



An
Bord
Pleanála

Inspector's Report ABP-310709-21

Development	Demolition of buildings and the construction of 2 no. two to eight-storey buildings containing 99 build-to-rent apartments and communal amenity space
Location	72 Beaumont Road and the Former Beaumont Drive-In, adjoining Beaumont Grove, Dublin 9
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2569/21
Applicant(s)	Urban Life (BMD) Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Urban Life (BMD) Ltd
Observer(s)	1. Angela Rushe 2. Hugh Rafferty 3. Seán Haughey

4. Mary Hehir
5. John Duddy
6. Mark Dawson and Anne Robinson
7. Aoife Spillane Hinks
8. Anne Cooney
9. Finola & Wayne Davies
10. PJ Gaughan
11. Mary Heffernan
12. Paul Salter
13. Elaine Brennan
14. Fergus Noonan
15. Bernadette and Patrick Magee
16. Edward Fitzsimons
17. Frank Cullen and Others
18. Seamus Connolly
19. Beaumont Residents' Association
20. Frances O'Dwyer
21. Carol Dempsey
22. Róisín Shortall

Date of Site Inspection

1st October 2021

Inspector

Colm McLoughlin

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	6
4.0 Planning History.....	9
5.0 Policy and Context.....	10
6.0 The Appeal	16
7.0 Assessment.....	23
7.1. Introduction	23
7.2. Development Principles	24
7.3. Urban Design and Visual Impact.....	28
7.4. Impact on Residential Amenities	42
7.5. Residential Amenities and Standards	55
7.6. Traffic and Transportation	62
7.7. Site Services	67
7.8. Other Matters	68
8.0 Appropriate Assessment.....	72
9.0 Recommendation.....	79
10.0 Reasons and Considerations	79
11.0 Conditions	82

1.0 Site Location and Description

- 1.1.** The appeal site has a stated area of 0.58ha and is located in the Whitehall / Beaumont area approximately 4.4km north of Dublin city centre, fronting onto a slip road off Beaumont Road and siding onto a tree-lined green verge along Beaumont Grove. On the southwest side it is occupied by a bungalow and associated outbuilding with an address at no.72 Beaumont Road. Beaumont Drive-In a former commercial retail premises occupies the centre of the site, with associated storage buildings along the northwest boundary and an expansive hardstanding area. The remainder of the site along the northeast side is comprised of unkempt green areas. The front and northeast side boundary are currently secured by a temporary security, while the remainder of the site is generally bounded by walls of varying heights.
- 1.2.** The surrounding area is primarily characterised by residential properties of varying eras, including two-storey semi-detached housing along Beaumont Road and Beaumont Grove, two-storey terraced housing along Ellenfield Road and Glencorp Road and three-storey apartment buildings along Grace Park Court. Ground levels on site generally drop in an easterly direction by approximately 1m over a 70m distance with a gradual drop in levels in a southeast direction in the surrounding area.

2.0 Proposed Development

- 2.1.** The proposed development would comprise the following elements:

 - demolition and removal of a 12m stretch of block wall onto the roadside boundary with Ellenfield Road, felling of trees and clearing of the site;
 - demolition and removal of a bungalow and outbuilding, as well as former commercial retail premises and associated storage buildings, with a stated total gross floor area (GFA) of 785sq.m;
 - construction of a two to eight-storey apartment block (A) containing 58 apartments, and a three to six-storey apartment block (B) containing 41 apartments, with build-to-rent status and a gross floor area (GFA) of 8,498sq.m, served by balconies or terraces. The 99 apartments would comprise 66 one-bedroom, 30 two-bedroom and three three-bedroom units,

- concierge, bin store and bicycle store at ground-floor to block A, plant, bin store and communal amenity facilities / work hub at ground-floor to block B, bicycle store and plant area at basement level to block B and 40 car parking spaces at semi-basement level adjacent to Block B;
- vehicular and pedestrian entrance off the slip road to Beaumont Road, new pedestrian access off Ellenfield Road, landscaping works throughout, public open space (2,598sq.m), including central pedestrian link between blocks A and B, communal open space measuring a stated 647sq.m accommodating a children's play area, and a second-floor roof terrace to block A (60sq.m);
- sedum roofs, public lighting, back-lit 2m-high totem sign along the front slip road boundary, underground attenuation tank, connections to all local services and realignment or removal of several existing underground services;
- the proposed development would provide ten 'Part V' social housing units at first-floor level to block A.

2.2. In addition to the standard documentation and drawings, the planning application was accompanied by various technical reports and drawings, including the following:

- Planning Report, including Community Audit;
- Photomontage booklet;
- Architectural Design Statement;
- Landscape and Visual Figures;
- Building Lifecycle Report;
- School Capacity Assessment;
- Childcare Demand Assessment;
- Build to Rent Justification Report;
- Appropriate Assessment Screening - Natura Impact Statement;
- Daylight, Sunlight and Overshadowing Study;
- Archaeological Assessment;
- Energy Statement;

- Outdoor Lighting Report;
- Urban Development and Building Heights;
- Townscape and Visual Impact Assessment, including Tree Survey Report;
- Landscape Management and Maintenance Plan;
- Mobility Management Plan;
- Flood Risk Assessment;
- Engineering Assessment Report;
- Outline Construction and Demolition Management Plan;
- Architectural Design Statement.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse to grant planning permission for the proposed development for two reasons, which can be summarised as follows:

- Reason 1 – excessive height, scale and massing of the development and overbearing impacts of blocks A and B on nos.9 and 23b Ellenfield Road;
- Reason 2 – poor access to communal open space from block A and unsatisfactory daylight for a significant number of proposed rooms.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation within the report of the Planning Officer (June 2021) reflects the decision of the Planning Authority and can be summarised as follows:

- the site was subject of pre-planning discussions for a strategic housing development;
- the principle of the proposed use relative to zoning objectives, as well as the removal of the vacant buildings on site, is acceptable;

- criteria set out under specific planning policy requirements (SPPRs) 1 and 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (2020) are applicable;
- the height and density of the development relative to the proximity to public transport and the established two-storey context is questionable, and the scale would not positively contribute to the streetscape, despite the contemporary appearance proposed;
- the removal of the boundary onto Ellenfield Road would support increased permeability in the area;
- the apartment floor areas, internal rooms, storage areas, unit mix, block configuration (core and corridor access), building entrances and size of private amenity spaces comply with the standards,
- 52% dual aspect units are identified, although seven of the units in block A would not appear to be genuine dual aspect units;
- a lower standard of 1.5% average daylight factor (ADF) is used in the applicant's assessment without rationale for using same, while 18 of the 119 tested rooms fail to meet this target and compensatory measures have not been set out;
- the terraces to ground-floor apartments in block A would be compromised by noise and activity associated with public open space;
- queries arise regarding the use of the roof garden to block A, while the courtyard over podium level serving as the main communal open space for residents would not be directly accessible from block A;
- the public open space to the front and side of block A would not provide functional useable space and the layout would result in a poor level of amenity for block A ground-floor residents;
- it would be preferable to maintain the group of Field Maple trees on the southeast corner;
- the development would provide 3sq.m of communal facilities per resident and childcare facilities within the area would adequately address any additional

demand for these services. Further information would be necessary regarding the capacity of existing schools in the catchment;

- the Roads, Streets and Traffic Department require further information regarding traffic, the ratio of car parking proposed and the security details for cycle parking;
- undue overlooking would not arise, but the proposals would have an overbearing impact on nos.9 and 23b Ellenfield Road, due to the proximity and height of blocks A and B relative to these houses;
- impacts on natural lighting to neighbouring houses would be within international standards, although clearer evidence is required with respect to the availability of sunlight to open space;
- it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

3.2.2. Other Technical Reports

- Roads, Streets and Traffic Department – further information requested regarding car parking, car club / share space and cycle parking;
- Engineering Department (Drainage Division) – further information requested regarding surface water interception and the need for a minimum 3m separation distance from the surface water sewer that is proposed to be diverted;
- City Archaeologist – no objection, subject to a condition requiring monitoring, testing and the preservation of archaeology;
- Parks, Biodiversity and Landscape Services – reservations with respect to the quality of public open space, the ease of access from block A to the communal open space, the loss of trees, the absence of a full arboricultural survey accompanying the application, the need for 70% green roofs and levels of natural lighting to the public open space;

- Environmental Health Officer – conditions recommended regarding air and noise monitoring during demolition and construction and the need for a Construction Management Plan.

3.3. Prescribed Bodies

- Minister for Housing, Local Government and Heritage – no response;
- Irish Water – no response.

3.4. Third-Party Observations

- 3.4.1. A total of 166 third-party observations were received by the Planning Authority during the consultation period for the application, all of which were submitted by residents of the appeal site area, local elected representatives and local residents groups. The issues raised are similar to those raised in the observations to the grounds of appeal and they are collectively summarised under the heading ‘Observations’ below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. According to the applicant and the Planning Authority, Strategic Housing Development (SHD) pre-application consultation meetings for a residential development on the site were undertaken between September 2020 and December 2020 under Dublin City Council (DCC) planning references (refs.) PAC0059/20 and PAC0090/20.
- 4.1.2. I am only aware of the following other planning application relating to this site:
- DCC ref. 0140/90 – following lodgement of an application in January 1990, permission was granted for a change of use from wholesale/storage use to retail storage and display area with provision for off-street car parking and a new vehicular access off the lay-by adjoining Beaumont Road.

4.2. Surrounding Area

- 4.2.1. Recent planning applications in the area are reflective of the urban character and the mix of uses within this area, including the following residential developments:

- ABP ref. 304061-19 – SHD granted by the Board in March 2019 for 101 social housing units in two to five storey blocks on a 2.1ha site located approximately 750m to the south of the appeal site at High Park, Grace Park Road;
- ABP ref. PL25N.241767 (DCC ref. 3638/12) – permission was granted by the Board in September 2013 for 68 two to three-storey terraced houses in the Thornwood development with an entrance located opposite the Beaumont Grove 20m to the east of the appeal site.

5.0 Policy and Context

5.1. National Planning Policy

Project Ireland 2040 - National Planning Framework

- 5.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP), which has recently been updated. The NPF encapsulates the Government’s high-level strategic plan for shaping the future growth and development of Ireland to the year 2040, and within this framework Dublin is identified as one of five cities to support significant population and employment growth. National policy objective (NPO) 3(b) aims to deliver at least half of all new homes within the existing built-up footprints of the five largest cities.
- 5.1.2. The NPF supports the requirement set out in the Government’s strategy for ‘Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)’, in order to ensure the provision of a social and affordable supply of housing in appropriate locations. Section 4.5 of the NPF addresses the achievement of infill and brownfield development, including NPO 11 supporting a presumption in favour of development encouraging more people and generating more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth. Further NPOs for people, homes and communities are set out under chapter 6 of the NPF. NPOs of relevance to this application include NPOs 13, 27, 33 and 35 relating to densification and compact urban growth.

Ministerial Guidelines

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

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

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

- Traffic Management Guidelines (Department of Transport, Tourism and Sport, 2019);
- Climate Action Plan (2021);
- British Standard (BS) EN 17037:2018 'Daylight in Buildings' (2018);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Permeability Best Practice Guide (National Transport Authority, 2015);
- Traffic and Transport Assessment Guidelines (Transport Infrastructure Ireland, 2014);

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

5.2. Regional Planning Policy

5.2.1. The ‘Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031’ supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government, by providing a long-term strategic planning and economic framework for the region. The following regional policy objective (RPO) of the RSES is considered relevant in this case:

- RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city and its suburbs, while a target of at least 30% is required for other urban areas.

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

5.3. Local Planning Policy

5.3.1. The appeal site and adjoining lands have a land-use zoning objective ‘Z1 - Sustainable Residential Neighbourhoods’ within the Dublin City Development Plan 2016-2022, with a stated objective ‘to protect, provide and improve residential amenities’. Permissible uses in ‘Z1’ areas include residential uses. There is a

requirement for 10% of 'Z1' lands that are to be developed to be provided as meaningful public open space, although this can be addressed via contributions in lieu of a shortfall in certain circumstances. The indicative plot ratio for developing 'Z1' lands is stated as 0.5 to 2.0, and a 45% to 60% indicative site coverage is also provided for in the Development Plan.

5.3.2. Under Policy QH1 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 5.1 above. Policy SC13 promotes sustainable densities with due consideration for surrounding residential amenities. The Plan includes a host of policies addressing and promoting apartment developments.

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

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.9 – Urban Form & Architecture;
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 16.2 – Design, Principles & Standards;
- Section 16.10 - Standards for Residential Accommodation;
- Section 16.38 – Car Parking Standards (Zone 3 – maximum of 1.5 spaces per residential unit) & Cycle Parking Standards (minimum of one space per residential unit).

5.3.4. Dublin City Council has recently prepared a Draft Dublin City Development Plan for the period 2022 to 2028. I note that the zoning objectives for the appeal site have not altered in the zoning maps accompanying this Draft Development Plan.

5.4. Natural Heritage Designations

5.4.1. The nearest European sites, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), comprise the following:

Table 1. Natural Heritage Designations

Site Code	Site Name	Distance	Direction
004024	South Dublin Bay and River Tolka Estuary SPA	2.7km	east
004006	North Bull Island SPA	4.5km	east
000206	North Dublin Bay SAC	4.5km	east
000210	South Dublin Bay SAC	5.6km	east
000199	Baldoyle Bay SAC	6.7km	northeast
004016	Baldoyle Bay SPA	7.2km	northeast
000202	Howth Head SAC	9.3km	northeast
000205	Malahide Estuary SAC	8.6km	northeast
004025	Malahide Estuary SPA	8.6km	northeast
003000	Rockabill to Dalkey Island SAC	10.0km	east
004117	Ireland's Eye SPA	11.1km	northeast
002193	Ireland's Eye SAC	11.3km	northeast
004113	Howth Head Coast SPA	12.0km	northeast
000208	Rogerstown Estuary SAC	12.9km	northeast
004015	Rogerstown Estuary SPA	13.2km	northeast

5.5. Environmental Impact Assessment - Preliminary Examination Screening

5.5.1. An Environmental Impact Assessment (EIA) screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001-2021 provides that mandatory EIA is required for the following classes of development:

- construction of more than 500 dwelling units;
- urban development that would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere. A 'business district' is defined as a district within a city or town in which the predominant land use is retail or commercial use.

