



An
Bord
Pleanála

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

Inspector's Report ABP-310609-21

Strategic Housing Development

Demolition of existing warehouse structures and outbuildings, construction of 142 no. apartments and associated site works.

Location

Tolka Industrial Park, Ballyogan Road, Dublin 11 (www.tolkavalleyshd.ie)

Planning Authority

Dublin City Council

Applicant

Bartra Property (Broombridge) Limited

Prescribed Bodies

Irish Water

Inland Fisheries Ireland

Transport Infrastructure Ireland

Observer(s)

None

Date of Site Inspection

17th September 2021

Inspector

Karen Kenny

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The site is located in the Tolka Valley Business Park, Ballyboggan Road, Dublin 11. The business park sits between the Ballyboggan Road (north) and the Royal Canal (south). The site is accessed from Ballyboggan Road and sits at the southern edge of the business park. The area is characterised by low intensity industrial and warehousing uses for the most part. The site is bound to the north, east and west by low profile industrial and warehousing type buildings.
- 2.2. The site is broadly rectangular in shape and relatively flat with the exception of a berm located along the southern section adjacent to the Royal Canal. It has a stated area of 0.72 ha with a developable area of 0.637 ha. The red line boundary extends north along the internal estate road to incorporate proposed connections to the public water and drainage networks (100m in length). The site is enclosed by palisade / concrete fencing and hoarding. There are a number of structures (derelict building and shipping containers) at the northern end of the site that are in a state of disrepair. Former manufacturing buildings in the southern section of the site have been removed with areas of hard standing remaining. There is a car parking area along the eastern edge of the site (outside of the palisade fence) that serve units to the east.
- 2.3. The site is within c. 850m walking distance of Broombridge Train Station and Luas Depot on the southern side of the Royal Canal (c. 450 metres as the crow flies). It is to the east of the 'Ashtown / Pettetstown' SDRA¹ and LAP area.

¹ Strategic Development Regeneration Area.

3.0 Proposed Strategic Housing Development

3.1. Permission is sought for the demolition of the existing structures and for the construction of 142 no. apartments with ancillary residents' amenity/work hub and a café/service unit. The development is principally provided in 2 no. blocks. Block A to the north of the site is 8 no. storeys in height and Block B to the south of the site is part 8, part 9 no. storeys in height. The proposed development also includes the provision of 28 no. car parking spaces; a vehicular access and a secondary emergency vehicular access from the east of the site; a pedestrian/bicycle connection along the eastern boundary of the site from the Royal Canal towpath to the access road to the east; bicycle parking and all ancillary site works.

Table 1: Key Statistics

	Proposed (all figures stated by applicant in submitted documentation)
Site Area	0.72 ha gross / 0.637 ha net
No. of units	142 apartments in 2 blocks (10,587m ²)
Other uses	Café/Service Unit – 262m ² Residents Amenity Hub- 170 m ²
Demolition Works	Warehouse and Outbuildings- 1,501 m ²
Density	228 units/ha
Aspect	89% dual aspect
Height	8-9 storeys over basement
Plot Ratio	1.72
Site Coverage	23%
Public Open Space	717 m ² (29%)
Car Parking	28 spaces
Bicycle Parking	300 spaces

Unit Mix

	Studio	1 bed	2 bed	3 bed	Total
Apartments	0	64 (45%)	71 (50%)	7 (5%)	142

3.2. A Natura Impact Statement has been submitted with the application.

4.0 Planning History

4.1. Planning history relating to the subject site:

DCC Reg. Ref. VS-0457: The site is included on Dublin City Council's Vacant Site Register.

PA Ref. 6356/06: Permission granted for the construction of a light industrial unit (10.275m high) totalling 1,560sq.m, together with associated site development works.

4.2. Significant planning history in the area:

SHD Application ABP-306167-19: Permission granted to demolish the former Ormond Printworks building off the Rathoath Road and for construction of 435 no. apartments and c. 4,162 sq.m of employment uses in 5 no. buildings ranging in height from 4 to 13 no. storeys. The Ormond Printworks site is located c. 340 metres to the west of the subject site and within the Ashtown / Pelletstown LAP area (lands zoned Z14 "Strategic Development and Regeneration Area").

5.0 Section 5 Pre Application Consultation

A Section 5 pre application consultation took place via Microsoft Teams on March 3rd 2021. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics raised for discussion at the tripartite meeting were based on the agenda that issued in advance as follows:

- Principle of Development - Z6: Zoning

- Development Strategy for the site - urban design considerations such as building height and the bulk, scale and mass of blocks; architectural treatment; pedestrian connectivity, proximity to boundaries, boundary treatments and interaction with the existing surrounding land-use pattern. Contribution to the character and identity of the neighbourhood. Visual Impact Analysis, use of materials and variety in design.
- Residential Amenity in the context of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities', 2020.
- Biodiversity (Tree loss and Bats)
- Transportation Issues
- Any other matters

5.1. **Notification of Opinion**

5.2. The An Bord Pleanála opinion (Ref. ABP-308866-20) stated that it is of the opinion that the documents submitted require further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. The issues raised in the opinion can be summarised as follows:

1. A detailed statement of consistency and planning rationale, clearly outlining how in the prospective applicant's opinion, the proposal is not premature and is consistent with local planning policies having specific regard to the Z6 zoning objective of the site where the stated objective is 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. Justification of the principle of a principally residential application on lands zoned Z6 given the specific policy in the Development Plan in relation to employment generation on lands zoned Z6. The Development Plan states: 'To create dynamic and sustainable employment areas. Any redevelopment proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to redevelopment in terms of the numbers employed and/or floor space'.

The following further details were also sought:

- Statement of consistency and planning rationale, relating to the zoning objective.
- Visual Impact Assessment addressing, inter alia, scale and massing in the context of existing development and long range views from the north and south.
- Ecological Impact Statement Report, AA screening report and NIS.
- Site specific information in relation to biodiversity including a dedicated bat survey and breeding birds survey.
- Housing Quality Assessment.
- Assessment on how the proposed scheme ties in with the expansion of the overall area – including developer led Masterplan for the area.
- Daylight and Shadow Impact Assessment.
- Detailed landscape drawings and open space details.
- Report on building materials and finishes.
- A Report that addresses site context, the locational attributes of the area, boundary treatments, open / gated / controlled linkages through the site, pedestrian and cycle connections to the wider area, in particular, along the canal, cognisance being had to national and local planning policy.
- Construction and demolition waste management plan.
- Response to issues raised by the PA (inc. Parks, Biodiversity and Landscape Services department and Transportation Department).

5.3. Applicant's Response to Pre-Application Opinion

5.3.1. The application includes a statement of response to the pre-application consultation, as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

- The application can be accepted under SHD process - Legal Opinion on file in support of this case.

- The development is in accordance with specific policies of Z6 zoning objective. Residential 'open for consideration' and would not be a material contravention of the zoning objective. The employment generated by the development will exceed current levels of employment on this vacant site (non-existent).
- Material Contravention Statement addresses the issue of residential use not being subsidiary to the employment use on this specific site. Proposed residential uses on the subject site are ancillary to the primary use of the wider employment area.
- Relevant planning precedent for predominantly residential schemes on other Z6 zoned lands– examples given. Examples cited of decisions taken by DCC and ABP on Z6 and industrial zoned lands.
- Land-uses in the area show a mix of uses. It is argued that the area is transitioning from a predominance of light industrial uses to more mixed character. It is also noted that there are several amenities that can be used by future residents.
- The entry of the site onto the VSR by DCC is also highlighted.
- Development is not premature due to the sustainable location of the lands. Response refers to Objective CEE04 relating to the carrying out of a survey of industrial estates with likely redevelopment potential and to make recommendations on same. Study underway for significant period and is not yet completed. Study does not attempt to prevent development and no issue of prematurity.
- Site should be considered for rezoning given its size, extent of vacancy on site and accessibility by public transport. The response refers to guidance set out in the Development Management Guidelines for PA's noting that where there are no plans to remove constraints within a reasonable period this form of wording should not be used in a refusal of permission.

- It is likely that the lands will remain vacant in the absence of the proposed development as there is no industrial / enterprise use required for the subject site.
- Site is a prime, underutilised brownfield site located in a core urban area that is close to the Broombridge Interchange (850m walking distance). The Royal Canal towpath is to be upgraded to a combined pedestrian and bicycle facility (Royal Canal Greenway Phase 4 expected 2021/2022).
- Specific information referred to in ABP opinion has been submitted.

6.0 Applicant's Statement

6.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of Section 28 guidelines, the County Development Plan and regional and national planning policies. The following points are noted:

National and Regional Policy

- Consistent with policy objectives of NPF (and NSS 2002-2020) including strategic objectives relating to consolidation and regeneration in built up areas; supporting sustainable mobility; amenity and quality of design; transition to a low carbon and climate resilient society, management of water / wastewater and access to childcare, education and health services.
- Consistent with Rebuilding Ireland - Pillar 2 Social Housing and State Support Housing; and Pillar 3 Build More Homes.
- Consistent with Building Height Guidelines 2018 – which provides for increased building heights within urban areas. SPPR3 allows for increased building heights where there are conflicting objectives in the development plan subject to compliance with DM criteria in Section 3.2 of the Guidelines. Statement presents a justification in relation to each of the DM criteria.
- Consistent with Sustainable Urban Housing: Design Standards for New Apartments, 2020. Site is in a central / accessible urban location that is

suitable for higher density development (proximity to employment and to Broombridge Transport Interchange - Rail and LUAS) and complies with SPPR standards.

- Consistent with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas – high level aims. Statement sets out details of compliance with 12 design criteria in the accompanying Urban Design Manual.
- Compliance with DMURS 2013 and with the Smarter Travel – A Sustainable Transport Future 2009 policy document.
- Compliance with The Planning System and Flood Risk Management Guidelines – FRA included.
- Compliance with The Childcare Facilities Guidelines. Refer to Childcare Demand Assessment.
- Compliance with RSES and MASP policy in relation to consolidation with re-intensification, housing, regeneration, integration of land-use and transportation and economic development.

Dublin City Development Plan 2016-2022

- Compliance with zoning objective. Case set out in Statement of Compliance similar to that summarised in Section 5.0 above in response to ABP opining. Statement of compliance also refers to case set out in Planning Report.
- Canal Conservation Area detailed on Map A – Section 11.1.5.6 of the CDP sets out a requirement for an assessment of impact on Conservation Areas. Development will enhance the conservation area – replacing derelict lands with high quality active frontage.
- Building Height: Site is in an ‘Outer City’ Rail Hub (within 500m of existing or proposed Luas and mainline rail with maximum prescribed building heights of 24m. Submitted Material Contravention Statement addresses issues including building height.
- Plot Ratio: Plot ratio of 1.7 falls below indicative range of 2.0-3.0.

- Density: Plan not prescriptive on density. Density of 223 units per hectare proposed. Greater density supported by the development plan.
- Coverage of 23% falls below indicative coverage standard of 60% for Z6 lands.
- Social and Community Infrastructure audit, Childcare Demand Assessment, Ecological Impact Assessment, Landscape details submitted.
- Development management standards for apartments / residential development generally met. Justification for reduced car parking provision relative to maximum standards set out in Table 16.1. Architectural Design Statement addresses urban design.

It is noted that a Material Contravention Statement was submitted with the application documentation. The statement addresses deviations from height standards, and in relation to dwelling mix and units per core standards. This shall be addressed further within the main assessment.

