefore, highly accessible by public transport, walking and cycling. The site is located c. 600m north of Heuston Station, with associated intercity and commuter rail links and the Heuston Red Line Stop Luas. The site is also located 1.7km east of the Grangegorman Green Line Luas and there are also a number of Dublin Bus stops within close proximity to the site, which are served by high frequency routes. Full details of public services within close proximity to the site are provided within the applicants Residential Travel Plan Framework. The site is situated in close proximity to the proposed Bus Connects spine route (B1), at Prussia Street to the west of the site. It is also proposed to provide orbital route (O) along the NCR and orbital route (N2) along Aughrim Street and Blackhorse Avenue. It is, therefore, my view that the subject site is well serviced by public transport. Having regard to the sites city centre location it is also highly accessible by walking and cycling. However, it is noted that there is limited cycling infrastructure in the immediate vicinity of the site. The only cycling infrastructure comprises a westbound advisory cycle lane on North Circular Road.

11.8.2. Having regard to the former use residential use on the site, there is an existing internal road network with vehicular access available to the site from North Circular Road, Thor Place and Montpelier Gardens. These routes have remained operational since the demolition of the flat complexes and form part of the public road network. It is noted that Phase 1, currently under construction, has resulted in minor alterations to the access arrangements. The internal route from North Circular Road is temporarily operating as access (one-way) only. The proposed development would result in minor alterations to the internal road network, however, it is proposed to retain all 3 no. existing vehicular accesses and provide a new vehicular access from Montpelier Gardens to serve 35 no. car parking at ground floor level / below podium in Block 09.

The proposed layout also includes new pedestrian and cycle links to the east, including a potential future link to St. Bricin's.

11.8.3. Concerns are raised by third parties regarding the proposed development would have a negative impact on the capacity of the surrounding road network and that the surrounding streets is not adequate to accommodate additional pedestrian movements generated by the development. The submission for the NTA states that the consolidation of development into central sites is a key mechanism to achieve a reduction in the demand for travel and in the facilitation and promotion of public transport, walking and cycling as modes of transport. The proposed development would be considered consistent with the land use planning principles of the Transport Strategy.

11.8.4. The applicants TTA states traffic counts were undertaken on Wednesday 27th February 2020 during a 12 hour period (07.00 – 19.00) at 10 no. junctions in the vicinity of the site, in this regard:

- J1: NCR / O'Devaney Gardens
- J2: Montpelier Gardens / O'Devaney Gardens
- J3: O'Devaney Gardens / Thor Place / Thor Park
- J4: Military Hospital / Montpelier Park / Montpelier Gardens
- J5: Infirmary Road / Montpelier Gardens
- J6: Conyngham Road / Infirmary Road / Parkgate Street (signal controlled)
- J7: Infirmary Road / Phoenix Park / NCR (signal controlled)
- J8: Aughrim Street / Cowper Street
- J9: NCR / Aughrim Street / Blackhorse Avenue (signal controlled)
- J10: Manor Street / Aughrim Street / Prussia Street)

11.8.5. Full details of the traffic counts are provided in Appendix A of the applicants Traffic and Transport Assessment. It is noted that the traffic counts indicate that the peak periods were 08:00-09:00 (AM Peak) and 16:45 – 17:45 (PM Peak). It is noted that the count was carried out prior to the introduction of travel restrictions related to Covid-19.

11.8.6. The TRICS database has also been used to estimate the number of trips potentially generated by the proposed development. TRICS estimated that the proposed

development would generate 260 no. trips (83 no. arriving and 177 no. departing) in the AM peak and 361 no. trips (203 no. arriving and 158 no. departing) in the PM peak. Having regard to the limited number (273 no.) of car parking spaces proposed within the scheme. It is my view, that the proposed trip generation would represent a worst case scenario. Trip generation has been assumed based on the TRICS figures above and include the predicated trip generation from Phase 1,

- 11.8.7. TII Traffic and Transport Assessment Guidelines advise that Transport Assessments should generally be applied where traffic to and from a development is predicated to exceed 10% of the existing background traffic on the adjoining road or 5% at sensitive locations. Table 10 of the applicants TTA indicates that assessed Junctions J1, J2, J3 and J8 would exceed 10% and J5 would exceed 5%. In the interest of clarity. The 5 other junctions (J4, J6, J7, J9 and J10) surveyed are considered at low risk of detrimental effects as a result of the proposed development. Therefore, only junctions J1, J2, J3, J5 and J8 have been subject to a detailed operational assessment. In my view this is a reasonable and appropriate approach, and it is noted that the planning authority raised no concerns in this regard.
- 11.8.8. The Traffic and Transport Assessment analysed the capacity of the 5 no. junctions using PICADY. Tables 14, 15, 16, 17 and 18 provide a summary of the results of the operational assessment of these signalised junctions during weekdays AM peak and PM peak for the base year (2020), the proposed year of opening (2023), 2028 and the design year (2038).
- 11.8.9. J1: NCR / O'Devaney Gardens, J2: Montpelier Gardens / O'Devaney Gardens, J3: O'Devaney Gardens / Thor Place / Thor Park, J5: Infirmary Road / Montpelier Garden and J8: Aughrim Street / Cowper Street are 3 arm priority controlled junctions. The modelling indicates that all arms of these junctions currently operate within capacity. All arms of all junctions are also shown to continue to operation, with vehicular queues and delays similar to the existing situation. It is, therefore, considered that the vehicular trips generated by the proposed development would have a negligible impact on the performance of the junctions. The planning authority noted and accepted the contents of the TTA.

- 11.8.10. With regard to concerns raised regarding the surrounding pedestrian environment it is acknowledged that some footpaths located on the surrounding road network are less than 1.8m in width, however, having regard to the number (6 no.) of pedestrian links from the site to the adjacent streets and the urban nature of the surrounding environment, it is my opinion that the additional footfall can be accommodated within the existing network without impact on pedestrian safety.
- 11.8.11. Third parties have also raised concerns that the internal road layout would allow for speeding and would provide rat running through adjoining streets. The proposed layout result does not result in any additional vehicular accesses onto the surrounding road network. While the development results in minor alterations to the existing internal road layout, this is an existing public network, and it is my view that the proposed development would not result in any increased level of rat running through the site. It is noted that that at the 3 no. points where the developments internal road network connects with the surrounding road network the road carriageway is ramped up to the level of the footpath to emphasise pedestrian priority. The layout has been designed in accordance with DMURS and a statement of consistency has been submitted with the application.

Car Parking

- 11.8.12. Serious concerns have been raised by third parties that insufficient car parking has been provided to serve the proposed development, which would result in overspill car parking on the surrounding road network.
- 11.8.13. Table 16.1 of the Development Plan sets out car parking standards for a variety of uses. A maximum of 1 no. car parking space is permissible per residential unit, 1 no. space per 275sqm of retail and 1 no. space per 250sqm for a café located in Area 2 (which includes the subject site.) Therefore, the maximum no. of permissible spaces is 1,064. It is proposed to provide 276 no. car parking spaces, 30 no. of which would be part of a residential car club. It is also proposed to provide 11 no. motorcycle spaces. The TTA states that it is proposed to provide 273 no. car parking spaces, this discrepancy appears to relate to the proposed number of on-street spaces and is not considered to be material. The breakdown of spaces is as follows: -

- 96 no. spaces at undercroft of Block 5, of which 3 no. spaces are allocated to retail, 5 no. spaces to crèche and 1 no. space to the community space;
- 95 no. spaces are located across 4 no. basement / undercroft levels beneath Block 7, of which 2 no. spaces are allocated to retail units and 1 no. space allocated to the café;
- 35 no. spaces are allocated at undercroft of Block no. 9;
- 41 no. spaces are provided on street
- 6 no. on street spaces at Montpelier Gardens to the south of the site

11.8.14. The breakdown outlined above indicates that the scheme would incorporate 217 no. residential spaces, 12 no. non-residential space and 47 no. on-street / public spaces. This results in a ratio of 0.2 no. spaces per residential unit. Having regard to the layout of the scheme it is assumed that the on-street spaces would serve the houses / duplexes. It is noted that these on-street spaces would be taken in charge by Dublin City Council and, therefore, cannot be permanently assigned to individual units. Section 4.19 of the Apartments Guidelines (2020) states that in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. Having regard to the site's location within the city centre and its proximity to a variety of public transport modes it is my view, that the proposed level of car parking is in accordance with the standards set out in the Apartment Guidelines. It is also noted that the standards set out in the development plan are maximum standards.

11.8.15. The subject site is located within the 'medium demand' (green) area for car parking as indicated on Dublin City Councils parking zone map. It is noted that the majority of on-street car parking on the surrounding road network is unrestricted. While it is my opinion that sufficient car parking, in accordance with the Apartment Guidelines, has been proposed, should overspill car parking become an issue it could be managed by the local authority through the introduction of restrictive measures on the surrounding public road.

11.8.16. The submission from the NTA also notes that car sharing schemes can play a key role in facilitating mobility needs of future occupants without the need to own a car, and in

reducing overall car use. Such schemes could facilitate lower numbers of dedicated parking spaces at central sites such as this without risk of overspill parking onto neighbouring streets or onto public transport and cycling corridors. It is also noted that the planning authority raised no objection in principle to the quantum of car parking, however, they considered that the phased delivery of the car share spaces should be provided to ensure travel behaviour is influenced from the first phase of development.

