



An
Bord
Pleanála

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

Inspector's Report ABP-310567-21

Strategic Housing Development

198 no. BTR apartments and associated site works.

Location

42A Parkgate Street, Dublin 8.
(www.parkgatestreetshd2.com)

Planning Authority

Dublin City Council South

Applicant

Ruirside Developments Limited.

Prescribed Bodies

Department of Housing, local
Government and Heritage,
Inland Fisheries Ireland,
Irish Water,
Irish Aviation Authority.

Observer(s)

John Conway and Louth
Environmental Group.
Peter Maguire.

Date of Site Inspection

05th of September 2021.

Inspector

Karen Hamilton

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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 site (0.82 ha) is located at 42A Parkgate Street, Dublin 8. It is c. 2km from O'Connell Street and is bound to the north by Parkgate Street, to the east by the junction of Sean Heuston Bridge and Parkgate Street, to the south by the River Liffey and to the west by an office and residential development. Heuston Station is on the opposite side of the River Liffey to the south of the site.
- 2.2. There are traditional two and three storey terraced buildings on the northern and southern sides of Parkgate Street (including Protected Structures) with a six-storey hotel (Aisling Hotel) and a car showroom to the north east, on the opposite side of the road. A four-storey office development (Parkgate Business Centre) and five-storey apartment scheme (Parkgate Place) are located on lands to the immediate west of the site.
- 2.3. The site is in the Heuston Station and Environs Strategic Development Regeneration Area (SDRA 7) as defined by the Dublin City Development Plan. It is well served by public transport, with commuter and intercity services at Heuston Station and Luas and Bus services at an interchange to the front of Heuston Station. Sean Heuston Bridge to the east accommodates LUAS and pedestrian traffic only. There is a bus stop and a Dublin Bikes station along the Parkgate Street frontage of the site.
- 2.4. The application site is located on the eastern portion of the overall site, which was previously used by Hickey's Fabrics. There is a recently permitted SHD proposal (ABP 306569-20) on the remainder of the site. ABP 306569-20 includes a split decision for a grant of permission for 321 no BTR apartments (initially 481 no) apartments, retail, office and commercial uses, together with associated site works, was permitted (ABP- 306569-20) and a refusal for Block A (160 apartments). The proposal as submitted relates to the area previously refused under this previous SHD proposal.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development would comprise of 198 no. Build to Rent (BTR) apartments, residents amenity spaces and facilities, café/restaurant, replacement office use and ancillary accommodations.
- 3.2. The proposal forms part of an overall development permitted under ABP-306569-20.
- 3.3. Alterations to the previously permitted Block B2 include a reduction in the overall office floor area over the 6 floors and a reduction in the external residential amenity area by c. 35m². Localised changes to the northern Parkgate Façade of the consented Block B2.
- 3.4. Block B1 includes 16 no additional cycle parking spaces in the under-croft area. New telecommunications structure on the top of Block B1 (lift over shaft etc).
- 3.5. The proposal is for an eight-year permission.
- 3.6. An EIAR accompanied the application.

Table 1: Key Figures

Site Area	0.82 hectares
No. of residential units	198 BTR apartments (total 519 including permitted 321)
Other Uses	Café/Restaurant- 223m ² (Block A) Commercial Office- 565m ² (Block B2 and Block A interface) Telecomms plant area - c. 0.36m ² (Block B1)
Demolition Works	4,450m ²
Density	633 units/ ha (based on total 519 units on the site)
Height	30 storeys (103.6m)
Mix	73 x studio (37%) 97 x 1 bed (49%) 27 x 2 bed (14%) 1 x 3 bed (1%)

Dual Aspect	77% (stated)
Private Open Space in Block A	53 no. winter gardens (of 198 no. units)
Residential Amenity Space in Block A	Level 9 external amenity space (565m ²) Roof top internal amenity space (128m ²) Roof top external amenity space (255m ²) Ground floor Foyer/reception/mezzanine lounge
Part V	52 units (overall proposal) with 25-year lease (10%)
Parking	Additional 38 bicycle parking spaces (551 no spaces previously granted)
Access	1 no. new vehicular access via Parkgate Street 2 no. new pedestrian accesses at Parkgate Street

4.0 Submission from the Chief Executive (CE) of Dublin City Council

4.1. Introduction

- 4.1.1. A submission to the SHD application was received from the CE of Dublin City Council on the 12th of August 2021 and includes a summary of the development plan policy, relevant site history, summary of the submissions received, the opinion of the Elected Members, the interdepartmental reports and the planning assessment of the proposed development. This report notes the amendments to the scheme since the previous refusal and considers the overall proposal acceptable. The submission has been summarised below.

4.2. Views of elected members

- 4.2.1. The CE report summarised the concerns raised by the elected members at South Central Area Committee Meeting on Monday 19th of July 2021, which I have further summarised below:
- The impact of the height and density on the surrounding area.
 - The expertise of firefighters to deal with a fire in a 30-storey building.

- The design and layout of the building is not appropriate.
- The design and quality of materials are not appropriate for a landmark building.
- It is questionable if the quality of materials is sufficiently different from the previous refused application.
- It is questioned if the Daylight/ sunlight analysis for the development meets the required standards.
- There is an under provision of car parking, although other members considered the restrict of parking appropriate.
- A proper Construction Management Plan is required.
- The Build to Rent model does not meet the housing needs of the city.
- The dwelling size is too small and there is a lack of larger family orientated homes.
- There is insufficient community gain from the central court area.
- The public access to the River Liffey should be maintained.
- The public open space should reflect the height and density.
- Previous planning conditions should be upheld.
- Part V should be throughout the development and it is questioned if it is for long lease, rent or purchase.
- There is concern in relation to the wall openings along the Liffey, also the existing boundary wall which will be retained may cause anti-social behaviour.

4.3. Planning Assessment

4.3.1. Principle and Quantum of Development

- The proposal complies with national policy guidance as it can secure compact growth in urban areas and deliver higher densities.
- The proposal complies with NPO 1 and NPO 11.
- The merit of taller buildings at appropriate locations is detailed in development plan and this area has been identified as appropriate for taller buildings.

- The site is also in a conservation area and there is a requirement for consideration of the impact on architecture in design, materials and scale.

4.3.2. Compliance with Policy

- The proposal complies with the zoning objectives on the site.

4.3.3. Plot ratio, Site Coverage and Density

- When combined with the consented scheme the development amounts to 519 no units a density of 633 no units per ha.
- The NPF promotes higher density compact residential development on brownfield sites as does Section 5.7 of the Sustainable Residential Development In Urban Areas and the Urban Development and Building Height Guidelines.
- The principle of higher density was accepted under ABP 306569-20.

4.3.4. Building Height and Visual Impact

- The site has been identified as having a capacity for a taller building.
- The site is located in the SDRA.
- The previous application (ABP 306569-20) was for a 29-storey building and both ABP and the PA were generally satisfied with the slenderness ratio and principle of taller buildings.
- Permission has already been granted for 5 no. blocks under ABP 306567-20.
- Although the building will be visible from the surrounding area, it can comply with the policies of the development plan in relation to taller buildings, *inter alia*, Section 16.7.2, SDRA 7, Policy SC17, Policy SC25 and Policy SC26.
- Block A differs considerably in form, height and elevational treatment.
- The changes in, and features of the design are elaborated, and the overall use of materials is considered acceptable.
- The Architectural Design Statement and accompanying Landscape Visual Impact Assessment (LVIA) are noted.
- The impact on the City Skyline and the views to be respected are noted.

- Overall, the documentation submitted outlines that the structure can be successfully accommodated at this location

4.3.5. Public Realm and Interface with permitted development

- The integration of the open space area along the Liffey will ensure public accessibility along the river corridor.
- The ground and mezzanine levels have 80% active frontage and 20% for service areas.
- The columns have been removed at ground floor level and there is more transparency at Block A.
- The PA are generally satisfied with the interface between the permitted 6 storey office (Block B2) and Block A.

4.3.6. Protected Structures and Conservation

- The previous application (ABP 306569-20) includes extensive assessment on the impact of the architectural heritage and protected structures.
- The proposal does not include any works to Protected Structures or historic buildings.
- The EIAR (Chpt 12) concludes no direct effects on the architectural heritage.
- There is no report on file from the Conservation dept.

4.3.7. Residential Amenity within the Scheme

- Section 5 of the apartment guidelines allows flexibility for development standards for BTR schemes.
- Dwelling Mix: SPPR 8 allows flexibility in dwelling mix. The PA would prefer to see a higher percentage of larger family orientated units as part of the scheme.
- The submitted Housing Quality Assessment provides a schedule of accommodation to state the minimum floor areas are achieved for all units.
- Dual Aspect: 77% dual aspect has been provided which accords with the Apartment Guidelines.

- All floor to ceiling heights meets or exceed the requirements.
- The core contains two lifts and on stair core.
- Storage is provided in the apartments and a dedicated storage room.
- 53 no apartments have winter gardens; other apartments have access to external amenity space on Level 09 and 28 and other tenant amenity spaces.
- Internal communal amenity areas are provided on the ground floor, mezzanine, and lounges on the 09th and 28th of Block A.
- Flexibility for private amenity areas in BTR scheme is permitted in the apartment guidelines.

4.3.8. Public Open Space (POS)

- Section 16.10.3 of the development plan requires 10% for public open space.
- The POS is proposed in the form of the new public plaza and in the “River Walk”.

4.3.9. Daylight, Sunlight and Overshadowing Analysis

- Section 16.10.1 of the development plan requires development to be guided by the principles of the BRE Guidance.
- A daylight and sunlight analysis report are submitted.
- The analysis concludes that compliance with the BRE standards where 2% or higher is provided for all KLD spaces. Similarly, the median ADF for bedrooms is in excess of 3.5%.
- A sunlight/daylight assessment finds no significant adverse impact on the permitted amenity areas to the south or the neighbouring Parkgate Place development to the west.
- As the tower is sited to the north east of the site there will be no impact on the sunlight to the site amenity.
- Neighbouring building on Mountpelier Hill have been analysed and any overshadowing should only be incidental on the dwellings for part of one hour per day.

- It is noted that further analysis and quantitative assessment based on the BRE guidance document will be undertaken for the final submission.

4.3.10. Wind Analysis

- The wind analysis and pedestrian comfort report is noted.

4.3.11. Childcare facilities

- No childcare facility is proposed, and the Childcare Needs Assessment concludes that there is sufficient capacity in the area to cater for the future childcare needs.

4.3.12. Social and Community Audit

- The consented scheme and the proposed development will provide an appropriate level of contributions to the community infrastructure.

4.3.13. Part V- Social Housing

- It is understood the applicant has engaged with the Housing Division in relation to Part V obligations.

4.3.14. Flood Risk

- The Flood Risk Assessment indicates flood risk is low.

4.3.15. Transport and Access

- There is no access to Block A from the main plaza.
- The entrance width into the public plaza from Parkgate Street appears to have been reduced by c. 3m.
- Minor layout tweaks are required for the fire tender access.
- It has not been demonstrated that the weekly waste storage requirements for Block A can be accommodated.
- The proposal includes a reduction in cycle parking spaces for the commercial element from 48 to 34.
- A reduction in the cycle parking provision was previously raised under ABP 306569-20 and it is not clear if the permitted and proposed cycle parking can be accommodated within the site.

- It is not clear if the 38 spaces are in addition to the permitted cycle provision.
- It is requested that an additional 10 visitor spaces and 4 cargo spaces are conditioned.
- Condition No 11 of the previous application ABP 306569-20 is considered appropriate in relation to the car parking and works to the footpath and carriageway.
- The landscape drawings incorrectly show the entrance doors for Block A as outward opening.
- The information in the EIA is noted.

4.4. **Interdepartmental Reports**

- 4.4.1. Archaeology: No objection subject to the suggested mitigation and monitoring in the EIAR
- 4.4.2. Transport Planning: Concern raised in relation to the servicing of the site and potential long-term implications on users along Parkgate Street.
- 4.4.3. Drainage Division: No objection subject to conditions.
- 4.4.4. Park and Landscaping: No objection subject to conditions.
- 4.4.5. Conservation: No report received.

4.5. **Recommended Conditions**

- 4.5.1. The CE submission recommends the inclusion of 24 no conditions of which the following are of note:
- C2, C3 & C4: Relate to the operation of the building as for a BTR scheme.
- C5: Submission of all external materials for the written agreement of the PA.
- C6: Submission of a maintenance strategy for materials.
- C7: Submission of an adaptability study.
- C8: Part V condition.
- C9: Landscaping/ Tree protection/ Open Space Management/ Landscape Consultation & Arboriculturist/ Tree Bond
- C10 & C11: Details of signage.

C12: EIAR mitigation measures

C13: Compliance with Irish Aviation Authority requirements.

C14: Compliance with Department of Culture, Heritage and the Gaeltacht requirements

C15: Compliance with the Inland Fisheries Ireland requirements.

C16: Transport Planning Requirements, inter alia,

- Compliance with the CEMP/ EIAR (Chpt 22),
- Liaison with the Transport Infrastructure Ireland (TII),
- Details on the impact on Parkgate Street footpath and mobility management measures,
- Management plan and service arrangements,
- Materials on public areas, costs incurred for DCC for repairs and compliance with the Code of Practice.

C17: Compliance with the Drainage Division requirements.

C18: Compliance with Irish Water requirements.

C20: No additional development above parapet level.

C21: Archaeological heritage monitoring.

C 22: Public Lighting

C23: Construction and Demolition requirements

C24: Submission of a Construction Management Plan

4.5.2. In relation to the Development Contributions:

- A bond in respect of a development for two units or more
- A condition requirement the payment of a contribution in lieu of the development not meeting the open space requirement.
- A Section 48 development contribution.

5.0 Planning History

ABP 306569-20

Split decision to grant permission for 321 no BTR units and refuse permission for Block A (160 no. apartments) for the following reason:

- 1. Policy SC25 seeks to 'promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate'. In addition, the guiding principles of SDRA 7, together with the Assessment Criteria for Higher Buildings, as set out in the Dublin City Development Plan 2016-2022, refer to architectural designs of exceptional high standard and architectural excellence for high buildings.*

Having regard to the prominent and sensitive location of the subject site by reason of its important gateway location for the city; its relationship to the River Liffey; together with its connection to Heuston Station and the Phoenix Park; it is considered that the proposed development, due to its architectural design quality and materiality, does not successfully address the opportunities provided by the site; does not protect nor enhance the skyline at this location nor does it make a positive contribution to the urban character of the area. It has not been adequately demonstrated to the Bord that a building of exceptional architectural design has been proposed in Block A and if permitted, it would seriously detract from the setting and character of Heuston station, one of the city's important architectural landmarks.

Having regard to all of the above, the proposal is therefore considered not to comply with Policy SC25 of the Dublin City Development Plan 2016; would be contrary to the guiding principle of SDRA 7 which seeks architectural designs

of exceptional high standard and would be contrary to the Assessment Criteria for Higher Buildings, as set out in the Dublin City Development Plan 2016-2022 which seeks architectural excellence for high buildings. The proposal would seriously injure the urban character and visual amenities at this pivotal location and would be contrary to the proper planning and sustainable development of the area.

ABP Ref. PL29N.221587 (Reg Ref 3613/06)

Permission refused for a mixed use residential and commercial development comprising 139 no. residential units, offices, retail, restaurant, and crèche. The two reasons for refusal may be summarised as follows:

*Having regard to the scale and massing which is Bandon Monument and repetitive and the location of the site within the Heuston station and environs framework development area and connected to the City Quays, Phoenix Park and Wellington, the proposal would detract from the character and appearance of the conservation area and would adversely affect the setting of protected structures in the vicinity
the proposed development would not reflect the pivotal and sensitive nature of the site and would interfere with views and prospects of special amenity*

It is considered there are no exceptional circumstances to warrant the removal of this protected archway ... its removal would detract from the character and appearance of the conservation area... seriously injure the amenities of this conservation area and would be contrary to the proper planning and sustainable development of the area.

6.0 Section 5 Pre-Application Consultation

6.1. Pre-Application Consultation Opinion

- 6.1.1. A Section 5 pre application consultation took place with An Bord Pleanála on the 15th day of April 2021. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance (via Microsoft teams). Following consideration of the issues raised during the consultation process and having regard

to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted constituted a reasonable basis for an application for strategic housing development to An Bord Pleanála (ABP-308886-21).

Specific information was required to be submitted with any application for permission, as summarised below:

1. Drawings (plans, sections and elevations), as necessary, which clearly outline all proposed amendments to the previously permitted scheme on the overall site (permitted under ABP-306569-20).
2. A Visual Impact Assessment that includes photomontages, cross sections, axiometric views and CGIs clearly showing the relationship between the proposed development and existing/permitted development within the wider area. The assessment should address the contribution of the block to the skyline and any impacts on key views, including local views along Parkgate Street and in the vicinity of Heuston Station and Sean Heuston Bridge, along the Quays, from Phoenix Park, Island Bridge and Kilmainham to the west and from the wider historic areas of the city.
3. A Materials Strategy and a Building Life Cycle report.
4. Open space and communal/recreational amenities (quantum and areas will be available to residents of the proposed block)
5. A Housing Quality Assessment (including compliance with the various requirements apartment guidelines).
6. Daylight and Sunlight Analysis.
7. Additional details in relation to traffic and transport matters, having regard to the requirements of the Transportation Planning Division (report dated 18/01/2021) as indicated in the Planning Authority's Opinion (Addendum B).
8. A taken in charge plan.

6.2. **Applicant's Statement and Response to Pre-Application Consultation Opinion**

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement attempts to address the points raised above.

On foot of the above Opinion, the scheme has been amended- details of these amendments have been set out in the Response to An Bord Pleanála Opinion. The main differences from proposed pre-application proposal include, *inter alia*,

- A revised footprint at ground floor with additional floor area at two entrance areas.
- Reduction in the permitted office area in Block B.
- Alteration to the basement cycle parking to accommodate an additional 16 spaces in the undercroft area.
- Inclusion of a Telecommunications Booster Antennae on the roof of Block B.
- Inclusion of updated visual impact assessment with photomontages etc of the proposal in the context of the wider area.
- A materials strategy which includes the main use of reconstituted stone and glazing as the main external materials.
- Details of the proposed open space and communal/recreational amenities in the foyer, mezzanine, lounge and roof top amenity. In addition, those amenity areas permitted in Block B & C which are available to Block A residents.
- Submission of a Housing Quality Assessment.
- Submission of Daylight Sunlight Analysis
- Information to address the issues raised by Traffic and Transport including the interface areas on the ground floor, details of public realm, auto track analysis for vehicular access, construction phasing programme.
- Local Authority Ownership Map

A Material Contravention Statement was submitted with the application in relation to the apartment floor areas and units mix.

7.0 Relevant Planning Policy

7.1. Project Ireland 2040 - National Planning Framework

A number of key National Policy Objectives (NPOs) are noted as follows:

- NPO 3(a): Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- NPO 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- NPO 13: In urban areas, planning and related standards, including, in particular, 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.
- NPO 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- NPO 35 seeks to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

7.2. Section 28 Guidance

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities

- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.

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

A number of key Regional Policy Objective (RPOs) are noted as follows:

- RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for New Apartments’ Guidelines, and ‘Urban Development and Building Heights Guidelines for Planning Authorities’.
- RPO 5.5 : Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

7.4. Dublin City Development Plan 2016-2022

7.4.1. Zoning

The site has two zoning objectives, Objective Z5 being the main zoning and a narrow band along the south of the site, adjoining the River Liffey are Objective Z9

Objective Z5

- seeks *‘to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity’*.
- The purpose of this zoning is “to sustain life within the centre of the city through intensive mixed-use development, to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night...”