5.5.2. It is proposed to construct 99 build-to-rent apartments. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 0.58ha and is located within an existing built-up area, but not in a business district. The site area is therefore well below the applicable threshold of 10ha for a built-up area. The site accommodates vacant residential and commercial buildings and is largely surrounded by residential housing. The introduction of a residential development would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage, and the proposed development is not likely to have a significant effect on any European Site (as concluded below under section 8 of this report). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or particular risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal.

5.5.3. Having regard to: -

- the nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001-2021;
- the location of the site on lands that are zoned 'Z1' for 'Sustainable Residential Neighbourhoods' providing for residential uses under the provisions of the Dublin City Development Plan 2016-2022, and the results of the strategic environmental assessment of the Dublin City Development Plan 2016-2022, undertaken in accordance with the SEA Directive (2001/42/EC);
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity;
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001-2021;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development',

issued by the Department of the Environment, Heritage and Local Government (2003), and;

- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2021.

5.5.4. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination an environmental impact assessment report for the proposed development would not be necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first-party grounds of appeal, which were accompanied by a revised set of architectural and landscape drawings, as well as a revised Daylight, Sunlight and Overshadowing Study, can be summarised as follows:

Process and Principles

- notwithstanding the extent of information provided with the planning application, as well as the various aspects of the development that the Planning Authority was satisfied with and did not object to, further information could have been requested;
- the Parks, Biodiversity and Landscape Services report was not available in preparing the appeal;
- the Board has the opportunity to allow for revisions to the scheme, as conditions in the event of a permission, and also to allow for another stage of public consultation;
- the revised scheme maintains the quantum of apartments, as well as building heights and footprints, although one of the two-bedroom apartments would be amended to form a one-bedroom apartment;
- the site would be suitable for a build-to-rent scheme, with this type of housing not available in the immediate area;

- a range of education, retail, sports/recreation and employment uses exist within approximately 1.2km of the site;

Building Height, Scale and Massing

- the site is only a 5-minute walk from bus route 14, which is a high-frequency service, and the density and height of the development would be acceptable in such circumstances;
- cycle times and routes to public transport should also be considered when considering the overall accessibility of the site for the subject development;
- maintaining a low-rise character to the area would not follow planning policy and the quality of the proposed development on a dilapidated fulcrum site would contribute positively to the character of the area;
- it is only the feature elements onto Beaumont Road that exceed the 16m Development Plan limitation and the proposals can be permitted, as they meet the requirements of paragraph 3.2 of the Building Heights Guidelines;
- the new link through the site would improve access from residential areas northwest of the site connecting to the bus route along the slip road, as well as improving access to Ellenfield Park;
- distinct streets and a hierarchy of open spaces would be formed adding to the visual amenities of this area, which is capable of absorbing the development without impacting access to light;
- site coverage, plot ratio and building heights continue to comply with the relevant standards and guidelines;

Impacts on 9 and 23b Ellenfield Road

- the setbacks, heights and positioning of the proposed buildings, as well as the landscaping proposals, would ensure that the proposed development would not have substantially greater impacts on neighbouring properties when compared with the existing buildings and mature trees on site;
- the proposed development would improve the amenities of nos.9 and 23b and the Planning Authority has noted that overlooking would not be an issue from

the balconies, nor would it be an issue from the amended balconies proposed in the revised scheme;

Open Space

- concerns with respect to open space could have been readily addressed in a further information response;
- a buffer can be provided fronting the terraces at ground floor to protect their amenity;
- the scheme has been amended to include replacing surplus area of public open space to the east side of the site with communal open space directly accessible from block A;
- while a contribution in lieu of a shortfall of public open space would be agreeable to the applicant, this would not be necessary given the extent of public open space proposed and the lighting that would be available to this space;

Average Daylight Factor to Apartments

- it was never the intention that the lighting standards for residential developments would be assessed on a pass/fail application basis;
- to improve lighting to the apartments, balconies have been staggered and apartment layouts have been amended with living room locations switched in the revised proposals;
- based on a worst-case scenario the testing of living/dining/kitchen rooms identified a substantive pass rate and where the 2% ADF requirement could not be met, mitigation measures are proposed;

Support Services

- an engineering response is provided to address matters raised by both the Engineering Department and the Roads, Street and Traffic Department;
- schools capacity is not a requirement of paragraph 3.2 to the Building Heights Guidelines, and such information is not available to private individuals, although schools in the area have been noted to be advertising enrolment

opportunities and demographic data points to declining enrolment numbers in the area;

- the ratio of car parking is similar to other recently permitted build-to-rent developments (ABP refs. 306987-20, Santry Place / Swiss Cottage, Swords Road and 306721-20, Bonnington Hotel, Swords Road) and the provision of 180 cycle parking spaces complies with the guidelines.

6.2. Observations

Observations were received from local residents, a residents' representative group and local-elected representatives. In conjunction with the third-party observations, the issues raised in these observations in relation to the proposed development can be collectively summarised as follows:

Development Principles

- the proposed development would be contrary to the proper planning and the sustainable development of the area and would contravene the zoning objectives for the site, while the building heights would breach Development Plan standards and Ministerial guidelines;
- alongside other permitted developments in the neighbouring area, the proposals would result in overdevelopment of the site with the proposed residential density excessive and unjustified for this area, which does not feature suitable support infrastructures, including public transport and employment;
- the height of the development is not justified by development of similar height in the area and the proposed development would set a poor precedent for similar scale development;
- the loss of a public green space and a shop would be to the detriment of the area and a cinema, library, music venue, health facility or an alternative form of housing would be a more appropriate and welcome use for the site;
- the assessment of the Planning Authority failed to fully consider concerns raised by third parties and the grounds of appeal fail to fully address the reasons for refusal;

Housing Typology

- proposals are absent of affordable housing, whereas family housing would be a more preferable housing typology for the area in planning for long-term housing needs;
- build-to-rent is not an appropriate housing tenure model, as it leads to a transient population, high rents and does not address local housing needs;
- build-to-rent would not be suitable for the area due to the existing supply and its implications for first-time buyers and social housing;

Impacts on Residential Amenities

- proposals, including a rooftop terrace, would result in overlooking of neighbouring properties, which would lead to a loss of privacy for residents in the immediate and surrounding streets;
- buildings would impact on daylight and sunlight to surrounding properties via overshadowing and would lead to overbearing impacts for neighbouring residents;
- views from windows would be blocked and increased security risks would arise;

Design, Layout, Scale and Visual Impact

- proposals would introduce monolithic, incongruous and poor-quality buildings into the area, which are not in keeping with the appearance, scale, low-level building heights and the established residential character of the surrounding area and streetscapes;
- the applicant has overstated the necessity for a landmark building or a gateway development on this site, which in any event does not need to feature tall buildings;
- the development layout does not feature sufficient building setbacks and the proposals would not integrate with the surrounding neighbourhood and would have a negative impact on the visual amenities of the area;
- proposals include several extensive blank elevations, while balconies would be likely to be used for storage and clothes-drying purposes;

- the locations for the photomontages in the visual impact assessment are misrepresentative and have been selected to suit the applicant's case;

Residential Development Standards

- the size of the units would not be appropriate for family living;
- the balconies serving the units are undersized and the apartments would not provide a suitable level of amenity for future occupants;
- building energy ratings could be impacted by altering the levels of natural lighting to apartments;

Access, Traffic and Parking

- there is no need to remove the boundary onto Ellenfield Road and create a through link, as this would lead to anti-social behaviour and a change in the character and amenities of Ellenfield Road and the surrounding streets, while the need for permeability through the site has been overstated,
- the proposals feature a shortfall in car parking, including electric-vehicle charging and visitor spaces, and would lead to increased traffic congestion in the area, as well as overspill parking in surrounding streets;
- proposals would lead to increased traffic safety issues in the surrounding streets and at the location of the proposed vehicular entrance;
- the applicant's traffic assessment and Mobility Management Plan are inadequate and they have underestimated the distance to Dart rail services, as well as other public transport options in the vicinity, which do not have available capacity;
- the development would create a de facto gated community;
- the concerns of the Planning Authority with respect to the quality and provision of open space are reasonable;

Support Services

- the proposed development alongside other neighbouring developments would place significant pressure on local schools, commercial services, health

services, amenities and environmental services, including water supply, which would not be capable of supporting the proposals;

- the applicant's schools and childcare capacity assessment does not adequately address the availability of these services;
- the applicant has provided an inaccurate portrayal of school places available;
- wastewater services in the area are pumped via pipes running through private properties to a main along Swords Road and clarity is required with respect to how wastewater would service the proposed development;

Construction Impacts

- proposals would potentially result in structural impacts for neighbouring properties as a result of the basement excavation works;
- the disturbance and disruption from the proposed site construction works, including noise and dust emissions, would impact negatively on neighbouring residents;

Environmental Matters

- proposals lack a landscape plan and trees on site have already been felled with a further loss of trees likely;
- proposals would impact on local ecology, biodiversity and neighbouring European sites, and a Natura Impact Statement should have been submitted;
- a watercourse that forms part of the River Wad catchment runs under the site and the development would present a flood risk;
- proposals would exacerbate light and other polluting emissions;

Other Matters

- details submitted with the application are misleading and inaccurate, including shadow diagrams, the site boundary, the application form details and the demolition proposals, while the submitted legal agreement is deficient;
- proposals would impact on property values in the area and contravene Article 1 of the Human Rights Act relating to the peaceful enjoyment of an individual's property;

- proposals would present increased security concerns for neighbouring residents and fire safety concerns;
- the applicant failed to consult or engage with the local communities.

6.3. Planning Authority Response

The Planning Authority's response to the grounds of appeal notes the changes to the apartment mix and the staggering of balconies, as well as the absence of changes to the overall building height, the number of apartments and the building footprints.

The Planning Authority wish to rely on their previous report in comprehensively justifying their original decision.

7.0 Assessment

7.1. Introduction

7.1.1. As part of the grounds of appeal, the appellant submitted revised proposals in response to the Planning Authority's reasons for refusal of planning permission. These revised proposals primarily replaced an area intended to form public open space, as an additional communal open space, as well as revisions to the apartment room layouts and revised elevation treatments to address internal lighting to the apartments. I will consider these revised proposals where relevant as part of my assessments below.

7.1.2. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Development Principles;
- Urban Design and Visual Impact;
- Impact on Residential Amenities;
- Residential Amenities and Standards;
- Traffic and Transportation;
- Site Services;
- Other Matters.

7.2. Development Principles

Land-Use Zoning Objectives

- 7.2.1. The application site and the adjoining developed lands have been assigned a land-use zoning 'Z1' within the Dublin City Development Plan 2016-2022 for 'sustainable residential neighbourhoods', with a stated objective 'to protect, provide and improve residential amenities'. The proposed development would comprise 99 residential units with ancillary communal facilities. This residential use is permitted in principle based on the land-use zoning objectives contained in the Development Plan and I am satisfied that it would provide for a sustainable use of the site, albeit at a more intense scale of development than the surrounding residential neighbourhood. The existing buildings on site that are proposed to be demolished, are not assigned a specific conservation status and in providing for a sustainable redevelopment of the site at the scale proposed, their removal would not be contrary to planning objectives.

Development Density

- 7.2.2. The proposed development would result in a residential density of 171 units per hectare. It would have a plot ratio of 1.5 and a site coverage of 31%, which is within the 0.5 to 2.0 indicative plot ratio and below the 45% to 60% site coverage normally allowed for in the Development Plan on 'Z1' lands in the outer city. The grounds of appeal assert that the quantum of development proposed would be acceptable based on the relevant standards and guidelines and as the site is accessible and proximate to various public transport services. Observers raise concerns in relation to the quantum of development proposed, asserting that the proposed development would result in overdevelopment of the site and an excessive scale and density of development relative to the surrounding character. The Planning Authority initially cited some concerns regarding the density of the development, but they did not decide to refuse permission for this reason.
- 7.2.3. Planning policy at both national and regional levels seeks to encourage higher densities in appropriate locations. The NPF seeks to deliver on compact urban growth and NPOs 13, 27, 33 and 35 of this framework seek to prioritise the provision of new homes at locations that can support sustainable development, while seeking to increase densities in settlements through a range of measures. The site is within

the Dublin MASP, as identified in the RSES, where consolidation of Dublin city and its suburbs is supported. Section 28 guidance, including the Sustainable Residential Development in Urban Areas Guidelines (2009), the 'Urban Development and Building Heights, Guidelines for Planning Authorities' (2018) (the 'Building Heights Guidelines') and the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2020) (the 'New Apartment Guidelines'), provide guidance in relation to areas that are suitable for increased densities. The Sustainable Residential Development in Urban Areas Guidelines (2009) promote minimum net densities of 50 units per hectare within 500m walking distance of bus stops and within 1km of light rail/rail stations. The New Apartment Guidelines define locations in cities and towns that are suitable for increased densities, with a focus on the accessibility of the site by public transport and the proximity of a site to city/town/local centres or employment locations. The New Apartment Guidelines state that 'central and / or accessible' urban locations are generally suitable for small to large-scale and higher-density development that may wholly comprise apartments. The Guidelines note that the scale and extent of development should increase in relation to proximity to core urban centres and public transport, as well as employment locations and urban amenities. Policy SC13 of the Development Plan promotes residential densities that facilitate the creation of sustainable neighbourhoods and the Plan also encourages development at higher densities, especially in public transport catchments.

- 7.2.4. The site is approximately 150m from a designated local neighbourhood centre on Shantalla Road, as well as being within 1km and 1.2km from the significant employment centres of Beaumont hospital, Omni Park Shopping Centre and Dublin City University. The nearest bus stops are located on the slip road directly fronting the site and 75m to the northeast and to the south of the site along the opposite side of Beaumont Road, serving Dublin Bus routes 14, 14c, 16 and 16c connecting with the city centre and other amenities. At present, according to the respective bus timetables, these nearest bus stops feature urban bus services at least every ten to 15 minutes during peak hours, when collectively considering the bus services. Observations to the grounds of appeal query the reliability of the traffic and transport information provided with the application and appeal, asserting that there are constraints in the service capacity and access to public transport in the vicinity.