- 11.8.17. Having regard to the site's urban location within the inner city centre, its proximity to a variety of public transport modes and proximity to centres of education, employment and a wide range of services and facilities. I am satisfied that the provision of 276 no. spaces / 0.2 spaces per residential unit is acceptable in this instance and complies with the standards set out in the Apartment Guidelines. A Residential Travel Plan Framework was submitted which outlines measures and incentives that would be put in place during the operational phase of the development. It noted that this includes the management support and commitment and a Travel Plan Coordinator to oversee the Plan. It is recommended that a condition be attached to any grant of permission that the measures outlined in the Residential Travel Plan Framework be fully implemented to compensate for the lack of car parking on site and to ensure sustainable travel to and from the proposed development is encouraged.
- 11.8.18. Concerns were also raised that service / delivery vehicles would have a negative impact on traffic congestion in the area. Having regard to the information provided in the TTA, it is my opinion that there is capacity within the surrounding road network to accommodate service / delivery vehicles. It is also noted that the internal road network and associated on-street car parking spaces are to be taken in charge by Dublin City Council and, therefore, cannot be assigned to individual residential units and would be available for short term parking.
- 11.8.19. It is noted that the scheme also includes 1,484 no. dedicated residential cycle parking spaces and 380 no. visitor spaces at throughout the scheme. An additional with 136 no. spaces are accommodated within the threshold of residential units. The planning authority state that the quantum of cycle parking is largely considered acceptable. Third parties are generally supportive of the quantum of cycle parking spaces. However, it is considered that the modal split in favour of cycling is unlikely to be

implemented. While the submission from the NTA recommends that a higher rate of cycle parking provision be provided to further encourage cycling.

- 11.8.20. The Apartment Guidelines set out a general minimum standard of 1 cycle storage space per bedroom and 1 no. visitor space per 2 residential units. It is noted that the proposed number of cycle parking spaces is slightly below this standard. However, it is my view that an adequate number of spaces have been provided within the scheme to serve future residents and visitors, and there is sufficient space within the site to accommodate additional cycle parking, should the future need arise this could be addressed by the management company.
- 11.8.21. The submission from the NTA also notes that the proposed development would contribute significant numbers of cyclists to the local road network and recommends that due to the limited cycling infrastructure on the surrounding road network that a condition should be attached to any grant of permission that a cycle investment programme, be agreed with the planning authority and the NTA, which demonstrates how cyclists can safely travel to and connect with existing and proposed cycle infrastructure, namely North Circular Road, Thor Place, Montpelier Gardens and Swords Street. It is the view of the NTA that such public infrastructure would benefit the proposed development and is, therefore, subject to financial contributions from the applicant under a Section 48 agreement.
- 11.8.22. The applicants TTA notes that as part of the Cycle Network Plan for the Greater Dublin Area, administered by the National Transport Authority, it is proposed that a secondary cycle route be implemented along North Circular Road, and that it is proposed to implement feeder routes linking the subject development site to this route. The report also states that no information is yet publicly available on the proposed design or delivery timeframe of the aforementioned objectives.
- 11.8.23. The lack of dedicated cycle infrastructure in the vicinity of the site is noted. However, as no information is available regarding the envisioned cycle network in the vicinity of the site and the planning authority have no proposals to implement a cycle route and have not raised this as an issue it is my view that having regard to the lack of clarity regarding the envisioned cycling infrastructure, it is not appropriate in this instance to attach a financial contribution.

Permeability / Connectivity

- 11.8.24. As noted above, it is proposed to retain the 3 no. existing access / egress points onto North Circular Road, Montpelier Gardens and Thor Place. The proposed layout also includes for new pedestrian / cycle routes from Ross Street and Ashford Cottages and Montpelier Gardens. The layout also facilitates future pedestrian / cycle connectivity to development lands at St. Bricin's by locating the Central Park at the site's eastern boundary.
- 11.8.25. Concerns were raised by third parties regarding the proposed connectivity to the site and the potential negative impact these additional links could have on existing residents from anti-social behavior generated within the proposed scheme. It is recommended that these new accesses be gated, to allow for access to the park and creche during daylight hours only. While it is acknowledged that anti-social behaviour currently occurs within the site, it is my view that once the site has been redeveloped and occupied the pedestrian and cycle links would allow for increased connectivity and permeability which encourages walking and cycling and, therefore, increases passive surveillance of space and reduces the potential for anti-social behaviour. It is also noted that the 3 no. proposed pedestrian links are also directly overlooked by residential units within the scheme.
- 11.8.26. It is a guiding principle of SDRA 11 that permeability through the site be promoted to integrate the location more successfully with the adjoining community. It is my opinion that the proposed layout is in accordance with SDRA 11 as it significantly improves connectivity through the site. It is noted that the planning authority raised no objections in this regard.

11.9. Water Services

- 11.9.1. Concerns are raised by third parties that the proposed scheme would have a significant impact on water supply, water pressure, drainage and sewerage in the area.
- 11.9.2. There is existing drainage / watermain infrastructure located within the site associated with the previous use. It is proposed to divert and re-locate these services to facilitate the proposed development, without loss of service or capacity to current users. In addition, the existing temporary attenuation storage for phase 1 will be incorporated

into the new infrastructure. It is proposed to provide a new foul water network within the site which would flow by gravity to the existing combined sewer under Montpelier Gardens to the south of the site. Irish Water acknowledged that the applicant has engaged with IW in respect of the design proposal and has been issued with a Statement of Design Acceptance for the development.

- 11.9.3. In respect of water availability, the submission from Irish Water notes that in order to facilitate connections for this proposed development local upgrade works will be required, at the applicant's expense.
- 11.9.4. The applicants Engineering Services Report that that surface water shall be managed in 2 phases. The first is to restrict storm water run-off from the proposed development to greenfield run off rates and the second is to incorporate SuDS into the proposal, including green roofs, water butts and permeable paving. Full details of the SuDS proposals are provided in Section 3.4 of the Engineering Services Report. The submission from Irish Water notes that SUDS/ attenuation of stormwater is required to reduce surface water inflow into the receiving combined sewer. Full details of which must be agreed with the planning authority's Drainage Division. The report of planning authority's Drainage Division raised no objection in principle to the proposed development however the report states that further details of the management of surface water is required. It is my opinion that this could be addressed by way of condition.
- 11.9.5. Having regard to the information submitted and the submission from the Irish Water and the planning authority, I am satisfied that there is sufficient capacity within the system to accommodate the proposed development and are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified.
- 11.9.6. The OPW maps indicate that there is no record of historic flood on the site. A Site-Specific Flood Risk Assessment (FRA) was submitted which considered the potential sources of flooding.

Fluvial Flooding: The site is located to the north of the River Liffey. The Eastern CFRAMS indicates that the subject site is outside of the fluvial flood plain. Due to the levels within the scheme it would not be affected by fluvial flooding from the River Liffey. There is no evidence of any recorded flood events on the subject site.

Tidal Flooding: The subject site is not proximate to the coast and is considered outside the tidal floodplain. The site was modelled having regard to potential future flooding should climate change have a dramatic effect on sea level. The modelling found that with 'mid-range' or 'high end' change the site would remain outside of the flooded area. There is no evidence of any recorded flood events at the subject site.

Pluvial Flooding: The historical and predicated flooding information does not indicate that the subject site is at risk from pluvial flood events. It is noted that development includes surface water management proposals and attenuation, and that surface water would run to the existing public network on Montpelier Gardens.

Groundwater Flooding: GSI do not provide any indication of flood risk from groundwater. Therefore, the site is not considered to be at risk from groundwater flooding.

11.9.7. Having regard to the information submitted I am satisfied that the proposed arrangements would not result in a potential flood risk within the site or to any adjoining sites and I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified.

11.10. **Material Contravention**

As outlined above the proposed development would materially contravene Section 16.7.2 – Height and Section 16.10.1 – Residential Quality Standards – Apartments (Block Configuration) of the Dublin City Development Plan 2016 – 2022. The applicants Material Contravention Statement submitted with the application addresses and provided a justification for these material contraventions.

Building Height: Section 16.7.2 sets a maximum building height of 'up to 24m' for residential developments in the city centre. Block 05 has a maximum height of 9 storeys (30.9m), Block 06 has a maximum height of 12 storeys (40.5m), Block 07 has a maximum height of 14 storeys (46.8m), Block 9 has a maximum height of 10 storeys (33m) and Block 10 has a 12 storeys (40.5m). Therefore, the height of these blocks (05, 06, 07, 09 and 10) exceed this height does not accord with the height strategy set out in the development plan.

It is noted that SDRA 11 allows for the provision of 1 no. mid-rise building within the centre of the scheme. The development plan considers a mid-rise building to be up to 50m. Therefore, Block 07 could be considered in accordance with the provisions of SDRA11. However, if the Board were to consider a material contravention applies, the provisions under Section 37(2)(b) below should be considered.