Objective Z9

- which seeks *‘to preserve, provide and improve recreational amenity and open space and green networks’*.

Objective Z6

- the application site (red line boundary) includes for an element of the public footpath in the north eastern corner of the site, where a small area of ‘Objective Z6’ zoning applies.
- seeks *‘to provide for the creation and protection of enterprise and facilitate opportunities for employment creation’*.
- The footprint of the proposed new buildings does not encroach the Z6 zone.
- Some public realm enhancements works are proposed within this area.

7.4.2. Urban Design

Policy SC14: To promote a variety of housing and apartment types which will create a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces.

Section 4.5.9: Urban Form and Architecture

Policy SC25: To ‘promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city’s built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate’.

Policy SC28: To promote understanding of the city’s historical architectural character to facilitate new development which is in harmony with the city’s historical spaces and structures.

7.4.3. Views

Policy SC7: To protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence.

Fig 4: Key Views and Prospects

- An area to the front of Heuston Station, along Parkgate Street has been identified as a Key View and Prospects.

7.4.4. Building Heights

Section 4.5.4 deals with taller buildings as part of the urban form and states that:

- Clustering of taller buildings of the type needed to promote significant densities of commercial and residential space are likely to be achieved in a limited number of areas only.
- Taller buildings (over 50m) are acceptable at locations such as at major public transport hubs, and some SDRAs...

Policy SC 16: To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

Figure 39 Building Height in Dublin Context

- Identifies four sites within the city as having potential for High Rise 50m+ buildings, with Heuston (which encompasses the subject site) as being identified as one such area.

Section 16.7.2 Assessment Criteria for Higher Buildings: All proposals for mid-rise and taller buildings must have regard to the assessment criteria for high buildings as set out below:

- Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas
- Effect on the historic environment at a city-wide and local level
- Relationship to transport infrastructure, particularly public transport provision
- Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for
- Contribution to public spaces and facilities, including the mix of uses
- Effect on the local environment, including micro-climate and general amenity considerations
- Contribution to permeability and legibility of the site and wider area
- Sufficient accompanying material to enable a proper assessment, including urban design study/masterplan, a 360-degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies
- Adoption of best practice guidance related to the sustainable design and construction of tall buildings
- Evaluation of providing a similar level of density in an alternative urban form.

7.4.5. Housing Standards

- Section 16.10.1- Residential Quality Standards- Apartments

7.4.6. Strategic Development and Regeneration Areas (SDRA) 7

- The site is located in Heuston Station and Environs SDRA 7.

- Section 15.1.11.10 sets out a number of guiding principles have been set out for SDRA 7.
- The Plan envisages a new urban gateway that is focused on the transport node of Heuston Station, vibrant economic activities, a destination to live, work and socialise in, public realm and architectural designs of exceptional high standard and a gateway to major historic, cultural and recreational attractions.
- Other significant landbanks within this SDRA include the Heuston South Quarter mixed use development site to the south west of the site and the Clancy Barracks residential led development, in the grounds of the former Clancy Army Barracks to the west of the site. Heuston Station and the Dublin Bus Conyngham Road Depot are identified as other potential redevelopment sites.

7.4.7. Built Heritage

The site is located within a Conservation Area along the River Liffey and its banks and quays, includes a number of protected structures in the vicinity and structures of interest (detailed below) and on an area of archaeological interest.

- **Policy CHC2:** To ensure that the special interest of protected structures is protected.
- **Policy CHC4 & CH5:** Conservation Areas: Development will not harm the features of special interest in the conservation areas or involve harm to loss of traditional fabric.
- **Appendix 24:** Protected Structures and Buildings in Conservation Areas.

The Protected Structure on the site RPS Ref. No. 6320, (43) Parkgate Street includes the following entry: 'Former Parkgate Printing Works, now known as Parkgate House.

The following structures are included in the Record of Protected Structures:

- (a) Riverside stone wall
- (b) Turret at the eastern end of the site
- (c) Square tower on the riverfront

(d) Entrance stone arch on the Parkgate Street frontage’.

The riverside stone wall (a) is also included in the NIAH Reg. Ref. No. 50060349 - Regional Rating. The entrance stone arch on the Parkgate Street frontage (d) is also included in the NIAH Reg. Ref. No. 50060346 - Regional Rating. Both are considered to be of Architectural Interest.

The existing single-storey ESB substation located just outside and adjacent to the east end of the subject site is included in the NIAH Reg. Ref. No. 50060350 - Regional Rating and is of Architectural and Technical Interest.

The site is located within the designated zone of archaeological potential for the historic city of Dublin (DU018-020).

7.5. Designated Sites

7.5.1. The site is located within 10km of the following European Sites:

- C. 4.4km to the west of South Dublin Bay and River Tolka Estuary SPA (004024).
- c. 5.4km to the west of South Dublin Bay SAC (000210).
- c. 7.5km to the west of North Bull Island SPA (004006).
- c.7.5km to the west of North Dublin Bay SAC (00206).

7.5.2. The site is located within c.15km of the following European Sites:

- c. 14km to the east Rockabill to Dalkey Island SAC (003000).
- c. 14km to the north east Malahide Estuary SAC (000205).
- c. 12km to the north east Baldoyle Bay SPA (004016).
- c. 12km to the north east Baldoyle Bay SAC (000199).
- c. 13km to the north east Howth Head SAC 000202 (001398).
- c.13km to the east Rye Water Valley/Carton SAC (001398).
- c. 12km to the north Wicklow Mountains SPA (004040).
- c.12km to the north Wicklow Mountains SAC (002122).
- c. 11km to the north of Glenasmole Valley SAC (001209)

- c.14.6km to the south west Malahide estuary SPA (004025)

7.6. Applicant's Statement of Consistency

- 7.6.1. A Planning Report and Statement of Consistency is submitted with the application. It is stated that the proposal is consistent with the relevant National and Regional Polices. The apartment units comply with all aspects of the national guidance, in particular SPPR 7 & 8 of the Sustainable Urban Housing: Design Standards for New Apartments (March 2018) and guidance relating to BTR units.
- 7.6.2. With regard the apartment floorspace size and unit mix, which contravenes Section 16.10.1 of the development plan (Residential Quality Standards- Apartments) justification for a contravention has regard to SPPR8.

8.0 Third Party Submissions

- 8.1. A total of 6 no. submissions were received in relation to the proposal of which 4 no. of these are prescribed bodies, previously detailed. One of the third-party submissions is submitted on behalf of a resident of Mountpelier Hill (c.20m north of the site) while the other submission is from the Louth Environmental Group. Each are summarised below:
- 8.2. Peter Maguire (Mountpelier Hill)
- 8.2.1. In relation to daylight and sunlight analysis,
- Outdated pictures are used and there are no mature trees at the end of 34 Montpelier Hill.
 - A drone or other technology should be used to reflect an updated view.
 - The documentation shows the houses on Montpelier Hill are overshadowed in Nov, Dec, Jan although this is inaccurate.
 - There is uninterrupted sunlight across those houses on winter days.
 - The authors are incorrectly using non-existent lower blocks of the proposed development to depict existing shadow.
- 8.2.2. In relation to architectural heritage,

- The revised tower drawing is of less architectural merit than the initial proposal and is growly out of keeping with the area.
- The tower will not enhance the historical district at the end of the Liffey leading to Phoenix Park

8.2.3. In relation to apartments,

- The proposal is a contravention of the development plan.
- Large sized units are needed in Dublin City.
- 160 out of 198 units are not suitable for couples/ facilities.

8.3. Louth Environmental Group

The observation was submitted by bkc Solicitors on behalf of the environmental group and is summarised as follows:

8.3.1. In relation to the S28 Guidelines,

- The Board can not grant permission as the Guidelines for Planning Authorities on Urban Development and Building Height 2018 and the Apartments Guidelines 2020, and those specific planning policy requirements are unconstitutional.
- The guidelines are contrary to the SEA Directive.
- The proposed development materially contravenes the requirements of development plan in relation to mix of dwelling and minimum floor area for studio apartments and cannot be justified by reference to SPPR 8 of the Apartment Guidelines.

8.3.2. In relation to height,

- The proposal contravenes the development plan by creating a landmark building,
- The proposal does not comply with Policy SC25 and would be contrary to the guidelines principles of SDRA 7 which seeks architectural designs of exceptional high standards. The proposal cannot meet the assessment criteria for higher buildings in the development plan.

- The proposal would seriously injure the urban character and visual amenities at the pivotal location.
- The proposed development does not comply with the SPPR, criteria or specific assessment in the Building Height Guidelines. The Board cannot grant permission.
- The proposal is not of a strategic nature or national importance.
- The visual impact assessment is deficient in terms of addressing the relationship between the existing and permitted development in the area.
- The sunlight and daylight analysis does not comply with the BRE and BS guidance.

8.3.3. In relation to the EIAR,

- The EIAR is inadequate and does not permit an assessment of the potential impacts of the proposed development.
- The public can not fully participate as they do not have the statutory reports (CE report) before making any submissions
- The Board lacks ecological and scientific expertise to examine the EIA screening report and ensure the adequacy of the EIAR.
- The proposed development does not comply with the Act, Regulations or the EIA Directive.
- The population and Human Health chapter does not assess the impact of the increased population of the areas of services including schools, childcare and medical care.
- The impact on biodiversity and human health arising from the proposed development, during both the construction and operational phases, is inadequate and lacking in terms of details- the EIAR is deficient in this regard.

8.3.4. In relation to the screening and/or Appropriate Assessment,

- The information presented is insufficient, contains lacunae and is not based on appropriate scientific expertise.

- Legal cases have concluded that the AA must have definitive findings and conclusions
- There is inadequate information in the NIS to screen out the potential impact of the proposed development on birds, including flight lines and collision risks.
- There is no conclusion on the screened-out sites at the AA screening stage.
- The Zone of Influence is not reasoned or explained, and it is unclear how such a zone was determined
- There is no regard or inadequate regard to the cumulative effects or in combination with developments in the vicinity.
- Reliance of the Ringsend WWTP is flawed.

9.0 Prescribed Bodies

9.1. Inland Fishers Ireland (IFI)

- The proposed development is located in the catchment of the Liffey System.
- The Liffey supports regionally significant population of Atlantic Salmon and is also important for sea trout migrating and eel and River Lamprey.
- All works must be completed in line with the CEMP to ensure good construction practices.
- There should be no direct pumping of contaminated water from the works and dewatering must be treated by either infiltration over land or a suitably sized pond. A discharge licence is required by DCC.
- Topsoil must be treated adequately on the sites.
- Concrete/cement works must be strictly controlled and monitored.
- Mitigation measures such as silt traps and oil interceptors to be inspected regularly
- Ringsend WWTP is currently working at or beyond the design capacity until upgraded and until 2023. Local infrastructural capacity should be able to cope with surface/ foul water.

- All discharges must be in compliance with the European Communities (surface water) Regulations 2009 and the European Communities (groundwater) Regulations 2020.

9.2. Irish Water (IW)

No objection subject to a precondition condition.

9.3. Irish Aviation Authority (IAA)

No objection subject to the inclusion of a condition requiring an appropriate obstacle Warning Light scheme.

9.4. Department of Housing, Local Government and Heritage

The submission from the Development Applications Unit (DAU) includes observations on both archaeology and nature conservation as summarised below:

9.4.1. Archaeology

On the basis on the information contained in the Archaeology and Cultural Heritage Chapter (Chpt 11 and Appendices 11.3 and 11.4) of the EIAR it is recommended that the proposed archaeological mitigation measures for testing and monitoring are carried out in advance of any construction works and included as a grant of planning permission.

9.4.2. Nature Conservation

Impact on Water

It is possible that contaminants could possibly be transported down the River Liffey and threaten the integrity of downstream European Sites having a detrimental effect on salmonid fish and other aquatic life or bird species (listed as qualifying interests).

The EIAR, NIS and CEMP contain various measures and procedures employed during dewatering of the site and construction to prevent pollution of surface waters and if implemented these measures should prevent pollution of run-off and any negative impacts on the Liffey and downstream European Sites.

A condition is recommended requiring the applicant to submit all measures necessary for the protection of water in the Liffey and those measures in the CEMP to implement the mitigation.

Impact on Birds

It is noted in the EIAR that the site and Liffey is used by bird species. It fails to consider the possibility of bird collisions. The building will include large expanses of glazing. The number of collisions in Dublin is unknown and because of the lack of very tall buildings it is not considered a significant issue.

The Urban Development and Building Guidelines requires site specific assessments for proposals for taller buildings which states that in areas sensitive to bird/bat species the potential interaction of building location, building materials and artificial lighting to impact flight paths /or collisions.

It is considered that the location of the site along the Liffey may lead to considerable movements of birds. The EIAR should have contained an assessment of the potential on bird mortality from collisions.

Regulations and Guidelines from North America such as the Toronto's Green Standard (V3) (2020 "Bird Collision Deterrence for Mid to High- Residential and all Residential Developments"¹ are referenced. The suite of measures included in this document is considered reasonable to be attached to any grant of permission for the proposed development.

Recommendation that any grant of permission includes a condition relating to the installation of bird friendly glazing as per the guidance from Toronto. Alterations to the treatment and design of the glazing relate to exterior glazing, fly-through and green walls and terraces.

¹ <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/toronto-green-standard/toronto-green-standard-version-3/mid-to-high-rise-residential-all-non-residential-version-3/ecology-for-mid-to-high-rise-residential-all-non-residential/>

10.0 Assessment

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

- Principle of Development
- Visual Amenity and Architectural Design of Block A
- Building Height
- Material Contravention of the Dublin City Development Plan 2016-2022 for Dwelling Mix and Apartment Floorspace.
- Quality of Residential Development
- Daylight/Sunlight/Overshadowing
- Alterations to Block B
- Chief Executive (C.E) Recommendation
- Other Matters

These matters are considered separately below. Furthermore, I have carried out Environmental Impact Assessment and Appropriate Assessment in respect of the proposed development, as detailed in Sections 11.0 and 12.0 below.

10.2. Principle of Development

Previous SHD application

10.2.1. The proposed development forms part of a consented development under ABP-306569-20. Permission was granted for 321 no. Build To Rent (BTR) and refused for the 29-storey "Block A" (160 no. BTR units). The reason for refusing Block A related to the architectural standard of Block A and the design and materiality of proposed building. The Board considered the proposed Block A would seriously detract from the setting and character of Heuston Station and would therefore be contrary to Policy SC25 of the Dublin City Development Plan 2016-2022 which seeks architectural excellence for high buildings.

- 10.2.2. The proposal for Block A has been resubmitted with an additional floor (30 storeys) and 38 no. units (198 no. units). The footprint, design and use of materials for Block A have been changed, further detailed in my assessment of the visual amenity and architectural design. The principle of development of Block A was not raised as an issue by the Board under ABP-306569-20 and having regard to the scale and nature of the proposed development, which is generally in keeping with the consented scheme, I have no objection to the principle of Block A at this location.
- 10.2.3. The proposed development also includes other alterations to Block B of the consented scheme ABP-306569-20, including revisions to the commercial and residential space. Alterations to the level 9 terrace, elevational treatment and bicycle storage and inclusion of a telecommunications antennae. The overall impact of these alterations is detailed in my assessment below, although it is concluded that the amendments will not have a significant negative impact on the consented scheme or the surrounding area.

Land use Zoning

- 10.2.4. The site is zoned in the most part as Z5 (City Centre) with an open space zoning, Z9, along the west of the site adjoining the River Liffey. An old substation is located to the north east, along the boundary, zoned as Z6, employment and enterprise. The proposed development does not encroach on either the Z9 (open space) or Z6 (employment and enterprise) zoning and is therefore acceptable.

Quantum of development/ Density

- 10.2.5. The proposed development of 198 no. units is 38 more than previously proposed in Block A. The overall increase of units from 481 apartments under ABP- 306569-20 to 519 no units now proposed represents an increase of density from 587 units per ha to 633 units per ha.
- 10.2.6. The site is zoned for city centre development where it is an objective to consolidate and facilitate the development of the central area. In addition, the site is located on a derelict brownfield site and is within a Strategic Development and Regeneration Area 7 (SDRA7) Heuston and Environs, where the guiding principles outlined in Section 15.1.1.10 of the development plan highlight the redevelopment of the site. The Dublin City Development Plan recognises that sites such as these can accommodate compact growth and high-rise buildings, subject to other planning assessments.

- 10.2.7. Section 5.5 of the 'Guidelines on Sustainable Residential Development in Urban Areas' (SRDUA) requires inner city sites to be maximised and where the proposal can comply with certain planning criteria such as, *inter alia*, open space standards, impact on residential amenities, internal space standards, there should be upper limit on density.
- 10.2.8. The proposed development has been advertised as a material contravention of the Dublin City Development Plan 2016-2022 for reasons of noncompliance with Section 16.10.1 having regard to the proposed residential mix and the apartment floorspace. This matter is dealt with in detail in section 10.5, and it is my opinion that, notwithstanding the proposed material contravention for dwelling mix and internal floor areas, that the site, due to its location as a well-connected urban site, can accommodate a higher density. In this regard, I consider the increase quantum of units and density is in accordance with the national and development plan objectives for the site.

Build To Rent (BTR)

- 10.2.9. The proposed development is for 198 no. BTR apartment units, as advertised and in the development description. The consented permission ABP 306569-20 included permission for 321 no. BTR units. Having regard to the cumulative impact an EIA accompanied this application, as further detailed below. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2018 provides guidance on Build-to-Rent (BTR) which is defined as "*purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord*". A covenant for the entire building is required at a minimum of 15 years. An Estate Management Strategy Report and a draft covenant have been submitted with the application and the Board will note no objection to the operational of the site as BTR scheme was raised in the previous consented scheme.
- 10.2.10. Specific Planning Policy Requirement (SPPR) 7 & 8 of the apartment guidelines provides guidance for assessing BTR proposals and includes allowances for flexibility in the provision of dwelling mix, storage and private amenity space. Compliance with these SPPR's and other development plan guidance is assessed below in terms of quality of residential development, although the Board will note the

proposed layouts, configuration of units and supporting residential amenity is considered acceptable.

- 10.2.11. Having regard to the location of the site within the city centre and supported by excellent public transport facilities, I consider the principle of BTR units is acceptable. In terms of operation of the units, I consider conditions similar to Condition No 5, 6 & 7 on the consented ABP 306569-20 can be included in any grant of permission and can ensure that no individual residential unit is disposed of to any third party for a period of 15 years and the overall development is managed appropriately.

Conclusion

- 10.2.12. The alterations proposed come within the general scope and confines of the previous consented SHD proposal. Having regard to the land use zonings, the guiding principles for development in SDRA 7 and the sites characteristics as a city centre brownfield site, I consider the delivery of higher density proposal can be accommodated on the site and would be consistent with the national and local policy for consolidation of development. Therefore, subject to complying with other planning requirements as addressed in the following sections, I am satisfied the principle of the proposal is acceptable.

10.3. Visual Amenity and Architectural Design of Block A

Previous reason for refusal of Block A

- 10.3.1. The reason for refusal for Block A under ABP 306569-20 is detailed below:

Policy SC25 seeks to 'promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate'. In addition, the guiding principles of SDRA 7, together with the Assessment Criteria for Higher Buildings, as set out in the Dublin City Development Plan 2016-2022, refer to

architectural designs of exceptional high standard and architectural excellence for high buildings.

Having regard to the prominent and sensitive location of the subject site by reason of its important gateway location for the city; its relationship to the River Liffey; together with its connection to Heuston Station and the Phoenix Park; it is considered that the proposed development, due to its architectural design quality and materiality, does not successfully address the opportunities provided by the site; does not protect nor enhance the skyline at this location nor does it make a positive contribution to the urban character of the area. It has not been adequately demonstrated to the Bord that a building of exceptional architectural design has been proposed in Block A and if permitted, it would seriously detract from the setting and character of Heuston station, one of the city's important architectural landmarks.