7.0 Relevant Planning Policy

Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion, that the following policy and guidance documents are relevant:

7.1. National Policy

The government published the National Planning Framework in February 2018. Objective 3a is that 40% of new homes would be within the footprint of existing settlements. Objective 27 is to ensure the integration of safe and convenient alternatives to the car into the design of communities. Objective 33 is to prioritise the provision of new homes where they can support sustainable development at an appropriate scale.

The applicable section 28 guidelines include -

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').

- Urban Development and Building Heights – Guidelines for Planning Authorities 2018.
- Sustainable Urban Housing: Design Standards for New Apartments (2018).
- Childcare Facilities – Guidelines for Planning Authorities.
- Design Manual for Urban Roads and Streets.
- The Planning System and Flood Risk Management (including associated Technical Appendices).
- Childcare Facilities – Guidelines for Planning Authorities (2001)
- The Planning System and Flood Risk Management (including associated Technical Appendices) (2009).
- Architectural Heritage Protection Guidelines for Planning Authorities (2011).

7.2. Dublin City Development Plan

The Dublin City Development Plan 2016-2022 is the relevant Development Plan for the area.

- The subject lands are zoned 'Z6-Enterprise/Employment' where the stated objective is 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. Residential units are 'Open for Consideration' and café / service unit are 'Permissible' on Z6 zoned lands. In relation to employment generation on lands zoned Z6, the Development Plan states: 'To create dynamic and sustainable employment areas. Any redevelopment proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to re-development in terms of the numbers employed and/or floor space'. A range of other uses including residential, local support businesses, are open for consideration on lands zoned Z6 but are seen as subsidiary to their primary use as employment zones. The incorporation of other uses, such as residential, recreation, and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective, nor with the vitality and viability of nearby district centres.'

- Chapter 4 ‘Shape and Structure of the City’ sets parameters for the creation of sustainable communities in association with the objectives of other chapters. Policies include: SC5 to promote the urban design and architectural principles set out in Chapter 15, and in the Dublin City Public Realm Strategy 2012, in order to achieve a quality, compact, well-connected city; 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 details ‘Key Views and Prospects’); SC13 to promote sustainable densities (that are appropriate to their context and supported by community infrastructure), particularly in public transport corridors, which will enhance the urban form and spatial structure of the city and having regard to the safeguarding criteria set out in Chapter 16; SC14 to promote a variety of housing and apartment types; and SC16 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 SDRA’s.
- Chapter 5 ‘Quality Housing’ sets out policies to support sustainable building and design. Policies include: QH6 relating to attractive mixed use neighbourhoods; QH7 relating to sustainable urban densities and high standards of urban design and architecture; QH8 relating to the development of vacant or under-utilised infill sites; QH18 and QH19 relating to the provision of high quality apartments that meet a range of needs.
- The site is adjacent to a Conservation Area along the Canal represented by red hatching on the zoning map. Section 11.1.5.6 of the Development Plan notes the following in relation to Conservation Areas: ‘Development outside Conservation Areas can also have an impact on their setting. Where development affects the setting of a Conservation Area, an assessment of its impact on the character and appearance of the area will be required.’
- Chapter 16 sets out Development Management Standards. Section 16.5 refers to an indicative plot ratio standard of 2.0-3.0 for Z6 zoned lands.

Section 16.6 refers to an indicative site coverage standard of 60% for Z6 zoned lands. In relation to the building height strategy the site is in the low-rise, outer-city area. Section 16.7.2 sets a general height limit of 16m in the outer city, or 24m at rail hubs which are defined as within 500m of existing and proposed Luas, mainline, DART, DART Underground and Metro stations.

- The site is in Zone 2 (Map J) for car parking provision and the parking standards set out in Table 16.1 allow a maximum of 1 car space per residential unit. Table 16.2 sets out a minimum standard of 1 bicycle parking space per residential unit.
- Section 16.10.1 of the plan sets down standards for apartments which reflect those set out the national guidelines. It states that any scheme shall have a maximum of 30% of one-bedroom units and a minimum of 15% shall have three-bedrooms or more. It also states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight: A guide to good practice (Building Research Establishment Report) 2011. Communal open space shall be provided at a rate of 5m² for a one-bedroom apartment, 7m² for a two-bed and 9m² for a three-bed. Section 16.10.3 states that 10% of the site area of residential development shall be provided as public open space but includes provision for payment of a financial contribution in some circumstances.

8.0 Third Party Submissions

None.

9.0 Planning Authority Submission

- 9.1. Dublin City Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016 on 13th August 2021. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the Central Area Committee meeting dated 22nd July 2021. The report may be summarised as follows:

- The Planning Authority has serious concerns with regard to the proposed development. Not considered acceptable in the context of the Z6 zoning of the site. The size and scale of the residential proposal does not comply with the objectives of the City Development Plan 2016-2022.
- On foot of the ongoing review of Z6 lands, where it is proposed to rezone such lands under the draft plan, this must be done in a coordinated way to ensure that these lands are planned and delivered appropriately. Many of these Z6 lands have fragmented ownerships, significant physical infrastructural deficits and also require significant public realm, greening and other social and physical infrastructure to ensure that long term sustainable communities are fostered in such locations.
- The ongoing and piecemeal development of industrial zoned lands such as the Tolka Estate is considered premature, contrary to proper planning and sustainable development of the area, and will lead to fragmented and ad hoc development in an unplanned and uncoordinated way.
- It is critical that any development on these lands be subject to a proper planning framework. The appropriate mechanism for delivering this will be determined and set out in the draft development plan, should it be determined that these lands are suitable for rezoning and intensive forms of residential development.
- It is considered that the proposed development would lead to piecemeal haphazard development, would set an undesirable precedent, and would be contrary to the proper planning and orderly sustainable development of the area.

PA Comment on Design, Layout and Height

- Plot Ratio and Coverage below DP standards. Density (223 / ha) significant and comparable to development within the core inner city / SDZ areas. Reflective of height and would not be considered over development.
- In absence of comprehensive overall outline masterplan for the immediate area concern regarding future development of adjoining sites within industrial

estate in a piecemeal fashion. Current proposal in isolation within an industrial estate setting (with zoning that permits residential as a subsidiary use) is not considered to enable the creation of sustainable neighbourhoods as per Section 16.10.4 of the CDP. Considered that the proposed development on a small site within an existing Z6 zoned industrial estate is premature. Considered that the proposed development has not been planned in the context of a meaningful masterplan of the adjoining lands, would lead to piecemeal and haphazard development and set an undesirable precedent for future sites. Given significance of the Z6 lands at this location considered that change of use cannot be piecemeal. Note submission of masterplan for subject site and adjoining site to the west with focus on daylight / sunlight impacts.

- Material contravention of CDP in respect of Building Height. Site may have potential to accommodate a building of height, in part, greater than that provided for under the CDP subject to other considerations such as protecting the residential amenity of future residents, of existing commercial properties, and visual amenities and urban place-making. Unilateral development of a backland site without main road frontage in an area with low level light industrial / warehouse buildings is not suitable for buildings of the scale proposed. The current proposal is speculative and relates to only one relatively small site. The unilateral development of the site for 2 no. 8 and 9 storey blocks in the absence of a detailed masterplan for the comprehensive redevelopment of the lands to the south of Ballyboggan Road is not considered to be the most appropriate use of the site.
- Site is not of sufficient size to create its own character and the height and appearance of the building would be incongruous in a light industrial landscape. In event of a grant of permission recommended that height is restricted to 6 no. stories.
- Blocks would be locally prominent and would be readily visible from Ballyboggan Road, Ratoath Road and Broombridge station and have a strong presence on the skyline. Not particularly detrimental on medium to long range

views and similar to development at Pelletstown to the west. Concerns in relation to durability and visual quality of material finishes including extensive use of render.

PA Comment on Design, Layout and Height

- Generally landscaping scheme considered to indicate good quality and appropriate response to the site. The PA's Parks and Landscape Department recommend conditions, including a requirement for a tree bond and details of protection measures for trees.

PA Comment on Quality of Development – Compliance with Standards.

- Standards of the 2020 Apartment Guidelines met. Question potential for overlooking between blocks. Concerns in relation to limited separation distances along east and west edge of Block B and north edge to Block A to adjacent sites and impact on future development potential of these lands. Omission in floor area and omission of units to increase separation recommended in event of grant of permission.
- Concern in relation to impact of existing industrial uses on residential amenity of future occupants of the scheme (noise, air quality and light pollution).

PA Comment on Community Infrastructure and Childcare

- Note submitted reports and no objection raised.

PA Comment on Infrastructure

- Transportation Section: Given industrial nature of the land's footpaths are limited and those provided are largely substandard in width. Reduced car parking provision open for consideration. However, strong long-term management of car parking spaces and proactive travel planning needed to support this. Question proposal to accommodate visitor parking in secure bike stores and how this will be managed. Conditions recommended – including conditions requiring MMP and CMP.
- Note comments of IW in relation to lack of engagement with diversions team.
- Drainage Department have no objection subject to conditions.

PA Comment on Other Matters

- Applicant has previously engaged with the Housing Department in relation to the proposed development and are aware of their Part V obligations, pertaining to the site if development is permitted.
- Details of Ecological Impact Assessment, Arboriculture Reports noted.
- Environmental Health Officer recommends conditions in relation to management of air and noise pollution during construction phase.
- Planning and Property Development Department recommend conditions.
- Waste Regulation and Enforcement Unit recommend conditions.

Summary of views of Elected Members, as expressed at the Central Area Committee meeting held on 22nd July 2021:

- Contrary to Z6 zoning.
- Concerns in relation to height/density/design/layout.
- Impact of proposal on Royal Canal – too close.
- Concerns in relation to car parking.
- Concerns in relation to impact on Rathoath estate and need for shadow assessment.
- Concern in relation to impact on local community, public access to canal and absence of community gain.
- Housing tenure/ownership.

CE's Recommendation

- Refuse permission for the following reason:

The proposed development, given the scale of residential development proposed, is considered contrary to development principles set out in Section 14.8.6 Employment /Enterprise – Zone Z6 of the City Development Plan 2016-2022 where residential use is to be subsidiary to employment generating uses and shall not conflict with the primary aim of the Z6 land-use zoning to provide for the employment requirements of the city. The proposed

development would lead to piecemeal haphazard development, would set an undesirable precedent for future development, and would be contrary to the proper planning and orderly sustainable development of the area.

10.0 Prescribed Bodies

The applicant was required to notify prescribed bodies prior to making the application as detailed in Section 5.0 above. The following prescribed bodies made submissions / observations.

Irish Water

- There is existing Irish Water infrastructure(s) within and in close proximity of the site boundaries. The applicant was required to engage with Irish Waters Diversion Team to assess feasibility of any potential build over/diversion if required. The outcome of any subsequent engagement required to arrange a diversion agreement was to take place prior to the applicant progressing to SHD application. Irish Water would like to note that there has been no engagement between the applicant and the Irish Water Diversions team and no assessment of feasibility for any potential build over/diversion has taken place.
- The applicant has engaged with Irish Water in respect of design proposals within the redline boundary of the development site and has been issued a Statement of Design Acceptance for the development.
- Standard conditions recommended. In addition condition recommended that require the applicant to engage with IW diversions team to assess feasibility of potential build over / diversions if required; and to instruct applicant that IW does not permit any build over of its assets and separation distances must be achieved.

Inland Fisheries Ireland

No objection subject to conditions.