Notwithstanding this, I am satisfied that the information available reveals that the site is within walking distance of significant employment centres and high-frequency urban bus services and is, therefore, within a 'Central and Accessible Urban Location' based on the definitions provided within the New Apartment Guidelines.

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

Housing Tenure

- 7.2.6. The additional supply of new housing is welcomed by several observers to the application and appeal, although it is asserted that an alternative housing tenure, a reduced quantum and a more family-friendly mix of housing should be provided. Build-to-rent status has been sought as part of the application and in response to the grounds of appeal observers assert that such a housing tenure would not be suitable for the area, as it would not meet long-term local housing needs, as it would serve a transient population and as it would impact on housing supply.
- 7.2.7. Rebuilding Ireland – Action Plan for Housing and Homelessness 2016 identifies five pillars for action, including pillar 3 increasing the output of private housing to meet demand at affordable prices and pillar 4 to improve the rental sector. The key objective of pillar 4 is addressing obstacles to greater private rented sector delivery and improving the supply of units at affordable rents. Key actions of this pillar include encouraging build-to-rent residential schemes with additional amenities required to be provided for residents under the terms of the New Apartment Guidelines. Within section 7.5 below I consider the adequacy of the additional amenities required to serve future residents.

- 7.2.8. The immediate area to the appeal site is dominated by three to four-bedroom housing and apartments within Grace Park Court. In response to section 16.10.1 of the Development Plan, which requires an appellant to show that an overconcentration of build-to-rent apartments do not exist in the area of a proposed development, the appellant has submitted a Build to Rent Justification report with their application. The appellant identifies the closest permitted build-to-rent developments, including permissions relating to the Bonnington Hotel (ABP ref. 306721-20), approximately 1km to the southwest of the appeal site, and relating to Santry Place / Swiss Cottage, Swords Road (ABP ref. 306987-20), approximately 1.2km to the north of the site. I am not aware of other permitted build-to-rent schemes closer to the site and based on the information available an overconcentration of this housing typology is not evident in the immediate vicinity of the appeal site. The appellant has also submitted a proposed covenant or legal agreement with their application, in compliance with SPPR 7(a) of the New Apartment Guidelines.
- 7.2.9. Accordingly, there is clear policy supporting the provision of this type of housing, which does not appear to be excessively concentrated in this location and I am satisfied that the proposals would add to housing options in this area. In the event of a grant of planning permission for the development, conditions can be attached to require the submission of a finalised covenant or legal agreement confirming the housing tenure, as well as ownership details and management structures.
- 7.2.10. Given the number of units proposed and the size of the site, the appellant is required to comply with the provisions of Part V of the Planning and Development Act 2000, as amended (the Act), which aims to ensure an adequate supply of housing for all sectors of the existing and future population. Appendix 2A of the Development Plan addresses the supply of social housing in the city and requires 10% of units on all residential zoned land to be reserved for the purpose of social housing. The recent Housing for All Plan and the associated Affordable Housing Act 2021 require a 20% Part V requirement for land subject to planning permission. There are various parameters within which this 20% requirement operates, including dispensations depending on when the land was purchased by the developer.
- 7.2.11. The appellant has submitted Part V proposals that comprise the provision of ten apartments (10%) in the scheme to Dublin City Council in a mix of 8 one-bedroom

and two two-bedroom units, all at first-floor level within block A to the development. Correspondence submitted by the appellant from the Planning Authority's Housing Division confirms that the Council's preference is to acquire Part V units on site, although they have not stated whether it is proposed to rent or purchase these units. In the event that the Board decides to grant planning permission for the proposed development, a condition can be included with respect to Part V units to ensure that the most up-to-date legislative requirements will be fulfilled as part of the development.

- 7.2.12. Build-to-rent status has been sought as part of the application, therefore, there is not a requirement to regulate investment in the proposed units, as apartments are exempt from the restrictive ownership condition based on the 'Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities' (Department of Housing, Local Government and Heritage, 2021).
- 7.2.13. In conclusion, I am satisfied that the proposed development would help to provide a supply of housing for all sectors of the existing and future population, as well as facilitate the development of a strong, vibrant and mixed-tenure community in this location.

7.3. Urban Design and Visual Impact

- 7.3.1. The Planning Authority's first reason for refusal to grant planning permission refers to the height, scale and massing of the proposed development being excessive. As part of their grounds of appeal, the appellant did not amend the proposals to address these issues, as they assert that the development would have positive benefits for the area, as well as meeting relevant Development Plan and planning guidance criteria. The vast majority of the observations to the application and appeal raise concerns regarding the scale and height of the proposed development relative to the low-rise established residential character of the immediate and surrounding areas.

Layout

- 7.3.2. Section 16.2.1 of the Development Plan addressing 'Design Principles', seeks to ensure that development responds to the established character of an area, including building lines and the public realm. The proposed development seeks permission to demolish the existing buildings on site and to construct development primarily

comprising two apartment blocks of two to eight storeys in height, generally following the alignment of housing along Beaumont Road and Ellenfield Road and creating a central walkway through the site between Ellenfield Road and Beaumont Road alongside landscaped public amenity areas. Vehicular access to a semi-basement level car park and open pedestrian access is proposed along the front boundary on the slip road that connects Beaumont Road with Grace Park Court. The communal gardens and amenity areas would be secured by railings and a gate.

- 7.3.3. The appellant has provided an Architectural Design Statement to attempt to provide a rationale for the design, layout and scale of the proposed development. Section 4 of the appellant's Architectural Design Statement sets out how the detailed design of the scheme meets the principles of the Urban Design Manual. The layout for the proposed development would appear to be largely dictated by the location of existing housing, the provision of a strong urban edge along the slip road to Beaumont Road, the provision of a pedestrian link, the concealing of ancillary facilities, such as car parking, and the alignment of a services wayleave on the north-eastern boundary. The position of the proposed building lines onto the link follow the building lines along Ellenfield Road to the north, while the building line along the slip road generally follows the alignment of building lines to the northeast and southwest along Beaumont Road and Grace Park Court
- 7.3.4. Observers assert that the link into Ellenfield Road should not be provided for as this would change the character of this street and surrounding streets, while also serving to increase anti-social behaviour. The appellant provides extensive rationale for the new link through the site, including the benefits in improving access to recreational facilities within Ellenfield Park, as well as public bus services in the vicinity. The Planning Authority did not object to this aspect of the proposals, noting that it would increase permeability in the area.
- 7.3.5. The pedestrian link would be overlooked by residential properties and while it would clearly increase pedestrian movements through Ellenfield Road, the provision of this route would support Development Plan policy MT11 by implementing increased permeability within the area, as well as supporting the principles contained within the National Transport Authority 'Permeability Best Practice Guide' (2015). The existing paths in the area have capacity to allow for the safe movement of pedestrians and the proposed link would provide for increased connectivity with other walking routes,

as well as the various services in the area. Consequently, I am satisfied that the provision of this pedestrian link would support planning policy and would not be detrimental to the safety and amenities of neighbouring residents or the character of the area.

- 7.3.6. I consider the proposed block arrangement to be an appropriate design response for the site, including the stepped building arrangement. There is a clear relationship between the blocks and neighbouring buildings, a hierarchy of open spaces would be overlooked and a reasonable setback from neighbouring residential properties closest to the site boundaries. The carriageway to Beaumont Road measures between 20m and 30m in width fronting the appeal site and it is along this frontage that the appellant has proposed the tallest building elements. The layout would provide for an urban edge along the slip road and Beaumont Road alongside increased activity onto this open frontage. Public lighting details have been submitted and a report identifying likely illumination levels relative to the lighting stands proposed to be used.

Public Open Space

- 7.3.7. Section 16.10.3 of the Development Plan states that ‘the design and quality of public open space is particularly important in higher density areas’. There is a requirement in the Development Plan for 10% of ‘Z1-zoned’ lands to be provided as meaningful public open space in development proposals. The appellant initially asserted that 2,598sq.m of public open space comprising outdoor seating areas and pedestrians walkways would be provided within the development. The report from the Parks, Biodiversity and Landscape Services Section of the Planning Authority asserts that only the pedestrian plaza link through the site and along Beaumont Road would provide countable public open space, although there would be scope to address any shortfall in public open space provision on site via financial contributions given the site context relative to Ellenfield Park. As part of the grounds of appeal, the appellant amended the open space arrangements to only use the pedestrian link and the interface with Beaumont Road as public open space. The ‘Open Space Provision Plan’ (L-203-6915 June 2021) identifies the revised open space areas on site amounting to 1,243sq.m or approximately 21% of the overall site. The minimum quantum of public open space would, therefore, be achieved. The Planning Authority questioned the provision of natural lighting at the northern end of the link

route, as well as the wider availability of access to the communal space, and I address these matters further below under section 7.5.

Architectural Details, Materials and Finishes

- 7.3.8. The proposed buildings would feature a palette of finishes, primarily comprising of three brick types, metal cladding and glass balustrades. While buildings in the vicinity do not feature extensive brick finishes, I am satisfied that the proposed use of brick would provide a robust, low maintenance and long-lasting finish to the buildings. The variety of brick finishes and stepped block modulation, would also break up the bulk of the buildings and reduce the visual impact of the development. There is variety in the scale and a consistency in the rhythm and proportions of the buildings, which are of contemporary design. The detailing and materials are generally durable and of a high standard, including the hard landscaping finishes, and the final detail of materials, can be addressed via condition in the event of a grant of permission for the development.
- 7.3.9. The appellant also refers to images of ornate brick finishes, which would articulate and break up the appearance of the buildings, however, I have not been able to identify where such finishes would be undertaken. This is pertinent given the absence of features to break up the three-storey gable ends of both proposed blocks facing northwest onto Ellenfield Road. This visual impact is not immediately apparent from the drawings submitted (nos. 1953.PA.203 and 1953.PA.207) owing to the obstructed context provided by landscaping and existing buildings and I would not be satisfied that the provision of three-storey blank gables with depths of approximately 18m would provide an appropriate elevation treatment for blocks A and B facing Ellenfield Road. While the existing houses would to an extent reduce visibility of the gable ends to these buildings, these gables should be refined to incorporate features such as variable, inset or ornate brick to break up the overall appearance and expanse of these gable end elevations. In the event of a grant of planning permission for the proposed development, a condition to address this should be attached. Scope for landscaping along the boundary to soften the appearance of these gables further would be limited by virtue of the proposed position of underground services.

Visual Impact Assessment

- 7.3.10. The Development Plan does not identify any protected views or landscapes of value effecting the site. The Planning Authority's reason for refusal of permission refers to the building heights, scale and massing detracting from the visual amenities of the area and the observations to the grounds of appeal raise concerns regarding the visual impact of the development on the character of the area. The appellant asserts that the design of the proposed development would add a fulcrum landmark building of visual interest within the established low-rise residential area and the scale of the development would be appropriate having regard to the stepped building heights and the immediate context. A Townscape and Visual Impact Assessment (TVIA) and a booklet of photomontages accompanied the application. Revised contextual elevations and sections, accompanied the appeal, each illustrating the proposed development within its current context. I acknowledge that the TVIA and photomontages were not updated as part of the revised proposals submitted with the grounds of appeal, which included drawings amending the elevations via alterations to the positioning and size of balconies and windows.
- 7.3.11. I have viewed the site from a variety of locations in the surrounding area. I am satisfied that photomontages of the development submitted, provide a reasonably accurate portrayal of the completed development alongside the proposed and maintained landscaping. The following table 2 provides a summary assessment of the likely visual change arising from the proposed development from each of the four short-range viewpoints assessed in the TVIA.

Table 2. Viewpoint Changes

No.	Location	Description of Change
1	Beaumont Road – 75m northeast	All storeys to blocks A (eight-storeys) and B (six-storeys) visible along Beaumont Road with some screening via mature street trees. I consider the magnitude of visual change to be medium / high in the context of the receiving urban environment.
2	Beaumont Road – 105m south	Upper-levels of block B (stepping up to six-storeys) visible over landscaping and all storeys to block A (eight-storeys) visible along Beaumont Road. I consider the magnitude of

		visual change to be high in the context of the receiving urban environment.
3	Ellenfield Road – 140m northwest	Upper-levels of block A (stepping up to eight-storeys) and block B (stepping up to six-storeys) clearly visible over two-storey housing lining Ellenfield Road. I consider the magnitude of visual change to be medium / high in the context of the receiving urban environment.
4	Beaumont Grove – 30m east	Short-range view with little discernible difference visible along the streetscape due to the depth of tree cover to the verge running along Beaumont Grove. I consider the magnitude of visual change to be low in the context of the receiving urban environment.

7.3.12. In the immediate area, the proposed buildings would be most visible from the public realm and the housing along Beaumont Road, Grace Park Court, Thornwood, Beaumont Grove, Ellenfield Road and Glencorp Road. Intermittent views of the higher building elements would only be available along some stretches of these streets. Existing mature boundary planting would substantially impede views of the development from Ellenfield Park to the north. The development would be viewed from Beaumont Road and Ellenfield Road as a substantial insertion into the cityscape. Environmental conditions would also influence the appearance of the development from the viewpoints with screening by mature trees varying throughout the seasons.

7.3.13. The grounds of appeal assert that the proposed scale is appropriate, because in developing the site the maintenance of the low-rise character of the area would not follow planning policy and as the proposed landmark development would contribute positively to the character of the area.

7.3.14. The photomontages assessed in the TVIA are taken from short-range viewpoints only and it would have been more preferable to have been provided with additional unobstructed viewpoints along Beaumont Road, in particularly directly fronting the site and at the entrance to Thornwood, which was identified as a key view (3) in the appellant's Architectural Design Statement, and also at the entrance to the pedestrian link from Ellenfield Road. While the submitted photomontages do not address medium to longer range views, such views would nonetheless be limited

due to the minor changes in ground levels, as well as the visual obstructions of built structures and topographical features. Where discernible from long ranges, the proposed development would read as part of the wider urban landscape. The impact on the outlook from neighbouring houses is considered separately in Section 7.4 below.