Having regard to all of the above, the proposal is therefore considered not to comply with Policy SC25 of the Dublin City Development Plan 2016; would be contrary to the guiding principle of SDRA 7 which seeks architectural designs of exceptional high standard and would be contrary to the Assessment Criteria for Higher Buildings, as set out in the Dublin City Development Plan 2016-2022 which seeks architectural excellence for high buildings. The proposal would seriously injure the urban character and visual amenities at this pivotal location and would be contrary to the proper planning and sustainable development of the area.

- 10.3.2. An Architectural Design Statement accompanied the application which sets out the initial massing/options for the building and highlights the design changes to Block A. A third-party submission notes the amendments to Block A which they do not consider sufficiently addresses the previous reason for refusal.
- 10.3.3. The main alterations for Block A include an increased floor base, additional height, increase of 38 no units, change in the number and type of openings and increased glazing. Design features on upper floor include a lantern top with an articulated middle. Section 2.8 and 2.9 of the Architectural Design Statement includes photomontages of both the previously refused Block A and the proposed development.

10.3.4. Having regard to the nature and scale of the alterations proposed, I consider the amendments to Block A are significant and have attempted to address the previous reason for refusal.

External Materials

10.3.5. The reason for refusal in ABP 306569-20 highlighted the materiality of Block A. It was considered the use of the materials, inter alia, render banding would not contribute to the setting and character of Heuston Station. In addition, the Inspector's report noted a query in relation to the maintenance and durability of the materials proposed.

10.3.6. Section 5.6 of the Architectural Design Statement details the use of reconstituted stone for the exterior of the building. Section 3.3.3 of the EIA details the materials strategy and states that the reconstituted stone was "*chosen for its strength, adaptability and quality of texture while stimulating the appearance of natural stone.*" The Building Lifecycle report includes details for the long-term running and maintenance of the exterior. The CE report notes the proposed material, does not raise any issues and requests a condition in relation to the submission of a sample panel for the written agreement. I note Section 5.6 of the Architectural Design Statement proposed to submit a panel to the PA.

10.3.7. It is my opinion that the use of reconstituted stone throughout the elevation treatment represents a high-quality solution for the exterior materials the building, and it will support the simplistic, contemporary design, be durable and easily maintained. I consider a condition on any grant of permission requiring the submission of a panel to the PA is reasonable to ensure the reconstituted stone selection is of a high quality.

Urban Design

10.3.8. The Architectural Design Statement which accompanied the application provides an analysis of the proposal in the context of the site and 12 principles of the Urban Design Manual. The impact of the taller building on the surrounding area, integration of the ground floor along Parkgate, materiality and design of the building are all identified as positive contributors to the urban design. I note three large buildings in the city (Liberty Hall, Millennium Tower and Capital Dock) are included as examples where taller buildings have successfully addressed the urban design. Connectivity

and permeability are enhanced through the integration of the River Walk and public realm, consented under ABP 306569-20 and integrated into the proposed development.

- 10.3.9. As stated above, the proposed development includes amendments to Block A to include an increased floor area and height to accommodate an additional 38 no units (total 198 no. apartments). I consider the increased massing has led to a broader façade with a greater horizontal emphasis for the windows. These design features create a more refined design which is distinctly different from the previous design for Block A (ABP 306569-20).
- 10.3.10. The policies of the development plan, in particular Policy SC25, require proposals to respect the city’s environment and heritage by incorporating “exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture”. New landmarks and public spaces should have an excellent quality of design. The guiding principles for development in SDRA 7 (Section 15.1.11.10 of the development plan) includes the need to generate urban densities, incorporate a quality contemporary architecture whilst also successfully interconnecting onto the adjacent urban structure.
- 10.3.11. The CE report also notes the amendments since the previous refusal and considers Block A differs considerably in form, height and elevational treatment. These changes and the overall use of materials is considered acceptable.
- 10.3.12. Overall, I consider the building complies with the national guidance for appropriate urban design, the general guidance in the development plan and site-specific guidance for good urban design in SDRA 7. The proposal provides a contemporary and interesting elevational treatment, includes a transparent ground floor façade which will promote people friendly streets and supports the principles of good urban design. In addition, having regard to the height and design, the building will become a focal point in the city and create a sense of place. In my opinion all these attributes will allow the building to integrate successfully onto the site and surrounding area, improve legibility in the city and ensure the building makes a positive contribution to the skyline.

Design

10.3.13. The changes to the design of Block A have led to a larger building, triangular in shape with horizontal emphasis on the facades. Whilst the previous building was also triangular in shape, the Board had concerns in relation to the overall standard and quality. As further discussed elsewhere in my report, in relation to the materials, urban design and height, the alterations to the building ensure a more contemporary design. The horizontal details for the windows and use of reconstituted stone has been brought up through the roof detail to provide a distinct “crown” detail with a variation in height. The inclusion of these details, in my opinion, provides a high-quality architectural feature. The requirement for a high standard of architecture for landmark buildings is a requirement for compliance with Policy SC25 of the development plan. Having regard to the architectural features and external materials on the building, I consider design is appropriate to ensure the building will be an important landmark building in the city.

Visual Amenity

10.3.14. The submitted Architectural Design Statement provides in-depth analysis of the design of Block A. The slenderness and massing of the building remains relatively similar to the original building and follows a triangular form with curved panels on the three sides. Wintergardens are provided on the eastern elevational which represent the greatest expanse of glazing. The remaining windows have been designed to reflect a horizontal design, separated with reconstructed stone. The roof top level includes additional design features, where the reconstituted stone has been extended beyond the upper floors with a trio of colonnades of varying heights. Covered and open rooftop amenity space is provided for in the top floor.

10.3.15. Fig 4 of the development plan includes a number of indicative “Key Views and Prospects” for Dublin City. No definitive location or views to be protected is detailed and I note Policy SCO4 of the development plan proposes a ‘views and prospect’ study with the aim of compiling a list of views and prospects for protection. This aside, the area to the front of Heuston Station, along the River Liffey, is highlighted as indicative key views and prospect. In addition, the area north of the Royal Hospital towards Wellington Monument is also included as an indicative key view and prospect. In relation to the view from Heuston Station, I note that indicative view is directed from the site towards the east and therefore away from the site. In relation to the view from Royal Hospital, the site is not included within the zone identified.

Due to the location of the site and the orientation of those indicative key views and prospects identified in Key 4, a tall building on the site would not obscure any view or prospect highlighted in the development plan.

- 10.3.16. Chapter 13 of the EIA includes a Landscape and Visual Impact Assessment (LVIA), whilst Appendix 13.1 includes verified photomontages of Parkgate Street and Appendix 13.2 includes Ariel Views, Context Sections, Anonmetric views and Computer-Generated Images.
- 10.3.17. Verified photomontages of the building are provided from 19 locations (A- S). The LVIA in Chpt 13 has regard for these photomontages (and other visual assessments such as the CGIs) and the characteristics and sensitivity of the receiving environment. It states that the proposed development will have a moderate impact from 9 identified locations. The LVIA includes a further analysis of nearby major heritage sites. In general, it is concluded that although the building is tall the potential visual effect at this location is assessed as “slight” to “moderate”.
- 10.3.18. I have assessed the submitted visual assessments which accompanied the application and I have undertaken an assessment of the surrounding area. The site is located on the junction of the River Liffey and Parkgate Street, a dominate site in the city particularly when approached from the east, along Wolfe Tone Quay, adjoining the River Liffey. Heuston Station and the Criminal Courts of Justice building are located in the immediate vicinity and are visible from the site. Due to the proposed height of the building at 30 storeys, the building will be visible from the majority of the long-range views throughout the city. The significance of the impact on these views is determined by the design and layout of the building. I have had regard to the urban design, scale and massing and increased building height throughout my assessment. I have concluded that the triangular design, interface along the ground floor, horizontal emphasis and materiality of the facades and the overall architectural treatment of the building are appropriate for a landmark building on this site. The building, due to its height, will be visible from both long- and short-range views although it is my opinion that the location of the site, along the river and adjacent to the Heuston Station, is best placed to accommodate a building of this height. It is also of note that the development plan has identified the site as one which can accommodate a taller building. In addition, also further discussed below, this amended design has had regard to previous reason for refusal and I consider it

now “*incorporates exemplary standards of high-quality, sustainable and inclusive urban design*” as required under Policy SC25.

- 10.3.19. Therefore, having regard to the location of the site outside any identified areas associated with the key views and prospects, the information contained in the LVIA and associated visual impact assessments in the EIA and the characteristics of the site, the surrounding area and those sensitivities I do not consider the proposal development would have a significant negative impact on the visual amenity in the city centre.

Conclusion

- 10.3.20. In relation to compliance with Policy SC25 the Board will note the extensive changes to the design and materiality of the building which in combination have altered the design and layout of the building and in my opinion the contemporary design is appropriate as a high-quality landmark building. Having regard to the design, scale and massing of the proposed development, I consider the amended design addresses the concerns previously raised in the Board reason for refusal for Block A (ABP 306569-20).

10.4. Building Height

Introduction

- 10.4.1. The proposed height of the building is c. 103m (30 storeys). Although the height of the building is greater than the heights limits prescribed in Section 16.7.2 of the development plan, the Board will note the site is located in in SDRA 7 Heuston and Environs where buildings above 50m (16 storeys) may be permitted. Therefore, the proposal has not been advertised as a material contravention of the development plan for reasons of height. Both national and local policy guidance includes specific criteria to be met in the assessment of taller buildings and I have provided an assessment of each of these criteria below.

Urban Development and Building Heights: Guidelines for Planning Authorities

- 10.4.2. Section 3.2 of the building height guidelines require the applicant to demonstrate to the satisfaction of the PA/ABP, that the proposed development satisfies specific criteria. The application was accompanied by an EIA which included specific assessment on the visual amenity, impact on built heritage etc. An issue in relation

to the impact on sunlight and daylight has been raised by a third party and the Board will note that this issue has been addressed in detailed separately in Section 10.7 and I have concluded there will not no significant negative impact on the sunlight/daylight on the surrounding received environment.

10.4.3. A submission from a third party and the DAU (NPWS) has raised the potential for bird strike due to the proposed height and amount of glazing. The Board will also note this issue addressed in detail further below.

Assessment of the height of the building against criteria in Section 3.2 of the building height guidelines.

At the scale of the relevant city/town	
<p>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</p>	<p>Within 500m of 2 Luas stops and adjacent to Heuston Station which provides regional rail connections. The 25, 26, 66 /a/b. 67 and 69 all pass through Parkgate Street. The no 5 cycle route of the GDA cycle network runs along Parkgate Street and there are pedestrian connections along the site. The proposal includes the delivery of a “River Walk” in conjunction with the consented scheme ABP 306569-20.</p>
<p>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.</p>	<p>The site is located in SDRA 7, Heuston and Environs, where a key landmark building is promoted. As per Section 10.3 of the report the design and layout of the proposed development has regard to the sites characteristics and the policies of the development plan with regard impact on the character. The design and layout can meet the 12 criteria in the Urban Design Manual and there are no protected views on the site.</p>

<p>Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</p>	<p>Chapter 13 of the EIA includes a Landscape and Visual Impact Assessment (LVIA), whilst Appendix 13.1 includes verified photomontages of Parkgate Street and Appendix 13.2 includes Ariel Views, Context Sections, Anonmetric views and Computer-Generated Images. As per Section 10.3 of this report, the impact of the visual amenity and the surrounding area has been considered an appropriate height and scale for the site.</p>
<p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</p>	<p>The site forms part of an overall consented scheme ABP 306569-20 which integrates public plaza and river walk along the River Liffey. These areas form part of the Public Open Space and will be accessible to the public.</p>
<p>At the scale of district/ neighbourhood/ street</p>	
<p>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape</p>	<p>The redevelopment of the site with higher density housing and street-level activity is positive. The proposal, in conjunction with the consented scheme will contribute towards the creation of a sustainable residential neighbourhood.</p>
<p>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered</p>	<p>The proposal comprises of a triangular shaped building with a horizontal emphasis on the facades and “crown” detail on the roof level. The architectural details are</p>

	<p>considered to be a high standard. The combination of reconstituted stone and glazing on the exterior is durable and provides a simplistic form, complimenting the architectural design.</p>
<p>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).</p>	<p>The location of the site along the edge of the River Liffey provides a capacity for greater height on the site. The existing wall along the River Liffey will be protected and upgraded as a feature on the site to ensure a sense of enclosure.</p> <p>A Flood Risk Assessment is included in Appendix 14.1 of the EIA The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)’ have been complied with.</p>
<p>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner</p>	<p>The perimeter public realm (including cycle lanes and footpaths) would improve legibility with the wider urban area. The inclusion of the River Walk further provides permeability through the site.</p>
<p>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</p>	<p>The proposed development comprises mainly of studio, 1, 2 and 3-bed units, although mainly studio/1-bed units. The proposal would expand the smaller unit typology within this area and the proposal complies with SPPR 8 of the apartment guidelines. The ground floor level contains a mix of other non-residential uses.</p>

	The quantity and range of resident support facilities is acceptable for this BTR development.
At the scale of the site/building	
The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.	The form, massing and height proposed is such that there will be maximum light into the units and ADF values (2% for a kitchen 1.5% for a living room, 1% for a bedroom) comply with the BRE guidelines. Section 10.7 of my assessment notes the potential for overshadowing on adjoining properties although concludes that the impact will be transient, and levels comply with the BRE guidelines.
Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'	A Daylight and Sunlight analysis was submitted as part of the application which states that the proposal complies with the BRE and BS standards for sunlight and daylight.
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	The application has demonstrated that the proposals can meet all the requirements of the daylight provisions, as stated above.

<p>site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</p>	
<p>Specific Assessments</p>	
<p>Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</p>	<p>Appendix 8.1 EIAR includes a “<i>Microclimatic Wind Analysis and Pedestrian Comfort Report</i>” within the proposed development and in surrounding areas.</p> <p>Areas of high wind to the east will still be suitable for walking where the main courtyard areas will experience little impact and suitable for long-term sitting.</p>
<p>In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision</p>	<p>The development is not located in proximity to sensitive to bird or bat areas. An NIS has been included and Section 10.5.1.2 of the EIAR considers the potential for collision for larger bird species. The AA concludes no significant impact on any protected species within any European Site. A full assessment of the potential for bird collision is included below and on foot of a submission from DAU it is recommended that a condition on any grant of permission will ensure that the glazing used will prevent any negative impact from bird collision.</p>
<p>An assessment that the proposal allows for the retention of important</p>	<p>Alterations to Block B are included in the proposal, one of which includes new telecommunications infrastructure</p>

telecommunication channels, such as microwave links	
An assessment that the proposal maintains safe air navigation.	A submission was received from the Irish Aviation Authority. As per my assessment below, the requirements for additional lighting on the roof have been assessed and the recommended condition is considered reasonable.
An urban design statement including, as appropriate, impact on the historic built environment.	An Architectural Design Statement has been included. Chapter 12 of the EIA deals with Architectural Heritage. The proposal does not include any alterations to any protected structures on the site or the immediate area.
Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.	An EIAR and an NIS have been submitted. Impacts on Ecology and Biodiversity have been covered in both documents.

Bird Collision

10.4.4. The submission from the DAU has raised the potential of bird collision, having regard to the height of the building. They note the EIAR does not address this issue. The Board will note my assessment of the potential impact on birds (under the biodiversity section). The Bird survey in the EIAR only recorded feral pigeons on the site and the movement of birds (Herring Gull and Mute Swan) was along the river. Section 10.5.1.2 of the EIAR considers the potential for collision for bird species, states that it is not predicted there would be an effect on birds and considers the impact on larger species such as Mute Swans recorded on the river beside the site. The movement of larger species is considered possible between Sean Heuston Bridge and Sherwin Bridge further west downstream or from west, further upstream to Heuston Station as the landing trajectory is longer. Therefore, the EIA concludes no predicted effects on birds regarding collision. This aside, I note the DAU

acknowledge that the impact of bird collision from taller buildings is relatively unknown and they provide reference to best practice guidance from Toronto. The DAU recommend that a condition is attached to any grant of permission, based on this guidance from Toronto.

10.4.5. The DAU recommended condition is stated below:

That, in order to avoid bird collisions with the proposed apartment tower, bird friendly glazing is installed in this building in accordance with the methodology set out hereafter:

That a combination of the following strategies is used to treat a minimum of 85 per cent of all exterior glazing within the first 16 m of the buildings above grade (including clear glass corners, parallel glass and glazing surrounding interior courtyards and other glass surfaces):

- *Low reflectance opaque materials*
- *Visual markers applied to glass with a maximum spacing of 50 mm x 50 mm*
- *Building integrated structures to mute reflections on glass structures*

For Fly-through conditions: Treat glazing at all heights resulting in a fly-through condition with visual markers at a spacing of no greater than 100 mm x 100 mm. Fly-through conditions that require treatment include:

- *Glass corners*
- *Parallel glass*
- *Building-integrated or free-standing vertical glass*
- *At-grade glass guardrails*
- *Glass parapets*

In the vicinity of green walls and terraces:

Treat the first 4 m of glazing above the feature and a buffer width at least 2.5 m on either side of the feature using the same strategies as above.

The glazing design for the development in accordance with these strategies to be submitted to the planning authority for its written agreement before commencement of any development works on site.

Reason: To minimise the mortality of protected bird species by deterring bird collisions

10.4.6. Overall, I have no objection to the inclusion of a condition to prevent the potential of any bird collision although the Board will note that there are aspects of this proposed condition which do not relate to the proposed development. In this regard, the proposed development does not contain any Fly-through areas or green walls/ and terraces. The design of the building is such that the majority of glazing is divided up by the reconstituted stone. Section 5.7 of the Architectural Design Statement includes the facade details and illustrates the significant use of stone to break up the glazing. I note most of the glazing on the building relates to the winter gardens on the western elevation, and picture windows on the north east and south east corners. Section 5.8 and 5.9 of the Architectural Design Statement illustrates the detail of the glazing in the winter gardens and picture windows. The width of these elevations range between c. 7.6m to c.9m and are split in 4 by aluminium panels. A 600mm high frit is added to the winter gardens to obscure some of the private amenity spaces.

10.4.7. I note from the design of the building the proposal already integrates some of those specifications in the condition recommended by the DAU, such as separation markers and obscure glazing. I consider it reasonable that the applicant provides further details relating to compliance with the recommended conditions such as the use of additional opaque materials and visual markers. As stated above the proposal does not include any Fly throughs, green walls or terraces and therefore I do not consider it reasonable to require compliance with these additional criteria as recommended by DAU.

Dublin City Development Plan 2016-2022

10.4.8. Section 16.7 of the development plan deals with the issue of building height and acknowledges the intrinsic quality of Dublin as a low-rise city. Section 16.7.2 identifies building heights for the city and it is noted that certain specific areas of the

city, including the SDRA 7 and the Heuston gateway in which this site is located, have been identified as being appropriate for heights in excess of 50 metres.

10.4.9. Section 16.7.2 of the development plan includes an assessment criterion where all proposals for mid-rise and taller buildings must have regard to the assessment criteria for high buildings. Whilst the principle of a taller building is acceptable at this location, I have provided an analysis against the assessment criteria for higher buildings of which there are similarities to the criteria for higher buildings in Section 3.2 of the building height guidelines.