Block Configuration: Section 16.10.1 states that a maximum of 8 units per core per floor for the development is permitted. Block 05A and 07A comprise 11 no. units served by a single core and, therefore, does not accord with the development plan standard.

11.10.1. 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.

11.10.2. Having regard to the characteristics of the proposed development, Section 37 (2) (b) (i) and (iii) are considered relevant in this instance.

11.10.3. **Section 37 (2) (b)(i)**

The subject site has an area of 5.2ha and would deliver 1,043 no. residential units in Dublin City centre. It is one of only a small number of developments in excess of 1,000 units which represents less than 1% of the total number of SHD applications received

by the Board and is the only scheme in excess of 1,000 units within the administrative area of Dublin City Council.

The sites city centre location supports the consolidation of the urban environment as outlined in within the Metropolitan Area Strategic Plan (MASP), which is part of the Regional Spatial and Economic Strategy. The sites is also located in close proximity to high frequency public transport, educational and employment hubs and a range of services and facilities within the city centre.

The proposed development is the subject of a development agreement between the applicant and Dublin City Council and would deliver significant social housing provision comprising 30% of the total units on the site with a further 20% comprising affordable housing social, to be managed by the city council. The remaining 50% would be private tenure. It is noted that the proposed development is located on publicly owned lands which is subject to a development agreement with the applicant.

It is, therefore, considered that this scheme is unique by reason of its location, scale and mix of tenure, and is critical and integral to the success of national policy, in addressing both housing and homelessness in the City and consolidating the urban environment. The proposed material contraventions are, therefore, justified by reference to section 37(2)(b)(i) of the act.

11.10.4. **Section 37 (2) (b)(iii)**

Building Height Strategy

The Height Guidelines are intended “to set out the national planning policy guidelines on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework”. It is further noted that statutory development plans have set generic maximum heights across their functional areas and if inflexibly or unreasonably applied “can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area” . Section 2 refers to Building Heights and the Development Plan. It states that implementation of the National Planning Framework

requires increased density, scale and height and requires more focus on reusing brownfield sites and building up urban infill sites, and of relevance those which may not have been built on before.

The applicant notes that the overall layout and scale and massing of the site has evolved during the process to date and the proposed development as now submitted is appropriate for the site having regard to the site context and the planning policy context within which the development is set. The history of the site is relevant to the proposed height strategy, as the former O'Devaney Gardens flats complex previously established a form that varies from the housing typologies in the immediate Oxmantown / Stoneybatter area which is predominantly single and two storey housing. Planning policy strongly supports the ODG redevelopment at a much higher density than the 1950's flats and the first phase of the ODG redevelopment which was undertaken by Dublin City Council has already begun the process of increasing density and height on the site. In general terms, the layout and height strategy for the proposed development recognises the scale of the surrounding urban area. This is achieved by placing the 2-3 storey housing and duplex typologies (ie. Blocks 4 and 8) on the more sensitive edges of the site, with the tallest elements located adjacent to the public open spaces and main vehicular routes. The justification for buildings exceeding the Development Plan threshold of 24 metres is provided with reference to the criteria in the Building Height Guidelines 2018.

SPPR 1 of the Height Guidelines states that in accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

I am of the opinion that this particular area can accommodate the increased height proposed and should not be subject to a 'blanket numerical limitation'. The design proposed has taken full account of its setting with the taller units located towards the centre of the site away from the sites sensitive boundaries. The number (1043) of units proposed will assist in achieving national policy objectives for significantly increased

housing delivery in an urban area with substantial amenities including locations with good public transport accessibility

Furthermore, having regard to the 5.2ha size and to the configuration of the site, it is considered to be able to accommodate increased heights and densities over those prescribed in the Development Plan

Section 3 of the Height Guidelines refers to the Development Management Process. It is noted that 'building heights must be generally increased in appropriate urban locations. In this respect the continuation of low-rise development is not an option in this location, simply because the prevailing heights are single to 3-storeys.

The Height Guidelines present three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights. I have provided a response below each principle.

1. *Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?*

Response: Yes – the re-development and regeneration of this underutilised, infill brownfield site within the city centre would support national strategic objectives to deliver compact growth in urban centres.

2. 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?

Response: No - the blanket height limits applied in the Dublin City Development Plan 2016 -2022 predates the Guidelines (2018) and, therefore, has not taken clear account of the requirements set out in the Guidelines.

3. 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?

Response: No - it cannot be demonstrated that implementation of the policies, which predate the Guidelines support the objectives and policies of the NPF.

Section 3 of the Height Guidelines continues to describe information that the applicant should submit to the Planning Authority to demonstrate that it satisfies certain criteria at the scale of the relevant city/town, at the scale of district/neighbourhood/street, and at the scale of the site/building. Taking each point in turn as detailed in this section 3.2 of the Guidelines with reference to the bullet points therein, I conclude:

Scale of Relevant city/town:

- Site is well served by public transport
- A Landscape and Visual assessment has been carried out as part of the EIAR and has been addressed throughout the report. I am satisfied that there will not be an unacceptable impact.
- Proposal makes a positive contribution to place-making by virtue of new streets and public spaces within the 5.2ha site, using massing, scale and height to achieve required densities but with sufficient variety and height as has been done with the range of block heights and it responds to the scale of adjoining developments, with respect to the taller buildings being located towards the centre.

Scale of district/neighbourhood/street:

- Design has responded to its overall natural and built environment and makes a positive contribution with the placement of parking below podium level and the provision of significant areas of public open space and high quality public realm.
- It is not monolithic – it is 7 blocks of varying heights.
- It enhances a sense of scale and enclosure having regard to the passive surveillance as a result of the design.
- Enhances legibility with 4 no. additional pedestrian / cycle routes through the site being made available.
- It positively contributes to the mix of uses – the non-residential uses will be available to the wider community and there is a sufficient mix of typology - 1, 2 and 3 bedroom units.

Scale of site/building:

- Microclimate and Daylight and Sunlight reports submitted demonstrate access to natural daylight, ventilation and views and minimise overshadowing and loss of light and has taken account of BRE documents.

The Specific Assessments required to support the proposal referred to in section 3.2 of the Guidelines include micro-climatic assessment, interaction with birds and bat flight lines and/or collisions, telecommunications, air navigation, urban design statement, and relevant environmental assessments. These assessments have been carried out in the reports and EIAR submitted by the applicant as required by SPPR 3 below.

SPPR 3 of the Guidelines states (of note 3A is of relevance in this instance): It is a specific planning policy requirement that where; (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

Having regard to my assessment above which takes account of the documents submitted by the applicant, I am satisfied that the applicant has set out how the development proposal complies with the criteria SPPR 3(A)(1) and having regard to SPPR 3(A)(2) with respect to wider strategic and national policy parameters as referenced throughout this report, I am satisfied that the criteria have been complied with.

Having regard to the Height Guidelines and the setting of this site with respect to public transport, its size, and in particular the local infrastructure I am satisfied that it is a suitable site for increased height without giving rise to any significant adverse impacts in terms of daylight, sunlight, overlooking or visual impact. I am satisfied that, having regard to the fact that the Development Plan predates the Guidelines by c. 2 years and that this proposal is in accordance with the National Planning Framework objectives to deliver compact growth in urban areas, that it is open to the Board to

grant permission for the development as a material contravention of the Development Plan.

In conclusion, I am satisfied that the proposed material contravention to Building Height can be granted with respect to section 37(b)(2)(iii), having regard to the Height Guidelines published under Section 28.

Block Configuration

The Sustainable Urban Housing: Design Standards for New Apartments, 2020, set out standards for apartment development in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework. Accordingly, where Specific Planning Policy Requirements (SPPRs) are stated, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.

SPPR 6 states that a maximum of 12 apartments per floor per core may be provided in apartment schemes. This maximum provision may be increased for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , subject to overall design quality and compliance with building regulations.

I am of the opinion that having regard to the city centre location, the sites size and proximity to public transport, employment and educational hubs and a variety of services and facilities that this particular scheme can accommodate a variety of block formations and should not be subject to a 'blanket numerical limitation'. The layout of the blocks results in a high quality and coherent urban scheme with wider benefits such as the delivery of a significant delivery of housing units and the comprehensive redevelopment and regeneration of an underutilised city centre site which would support the consolidation of the urban environment in accordance with national policy objectives.

In conclusion, I am satisfied that the proposed material contravention to Block Configuration can be granted with respect to section 37(b)(2)(iii), having regard to

SPPR6 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020,

11.10.5. **Section 37 (2) (b)(iv)**

The proposed material contravention to the ***Building Height*** is justified by reference to: -

Section 37(2)(b)(iv) states that 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. Since the making of the Dublin City Development Plan 2016-2022 it is noted that permission was granted in 2021 under ABP-309657-20 for the demolition of the existing Park Shopping Centre and no. 42-45 Prussia Street and the construction of 175no. Build to Rent units and 584 no. student bedspaces in a scheme with a maximum height of 8 storeys / 28.8m at a site c. 600m north east of the subject site. Having regard to this recent permission granted in the area since the making of the plan the proposed material contravention to Section 16.7.2 as it relates to Building Height is justified by reference to section 37(2)(b)(iv) of the act.