- 7.3.15. The proposed development represents a substantial increase in height and scale relative to the existing low-rise established residential developments in the immediate surrounding vicinity. I am satisfied that the stepping of the heights from three storeys initially where closest to neighbouring two and three-storey buildings and subsequent increase in height onto the central pedestrian link would provide an appropriate response in the transition of proposed building heights. Furthermore, the lower floors onto the slip road to Beaumont Road respond well to the primacy of the route, and provide a positive contribution to the creation of a new streetscape. Notwithstanding this, the transition of block A to seven and eight storeys would result in an excessively dominant development situated amongst a swathe of established low-rise housing in the immediate and wider Whitehall / Beaumont area. The revised Site Sections sheets 1 and 2 (drawing nos.1953.PA.050 and 051 Revision B) submitted with the grounds of appeal best illustrate the prominence of block A relative to immediate context, which is in stark contrast to the attributes of the receiving urban environment.
- 7.3.16. While the baseline appearance and condition of the site does not contribute in a positive manner to the appearance of the area, given the developing urban context, planning policy and the zoning for the site, some level of visual change would not be unexpected as part of the redevelopment of the site, including new buildings of greater height than the surrounding buildings. However, the visual change provided by an eight-storey block would appear to be significantly at odds with the immediate context, which does not feature buildings of similar height, and this is compounded by the prominent position of the proposed eight-storey element.
- 7.3.17. The appellant's Architectural Design Statement refers to precedent cases for similar-scale contemporary buildings, in order to provide some justification for the subject proposals, however, I note that these do not appear to feature low-rise residential urban contexts, or they relate to much larger development sites. While the proposed development would provide some enhancements and positive impacts to the

appearance of the area, the height of block A would result in the proposed development unduly dominating the wider character of the area. For the proposed development not to have a severe adverse effect on the character of the area, I am satisfied that a condition would need to be attached to a grant of permission requiring a reduction in the height of block A.

7.3.18. In conclusion, subject to a condition to address the prominence of block A, I am satisfied that the visual impact of the proposed development, would not be unduly obtrusive or detract from the character of the area and the visual change arising from the proposed development would be appropriate for the area. Further consideration of the appropriateness of the building heights is provided directly below.

Building Heights

7.3.19. A key concern of third-party observations, relates to the proposed building heights. The application and appeal documentation provide the appellant's justification for the proposed building heights, including reference to those building elements at the interface with Beaumont Road only exceeding the Development Plan standards.

7.3.20. The existing buildings on site are stated to have maximum heights of 6m to 7m. The proposed development ranges from two to ten-storeys with block A the highest with a stated maximum building height of 28.6m. Block B would have a maximum height of 22m. The site is not in a location specifically identified in the Development Plan as being suitable for mid-rise or high-rise development and section 16.7.2 of the Development Plan sets 16m as the maximum height permissible for residential buildings in this low-rise area of the outer city. Plant, flues and lift overruns are excluded from the height considerations. Given that the proposed building height substantially exceeds the height of the existing structures on site, as well as the 16m height limitation recommended for this area, I am satisfied that it can be considered to materially contravene Development Plan policy on building height.

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

- (i) the proposed development is of strategic or national importance;
- (ii) there are conflicting objectives in the Development Plan or the objectives are not clearly stated, insofar as the proposed development is concerned;

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

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

7.3.22. The Building Heights Guidelines state that it is Government policy that building heights must be generally increased in appropriate urban locations. Therefore, there is a presumption in favour of buildings of increased height in town and city cores, and in other urban locations with good public transport accessibility. As outlined above, the proposed development is higher than the prevailing two to three storey buildings in the area. In pursuit of the Guidelines, Section 3.1 requires Planning Authorities to apply the following broad considerations when assessing development proposals for buildings that are taller than prevailing building heights in urban areas:

- does the proposal positively assist in securing NPF objectives of focusing development into key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?
- is the proposal in line with the requirements of the Development Plan in force and such a plan has taken clear account of the requirements set out in Chapter 2 of the Building Heights Guidelines?
- where the relevant Development Plan or Local Area Plan pre-dates these Guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant Plan or planning scheme does not align with and support the objectives and policies of the NPF?

7.3.23. The proposed development is consistent with objectives 13 and 35 of the NPF, which encourage increased scale and densities in settlements, as addressed in section 7.2 above. The Development Plan and the policies and standards contained therein predate the issuing of the Building Heights Guidelines.

- 7.3.24. The Building Heights Guidelines provide clear criteria to be applied when assessing applications for increased height, including SPPR3(a), which provides that where an application for planning permission sets out how a development proposal complies with the criteria in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters set out in the NPF and the Building Heights Guidelines, then permission for such development can be granted, even where specific objectives of the relevant Development Plan may indicate otherwise. The appellant has provided various statements to set out compliance with SPPR3(a) of the Building Heights Guidelines, including reference to recently permitted housing developments of between 18m and 40m building heights in neighbouring Dublin city areas, as well as statements specifically addressing the proposed building heights within a Planning Report, an Architectural Design Statement, an Urban Development and Building Heights Report and in the grounds of appeal.
- 7.3.25. I am satisfied that the proposal positively assists in securing NPF objectives to focus development into key urban centres, fulfilling targets related to brownfield, infill development and to deliver compact growth in our urban centres. In principle, I am satisfied that there is no issue in principle with the height in terms of compliance with national policy, therefore the issue of height should be considered in the context of SPPR3(a), which refers to the criteria in section 3.2 of the Building Heights Guidelines, as per table 3 below.

Table 3. Assessment against criteria in section 3.2 of the Building Heights Guidelines

Section 3.2 Criteria	Assessment
<u>At the scale of the relevant city/town</u>	
The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.	Bus stops featuring high frequency services are situated within 75m from the site (Dublin Bus routes 14, 14C, 16 and 16C)
Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm	The visual impact assessment above concludes that the proposed development in this urban area would not be unduly obtrusive or detract from the character of the wider area, albeit subject to a reduction in the height of

<p>of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.</p>	<p>block A. No protected views, ACA, or other architectural/visual sensitives apply.</p>
<p>Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</p>	<p>TVIA, including photomontages, carried out by suitably qualified practitioners was submitted with the application.</p>
<p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities, but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</p>	<p>This is not a large urban redevelopment site, but it would feature a new pedestrian link and public space, which would contribute positively to place-making. Proposals also provide for a sustainable residential density within the Dublin MASP, close to public transport. Buildings heights and massing are varied, although based on the visual impact assessment undertaken above, a reduced building height for block A would be necessary in order to respond more appropriately to the scale of neighbouring housing.</p>
<p><u>At the scale of district/ neighbourhood/ street</u></p>	
<p>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape</p>	<p>Building heights stepping down along the most sensitive boundaries would provide a reasoned response to the existing built environment, however, key to the development responding to the surrounding built environment, on the basis of the visual impact assessment above, a reduction in the height of block A would be necessary. Subject to achievement of this, the proposed development would contribute positively to the appearance of the area, while also providing additional public space for the neighbourhood.</p>

<p>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered</p>	<p>The design comprises two blocks ranging in height from two to eight storeys with the block arrangement considered to be reasonably well considered, subject to conditions addressing the appearance of the northwest gable ends to the blocks and a reduced height for block A.</p>
<p>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).</p>	<p>A strong urban edge to the key thoroughfare, Beaumont Road, would be created by the lower floors. The site does not currently contain key public spaces, but would create a key thoroughfare via the new pedestrian link, which would be at an appropriate scale, overlooked from the apartments and with a sense of enclosure.</p> <p>The requirements of ‘The Planning System and Flood Risk Management – Guidelines for Planning Authorities’ (2009) have been addressed in the appellant’s Flood Risk Assessment and complied with.</p>
<p>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner</p>	<p>I am satisfied that the proposed development makes a positive contribution to the legibility of the area, particularly via the link connection, which would integrate cohesively with the adjoining street network. An even more cohesive development would be formed via a reduction in the height of block A.</p>
<p>The proposal positively contributes to the mix of uses and/ or building / dwelling typologies available in the neighbourhood.</p>	<p>The proposed development comprises one, two and three bedroom build-to-rent apartments, and would, therefore, expand the provision of smaller unit typologies in this area, which is primarily comprised of larger housing units and does not feature an overconcentration of permitted build-to-rent units.</p>

<u>At the scale of the site/building</u>	
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.	A stepped building height, extensive use of glazing and floor to ceilings greater than the minimum required is proposed in the development to address the levels of lighting within the development and to neighbouring properties, which I assess in detail in sections 7.4 and 7.5 below.
Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's (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'	As per sections 7.4 and 7.5 below, appropriate and reasonable regard to the standards contained in the BRE 'Site Layout Planning for Daylight and Sunlight' and BS 8206-8 2008 has been undertaken. It is concluded that the amenity of neighbouring residents and future development occupants would be satisfactorily addressed and maintained with the development in place.
To support proposals at some or all of these scales, specific assessments may be required and these may include: Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered	Specific impact assessment of the micro-climatic effects are not considered necessary at the scales proposed.
In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision	Information provided and available does not reveal the site to support sensitive bird or bat areas, to be proximate to such areas or to pose a threat to these species via collision.

An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links	The proposals would not comprise tall buildings in this context.
An assessment that the proposal maintains safe air navigation.	Not tall buildings in this context, as outside of Dublin Airport Public Safety Zone, located approximately 1km to the northeast.
An urban design statement including, as appropriate, impact on the historic built environment	Urban design is addressed within the appellant's Architectural Design Statement. There are no known historic built environment features on site or in the immediate adjoining area.
Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.	SEA not required/applicable. AA screening report/NIS has been submitted.

7.3.26. Having regard to the assessment above, subject to a reduction in the height of block A, I consider that the above criteria have been addressed in the application and are appropriately incorporated into the development proposals, and on this basis that SPPR3(a) of the Building Heights Guidelines can be applied. As noted above, I have no issue with the transition in the building height for block B, which features six storeys. Accordingly, I would not have any reservations if block A was to feature six storeys, which would require the omission of the sixth and seventh floors to block A, and would result in block A having a maximum building height of 20.8m over immediate ground level. Having reviewed the various revised drawings and images submitted with the application and appeal, I am satisfied that this could be readily achieved and would provide for an appropriate design, height and scale, including building modulation, for the proposed development, while supporting sustainable redevelopment of the site.

7.3.27. The proposed development at the scale proposed is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase the delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 and to facilitate the

achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment. Accordingly, I am satisfied that the provisions set out under section 37(2)(b)(i) of the Act are applicable with respect to the material contravention of the development relative to the building height standards contained in the Development Plan.

- 7.3.28. In relation to section 37(2)(b)(iv) of the Act, I note that since adoption of the Development Plan, the Board has approved a 22m-high building at the Bonnington hotel on Swords Road (ABP-306721-20), approximately 1km to the southwest of the appeal site, as well as a 40m-high building at the Omni Park Shopping Centre (ABP-307011-20) and a 24m-high building at Swiss Cottage (ABP-306987-20) both approximately 1.2km to the northwest in Santry. Each of these sites in the wider area have similar Development Plan height restrictions to the appeal site. The proposed development is continuing on that pattern of development.
- 7.3.29. Should the Board be minded to invoke the material contravention procedure, as relates to Development Plan objectives pertaining to building heights, I consider that with the attached of a condition to omit the top two floors to block A, the provisions of Section 37(2)(b)(i), (iii) and (iv) have been met with respect to the proposed building heights. In this regard I am satisfied that the Board can grant permission for the proposed development.

Conclusion

- 7.3.30. In accordance with the principles set out in the Development Plan, the Urban Design Manual, the Building Heights Guidelines and the NPF, subject to conditions, I am satisfied that the overall layout, height, massing and design of the scheme would provide a logical, practical and legible response in redeveloping this site from an urban design perspective, particularly considering the primary site development constraints and the site context.

7.4. Impact on Residential Amenities

- 7.4.1. When considering applications for development, including those comprising apartments, the Development Plan requires due consideration of proposals with respect to the potential for excessive overlooking, overshadowing and loss of sunlight or daylight. The second part of the Planning Authority's first reason for

refusal to grant planning permission refers to the positioning of blocks A and B relative to nos.9 and 23b Ellenfield Road, which they consider would result in overbearing impacts for residents of these properties. In response to the grounds of appeal numerous third parties raise concerns in relation to the impact of the proposed development on existing gardens and houses, due to overshadowing and overbearing impacts, reduced sunlight and daylight and excessive overlooking resulting in a loss of privacy. The amenities of future residents of the proposed development are considered under section 7.5 below, therefore, this section solely focusses on the amenities of neighbouring residents and properties.

- 7.4.2. The nearest proposed residential buildings are nos.9 and 23b Ellenfield Road on the northeast boundary, the two to three-storey apartment buildings known as Laragh and Ashley to the southwest in Grace Park Court, nos.67, 69, 71, 73, 75, 77, 79 and 81 Beaumont Road opposite the site to the southeast, nos.78, 78a and 80 Beaumont Road and nos.19, 20, 21 and 22 Beaumont Grove. The setback distances from the proposed blocks to the closest elevations of neighbouring properties are annotated on the appellant's revised proposed site plan drawing (no.1953-PA-003 Rev B). Ground levels generally drop slightly moving southeast across the site and in the immediate area. Proposed building heights step upwards moving in a southeast direction towards Beaumont Road, with various building heights noted on the drawings submitted.
- 7.4.3. The eight-storey element of block A would be the tallest of all proposed structures on site with a roof parapet height 28.6m above immediate ground level and a surveyed level at approximately +69.8m, stepping down to 7.6m in height for the two-storey element on the east elevation and stepping down to 11m in height for the three-storey element situated approximately 3.4m to 7m from the boundary with no.23b Ellenfield Road. No.23b features rear projections and an 8m-high roof ridge level at +50.3m. Block B would feature a maximum roof parapet height of approximately 22m above the immediate ground level onto Beaumont Road with a +62m surveyed level. Block B would also step down to approximately 11m in height for the three-storey rear element, which would be approximately 2.6m to 7.6m from the boundary with no.9 Ellenfield Road. No.9 features rear projections and an 8m-high roof ridge level at a surveyed level of +49.4m. The development also features a raised communal open space sitting above the semi-basement level car park and this

structure would be approximately 2.7m on average from the northern and western site boundaries.