Assessment of the height of the building against criteria in Section 16.7.2 of the development plan

Assessment Criteria for Higher Buildings	
Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas	The site is flat and located along the edge of the River Liffey. No protected views are identified in Fig 4 of the development plan and the LVIA in Chpt 13 of the EIAR concludes with no significant negative impact on the landscape.
Effect on the historic environment at a city-wide and local level	Chpt 12 of the EIA includes an Architectural Heritage Impact Assessment. No works to any protected structure are proposed. The scale, massing and materiality of the building provides a contemporary and simplistic design. The proposal, whilst visible from the surrounding area, will not negatively impact the historic environment of the city.
Relationship to transport infrastructure, particularly public transport provision	Within 500m of 2 Luas stops and adjacent to Heuston Station which provides regional rail connections. The 25, 26, 66 a/b, 67 and 69 all pass through Parkgate Street. The no. 5 cycle route of the GDA cycle network runs along Parkgate Street and there are pedestrian connections around the site.

<p>Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for</p>	<p>As per Section 10.3 above, the design and layout of the building will ensure a high-quality architectural standard for a landmark building. Having regard to the height of the building (c.103m) it is considered a slenderness ratio of 3: 1 has been complied with and is considered acceptable.</p>
<p>Contribution to public spaces and facilities, including the mix of uses</p>	<p>The site forms part of an overall consented scheme ABP 306569-20 which integrates public plaza and river walk along the River Liffey. These areas form part of the Public Open Space and will be accessible to the public</p> <p>The ground floor contains concierge etc associated with the residential development to the east, north and south and the area adjacent to the public plaza contains a public café/ restaurant.</p>
<p>Effect on the local environment, including micro-climate and general amenity considerations</p>	<p>Appendix 8.1 EIAR includes a Microclimatic Wind Analysis and Pedestrian Comfort Report within the proposed development and in surrounding areas.</p>
<p>Contribution to permeability and legibility of the site and wider area</p>	<p>Public access into the plaza and along the south, riverside is permitted in line with the DCC Park opening and closing times.</p>
<p>Sufficient accompanying material to enable a proper assessment, including urban design study/masterplan, a 360-degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies</p>	<p>The application was accompanied by an EIA, landscape assessments including Ariel Views, Context Sections, Anonmetric views and Computer-Generated Images, shadow impact assessment, daylight/sunlight assessment,</p>

<p>Adoption of best practice guidance related to the sustainable design and construction of tall buildings</p>	<p>A Materials Strategy in Section 3.3.3 of the EIA details the use of reconstituted stone and curtain wall glazing as sustainable, energy-efficient materials.</p> <p>The chosen design and use of materials allow for easy maintenance and a Building Lifecycle Report contains the long-term running and maintenance costs.</p>
<p>Evaluation of providing a similar level of density in an alternative urban form</p>	<p>Chpt 2 of the EIA provides and examination of alternatives. A higher density scheme to ensure compact development and provide a landmark scheme in line with the principles of SDRA 7 are considered appropriate.</p> <p>The Architectural Design Statement includes massing options.</p>

Conclusion

- 10.4.10. It is my opinion that the proposal can comply with the assessment criteria in both Section 3.2 of the urban building guidelines and Section 16.7.2 of the development plan. The high-quality design and choice of materials ensure the building will provide a positive contribution to the skyline of Dublin and become a landmark building. Issues raised by the third parties and DAU in relation to bird collision can be reasonably addressed through the use of conditions to ensure those areas with greater glazing are designed to be bird friendly. No submission was received from the Conservation Dept of DCC and the Board will note the CE report consider the building height acceptable.
- 10.4.11. Therefore, having regard to the location of the site within SDRA 7, the design and layout of the proposed development, it is my opinion that the building height will not cause any adverse impact on either the site or the wider Dublin City skyline and is considered acceptable.

10.5. Material Contravention of the Dublin City Development Plan 2016-2022 for Dwelling Mix and Apartment Floor area.

10.5.1. The applicant has advertised the proposal as a material contravention and the application is accompanied by a Statement of Material Contravention of Section 16.10.1 of the development plan for the following:

- Dwelling Mix
- Apartment Floor Area

Dwelling Mix

10.5.2. In relation to dwelling mix, Section 16.10.1 of the development plan requires a maximum of 25-30% one-bedroom units and a minimum of 15% three- or four-bedroom units. This mix is further relaxed for BTR scheme where 42-50% of the total units may be in the form of one or two-bedroom units. The proposed development includes the following:

- Studio apartment: 37%
- One bedroom: 47%
- Two bedroom: 14%
- Three bedroom: 1%.

10.5.3. The applicant's Statement of Material Contravention states that proposed development does not comply with the development plan standards although can comply with the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (apartment guidelines) which takes precedence over conflicting policies and objectives of the development plans. In relation to justification for the dwellings mix proposed, the applicant considers that Section 32 (b) (i) and 32 (b) (iii) of the Planning Act apply.

10.5.4. Section 37(2)(b) of the Planning and Development Act of 2000 as amended provides 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 specific criteria. Whilst the PA have not recommended a refusal of permission, the proposed development deemed as a material contravention of the plan and as per the strategic housing development act,

the Board may only grant permission for a strategic housing development which would materially contravene the development plan or local area plan where it considers section 37 (2) (b) of the Act of 2000 were to apply. I have provided an assessment under each of the criteria listed under Section 37 (2) (b) as follows

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

10.5.5. The applicant's Statement of Material Contravention refers to the strategic importance of the site in delivering 40% of new homes within built-up settlements in line with NPO 3a of the National Planning Framework. The National Planning Framework 2040 requires a focus on redevelopment projects with regard to underutilised land within the M50 ring for a more compact urban form, facilitated through well designed higher density development. National Policy Objectives (NPO) 35 seeks to "*increase density in settlements, though a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights*". The site is located within SDRA7, Heuston and Environs. The development plan envisages that the area will be developed as a new urban gateway with vibrant activities, architectural designs of an exceptional high standards and a gateway to major, cultural and recreational attractions. The development of greater density on the site, through a greater number of dwellings than permitted in the development plan, will allow the consolidation of a site which has been identified as a gateway in Dublin City. This proposal is of strategic importance for the City in so far as it is located adjacent to Heuston Station (a regional train station), the development promotes site-based regeneration and increased building heights (in line with NPO 35 of the NPF), and the development will enhance the status of Dublin as a vibrant City. I consider that, having regard to the exceptional standard of architecture and materiality in the proposed development the proposed development will function as a landmark building in Dublin City. Therefore, having regard to this assessment, it is my opinion, that the proposed development is justified as being of strategic importance having regard to Section 37 (2) (b) (i) of the act.

(iii) *permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local*

authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

- 10.5.6. The dwelling mix does not comply with the development plan standards where there is an excessive number of one-bedroom apartments proposed and an insufficient number of three-four-bedroom apartments. Whilst the report of the CE does not specifically comment on any material contravention of the plan, it is requested that a greater number of three-bedroom apartments are delivered on the site.
- 10.5.7. The applicant's statement of material contravention refers to NPO 36 which requires the planning process to respond to the housing requirements at regional, metropolitan and local authority levels. It is stated that 80% of Dublin's household comprise of 1-3 person households whilst the housing stock largely comprise of 3-4-bedroom houses. In addition, the applicant notes the census information for the area which states the average household size is 2.14 in comparison to the national average of 2.49.
- 10.5.8. SPPR 8 of the apartment guidelines, sets out a reduction in the normal apartment standards for developments that qualify as specific BTR developments in accordance with SPPR 7. In this regard, no restrictions on dwelling mix apply and the submitted Housing Quality Assessment (HQA) Schedule note that all apartments either meet or exceed the standards required in Appendix 1 of the apartment guidelines.
- 10.5.9. SPPR 1 of the apartment guidelines refers to the need for a flexible approach to housing developments where up to 50% of the development may be one-bedroom (or studio type units with no more than 20-25% of the total proposed as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.
- 10.5.10. As noted above 37% of the units are for studio apartments and 47% for one-bedroom apartments. Considering the location of the site in the centre of Dublin, beside Heuston Station and the proposed use for BTR, it is my opinion that the apartment mix proposed can comply with SPPR 8 of the apartment guidelines. This will assist in the delivery of households for persons who frequently move between countries and can support the economic growth of Dublin, the initial intention for the delivery of BTR units. In regard to the PA comments for more three bed units, I note the applicant's analysis of the census figures and having regard to the low household

numbers and the planned delivery of the proposal for BTR units to serve a more transient population, I consider the housing mix is acceptable.

- 10.5.11. In my opinion, the apartment mix proposed is acceptable and a material contravention of Section 16.10.1 of the development plan is justified having regard to Section 32 (b) (iii) of the act and the information contained in the apartment guidelines for the delivery of BTR units.

Apartment Floor Area

- 10.5.12. In relation to apartment floor areas, Section 16.10.1 of the development plan specifies a minimum floor area for studio apartments at 40 m². The proposed development includes a floor area ranging from 38-39 m² for the studio units.
- 10.5.13. The applicant's Statement of Material Contravention states that proposed development does not comply with the development plan standards although can comply with the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (apartment guidelines) which takes precedence over conflicting policies and objectives of the development plans. In relation to justification for the dwellings mix proposed, the applicant considers that Section 32 (b) (i) and 32 (b) (iii) of the Planning Act apply
- (i) *the proposed development is of strategic or national importance.*
- 10.5.14. As detailed in Section 10.5.5, the proposed development, based on the site's location, the scale and nature of the proposed development and the high standard of architectural quality being delivered can be justified as being of strategic and national importance through the delivery of a landmark building in the centre of the capital city. Therefore, having regard to this assessment, it is my opinion, that the proposed development is of strategic importance and is justified having regard to Section 37 (2) (b) (i) of the act.

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

- 10.5.15. The apartment floorspace for the studio apartments is under the minimum specified (40m²) in Section 16.10.1 of the development plan where they range between 38-39m². The applicant's statement of material contravention considered the proposed development is compliant with SPPR 3 and SPPR 8 of the apartment guidelines in relation to the apartment floor spaces required for apartments. Appendix 1 of the guidelines require the minimum overall apartment floor area for studios at 37m². In this regard the proposal complies with Appendix 1 of the apartment guidelines.
- 10.5.16. In my opinion, the apartment floor area proposed is acceptable and a material contravention of Section 16.10.1 of the development plan is justified having regard to Section 32 (b) (iii) of the act and the required minimum floor areas and standards in Appendix 1 of the apartment guidelines.

Conclusion

- 10.5.17. Therefore, having regard to my assessment above I consider a grant of permission under Section 37 (2) (b) (i), and (iii) of the Planning and Development Act 2000 (as amended), is justified in this instance.

10.6. Quality of Residential Development

- 10.6.1. The following assessment considers the quality and amenity of the development relative to relevant quantitative and qualitative standards for residential development. The assessment has regard to guidance set out in the 'Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities' 2020 and the Dublin City Development Plan 2016-2022. A further detailed assessment of the sunlight/daylight and compliance with the BRE and BS guidance and impact on the proposed development is included separately in Section 10.7.

BTR

- 10.6.2. The proposed development is for 198 no. BTR apartment units, as advertised and in the development description. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2018 provides guidance on Build-to-Rent (BRT) which is defined as "*purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord*". The consented development ABP 306569-20 is also for BTR units and the applicant for the proposed development is

the same. The proposed development and consented scheme share public open space and communal facilities, as further discussed below and it is my opinion that both schemes should be operated in conjunction with one and other to ensure a consistent approach in management and maintenance. In the event of a grant of permission, I consider a condition linking the two permission is reasonable.

Apartment Mix

10.6.3. The proposed development would provide for the following housing mix:

Unit Type	No. of units	%
Studio	73	37%
1-Bed	97	47%
2-Bed	27	14%
3-Bed	1	1%
Total	198	100%

10.6.4. As per a detailed assessment above, the Board will note the applicant has advertised the proposed development as a material contravention of Section 16.10.1 of the development plan. The CE's Report acknowledges that the unit mix complies with the standards in the guidelines but notes that the provision of 3-bedroom units is low. In addition, a third-party submission considers family-appropriate units should be included.

10.6.5. The proposal complies with SPPR1 of the Apartment Guidelines which states that apartment developments may include up to 50% one-bedroom or studio type units and that there shall be no minimum requirement for apartments with three or more bedrooms. The applicant's justification for the smaller units, relates to the census information and the significant number of 3–4-bedroom units already provided for in the Dublin City housing stock. I consider this justification reasonable for a higher number of smaller units on the site and having regard to the use of the site for BTR and the guidance in SPPR1, I consider the proposed housing mix is acceptable.

Apartment Design and Layout

- 10.6.6. The schedule of floor areas set out in the Housing Quality Assessment indicates that floor areas for all apartment units meet or exceed the minimum specified in SPPR3 of the apartment guidelines, 152 no apartments (77%) are dual aspect, ground floor units are over 2.7m in height and 2 no lifts and a single stair core will be provided.
- 10.6.7. A number of studio apartments at the south of each floor (e.g., A.LO2.05) include a walled bedroom. There are 27 studios (1st floor to the 27th floor) designed in this manner. The configuration of this unit is for a one-bedroom unit rather than a studio and having regard to the size (between 38-39m²) the units cannot meet the minimum size requirements in Appendix 1 of the apartment guidelines (45m²). In my opinion, the configuration and size of this unit is a sub-standard one-bedroom apartment. I consider the removal of the wall around the bedroom would enable the units to become a studio apartment and comply with the apartment guidelines. I consider this can be reasonable conditioned on any grant of permission.
- 10.6.8. Appendix 1 of the apartment guidelines requires 3m² for both a studio and a one-bedroom apartment. This has been provided in the form of hall storage and built-in bedroom storage. Section 3.31 of the apartments guidelines requires storage to be in addition to bedroom furniture although I note SPPR 8 allows flexibility for internal storage space in BTR development where compensatory communal support facilities and amenities are provided. As discussed below, the communal and recreational facilities provided will enhance the standard of amenity for residents and consider the internal storage space is acceptable.

Communal and Recreational Facilities & Private Amenity Space

- 10.6.9. SPPR7 categorises these facilities as i) Residential Support facilities (operational e.g., laundry/ concierge etc.) and ii) Residential Services and Amenities (other communal recreational e.g. – comprising of facilities for communal recreational e.g., sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc. Flexibility also applies in relation to the provision of a proportion of private amenity spaces associated with individual units as set out in Appendix 1 of the guidelines, in relation to the provision of the

communal amenity space, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development.

10.6.10. In relation to private amenity areas, 53 no. apartments have winter gardens while the remaining apartments have no private amenity space. As per above, SPPR7 allows flexibility for the provision of private amenity areas in BTR schemes. Communal and recreational facilities (c.639m²) provided are summarised below:

- Resident's reception and foyer on the ground floor (c.75m²),
- Post/parcel area and resident's lounge on the mezzanine (c.132m²),
- Internal amenity space on Level 09 (c.49m²) leading to exterior amenity space on the adjoining Block B of the permitted scheme,
- Outdoor amenity space on Level 28 (c. 255m²)
- Internal resident's lounge and 2 no bookable dining rooms (c. 128m²) on Level 28.

10.6.11. Other resident facilities such as refuse, and bicycle storage are provided on the ground floor. A public café/restaurant is also located on the ground floor of Block A (223m²). The applicant's Housing Quality Assessment notes the provision of the communal amenity space, in addition to the consented scheme, equates 5,403m³, which is a surplus of 123m². I consider the level of provision to be sufficient to serve the needs of the residents and therefore comply with SPPR7.

Public open Space

10.6.12. Section 16.3.4 of the Dublin City Development Plan 2016-2022 seeks public open space provision at a rate of 10%. Public open space and amenities in the form of a river walkway, public courtyard plaza and community room are included in the consented scheme ABP 306569-21. The Inspector's Report on the consented scheme notes the public open space at 22% was acceptable for the overall development (including the then proposed Block A). Condition No. 13 required the operation of the public park/public realm for public access in accordance with a management regime. I consider this quantum and design of the public open space/public realm acceptable to comply with the development plan and I condition a linked permission on any grant of permission reasonable to ensure delivery of the public space with Block A.

Conclusion

10.6.13. Overall, the proposal represents a high- quality BTR residential development, located within Dublin City Centre on a site well served by public transport. The site is in close proximity to a wide range of public facilities and services and within walking distance to Phoenix Park. Having regard to the location and the communal support services and amenities provided by the proposed development and consented development, the absence of private amenity space for 145 no units can be reasonably compensated.

10.7. Daylight/Sunlight/ Overshadowing

10.7.1. 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 PA or ABP should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (updated 2020) also state that PA should have regard to these BRE or BS standards (S6.6 refers).

10.7.2. The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the following document, in addition to similar Irish Standards (IS EN 17037:2018):

- BRE Report "Site Layout Planning for Daylight and Sunlight: A Guide to good practice";

- British Standard BS EN17037 Lighting for Buildings: Code of Practice for Day Lighting (supersedes BS 8206-2:2018 (British Standard Lighting for Buildings – Code of Practice for Daylighting)); and

10.7.3. I have considered the reports submitted by the applicant and have had regard to BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) – the documents referenced in Section 28 Ministerial Guidelines.

10.7.4. I have given a detailed description of the interface between the proposed development, the existing housing identified as sensitive receptors and the permitted scheme to the west. I have also carried out a site inspection, considered the third-party submission that noted the inclusion of the mature trees in an illustration and expressed concern in respect of potential impacts as a result of overshadowing/loss of sunlight/daylight and reviewed the planning drawings. In considering the potential impact on existing dwellings and the adjoining permitted scheme I have considered – (1) the loss of light from the sky into the existing houses through the main windows to living/ kitchen/ bedrooms; and (2) overshadowing and loss of sunlight to the private amenity spaces associated with the houses (rear gardens in this instance).

Light from the Sky (Vertical Sky Component VSC)

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

- (i) Is the separation distance greater than three times the height of the new building above the centre of the main window? In such cases the loss of light will be small. If a lesser separation distance is proposed further assessment is required.
- (ii) Does the new development subtend an angle greater than 25° to the horizontal measured from the centre line of the lowest window to a main living room? If it does further assessment is required.

(iii) Is the Vertical Sky Component (VSC) >27% for any main window? If VSC is >27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum.

(iv) Is the VSC <0.8 of the value before? The BRE guidance states that if VSC with the new development in place is both <27% and <0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.

(v) In the room impacted, is area of working plan which can see the sky less than 0.8 the value of before? (i.e., if 'yes' daylighting is likely to be significantly affected). Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

10.7.6. The tests above are a general guide only and the BRE guidance states that they need to be applied flexibly and sensibly. The document states that all figures/targets are intended to aid designers in achieving maximum sunlight/daylight for future residents and to mitigate the worst of the potential impacts for existing residents. It is noted that there is likely to be instances where judgement and balance of considerations apply. Dublin City Development Plan 2016-2022 considers development shall be guided by the principles of the BRE guidance.

10.7.7. The daylight and sunlight analysis includes an analysis of the proposed scheme, the permitted scheme, and neighbouring buildings. In relation to the proposed scheme, the results indicate that excellent levels of daylight can be achieved, and no spaces fall below the BRE minimum values, further detailed below. In relation to the permitted scheme (ABP 306569-20), alterations to the VSC in the chosen windows of Block B1 (the greatest impact) which I consider reasonable. Of the 17 windows analysed on the first and second floor of Block B1, 8 of the rooms had ADF above the BRE minimum guidance, 5 had no material change in result, and 3 had minor reductions. One of the rooms (1st floor bedroom) had a moderate reduction and the analysis indicates that although the change could not achieve the BRE minimum guidance this room failed to meet the minimum guidance in the permitted scheme. I note the location of this room (1B1) closest to the proposed development. The Board will note the location of the site in an urban area and the high-quality architectural standards now proposed for the amended scheme. I consider the location of Block A

closer to Block B is justified as a design solution for the site and a landmark building and I consider this moderate reduction in ADF of one of the bedrooms in the permitted scheme is appropriate. Overall, the alterations to the VSC of the permitted scheme remain above 90%.