11.10.6. *Conclusion*

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that a grant of permission, that may be considered to material contravene the Dublin City Development Plan 2016-2022, would be justified in this instance under sub sections (i), (iii) and (iv) having regard to the Planning and Development (Housing) and Residential Tenancies Act 2016, by government's policy to provide more housing, as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the National Planning Framework, 2018, the Regional and Economic Strategy for the Eastern and Midland Region 2019-2031, Urban Development and Building Heights Guidelines, 2018 and Sustainable Urban Housing: Design Standards for New Apartments, 2020.

12.0 Environmental Impact Assessment (EIA)

Environmental Impact Assessment Report

- 12.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The proposed development provides for 1,047 no. residential units and 2,194sqm of non-residential uses including retail, commercial, creche and a community facility on a site area of 5.2 ha. The site is located within the administrative area of Dublin City Council. Concerns are raised by a number of third parties that the submitted EIAR is inadequate and does not sufficiently assess the potential negative impacts on the environment. The specific concerns are addressed below.
- 12.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:
- Construction of more than 500 dwelling units
 - Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- 12.1.3. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district. It is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and the submission of an environmental impact assessment report is mandatory because the scale of the proposed development exceeds 500 dwellings. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Table 1.1: EIA Team and the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.
- 12.1.4. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive

2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered

12.1.5. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from Dublin City Council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. Concerns are raised by third parties that the process provided for under the 2016 Act contravenes the requirements of the EIA Directive and the public participation requirements set out. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions. I note that some third parties have raised issues concerning the various findings and conclusions of the EAIR and that they are flawed, particularly with regard to the assessment of population and human health, biodiversity land and soils, cultural heritage and landscape. In addition, it is considered by third parties that sufficient reasonable alternatives were not explored, specifically with regard to height. However, for the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information and this is demonstrated throughout my overall assessment.

12.2. ***Vulnerability of Project to Major Accidents and/or Disaster***

12.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. The EIAR addresses this issue in Section 1.5 under the heading Risk of Accidents and/or Disasters and within a number of chapters within Volume I of the EIAR. I note that the development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO. Therefore, this is not a source for

potential for impacts. There are no significant sources of pollution in the development with the potential to cause environmental or health effects. Chapter 5 Biodiversity and Chapter 7 Water and of the EIAR address the issue of flooding. The site is not at risk of flooding as the proposed development will not have an impact on floodplain storage and conveyance. The likelihood of flooding is further minimised with adequate sizing of the on-site surface network and SuDS measures. Adequate attenuation and drainage have been provided for to account for increased rainfall in future years. The proposed development is primarily residential in nature and will not require large scale quantities of hazardous materials or fuels. I am satisfied that the proposed use is unlikely to be a risk of itself. Having regard to the sites zoning objective, its urban location and the previous residential use on the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

12.3. **Alternatives**

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

(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;

Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

Chapter 3 of volume I of the EIAR provides a description of the project and alternatives. It is stated that alternative designs for the different parts of the site were considered and developed by the Architects during the design process, with input from the overall project team. This involved a constantly evolving design whereby different solutions were constantly tested to establish the optimum design solution. The alternatives that were considered were largely restricted to variations in height, layout

and building design, access arrangements and processes. Third parties raised concerns that the consideration of alternatives was inadequate as the assessment failed to consider alternatives to the proposed height of blocks. The applicant included a rationale for the proposed height strategy within Chapter 14 – Landscape and I am satisfied that the alternative of building heights have been adequately explored for the purposes of the EIAR. In the prevailing circumstances the overall approach of the applicant is considered reasonable, and the requirements of the directive in this regard have been met.

12.4. **Consultations**

12.4.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions

12.5. **Likely Significant Direct and Indirect Effects**

The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air, climate and noise and vibration
- Material Assets; Built Services, Transportation, Resource and Waste Management, Cultural Heritage, Landscape and
- the interaction between those factors

12.6. **Population and Human Health**

12.6.1. Population and Human Health is addressed in Chapter 4 of the EIAR. The methodology for assessment is described as well as the receiving environment. Recent demographic and socio-economic trends are examined. The principal findings are that human population and job opportunities will increase as a result of the

proposal. In terms of human health, the most likely impact will be the construction phase of the development.

12.6.2. Third parties have raised concerns that there is insufficient information to assess the impact on risk to human health. This chapter sets out the potential impacts on Traffic, Noise, Air Quality, Water, Landscaping, Waste, Accidents and Aviation. I am satisfied that this provides an adequate basement for assessment with regard to the impact on population and human health. With regard to Traffic the submitted Traffic Impact Assessment indicates that the level of traffic generated by the proposed development will not be significant. The impact would be neutral and slight or imperceptible. With regard to Noise and Vibration, operational noise levels will be managed to achieve the relevant noise limit values. The impacts, therefore, on human health will be neutral for the life of the development. With regard to Air Quality the operational phase of the project would not generate air emissions that would have an adverse impact on local ambient air quality or local human health. With regard to Water, the proposed development would connect to the existing public water infrastructure in the area and would not give rise to any significant impacts on ground water. With regard to Landscape, when taken in the context of current planning policies, the proposed impact is considered to be neutral / positive. With regard to Waste, no likely significant impacts on human health are predicted for the operational phase of the project. With regard to accidents, the risk of unplanned events is addressed through the Building Regulations (Fire Safety) and is, therefore, addressed through primary mitigation in the design process. Residual risks of fire and road traffic accidents will be managed by emergency services as per their standard procedures. With regard to Aviation the proposed development does not impact on the standardised approaches \ departures to Dublin airport, Casement aerodrome or Westin Airport. The proposed development does not impact on any of the Dublin hospitals where a helipad is used. Therefore, there are no long term impacts on aviation as a result of the development.

12.6.3. Third parties have also raised concerns that this chapter is inadequate in that it fails to assess the impact of an increased population in the area on services in the area. I am satisfied that these concerns have been addressed as part of the scheme, which includes non-residential uses including a creche, and areas of public open space.

12.6.4. I am satisfied that potential effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

12.7. ***Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC***

12.7.1. Chapter 5 of the EIAR addresses biodiversity. The biodiversity chapter details the methodology of the ecological assessment. It is noted that an Appropriate Assessment Screening Report was prepared as a standalone document. As assessed in section 13 below, the proposed development was considered in the context of any site designated under Directive 92/43/EEC or Directive 2009/147/EC

12.7.2. A desk study was undertaken and included review of available ecological data within zone of influence. Ecological surveys were undertaken at the site on 28th February 2020, 9th March 2020, 10th June 2020 and 22nd July 2020. The surveys included consideration of habitats, birds, amphibians and Badgers.

12.7.3. The development site can be described as highly modified with disturbed areas of bare soil, artificial surfaces and un-grazed grasslands. There are no watercourses on or directly adjacent to the site, no bodies of open water or habitat which could be described as wetlands. The site contains no suitable roost locations for bats. A treeline made up of native and broad-leaved species is of high local value for biodiversity. With the exception of the treeline, however, the habitats on the site have been evaluated as 'low' and 'negligible' local value. There was no evidence of Badgers using the site. Japanese Knotweed is known from the site and is listed as alien invasive as per European Communities (Birds and Natural Habitats) Regulations 2011, SI 477 of 2011, however, it has been part of a control programme since 2018.

12.7.4. The submission from the DAU noted that several common bird species have been identified as nesting in a tree row and small area of bramble dominated scrub in the south east of the development site, and that while the numerous trees which are to be included in the proposed development should compensate to some extent for the removal of the tree row, there is the potential for the direct destruction of bird nests,

eggs and nestlings, if the removal of vegetation is carried out during the bird breeding season. Due to the proposed erection of various tall buildings on the site the opportunity exists to install nest boxes for swifts in the new development. This species is currently considered to be declining in Dublin, partially as the result of nest sites in older buildings. The submission also noted that the invasive alien plant species Japanese knotweed has been found to be present on the development site and has been the subject of an eradication programme by Dublin city Council, but that some regrowth of this species was identified on the site in 2020. The EIAR notes that further monitoring and treatment (if necessary) is to be undertaken during the growing season in 2021 and considers the impact to be neutral, significant, unlikely and long-term.