- 7.4.4. The gable ends to Laragh and Ashley apartment blocks facing the appeal site feature windows that do not appear to serve living rooms. Elevation drawing no.1953.PA.206 (Rev B) illustrates the relationship between these existing residences and the proposed blocks. The Ashley two-storey block would be closest of these blocks to the taller proposed elements of block B, with a separation distance of 21.5m to the proposed six-storey element of block B and a 6m separation distance to the three-storey element of block B.
- 7.4.5. The public road and front gardens separate the nearest properties along Beaumont Road and Beaumont Grove from the appeal site. The six to eight-storey sections of blocks A and B would maintain a minimum setback of 41m from the front elevation of the two-storey houses to the southeast along Beaumont Road and a minimum setback of 27m from the front gardens of these properties.
- 7.4.6. The three-storey section of block A closest to the northeast boundary with Beaumont Grove would maintain a minimum stated setback of 22.7m from the two-storey side elevation of no.78 Beaumont Road, which does not appear to feature living room windows in this elevation, and a minimum setback of 24.5m from its private rear garden. Separation distances from the proposed six-storey and eight-storey sections of block A to no.78 would increase by 4.5m and 9m respectively. A stated separation distance of 31m would be provided between block A and the bungalow at no.78b Beaumont Road, which is accessed off Beaumont Grove.
- 7.4.7. Arising from the appellant's tree survey report, which is appended to the TVIA, the appellant's landscape proposals drawing (no.6915-L-201) illustrates that the existing mature trees along the verge to Beaumont Grove, mainly consisting of a Norwegian maple variety, would remain following the development, while trees throughout the site, including those along the rear boundary with no.23b Ellenfield Road would be removed.
- 7.4.8. Given this context surrounded by residential properties, a key question for this part of the assessment is whether or not the proposed development would unduly interfere with the amenities of the neighbouring residential properties in a manner that would require refusing permission or altering the proposed development.

Overlooking and Loss of Privacy

- 7.4.9. In discussing standards with respect to houses, the Development Plan refers to the traditional separation distance of 22m between the rear of directly facing two-storey houses, while making provision for this to be relaxed, where it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. While not directly applicable in assessing new apartment developments, this traditional standard can be used as a guide in assessing the adequacy of the proposals with respect to the potential for excessive direct overlooking between the proposed apartments and the internal rooms of existing residences. Direct overlooking would not arise for the residences to the west in Grace Park Court, as they do not feature living room windows facing directly onto the appeal site, nor do they feature private gardens adjoining the appeal site. With a minimum separation distance of 31m between the proposed upper-floor windows to the directly facing windows in the nearest residences to the south and east (no.78b Beaumont Road) and a minimum separation of 24.7m from the proposed windows to the nearest rear garden to the south and east (no.78 Beaumont Road), the guide standard can be achieved.
- 7.4.10. The northwest facing windows in proposed block B would not directly overlook the approximately 50m-deep rear gardens serving houses along nos.20 to 32 Glencorp Road to the west of the site. The three-storey northwest elevation to block B would be a minimum of 2.6m from the boundary with no.9 Ellenfield Road, however, the closest proposed window or balcony facing this property would be the balcony at fifth-floor level to apartment 05-01, which would be 19m from the rear garden of no.9. No.9 does not feature side elevation windows overlooking the appeal site. The three-storey northwest elevation to block A would be a minimum of 3.4m from the boundary with no.23b, however, the closest proposed window or balcony facing this property would serve apartment 03-01 at third-floor level, which would be 17m from the rear garden of no.23b. No.23b features a window at first-floor level overlooking the appeal site. The closest northeast facing windows or balconies to apartments on the higher levels to block A are an additional 8m from no.23b and approximately 25m from this neighbouring property.
- 7.4.11. I am satisfied that the layout and orientation of the buildings, including the northeast facing window and the balcony to apartment 03-01, provide sufficient and reasonable

minimum separation distances from the windows and balconies in the proposed blocks, to neighbouring properties. A condition can be attached to ensure that the sedum roofs would only be accessible for maintenance purposes. Observers raise concerns regarding the potential for overlooking from the roof garden at second-floor level on the east side of proposed block A. This roof garden would be 31m from the front elevation of no.78a Beaumont Road and 26m from the rear garden to no.78 Beaumont Road. The existing trees would remain along the grass verge boundary adjoining the site onto Beaumont Grove and coupled with these substantive separation distances and the buffer created by the roads, I am satisfied that the potential for excessive overlooking from the roof garden to neighbouring properties would not arise.

- 7.4.12. In conclusion, the combination of separation distances, reduced building heights relative to the neighbouring residential properties and the internal layout of the apartment blocks, would all combine to prevent undue overlooking and excessive loss of privacy for existing residential properties.

Outlook and Overbearing Impacts

- 7.4.13. The proposed development would be visible from the private gardens and internal areas of the immediately adjacent residences surrounding the site, particularly from Beaumont Road to the southeast, and would change the outlook from these properties. Following on from the visual impact assessment above, I consider that the extent of visual change would be reasonable having regard to the constantly evolving and restructuring urban landscape and as a contemporary development of this nature would not be unexpected in this area owing to the zoning as part of the Development Plan.
- 7.4.14. Given that the proposed development clearly exceeds the prevailing two-storey building heights of the area, a key consideration is whether the height, scale and mass of development and the proximity to neighbouring properties is such that it would be visually overbearing where visible from neighbouring properties. The building height differences and the minimum separation distances are detailed above, including the proposed stepping down of the blocks to three storeys on the northwestern side with the closest neighbouring houses.

- 7.4.15. To address the potential for overlooking, the appellant has avoided windows on the nearest gable end elevations facing Ellenfield Road properties, but this results in two expansive blank gables three storeys in height (11m) and 18m in depth (see drawing nos. 1953.PA.203 Rev B and 1953.PA.207 Rev B). No.9 features substantive rear projections measuring approximately 10m in depth at ground floor and 4m in depth at first floor. While it would appear that the outline for no.9, as detailed (in orange) in the appellant's drawing (no.1953.PA.207 Rev B), does not completely match details on the ground. The proposed development would not be visible from the rear ground floor windows to no.9 and a maximum of 5m depth of the gable to block B would be visible from the first-floor windows to no.9, which would be approximately 4.5m to the northwest. The appellant has provided a drawing (no.1953-PA-501 Rev A) to illustrate the field of view from the rear garden to no.9. I am satisfied that the existing building at no.9 and the boundary wall would substantially impede views of the proposed gable to the block from the garden and extensive communal open space provided to the north western corner of the site, albeit at a raised level and 2.7m from the boundary, would ensure the development would not result in excessively overbearing impacts for residents of no.9 or other properties to the northwest along the adjoining terraces.
- 7.4.16. No.23b, an end-of-terrace house across the street from no.9, also features substantive rear projections measuring approximately 4m in depth at ground and first-floor levels. It would be possible to view a maximum of 4.7m in depth of the gable to block A from the rear windows to no.23b, which would be over 7m to the northwest of this gable elevation. The side elevation window at first-floor level to no.23b would be over 5m from the three-storey gable to proposed block A. The appellant has also provided a drawing (no.1953-PA-502 Rev A) to illustrate the field of view from the rear garden to no.23b towards the proposed development. I am satisfied that reasonable separation distance between the proposed building and no.23b are provided in this urban context. Furthermore, the boundary wall would substantially impede views of the proposed block from the garden to no.23b, and the extensive communal open space provided to the northeast corner of the site would ensure that the development would not result in excessively overbearing impacts for residents of no.23b or other properties to the northwest along the adjoining terrace to Ellenfield Road.

7.4.17. I am satisfied that the proposed development would not be overly prominent when viewed from the nearest houses, particularly when considering the worst-case scenarios assessed in detail above. The submitted documents show the interface between the proposed blocks and the existing buildings, revealing that at all points an open outlook and sky view would be maintained for neighbouring houses. The modulated form of the blocks coupled with the setbacks from existing houses and the intervening proposed and mature screen planting, is such that where visible from neighbouring properties the proposed development would not be excessively overbearing.

Impacts on Lighting

7.4.18. Third-party observers have raised concerns regarding the potential for the development to overshadow and result in excessive loss of light to neighbouring houses. In assessing the potential impact on light access to neighbouring properties, two primary considerations apply, including the excessive loss of daylight and light from the sky into houses through the main windows to living rooms, kitchens and bedrooms, and the excessive overshadowing of rear gardens to existing houses.

7.4.19. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of the quantitative performance approaches to daylight provision outlined in guides such as BRE 209 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (2011) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative compensatory design solution must be set out, in respect of which the Planning Authority or An Bord Pleanála should apply their discretion, having regard to local factors, including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. Section 6.6 of the New Apartments Guidelines also state that Planning Authority's should have regard to

BRE 209 and BS 8206-2: 2008 standards. I acknowledge that an updated BS EN 17037:2018 'Daylight in buildings' guide replaced the BS 8206-2: 2008 in May 2019 (in the UK), however, I am satisfied that this document/updated guidance does not have a material bearing on the outcome of my assessment and that the relevant guidance documents remain those referenced in the Building Heights Guidelines (i.e. BRE 209 and BS 8206-2: 2008).

Light from the Sky and Sunlight

7.4.20. As part of the grounds of appeal, the appellant has provided a revised Daylight, Sunlight and Overshadowing Study relying on the standards of the above referenced BRE 209 and BS 8206-2 documents, and this report provides an assessment of the effect of the proposed development on the vertical sky component (VSC) achievable at the most sensitive neighbouring residential windows, as well as the effect on sunlight to gardens and outdoor amenity areas.

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

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

significantly affected. Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

- 7.4.22. The tests above are a general guide only and the BRE guidance states that they need to be applied flexibly and sensibly with figures and targets intended to aid designers in achieving maximum sunlight and daylight for residents and to mitigate the worst of the potential impacts for existing residents. It is clear that the guidance recognises that there may be situations where reasonable judgement and balance needs to be undertaken cognisant of circumstances. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues and impacts may arise and also to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Dublin metropolitan area, the need for increased densities within zoned, serviced and accessible sites, and the need to address impacts on existing residents, as much as is reasonable and practical in this context.
- 7.4.23. Separation distances from existing houses to the proposed blocks would be less than three times the height of the new building above the centre of the main windows, therefore, based on the BRE guidance a detailed daylight assessment is required. The baseline and proposed VSC for 151 windows serving the front of nos.19-21 Beaumont Grove and no.78a Beaumont Road, the rear and west side of nos.78, 80, 82, 84, 86 and 88 Beaumont Road, the front of nos.79 and 81 Beaumont Road, the front and rear of nos.23b to 34 Ellenfield Road, the front of Ashley and the front and east of Laragh apartment blocks (Grace Park Court), and the rear of houses along nos.1 to 9 Ellenfield Road and nos.26 to 33 Glencorp Road, are set out in the appellant's revised Daylight, Sunlight and Overshadowing Study. I am satisfied that the VSC assessment has been targeted to neighbouring windows, rooms and houses that have greatest potential to be impacted and would be representative of the worst-case scenario.
- 7.4.24. The baseline VSC value of between 78% and 100% outlined in section 5.2 of the appellant's revised Daylight, Sunlight and Overshadowing Study for all of the tested windows referenced above are substantially above the noted 'negligible impact' value of 27% applied in the BRE guide, therefore, the level of change in VSC would be well within the recommended guidance limits following completion of the proposed development. The study reveals that 27 of the 151 tested windows would

have no change in VSC with the development in place. I am satisfied that the proposed development would not result in a material reduction in the level of light currently being enjoyed internally within these respective neighbouring properties.

- 7.4.25. The study has not tested the windows on the rear projections to nos.9 and 23b Ellenfield Road or the side elevation to no.23b. However, based on a comparison with the results of the testing for the windows in a similar context on the adjoining respective terraces, I am satisfied that change below the recommended guidance limits would be very unlikely to arise for the rear windows to nos.9 and 23b. With regards to the side elevation to no.23b, this has the benefit of southern aspect and would be positioned over 5m from the three-storey gable to block A. A resident of this property at no.23b has submitted an observation to the grounds of appeal, including reference to use of BRE guidelines and impacts on lighting to the property. While proposed block A would be likely to impede lighting to some extent to this side elevation window to no.23b, it is not apparent if this would be below the recommended guidance and if the room the window serves is a living room or if it is served by another window, including the existing rooflights to this property.
- 7.4.26. Notwithstanding the potential for one untested window to not meet the guide standard and for the development to potentially have a noticeable effect on lighting to this window and the absence of testing for the rear of nos.9 and 23b Ellenfield Road, given the predominance of compliance with the recommended BRE guidance standards, the planning policy objectives requiring efficient use of sites such as this for increased densities of residential development and the need to flexibly and sensibly apply the targets and standards in the BRE guide, as well as the discretion offered by Section 3.2 of the Building Heights Guidelines and Section 6.6 of the New Apartments Guidelines, I am satisfied that the lighting impacts arising from the proposed development for neighbouring properties would not be sufficiently adverse to require amendments to the proposed development. Accordingly, a refusal of permission or modifications to the development for reasons relating to lighting to the internal areas of neighbouring properties would not be warranted.

Loss of Sunlight and Overshadowing

- 7.4.27. The appellant's Daylight, Sunlight and Overshadowing Study provides an assessment of the effect of the proposed development on sunlight levels to the rear

gardens of houses along Glencorp Road and Ellenfield Road directly north of the appeal site, as well as an assessment of the impact on lighting to the rear gardens of nos.78, 78a, 80, 82, 84, 86 and 88 Beaumont Road and nos.18 to 22 Beaumont Grove. The BRE Guidance indicates that any loss of sunlight as a result of a new development should not be greater than a ratio of 0.8 times its previous value and that at least 50% of an amenity area should receive a minimum of two hours sunlight on the 21st day of March, which is the spring equinox.