10.7.8. In relation to existing neighbouring buildings, 13 no. dwellings along Montpelier Hill were selected. The daylight analysis has used indicative window locations centred on the rear façade of each building. BRE guidance promotes the use of the centre of the window as a general guide for measuring VSC and suggests that all main living rooms and conservatories of dwellings should be checked if they have a window facing within 90° due south. The location of rooms is not included in the analysis, although I note the main entrance into those dwellings along Montpelier Hill, north, on the opposite side of the dwellings, away from the proposed development. Therefore, it is likely the main living areas of dwellings along Montpelier Hill face north and therefore would not be affected by any change in daylight or sunlight. This aside, the guidelines (Section 2.2.10) states that the assessment need to be applied sensibly and flexibly and, in this regard, I note the location of the proposed development c. 70m from Montpelier Hill which is on an elevated location, and it is my opinion, that the central point of the rear façade is appropriate in assessing the overall impact on those rooms to the rear of these properties. I note reference to No 28 is missing from Fig 5.1.1 of the daylight/sunlight analysis, although included in the results in Section 5.2. I am satisfied that the VSC assessment has been targeted to neighbouring windows / rooms / dwellings that are at the most challenging and/or appropriate locations and demonstrate the worst-case scenario.

1. No 28: Points tested have VSC > than 27% or not less than 0.8 times their former value and exceed the BRE recommendations
2. No 30: Points tested have a VSC < than 27% (25.14%) although are not less than 0.8 times their former value and exceed the BRE recommendations.
3. No 32: Points tested have VSC > than 27% or not less than 0.8 times their former value and exceed the BRE recommendations.
4. No 34: Points tested have VSC < than 27% although these were previously less than 27% and are not less than 0.8 times their former value and exceed the BRE recommendations.

5. No 36: Points tested have VSC > than 27% or not less than 0.8 times their former value and exceed the BRE recommendations.
6. No 38: Points tested have VSC > than 27% or not less than 0.8 times their former value and exceed the BRE recommendations.
7. No 40: Points tested have a VSC < than 27% (26.75%) although are not less than 0.8 times their former value and exceed the BRE recommendations.
8. No 42: Points tested have a VSC < than 27% (26.89%) although are not less than 0.8 times their former value and exceed the BRE recommendations.
9. No 44: Points tested have a VSC < than 27% (24.6%) although are not less than 0.8 times their former value and exceed the BRE recommendations.
- 10.No 46: Points tested have VSC > than 27% or not less than 0.8 times their former value and exceed the BRE recommendations
- 11.No 48: Points tested have VSC > than 27% or not less than 0.8 times their former value and exceed the BRE recommendations.
- 12.No 50: Points tested have VSC > than 27% or not less than 0.8 times their former value and exceed the BRE recommendations.
- 13.No 52: Points tested have a VSC < than 27% (25.71%) although are not less than 0.8 times their former value and exceed the BRE recommendations.
- 14.No 54: Points tested have VSC < than 27% (18.25%) although these were previously less than 27% (21.02%) and are not less than 0.8 times their former value and exceed the BRE recommendations.

10.7.9. The applicant's assessment on VSC concludes that the proposal would not adversely affect dwellings along Montpellier.

10.7.10. A submission in relation to the daylight and sunlight analysis has been received from the occupier of No 34 Montpellier Hill. The submission notes that the mature trees at the end of No 34 Montpellier Hill are no longer there and updated photography should have been used. As stated above, the VSC for No 34 is currently below 27% (26.61%) and the proposed VSC is 23.5%, therefore the value is not less than 0.8 times their former value.

10.7.11. Section 3.3.9 of the guidelines states that normally trees and shrubs need not be included in any consideration. Appendix H of the BRE Guidelines explains the effect of trees and when to include them in the calculation and notes it is usual to ignore trees within any calculation. Section 5.1 of the daylight/ sunlight analysis notes the potential impact on sunlight/daylight from mature trees and states that *“for the purpose of the analysis these trees have been excluded from this assessment as per the BRE guide recommendations”*. To this end, I consider the information contained in the applicant’s assessment complies with the BRE guidance and having regard to the VSC, I do not consider the overall proposed development should have a significant negative impact on the sunlight/ daylight into Montpelier Hill.

Loss of Sunlight/Overshadowing and adjoining properties

10.7.12. The “Daylight, Sunlight and Overshadowing study” submitted with the application lists the potential sensitive receptors including those buildings along Montpelier Hill and the permitted scheme (Block B1). Having regard to the location of the site along the River Liffey, surrounded in the most part by commercial properties, I consider the choice of these receptors is reasonable.

10.7.13. Section 4.0 of the Daylight and Sunlight Analysis provides an assessment of 17 no first-floor windows of mezzanine and first floor windows of the consented scheme, Block B1 to the west of the site. The results indicate that all the windows/rooms, apart from one 1st floor bedroom, have no material change or still exceed the ADF in the BRE guidance. In relation to the impact of the daylight/ sunlight in the first-floor bedroom window in the permitted scheme, I note the VSC is relatively unchanged and remains in compliance with the BRE minimum guidance.

10.7.14. In relation to row of dwellings to the north, Montpelier Hill, Section 5.3 lists the results from the analysis undertaken from the sunlight availability. The existing and predicted Annual Probable Sunlit Hours (APSH). This relates to the total probable sunlight hours into the interior. The BRE guidance requires at least one window to a main living room, can received 25% of annual probable sunlight hours, including at least 5% of annual probable sunlight hrs in the winter months between 21st of September and 21st of March. The existing and proposed winter and annual results for each of the dwellings are listed, with specific reference to the rooms assessed. The analysis determines BRE compliance, and I note the results presented in

Section 5.3 conclude that the window points selected can receive at least 5% APSH in the winter months and therefore the room should still receive enough sunlight, as per the BRE guidance.

- 10.7.15. In relation to the overshadowing analysis Appendix B includes site shading diagrams of the surrounding areas for March 21st, June 21st and December 21st. A further detailed shadow analysis of Montpelier Hill on the 21st of each month (January-December) for 8 hrs during the day (10.00- 18.00) has been included.
- 10.7.16. A third-party submission received from the occupant of No. 34 Montpelier Hill, notes the “existing shadow” during November, December and January and considers this inaccurate as they currently enjoy uninterrupted sunlight and are using the non-existent lower blocks of the proposed development which is misleading. The analysis includes the “extent of existing shadow” from the permitted development, and whilst I consider the inclusion of permitted development reasonable, my assessment of the impact has regard to the impact from the proposed development.
- 10.7.17. The daylight & sunlight report acknowledges that the shadow cast from Block A will be in proximity to those dwellings on Montpelier Hill at certain times during the day, mostly during the mid-day and most notable during the summer months and least notable during the winter months. A detailed assessment included “part of one hr shadow analysis” with emphasis on No. 44, illustrates that any overshadowing will not last more than 1 hr on the 21st of March. The BRE guidance notes that a certain level of overshadowing may be expected from a large building. In relation to the impact of an any existing garden, the BRE recommends that at least 50% of the area should receive at least two hrs of sunlight on the 21st of March. The applicant’s daylight and sunlight analysis does not specifically detail the hours of sunlight available to the rear gardens at Montpelier Hill, although as stated above a detailed analysis of the shadow cast from the building, at the rear of Montpeiler Hill is included. The shadow cast will not be more than 1hr on the rear of any dwelling, including rear gardens. In Ireland, the sunniest months May and June, received between 5 – 6.5hrs of sunlight per day², and c. 5 hrs along the coastal areas in Spring. Having regard to the potential for sunlight in Dublin in March (over 2 hrs of sunlight per day) and the potential overshadowing of 1hr at the ear of these

² www.met.ie

properties, the rear gardens will receive at least 50% of sunlight and more than 2hrs on the 21st of March. Therefore, the criteria in the BRE Guidance can be complied with.

10.7.18. In relation to the rear windows of those properties along Montpelier Hill, as stated above in Section 10.7.8, indicative window locations centred on the façade of each building are used in the daylight/sunlight analysis. The BRE guidance states that if a window can receive at least 5% APSH in the winter months, the room should still receive enough sunlight. The Board will note my assessment above, which states that all window locations along Montpelier Hill will receive at least 5% in the winter months. In addition, the Board will note the VSC results for Montpelier Hill, as discussed in Section 10.7.8, indicates the change in VSC complies with the BRE guidance and all residents along Montpelier Hill will receive adequate light from the sky (daylight). I consider the use of the indicative window location in the centre of the rear of these properties and the absence of any shadow from those existing mature trees represents a worst-case scenario for the impact of shadow to the rear of the properties along Montpelier Hill. I am satisfied that the applicant has provided an assessment, in line with the available guidance in the BRE guidance and the results provided in Section 5.2 (VSC/ daylight) and Section 5.3 (Sunlight) indicate that the daylight and sunlight availability to the existing dwellings on Montpelier Hill can comply with the BRE guidance.

10.7.19. To this end, the results indicate that although there will be overshadowing to the rear of those dwellings along Montpelier Hill, having regard to the duration of overshadowing and the orientation of the dwellings which is north facing, the level of will not have significant negative impact on the residential amenity of these dwellings.

Daylight and Sunlight into the proposed apartments

10.7.20. I refer the Board to the submitted Daylight and Sunlight Analysis. BRE and the BS guidance recommends that for new dwellings daylight to habitable rooms should exceed a calculated Average Daylight Factor (ADF) of 2% for a kitchen, 1.5% for a living room and 1% for a bedroom. The applicant has undertaken a calculation of the amount of daylight received by all rooms in accordance with BRE guidelines and expressed the results as Average Daylight Factor. I note reference to a 1.5% value

for ADF in the applicant's analysis for shared kitchen/living areas. This aside the data included indicates over 2% ADF for kitchen/living areas.

10.7.21. Section 3 of the Daylight & Sunlight Analysis includes the results of the level of daylight provided into the proposed rooms on all floors (1st to 27th) and concludes that all the BRE minimum values can be met. I have had regard to those results contained in the analysis. I note the design of the building, which is triangular in form, and the location of the main kitchen/ living areas which are located along the facades and I consider these factors ensure maximum daylight & sunlight will be made available into the units. Also, the triangular shape of the building and the dual aspect of units facing north, allows additional daylight and sunlight into those north facing units. At a worst-case scenario, a kitchen/living area on the first floor will receive at least 2.6% ADF, whereas up to 8.5% is achieved on those units at the south east corners. To this end, I consider the results in the applicant's analysis, which indicate that in all instances the target ADF levels detailed in the BS and BRE guidance (2% for a kitchen 1.5% for a living room, 1% for a bedroom) are met, are acceptable

Daylight & Sunlight Conclusion

10.7.22. The PA submission notes the information contained within the daylight/sunlight analysis and notes that "*further analysis and quantitative assessment based on the BRE guidance document will be undertaken for the final submission.*" I have had regard to the submitted "Daylight & Sunlight Analysis" and confirm that no additional analysis or assessment is required to ensure compliance with the BRE guidance.

10.7.23. I am satisfied that the potential for impacts have been adequately addressed in the submitted Daylight & Sunlight Analysis and that the proposed development can meet the requirements of the BRE and BS guidance on daylight / sunlight referenced the Building Height Guidelines (2018).

10.8. Alterations to Block B

10.8.1. The proposal includes alterations to Block B as summarised below:

- Revisions to the office at the tower interface to include partial changes of use to residential, reduction in office space, changes to Level 9 terrace and elevations amendments,
- Bicycle store at Basement of Block B,

- 16 no additional bicycle parking spaces in the undercroft area of Block B2,
- Telecoms Antennae and plant area (0.36m²) to Block B,
- Minor localised public realm works to accommodate Block A.

10.8.2. The consented scheme and proposed alterations have been included within the accompanying documents. The cumulative impact has also been considered in the EIA which accompanied the application, further discussed below.

10.8.3. Having regard to the increased ground floor footprint for Block A, alterations to the permitted Block B scheme are now required. This increased floorspace will lead to a reduction of office space (c.357m²), now used for residential in Block A (c. 509m²). The other alterations, including localised changes to the northern Parkgate façade of the consented Block B2, and Level 9 terrace alterations (interface between Block B and the proposed Block A). I have assessed these alterations and having regard to the scale and nature I consider they are minor. In addition, the Board will note the cumulative impact of the entire proposal has been addressed in the EIAR.

10.8.4. Section 6.4.2.4 of the EIA provides a breakdown of the cycle parking quantum for the overall development including the proposed works and additional residential units. 551 no. cycle spaces are included in the permitted scheme and 38 additional cycle spaces are proposed (22 no spaces in Block A and 16 spaces in Block B1). The proposal complies with the development plan standards (1 space per residential unit). Amended Block B basement plans, to accommodate the additional 16 cycle spaces, have not been included. The Transport Section of the PA query the inclusion of the additional cycle spaces in the proposed quantum. I note the floor plans for the cycle spaces in Block B are not included with the application. I do not consider this a significant issue in respect of assessing the impact of the bicycle provision. The applicant's documentation confirms 551 no spaces, the quantum complying with the development plan standards. The concerns raised in relation to cycle parking could be adequately dealt with by means of condition.

10.8.5. In relation to the telecoms antennae the design has been detailed in the applicant's response to An Bord Pleanála Opinion. The proposal includes 4 no. microwave link dishes mounted on 2 no. 2m high steel poles, fixed to a lift shaft overrun within the GRP radio friendly shrouds on the roof of permitted Block B. I note the height of the telecommunications infrastructure will extend c. 1m above the highest part of Block

B. Having regard to the scale of these proposed works, it is my opinion that these are minor in nature and will not have a significant negative visual impact on the consented scheme or the proposed development.

10.8.6. I have considered the cumulative impact of those alterations proposed within Block B. I consider, the scale and nature of these alterations are minor in nature and will be consistent with the overall provisions of the consented scheme.

10.9. Chief Executive (C.E) Recommendation

10.9.1. Dublin City Council's Chief Executive Report recommended that permission be granted subject to conditions. Concern was raised in relation to the mix of units, in particular the lack of three-bedroom units provided. The Transport Section recommends a grant of permission although also raised concern over the location and finishes of some of the alterations along the ground floor levels, interaction with the public, servicing of the site and bicycle provision.

10.9.2. In relation to the proposed mix of units, I note that SPPR 8 of the apartment guidelines states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development. As per my assessment above, I consider the grant of permission for the proposed mix is justified under Section 37 (2) (b) (i) and (ii) of the Act and it is my opinion that SPPR8 takes precedence over the provisions of the Development Plan in accordance with Section 34(2) of the Act of 2000 and I have no objection in relation to the proposed mix of units.

10.9.3. In relation to the traffic and transport concerns, regard has been given to the demarcation of cycle spaces within the overall development. The majority of the bicycle spaces are located within Block B and C of the permitted scheme, with the additional 38 space split between the undercroft parking in Block A and Block B. A condition requiring the submission of an overall bicycle parking plan can ensure the adequate delivery of bicycle parking spaces to serve the entire scheme. In relation to the interaction of the ground floor levels with the public, the Board will note the main residential entrance faces east onto the River Liffey and Luas line. The café/ restaurant and public areas are located along the west, adjacent to the public plaza. Service areas such as bike store and substation are along the norther façade, onto Parkgate Street. These areas are mostly covered by the existing substation (protected structure) which is outside the applicants control and will remain. The

restaurant/café area, also along the Parkgate Street frontage, includes a significant amount of glazing and high-quality materials in line with the remaining building. The ground floor uses to the south, along the proposed Riverwalk, includes a mix of service areas, residential amenity areas and public café. The design and layout of the ground floor will, in my opinion, enhance the urban design along the public interfaces.

10.10. Other Matters

Irish Aviation Authority (IAA)

10.10.1. A submission was received from the IAA recommending the inclusion of a condition on any grant of permission for an appropriate obstacle warning light scheme. The IAA received advice from the Department of Defence on the design of the lighting scheme. It is required that the lighting is incandescent or of a type visible to Night Vision equipment. Details should also include the range for Infra-Red (IR), intensity and wavelength. In addition, the IAA request notification of any crane operations 30 days prior to their erection.

10.10.2. I have considered the lighting request by the IAA and I do not consider the integration of these lighting requirements into the design of the building will have any significant impact on the visual amenity. I consider these lighting requirements are only safety measures for aviation at night. Having regard to the nature of these works, which I consider minor, there is no objection to the inclusion of a condition requiring the applicant to agree these details with the planning authority prior to commencement of development.

Part V

10.10.3. The applicant proposes 52 no. apartments leased on a 25-year basis to the Local authority with a reduced rent. A letter from Dublin City Council accompanied the application which states that the Council has a preferred option to acquire units on site. Section 5.16 of the apartment guidelines states *“The particular circumstances of BTR apartments may mitigate against the putting forward of acquisition or transfer of units and land options outlines above and the leasing option may be more practicable in such developments”*. In this regard I consider further discussions between the PA and the applicant are required in order to reach a mutual agreement on the best way to discharge their Part V obligations. I am satisfied that the standard

Part V condition can be applied and in the event that agreement is not reached the matter in dispute (other than a matter to which section 96(7) applies) may be referred to An Bord Pleanála for determination.

Development Contributions

- 10.10.4. Appendix C of the CE report (Development Contributions and Bond Conditions) includes a recommendation for the imposition of a bond condition requiring payment of a contribution in lieu of development not meeting the open space requirement and a Section 48 development contribution. A condition requiring payment of a contribution in lieu of open space was not included in the consented scheme ABP-306569-20.
- 10.10.5. The CE recommendation and planning assessment of the proposed development notes the 10% of the site has been reserved for public open space in the form of a new public plaza and “River Walk”. In this regard Section 16.10.3 of the development plan has been complied with and I do not consider the inclusion of an addition contribution in lieu if public open space should be included in any grant of permission.

11.0 Environmental Impact Assessment (EIA)

11.1. Introduction

- 11.1.1. This application was submitted to the Board after 1st September 2018 i.e., after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, which transpose the requirements of Directive 2014/52/EU into Irish planning law.
- 11.1.2. The application includes an Environmental Impact Assessment Report (EIAR). The proposed number of dwellings (198) and an overall site area (c 0.82ha) do not exceed the thresholds for mandatory EIA (i.e., 500 dwellings or an area greater than 2 hectares) as per Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). However, having regard to the cumulative impact of the consented development, ABP 306569-20, also on the site, the criteria for sub-threshold development set out in Schedule 7 of the Regulations,

and the characteristics of the site and the size of the proposed development, an EIAR has been prepared to accompany the application.

- 11.1.3. The EIAR contains a Non-Technical Summary. Chapters 1-4 inclusive set out an introduction and background to the proposed development, details of scope and methodology used, and a description of the proposed development. Chapters 4 to 22 consider the likely significant direct, indirect and cumulative effects of the proposed development under the relevant headings listed in Article 3(1) of the 2014 EIA Directive, and include an assessment of the cumulative impacts and summary of mitigation and monitoring.
- 11.1.4. This section of my report evaluates the information in the EIAR and carries out an independent and objective environmental impact assessment (EIA) of the proposed project in accordance with the requirements of relevant legislation. In carrying out an independent assessment, I have examined the information submitted by the applicant, including the EIAR, as well as the written submissions made to the Board including the PA, the prescribed bodies and members of the public. This EIA section should, where appropriate, be read in conjunction with the relevant parts of the planning assessment in Section 10.
- 11.1.5. I am satisfied that the information contained in the EIAR has been prepared by competent experts to ensure its completeness and quality; that the information contained in the EIAR and supplementary information adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment; and that it complies with article 94 of the Planning and Development Regulations 2001 (as amended).