- 12.7.5. Section 5.7 of the EIAR describes measures to minimise the impact of the development on habitats and biodiversity during the construction phase of development, including the removal of trees and other nesting vegetation outside of breeding season, compensatory planting and excavation and disposal of Japanese Knotweed. The proposed mitigation measures are considered satisfactory. Having regard to the foregoing it is not likely that the proposed development would have significant effects on biodiversity.
- 12.7.6. Cumulative impacts have been considered with regard to similar developments in the vicinity of the site. These primarily arise through the additional loading to the Ringsend Wastewater Treatment Plant. It is considered that this effect is not significant as there is no evidence that current pollution is resulting in negative effects to high-value biodiversity features in Dublin Bay. There are no other effects which could act in a cumulative way to result in significant impacts to biodiversity.
- 12.7.7. Concerns were raised by third parties that the biodiversity chapter is deficient in that the proper methodology has not been provided for the carrying out of bird surveys and mammal surveys and it is, therefore, impossible for the developer to establish that the chapter has been prepared with the benefit of best scientific knowledge. I have considered all of the written submissions made in relation to biodiversity and I am satisfied with regards the level of information before me in relation to biodiversity.
- 12.7.8. Having regard to the present condition of the site, with no special concentrations of flora or fauna, I am satisfied that the development of the site and the proposed

landscaping and planting provides greater benefits in terms of biodiversity. I draw the Boards attention to the AA section of my report (section 11) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

12.8. ***Land and Soils***

- 12.8.1. Chapter 6 of the EIAR deals with land, soil and geology of the site. Appendix 6A, Ground Investigation Report is attached to the EIAR includes the findings of initial site investigations which comprised 11 no. cable percussive boreholes, 9 no. rotary boreholes and 32 no. mechanically excavated trial pits.
- 12.8.2. A detailed intrusive testing regime was carried out on site in July 2020 to establish if the site contained any historical materials which made require to be addressed prior to the site being developed. An Environmental Site Assessment and Waste Characterisation Assessment Report was submitted as an appendix (6A) to the EIAR. The site investigation included the collection of 219 composite samples from seventy five (75 No.) window samples and five (5 No.) boreholes. The findings indicated (7 no.) minor local hotspots with elevated levels of materials which would require mitigation prior to the development being used for housing upon completion. As such elevated materials will be removed off site in accordance with statutory requirements during the re-development of the subject lands. Full details of the materials and location are provided in Tables 3.1, 3.2 and 3.3 and waste classification is provided in tables 4.1, 4.2 and 4.3 of the Environmental Site Assessment and Waste Characterisation Assessment Report. It is noted that asbestos was not detected in any of the samples tested
- 12.8.3. The site investigations established that the site is underlain by Made Ground comprising hardcore fill, clay with rubble fill, medium dense gravel with occasional cobbles, crushed concrete with red brick fill and occasional pockets of soft dark brown clay ranging in thickness from c. 0.1 - 3.5m; The underlying Natural Ground comprises very still too hard, greyish brown, gravelly, slightly sandy, silty CLAY with cobbles and occasional boulders ranging in thickness from c. 0.8 -7.3m; very dense, grey, slightly silty, sandy, fine to coarse, angular Gravel with cobbles and occasional boulders

ranging in thickness from c. 5.5 -8m and a limestone bedrock at 12.3 – 15.5m. The soils are generally uncontaminated.

- 12.8.4. The proposed development would result in the loss of just over 5.2 Hectares of urban brownfield land, zoned for residential and regeneration purposes. Given the character and extent of such land that would remain available in the overall region, this is not considered to be a significant effect. The proposed development would not require substantial changes in the levels of site. Excavation of existing fill, topsoil, subsoil and bedrock will be required for some site levelling and for the installation of drainage and services (wastewater, water supply, electricity, etc.) infrastructure. Excess material, including any potentially contaminated material will be adequately classified and exported off site to suitably licenced landfill facilities. Following construction there will be no long-term significant impacts with respect to soils and geology of the site.
- 12.8.5. Storage and handling of materials will be carried out using best practice methods, which would remove potential pathways to ground. Measures to prevent subsoil erosion during excavation and reinstatement will be undertaken to prevent water quality impacts. It is therefore unlikely that the proposed development would have significant effects with respect to soil and land.
- 12.8.6. Cumulative impacts have been considered with regard to the impact on adjoining underground structures due to the potential to block groundwater flow patterns from the basement construction and the potential impact on the capacity of landfills to accept future material.
- 12.8.7. I have considered all of the written submissions made in relation to geology and soils. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land and soils.

12.9. **Water**

- 12.9.1. Chapter 7 of the EIAR deals with Water. The site is highly modified with disturbed areas of bare soil, artificial surfaces and un-grazed grasslands. There are no

attenuation systems within the site and surface water run off currently discharges to the combined storm and foul sewers under Montpelier Gardens. There are no streams or rivers on or adjacent to the site.

Surface Water and Flood Risk Assessment

- 12.9.2. Surface water from the development will be drained by gravity to the existing municipal drainage system at Montpelier Gardens. Peak outflow rates from the Bailey Gibson development will be combined with the outflow from the Player Wills site on an interim basis, have been incorporated into the Micro drainage calculations for the Player Wills drainage network to facilitate pipe sizing for the final outfall drain from the point of connection of the stormwater drainage from each separate development to the discharge location at Montpelier Gardens.
- 12.9.3. Surface water run-off will occur from hardstanding and roof structures during the construction period. During excavation works, groundwater within the shallow perched aquifer and the sand and gravel aquifer will be dewatered to facilitate the construction of the basement. The removal of impacted groundwater will likely have a permanent positive effect on receiving surface waters.
- 12.9.4. It is proposed to provide sustainable urban drainage solutions to the surface water drainage for the site in the form of green roofs, water-butts, permeable paving, land drains and an attenuation tank. Full details of the proposed SuDS system is provided in Section 7.5.2 of the EIAR. The completed stormwater system will remain under the control of a management company. Due to the proposed stormwater system which will be implemented at the site there is considered to be minimal risk of the site impacting the water quality of the River Liffey during the operational stage.
- 12.9.5. The site is located on lands identified as flood zone C. A site specific Flood Risk Assessment (FRA) for the development has been submitted with the application. The flood risk assessment has been carried out in accordance with the OPW publication "The Planning System and Flood Risk Assessment Guidelines for Planning Authorities". The report concluded that there is no risk of flooding affecting the site from fluvial sources, therefore, it is possible to develop the site for residential uses within Flood Zone C. Further, the development does not affect the flood storage volume or increase flood risk elsewhere. The calculations set out in the Engineering

Infrastructure Report incorporate a 20% increase in storage volume to allow for climate change. The FRA assesses in detail the site setting and its potential flood risk and concludes that there is no flood risk on the site.

- 12.9.6. A potential for an effect to arise during the construction of the proposed development from the emission of sediments or hydrocarbons to surface water is described in Section 7.5.1 of the EIAR. The potential for such effects arises in projects that involve building on urban infill sites. It is therefore commonplace. There are standard measures that are used to avoid such effects which are described in section 7.6.1 of the EIAR. The efficacy of such measures is established in practice. Subject to the implementation of those measures, the construction of the proposed development would be unlikely to have significant effects on the quality of water.

Foul drainage

- 12.9.7. The new foul drainage system for the development will connect to the existing combined sewer under Montpelier Gardens at the sites southern boundary. In relation to the comments by Inland Fisheries Ireland (IFI) regarding concerns about capacity constraints at the Irish Water Wastewater Treatment Plant at Ringsend and water quality in Dublin Bay. I note that the section 5.5.2 of the EIAR states that foul wastewater discharge from the proposed development will be treated at the Ringsend WWTP prior to discharge to Dublin Bay. The WWTP operates under licence from the EPA and received planning permission in 2019 for upgrade works. This will increase the plant capacity from 1.65m PE (population equivalent) to 2.4m PE. The Engineering Services Report prepared states that the project will result in an additional loading to the sewer of 466.9m³/day. This is not significant in the context of the existing capacity available at Ringsend. Section 5.5.3 of the EIAR states, though the treatment plant is currently over-capacity, recent water quality assessment undertaken in Dublin Bay confirms there is no evidence that current pollution is resulting in negative effects to high-value biodiversity features (or protected habitats/species) in Dublin Bay.
- 12.9.8. Irish Water have confirmed the feasibility of such a proposal. The proposed effluent generated by the scheme combined with the separation and attenuation of storm flows is predicted to have a minimal impact on the receiving drainage infrastructure.

Water Supply

- 12.9.9. The water supply for the proposed development would be from a new connection from the public network which Irish Water advises is feasible. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on water. With regard to cumulative impacts, no significant cumulative impacts on the water environment are anticipated.
- 12.9.10. I have considered all of the written submissions made in relation to water and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted and consider any issues of a technical nature can be addressed by condition as necessary.

12.10. ***Air and Climate***

- 12.10.1. Air Quality and Climate Change are outlined in chapter 8 of the EIAR. The proposed development and associated open spaces would not accommodate activities that would cause emissions that would be likely to have significant effects on air quality. There is a potential for dust emissions and diesel engine exhaust emissions associated with construction vehicles and plant to occur during construction, however, standard construction practices are proposed to mitigate against any potential negative impacts as set out in Chapter 15 of the EIAR. They are likely to be effective. It is therefore concluded that the proposed development is unlikely to have significant effects on air.
- 12.10.2. During construction, there is the potential for a number of greenhouse gas emissions to atmosphere. However, residential units will be constructed to high energy saving standards, the likely overall magnitude of the changes on climate in the operational stage of the proposed development is negative, imperceptible and long-term. The impact of the proposed development on the climate would be negligible.
- 12.10.3. Section 8.2.4 of EIAR addresses the topic of climate change and national/international agreements, I am satisfied that the EIAR complies with all the relevant national and international requirements on climate change.