- 7.4.28. A sunlight assessment was undertaken using a three-dimensional model of the proposed development and selected existing neighbouring buildings with the results shown in tabular and graphical format in the revised Daylight, Sunlight and Overshadowing Study. The analysis of 37 private rear gardens reveals that with the proposed development in place 34 of the rear garden areas would receive at least two hours of sunlight for 50% of their areas on the 21st day of March. Between 25% to 37% of the rear garden areas to no.23b Ellenfield Road and nos.78 and 80 Beaumont Road would receive at least two hours of sunlight on the 21st day of March. The level of change in the receipt of sunlight to these rear gardens from the baseline scenario compared to the proposed scenario was calculated as being between the ratio of 0.90 and 0.97 for no.23b Ellenfield Road and no.80 Beaumont Road and, therefore, the change in receipt of lighting would be well within the BRE guidance for these properties. The level of change in receipt of sunlight to the rear garden of no.78 Beaumont Road on the 21st day of March would be at a ratio of 0.68 and, therefore, below the ratio of change set out in the BRE guidance. The appellant asserts that this property would receive good levels of sunlight throughout the year. The graphical images submitted identify areas of the garden to no.78 in receipt of two hours sunlight and the shadow study images would appear to verify reasonable levels of sunlight would be provided to this garden during the summer. No.78a would appear to have been constructed in the original rear garden of this property.
- 7.4.29. Consequent to the limited minor impact only to the rear garden of no.78 Beaumont Road, which would continue to be in receipt of two hours of sunlight on the 21st day of March for 37% of its rear garden area, and the predominance of compliance with BRE guidance standards, I am satisfied that the lighting impacts arising from the proposed development for neighbouring gardens would not be sufficiently adverse to require amendments to the proposed development, particularly having regard to land

use objectives within the Development Plan, strategic planning policy supporting increased densities on urban infill sites such as this, the flexibility afforded in the BRE 209 guidance and the discretion offered by Section 3.2 of the Building Heights Guidelines and Section 6.6 of the New Apartments Guidelines.

- 7.4.30. I am satisfied that the level of change in sunlight and overshadowing provided for under the BRE guidelines with respect to neighbouring properties would be predominantly achieved and a refusal of planning permission for reasons relating to loss of sunlight and overshadowing to neighbouring properties would not be warranted.

Construction Impacts

- 7.4.31. Third-party observers have raised concerns regarding dust and other emissions, and the control of overspill construction-related parking into neighbouring areas. An Outline Construction and Demolition Management Plan was submitted with the application, including measures to control noise, vibration and dust during the stated 24-month construction phase of the project. On-site parking would be possible during the construction and demolition phase and according to the appellant other measures can be put in place to address parking requirements should the need arise. With the proposed reductive, control and monitoring measures to be put in place for construction and demolition phase emissions and compliance with the relevant standards, the proposed development would not have substantial impacts on neighbouring residents and such impacts would be temporary. As would be normal practise and as is required by the Environmental Health Officer from the Planning Authority, a Construction and Environmental Management Plan can be agreed in the event of a grant of planning permission, and I am satisfied that the finalisation of and adherence to such a plan would ensure the management of demolition and construction activity is carried out in a planned, structured and considerate manner that minimises the impacts of the works on local residents and properties in the vicinity.
- 7.4.32. Third parties have raised concerns regarding the potential for structural impacts to arise from the excavation works. The planning application includes section drawings to show the basement works subsurface, which I note would be at a remove from neighbouring properties and would primarily be only at approximately 3.3m below the

adjacent road level. Such excavation works are not extensive and I note that these works would also be subject to further engineering details at construction stage. Accordingly, permission should not be withheld for this reason.

Anti-Social Behaviour

- 7.4.33. The observers assert that the completed development would lead to an increased potential for noise, disturbance, crime and anti-social behaviour. The proposed development would redevelop vacant properties previously used for commercial and residential purposes for residential purposes solely and, as such, substantive increases in noise and disturbance would not be likely to arise from the operational phase of the development. Matters relating to criminality and anti-social behaviour are dealt with under differing legal codes and I am satisfied that there is no reason to suggest that the layout and design of the proposed development could reasonably be considered to support increased levels of crime or anti-social behaviour in this area, particularly as the design of the scheme provides for extensive passive surveillance of the new link, open spaces and existing streets.

Conclusions

- 7.4.34. In conclusion, sufficient information has been provided with the application to allow a comprehensive and thorough assessment of the impacts of the proposals on neighbouring residential amenities, as well as the wider area. I am satisfied that the proposed development would not result in excessive overshadowing or overlooking of neighbouring properties and would not have excessively overbearing impacts when viewed from neighbouring residential properties. Accordingly, the proposed development would comply with the zoning objective for these lands, as contained in the Development Plan, and the proposed development should not be refused for reasons relating to impacts on neighbouring amenities.
- 7.4.35. Having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the enjoyment or value of property in the vicinity.

7.5. Residential Amenities and Standards

- 7.5.1. SPPRs 7 and 8 of the New Apartment Guidelines outline the requirements for build-to-rent schemes. Under these Guidelines there is greater flexibility for build-to-rent apartments, when compared with standard apartments.

Unit Mix

- 7.5.2. The Development Plan requires a mix of no more than 42% to 50% of one-bedroom or studio units in a build-to-rent development, while SPPR 8(i) of the New Apartment Guidelines places no restrictions on unit mix for such developments. The revised proposed development would comprise 67 one-bedroom (68%), 29 two-bedroom (29%) and three three-bedroom units (3%), thereby exceeding the Development Plan unit mix maximum requirements for one-bedroom units. The Planning Authority acknowledge that the unit mix in the initial application complied with the New Apartment Guidelines and I am satisfied that the revised mix would also comply with the provisions of SPPR 8(i) of the New Apartment Guidelines. Furthermore, as outlined above, the proposed strategic housing development is considered to be of strategic or national importance. Accordingly, should the Board be minded to invoke the material contravention procedure, as relates to Development Plan objectives pertaining to build-to-rent unit mix, I consider that the provisions of Section 37(2)(b)(i) and (iii) have been met with respect to the proposed unit mix. In this regard I am satisfied that the Board can grant permission for the proposed development. I note that the omission of the sixth and seventh floors to block A would result in the loss of six one-bedroom units, which would not have a material bearing on the above assessment and conclusion.

7.5.3. Apartment Standards

Notwithstanding the Guideline provisions, the appellant asserts that the proposed apartments have been designed to fully accord with the New Apartments Guidelines. A revised schedule of accommodation has been submitted with the grounds of appeal, which provides details of apartment sizes, aspect, private open space, room sizes and storage. The proposal avoids north-facing single-aspect units and achieves 50% dual aspect for apartments, which is appropriate for this location.

- 7.5.4. The minimum size of the apartments proposed measuring 47.8sq.m for a one-bedroom unit, 69.1sq.m for a two-bedroom three-person unit, 77.1sq.m for a two-

bedroom four-person unit and 106.3sq.m for a three-bedroom unit would exceed the 45sq.m, 63sq.m, 73sq.m and 94sq.m respectively required for these units in the New Apartment Guidelines. The internal design, layout, configuration and room sizes for each of the apartments, would accord with or exceed the relevant standards that are listed in appendix 1 of the New Apartment Guidelines. Floor to ceiling heights of 3m for upper-floor apartments and 4m for ground-floor apartments, exceed the minimum standards set out in the New Apartment Guidelines.

7.5.5. For build-to-rent schemes, the New Apartment Guidelines allow for a relaxation in the 3sq.m, 6sq.m and 9sq.m internal storage room respectively required for one, two and three-bedroom apartments, although the proposals comply with same and provide for additional residents' bulk storage space at basement level. The 10% additional floor space required for the majority of apartments in the New Apartment Guidelines is not required to be met for a build-to-rent scheme, but this is achieved for 75% of the apartments. Observers to the grounds of appeal assert that sufficient private amenity space for residents has not been proposed. The New Apartment Guidelines again allow for flexibility with regard to private amenity space standards for apartments in build-to-rent schemes, nonetheless, I note that balcony and terrace sizes and depths would meet or exceed the minimum private amenity space standards. Concerns that have been raised by the Planning Authority regarding the privacy of terraces serving the proposed ground-floor apartments to block A have been resolved by the provision of landscaped defensible space fronting these terraces both onto the communal space to the east and the central link. Six apartments per floor would be served by lift and stair core access, which would comply with the standards, despite strictly not being required to do so.

7.5.6. A minimum separation distance of 15m would be provided between the directly opposing upper-floor apartments in blocks A and B. While an increased separation distance would normally be desirable, I am satisfied that this would not be necessary in this case, given the provision of a publically accessible link through the development separating the opposing blocks A and B, which would generally follow the separation distance established between the opposing houses to the northwest along Ellenfield Road.

Sunlight and Daylight Provision

- 7.5.7. The Planning Authority's second reason for refusal to grant planning permission refers to a significant number of rooms in the proposed apartments having unsatisfactory average daylight factor (ADF) without sufficient compensatory measures to allow for this to be overcome in this case. As part of the grounds of appeal, the positions and sizes of balconies and windows were amended and a revised Daylight, Sunlight and Overshadowing Report was provided assessing daylight access having regard to the quantitative standards that I have addressed above in section 7.4. In respect of the proposed residential units, the aforementioned BRE and BS standards recommend that for the main living spaces/living rooms of residences, a minimum ADF of 1.5% should be achieved, with a 1% ADF for bedrooms and a 2% ADF for kitchens. The appellant refers to an initial target of 2% ADF for combined living spaces (living/kitchen/dining rooms), and a secondary target of 1.5% for these living spaces.
- 7.5.8. According to the appellant, a representative sample of daylight access for rooms within the proposed development was studied using those rooms that would be most likely to feature obstruction of daylight or lower levels of daylight, primarily due to their lower level position. Of the 157 rooms tested the appellant asserts that this revealed a 100% pass rate for all 86 bedrooms that were tested (1.06% to 4.55% ADF). An ADF of between 0.41% and 5.14% has been calculated by the appellant for the 71 tested living, kitchen and dining spaces. In total 37 (or 52%) of these tested combined open plan rooms would feature an ADF of greater than 2% and 63 (or 89%) would be in compliance with the minimum ADF standard in the BRE guidelines for living rooms (1.5%). While it would be more preferable for a 2% ADF target to be achieved for these open plan areas given that they feature kitchens, the BS and BRE guidance allow for flexibility in regard to targets and do not dictate a mandatory requirement. Of the tested living, kitchen and dining areas, eight of these rooms (5% of tested rooms) would feature an ADF of between 0.41% and 1.24%, which would fall below the guidance targets, however, when solely assessing the living room areas for these open plan areas, the appellant asserts that ADFs of between 1.55% and 1.87% were calculated and found to be in compliance with the minimum ADF standard in the BRE guidelines for living rooms (1.5%). I also note that the areas measured for a number of the open plan areas inaccurately include

some storage and bathroom areas, which would be likely to reduce some of the calculated ADF values. The extent of non-compliance with the 2% ADF for kitchens, would equate to 48% of the tested open-plan living areas, but this would be likely to decrease given that the appellant has used the worst-case scenario in accessing daylight to apartments. Non-compliance with the 1.5% ADF for living rooms within these combined living areas is asserted not to arise, therefore it is only the open plan kitchen and dining areas where shortfalls in ADF targets may arise.

- 7.5.9. Based on the assessment of bedrooms and open-plan living areas, the vast majority of tested rooms within the apartments would strictly comply with their respective ADF targets and this proportion of rooms meeting the ADF requirements would be likely to increase given that it is the worst-case scenario that has been assessed. Furthermore, the New Apartment Guidelines recognise that a discretionary approach should be taken with regards to compliance with daylight provision in certain circumstances and I am satisfied that such an approach would be reasonable given the limited shortfall in ADF relative to the standards. As noted above, all of the units would all feature generous floor to ceiling heights relative to the minimum standards and the majority of units feature floor areas well above the minimum standards, which I am satisfied could be considered compensatory measures in addressing shortfalls. Several of the units where ADF shortfalls arise are also dual aspect. In conclusion, I am satisfied that in measuring the adequacy of the provision of sunlight/daylight by the proportion of rooms meeting ADF standards, the lighting to the proposed development would adequately meet the residential amenity levels for future residents.

Communal Facilities

- 7.5.10. The appellant identifies communal amenities and facilities to be provided for the build-to-rent units to comply with SPPR 7. Supporting communal facilities identified in the application equate to a stated 284sq.m of a multi-functional residents' room and work hub (263sq.m) at ground floor to block B and a concierge/management space (21sq.m) at ground floor to block A. The appellant states that other amenities for residents were discounted due to the quality of the residential accommodation proposed and the location relative to other existing commercial facilities. The appellant asserts that the provision of 3sq.m of communal amenity space per resident would be in keeping with the average for other recently permitted build-to-

rent developments in the vicinity. I am satisfied that the proposed level of communal amenities space and the type of facilities would be appropriate to serve the development, in accordance with the provisions of the New Apartment Guidelines.

7.5.11. Appendix 1 of the New Apartment Guidelines sets out a minimum communal open space requirement of 5sq.m for a one-bedroom apartment, 6sq.m for a two-bedroom three-person apartment, 7sq.m for a two-bedroom four-person apartment and 9sq.m for a three-bedroom apartment. This would require 530sq.m of communal open space for the revised scheme, which the appellant had initially solely proposed to provide in a raised plaza with lawn, seating areas and play area amounting to 570sq.m west of block B. The Planning Authority's second reason for refusal of planning permission referred to the poor provision of access to this communal open space from block A. To address this, revised plans were submitted with the grounds of appeal, omitting the public open space along the eastern side of block A, which the Parks, Biodiversity and Landscape Services section of the Planning Authority had not considered suitable as public open space, and in its place the appellant has proposed providing communal open space amounting to an additional 783sq.m comprising a landscaped walkway and seating areas. This communal space would be easily accessible from block A and overlooked by numerous apartments, while being screened from view along Beaumont Grove by virtue of the existing mature band of trees to be maintained along the roadside verge.