11.2. **Examination of alternatives**

Introduction

- 11.2.1. Chapter 2 deals with the examination of alternatives. Having regard to the consented scheme ABP 306569-20, the location of the site in an SDRA and the location of the site, a do-nothing approach was not considered. Alternatives for the layout and design are proposed.

Alternatives

11.2.2. The examination of alternative design and layout alternative considered are summarised below:

- Base: Alternative to the base layout and an increase in the footprint of the building to allow a greater number of residential units.
- Massing: Increase massing and a triangular form to respond to the location on the corner of Parkgate Street.
- Top: The top of the building “crown” would be used for a design feature.
- Façade: Design of the façade to allow maximum sunlight into the residential units.

Assessment and Conclusion

11.2.3. In the consideration of the alternative designs the previous reason for refusal and site characteristics were taken into consideration. I consider the EIAR provides adequate alternative layouts and designs on the basis of its brownfield, inner city location adjacent to a public transportation hub. It is considered that the issue of alternatives has been adequately addressed in the application documentation and the design approach to the amended Block A.

11.3. Likely Significant Direct and Indirect Effects

11.3.1. The likely significant direct and 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 and climate;
- material assets, cultural heritage and the landscape.

11.3.2. It also considers the interaction between these factors and 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, both detailed below in my assessment.

11.4. Vulnerability of Project to Major Accidents and/or Disaster

Introduction

11.4.1. 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. Chapter 20 deals with Major Accidents and Disasters and provides an analysis of the risk management and hazard identification on the site.

Potential Impacts

11.4.2. The potential risks identified during construction include flooding, fire/explosion, Quay wall collapse, unplanned outages, road traffic accidents, contamination of groundwater / surface water, falling debris and release of asbestos into the atmosphere. The potential risks identified the operation of the site include flooding, fire explosion due to the nearby Seveso site, terrorism, aircraft collision and public safety along the walkway.

Assessment

11.4.3. Section 20.4.1 of the EIAR provides an assessment of the potential risk, possible cause of accident and the need for any further risk assessment. The assessment concludes that there will be no potential impact as summarised below:

- The SEVESO site due to the distance over 2km away which removes any potential from chemical/ flammable substances,
- The findings of the Flood Risk Assessment conclude no impact on floodplain storage,
- All construction and operation will be carried out in accordance with relevant health and safety guidance,
- All construction will be in accordance with best-practice methods in line with the provisions of the CEMP,

11.4.4. The site is a brownfield site, zoning for city centre and open space provision, where the development of the site has been planned. I am satisfied with the assessment in the EIAR and having regard to the location of the site and proposed works I do not consider any works which would pose a risk to human health and safety.

Conclusion

11.4.5. Risk of Major Accidents and/or Disasters has been considered in the during the construction and operational phases and dealt with through the Construction and Environmental Management Plan (CEMP). Compliance with the Building Control Regulations and /or other health and safety legislation will be addressed during the construction and operation. I do not consider the proposed development alone or in combination with any other plans or projects have any major risk for accident or disaster.

11.5. **Transport**

Introduction

11.5.1. Chapter 6 deals with Transport. An EIA on the consented scheme ABP 306569-20 was undertaken by the Board. The modifications include an additional 38 no. residential units (c. 909m²) and a reduction of office space (c. 595m²) which equates to an approximate increase of floorspace of c. 313m² in comparison to the consented scheme. Access, carparking and cycle parking are interlinked with the consented scheme.

Impacts

11.5.2. The potential impact from the construction phase includes the impact from the construction traffic.

Mitigation

11.5.3. Mitigation measures during the construction stage are included in the Construction Environmental Management Plan (CEMP) (Appendix 4.1 of the EIA) which includes a Construction Traffic Management Plan (CTMP). No mitigation measures are required during the operation stage.

Assessment

11.5.4. The likely significant impact of the overall development has been considered by the Board under the consented scheme ABP 306569-20. Due to the capacity of the neighbouring road network, it is not expected that the volumes of traffic associated within the construction of Block A will have a significant negative impact on the local road network.

- 11.5.5. A submission from the Transport Division of the planning authority raised concerns regarding the servicing of the proposed development, access into Block A, fire tender access, general servicing, and quantum of cycle parking spaces. I have addressed the bicycle parking concerns below, and I consider the remaining concerns can be adequately dealt with by means of condition. The Board will note, Condition No 11 of ABP 306569-20 requires the development in accordance with the planning authority standards, which I consider reasonable
- 11.5.6. The Transport Section require clarity on the cycle spaces and query if these are in addition to the consented development. Section 6.4.2.4 of the EIA refers to the 551 cycle spaces already consented and the proposed addition for 38 spaces (Block A-16 & Block B1- 22). It is noted that this is above the DCC cycle parking standards.

Conclusion

- 11.5.7. I have considered all of the written submissions made in relation to traffic and transportation. 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 transportation.

11.6. **Air Quality**

Introduction

- 11.6.1. Chapter 7 deals with Air Quality. The site is located in Zone A for the purpose of EPA air quality reports. Table 7.3 of the EIAR includes a three-year average for Nitrogen Dioxide (NO₂) and other Particle Matter (PM_{2.5} & 210). Zone A has slightly higher than average concentrations of both pollutants although are generally well below the national and European Union ambient air quality standards.

Impact

- 11.6.2. The potential impacts from the construction stage relate to the general construction activities including excavation, stockpiling, traffic movement etc. No significant impacts are envisaged during the operation stage.

Mitigation

11.6.3. Standard mitigation measures taken from the TII guidance will be implemented as part of the construction activities and any asbestos will be removed by a specialist contractor. No mitigation is proposed during operation.

Assessment

11.6.4. The impact from construction activities is not expected to have a significant negative impact on the air quality. A number of sensitive receptors, i.e., residential properties are located at least 20m from the site and will therefore, not be directly impacted by construction activities.

Conclusion

11.6.5. I have considered all of the written submissions made in relation to air quality. 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 air quality.

11.7. Climate

Introduction

11.7.1. Chapter 8 deals with climate. Baseline conditions for carbon emissions, wind, daylight and sunlight were examined. Current projections by the EPA indicate that Ireland will exceed its greenhouse gas emissions reduction targets in 2020 and 2030. In terms of microclimate assessment, wind data from the nearest available meteoroidal station at Dublin Airport was used. Wind data and subsequent analysis is based on hourly average and does not include intermittent gusting effects.

Impacts

11.7.2. The likely significant impact of the overall development has been considered by the Board under the consented scheme ABP 306569-20 and during construction or operation the effects from carbon emissions are not considered significant.

11.7.3. In terms of daylight/sunlight, Section 10.7 above includes a full and detailed assessment of the impacts on the existing consented scheme, the proposed development and any adjoining residential properties. It was not considered the

proposal would have a significant negative impact. No significant shadowing effects are predicted.

Mitigation

- 11.7.4. No mitigation measures are proposed during construction. During the operation phase a balustrade/wind screening has been provided around the rooftop amenity space.

Conclusion

- 11.7.5. I have considered all of the written submissions made in relation to climate. 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 climate.

11.8. Noise and Vibration

Introduction

- 11.8.1. Chapter 9 deals with noise and vibration. Prevailing noise levels in the locality are primarily due to local road traffic and passing pedestrian traffic.

Impacts

- 11.8.2. The potential impact from construction activities will be linked to increased construction traffic and construction activities. During the worst-case scenario, it is expected that the impact from construction activities will be negative, slight to moderate and short term.

Mitigation

- 11.8.3. Mitigation measures restricting any impact from the piling and ground-breaking activities will ensure the construction is in line with British Standards BS 5228-Part 2: Vibration. These mitigation measures will ensure the impact is not significant and short-term.

Conclusion

- 11.8.4. I have considered all of the written submissions made in relation to noise and vibration. 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 noise or vibration.

11.9. Biodiversity

Introduction

11.9.1. Chapter 10 refers to biodiversity. The site is located along the north east of the River Liffey and the contains contains a derelict warehouse building. Surveys of habitats, bats, otters and birds where undertaken. Surveys were undertaken between February 2019 and May 2021. The site is urban in nature with two small green areas, namely recolonized bare ground within the site and a small area outside the site beside Sean Heuston Bridge.

11.9.2. In relation to bats, results of the surveys noted no presence of bats in the derelict building. In relation of birds, only pigeons were recorded on the site. In the vicinity a Cormorants was recoded using the parapet wall adjacent to the river and two Mute Swans and a flock of Herring Gulls along the River Liffey. No recent records of otters in the vicinity of the site currently exist. The site is not located within any European Designated sites although a potential hydrological pathway has been identified between the site and Dublin Bay, via the River Liffey.

11.9.3. In relation to birds, results of bird surveys noted no significant presence of birds on the site with mostly feral pigeons. Two mute swans and a mixed flock of Herring Gulls were noted in the River Liffey at low water. Upstream of the site neat Heuston Station.

Impacts

11.9.4. The potential impact on the adjoining aquatic environment through contaminated run-off and suspended solids may cause water pollution and impact the fish populations. The Inland Fisheries Ireland submission notes the populations of Brown Trout and Atlantic Salmon in the Liffey. An AA screening and NIS accompany the application which concludes no significant negative impact on any conservation objectives of any European sites. I have addressed this in detail in my Appropriate Assessment section below.

11.9.5. There will be no significant change in night-time levels which may impact commuting bats or otters. It is considered the mute swans will commute either between the Sean Heuston Bridge and the Sherwin Bridge or from further upstream adjacent to the Heuston Station and there is no potential for bird collision. However, the report of the Department of Culture, Heritage and the Gaeltacht notes the unknown impact of bird collision from tall buildings. I have addressed this submission in detail under the assessment of building height and I concluded that having regard to a precautionary principle bird friendly glazing could be integrated into the proposed development.

Mitigation

11.9.6. Mitigation measures to protect the surface water quality are listed in Chapter 14 and reiterated in the CEMP (Appendix 4.1). These relate to the inclusion of good construction management practices and site-specific measures to prevent any contamination of the River Liffey.

Conclusion

11.9.7. I have considered all of the written submissions made in relation to biodiversity. There are no habitats of conservation significance within the site. The main natural habitat of conservation concern is the River Liffey, and I am satisfied with the proposal in this regard. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on biodiversity are likely to arise.

11.10. Archaeology & Cultural Heritage

Introduction

11.10.1. Chapter 11 deals with Archaeology & Cultural Heritage. An Archaeological Assessment-Monitoring of Ground Investigation Works has been submitted with the EIAR (Appendix 11.3). Figure 11.11 of the EIAR illustrates the site within the designated zone of archaeological potential for the historic city of Dublin (DU018-020). Site investigation works (undertaken under licence) indicated remains associated with the iron-working activities on the site below ground, in addition to the presence of some riverine and pre-reclamation river meadow deposits.

11.10.2. Appendix 4 of the Archaeological Impact Assessment includes illustrations of the proposed development. I note these illustrations relate to the previously refused Block A. I do not consider these illustrations have a material bearing on the findings of the archaeological site works or results of Chpt 11 as the entire site has been included.

Impacts

11.10.3. The potential impact from the construction activities would be the destruction of any pre-industrial archaeological remains. There are no impacts associated within the operational phase.

Mitigation

11.10.4. Mitigation measures includes the monitoring of site investigation works will record any archaeological material found during excavation. Condition No 26 of the consented scheme (ABP 306569-20) requires archaeological monitoring during site works. I consider the inclusion of this condition reasonable.

Conclusion

11.10.5. I have considered all of the written submissions made in relation to archaeology and cultural heritage. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on archaeology and cultural heritage.

11.11. Architectural Heritage Impact Assessment

Introduction

11.11.1. Chapter 12 deals with architectural heritage. A detailed assessment of the impact on the architectural heritage of the overall site was included in the consented scheme (ABP 306569-20). The site was previously in use by Hickeys Fabrics. There are a number of protected structures (RPS 6320) on the site:

- (a) riverside stone wall;
- (b) turret at eastern end of site;
- (c) square tower on the riverfront; and
- (d) entrance stone arch on the Parkgate Street frontage

11.11.2. The Planning Authority have no objection to the proposal and no report was received from the Conservation Officer.

Impacts

11.11.3. The subject site does not contain any protected structure and no direct impacts have been identified. There is a potential for indirect impacts from the visual impact and setting and character of the protected structures.

Mitigation

11.11.4. The EIAR notes Condition No 23 of the permitted development ABP 306569-20 includes a list of requirements to mitigate against any potential impacts on the protected structures on the site. This condition requires that all works are carried out under the supervision of a qualified professional in line with national best practice standards. I consider this condition reasonable and having regard to the absence of any protected structures on the subject site, I do not consider it necessary to replicate this condition.

Assessment

11.11.5. Although no specific mitigation measures are included for Block A, the Board will note my detailed assessment on the design and layout of the proposed development. This assessment has regard to design and layout and impact on the visual amenity of the surrounding area. In relation to the character and setting of the protected structures the design, layout and height of the building has been assessed in light of Policy SC25 which requires “exemplary standards of high-quality, sustainable and inclusive urban design” for landmark buildings in SDRA 7. The CGIs and landscape and visual impact assessments illustrate the impact on the proposal on the existing site and the adjoining Heuston Station. Section 3.10.1 of the nation guidance for architectural heritage protection notes that a high standard of contemporary design that respects the character of a conservation area and I consider this guidance appropriate when assesses mitigating design impacts. I consider the high quality; architectural design successfully mitigates against any negative impact on the character and setting of any protected structure

Conclusion

11.11.6. I have considered all of the written submissions made in relation to architectural heritage. I am satisfied that architectural heritage has been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on architectural heritage would arise.

11.12. **Landscape and Visual Impact Assessment**

Introduction

11.12.1. Chapter 13 deals with Landscape and Visual Assessment. This chapter includes a Landscape and Visual Impact Assessment (LVIA), whilst Appendix 13.1 includes verified photomontages of Parkgate Street and Appendix 13.2 includes Ariel Views, Context Sections, Anonmetric views and Computer-Generated Images. The proposal has regard to the 17 criteria listed under 4 headings in the building height guidelines. A full assessment on the impact of this building in relation to design and layout and height has been undertaken in Section 10.3. The landscape assessment includes 19 view locations. The study area examined the River Liffey corridor from Dublin Port to west of Islandbridge, the Phoenix Park and the lands of the Royal hospital Kilmainham, together with areas of Dublin city north, east and south of the subject site up to a distance of 1km from the site.

Impacts

11.12.2. Having regard to the height of the proposal (c. 103m) the EIAR acknowledges there will be a significant visual impact on the surrounding area although the contribution to Dublin as a landmark building is considered positive. The landscape and visual impact assessment note a moderate impact from 6 view locations, a slight to moderate impact from 3 view locations and a slight to none from other key views.

Mitigation

11.12.3. No mitigation measures are proposed with respect the landscape and visual amenity.

Conclusion

11.12.4. I have considered all of the written submissions made in relation to landscape and visual, including the third-party submissions and the PA. I am generally satisfied that Landscape and Visual have been appropriately addressed in terms of the application

and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on landscape and visual are likely to arise.

11.13. **Water**

Introduction

11.13.1. Chapter 14 deals with Water. A full assessment of the impact of the consented scheme on drainage and flooding was undertaken for the consented scheme ABP 306569-20. I have had regard to both this information and the submitted EIAR. The proposed development increases the residential units on site by 38.

11.13.2. The site is located within the Eastern River Basin District Area. The River Liffey flows immediately south of the site. There is no evidence of historic flooding of the site. A SSFRA was submitted with the application, which identifies that the risk of fluvial and tidal flooding for the River Liffey is limited to the southern site boundary. The risk of pluvial flooding and groundwater flooding to the site is low. It is stated that the proposed development will not increase flood risk off site. The site is currently serviced by a connection to the public watermains on Parkgate Street. Proposed drainage includes for the construction of a new stormwater drainage network and includes for SuDS features. A new wastewater drainage network and water supply network are also proposed. The proposed development will result in additional effluent volume discharging to the public sewer (227m³ would equate to 0.023% of the licensed discharge (peak hydraulic capacity) and upgrade works in the permitted scheme are proposed to address this. Foul effluent from the proposed development will discharge to Ringsend WWTP and while currently operating at constrained capacity, there are plans in place to alleviate this.

Impacts

11.13.3. The cumulative impact of an additional 38 units has been considered. It is not considered the treatment of the surface water will be altered. The additional loading is not considered to have a significant cumulative effect on the Ringsend WWTP.

Mitigation

11.13.4. The use of good construction management practices to reduce any risk pollution to soil, surface water and groundwater are included in the CEMP.

Conclusion

11.13.5. I have considered all of the written submissions made in relation to water. I am satisfied that the identified impacts from the overall consented scheme and the additional proposed units, 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 water.

11.14. Land and Soils

Introduction

11.14.1. Chapter 15 deals with land and soils. As previously stated, the proposal forms part of a consented scheme and the EIA for ABP 306569-20 concluded no significant impact on the land or soils. Block A includes a greater floor area than previously proposed although the general location remains the same. The site is located within a built-up, urban environment. Ground investigations were undertaken in 2002, which includes for environmental soil testing. During site investigations soil samples were noted to contain low levels of asbestos.

Impacts

11.14.2. The potential impacts during construction are limited to accidental spillage, treatment of asbestos etc. No impacts are proposed during the operational stage.

Mitigation

11.14.3. Mitigation measures, which includes for a CEMP contained in Appendix 4.1, have been proposed for construction stage, which address potential impacts of soil removal and storage; fuel and chemical handling; transport and storage.

Conclusion

11.14.4. I am satisfied that the proposed development will not lead to any additional impacts and having regard to the cumulative impacts, I consider the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme 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.

11.15. Hydrogeology

Introduction

11.15.1. Section 16 deals with hydrogeology. The proposal forms part of a consented scheme and the EIA for ABP 306569-20 concluded no significant impact on hydrogeology the Inspector's report on the consented scheme notes "*The geological environment at and in the vicinity of the study area can be described as a historically stable geological environment and underlain by a poor aquifer. The hydrogeological features of importance include the locally important bedrock aquifer beneath the site; the sand and gravel deposits beneath the site; and the River Liffey. The bedrock aquifer and River Liffey were both designated a 'Medium' importance ranking, with the sand and gravel layer beneath the site designated a 'Low' importance ranking*" I note no groundwater was encountered during investigation works (Appendix 15.4) The proposed development includes the excavation and construction of foundations with a finished slab level of 5.0m OD. Dewatering on the site will be required although is not considered to be significant.

Impacts

11.15.2. Potential direct impact from construction on groundwater water quality, groundwater flow and recharge, aquifer and impact on the surrounding water courses and River Liffey. No indirect impacts are identified from ground water and no impacts from the operation phase. Cumulative impacts have been identified and permitted developments listed in Appendix 21.1.

Mitigation

11.15.3. Mitigation measures listed in the CEMP (Appendix 4.1) include the use of good construction practices to minimise the risk of soil, groundwater and surface water contamination.

Conclusion

11.15.4. 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 hydrogeology.

11.15.5.

11.16. **Material Assets- Waste Management & Utilities and Communication**

Introduction

11.16.1. Chapter 17 deals with Waste Management and Chpt 19 deals with Utilities and communication. Amendments to the consented scheme ABP 306569-20 include a new telecommunications mast on top of Block B The existing services to the site are detailed and upgrades to the existing road infrastructure, electricity, telecommunications, water supply, gas and sewer are proposed. In relation to the Waste Management all demolition works will be undertaken in line with the consented scheme ABP 306569-20 and during operation, c. 32.70m³ of waste will be generated from the operation of the proposed development.

Impacts

11.16.2. The upgrades infrastructure into and around the site will be a positive long-term impact for the future residents and the surrounding environment. The potential impact from poor waste management during the construction phase could be long-term, significant and negative in the absence of mitigation.