- Catchment of Tolka River (supports Atlantic Salmon, Lamprey (Habitats Directive Annex II Species), Brown trout populations and other fish species). Salmonid waters constraints apply.

- CMP to ensure good construction practices and mitigation measures to deal with potential adverse impacts – works to be completed in accordance with same. No direct pumping of contaminated water to watercourse. Precautions to ensure no entry of solids during the connection or stripping of old pipework to surface water system. Mitigation measures for run-off (e.g. silt traps and oil interceptors) to be regularly maintained and suggest a condition in relation to a maintenance contract.
- Ringsend WWTP currently working at or beyond its design capacity and that it won't be fully upgraded until 2023.
- Essential that local infrastructure is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.
- All discharges must be compliant with EC (Surface Water) Regulations 2009 and EC (Groundwater) Regulations 2010.

Transport Infrastructure Ireland (TII)

No objection subject to the attachment of a levy under the S49 Supplementary Development Scheme for LUAS Cross City (St. Stephen's Green to Broombridge) in the event that permission is granted.

11.0 Assessment

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

- Principle of Development
- Quantum of Development
- Building Height, Design and Layout
- Quality of Development / Impact on Neighbouring Sites
- Transportation
- Water, Drainage and Flood Risk

- Other Matters

These matters are considered separately below. Furthermore, I have carried out Environmental Impact Assessment Screening and Appropriate Assessment Screening in respect of the proposed development, as detailed in Sections 12.0 and 13.0 below.

11.1. Principle of Development

- 11.1.1. Permission is sought for a development comprising 142 no. apartments, ancillary resident's amenity / work hub and a café / service unit. The site and surrounding lands are zoned Z6 'Employment/Enterprise' in the Dublin City Development Plan 2016-2022 with an objective "To provide for the creation and protection of enterprise and facilitate opportunities for employment creation". Section 14.8.6 of the Development Plan states the following in respect of lands zoned Z6:

"It is considered that Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long-term economic development in the city region. The uses in these areas will create dynamic and sustainable employment, and these uses include innovation, creativity, research and development, science and technology, and the development of emerging industries and technologies, such as green/clean technologies. The permissible uses above will be accommodated in primarily office-based industry and business technology parks developed to a high environmental standard and incorporating a range of amenities, including crèche facilities, public open space, green networks and leisure facilities. A range of other uses including residential, local support businesses, are open for consideration on lands zoned Z6 but are seen as subsidiary to their primary use as employment zones. The incorporation of other uses, such as residential, recreation, and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective, nor with the vitality and viability of nearby district centres."

“Any redevelopment proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to re-development in terms of the numbers employed and/or floor space.”

Under the land use zoning matrix café use is a ‘permissible’ use while ‘residential’ is ‘open for consideration’.

11.1.2. Definition of Strategic Housing Development

The submitted documentation includes a legal opinion in support of the making of this application under the Strategic Housing Development process. Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 defines SHD, for current purposes, as ‘the development of 100 or more houses on land zoned for residential use or for a mixture of residential or other uses’. The submitted legal opinion reads the phrase ‘a mixture of residential and other uses’ to include any mixed-use zoning category where residential use is expressly listed among the particular purposes that may be permitted. The use ‘residential’ is listed as being ‘open for consideration’ under the Z6 zoning matrix. The legal opinion concludes that the 2016 Act does not require residential use to be the sole or primary purpose of the zoning objective and that it follows from the above that one should be entitled to make an application for permission under the SHD process on Z6 zoned lands. I would note that there are policy requirements relating specifically to the Z6 zoning objective in Section 14.8.6 of the City Plan, including provisions in relation to the ratio of ‘other uses’. Notwithstanding this, I accept the argument put forward by the applicant that the definition of SHD is concerned with the mix of uses permissible as opposed to any wider policy considerations. ‘Residential’ is listed as a use that is ‘open for consideration’ under the Z6 land use zoning matrix and the proposed development would not, therefore, contravene the zoning objective in so far as the zoning matrix is concerned. On this basis, I consider that it is open to the Board to consider the subject application under the provisions of the 2016 Act.

11.1.3. Broader Policy Context

Separate to the land use zoning matrix I consider that the principle of the proposed development needs to be considered in the context of policy detailed in Section 14.8.6 of the City Plan which relates to Z6 “Employment and Enterprise” zoned

lands. The Plan states that the incorporation of other uses, such as residential, recreation, and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective.

The proposed development comprises 97.5% residential floorspace and 2.5% other use floorspace (see Q15 of submitted application form). It is questionable in my view whether the 'other' uses proposed do fall into the employment categories that are envisaged by the City Plan, such as innovation, creativity, research and development, science and technology, and emerging industries and technologies. There is also a requirement that any redevelopment proposal would incorporate employment in excess of what was on site prior to redevelopment. It is argued that the development would incorporate employment in excess of what is on site at present as a result of the maintenance and management of the residential element and staff associated with the commercial unit. This is technically correct. However, there is a predominance of 'other uses' in this instance in conflict with the ratio of uses envisaged under Section 14.8.6.

The application is accompanied by a Material Contravention Statement that addresses (inter alia) the ratio of uses proposed. A case is made for material contravention on the basis that the site is a prime, underutilised brownfield site that is in a core urban area and close to a significant transport interchange. The applicant also puts forward the argument that the proposed residential use is in accordance with the zoning objective as the residential units on the subject site would be ancillary to employment uses in the wider area. The applicant has undertaken a land use study in support of this argument.

The applicant makes a valid case in relation to the existing vacant scenario on the site which represents an underutilisation of urban lands that are located close to a transport interchange. The planning authority accepts that the site is significantly under-utilised at present but takes the view, supported by the operative City Plan, that this site is zoned for employment and enterprise purposes. I consider that the proposal provides an unacceptably low level of employment on a site that is specifically zoned for such. This is also the opinion of the planning authority.

The PA fundamentally disagree with the applicants view that the proposed residential floorspace would be ancillary to employment uses in the wider area. In response the PA highlight the fact that residential use on Z6 zoned lands is required, as per Section 14.8.6, to be subsidiary to employment generating uses and shall not conflict with the primary aim of the Z6 land-use zoning to provide for the employment requirements of the city. They consider that permitting a development that fundamentally fails to comply with the zoning objective of the site in terms of the associated policy would set an unsustainable and undesirable precedent for piecemeal and unilateral development of non-compatible land uses within Z6 areas which would have a cumulative impact on employment lands. The applicant in support of the argument highlights a number of examples of permissions granted by the PA and the Board on Z6 zoned lands where there has been a predominance of residential use. The cases referred to highlight the fact that the PA and the Board have applied discretion in the past in relation to the ratio of residential use on Z6 sites. However, in considering whether a proposal would conflict with policy relating to the zoning objective the PA and the Board had regard to the locational context of the site and to the scale of development proposed. In this regard, I draw the attention of the Board to the fact that the 'Z6' cases referenced in the Material Contravention Statement relate to sites at inner city locations or relate to development of a much smaller scale. I consider that the examples given are not comparable to the proposal before the Board. The Material Contravention Statement also references a permission granted under SHD at the Ormonde Printworks site (ABP-ABP-306167-19) to the west of the subject site. This site is zoned for residential led regeneration (Z14). The application references an application in the Cookstown Industrial Estate in Tallaght (ABP-303803-19) which is zoned for enterprise and residential led regeneration. Both sites had a different zoning and locational context, being located on the fringe of an industrial area and with direct frontage onto the primary road network.

Given the scale of the proposed development and the predominance of residential use within the scheme, I consider that the proposed development would represent an unacceptable conflict with the policy considerations set out in Section 14.8.6 of the City Plan, having particular regard to the context of the site and its environs

which are zoned for and in use as employment and enterprise lands and with a zoning objective “*to provide for the creation and protection of enterprise and facilitate opportunities for employment creation*”.

The submitted documents argue that the area is evolving and that the lands at this location should be rezoned. I would note that any such change would be a matter for the statutory plan making process, rather than something that can be considered on an ad hoc and site by site basis. The CE’s Report notes that in light of NPF and RSES policy to target significant future growth (housing and employment) into brownfield lands within the M50 and along high quality public transport corridors, Dublin Industrial Estate (to the immediate east) has been identified as one of a number of existing industrial estates that have the potential to contribute significantly to the achievement of regional land intensification objectives in Dublin City. It is noted that the potential rezoning of these lands has, however, implications for the current Core Strategy of the City Development Plan 2016-2022. The planning authority state that these lands are significant in scale and that a change to their use cannot be piecemeal, noting that any change would need to be addressed within a more detailed planning framework such as an SDRA, LAP or SDZ. It is considered that changes for such large sites need to be framed around the Development Plan policies of place-making, creating/expanding amenities, examination of community needs, including school provision; movement and connectivity and providing a good range of local services and ensuring quality employment locations proximate to where people live. The City Council have already undertaken a review of Z6 zoned lands on foot of an objective in the 2016 City Development Plan. This review culminated in the rezoning of a number of industrial sites across the city in 2019 brought forward by way of a variation to the extant Development Plan. The subject site was not one of the re-zoned parcels of land. The planning authority advise that the potential re-zoning of the Z6 zoned lands will be further considered as part of the ongoing review of the City Development Plan and the preparation of the Draft Dublin City Development Plan 2022-2028, to determine if there are further land parcels that are suitable for redevelopment for more intensive forms of development in line with the principles of compact growth and the overarching objectives of the NPF and the RSES.

It is clear that the Z6 zoned lands in this area present a very significant opportunity for sustainable urban regeneration in accordance with national and regional planning policy objectives. It is important that such lands are developed in a sustainable way if the national and regional policy objectives are to be achieved. I am not satisfied that the creation of an isolated pocket of residential development on a restricted site within an area characterised by industrial and warehousing uses would be in the interests of the proper planning and sustainable development of the area. A grant of permission for the proposed development in the absence of a clear framework has the potential to undermine the future development of the wider area and to create an undesirable precedent for similar types of development on Z6 zoned lands throughout the city. I consider that the proposed residential development within an industrial setting (where residential use is permitted as a subsidiary use) is premature pending the completion of the review of the Z6 zoning objective at this location as part of the ongoing review of the Dublin City Development Plan.

Principle of Development Conclusion

I consider that the proposed development if permitted, would conflict with the policy considerations set out in Section 14.8.6 of the City Plan, having particular regard to the context of the site and its environs which are zoned for and in use as employment and enterprise lands. I also consider that the proposed development would be premature pending the wider examination of Z6 zoned lands as part of the review of the City Development Plan and that a grant of permission in this instance would set an undesirable precedent for the ad hoc and piecemeal redevelopment of Z6 zoned lands throughout the city area prior to the completion of this review. I recommend that permission is refused.

11.2. Quantum of Development

- 11.2.1. The proposed development comprises 142 no. apartments on a site of 0.637 hectares (net). The stated plot ratio is 1.72 and stated density is 223 no. units per hectare. The applicant makes a case for the quantum of development proposed on this site based on the sites central and accessible urban location. Policy at national and regional level encourages higher densities in appropriate locations. National Policy Objectives 33 and 35 of the National Planning Framework promotes increased

scale and densities in settlements. At a regional policy level, the site is within the Dublin MASP² area where consolidation of Dublin city and its suburbs is supported. Section 28 guidance, including the Sustainable Residential Development in Urban Areas Guidelines (2009), the Building Heights Guidelines (2018) and the Apartment Guidelines (2020) set out guidance in relation to areas that are suitable for increased densities. The Sustainable Residential Development in Urban Areas Guidelines (2009) promote minimum net densities of 50 units per hectare within public transport corridors such as this³ with no upper limit. The Apartment Guidelines identify suitable locations for increased density, with a focus on accessibility by public transport and proximity to urban centres or employment locations.