7.5.12. The revised Daylight, Sunlight and Overshadowing Study submitted by the appellant includes shadow study drawings for differing dates and times throughout the year and calculated the extent of sunlight that would be received in the communal and public open space on site. The Parks, Biodiversity and Landscape Services section of the Planning Authority had expressed some concern regarding the level of sunlight that would be available to the northern end of the public open space. The appellant's analysis indicates that the communal areas north of the blocks would receive the lowest levels of sunlight with 89% of the communal open space meeting or exceeding the minimum recommended standard of two hours of sunlight, as referenced above. The extent of public open space that would meet or exceed the minimum recommended standard of two hours of sunlight on the 21st day of March was calculated as 83%. I am satisfied that the open space proposals would feature sufficient levels of natural light and would provide a reasonable level of amenity for

future residents based on the information provided and the relevant applicable lighting standards.

- 7.5.13. Bin stores are proposed at ground floor to both blocks to serve the future residents of the apartments. This would appear sufficient to serve the development and further details relating to waste management should be provided as a condition in the event of a grant of permission.
- 7.5.14. In summary, I am satisfied that the proposed communal facilities and communal open space would be comparable with the provision in similar size recently permitted residential developments of this nature, and would be suitable to serve the development and in accordance with the relevant standards.

Social/Community Infrastructure

- 7.5.15. The observers to the appeal assert that there is limited provision of social, communal, commercial and other facilities within the wider area and that there is a need for further supports to cater for this development. The appellant has provided a School Capacity Assessment, which they accept is based on limited access to actual schools' capacity, but is based on demographic analysis and enrolment figures for neighbouring primary and post-primary schools. Based on the initial mix of units, the assessment concludes that 28 children of school-going age would need to be accommodated in neighbouring schools. The accuracy of the information provided in the appellant's assessment is contested by third-party observers.
- 7.5.16. The appellant's Childcare Demand Assessment asserts that the necessity or otherwise for a childcare facility is based on standards within the Childcare Facilities - Guidelines for Planning Authorities (2001), which require a facility with space for 20 children for a development comprising 75 dwellings. A case is made by the appellant for a reduced level of childcare provision based on the guidance contained in the New Apartments Guidelines, which state that the threshold for the provision of childcare facilities in apartment schemes should be established having regard to the scale and the unit mix, the existing neighbouring geographical distribution of childcare facilities and the emerging demographic profile of the area. The Childcare Facilities Guidelines state that one-bedroom apartments should generally not be considered to contribute to a requirement for childcare provision and, subject to location, this may also apply in part or whole to units with two or more bedrooms.

The proposed development would contain a total of 29 two-bedroom apartments and three three-bedroom apartments. Based on the provisions within the Childcare Facilities Guidelines, these 32 units would generate a requirement for approximately nine childcare spaces. Given the tenure of the scheme, the flexibility provided for in the New Apartments Guidelines and a broad level analysis of demand for childcare spaces, the appellant asserts that the proposed development would generate a population of 12 pre-school children, of which three would need childcare spaces based on take-up of such services. According to the appellant, this level of demand for childcare spaces could be readily accommodated in existing identified childcare facilities within the neighbouring catchment.

- 7.5.17. Increased residential density in locations such as this, ensure the efficient and increased use of existing and planned services, including public transport, shops, schools and social infrastructure. Such services, whether commercial or social, are dependent on a critical mass of population to remain viable and to justify the creation of additional services. In the wider environs of the site there are schools, shops, medical facilities and parks, all of which would benefit from a development that is a comfortable walking or cycling distance from the site. The mix and tenure of the proposed scheme would not be likely to support a high number of pre-school children or children of school-going age. I am therefore satisfied that the area and development would be reasonably well serviced with respect to social, recreational and commercial infrastructure and that this context should not inhibit permission for the subject proposals.

Building Lifecycle and Management

- 7.5.18. As required within the New Apartment Guidelines, a Building Lifecycle Report assessing the long-term running and maintenance costs for the development and demonstrating the measures that have been considered by the appellant to manage and reduce costs for the benefit of residents, has been included with the planning application. Detailed measures, including sinking fund calculations, as well as running cost-saving measures, have been provided within this report. Prior to the lease of individual units, the developer would have to achieve compliance with the terms of the Multi-Unit Development Act 2011, inclusive of the establishment of a development specific Owners' Management Company.

Sustainability and Energy Efficiency

- 7.5.19. Objective CCO12 of the Development Plan promotes high energy efficiency standards in existing and new developments. The appellant states that the proposed development would meet the latest energy efficiency standards and nearly zero energy building (NZEB) requirements. An Energy Statement has been submitted with the application outlining specific mechanical and electrical measures to address energy efficiency, including the possible use of an exhaust air to heat pump or a district heating system. I am satisfied that the information provided with the application reveals that due consideration for energy efficiency has been undertaken as part of the design of the development, in compliance with Development Plan provisions. Further consideration of energy efficiency matters will be evaluated under a separate code, including Part L of the building regulations.

Conclusion

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

7.6. Traffic and Transportation

- 7.6.1. A substantial proportion of the third-party observations have raised concerns in relation to the implications of the proposed development for ongoing traffic congestion issues within the area, the implications for road safety, the separation distance from public transport services, and the potential for overspill residents' parking onto neighbouring streets by virtue of the proposed development not being sufficiently served by on-site car parking. The grounds of appeal assert that the proposed development would be accessible to various public transport services, while being served by adequate levels of on-site parking. Prior to the Planning Authority's decision to refuse permission, the Roads, Streets and Traffic Department had sought further information regarding car parking, a car club space and cycle parking.

Vehicular Access and Connectivity

- 7.6.2. The site is accessed from a slip road off Beaumont Road, which also provides access to residences within Grace Park Court. Permission is sought to create a new vehicular access to a semi-basement level car park off the slip road, in a similar location to an existing vehicular access to the site. Vehicular access would not be available from the Ellenfield Road entrance, which would only feature a pedestrian access. It is proposed to undertake public realm improvements fronting onto the slip road as part of the access works, including a realigned footway to allow for a car share / club space.
- 7.6.3. A drawing (no.P016) submitted with the application illustrates sight visibility for the new access at a 2.4m setback from the roadside for a distance of 23m in both directions, as is required in the Design Manual for Urban Roads and Streets (DMURS), thereby providing for safe and convenient connections into local transport infrastructure.

Public Transport

- 7.6.4. The appellant's Engineering Assessment and Mobility Management Plan include details of public bus services available in the environs of the site, comprising the northbound 14 and 16 Dublin bus routes and the southbound 14, 14C, 16 and 16C Dublin bus routes operating along Beaumont Road, providing services at least every ten minutes during peak times to and from the city centre. A total of 12 other Dublin bus services are identified by the appellant to be operating from stops within 900m to the southwest of the site along Swords Road. Based on the information available and as noted above, I am satisfied that the site has reasonable access to amenities via public transport. It is further intended that at least a similar number of services would be provided in the immediate area in the future under Bus Connects proposals (routes A1, L80 and 8 services are all intended to operate on Beaumont Road).

Car Parking Standards

- 7.6.5. The appellant is proposing a total of 40 car parking spaces, as well as facilitating a car share / club space on the front slip road. Third-party observers and the Planning Authority raise concerns that the proposed development would feature an undersupply of car parking relative to the site's access to public transport. In support of the level of car parking proposed, the appellant asserts that the site is within an

accessible urban location and highlights walking and cycle distances and times to existing and future amenities, as well as referring to a permission (ABP ref. 306987-20) for a neighbouring build-to-rent development at Santry Place / Swiss Cottage, Swords Road, whereby a 0.3 ratio of car parking to apartments was considered acceptable by An Bord Pleanála.

- 7.6.6. The New Apartment Guidelines advocate the consideration of reduced overall car parking in urban locations served by public transport or close to urban centres, particularly in residential developments with a net density of greater than 45 units per hectare. The New Apartment Guidelines also allow for reduced car parking standards for build-to-rent developments in locations such as those proximate to public transport services. A Mobility Management Plan is provided with the application, and this outlines various measures to influence the use of more sustainable modes of transport as part of the development, including the appointment of a plan coordinator to promote and support the provisions of the Mobility Management Plan.
- 7.6.7. The Planning Authority sought the removal of the car share / club space fronting the site, as this would restrict movement along the front footpath. While I do not consider that permission for the development should be dependent on the provision of a car club / share space, I note that the revised site layout provides for a continuous footpath fronting the site and there remains scope for a car club / share space to be provided fronting the site. To address the concerns expressed by the Roads, Streets and Traffic Department of the Planning Authority regarding the positioning of four car parking spaces (nos.1, 2, 39 and 40) proximate to the vehicular entrance, a revised car parking layout would be necessary. These spaces would be located 7m to 13m from the slip road and traffic safety would be compromised at this entrance area when these spaces are being accessed or exited, as motorists entering the car park would have limited time and visibility to stop and stalling of traffic may lead to traffic backing up on the slip road. The omission of the four car parking spaces can be secured as a condition in the event of a permission. Furthermore, the requirement to implement the terms of the Mobility Management Plan can be also be attached as a condition in the event of a permission. The Planning Authority has also sought a car-parking management strategy to outline how the parking spaces would be assigned and managed, and this can also be

sought as a condition in the event of a grant of planning permission for the proposed development.

- 7.6.8. Based on the Development Plan standards and the quantum of development, a maximum of 149 car parking spaces would be permissible for the residential units, therefore, the overall provision, including the loss of four spaces at the access, would be well within the prescribed limits. As noted above the site is proximate to bus stops served by high-frequency urban bus services and is, therefore, within a 'Central and Accessible Urban Location', which I am satisfied would be suitable for the proposed reduced ratio of car parking (0.36), subject to a car parking management plan and the implementation of a Mobility Management Plan based on the draft plan submitted.

Cycle Parking Standards

- 7.6.9. Given the ratio of car parking proposed relative to the standards, the provision of high-quality cycle parking and storage facilities would assume greater priority for residents and visitors. A total of 178 cycle parking spaces are proposed to serve the development. Of these spaces, 138 would be located in a secure area at basement level to block B, while the remaining 40 would be provided at ground-floor level on the northern section of block A. I am satisfied that the quantum of cycle parking for the revised scheme, meeting the 178 spaces required under the New Apartment Guidelines, would be welcome in supporting sustainable transport options. Notwithstanding this, the New Apartment Guidelines require the location of cycle storage facilities to be directly accessible from the public road or from a shared private area that gives direct access to the public road, avoiding unnecessarily long access routes with poor passive security. The cycle parking serving the northern end of block A would be acceptable in this regard with access from the pedestrian link, however, direct access to the basement level cycle parking compound is not provided, as cyclists would have to dismount and use an internal circulation core to gain access to these spaces. To accord with the requirements of the New Apartment Guidelines, the most appropriate means of access would be from the semi-basement level car park to the basement cycle parking compound. I recognise that there are differences in the levels of the semi-basement car park and the basement cycle parking compound, however, a direct access would be necessary and should be provided as a condition in the event of a permission.

7.6.10. While I recognise that residents of the southern section to block A would have to traverse the link route separating the blocks in order to gain access to the basement cycle parking area, this would not be an excessive distance from block A and security and management systems can be readily put in place to facilitate controlled access to the cycle parking facilities.

Traffic

7.6.11. Observers assert that proposals and other permitted developments in the area would add to traffic congestion problems in the area. Other than providing a summary of predicted trip rates at the hourly peak times within their Engineering Assessment Report, the appellant has not undertaken any specific modelling to address the likely changes in traffic on neighbouring roads with the proposed development in place. The Roads, Streets and Traffic Department of the Planning Authority had sought the submission of a Traffic and Transport Assessment. The grounds of appeal assert that as traffic to and from the development would not exceed 5% of the traffic flow on the adjoining road (Beaumont Road), based on the thresholds contained in the Transport Infrastructure Ireland (TII) Traffic and Transport Assessment Guidelines (2014) detailed traffic assessment would not be required.

7.6.12. The site is located on zoned development lands, within the built-up area of Dublin city with reasonable access to an array of services. The proposed development would feature a maximum of 40 car parking spaces, with four spaces potentially to be omitted as a condition in the event of a permission. There are plans in place for the improvement of public transport in this area, which the project may directly support in future by providing critical mass to support these services. There would undoubtedly be some increase in traffic numbers as a result of the proposed development, which would invariably add to existing congestion that is acknowledged by observers. However, traffic congestion at various periods in an urban area such as this, would be anticipated to occur and various measures and design features have been set out within the application and as part of the proposed development to support the use of public transport, cycling and walking, as an alternative to the use of private vehicles. I am satisfied that based on the guidance contained in the TII Traffic and Transport Assessment Guidelines (2014) detailed modelling of future traffic scenarios would not be required or necessary in this case, and based on the extent of car parking intended to serve the development the

proposed development would not be likely to have substantive impacts on traffic relative to the existing background traffic levels, particularly those in evidence during my site visit along Beaumont Road.

Conclusion

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

7.7. Site Services

- 7.7.1. The application was accompanied by an Engineering Assessment Report that addresses site services, including surface water drainage, foul drainage and water supply. The existing site is relatively flat and includes extensive hard surfaced areas. The appellant intends to realign an existing 225mm-diameter vitrified clay surface water pipe traversing the site from Ellenfield Road to Beaumont Grove. Surface water from the Ellenfield Road end would be served by a new 225mm pipe connecting into the existing 1,250mm-diameter concrete pipe within the tree-lined verge to Beaumont Grove. A piped gravity surface water drainage network is proposed as part of the development, with 225mm-diameter surface water sewers connecting to the existing 1,250mm-diameter concrete sewer at the junction of Beaumont Road and Thornwood, to the east of the site. The development would feature sedum roofs covering an area of 1,288sq.m. An attenuation tank with a capacity of 102m³ is also proposed between the two apartment blocks, and in conjunction with the green roofs and a hydrobrake, it is stated that outflow from the site would be limited to 3.07 l/s.
- 7.7.2. The Engineering Department of the Planning Authority had requested the provision of additional information with respect to surface water drainage proposals, highlighting that a minimum clear distance of 3m should be maintained between sewers and all structures on site, while also querying how 5mm to 10mm of surface water interception storage would be provided on site. In response to this, as part of the grounds of appeal, the appellant has illustrated in figure 1 of the Engineering Response submission that the existing surface water sewer that it is to be diverted can be realigned to meet the 3m minimum clearance rule. The appellant also

outlined that 26m³ of interception storage would be available via green roofs to provide 5mm to 10mm of surface water interception storage. The Planning Authority did not respond to these matters. I am satisfied that the appellant's response to the matters raised by the Engineering Department, as well as standard conditions to agree upon the details, would ensure that stormwater could be managed appropriately and the proposals could be undertaken in compliance with the Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0). Accordingly, permission for the proposed development should not be withheld for this reason.