Mitigation

11.16.3. Mitigation for the installation of the utilities include compliance with all requirements and regulations of the PA and utility companies. A Construction and Demolition Waste Management Plan (C&D WMP) has been prepared in accordance with best practice guidelines.

Conclusion

11.16.4. I have considered all of the written submissions made in relation to material assets. 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 material assets.

11.17. **Population and Human Health**

Introduction

- 11.17.1. Chapter 18 deals with population and human health. The proposal forms part of a consented scheme and the EIA for ABP 306569-20 concluded no significant impact on population and human health. The Inspector's report on the consented scheme notes *"The site is located within the Local Electoral Area of Phoenix Park, with this ED have a population of 1,534 in 2016, with 79% of the population describing their health as 'good' or 'very good'. Potential effects on population during construction relate to issues of employment generation and community disturbance. The construction phase will provide temporary employment for 600-700 construction workers. Best practise construction management measures will be employed to limit the level of disturbance incurred."*
- 11.17.2. A third-party submission considered the population and human health chapter is inadequate to assess the impact of the increased population in the area on services including schools, childcare and medical care.
- 11.17.3. The proposal does not contain any childcare facilities. Appendix 18.1 includes a full "childcare needs assessment" which details the childcare facilities within c.1.5km radius. The assessment notes space is currently available and an additional 180 no childcare spaces are pending. The unit mix proposed is predominantly studio and one-bed units and I note Section 4.7 of the apartment guidelines states that one-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision. A Community & Social Infrastructure Audit (Appendix 18.2) has been undertaken by the applicant and the findings submitted with the application which states there are 40 no primary schools and 13 post primary schools within the Dublin 7 and Dublin 8 region. The residential facilities are of a scale for the residents of the proposed development.
- 11.17.4. The PA submission notes the information submitted and considered both the consented scheme and the proposed development will provide an appropriate level of contributions to the community infrastructure and the absence of any childcare facility is acceptable.

Impacts

- 11.17.5. Construction activities may lead to short term negative, impact on human health. The operational phase, and the delivery of residential accommodation, will lead to a long-term positive impact on population and human health.

Mitigation

11.17.6. Mitigation measures listed throughout the EIAR are considered sufficient to prevent any significant impact on the surrounding population. These measures are intended to minimise the dispersion of dust, restrict noise and vibrations, and ensure good practice during construction activities. No further mitigation measures with respect to population and human health are proposed.

Conclusion

11.17.7. I have considered all of the written submissions made in relation to population and human health. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse direct, indirect or cumulative effects on population and human health are likely to arise.

11.18. Cumulative and Interactive Effects

11.18.1. Chapter 21 provides a summary of principal interactions and inter-relationships, which have been discussed in the preceding chapters. The potential interactive effects during construction and operation have been summarised in table 21.1. I have summarised the main interactions below.

- Transport, Air-quality, Climate, Noise & Vibration, Land & Soils, Material Assets (Waste), Population & Human Health.
- Air-quality, Transport, Climate, Biodiversity, Water, Land & Soils, Population & Human Health.
- Climate, Transport, Air-quality, Water, Population & Human Health.
- Noise & Vibration, Transport, Architectural Heritage, Land & Soils, Population & Human Health, Material Assets (Utilities).
- Biodiversity, Air-quality, Landscape & Visual Impact,
- Archaeology & Cultural Heritage, Architectural Heritage,
- Architectural Heritage, Noise & Vibration, Archaeology & Cultural Heritage, Landscape & Visual Impact, Major Accident & Disaster.

- Landscape & Visual Impact, Biodiversity, Architectural Heritage, Land & Soils, Material Assets (Utilities).
- Water, Air-quality, Climate, Biodiversity, Land & Soils, Hydrogeology, Population & Human Health, Material Assets (Utilities).
- Land & Soils, Transport, Air-quality, Noise & Vibration, Landscape & Visual Impact, Water, Hydrogeology, Material Assets (Waste), Material Assets (Utilities).
- Hydrogeology, Water, Land & Soils, Material Assets (Waste).
- Material Assets (Utilities), Transport, Land & Soils, Hydrogeology.
- Population & Human Health, Transport, Air-Quality, Climate, Noise & Vibration, Landscape & Visual Impact, Water, Material Assets (Utilities), Major Accident & Disaster.
- Material Assets (Utilities), Biodiversity, Landscape & Visual Impact, Water, Land & Soils, Population & Human Health.
- Major Accident & Disaster, Architectural Heritage, Population & Human Health.

No significant impacts have been identified.

I have considered the interrelationships between factors and whether they 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. In conclusion, I am satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of interactions between environmental factors.

11.19. Reasoned Conclusion on the Significant Effects

11.19.1. 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 observers 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:

- Traffic and transportation impacts: The development will give rise to short-term construction traffic impacts, mitigated by traffic management and other environmental considerations in the CEMP. The upgrade of pedestrian and cycle routes will provide a long-term positive impact.
- Air Quality and Climate: Short term negative impacts on the air quality from construction will be mitigated by the use of good practice construction methods and the implementation of a CEMP.
- Noise & Vibration during the construction phase will be negative and short term and mitigated by compliance with all best practice construction methods such as noise restricting plant, restriction on construction hrs and liaison with the public.
- Biodiversity impacts: No significant negative impacts will occur on any areas identified for local or national protection and measures to protect the water quality of the River Liffey will mitigate against any impacts on the aquatic environment or habitats with any European Sites.
- Archaeology, Architecture and Cultural Heritage: The potential for short term negative impact on any archaeology will be mitigated through monitoring of groundworks during construction. The impact on the character and setting of the protected structures on the adjoining site will be mitigated by the buildings high quality architectural style and finishes.
- Precautionary measures to prevent any contamination of water courses and other measures in the CEMP will prevent any significant negative impact on land and soil
- Water Impacts: Potential impacts on water quality in the area will be mitigated by construction management measures and implementation of SuDS measures.
- Landscape and Visual: impacts are mitigated by the high-quality architectural style and finish of the building

- An upgrade of utilities and telecommunications will have a long-term positive impact for the site and the surrounding area.
- Resource and Waste Management impacts which will be mitigated by preparation of site-specific C&D WMP
- The increase of housing stock will have a direct positive impact on the population of Dublin City.

Conclusion

11.19.2. 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 the EIAR chapters are satisfactory, I am satisfied with the information provided allows an assessment of 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.

12.0 Appropriate Assessment (AA)

12.1. Introduction

12.1.1. This section of my report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. An Appropriate Assessment Screening and Natura Impact Statement (NIS) was submitted with the application.

12.2. Proposed Development

12.2.1. The proposed development is for a 30-storey residential building (c.103m) for a BTR scheme and alterations to a previously consented scheme ABP 306569-20. The site is a brownfield site located on the northern edge of the River Liffey, close to Heuston Station, Dublin City. The site was a large-scale commercial business (Hickey's wholesale warehousing) and is serviced by public water, foul drainage and surface water drainage networks.

12.2.2. In addition to the Screening for AA and the NIS, an EIAR was submitted within the application, having regard to the nature of the proposal and the cumulative impact of the consented scheme. My AA screening assessment and Stage 2 AA has regard to both the proposed development and consented development.

12.3. **Submissions/Observations**

12.3.1. Two of the submissions received include specific observations relating to the impact of the proposed development on the conservation's objectives of a European Site. Inland Fisheries Ireland have also made a general submission in relation to the servicing of the site, in particular the surface and foul water, and although this submission does not specifically note the impact on the conservation objectives of any European Site, I have included reference to the submission in the AA where appropriate.

12.3.2. The NPWS have commented on the potential for water pollution during the construction phase, note the mitigation measures included in the CEMP and concur with those measures and protection measures integrated. The impact of bird collision is raised in the submission from the NPWS, although not specifically relating to any impact on the conservation objectives of a European Site.

12.3.3. A third-party submission has raised concern in relation to both the AA Screening and Appropriate Assessment. The issues raised have been summarised in detail in previous sections and further below with specific reference to the potential impact on European Sites:

- The developer's information is insufficient, contains lacunae and is not based on scientific expertise and the Board cannot comply with the requirements of the Habitat Directive,
- Permission can only be authorised where there is certainty that there will be no adverse effect to the integrity of a site,
- Legal case references are provided in relation to the absence of reasonable scientific doubt and the absence of such effects,
- There is insufficient information in the NIS to rule out the potential impact on birds during both construction and operational phases, including bird flight lines and collision risks,

- Neither the screening for AA or NIS provides sufficient reasons or findings,
- The “zone-of influence” referred in the NIS is not explained or reasoned,
- No regard has been given to the cumulative effects of the proposed developmetn in combination with other developments in the vicinity of the protected sites,
- Reliance on the Ringsend WWTP is flawed.

12.3.4. I have considered all submissions in the forthcoming Screening for AA and the Stage 2 assessment.

12.4. Appropriate Assessment Screening

Introduction

12.4.1. The site is not located within any designated European Site although is located within c.10km of four European Sites and within c.15km of a further 10 European Sites, detailed below. This 15km “zone of influence” referenced in the applicant’s screening report stems from the national guidance on Appropriate Assessment and the screening report notes this distance has been used as a guide only. The screening report notes the “zone of influence” is established on a case-by-case basis using the Source-Pathway-Receptor framework, *inter alia*, nature and scale of works, possible impacts, potential pathways and sensitivity and location of ecological features.

Summary European Sites within 15km radius

Site Name and Code and distance from site	Qualifying Interest and Conservation Objectives
Special Areas of Conservation (SAC)	
South Dublin Bay SAC (000210) c. 5.41km	<p>QI: 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]</p> <p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>

<p>North Dublin Bay SAC (000206)</p> <p>c. 7.47km</p>	<p>QI: 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 (<i>Glauco-Puccinellietalia maritimae</i>) [1330]; Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]; Embryonic shifting dunes [2110]; Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]; Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]; Humid dune slacks [2190]; <i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p> <p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
<p>Glenasmole Valley SAC (001209)</p> <p>c. 10.99km</p>	<p>QI: Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210], <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410], Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
<p>Baldoyle Bay SAC (000199)</p> <p>c. 11.96km</p>	<p>QI's: Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>CO: To maintain the favourable conservation condition of habitats as listed in Special Conservation Interests.</p>
<p>Wicklow Mountains SAC (002122)</p> <p>c. 12.02km</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] Natural dystrophic lakes and ponds [3160] Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Alpine and Boreal heaths [4060] Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] Blanket bogs (priority habitat* if active bog) [7130] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110] Calcareous rocky slopes with chasmophytic vegetation [8210]</p>

	<p>Siliceous rocky slopes with chasmophytic vegetation [8220] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Lutra lutra (Otter) [1355]</p> <p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
<p>Howth Head cSAC (000202)</p> <p>c. 13.22km</p>	<p>QI: Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]</p> <p>CO: To maintain the favourable conservation condition of European dry heaths and Vegetated sea cliffs of the Atlantic and Baltic coasts.</p>
<p>Rye Water Valley/Cartron SAC (001398)</p> <p>c. 13.14km</p>	<p>QI: Petrifying springs with tufa formation (Cratoneurion) [7220], Vertigo angustior (Narrow-mouthed Whorl Snail) [1014], Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p> <p>CO: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
<p>Rockabill to Dalkey Island SAC (003000)</p> <p>c. 13.48km</p>	<p>QI: Reefs [1170]; Phocoena phocoena (Harbour Porpoise) [1351]</p> <p>CO: To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
<p>Malahide Estuary SAC (000205)</p> <p>c. 14.1km</p>	<p>QI: Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>CO: To maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide.</p>
Special Protection Areas (SPA)	
<p>South Dublin Bay and River Tolka</p>	<p>QI's: Light-bellied Brent Goose (Branta bernicla hrota) [A046]; Oystercatcher (Haematopus ostralegus) [A130]; Ringed Plover (Charadrius hiaticula) [A137]; Grey Plover (Pluvialis squatarola) [A141]; Knot (Calidris canutus) [A143]; Sanderling (Calidris alba)</p>

<p>Estuary SPA (004024) c.4.37km</p>	<p>[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> <p>CO: To maintain or restore the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA.</p>
<p>North Bull Island SPA (004006) c.7.46km</p>	<p>QI's: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]; Shelduck (<i>Tadorna tadorna</i>) [A048]; Teal (<i>Anas crecca</i>) [A052]; Pintail (<i>Anas acuta</i>) [A054]; Shoveler (<i>Anas clypeata</i>) [A056]; Oystercatcher (<i>Haematopus ostralegus</i>) [A130]; Golden Plover (<i>Pluvialis apricaria</i>) [A140]; 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]; Black-tailed Godwit (<i>Limosa limosa</i>) [A156]; Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]; Curlew (<i>Numenius arquata</i>) [A160]; Redshank (<i>Tringa totanus</i>) [A162]; Turnstone (<i>Arenaria interpres</i>) [A169]; Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]; Wetland and Waterbirds [A999]</p> <p>CO: To maintain or restore the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA.</p>
<p>Wicklow Mountains SPA (004040) c.12.11km</p>	<p>QI: A098 Merlin <i>Falco columbarius</i>, A103 Peregrine <i>Falco peregrinus</i></p> <p>CO: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA</p>
<p>Baldoyle Bay SPA (004016) c.12.34km</p>	<p>QI: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999]</p> <p>CO: To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>

<p>Malahide Estuary SPA (004025)</p> <p>c.14.1km</p>	<p>QI: Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]</p> <p>CO: To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA</p>
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Assessment of likely Significant effects

12.4.2. The site will be served by an existing water connection to the public main along Parkgate Street. Foul effluent will discharge to the combined sewer along Parkgate Street and be sent to the Ringsend WWTP. 94% of the surface water will discharge directly to the River Liffey and 6% to the combined sewer along Parkgate Street. The subject site itself does not contain any habitat suitable for regularly occurring populations of wetland or wading birds which may be associated with Natura 2000 sites listed above, as these birds are associated with coastal and intertidal habitats.

12.4.3. Table 2 of the applicant's screening report "*Report for the purposes of Appropriate Screening*" includes an overview and assessment of the proposed development on all 14 European Sites within the Zone of Influence. The assessment is summarised below:

No Impact:

- There are no pathways or connectivity to habitats or species on Baldoyle Bay SAC, Howth Head SAC, Malahide Estuary SAC, Glenasmole Valley SAC, Rye Water Valley/Carton SAC and Wicklow Mountains SAC.
- The hydrological pathway between Rockabill to Dalkey Island SAC and the site is at such a distance of removal that with intervening dilution in the Irish Sea that significant effects are unlikely.

- Due to the distance and the lack of any relevant ex-situ factors of significance there is no potential impact to the species or habitats of Baldoyle Bay SPA, Wicklow Mountains SPA and Malahide Estuary SPA.

Potential Impact:

- There is a direct, albeit distant pathway, via the River Liffey and an indirect pathway via Ringsend WWTP, with North Dublin Bay SAC, South Dublin Bay SAC, South Dublin and River Tolka Estuary SPA and North Bull Island SPA.

12.4.4. Following the exclusion of any significant effects on the conservation objectives of 10 of the sites the screening report includes a detailed assessment of the impact of the 4 sites which could initially not be excluded. The stage one screening conclusion notes that applying the precautionary principle, it is not possible to exclude the following sites:

- North Dublin Bay SAC (000206),
- South Dublin Bay SAC (000210),
- South Dublin and River Tolka Estuary SPA (004024),
- North Bull Island SPA (004006).

12.4.5. The screening report provides a further assessment on the potential significant impact of the proposal on the habitats and species in each of these four designated sites. The screening report concludes the potential impacts from the surface water discharge run-off (and potential pollutants) to the River Liffey during construction and wastewater discharge which flows via the foul sewer on Parkagate Street to Ringsend WWTP, ultimately to Dublin Bay cannot be excluded.

12.4.6. WWTP In terms of indirect impacts via the foul discharge to the Ringsend WWTP, the maximum hydraulic loading for the entire development (proposed development and consented scheme ABP 306569-20) is included in the screening report. It is estimated that the maximum hydraulic loading of 227m³ would equate to 0.023% of the licensed discharge (peak hydraulic capacity) at Ringsend WWTP and would not impact on the water quality of the Dublin Bay and therefore would not have an impact on the current Water Body Status (as defined within the Water Framework Directive). However, in accordance with the precautionary principle, the potential for indirect impacts on European sites or species from wastewater discharge to Dublin

Bay has been brought forward for further assessment in a Stage 2 Appropriate Assessment.

12.4.7. I note the submissions from both the DAU and third party relating to the potential for bird collision. In this regard the Board will note the DAU submission made no reference to the impact on the conservation objectives or bird species listed for qualifying interest in any of the European Sites. I have undertaken a separate and detailed assessment of the impact of the tall building having regard to the development management criteria in the urban height guidance and the development plan. This aside, the third-party submission considers there is insufficient information to rule out the potential impact on birds. As stated above, the qualifying interests of the SPA are mostly based on coastal/estuarine habitats and having regard to the current brownfield characteristics there is no evidence that the site is used as ex-situ feeding site. The potential impacts on SPA bird species have been ruled out in the AA screening report, given the nature of the proposed development within an existing urban zone, with existing levels of human activity, e.g., movement of vehicles and background noise, as well as the distance of the site from Dublin Bay, which I consider reasonable.

12.4.8. I agree with the conclusions of the Screening Assessment. In applying the 'source-pathway-receptor' model in respect of potential indirect effects and having regard to the potential impacts listed above, specifically the distances from European sites, the absence of hydrological pathways and the lack of suitable habitat for wintering bird species it can be concluded that the proposed development would have no potential for likely significant effect on the following European Sites:

- Rockabill to Dalkey Island SAC (003000).
- Malahide Estuary SAC (000205).
- Baldoyle Bay SPA (004016).
- Baldoyle Bay SAC (000199).
- Howth Head SAC 000202 (001398).
- Rye Water Valley/Cartron SAC (001398).
- Wicklow Mountains SPA (004040).

- Wicklow Mountains SAC (002122).
- Glenasmole Valley SAC (001209)
- Malahide estuary SPA (004025)

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

Submission/ Observations

12.4.9. The third-party submission considered that the applicant's screening report contained insufficient information to allow a full assessment. In relation to my screening for appropriate assessment, I consider there is sufficient information in both the applicants report for screening and the National Parks and Wildlife Service (NPWS) site specific information to undertake a detailed assessment. In addition, I considered objective information in the water (Chpt 14) and hydrogeology (Chpt16) in the EIA.

Screening Determination

12.4.10. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on 2 European Sites in view of the Conservation Objectives of those sites, and Appropriate Assessment is therefore required for the following:

- North Dublin Bay SAC (000206),
- South Dublin Bay SAC (000210),
- South Dublin and River Tolka Estuary SPA (004024),
- North Bull Island SPA (004006).

12.4.11. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not give rise to significant effects on the following:

- Rockabill to Dalkey Island SAC (003000).
- Malahide Estuary SAC (000205).

- Baldoyle Bay SPA (004016).
- Baldoyle Bay SAC (000199).
- Howth Head SAC 000202 (001398).
- Rye Water Valley/Cartron SAC (001398).
- Wicklow Mountains SPA (004040).
- Wicklow Mountains SAC (002122).
- Glenasmole Valley SAC (001209)
- Malahide estuary SPA (004025)

or any European site in view of the sites conservation objectives and Appropriate Assessment is therefore not required.

This determination is based on the following:

- Consideration of objective and best available scientific information provided in the AA Screening Report and EIAR prepared as part of the application.
- The conservation objectives and qualifying interests in all the European Sites and the absence of any identified source-pathway-receptor.
- The distance of the proposed development from European sites in the wider area (within 15km) and a demonstrated lack of any meaningful ecological connections to those sites.