12.10.4. Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site. It is predicted that the cumulative impact of the construction phase would be short-term and slight, and the predicted cumulative impact of the operational phase would be long-term and insignificant

12.10.5. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

12.11. **Noise and Vibration**

12.11.1. Noise and Vibration are outlined in chapter 9 of the EIAR. The EIAR describes the typical construction related activities that are expected to generate noise and vibration, including use of plant and machinery, both on, and travelling to, the subject site. Vibrations impacts may occur during the construction phase as a result of ground preparation works and plant and machinery movements. During the operational phase potential noise could result from increased road traffic, alongside everyday domestic activities and from the MUGA / sports pitch. The only source of vibration during the operational phase is from vehicular movements. Remedial and reductive measures are described in Section 9.7 of the EIAR, with a focus on implementation on the control of construction activities to limit noise and vibration. The construction phase noise impacts including mitigation would be negative, slight to moderate and transient to short term and the operational phase noise impact would be neutral, imperceptible and long term at existing local residential receptors. The predicated construction vibration impact would be negative, short term and not significant.

12.11.2. I concur with the conclusions of the EIAR in relation to noise and vibration impacts from the proposed development during both construction and operational phases.

12.11.3. Third parties have raised concerns regarding noise disturbance and potential structural damage to properties adjacent to the site due to construction activities. Section 9.5 of the EIAR notes that depending on the methods of construction, there is a possibility of construction related vibration impact on human beings as a result of ground preparation works and concrete foundation excavation activities. However,

such sources of vibration will be temporary and intermittent. It is highly unlikely that any construction generated vibrations at existing buildings adjacent to the site would result in cosmetic damage. Overall, it is clear that there is likely to be disruption to users and occupiers of the area surrounding the subject site during the construction of the proposed development, however, this will be temporary and incorporate mitigation to limit the degree of disturbance. In my view, it would be inappropriate to stifle development opportunity on this zoned and serviced site due to temporary disturbances from construction activities. The application of mitigation measures can be secured through conditions, particularly through the application of a final Construction and Environmental Management Plan for the proposed development. With the application of these mitigation measures and in consideration of the temporary nature of the construction works.

12.11.4. I have considered all of the written submissions made in relation to noise and vibration and I am satisfied with the level of information submitted and that construction impacts resulting from the proposed development are within acceptable limits and can be addressed by way of condition.

12.12. ***Material Assets: Built Services***

12.12.1. Chapter 10 of the submitted EIAR considers utilities associated with the proposed development. The site is currently served by a foul water network, a public watermain supply, electricity, gas and telecommunications. The scheme has been designed to allow the relocation of services within the site while ensuring there is no loss of existing services.

12.12.2. During the construction phase the operations would result in the generation of effluent and sanitary waste and would require a separate water connection. This is expected to have a slight negative impact on the existing networks in the short term for the duration of the works. During the operational phase the scheme will ensure low water usage and provides for separate foul and storm water systems to mitigate against any adverse effects of the sites redevelopment. The proposed scheme will draw on the existing potable water and wastewater services in the environs. This has been assessed and validated by Irish Water. As the subject lands were previously

developed and the site is zoned for the nature and scale of development applied for the residual assessment of the impact of water services is deemed to be minor.

- 12.12.3. During the construction phase electricity would be required, however, demand on the existing electricity network are considered to be slight, negative and short term. During construction there is a risk to existing utilities from striking overhead or underground infrastructure. The proposed development will be serviced from existing electricity, gas and telecommunications infrastructure in the vicinity of the site and there is capacity within these networks to accommodate the proposed development.
- 12.12.4. The EIAR includes a range of mitigation measures to ensure that the scheme will have a minor impact on the services. Subject to adherence to best practice requirements of the relevant providers and implementation of best practice mitigation measures, I am satisfied that will be no significant permanent adverse impact on material assets: built services as result of the proposed development.

12.13. ***Material Assets: Transportation***

- 12.13.1. Chapter 11 addresses Built Assets: Transportation. Third parties have raised concerns in relation to the probable impact on the road network, car parking and the adequacy of pedestrian and cycle infrastructure. From an environmental perspective, the EIAR addresses these aforementioned matters in detail alongside potential construction and cumulative impacts. My assessment of Traffic and Transportation in Section 11.8 above also considers these matters.
- 12.13.2. The subject site includes a public road network. The modelling submitted with the Traffic and Transport Assessment indicates that the proposed development would not impact upon the operational capacity of the adjacent junctions and would not have a significant influence on the operation of these junctions.
- 12.13.3. Construction traffic on the surrounding road network would be less significant than the impact of the operational traffic. This impact would be confined to the duration of construction activity. Mitigation measures proposed for the demolition and construction stages of the development include a detailed Construction and Environmental Management Plan (CEMP), including a plan for the scheduling and management of construction traffic. In the operational phase, the development will

incorporate several design elements intended to mitigate the impact of the development on the operation of the surrounding road network. No significant impacts are anticipated.

12.13.4. A Travel Plan Co-ordinator will be appointed for the proposed development, to assist future occupants and visitors in making the most of sustainable transport opportunities and in avoiding single-occupant car journeys. A residential car sharing club will also be established within the development, providing residents with an alternative to private car ownership.

12.13.5. Cumulative impacts have been considered with regard to the future year junction performance assessment conducted as part of the TTA, which includes other traffic flows potential generated by proposed developments in the vicinity of the site. The result is stated to be a long term imperceptible negative cumulative impact on local traffic.

12.13.6. I have considered all of the written submissions made in relation to traffic and transport. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transport.

12.14. ***Material Assets: Resource and Waste Management***

12.14.1. Chapter 12 considers resource and waste management impacts associated with the construction and operational phases of the proposed development and the potential impact that it may have on the receiving environment and on local and regional waste management infrastructure. This chapter is informed by the site-specific Construction and Demolition and Waste Management Plan and Operational Waste Management Plan submitted with the application.

12.14.2. Concerns are raised by third parties that insufficient information to enable a proper and complete assessment of potential pollution and nuisances arising from the development.

12.14.3. The Site Specific Construction and Operational Waste Management Plans have been designed to ensure that the construction and operational phases of the proposed development will be managed to reduce the generation of unsegregated wastes, to maximise the potential for recycling, recovery and re-use and to demonstrate how the development will operate in a sustainable manner in terms of waste management and how the development will contribute to the achievement of the regions compliance with the waste reduction targets specified in the Eastern-Midlands Region Waste Management Plan 2015-2021. Excavated excess soils that are required to be exported off site will be tested to determine their classification as hazardous or non-hazardous. All wastes generated from the site will be delivered to authorised waste facilities.

12.14.4. With regard to cumulative impacts it is necessary that the subject development in addition to others are operated in a sustainable manner that reduces the generation and disposal of un-segregated domestic mixed waste and that provide the infrastructure and management services to assist residents to segregate domestic waste at source.

12.14.5. The potential effect of construction waste from the proposed development is expected to be neutral, not significant and short-term impact. The potential effect of operational waste from the proposed development is expected to be neutral, not significant and long-term impact.

12.14.6. I have considered all of the written submissions made in relation to resources and waste management and I consider that the EIAR has adequately assessed impacts and that the environmental impacts have been adequately detailed and appropriately mitigated against. I am satisfied that there are no significant permanent adverse impacts on resources or from waste management.

12.15. ***Cultural Heritage***

12.15.1. Chapter 13 of the EIAR considers archaeological, architectural heritage and cultural heritage. A desk based assessment was carried out with visits on the 27th February 2020 and 11th March 2020.

12.15.2. The site is not indicated as a Zone of Archaeological Interest, or as a Site of Archaeological Interest and there are no recorded monuments within the site.

Archaeological monitoring of site investigations for the proposed development was carried out in July 2020 on behalf of the applicant and no archaeology was identified.

Archaeology

- 12.15.3. There are no obvious areas of archaeological potential and It is likely that previous major ground disturbances during the 1950's construction destroyed any material that may have survived. However, there are 2 no. areas within the site that were not previously building upon and its possible that archaeological material may have survived, in this regard the strip of land at the sites eastern boundary, formerly owned by St Bricin's and the former football pitch located in the centre of the site. Mitigation measures are proposed to protect any potential archaeological features No potential impacts are identified during the operational phase as it is anticipated. The submission from the DAU recommends that the proposed archaeological mitigation measures for archaeological testing are carried out in advance of any construction works as a condition of any grant of planning permission.

Built Heritage

- 12.15.4. There are no protected structures within the site and the site no statutory architectural heritage designation and retains no special values of architectural heritage significance. However, the site is surrounded by dwellings and military buildings of varying levels of architectural heritage significance, and the development will have indirect impacts on these through changes to setting, views and vistas.
- 12.15.5. The proposed development will have a moderate impact on the setting and views of adjacent dwellings. The proposed development will also have a moderate visual impact on the setting and views of the St. Bricin's Military Hospital complex, in particularly the U-shaped hospital, chapel and former nurse's home in its western sector. These buildings are largely shielded from public view by mature tree cover. The proposed development will remove the outer layer of trees along the former boundary and hedgerow. the mature trees within St. Bricin's are outside the development site and therefore would be retained. It is considered that the redevelopment of the site proposes higher quality replacement buildings to the recently demolished 1950s flat complex which will have beneficial visual impacts on visual outlooks from these properties.