11.2.2. The SHD site is located c. 4 km to the west of Dublin City Centre, 450m (850m walking distance) west of a public transport interchange at Broombridge (with intercity and commuter rail services and LUAS) and c. 600m east of a recently opened train station at Pelletstown (commuter rail services). It is also immediately adjacent to a proposed strategic walking and cycle route along the Royal Canal that will connect the site to Dublin City. In addition, the site is in an employment location that is identified for more intensive employment uses in the current City Plan. I accept the applicant's assertion that the site is within a 'Central and Accessible Urban Location' based on the definitions in the Apartment Guidelines. Such locations are identified as suitable for large scale higher density development, and it is envisaged that the scale and extent of development would increase with proximity to core urban centres and public transport as well as employment locations and urban amenities. The Dublin City Development Plan also promotes intensive mixed-use development on well located urban sites and in the catchment of high capacity public transport.

11.2.3. The CE's Report indicates that the proposed density is comparable to development within the core inner city noting that in this instance the density is a reflection of the height of the scheme on a modest site. The site is within the M50 corridor, close to high frequency Luas and rail services, employment opportunities, and higher order

² Metropolitan Area Strategic Plan contained in the Regional Spatial and Economic Strategy.

³ 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station.

urban services and facilities. I consider that national and regional planning policy supports higher densities of the nature proposed at locations such as this.

11.2.4. I would note that the proposed development falls below the indicative plot ratio (2-3) and site coverage (60%) standards for Z6 zoned lands in the City Plan. However, I would suggest that both standards are related to the employment uses envisaged for Z6 lands and do not provide a useful benchmark for the scale of development in this instance.

11.3. Building Height, Design and Layout

11.3.1. The proposed development comprises 2 no. apartment blocks of 8 to 9 storeys in height on a narrow plot of 0.637 hectares. The site is bound to the north, east and west by existing low profile light industrial and warehousing units with heights of c. 7-10 metres. The proposed ground floor uses comprise a mixture of residential units, a café / bike service unit and a residential hub / work area for residents, bike and waste storage areas and a substation. There are incidental open areas and circulation / parking areas to the east and west of the blocks and a more substantial area of open space to the south along the Royal Canal frontage. Above ground floor level the development comprises a mixture of 1, 2 and 3 bed apartments. Due to the narrow configuration of the blocks access at upper floors is from external decks on the eastern and northern sides of the blocks. Vehicular access to the site is from Ballyboggan Road to the north via the internal industrial estate roadway. Pedestrian and cycle access is proposed onto the Canal towpath. There are plans to upgrade the towpath to a combined pedestrian / cycle route as part of the Royal Canal Greenway project.

11.3.2. Design and Layout

The CE's Report states that in the absence of a comprehensive coherent overall outline masterplan for the area there is concern with regard to the future development of adjoining sites in a piecemeal fashion. The PA considers that the masterplan submitted with the application is limited and indicative and that a more holistic and coherent approach is required. The CE's Report refers to Section 16.10.4 of the City Plan which relates to the making of sustainable neighbourhoods. This section states that '*new neighbourhood developments should harmonise with*

the local character and further develop the unique character of these places, and should also make a contribution to social infrastructure to enable the creation of sustainable neighbourhoods'. It is argued that the current proposal in isolation and within an industrial setting (where residential use is permitted as a subsidiary use) would not enable the creation of sustainable neighbourhoods. The CE's Report argues that the proposed development would lead to piecemeal haphazard development and would, if granted, set an undesirable precedent.

I agree that the submitted Masterplan is limited in relation to the detail shown. I also accept the concerns raised by the PA in relation to the sites context, the implications of this for the amenity of the proposed development and for the future regeneration of the Z6 zoned lands at this location. In particular, I draw the Boards attention to the fact that at present the site is surrounded by industrial and employment uses and that it is isolated from other residential neighbourhoods and amenities (including wider public open spaces, public realm, etc). In the short term, access to wider urban facilities would be via industrial estate roads with limited provision for pedestrian/cycle connectivity. I consider that the public realm within the industrial estates is not to a standard that would provide appropriate residential amenity, safety and comfort for future residents of the scheme (in particular children or vulnerable cycle/footpath users). As discussed in Section 11.1 above the 'Z6' cases referred in the Material Contravention Statement have a different locational context to the subject site. In general, the sites were urban sites or sites located on the fringe of an industrial area with direct frontage onto the primary road network and direct connections to services, facilities and transport links. There is no clear planning framework to support the coherent and comprehensive redevelopment of this area for more intensive urban uses. This absence causes specific problems in the circumstances of this site, and it is not clear given the specific area constraints (based on current zoning and active use of lands in the area for industrial/employment purposes) that the circumstances that exist at present would be short-term.

Building Height

The proposed housing blocks extend to 8 and 9 storeys with parapet heights of 26.2 m to 30.4 m respectively. The Dublin City Development Plan allows for heights of up

to 24 metres within 500 metres of existing and proposed Luas stops or rail stations ('Outer City Rail Hubs). The development exceeds the height limit of 24 metres. The applicant argues that the proposed development is consistent with national policy contained in the NPF and the Building Height Guidelines. The submitted Material Contravention Statement addresses (among other matters) the issue of building height. The statement refers to the provisions of SPPR 3 of the Building Height Guidelines stating that a PA may grant permission for building heights that exceed the development plan standard where the applicant demonstrates compliance with the criteria set out in Section 3.2 the Guidelines. The response presents a case for compliance under each of the criteria in Section 3.2.

The CE's report states that the proposed development is at odds with the low profile of the industrial / commercial units in the immediate vicinity. On longer range views the development would appear similar in terms of scale and character to buildings permitted within the Ashtown / Pelletstown area to the west. The Report notes that the subject site may have the potential to accommodate buildings height. However, it is considered that the unilateral development of this backland site within an area of low level light industrial and warehouse buildings for buildings of the scale proposed is not suitable as the site is not of sufficient size to create its own character. It is argued that the height and appearance of the buildings would be incongruous within the industrial landscape.

The principle of increased building height at inner urban locations such as this is supported at a national and regional level subject to the criteria in Section 3.2 of the Building Height Guidelines. I am not satisfied that the criteria can be demonstrably met in this instance as the future context relating to the immediate and wider area is very much unknown and challenging to predict and plan for in an ad hoc manner given the specific area constraints (based on current zoning and active use of lands in the area for industrial/employment purposes). Furthermore, it is not clear that the requirements of BRE Guidance has been met with regard to impacts on neighbouring properties and that the proposed development would not impact unduly on the lands to the north and west due to overshadowing and obstruction of daylight. This is discussed in more detail in Section 11.4 below.

11.3.3. Royal Canal Conservation Area

The Royal Canal to the south of the site is designated as a 'Conservation Area' under the City Plan (City Plan Map A refers). The Plan states that new development should have a positive impact on such conservation areas. The proposed development maintains a setback of 24 metres from the canal towpath at the closest point similar to that in the Ashtown / Pelletstown area to the west and would provide an urban frontage along the Canal. The CE's Report has not raised any concerns in relation to the impact on the conservation area and I am satisfied that the proposed development is acceptable in this regard.

11.3.4. Building Height, Design and Layout Conclusion

I consider that the public realm within the industrial estate is not to a standard that would provide appropriate amenity, safety and comfort for future residents of the scheme. With regard to building height, I consider that while the principle of increased building height is acceptable at this location I am not satisfied that the criteria for taller buildings in Section 3.2 of the Building Height Guidelines are met. Given the recommended substantive reasons for refusal I do not propose to include a reason for refusal in relation to design and layout and building height. I consider that these issues are related to the prematurity of the proposed **development**.

11.4. Quality of Development

The following assessment considers the quality of the proposed development with regard to the 'Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities' 2020; the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' and the associated Urban Design Manual; and the Dublin City Development Plan 2016-2022.

11.4.1. Housing Mix

The development provides the following housing mix:

	Studio	1 bed	2 bed	3 bed	Total
Apartments	0	64 (45%)	71 (50%)	7 (5%)	142

SPPR1 of the Apartment Guidelines states that apartment developments may include up to 50% one-bedroom or studio type units and that there shall be no minimum requirement for apartments with three or more bedrooms. The proposed unit mix is, therefore, acceptable in my view. The applicant has submitted a material contravention statement that addresses (among other matters) the failure to adhere to unit mix standards set out in Section 16.10 of the Dublin City Development Plan (maximum 25-30% one-bedroom units and minimum 15% three- or more bedroom units). However, the development is not in conflict with any specific policy or objective of the plan and adheres to national guidance in relation to unit mix. I am, therefore, of the view that the issue of material contravention does not arise in this instance.

11.4.2. Apartment Design and Layout

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.

Section 3.7 of the guidelines stipulate that no more than 10% of the total number of two bed units in any private residential development may comprise two-bedroom, three person apartments. There is 1 no. two-bedroom three person apartments in the scheme equating to 0.7% of units overall.

Section 3.8 of the guidelines 'Safeguarding Higher Standards' requires that the majority of all apartments in any scheme (> 10 units) shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bed unit types by a minimum of 10% (any studio apartments must be included in the total but are not calculable as units that exceed the minimum by at least 10%). A total of 72 no. units (50.9%) exceed the minimum floor area standard. The requirement is met.

SPPR 4 requires a minimum of 33% dual aspect units for developments in more central and accessible urban locations and a minimum of 50% dual aspect units for developments in suburban or intermediate locations. The housing quality assessment indicates that 89% of the units overall are dual aspect. I am satisfied that the requirements of SPPR 4 are met and exceeded.

SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. This requirement is complied with.

SPPR 6 specifies a maximum of 12 apartments per floor per core. This requirement is complied with. The applicant has submitted a material contravention statement that addresses (among other matters) the deviation from the number of units per core per floor set out in Section 16.10 of the Dublin City Development Plan (min of 8 units per core per floor). I consider that the development is not in conflict with any specific policy or objective of the plan and that it adheres to national guidance in relation to units per core. I am therefore of the view that the issue of material contravention does not arise in this instance.

Appendix 1 of the guidelines sets out minimum storage requirements, minimum aggregate floor areas for living / dining / kitchen rooms, minimum widths for living / dining rooms, minimum bedroom floor areas / widths and minimum aggregate bedroom floor areas. Private open space is provided in the form of balconies and the minimum space and depth standards are met.

11.4.3. Open Space

Appendix 1 of the Apartment Guidelines sets out the following minimum area requirements for communal amenity space in new apartment developments:

Unit	No.	Per Unit (sq.m.)	Total Requirement
1 bed	64	5 sq.m	320 sq.m
2 bed (3 person)	1	6 sq.m	6 sq.m
2 bed (4 person)	70	7 sq.m	490 sq.m
3 bed	7	9 sq.m	63 sq.m
Total	105		879 sq.m.

The scheme provides for 1363 sq.m of communal amenity space in the form of open spaces at ground level and a roof level terrace. The requirement of the guidelines is met and exceeded within the scheme.

Section 16.10.3 of the Dublin City Development Plan states that in new residential developments 10% of the site area shall be reserved as public open space but

allows for the payment of a financial contribution in some circumstances where a shortfall arises. The proposed development includes 717 sq.m of public open space along the southern site frontage. This equates to 11% of the site area and meets the development plan requirement.