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

12.5. Stage 2- Appropriate Assessment

Introduction

12.5.1. The application included a NIS for the proposed Strategic Housing Development at 42A Parkgate Street, Dublin 8. The NIS provides a background on the screening process and examines and assesses potential adverse effects of the proposed development on the following European Sites:

- North Dublin Bay SAC (000206),
- South Dublin Bay SAC (000210),

- South Dublin and River Tolka Estuary SPA (004024),
- North Bull Island SPA (004006).

12.5.2. The NIS includes the background and screening assessment and lists all the available documentation in relation to the above European Sites.

Potential Impact on identified European Sites at risk of effects

12.5.3. A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests, including any relevant attributes and targets for these sites, are set out in the NIS. The following potential impacts have been identified:

Direct Impacts from construction

- Water pollution of the River Liffey from unregulated leakage during construction
- Increase of suspended solids in the River Liffey through the uncontrolled sediment run-off.

Indirect impacts from the operational phase

- Leakage of petrol/diesel from carparking areas,
- Foul discharge from the site will outfall to the public sewer, treated at Ringsend and subsequently discharge to Dublin Bay.
- Storm water will discharge to the River Liffey which may lead to an increase in silts/pollutants and debris.

Appropriate Assessment of implications of the proposed development on each European Site

12.5.4. The Qualifying Interests/SCI for the four designated sites which it is not possible to exclude are listed below:

South Dublin Bay SAC	North Dublin Bay SAC	North Bull Island SPA	S. Dublin Bay & River Tolka Est. SPA
Mudflats and sandflats not covered by seawater at low tide	Mudflats and sandflats not covered by seawater at low tide	Light-bellied Brent Goose Shelduck	Light-bellied Brent Goose Oystercatcher
Annual vegetation of drift lines	Annual vegetation of drift lines	Teal Pintail	Ringed Plover Grey Plover

Salicornia and other annuals colonising mud and sand	Salicornia and other annuals colonising mud and sand	Shoveler Oystercatcher Golden Plover	Knot Sanderling Dunlin
Embryonic shifting dunes	Atlantic salt meadows	Grey Plover	Bar-tailed Godwit Redshank
	Mediterranean salt meadows	Knot	Black-headed Gull
	Embryonic shifting dunes	Sanderling	Roseate Tern
	Shifting dunes along the shoreline with white dunes	Dunlin	Common Tern
	Fixed coastal dunes with grey dunes	Black-tailed Godwit	Arctic Tern
	Humid dune slacks	Bar-tailed Godwit	Wetlands & Waterbirds
	Petalwort	Curlew	
		Redshank	
		Turnstone	
		Black-headed Gull	
		Wetlands & Waterbirds	

Impact on North Bull Bay SAC and South Dublin Bay SAC

- 12.5.5. Both of these European Sites are located within Dublin Bay and provide supporting habitats for the SPA listed below. They include coastal/wetland habitats and are located over 5km downstream from the site. The River Liffey, which adjoins the site provides a hydrological pathway.
- 12.5.6. Potential direct impacts are ruled out having regard to the use of a surface water management plan which incorporates the removal of silt/pollutants and debris by the installation of SuDS measures and a two-stage treatment to improve the quality of water discharging to the River Liffey.
- 12.5.7. Indirect impacts from unmitigated leakage, run-off from cement and high concentrations of suspended solids from dewatering, demolition or excavation in the construction phase.
- 12.5.8. Mitigation measures to control the water pollution are incorporated into the Construction Environmental Management Plan (CEMP) (Appendix 4.1 of the EIAR) and include the use of best practice methods to control run-off or chemical spill. The NIS notes many of these mitigation measures are preventative measures for

pollution control/best practice construction. Suspended solids will naturally settle within 0.5km stretch of the River Liffey. Other measures such as foreshore consent licence will be sought for surface water discharge. I note those mitigation measures have been specifically tailored to prevent any impact on the water quality, which I have assessed and consider reasonable.

12.5.9. In terms of in combination effects, a number of planning applications within 1km of the site were identified as having the potential to exacerbate environmental effects and have significance to the cumulative assessment. The NIS notes many of these where screened/ assessment individually by the competent authority. I note that these sites are not directly linked to the subject site, although they would discharge to the Ringsend WWTP. Foul effluent from the proposed development will be sent to the Ringsend WWTP and currently emissions from the plant are not in compliance with the Urban Wastewater Treatment Directive. The Ringsend WWTP has been granted permission under section 37G of the Planning and Development Act 2000 (Board Order ABP-301798-18), 10-year permission for development comprising revisions and alterations to the existing and permitted development at the Ringsend Wastewater Treatment Plant and for a new Regional Biosolids Storage Facility, being two components of an integrated wastewater treatment facility. These works will bring the capacity of the Wastewater Treatment Plant from its current 1.9 million PE to 2.4 million PE. Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay. Overall, no negative impacts to the Natura 2000 sites can arise from additional loading on the Ringsend WWTP as a result of the proposed development, as there is no evidence that negative effects are occurring to SACs or SPAs from water quality. I would also note that according to the EPA Map Viewer, both the Liffey Estuary Lower transitional waterbody and Dublin Bay coastal waterbody are classified as 'unpolluted'. Under the WFD 2010-2015, water quality of the Liffey Estuary transitional waterbody and Dublin Bay coastal waterbody have been classified as 'moderate' and 'good' respectively and the Dublin Bay coastal waterbody has a WFD risk score of 'not at risk'.

12.5.10. In conclusion following an examination, analysis and evaluation of the potential impacts of the proposed development on the conservation objectives of both the North Bull Bay SAC and South Dublin Bay SAC, I conclude that considering the best

scientific evidence the proposed development does not pose a risk of adversely affecting the integrity of the North Bull Bay SAC and South Dublin Bay SAC. I note that water quality is not listed as a conservation objective for these designated sites within Dublin Bay. I am of the opinion that the risk of contamination of any watercourse is extremely low and in the event of a pollution incident significant enough to impact upon surface water quality locally, it is reasonable to assume that this would not be perceptible to these coastal/estuarine European sites due to the distance involved and levels of dilution.

Impact on North Bull Island SPA and South Dublin & River Tolka Estuary SPA

- 12.5.11. The species of birds listed in both SPAs includes wetland and water birds. The Conservation Objectives are to maintain the favourable conservation condition of each of the qualifying species. Reference to Malahide Estuary SPA has been incorrectly inserted into the NIS. I note the correct conservation objective of the South Dublin Bay and River Tolka Estuary SPA and my assessment is based on the NPWS data. It is noted that the Grey Plover is proposed for removal for the list of SCIs for South Dublin Bay and River Tolka Estuary SPA and as a result, a site-specific conservation objective has not been set for this species.
- 12.5.12. No direct impacts are listed in the NIS. The indirect impacts on both SPA sites are linked to the impact of chemical spills on the feeding habitats in Dublin Bay. The impact from suspended solids is not considered significant as they will naturally settle within c.0.5km of the Liffey and both European Sites are located over 4km downstream (dilution factor). Uncontrolled chemical spills could result in serious water pollution and impact fish species and could affect feeding habitats for bird species that rely on mudflats downstream in Dublin Bay. The IFI has made a submission on the impact of the development on the receiving environment and water quality. This is detailed separately in the EIA as it relates to the protection of local receiving waters, irrespective of any potential hydrological connection to European sites.
- 12.5.13. Mitigation measures to prevent any impacts on the SPAs prevent any negative impact on the water pollution and are incorporated into the Construction Environmental Management Plan (CEMP) (Appendix 4.1 of the EIAR). These

measures are the same as detailed in above for the North Bull Bay SAC and South Dublin Bay SAC.

- 12.5.14. The in-combination effects remain the same as those listed above for the SAC habitats above, and these have been examined, together with consideration of other plans/projects.
- 12.5.15. In conclusion following an examination, analysis and evaluation of the potential impacts of the proposed development on the conservation objectives of both the North Bull Bay SAC and South Dublin Bay SAC, I conclude that considering the best scientific evidence the proposed development does not pose a risk of adversely affecting the integrity of the North Bull Island SPA and South Dublin & River Tolka Estuary SPA.

Conclusion of Appropriate Assessment

- 12.5.16. The development of 198 BTR apartments on Parkgate Street and alterations to a consented scheme ABP 306569-20, has been assessed in light of the requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that having regard to best scientific evidence, it may have a significant effect on the following European sites;
- North Dublin Bay SAC (000206),
 - South Dublin Bay SAC (000210),
 - South Dublin and River Tolka Estuary SPA (004024),
 - North Bull Island SPA (004006).

Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying interests/special conservation interests of those sites in light of their conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of these European Sites or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete

assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

13.0 Recommended Board Order

13.1. 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 18th of June 2021 by Stephen Little & Associates on behalf of Ruirside Development Ltd, Usher House, Main Street, Dundrum, Dublin D14.

13.2. Proposed Development:

- 30-storey residential building ('Block A') (c.14,364 m² GFA), including residential, café/restaurant, replacement office use and ancillary accommodation and works, located in the eastern apex of the site subject of otherwise consented development under ABP-306569-20.
- The proposed new Block A building accommodates: 198no. 'Build To Rent' residential apartments (73no. studios, 97no. 1-bed, 27no. 2-bed & 1no. 3-bed) from 1st to 27th floors inclusive, including 53no. units with 'winter garden' balconies on the building's eastern elevation. Ancillary internal (c.384 m²) and external (c.255 m²) residents' private communal amenity areas and facilities, including ground floor reception/concierge area, lounge bars at mezzanine and 9th floors, roof gardens at 9th and 28th floors, and access to other residents' private communal amenity areas within the consented scheme ABP-306569-20. 1no. café/restaurant (c.223 m²) at ground floor. Replacement office floor area (c.595.6 m² total) accommodated between 1st and 8th floor levels of Block A. Ancillary residential bicycle storage (22no. spaces), refuse, circulation and plant, and non-residential back of house and circulation areas at ground and mezzanine floors. Building Maintenance Unit (BMU) at roof level.
- Ancillary and associated site works, and other structural and landscape works are proposed to tie the proposed new Block A building in with the consented development (ABP 306569-20). Proposed amendments to the consented scheme, include: At the interface of proposed Block A with the consented

Block B2 office building: a reduction by c.909 m² total of office floor area over 6 floors within the consented Block B2 office building; a reduction by c.35 m² of external residential amenity and associated minor amendments to landscaping at roof level of consented Block B2; and, localised changes to the northern Parkgate St façade of the consented Block B2 to include a shadow gap at its junction with proposed Block A.

- 16no. additional bicycle parking spaces accommodated within consented Block B1 undercroft area. Minor localised amendments to adjoining consented public realm area to tie in with proposed Block A at ground level.
- New telecommunications infrastructure at roof level of consented Block B1, including: 4no. 300mm microwave link dishes mounted on 2no. 2m high steel poles fixed to the consented lift shaft overrun, housed within GRP radio friendly shrouds, to mitigate potential for interference with existing telecommunication channels

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.

13.3. Reasons and Considerations

Having regard to the following:

- (a) the location of the site on lands with a zoning objective for residential development in the Dublin City Development Plan 2016-2022 and its location within the Heuston and Environs Strategic Development Regeneration Area (SDRA7) ,

- (b) the nature, scale and design of the proposed development and those issues relating to the contravention of Section 16.10.1 of the Dublin City Development Plan 2016-2022 in relation to apartment mix and floorspace,
- (c) the National Planning Framework, Project 2040,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (e) the Eastern & Midland Regional Assembly RSES 2019-2031.
- (f) the Design Manual for Urban Roads and Streets (DMURS), 2019
- (g) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (h) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (i) the Urban Development and Building Height Guidelines for Planning Authorities, 2018
- (j) Architectural Heritage Protection, Guidelines for Planning Authorities, 2011
- (k) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (l) the nature, scale and design of the proposed development,
- (m) the availability in the area of a wide range of social, community and transport infrastructure,
- (n) the pattern of existing and permitted development in the area,
- (o) the report of the Chief Executive of Dublin City Council;
- (p) the submissions and observations received, and
- (q) the report of the Inspector.

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

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board accepted and adopted the screening assessment carried out by the Inspector and the conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the following European sites:

- Baldoyle Bay Special Area of Conservation (site code 000199),
- Howth Head Special Area of Conservation (site code 000202),
- Rockabill to Dalkey Island Special Area of Conservation (site code 003000),
- Malahide Estuary Special Area of Conservation (site code 000205),
- Wicklow Mountains Special Protection Area (site code 004040),
- Baldoyle Bay Special Protection Area (site code 004016),
- Malahide Estuary Special Protection Area (site code 004025),
- Wicklow Mountains Special Area of Conservation (site code 002122),
- Glenasmole Valley Special Area of Conservation (site code 001209) and
- Rye Water Valley/Carton Special Area of Conservation (site code 001398)

in the light of their conservation objectives, having regard to the nature of the proposed development and the distances from the site to these European sites.

Appropriate Assessment

The Board completed an Appropriate Assessment in relation to the potential effects of the proposed development on designated European sites, taking into account the

nature, scale and location of the proposed development within a zoned and serviced urban area, the Natura Impact Statement submitted with the application, and the Inspector's report and submissions on file. In completing the Appropriate Assessment, the Board adopted the report of the Inspector and concluded that, subject to the implementation of the proposed mitigation measures contained in the Natura Impact Statement, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the relevant European sites:

- North Bull Island Special Protection Area (site code 004006);
- South Dublin Bay and River Tolka Estuary Special Protection Area (site code 004024);
- South Dublin Bay Special Area of Conservation (site code 000210) and
- North Dublin Bay Special Area of Conservation (site code 000206),

or any other European site, in view of the site's conservation objectives.

13.4. Environmental Impact Assessment

The Board completed 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 planning application;
- (c) The submissions from the planning authority, the observers and the prescribed bodies in the course of the application; and
- (d) The 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.

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Traffic and transportation impacts: The development will give rise to short-term construction traffic impacts, mitigated by traffic management and other environmental considerations in the CEMP. The upgrade of pedestrian and cycle routes will provide a long-term positive impact.
- Air Quality and Climate: Short term negative impacts on the air quality from construction will be mitigated by the use of good practice construction methods and the implementation of a CEMP
- Noise & Vibration during the construction phase will be negative and short term and mitigated by compliance with all best practice construction methods such as noise restricting plant, restriction on construction hrs and liaison with the public.
- Biodiversity impacts: No significant negative impacts will occur on any areas identified for local or national protection and measures to protect the water quality of the River Liffey will mitigate against any impacts on the aquatic environment or habitats with any European Sites.
- Archaeology, Architecture and Cultural Heritage: The potential for short term negative impact on any archaeology will be mitigated through monitoring of groundworks during construction. The impact on the character and setting of the protected structures on the adjoining site will be mitigated by the buildings high quality architectural style and finishes.
- Precautionary measures to prevent any contamination of water courses and other measures in the CEMP will prevent any significant negative impact on land and soil

- Water Impacts: Potential impacts on water quality in the area will be mitigated by construction management measures and implementation of SuDS measures.
- Landscape and Visual: impacts are mitigated by the high-quality architectural style and finish of the building
- An upgrade of utilities and telecommunications will have a long-term positive impact for the site and the surrounding area.
- Resource and Waste Management impacts which will be mitigated by preparation of site-specific C&D WMP
- The increase of housing stock will have a direct positive impact on the population of Dublin City.

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 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.

13.5. Conclusions on Proper Planning and Sustainable Development

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 and would not endanger public safety by reason of traffic hazard or have an adverse impact on the character and setting of a protected structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that a grant of permission could materially contravene the Dublin City Development Plan 2016-2022. The Board considers that, having regard to the provisions of section 37(2)(b) (i), and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Section

16.10.1, Residential Quality Standards -Apartments, which relates to apartment mix and floorspace sizes, would be justified for the following reasons and consideration:

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

The proposed development is considered to be of strategic and national importance having regard to: the definition of 'strategic housing development' pursuant to section 3 of the *Planning and Development (Housing) and Residential Tenancies Act 2016* (as amended); and support for the National Policy Objectives in the National Planning Framework, in particular Objective 35 which seeks to *"increase density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights"*. In this regard, the brownfield characteristics of the site, the location directly adjoining Heuston Station (a regional gateway to Dublin) and the high architectural quality and urban design at site identified for a landmark building for Dublin City are considered of particular relevance in confirmation of the strategic importance of the site and the proposed development.

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

It is considered that the apartment mix is justified and the permission for the proposed development should be granted having regard to Government policies as set out in the 'Sustainable Urban Housing: Design Standards for New Apartments (in particular section SPPR 7 & SPPR 8).

14.0 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 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 Pleanala for determination.

Reason: In the interest of clarity

2. The period during which the development hereby permitted may be carried out shall be 8 years from the date of this order.

Reason: Having regard to the nature of the development in conjunction with the consented scheme ABP 306569-20, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3. The proposed development shall be amended as follows:

(a) Internal walls surrounding bedrooms areas within studio apartments shall be removed.

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

Reason: In the interests of residential amenity

4. EIA 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 22 of the EIAR 'Summary of Mitigation, Monitoring and Residual Effects', shall be carried out in full, except where otherwise required by conditions attached to this permission. The applicant shall employ a qualified Ecological Clerk of Works (ECoW) to oversee and implement the mitigation measures and other ecological works listed throughout the submitted documentation.

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

5. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted on 19/05/2020 reference number ABP 306569-20, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

6. 589 no. bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

7. Prior to commencement of development the applicant shall submit a design for bird friendly glazing and installed in this building in accordance with the methodology set out hereafter:

That a combination of the following strategies is used to treat a minimum of 85 per cent of all exterior glazing within the first 16 m of the buildings above grade (including clear glass corners, parallel glass and glazing surrounding interior courtyards and other glass surfaces):

- a) Low reflectance opaque materials
- b) Visual markers applied to glass with a maximum spacing of 50 mm x 50 mm
- c) Building integrated structures to mute reflections on glass structures

The glazing design for the development in accordance with these strategies to be submitted to the planning authority for its written agreement before commencement of any development works on site.

Reason: To minimise the mortality of protected bird species by deterring bird collisions

8. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála 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

9. Prior to the commencement of the development the applicant shall contact the Irish Aviation Authority in relation to all crane operations, with a minimum of 30 days prior notification of their erection. Details of a suitable marking and lighting scheme as agreed with the Irish Aviation Authority shall be submitted to the planning authority prior to the commencement of construction.

Additional information regarding crane type (tower, mobile), elevation of the highest point of crane, dimensions of crane, ground elevation and location co-ordinate shall also be required by the Authority to allow for an aviation safety assessment.

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

10. The development hereby permitted shall be for 198 residential units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

11. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

12. Prior to expiration of the 15-year period referred to in the covenant, the owner shall be submitted to and agreed in writing with the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity

13. Prior to the commencement of development, the owner shall submit to and agreed in writing with the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be let or sold separately for that period.

Reason: In the interests of proper planning and sustainable development of the area

14. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this application and, notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, shall not be altered without a prior grant of planning permission.

Reason: To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations

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. Details of all external shopfronts and signage in Block A shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of the area/visual amenity

17. The applicant or 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.

18. The proposed development shall be carried out on a phased basis in combination with ABP 306569-20, in accordance with a phasing scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed dwellings

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

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

20. 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 carry out site testing and 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.
- d) Agree in writing the archaeological method statements for mitigation with the Department of Culture, Heritage and the Gaeltacht, prior to commencement of any works on site

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 (in situ or by record) of any remains that may exist within the site

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

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

22. 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 of roads, footpaths, watermains, drains, 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 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 of the development

23. 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.

Karen Hamilton
Senior Planning Inspector

16th of September 2021