12.15.6. Third parties and the planning authority disagree with the overall design approach of the scheme in terms of the potential impact on adjacent properties and on St. Bricin's. I have assessed the merits or otherwise in relation to the proposed development above in Section 11.4. I consider that the EIAR has adequately assessed impacts and considered that the environmental impacts upon built heritage have been adequately detailed and appropriately mitigated against. Insofar as the distribution of heights among the new development has been carefully considered to not overshadow or detract from the surrounding historic building stock. The existing Protected Structures on the North Circular Road and the adjacent houses generally turn their backs on the development, and the proposed planting and landscaping of the development should create a new urban space which will positively contribute to the urban landscape. It is my view that these are acceptable measures from an environmental impact perspective.

View and Vistas

12.15.7. The introduction of new residential units into the existing vacant site has the potential to alter the views of a number of buildings. Points of reference will be lost, particularly views of the Wellington Testimonial monument and the clock tower of the Royal Military Hospital from the upper floors of St. Bricin's Military Hospital. These views are not protected.

Cultural Heritage

12.15.8. There are no known intangible cultural heritage assets associated with the site, and consequently the development has no impact on intangible cultural heritage.

I have considered all of the written submissions made in relation to architectural and cultural heritage and consider that the proposed scheme responds appropriately to the built heritage of the wider environs and that the value as townscape resources would not be diminished by the development. Nor would any views of or from these areas be negatively affected despite the high magnitude of change. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme. I, therefore, consider that the proposed development would have an acceptable level of direct or indirect impacts on cultural heritage .

12.16. ***Landscape***

- 12.16.1. Chapter 14 and Appendix 14A outline landscape and the visual impacts that would arise from the development. The environmental impacts from the proposed development are detailed in the EIAR, to avoid repetition and to be clear, I have assessed in detail the impact of the scale and height of the proposed development on the urban environs of the site from an urban design and planning context in the planning assessment of my report.
- 12.16.2. The lands are not recorded as a high value landscape but are located in a city context within an established residential neighbourhood. Third parties have raised concerns about the negative visual impact of the development.
- 12.16.3. The EIAR highlights the sites separation from urban thoroughfares and other areas of public realm and notes that the site is generally bound by the rear gardens of existing low density housing. For the site to have a presence in the wider townscape and to deliver compact growth, it must include buildings of substantial scale / height. This would result in abrupt transitions in development typology and scale at its boundaries due to the character of the existing surrounding development.
- 12.16.4. During the construction phase the site and immediate environs would be disturbed by construction activities and haulage and the incremental growth of the buildings on site, with indirect effects on the setting of the existing area. The magnitude of change would range from high in the immediate environs to negligible or none further from the site. Therefore, the significance of the effects would also vary, although they would typically be negative during construction. Such temporary negative townscape and visual effects are unavoidable and not unusual in the urban context where change is continuous.
- 12.16.5. The site is an underutilised and of low visual quality and is generally bound by low density urban housing. The context is already urban, therefore, the broad changes that would arise from the proposed development would not have a negative effect on the landscape. The layout of the site and positioning of higher buildings towards the centre together with landscaping proposals and the provision of a new street network aim to minimise the visual impact of the development. While, the development would result in significant townscape impacts, due to its appreciable response to the context

and to relevant policy its effects on townscape character can be considered overwhelmingly positive.

12.16.6. Third parties raise concerns that the potential impact on the landscape is based on a very low baseline of a vacant site and is not a realistic baseline for an inner city site and concerns are also raised that there is an over reliance on policy to support the proposed development. The Planning Authority also state that the conclusions within the Landscape / Townscape and Visual Impact chapter of the EIAR are not accepted. I have considered all of the written submissions made in relation to landscape and visual impact and considered in detail the urban design and placemaking aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme, in particular from the positioning of taller elements at the centre of the site and away from the sites sensitive boundaries. I am, therefore, satisfied that the proposed development would have an acceptable direct, indirect and cumulative effects on the landscape and on visual impact.

12.17. ***The interaction between the above factors***

12.17.1. A specific section is provided in each chapter on interactions between the topic described and how it relates to and interacts with other chapters. Chapter 15 addresses Interactions and highlights those interactions which are considered to potentially be of a significant nature and Table 15.1 provides a matrix of interactions.

12.17.2. The potential impact of the development on land, soil, water and biodiversity interact, due to the need to avoid the emissions of sediments to the existing combined public sewer system in order to protect water quality and the aquatic habitats there. The potential impact on land and soil interacts with that on air due to the need to control dust emissions during ground works and construction. The potential impact on air and climate and its interaction with biodiversity and traffic and transportation with respect to air quality. The potential impact of the development on material assets: built services interacts with that on the population due to the provision of a substantial amount of housing, commercial and community uses for the area. The interaction of cultural heritage and landscape as the proposed new taller elements of the development will

have a new visual presence on the cityscape at this location, however, they would not negatively impact on the character or setting or on any views from adjacent properties.

12.17.3. The development is concluded in the EIAR to have no significant negative impact when mitigation measures are incorporated. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified

12.18. ***Cumulative Impacts***

The proposed development could occur in tandem with the development of other sites that are zoned in the area, including permitted housing developments in the vicinity. Such development would be unlikely to differ from that envisaged under the county development and local area plans which have been subject to Strategic Environment Assessment. Its scale may be limited by the provisions of those plans and its form and character would be similar to the development proposed in this application. The actual nature and scale of the proposed development is in keeping with the zoning of the site and the other provisions of the relevant plans and national policy. The proposed development is not likely to give rise to environmental effects that were not envisaged in the plans that were subject to SEA. It is therefore concluded that the cumulation of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

12.19. ***Reasoned Conclusion on the Significant Effects***

Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and third parties in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of underutilised brownfield land to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the removal of potentially hazardous material from the site, and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape as the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The assessments provided in many of the individual EIAR chapters are satisfactory, I am satisfied with the information provided in relation to Landscape and Visual Assessment to enable the

likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

13.0 **Appropriate Assessment**

- 13.1. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites.
- 13.2. The applicants AA Screening report notes that there is no direct hydrological connection to any designated sites. There is an indirect pathway through the combined foul sewer to the Ringsend Wastewater Treatment Plant.
- 13.3. The following 14 no. European sites are located within a 15km radius of the site and separation distances are listed below.

<i>European Site</i>	<i>Site Code</i>	<i>Distance</i>
South Dublin Bay and River Tolka Estuary SPA	004024	c. 4.5km
South Dublin Bay SAC	000210	c. 5.8km
North Bull Island SPA	004006	c7.8km
North Dublin Bay SAC	000206	c.7.8km
Wicklow Mountains SAC	002022	c. 14km
Wicklow Mountains SPA	004040	c. 14km
Glenasmole Valley SAC	001209	c.11km
Howth Head SAC	000202	c. 13km
Baldoyle Bay SAC	000199	c. 12km
Baldoyle Bay SPA	004016	c. 12km
Rockabill to Dalkey Island SAC	003000	c. 13km
Malahide Estuary SAC	000205	c. 14km
Malahide Estuary SPA	004025	c. 14km

13.4. The designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are proximate to the outfall location of the Ringsend WWTP and could therefore reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.

13.5. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

13.6. **Screening Assessment**

The Conservation Objectives and Qualifying Interests of sites in inner Dublin Bay are as follows:

<p>South Dublin Bay and River Tolka Estuary SPA (004024) - c.4.5 km from the subject site.</p>
<p>Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
<p>Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] / Oystercatcher (<i>Haematopus ostralegus</i>) [A130] / Ringed Plover (<i>Charadrius hiaticula</i>) [A137] / Grey Plover (<i>Pluvialis squatarola</i>) [A141] / Knot (<i>Calidris canutus</i>) [A143] / Sanderling (<i>Calidris alba</i>) [A144] / Dunlin (<i>Calidris alpina</i>) [A149] / Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] / Redshank (<i>Tringa totanus</i>) [A162] / Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] / Roseate Tern (<i>Sterna dougallii</i>) [A192] / Common Tern (<i>Sterna hirundo</i>) [A193] / Arctic Tern (<i>Sterna paradisaea</i>) [A194] / Wetland and Waterbirds [A999]</p>

South Dublin Bay SAC (000210) - c.5.8 km from the subject site.

Conservation Objective - 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.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Embryonic shifting dunes [2110]

North Dublin Bay SAC (000206) – c. 7.8 km from the subject site

Conservation Objective - 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.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Atlantic salt meadows (*Glauco-Puccinellietalia maritimi*) [1330] / Mediterranean salt meadows (*Juncetalia maritimi*) [1410] / Embryonic shifting dunes [2110] / Shifting dunes along the shoreline with *Ammophila arenaria* [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] / Humid dune slacks [2190] / *Petalophyllum ralfsii* (Petalwort) [1395].

North Bull Island SPA (004006) - c. 7.8 km from the subject site.

Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

Qualifying Interests/Species of Conservation Interest: Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta*

bernicle hrota) [A046] / Shelduck (Tadorna tadorna) [A048] / Teal (Anas crecca) [A052] / Pintail (Anas acuta) [A054] / Shoveler (Anas clypeata) [A056] / Oystercatcher (Haematopus ostralegus) [A130] / Golden Plover (Pluvialis apricaria) [A140] / Grey Plover (Pluvialis squatarola) [A141] / Knot (Calidris canutus) [A143] / Sanderling (Calidris alba) [A144] / Dunlin (Calidris alpina) [A149] / Black-tailed Godwit (Limosa limosa) [A156] / Bar-tailed Godwit (Limosa lapponica) [A157] / Curlew (Numenius arquata) [A160] / Redshank (Tringa totanus) [A162] / Turnstone (Arenaria interpres) [A169] / Black-headed Gull (Chroicocephalus ridibundus) [A179] / Wetland and Waterbirds [A999]

13.7. ***Consideration of Impacts on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA***

It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.

Surface water and foul water from the proposed development will discharge via new separate connections to the existing public combined sewer under Montpelier Gardens, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the surface water and wastewater pathways. The habitats and species of Natura 2000 sites in Dublin Bay are between 4.5km and 7.8km downstream of the site and water quality is not a target for the maintenance of any of the QI's within either SAC in Dublin Bay. During the construction phase, standard pollution control measures would be put in place. Pollution control measures during both construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the

distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).

As noted above the submission from Inland Fisheries Ireland states that Ringsend WWTP is currently working at or beyond capacity and will not be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

The subject site is identified for development through the land use policies of the Dublin City 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. I also note the development is located on serviced lands in an urban area, which was previously in use a residential scheme development. The proposal includes SuDS / attenuation measures which will restrict surface water runoff into the combined sewer. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note 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 relation to the proposed development. While the concerns of Inland Fisheries Ireland are noted it is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible.

The EIAR report notes that Ringsend WWTP treats effluent for a population equivalent (PE) of 1.65m. The peak effluent discharge calculated for the proposed development is 4,461litres/day (based on 2.7 persons per unit). While the concerns of Inland Fisheries Ireland are noted it is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible.

The Site Specific Construction and Demolition Waste Management Plan, the Outline Construction Management Plan and the Operational Waste Management Plan submitted with the application state that all waste from the construction phase and the operational phase would be disposed of by a registered facility.

It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would be not be likely to have a significant effect on the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA and that Stage II AA is not required.

13.8. **AA Screening Conclusion:**

It is reasonable to conclude that on the basis of the information on 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 South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required

14.0 **Recommendation**

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**

Having regard to

- a. The sites planning history;
- b. The site's location on lands with a zoning objective for residential development;
- c. The policies and objectives in the Dublin City Development Plan 2016-2022;
- d. Nature, scale and design of the proposed development;

- e. Pattern of existing development in the area;
- f. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- i. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- j. The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018, and updated Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- k. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- l. The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009; and
- m. Chief Executive's Report; and
- n. Submissions and observations received.

It is considered that, subject to compliance with the conditions set out below, 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.

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 26th day of May 2021 by BMA Planning, on behalf of Bartra ODG Limited.

Proposed Development: The construction of 1,047 no. residential units (23 no. houses and 1,024 no. apartments) in 9 no. Blocks (Blocks 02 – 10) ranging in height from 2 – 14 storeys. The residential units comprise 318 no. 1 bed (30%), 567 no. 2-bed (54%) and 162 no. 3-bed units (16%) and associated ancillary uses. The scheme also includes 2,194sqm of non-residential uses including retail, commercial, creche and a community facility.

Vehicular access is proposed via the existing site entrances on North Circular Road, Montpelier Gardens and Thor Place with a new vehicular access from Montpelier Gardens to Block 09. Additional pedestrian / cycle connections are proposed at Ross Street, Ashford Cottages and Montpelier Gardens.

Works are also required to tie the development into the previous approved (ABP Ref: PL29N.JA0024) phase 1A currently under construction. The works include a revised on-street parking layout and revised hard and soft landscaping. Provision is also made to retain an existing vehicular access to the rear of 43 Montpelier Gardens between Blocks 08C and 08D at the site's western boundary.

The scheme includes 276no. parking spaces with 226no. spaces below podium level in Blocks 05 (96no.), Block 07 (95no.) and Block 09 (35no.) and 50no. on-street spaces, 11no. motorcycle parking spaces are and 1,484no. resident bicycle parking spaces in secure facilities with additional visitor bicycle parking spaces provided in the public realm (380no.) and within private thresholds (136 no.).

Permission is also sought for associated boundary treatments, hard and soft landscaping, public open space, including a central park with a multi-use games area (MUGA) and a northern park with a community garden, 6 no. new ESB substations, mechanical and electrical roof plant and all associated site and development works.

The development includes the demolition of an existing ESB Substation (16.5sqm), the demolition of existing security hut (21sqm) and the removal of the block wall and gate pier at the entrance to St. Bricin's Military Hospital.

Decision:

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

Matters Considered

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

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

- a) The sites planning history;
- b) The site's location on lands with a zoning objective for residential development;
- c) The policies and objectives in the Dublin City Development Plan 2016-2022;
- d) Nature, scale and design of the proposed development;
- e) Pattern of existing development in the area;
- f) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- g) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h) Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- i) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- j) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018; and updated Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- k) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;

- l) The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- m) Chief Executive's Report.
- n) Submissions and observations received; and
- o) The Inspectors Report.

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 an zoned and adequately serviced urban site, the information for the Screening Report for Appropriate Assessment and the Ecological Impact Statement submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed, in compliance with s.172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account: (a) The nature, scale and extent of the proposed development; (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application, (c) The submissions from the applicant, planning authority, third parties and the prescribed bodies in the course of the application; and (d) The Planning Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of underutilised brownfield land to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the removal of potentially hazardous material from the site, and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape as the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation

measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is, apart from the parameters of the Section 16.7.2 (Building Height) and Section 16.10.1 (Block Configuration) of the Dublin City Development Plan 2016-2022, broadly compliant with the provisions of the Dublin City Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the Dublin City Development Plan 2016-2022 as outlined below: -

Building Height: Section 16.7.2 sets a maximum building height of ‘up to 24m’ for residential developments in the city centre. Block 05 has a maximum height of 9 storeys (30.9m), Block 06 has a maximum height of 12 storeys (40.5m), Block 07 has a maximum height of 14 storeys (46.8m), Block 09 has a maximum height of 10 storeys (33m) and Block 10 has a 12 storeys (40.5m). Therefore, the height of these blocks (05, 06, 07, 09 and 10) exceed this height does not accord with the height strategy set out in the development plan.

It is noted that SDRA 11 allows for the provision of 1 no. mid-rise building within the centre of the scheme. The development plan considers a mid-rise building to be up to 50m. Therefore, Block 07 could be considered in accordance with the provisions of SDRA11. However, if the Board were to consider a material contravention applies, the provisions under Section 37(2)(b) below should be considered.

Block Configuration: Section 16.10.1 states that a maximum of 8 units per core per floor for the development is permitted. Block 05A and 07A comprise 11 no. units served by a single core and, therefore, does not accord with the development plan standard.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dublin City Development Plan 2016-2022 would be justified for the following reasons and considerations:

- The proposed development falls within the definition of strategic housing set out in Planning and Development (Housing) and Residential Tenancies Act 2016.
- Government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dublin City Development Plan 2016-2022 would be justified for the following reasons and considerations:

Building Height Strategy: The proposed material contravention of Section 16.7.2 of the Dublin City Development Plan is justified by reference to:-

- Objectives 13, and 35 of the National Planning Framework which support increased residential densities and building heights at appropriate locations .
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights and densities.

Block Configuration: The proposed material contravention of Section 16.10.1 of the Dublin City Development plan is justified by reference to SPPR 6 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 which states that a maximum of 12 apartments per floor per core may be provided in apartment schemes.

The Board considers that, having regard to the provisions of section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Section 16.7.2 (Building Height) of Dublin City Development Plan 2016-2022 would be justified by regard to recent planning permissions granted in the area since the making of the plan.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) 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. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 15 of the Environmental Impact Assessment Report 'Environmental Commitments – Mitigation and Monitoring Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. The proposed units B09B.GU01, B09A.GU01 and B09A.GU02 at the ground floor level of Block 09, as indicated on drawing No 19045-OMP-ZA-00-DR-A-1000, shall be replaced with a unit(s) accommodating uses permissible under class 1, 2 and 8 of Part 4, Schedule 1 the Planning and Development Regulations, 2001 (as amended).

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 interest of residential amenity

4. A schedule of all materials to be used in the external treatment of the development to include a variety of brick finishes, shopfront materials, roofing materials, windows and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

5. a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority, such agreement must specify the number and location of each housing unit, pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

6. Details of signage relating to the creche unit and ground floor non-residential units shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. The boundary planting and areas of communal open space and public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

8. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

Reason: In the interest of place making and visual amenity.

9. Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential units. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.

Reason: To promote biodiversity.

10. Prior to the occupation of the residential units, 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. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

11. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 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.

12. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

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

13. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - b. employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - c. provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

15. 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.

16. 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.

17. 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.

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

Reason: In the interest of public health.

19. 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

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

21. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

22. 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 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.

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

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other

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

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

25. 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.

Elaine Power

Planning Inspector

27th August 2021