11.4.4. Communal Facilities

The Apartment Guidelines promote the provision of communal rooms for use by residents in apartment schemes, particularly in larger developments. The proposed development includes a café and service area and a work hub for residents. I consider the level of provision to be sufficient.

11.4.5. Daylight and Sunlight

I refer the Board to the submitted Daylight and Sunlight Report. The assessment has been prepared in line with BRE document Site Layout Planning for Daylight and Sunlight (2011) and BS8206.

11.4.6. The BRE and 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, 1% for a bedroom and 1.5% for a living room / bedroom. The BS guidance states that where a room serves more than one purpose (such as kitchen/living/dining areas) the minimum ADF should be for the room with the higher value. The applicant has modelled Average Daylight Factor (ADF) for all habitable rooms within the development. The results are detailed in Appendix A and B of the Report. In summary of the 142 no. kitchen/living/ dining areas in the scheme 100 no. spaces or 70.4% meet the 2% standard and all spaces meet the 1.5% standard for living rooms. Of the 227 no. bedrooms in the scheme a total of 225 or 99.5% meet the 1% standard for bedrooms. Overall, 88.1% of the rooms tested meet the relevant ADF standard. The Daylight and Sunlight Report argues that the scheme will receive good quality daylight and discusses compensatory design solutions employed to improve daylight performance including balcony positions, glazing areas and floor to ceiling heights.

11.4.7. The BRE guidance recommends that at least 50% of the amenity areas in a new development should receive a minimum of two hours sunlight on 21st March (spring equinox). The analysis of sunlight exposure levels for the amenity areas shows that

in excess of 50% of all amenity areas met the minimum standard. Although balconies are not specifically referenced in the BRE Guidance (only gardens) the submitted Report includes an assessment of ADF to balconies. The assessment finds that 83.1% of all balconies will receive more than two hours of sunlight over 50% of the area on 21st March (spring equinox). The balconies that do not meet the standard are on the north-west façade. It is noted that an assessment for 21st June (summer equinox) indicates that 97.2% of balconies would meet the standard in summer. The balconies that don't meet the 50% standard overlook communal amenity space.

11.4.8. In relation to the shortfall in respect of daylight access to habitable rooms I would note that the Urban Development and Building Height Guidelines (2018) and the Sustainable Urban Housing Design Standards for New Apartment Guidelines 2020, state 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 discretion offered in Section 3.2 of the Sustainable Urban Development and Building Height Guidelines and Section 6.6 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) is relevant in this instance in my view. The site is constrained by its narrow configuration and compensatory measures are identified in the Sunlight and Daylight Report to counteract any impacts arising from reduced daylight access. I consider that the scheme performs

well in respect of daylight provision. External impacts on adjacent lands are considered separately below.

11.4.9. Overlooking

Given the linear arrangement of the blocks and the absence of windows at upper levels on adjacent sites there is limited potential for overlooking within the development. The PA have highlighted the limited separation between the southern elevation of Block A and the northern elevation of Block B (3.5m) and the potential for overlooking due to opposing windows in each elevation. I would suggest that vertical louvers could be applied to mitigate potential overlooking and that any issues arising can be satisfactorily addressed by way of condition in the event of a grant of permission.

11.4.10. Microclimate

The proposed blocks are below 10 storeys and are not considered tall in the context of micro-climate assessment. The submitted Wind Microclimate Study indicates that no significant microclimate impacts are anticipated and that expected windspeeds at upper levels would be Beaufort B4 (moderate wind speed that will raise dust and papers and move small branches on trees). This is only marginally above what would be experienced at ground level.

11.4.11. Inward Noise Impacts

The application is accompanied by an Acoustic Design Statement (ADS) prepared by RSK. The statement considers the noise exposure of the site and its suitability for residential development. In the absence of Irish Guidance, the statement relies on UK guidance in The Professional Guidance on Planning & Noise 2017 (ProPG) and noise reduction criteria in BS8233 Guidance on sound insulation and noise reduction for buildings. This is standard industry practice. Surveys were undertaken at 5 no. locations on the site in October 2019. The surveys found that traffic noise is the dominant noise source, that there is intermittent noise increases from the railway line and distant industrial noise. Based on the ProPG noise risk categories it is concluded that the daytime and night-time noise levels at the site are low and that the site is suitable for residential development. An assessment of acoustic design, internal noise levels, noise at external amenity areas and other relevant issues was

undertaken. The ADS concludes that the development has a low noise risk and that it is suitable for residential development subject to mitigation. The proposed mitigation include specific glazing and ventilation measures. I would recommend in the event that the Board is minded to grant permission that a condition is including requiring the noise mitigation measures to be implemented.

11.4.12. Potential for Impacts on Adjacent Sites

The PA's submission highlights potential for impacts on adjoining sites due to overlooking and overshadowing. I would note that the separation distances between the proposed housing blocks and adjoining properties in particular properties to the west and north range from c. 10-11 metres in the northern section reducing to 1.5 metres and the southern end of the site.

I would suggest that a reasonable level of separation is achieved in most instances having regard to the fact that there are no sensitive land uses on immediately adjacent sites. The PA's submission highlights the potential of the scheme to impact on the future development potential of adjacent lands due to overlooking and overshadowing. I would note that the submitted Daylight and Sunlight Report and the Masterplan document show the potential for significant impacts on the adjacent lands due to the level of overshadowing. Given the position of the proposed development due west and south of the site and the scale of development along the boundaries I consider that there is also potential for obstruction of daylight to the west and north. I consider that this would have the potential to impact on the on future development potential of the adjoining lands for higher intensity urban uses. The extent of impact is not quantified, and I consider that further assessment would be required. It has not, therefore, been demonstrated that the level of impact would be acceptable in the context of BRE and BS guidance which advocates a 'good neighbour' approach in terms of impacts on adjacent lands.

11.4.13. Waste Management

Provisions are made for waste at ground level and the application includes an operational waste management plan (including details of bin collection).

11.4.14. Quality of Development and Impact on Neighbouring Sites Conclusion

To conclude, I consider that the design and layout of the development within the site is satisfactory with regard to national and development plan guidance for residential development and that it would offer a reasonable standard of residential accommodation and amenity for future residents of the scheme. I consider that the proposed development has the potential to impact on the redevelopment of adjacent lands to the north and west for higher intensity urban uses due to impacts arising from overshadowing and obstruction of daylight. Given the substantive reasons for refusal in relation to land-use and prematurity I consider that a refusal reason in relation to this issue is not warranted. However, this is something that would need to be addressed as part of any future application.

11.5. Transportation

The site is accessed via the internal industrial estate roadway from the Ballyboggan Road to the north. I would note that footpaths are limited on the internal estate road network and those provided are substandard in terms of width.

The submitted Parking Strategy & Traffic Assessment refers to public transport services in the area. It is noted that the site is within 850m walk (450m distance) of the Broombridge transport interchange where the Luas Green Line and Maynooth Rail Line meet (commuter and intercity services). The assessment refers to planned public transport upgrades including the DART+ Programme which would see the electrification of the rail line to Maynooth. The assessment also refers to bus services within 1.3 km of the site on the Ratoath Road, Tolka Valley Road and Finglas Road and to proposed improvements in the area under Bus Connects. The assessment also highlights the proposal to upgrade the Canal towpath as part of the Royal Canal Greenway Project. Phases 1 and 2 within the City Centre area to Grand Canal Dock are completed while Phases 3 and 4 (City Centre to Ashtown) are expected to go to construction in 2021 and 2022 respectively. I would note that the Pelletstown Train Station (commuter services) has also become operational subsequent to the making of the application at a location that is c. 600m west of the site.

Vehicular access and secondary emergency vehicular access is proposed along the eastern boundary. A pedestrian / cycle connection is also proposed onto the Royal Canal towpath to the south.

A total of 28 no. car parking spaces are proposed (0.2 spaces per unit). This includes 2 no. car club spaces. Table 16.1 of the City Plan sets out car parking standards. The site is in Zone 2 and would have a maximum requirement for 1 no. car parking space per unit and it is argued that the proposed commercial units are ancillary. The maximum rate of provision for the proposed development would be 142 no. spaces. While the level of provision falls substantially below this, the CE's Report indicates that the rate of provision is acceptable but notes that proactive travel planning will be needed to support the reduced provision. This approach is also supported by the Sustainable Urban Housing Design Standards for New Apartment Guidelines 2020, which recommend that car parking provision be minimised, substantially reduced or wholly eliminated at central and accessible urban locations such as this.

A total of 300 no. cycle parking spaces are proposed. The level of provision exceeds the minimum standards in Table 16.2 of the City Plan and the requirements set out in the Sustainable Urban Housing Design Standards for New Apartment Guidelines 2020. The PA's Transportation section question the proposal to accommodate visitor parking in secure bike stores and how this will be managed, and I would share the concerns in relation to access and security. Notwithstanding this, I consider that the matters raised by the PA in relation to the management of car parking and cycle parking are detailed matters that could be addressed subsequent to a grant of permission.

The submitted traffic assessment notes that the proposed development would be subthreshold for a TTA based on the criteria detailed in Appendix 4 of the City Plan and in the TII Traffic and Transport Assessment Guidelines. It is noted that at most a total of 28 no. vehicles would depart the site in the am peak and arrive back in the evening peak. Given the low trip generation potential I am satisfied that the development, of itself, would not have a significant impact on the local road network and that a full TTA is not required. The submitted CMP address the traffic management arrangements to be employed during the construction phase.

Movements will generally occur outside of peak times and will be managed to limit impact on the surrounding road network. In the event that the Board is minded to grant permission I recommend that the applicant is required to agree a finalised CMP with the PA prior to the commencement of development.

11.5.1. Transportation Conclusions

Having regard to the above assessment, I am satisfied that the development will not result in undue adverse traffic impacts and that any outstanding issues are of a minor nature and can be satisfactorily dealt with by condition.

11.6. **Water, Drainage and Flood Risk**

I refer the Board to the 'Engineering Services Report and Site Specific Flood Risk Assessment (SSFRA), to the CE's Report including the Report of the Water Services Section and to the submission received from Irish Water.

11.6.1. Water Supply and Wastewater

Irish Water has issued a statement of design acceptance in respect of the water and wastewater systems. It is proposed to connect to a public watermain and to a wastewater sewer at the junction of Ballyboggan Road. The Engineering Services Report states that there is no apparent public wastewater infrastructure in the immediate vicinity of the proposed development. The submission received from IW states that there is existing Irish Water infrastructure(s) within and in close proximity of the site boundaries. The applicant was required to engage with Irish Waters Diversion Team to assess feasibility of any potential build over/diversion (if required) and to arrange a diversion agreement prior to making the application. The submission notes that there has been no engagement between the applicant and the Irish Water Diversions team and no assessment of feasibility for any potential build over/diversion has taken place. Irish Water recommend that this matter is addressed by way of condition. The matters raised with regard to build over / diversions are detailed design matters and I am satisfied that the matters can be satisfactorily addressed by way of condition in the event that the Board is minded to grant permission. Irish Water also recommend standard conditions in relation to connection agreements and adherence to IW standards.

11.6.2. Surface Water Drainage

The Engineering Services Report and associated drawings detail the proposed surface water system. A gravity sewer network is proposed with sustainable urban drainage features and underground attenuation. Stormwater from the development will outfall to a 450mm surface water sewer on Ballyboggan Road to the north of the site which in turn discharges to the River Tolka. It is proposed to construct a 100m long surface water sewer (225mm diameter) from the site to connect to the public sewer at the junction of Ballyboggan Road. Stormwater discharge will be restricted (using flow restrictors) to greenfield equivalent. The system includes provision for a 1% AEP and 20% climate change allowance in accordance with the GDSDS. The system includes measures to improve the quality of surface water discharge including green roofs, pervious paving, intensive landscaping, interception storage, filter drains, gullies, silt traps and fuel separator. The PA's Water Services Section indicates no objection. The submission received from IFI recommends a condition that requires regular maintenance of water quality measures (silt traps and oil interceptors etc.) during the construction and operational phases. I recommend in the event that permission is granted that conditions to this effect are included.

11.6.3. Flood Risk

I refer the Board to the Flood Risk Assessment (FRA) submitted with the application. The OPW CFRAM maps for the area show that the site is in Flood Zone C. The site has a low risk of tidal or fluvial flooding and residential development is an acceptable lands use within this zone (Table 3.2 Flood Risk Management Guidelines refers). The site has a low risk of groundwater flooding. While there are no recorded incidence of pluvial or surface water flooding the predicted pluvial flood risk for the 1% AEP flood event extends into the site (Engineering Services Report Fig. 7.5 refers). However, the proposed surface water drainage network has been designed to ensure that no flooding is experienced during rainfall events up to and including the 1% AEP with an additional 20% allowance for climate change. It is argued that this ensures that pluvial flooding is not a significant risk to the proposed development. I am satisfied that the requirements of the Flood Risk Management Guidelines are met and that the proposed development is acceptable in this regard.

11.7. Other Matters

11.7.1. Hydrology, Hydrogeology and Ecology

I refer the Board to the Hydrological Risk Assessment; Ecological Impact Assessment (EiA) and Generic Quantitative Risk Assessment and Waste Soil Classification Report submitted with the application. Due to overlap in the information contained in these documents I have considered the issues arising under single heading.

Site Characteristics

The site is situated in an industrial area to the south of the River Tolka and north of the Royal Canal. Habitats on site comprise buildings and artificial surfaces and recolonising bare ground for the most part. There are areas of scrub, dry meadow / grassy verges, hedgerows and tree lines mainly along the margins of the site. Topsoil on site is made ground underlain by gravels derived from limestones and in the southern section till derived from limestone. Bedrock beneath is mapped as being part of the Carboniferous Lucan formation – limestone. The site sits above the Dublin Groundwater Body described as locally important and moderately productive in local zones only (GSI classifications). The ground water vulnerability at this location is classified as high to moderate. There are no surface water features within the site. The closest water feature is the Royal Canal located immediately south of the site (pNHA). The site is not hydrologically connected to the Royal Canal. The site drains via the public surface water system to the River Tolka located c. 100m to the north of the site (c. 50m north of water / drainage connections). The River Tolka outflows to Dublin Bay via the Tolka Estuary c. 5.4 km to the east of the site. This waterbody has a WFD classification of ‘poor’ and ‘at risk’ (EPA Maps 2020).

Hydrology

The submitted Hydrological Risk Assessment considers potential sources of pollution to ground and surface waters. Potential sources during the construction phase are identified as fuel spills or leakages associated with construction traffic and plant, alkaline run off associated with the use of wet cement and suspended solids from soils. During the operational phase the potential for fuel leaks from cars is identified.

In terms of pathways, it is noted that there is a low risk of vertical migration to the underlying bedrock aquifer due to the thick clay soil that covers most of the site. The average recharge has been modelled at 200mm/year. There is an indirect pathway to the River Tolka and Dublin Bay via the surface water system. There is also an indirect pathway to Dublin Bay via the wastewater system as wastewater from the site will flow via the public wastewater network to the Ringsend WWTP where it will be treated prior to discharge to Dublin Bay. The HHA concludes that based on the possible loading of any hazardous materials during construction and operational phases and mitigation measures proposed there is no potential for impact on the local water environment. It is noted that the protection of downstream European sites do not rely on the proposed mitigation measures and that in the absence of the mitigation measures there would be no impact on water quality in the downstream European sites.

Soils and Hydrogeology – Risk of Contamination

The site is a vacant brownfield site with a history of various uses. Most recently the site was used as an industrial facility by Protim Abrasives Limited and activities on site were subject to an EPA IPC Licence (surrendered in 2009). Given the nature of activities undertaken on site and on surrounding sites it was decided to undertake investigations to establish whether contamination has occurred and to determine the potential risk to human health based on the intended use of the site. The assessment included soil and water sample testing and gas monitoring. Overall, the risk arising from contamination was deemed to be insignificant and acceptable for the most part. Risks were identified at two soil testing locations NWS4 due to lead readings and NWS06 due to the presence of aliphatic, aromatic and naphthalene compounds. The Report requires the hotspot of NWS4 to be either removed or capped using hard standing so that there is no direct contact risk and the hotspot of NWS6 to be removed. The Report also recommends that a watching brief is maintained during waste removal to ensure that no hotspots are encountered and if hotspots are encountered that they are correctly assessed. Refer to the Generic Quantitative Risk Assessment & Waste Soil Classification for full details. The Waste Regulation and Enforcement Unit of Dublin City Council recommends a number of conditions to address the issue of waste management during the construction phase.

The matters addressed are detailed matters relating to obligations under the Waste Acts. On the basis of the foregoing, I recommend in the event that permission is granted that a condition is attached requiring the submission of a finalised Construction & Demolition Waste Management Plan for agreement with the PA that addresses matters including the management of contaminated soils..

Ecology

Surveys undertaken in support of the EIA include habitat survey, invasive species survey, bat surveys, bird surveys and mammal surveys. During survey no protected or rare plant or animal species were recorded. Otters (international importance) have been recorded using both the Royal Canal and the River Tolka. However, there is no suitable habitat for Otter within the site and there was no sign or evidence of Otter during survey. Bats (international importance) are known to forage and commute along the Canal and in the Tolka Valley Park and vegetation on site provides a possible habitat corridor for bats. Bat Activity Surveys recorded three bat species within the site – common pipistrelle, soprano pipistrelle and Leisler's Bat. The EIA states that the activity was within treelines and scrub present on site and that bats appeared to be flying over the site. Bat Emergence Surveys did not identify bats emerging from buildings on site. Given the low level of bat activity observed and the low suitability of the buildings it is concluded that the site has low Bat potential. Mitigation measures such as enhanced vegetation, bat roost survey prior to demolition, lighting and dark corridors are proposed to avoid / mitigate impacts on Bats. No schedule 3 'high impact' invasive flora species were recorded within the site, while a number of 'medium impact' species were recorded. The area was deemed to be of local value for a range of terrestrial bird species that are relatively common in Ireland – some of national importance. The potential for impacts due to direct harm and destruction of nests during the construction phase is considered, in addition to the potential for collision risk during the operational phase. The scheme is designed to avoid collision risk and mitigation is proposed during site clearance to avoid direct impact or disturbance. Increased noise and disturbance during construction could potentially impact on fauna such as Otter, Bats and birds. However, any residual impacts will be short-term in nature and slight and can be suitably mitigated. Vegetation enhancement will benefit bird and bat species. The

Tolka River supports Atlantic Salmon, Lamprey (Habitats Directive Annex II Species), Brown trout populations and other fish species. The potential for impacts on fish and aquatic species in the Tolka is considered due to an indirect pathway via the surface water system. There is no hydrological connection to the Royal Canal, despite its proximity, and as such the potential for impacts on aquatic species in the Canal can be excluded. On the basis that suitable mitigation in the design of the surface water system to protect water quality no significant impacts are anticipated. Overall, it can be concluded that the site has a low ecological value at present due to highly modified habitats with no Annex I habitats or species likely to exist within the site. Subject to the implementation of the mitigation and enhancement measures detailed in Chapter 8 of the Ecological Impact Assessment, no significant impact on the water environment and on aquatic habitats are envisaged; and no significant impacts on flora and fauna are envisaged.

11.7.2. Childcare

The apartment guidelines (2018) provide an update to the guidance contained in the Childcare Facilities Guidelines (2001) in relation to childcare provision for apartment developments. The guidelines recommend that the threshold for childcare provision in apartment schemes should be established having regard to the scale and mix of units proposed, the distribution of childcare facilities in the area and the emerging demographic profile of the area. The guidelines recommend that 1 bed and studio apartment units should generally be excluded from childcare requirements and, subject to location, that this may also apply in part or whole to units with 2 or more bedrooms. The submitted Childcare Demand Assessment argues based on a demographic assessment, that there is likely to be 13 no. children aged 0-6 within the development but that based on attendance rates in the Dublin area only 3 no. children would be expected to avail of childcare spaces. It is argued that this demand can be met within existing facilities in the area. Given the high levels of employment in the area, I consider that the failure to consider childcare demand arising from the surrounding 'employment' uses represents a shortfall in the assessment.

11.7.3. Social Infrastructure Audit

I refer the Board to the Social Infrastructure Audit submitted with the application. The audit considers health, childcare and education, community, sports and recreation, faith and emergency services in the area. The study area for the audit is defined by a 2km radius around the site and takes in area of Finglas, Glasnevin, Cabra, Navan Road and Ashtown and Pelletstown. Many of the areas considered are established inner suburbs of Dublin City. The audit identifies a significant range of services and facilities with significant provision in the areas of childcare, education, health and sports. It is concluded that the existing social infrastructure provision within proximity to the site is capable of serving the population. I would question the accessibility of some of the areas considered to the subject site, which is located within a large industrial area. I would suggest that a study area based on walkability and accessibility by public transport would provide a better indication of the level of social infrastructure available. Notwithstanding this, it is clear that the established inner suburbs contain significant social infrastructure and services that would benefit the proposed development. However, I would concur with the view set out in the CE's Report that the development of this Z6 area should not be piecemeal and that it would need to be supported by a framework that addresses, among other things, the provision of infrastructure to support this area in the event of regeneration. This issue is addressed within the substantive reasons for refusal.

Part V

11.7.4. The applicant has submitted proposals to provide 14 no. units or 10% of the proposed units to the planning authority under Part V. The CE's Report indicates that there is no objection to the proposals. I recommend that a condition is attached in the event of permission being granted that requires a Part V agreement to be entered into.

11.8. **Material Contravention – Specific Employment Creation Policy (Z6) and Building Height**

11.8.1. The proposed development would materially contravene policy considerations in Section 14.8.6 of the City Plan which require the ratio of other uses, such as residential, on Z6 zoned lands to be at an appropriate ratio and subsidiary to the

main employment generating uses (Section 11.1 above refers). The submitted Material Contravention Statement addresses this issue and this statement is referenced in the public notices. The Board, therefore, has recourse to the provisions of Section 37 (2) (b) of the Planning and Development Act should it consider the ratio of residential floorspace to be acceptable. A case is made on the basis that the site is a prime, underutilised brownfield site in a core urban area and close to a significant transport interchange. The applicant also puts forward the argument that the proposed residential use accords with the zoning objective when you consider it in the context of the wider employment lands in the area. I consider that the proposed development if permitted, would represent an unacceptable conflict with the policy considerations set out in Section 14.8.6 of the City Plan. On this basis, and as discussed in detail in Section 11.1 above, I recommend that permission is refused.

11.8.2. In relation to building height, the Dublin City Development Plan 2016-2022 allows for heights of up to 24 metres within 500 metres of existing and proposed Rail / Luas stops ('Outer City Rail Hubs). The proposed blocks with heights of 26.2m and 30.4m exceed the height limit. The application includes a Material Contravention Statement in respect of building height, and this statement is referenced in the public notices. The Board, therefore, has recourse to the provisions of Section 37 (2) (b) of the Planning and Development Act in the event that the Board is minded to grant permission. The applicant's case for material contravention in relation to building height refers to national policy set out in the NPF, the Sustainable Urban Housing Design Standards for New Apartment Guidelines and the Urban Development and Building Height Guidelines. The applicant makes a case based on the development management criteria set out in Chapter 3 of the Building Height Guidelines. While the principle of increased building height in urban areas is supported by national policy and by the Building Height Guidelines, I am not satisfied that the criteria outlined in Section 3.2 of the Building Height can be demonstrably met in this instance. As discussed in Section 11.1 and 11.3 above, I have concerns in relation to criteria relating to mix of uses, integration and urban design and compliance with BRE Standards, particularly as the future context relating to the immediate and wider area is unknown.

11.8.3. In addition, I am not satisfied that the provisions of section 37(2)(b) apply in this instance for the following reasons:

(i) The applicant has not made a case for material contravention on the basis of conflicting objectives within the development plan.

(ii) The proposed development is not of strategic or national importance as the site is not identified for significant housing delivery (residential use is permitted as a subsidiary use only) and is not part of the city's strategic residential land bank.

(iii) National and regional policy (including the MASP) does not specifically support the use of these lands for housing and there is a clear policy support at national, regional and local level for employment generation on brownfield lands within the MASP area and along public transport corridors.

(iv) There is no relevant or comparable precedent for this type of development in the area.

12.0 Environmental Impact Assessment Screening

12.1.1. Brief Description of the Development

Permission is sought for demolition of existing structures and the construction of 142 no. apartments, an ancillary communal work hub and a café / service unit and associated works on a site of 0.72 ha (gross). The site is a vacant brownfield site located in the Tolka Valley Business Park.

The site is in an industrial area to the south of the River Tolka and north of the Royal Canal. Habitats on site comprise buildings and artificial surfaces and recolonising bare ground for the most part. There are smaller sections of scrub, dry meadow / grassy verges, hedgerows and tree lines mainly along the margins of the site.

Topsoil on site is made ground underlain by gravels derived from limestones and in the southern section till derived from limestone. Bedrock beneath is mapped as being part of the Carboniferous Lucan formation – limestone. The site sits above the Dublin Groundwater Body described as a locally important and moderately productive in local zones only (GSI classifications). The ground water vulnerability at this location is classified as high to moderate. The closest water feature is the Royal

Canal located c. 5m south of the site (pNHA). The site drains to the River Tolka located c. 100m to the north of the site (c. 50m north of water / drainage connections), which in turn drains to Dublin Bay via the Tolka Estuary c. 5.4 km to the east of the site. This waterbody has a WFD classification of 'poor' and 'at risk' (EPA Maps 2020). The site is not hydrologically connected to the Royal Canal to the south.

12.1.2. Requirement for EIA

The development is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations. An environmental impact assessment would be mandatory if the development exceeded the specified threshold of 500 dwelling units or 10 hectares, or 2ha if the site is regarded as being within a business district. The site is zoned for employment uses. The proposal for 142 no. residential units, a workshop and café / service unit on a site of 0.72 ha (gross) is below the mandatory threshold for EIA both inside and outside of a business district. The proposed development is therefore sub-threshold for the purposes of EIA.

12.1.3. EIA Screening for Sub -Threshold Development

Under Article 299B (2)(b)(i) where the information referred to in article 299B (1)(b)(ii)(II) is provided by the applicant, the Board is required to make a screening determination in relation to the likelihood of significant effects on the environment arising from the proposed development. The applicant has provided the information specified under Article 299B (1)(b)(ii)(II) and the information specified under Article 299B (1) (b) (ii) (II) (B). The Board is, therefore, required to make a screening determination.

12.1.4. Screening Assessment

I refer the Board to the Schedule 7A information contained in the submitted EIA Screening Report. The nature and the size of the proposed development is well below the applicable thresholds for EIA. The uses proposed are urban in nature and while the site and lands in the immediate vicinity are in industrial / warehousing use there are similar uses in the wider area. The proposed development will not increase the risk of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a

risk of accidents. The development is served by municipal drainage and water supply. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The AA Screening set out in Section 13.0 concludes that the potential for adverse impacts on Natura 2000 sites can be excluded at the screening stage.

In relation to other relevant information on the characteristic of the proposed development and its likely effects on the environment I would note that the application is accompanied by the following documents: Engineering Services Report, Traffic Impact Assessment, Construction and Demolition Waste Management Plan, Outline Construction Management Plan, Ecological Impact Assessment, Hydrological Risk Assessment, Generic Quantitative Risk Assessment and Waste Soil Classification; Operational Waste Management Plan, Life Cycle Report, Energy and Sustainability Statement, Landscape and Visual Impact Assessment, Microclimate Assessment, Noise Assessment, Childcare Demand Assessment, Social Infrastructure Audit, Report for the purposes of AA Screening and Natura Impact Statement.

A Statement in accordance with Article 299B (1)(b)(ii)(II) (C) of the Planning and Development Regulations 2001 (as amended) has also been submitted with the application. The statement indicates how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. The Statement addresses a range of EU Directives, Regulations and other 'relevant' legislation including the Habitats Directive, Water Framework Directive, SEA Directive, Environmental Noise Directive, Directive on ambient air quality and cleaner air for Europe, Flood Risk Directive and other relevant EU legislation on wildlife and natural habitats. It also addresses EU directives / regulations on landfill and waste, industrial emissions, pollutant release and transfer, noise emissions, energy and renewable energy, greenhouse gas emission and the control of major accident hazards involving dangerous substances.

On the basis of the foregoing, I am satisfied that the information required under Section 299B (1) (b) (ii) (II) (C) of the Planning and Development Regulations has been submitted.

12.1.5. Screening Determination

I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA screening assessment report submitted with the application. I recommend that a screening determination be issued to reflect this conclusion. This conclusion is consistent with the conclusions of the Screening Determination Form appended to this Report (Appendix 1 EIA Screening Form).

13.0 **Appropriate Assessment Screening**

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

13.1.1. Compliance with Article 6(3) of the Habitats Directive

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the

management of any European site and therefore is subject to the provisions of Article 6(3).

The applicant has submitted an Appropriate Assessment Screening Report and a Natura Impact Assessment as part of the planning application both prepared by Moore Group Environmental Services. I have also referenced the Engineering Services Report, Hydrological Risk Assessment, Ecological Impact Assessment (EiA), Generic Quantitative Risk Assessment and Waste Soil Classification report and Environmental Impact Assessment Screening Report submitted with the application.

The AA Screening Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

The AA screening report concludes that *“In the absence of construction management and pollution control measures, the potential impact on downstream European sites is uncertain. Thus, in line with Departmental Guidance and having regard to ECJ case law and the ‘Precautionary Principle’, Stage 2 AA is required in respect of the three European sites referred to i.e.: North Dublin Bay SAC (Site Code: 000206), North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA 004024) and appropriate assessment is, therefore, required”*.

Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

13.1.2. Need for Stage 1 AA Screening

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

13.1.3. Brief Description of the Development

The applicant provides a description of the project in Section 3 of the Screening Report. The development is also summarised in Section 3 of this Report. In summary permission is sought for demolition of existing structures on site and the construction of 2 no. blocks containing 142 no. apartments, a work hub and café / service unit and associated works. The site is in an industrial area to the south of the River Tolka and north of the Royal Canal. Habitats on site comprise buildings and artificial surfaces and recolonising bare ground for the most part. There are smaller sections of scrub, dry meadow / grassy verges, hedgerows and tree lines mainly along the margins of the site. Topsoil on site is made ground underlain by gravels derived from limestones and in the southern section till derived from limestone. Bedrock beneath is mapped as being part of the Carboniferous Lucan formation – limestone. The site sits above the Dublin Groundwater Body described as locally important and moderately productive in local zones only (GSI classifications). The ground water vulnerability at this location is classified as high to moderate. The closest water feature is the Royal Canal located c. 5m south of the site (pNHA). The site drains to the River Tolka located c. 100m to the north of the site (c. 50m north of water / drainage connections), which in turn drains to Dublin Bay via the Tolka Estuary c. 5.4 km to the east of the site. This waterbody has a WFD classification of ‘poor’ and ‘at risk’ (EPA Maps 2020). The site is not hydrologically connected to the Royal Canal to the south.

Submissions and Observations

The submissions and observations from the Local Authority and Prescribed Bodies, are summarised in sections 9 and 10 of this Report. No submissions have been received from third parties. The submissions received do not refer specifically to AA concerns. The submission from Inland Fisheries Ireland notes that the site is in the Catchment of Tolka River which supports Atlantic Salmon, Lamprey (Habitats Directive Annex II Species), Brown trout populations and other fish species. It is noted that salmonid waters constraints apply. The submission recommends conditions to ensure good construction practices and mitigation measures to deal with potential adverse impacts on the water environment. The submission also notes that the Ringsend WWTP currently working at or beyond its design capacity

and that it won't be fully upgraded until 2023. It states that it is essential that local infrastructure is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment. The submission also states that all discharges must be compliant with EC (Surface Water) Regulations 2009 and EC (Groundwater) Regulations 2010.

13.1.4. Zone of Influence and Potential for Impacts

A summary of European Sites that occur within the vicinity (15km radius) of the proposed development is presented in Table 1 of the AA Screening Report. In terms of the zone of influence, I would note that the site is not within or immediately adjacent to a Natura 2000 site. The nearest Natura 2000 sites to the proposed development are South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) located c. 5.2 km east of the proposed development; South Dublin Bay SAC (Site Code: 000210) located c. 7.4 km east of the proposed development; North Bull Island SPA (Site Code: 004006) located c. 8.19 km east of the proposed development; and North Dublin Bay SAC (Site Code: 000206) located c. 8.2 km east of the proposed development.

The applicant's Screening Report identifies all potential impacts associated with the proposed development taking account of the characteristics of the proposed development, examines whether any European sites fall within the zone of influence of the development and assesses whether there is any risk of a significant effect or effects on any European sites, either alone or in combination with other plans or projects. The possibility of a hydrological connection between the proposed development and European sites in Dublin Bay is identified due to surface water and foul water connections. This is discussed further below. The potential for a hydrological connection to any European site through groundwater is excluded due to the hydrological and hydrogeological conditions underlying the site (refer to submitted Hydrological Risk Assessment). The potential for significant impacts due to displacement or disturbance of QI species and loss or fragmentation of habitats is excluded due to the lack of suitable habitat for qualifying interests and the intervening distances between the site and European sites. The AA Screening

Report concludes that the potential zone of influence of effects on water quality from the proposed development could extend to north Dublin Bay.

In applying the 'source-pathway-receptor' model in respect of potential indirect effects, I am satisfied given the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways that all Natura 2000 sites outside of Dublin Bay fall outside of the potential zone of influence of the proposed development. In relation to sites in Dublin Bay I am satisfied given the nature and scale of the proposed development, the insignificant loading in terms of either surface water or wastewater, the intervening distances and the significant marine buffer and dilution factor that exists that sites outside of the inner section of Dublin Bay, namely Rockabill to Dalkey Island SAC, Dalkey Island SPA and Howth Head Coast SPA are not within the downstream receiving environment or potential zone of influence of the proposed development. Given the potential hydrological connection between the proposed development and sites within the inner section of Dublin Bay via the municipal surface water sewer and the Tolka River and the municipal wastewater sewer and the Ringsend WWTP, I consider that sites in the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA, could be considered to fall within the downstream receiving environment and within the zone of influence for potential effects from the proposed development.

13.1.5. Screening Assessment

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

South Dublin Bay SAC (000210) - c. 000210 km east of the proposed development. c. 537 m south of Ringsend WWTP outfall.

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

North Dublin Bay SAC (000206) – c. 11.4 km north east of the proposed development; c. 2.3 km north east of Ringsend WWTP outfall.

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.

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

South Dublin Bay and River Tolka Estuary SPA (004024) - c. 8.6 km east of the site.

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

Qualifying Interests/Species of Conservation Interest: 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*) [A144] / Dunlin (*Calidris alpina*) [A149] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Redshank (*Tringa totanus*) [A162] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Roseate Tern (*Sterna dougallii*) [A192] / Common Tern (*Sterna hirundo*) [A193] / Arctic Tern (*Sterna paradisaea*) [A194] / Wetland and Waterbirds [A999]

North Bull Island SPA (004006) - c. 11.4 km north east of the site.

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

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

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

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There are no surface water features within the site. The Royal Canal is located to the south of the site (c. 5 m) but there is no hydrological connection between the site and the Royal Cana.
- During the operational stage surface water from the proposed development will drain to an existing public surface water sewer at Ballyboggan road, which outfalls to the River Tolka. The River Tolka in turn drains to Dublin Bay coastal waters via the Tolka Estuary. The River Tolka has a WFD classification of 'poor' and 'at risk' (EPA Maps 2020). The surface water pathway creates the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay. During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system. During the operational phase clean, attenuated surface

water will discharge from the site to a public sewer in small and controlled volumes. (See Engineering Services Report, Outline Construction Management Plan and Hydrological Risk Assessment). The pollution control measures to be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor). I would draw the Boards attention to the fact that the submitted AA Screening Report concludes that “In the absence of construction management and pollution control measures, the potential impact on downstream European sites is uncertain and concludes that Stage 2 AA is required in respect of North Dublin Bay SAC (Site Code: 000206), North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA 004024)”. This conclusion is not supported by the submitted Hydrological Risk Assessment or other assessment submitted with the application. The HRA concludes that based on the possible loading of any hazardous materials during construction and operational phases and mitigation measures proposed there is no potential for impact on the local water environment. It is noted that the protection of downstream European sites do not rely on the proposed mitigation measures and that in the absence of the mitigations measures there would be no impact on water quality in the downstream European sites. I concur with the findings of the Hydrological Risk Assessment.

- The foul discharge from the proposed development would drain, via the public network, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. The total foul outfall volume is calculated at 63,332 l/day. There is potential for an interrupted and distant hydrological connection between the site

and sites in Dublin Bay due to the wastewater pathway. I consider that the foul discharge from the site is negligible in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. I would also note that the proposed development, if granted will supersede a previous industrial use on this vacant site.

- I would note the comments of IFI in relation to the capacity of the Ringsend WWTP. In this regard, I would note that the EPA is the competent authority in respect of issuing and monitoring discharge licences for the WWTP at Ringsend and the license itself is subject to the provisions of the Habitats Directive. Despite capacity issues at Ringsend WWTP Dublin Bay is classified by the EPA under the WFD 2010-2015 as being of 'unpolluted' water quality status. The 2019 AER for the Ringsend WWTP notes that discharges from the WWTP does not have an observable negative impact on the water quality in the near field of the discharge and in the Liffey and Tolka Estuaries. The pollutant content of future discharges to Dublin Bay is likely to decrease in the longer term due to permissions granted for upgrade of the Ringsend WWTP (2019). It is also an objective of the GSDS and all development plans in the catchment of Ringsend WWTP to include SUDS within new developments and to protect water quality in the receiving freshwater and marine environments and to implement the WFD objective of achieving good water quality status in Dublin Bay. On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

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

13.1.6. AA Screening Conclusion:

It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European site, in view of the sites' Conservation Objectives, and that Stage 2 Appropriate Assessment is not therefore required.

14.0 Recommendation

14.1.1. I recommend that permission be refused for the reasons and considerations set out below.

15.0 Recommended Draft Board Order

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 23rd day of June 2021 by Bartra Property (Broombridge) Limited, care of Thornton O'Connor Town Planning, No. 1 Kilmacud Road Upper, Dundrum, Dublin 14.

Proposed Development:

The development consists of a strategic housing development at a c. 0.637 ha. site at Tolka Industrial Park, Ballyboggan Road, Dublin 11, D11 HF57 (Vacant Site Register Ref. VS-0457). Works are also proposed to discharge wastewater and attenuated surface water via separate 225mm diameter pipe networks of approximately 100m length each to the public wastewater and surface water sewer

networks respectively, which are located at the junction with Ballyboggan Road, to the north of the development site. These works will be carried out on existing road carriageway, incorporating an area of c. 0.083 Ha. The development site area and drainage works areas will provide a total application site area of c. 0.72 Ha. The development will principally consist of: the demolition of the existing derelict warehouse structure (c. 1,084 sq m) and associated outbuildings (c. 417 sq m) and the construction of 142 No. apartments (64 No. 1 bed units, 71 No. 2 bed units and 7 No. 3 bed units) with ancillary residents' amenity/work hub (170 sq m) and a café/service unit (262 sq m). The development is principally provided in 2 No. blocks as follows: Block A to the north of the site will be 8 No. storeys in height and Block B to the south of the site will be part 8 – part 9 No. storeys in height.

The development will also include the provision of 28 No. car parking spaces (including 2 No. disabled parking spaces); a vehicular access and a secondary emergency vehicular access to the east of the site; a pedestrian/bicycle connection along the eastern boundary of the site from the Royal Canal towpath to the south to the access road to the east; bicycle parking; 1 No. motorcycle space; bin storage; balconies; external deck access; hard and soft landscaping; boundary treatments; green roofs; pv panels; plant (including at roof level); ESB substation; generator; lighting; and all other associated site works above and below ground. The total gross floor space of the development is 10,587 sq m and the total gross floor area of the development is 10,967 sq m.

The application contains a statement setting out how the proposal will be consistent with the objectives of the Dublin City Council Development Plan 2016-2022. The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

A Natura Impact Statement has been prepared in respect of the proposed development.

Decision

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

Matters Considered

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

16.0 Reasons and Considerations

1. The proposed development materially contravenes the policy considerations set out in Section 14.8.6 of the Development Plan, in particular having regard to the context of the site and its environs, which are zoned and in use as Z6 “Employment/Enterprise”, the primary objective of which is “to provide for the creation and protection of enterprise and facilitate opportunities for employment creation”. The policy context for the area, requires that other uses, such as residential, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective. The proposed development fails to satisfy this policy requirement. The Board is not satisfied that the provisions of section 37(2)(b) apply, and in that context, consider that the proposed development would be contrary to the proper planning and sustainable development of the area, and to the City Development Plan vision for this wider area as a place of enterprise and employment.
2. It is considered that the proposed development would be premature pending the completion of a review of Z6 zoning objective as part of the ongoing review of the Dublin City Development Plan and that a grant of permission in this instance would set an undesirable precedent for the ad hoc and piecemeal development of Z6 ‘Employment / Enterprise’ zoned lands that could prejudice the future regeneration of such lands in accordance with national and regional policy objectives to target significant future growth

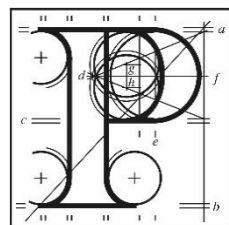
(housing and employment) into brownfield lands within the M50 corridor and along public transport corridors. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karen Kenny

Senior Planning Inspector

1st October 2021

17.0 Appendix I EIA Screening Form



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Application

A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-309657-21
Development Summary		<p>142 no. residential units (apartments), café and amenity area / work hub.</p> <p>Site at Tolka Valley Business Park, Ballyboggan Road, Dublin 11.</p>
	Yes/ No/ N/A	

1. Has an AA screening report or NIS been submitted?	Yes	AA Screening Report and NIS submitted with the application.	
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No		
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	Dublin City Development Plan 2016-2022 subject to SEA.	
B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			

<p>1.1 Is the project significantly different in character or scale to the existing surrounding environment?</p>	<p>Yes</p>	<p>The development comprises the construction of residential units, a café and ancillary uses on a brownfield site in the urban area of Dublin. The uses are consistent with land uses in the wider area. The building heights of up to 9 storeys are higher than that of surrounding industrial / warehousing units but are consistent with the scale of development in the wider area (e.g. Ashtown / Pelletstown LAP area to the west).</p>	<p>No</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>Such changes in land use and form are not considered to be out of character with the pattern of development in the surrounding urban area.</p>	<p>No</p>
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such urban development. There will be no significant loss of natural resources or local biodiversity as a result of the development.</p>	<p>No</p>

<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Requirement to remove area of contaminated land. Any impacts would be local and temporary in nature. The implementation of a final Construction Management Plan will satisfactorily mitigate any potential impacts. No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of urban construction sites. Requirement to remove area of contaminated land. Noise and dust emissions are likely during construction. Such construction impacts would be local and temporary in nature and implementation of a final Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be satisfactorily managed via a Waste Management Plan mitigating any potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>

<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risk identified. Positive impact by removal of existing soil contamination. Operation of a finalised Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no significant excavation proposed. The operational development will connect to mains water and drainage services.</p>	<p>No</p>
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a finalised Construction Management Plan and adherence to standard construction noise and vibrations ELV's. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>No significant emissions to water are anticipated. Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a final agreed Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>

<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. No Seveso / COMAH sites in the vicinity.</p>	<p>No</p>
<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in an intensification of use and an increase in population at this location. The development would will meet an identified accommodation demand in the city area.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>The proposed development is independent of other projects in the area with a different applicant and landowner.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p>	<p>No</p>	<p>There are no conservation sites located in the vicinity of the site. There is a potential pathway to sites in the inner section of Dublin Bay</p>	<p>No</p>

<p>1. European site (SAC/ SPA/ pSAC/ pSPA)</p> <p>2. NHA/ pNHA</p> <p>3. Designated Nature Reserve</p> <p>4. Designated refuge for flora or fauna</p> <p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		<p>(+5km) due to surface and foul discharges from the site that drain to the River Liffey. The proposed development will not result in significant impacts to any of these sites. Please refer to the AA Screening in section 13 above.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>No impacts on such species are anticipated. Refer to submitted Ecological Appraisal.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>No significant landscape, historic and archaeological items identified on site.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>		<p>No</p>

<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The development will implement SUDS measures to control surface water run-off.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>No evidence of issues in this regard.</p>	<p>No</p>
<p>2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>This brownfield site is served by the local and regional urban road network. Mainline rail runs to the south of the site but will not be impacted by the development. No significant additional traffic or congestion impacts are anticipated.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>No</p>	<p>No</p>

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

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

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned Z6 'Employment/ Enterprise' with an objective "to provide for the creation and protection of enterprise and facilitate opportunities for employment creation",
- (c) The pattern of development in surrounding area,
- (d) The availability of mains water and wastewater services to serve the proposed development,
- (e) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (a) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- (b) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Engineering Services Report, Construction Waste Management Plan, Construction Management Plan, Operational Waste Management Plan, Noise Assessment and Energy Report.

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

Inspector: _____ Karen Kenny

Date: 1st October 2021