7.7.3. An existing 100mm-diameter foul house connection would be removed as part of the proposals and a 375mm-diameter foul pipe would be diverted and connected into a sewer pipe on Beaumont Road. A 225mm-diameter piped gravity system is proposed, and this would also connect to the existing sewer running along Beaumont Road. It is proposed to connect a watermain to the existing 4-inch main located on Beaumont Road.

7.7.4. The Engineering Department has not specifically commented on foul drainage or water supply and Irish Water did not respond following consultation by the Planning Authority. Appended to the appellant's Engineering Assessment Report is a pre-connection response from Irish Water with regards to a housing development at Beaumont Road, which states that proposed water supply and wastewater connections would be feasible without infrastructure upgrades, subject to compliance with various standards and codes of practice. Objections to wastewater and water supply proposals have not been raised by the Planning Authority or Irish Water. Connection agreements with Irish Water would be required prior to the commencement of the development. In conclusion, based on the information available and provided, I consider the proposed site services, including surface water proposals, to be satisfactory to serve the development, subject to appropriate conditions in the event of a permission.

7.8. Other Matters

Trees

7.8.1. The appellant's tree survey addressed the condition of 83 trees, including over 40 Norwegian Maples adjacent to the site along the verge to Beaumont Grove. The

survey categorised three silver birch as grade 'U' trees of a condition that any existing value would be lost within ten years, 55 grade 'B' trees of moderate quality with an estimated remaining life expectancy of at least 20 years, and 25 grade 'C' trees, which are trees of low quality with an estimated remaining life expectancy of at least ten years.

- 7.8.2. Protection measures would be put in place for the trees along the verge to Beaumont Grove and the Parks, Biodiversity and Landscape Services section of the Planning Authority welcomed that there would not be impacts on these trees. All trees on the site would be removed to facilitate the development. Several trees located along the boundary with Ellenfield Road would appear to have been removed from the site at the time of my site visit. The Parks, Biodiversity and Landscape Services section sought the maintaining of a group of field maple trees along the southeast corner of the site
- 7.8.3. I am not aware of any tree preservation orders relating to the site and the appellant has provided details of the root protection zones for the trees along the verge to Beaumont Grove. Replacement tree planting would be planted throughout the site, as illustrated and listed on the Landscape Proposals drawing (no.6915-L-201 Revision B). Detailed work methods are provided in the appellant's Landscape Management and Maintenance Plan. I am satisfied that given the status and condition of the trees on site, the protection of trees along the verge and the proposed provision of replacement tree planting, a sustainable approach to redeveloping the site has been set out in this regard.

Local Ecological Impacts

- 7.8.4. This site lies within an urban area and current land uses in the vicinity are dominated by residential properties and roads. Observers assert that wildlife on site should be protected. An Appropriate Assessment screening report dated March 2021 was submitted with this application, which includes reference to the habitats and species identified on site. The site primarily comprises modified habitats dominated by buildings, artificial surfaces, as well as amenity grassland and gardens. Numerous trees would be removed as part of the development and protected plant species were not identified. Common species of garden birds were recorded within the site. The site has no habitats suitable for aquatic species. Habitat listed in Annex I of the

Habitats Directive or species listed in Annex II have not been identified on the subject site. Invasive species were not identified on site.

- 7.8.5. Collision risk for birds has not been addressed as part of application or appeal. Adjoining or neighbouring lands, including Ellenfield Park, would not appear to provide regular foraging or roosting ground for protected bird species. Furthermore, buildings of similar heights to those proposed are common in urban environments and there is no objective evidence to suggest that they would present a significant risk of collision for birds.
- 7.8.6. The applicant states that the likelihood of bats using the site would be remote, although I note that no surveys were undertaken to investigate whether existing structures, buildings or trees on site were being used by bats. While the possibility of bats using the site for roosting may be very limited based on the applicant's observations, I am satisfied that there would be merit in clarifying via condition in the event of a permission that any demolition of structures or buildings or felling of trees that support bat populations would have to be carried out only under licence from the National Parks and Wildlife Service and details of any such a licence would have to be submitted to the planning authority. With the attachment of such a condition, I am satisfied that there would not be a significant adverse impact on bat populations as a result of the proposed development.
- 7.8.7. In conclusion, with the implementation of the identified alleviation measures, I am satisfied that the residual impact on local ecology would be no more than negligible.

Flood Risk

- 7.8.8. Third-party observers refer to the potential flood risk posed by the development and the location of a watercourse running under the site. The appellant submitted a site specific flood risk assessment and this asserted that based on information available, including Office of Public Works mapping, the site is at low risk of fluvial, pluvial, groundwater and human / mechanical error flooding, while also being at very low risk of tidal flooding. In this assessment historic flood events were not noted on site or adjacent to the site. As the storm-water runoff from the site would be limited to greenfield runoff rates, the appellant asserts that the proposed development would not increase the potential for flooding to neighbouring properties.

7.8.9. Following the approach set out within 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities', the site is situated within an area of low probability for flooding (flood zone C) and the proposed development is 'less vulnerable' and therefore appropriate for the site. Notwithstanding, historical Ordnance Survey Ireland mapping identifying a watercourse previously situated flowing adjacent to the northeastern boundary of the site, a natural watercourse, culverted or otherwise, would not appear to be currently in evidence at subsurface level on site. I address this matter further under section 8.0 below. In conclusion, based on the information available, I am satisfied that the development would be at very low risk of flooding and it would not increase the risk of flooding to other lands.

Archaeology

7.8.1. Based on Development Plan mapping, the site is outside of a 'Zone of Archaeological Interest', as well as zones of notification for recorded monuments and places. The appellant submitted an Archaeological Assessment as part of the application referring to neighbouring archaeological evidence from the wider area and a low to moderate potential for archaeological remains to survive on site. As the site is of large-scale, the City Archaeologist recommends that an archaeological condition be attached, including monitoring, in order to mitigate the impacts on any previously unidentified archaeological remains. I consider this approach to be reasonable, given the historical urban context and the limited extent of excavation that would be required for the basement, the foundations and the services. In conclusion, should the Board be minded to grant permission, I recommend that an archaeological monitoring condition should be attached.

Consultation

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

8.0 Appropriate Assessment

8.1. Stage 1 – Screening

- 8.1.1. A report screening for Appropriate Assessment (AA) was submitted with the planning application. The AA Screening Report provides a description of the proposed development and identifies European Sites within the possible zone of influence of the development. The AA screening report is supported by associated reports, including an Engineering Assessment Report and a Flood Risk Assessment.
- 8.1.2. The submissions and observations from the Planning Authority, prescribed bodies, and third parties are summarised in sections 3 and 6 of this report. The appellant and third-party observers refer to a potential culverted stream that forms part of the river Wad catchment running under the site. The appellant states that the possibility that materials could escape the site to a culverted 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. Consequently, the appellant's AA Screening Report concluded that in the absence of mitigation measures, potential significant impacts on North Bull Island SPA and North Dublin Bay SAC cannot be ruled out and a NIS was provided.
- 8.1.3. The Planning Authority concluded that the proposed development would not be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

Site Location

- 8.1.4. A description of the site is provided in section 1 above and also within the various application documents. The site contains four disused commercial and residential buildings and associated yard areas. It is serviced by public water and drainage networks. According to the appellant's AA screening report, the site contains no substantive features of ecological significance, including invasive species. There is an amenity grassland area along the northeastern boundary and it also features stands of trees, as identified in the appellant's tree survey report.

Proposed Development

- 8.1.5. A detailed description of the proposed development is provided in section 2 above and expanded upon below where necessary. A 24-month construction phase is estimated for the project. Wastewater from the operational phase of the proposed development would discharge to the public network for subsequent treatment. Surface water from the development would drain to the surface water sewer network. Sustainable urban drainage system measures are proposed alongside an Outline Construction and Demolition Management Plan, including best practice construction site environmental management measures. Ultimately the resultant treated wastewater and surface waters from the proposed development and site would discharge to Dublin Bay.

8.2. Relevant European Sites

- 8.2.1. The nearest European sites to the appeal site are those listed in section 5.4 of this report. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks and Wildlife Services (NPWS) website (www.npws.ie). In determining the zone of influence I have had regard to the nature and scale of the project, the distance from the appeal site to European sites, and any potential pathways that may exist from the appeal site to a European Site, aided in part by the Environmental Protection Agency (EPA) AA tool (www.epa.ie). The appeal site is not located within or immediately adjacent to any European site and the project is not necessary to the management of a European site.
- 8.2.2. The River Tolka is located 2.2km to the south of the appeal site, flowing in an easterly direction into Dublin Bay. Distances and direction from the site to European sites are listed in table 1 of section 5.4 above. I do not consider that any other European Sites outside of those listed in table 1 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development and the distance from the site to same, including the intervening open marine waters, or the lack of an obvious pathway to same from the appeal site.

Table 4. Identification of relevant European Sites using Source-Pathway-Receptor model and compilation of information (Qualifying Interests and Conservation Objectives)

Site Name / Code	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
South Dublin Bay and River Tolka Estuary SPA 004024	QIs – 14 bird species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf		
North Bull Island SPA 004006	QIs – 18 bird species To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it To maintain the favourable conservation condition of the qualifying species	Yes Weak hydrological connections exist through: Surface water ultimately	
North Dublin Bay SAC 000206	QIs – 10 coastal habitat and species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf	discharging to Dublin Bay Wastewater from the site passes and would be treated in Ringsend WWTP, which also discharges to Dublin Bay	Yes
South Dublin Bay SAC 000210	QIs - Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf		

8.3. Direct, Indirect or Secondary Impacts

8.3.1. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:

- Construction Phase – demolition, surface water runoff, disturbance and emissions, including dust, noise and vibration;
- Operation Phase – disturbance, surface water runoff and emissions to water.

8.4. Potential Effects

Construction Phase

8.4.1. Having regard to the information submitted with the application, including the Outline Construction and Demolition Management Plan, pollution sources would be controlled through the use of normal best practice site management. The proposed construction management measures outlined are typical and well-proven construction and demolition methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. Furthermore, their implementation would be necessary for a residential development on any site, in order to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site. These practices are not designed or intended specifically to mitigate any potential effect on a European site.

8.4.2. There are no surface watercourses on site or adjoining the site based on the topographical survey for the site and the drainage proposals submitted. Irish Water infrastructure maps for the area submitted as part of the appellant's Engineering Assessment and current maps of the area do not identify a watercourse on site or a culverted water channel. The Engineering Department (Drainage Division) of the Planning Authority do not refer to a culverted stream running through the site, nor has the appellant proposed a connection specifically to a culverted stream on the site. The appellant refers to historical Ordnance Survey Ireland mapping identifying a watercourse, which would ultimately discharge to Dublin Bay, although the precise alignment and discharge point for this watercourse has not been specified. Having

reviewed historical mapping for this area, it would appear that a watercourse had run largely outside of the site along the north-eastern boundary in a position currently marked by the landscaped verge to Beaumont Grove. The topographical survey submitted (drawing no.1953-PA-002 Revision A) confirms that the location that had been occupied by a watercourse is in an area of marginally lower ground to the appeal site. This area would not be subject of substantive development works, as it adjoins the proposed communal open space and it would be approximately 50m from the proposed basement excavation works. I am satisfied that based on the information available and the nature of the development, there is no scientific or factual evidence proving that the proposed development would impact on an underground culvert crossing the site.

- 8.4.3. Surface water from the proposed development would drain to the existing public surface water sewer along Beaumont Road, which ultimately drains to Dublin Bay coastal waters. According to the EPA, the water quality of the Dublin Bay coastal waterbody is classified as 'good' and is 'not at risk' based on categorisation under the Water Framework Directive.
- 8.4.4. I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the absence of a likely pollution source from the site into the surface water network, the levels of dilution within the network, the considerable intervening distances, and the volume of water separating the application site from European sites in Dublin Bay (dilution factor).
- 8.4.5. Survey details provided with the appellant's AA Screening report does not highlight qualifying interest species or other species associated with the conservation objectives of neighbouring European sites using the site or its adjoining area. The development would not increase disturbance effects to birds in Dublin Bay, including during construction (and operational) phases, given the separation distance from these sensitive areas across an extensive urban area.
- 8.4.6. The construction phase will not result in significant environmental impacts that could affect European Sites within the wider catchment area.

Operational Phase

- 8.4.7. During the operational stage surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage

Works to the public surface water drainage system after passing through an attenuation tank and a flow-control hydrobrake. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from European sites in the Dublin Bay area (dilution factor).

- 8.4.8. Wastewater would ultimately be treated at Ringsend Wastewater Treatment Plant (WWTP) and, according to the appellant, the proposed development would result in a loading equivalent to 357 persons. Having regard to the scale of development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would in any event be subject to Irish Water consent, and would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached. Notwithstanding this, water quality is not a target for the maintenance of any of the qualifying interests within the SACs closest to Ringsend WWTP (i.e. South Dublin Bay SAC and North Dublin Bay SAC). Their qualifying interest targets relate to habitat distribution and area, as well as vegetation structure and the control of negative indicator species and scrub. The development would not lead to any impacts upon these qualifying interests, consequent to changes to the physical structure of the habitats or to the vegetation structure that defines their favourable conservation status.
- 8.4.9. On the basis of the foregoing, I conclude that the proposed development would not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay via surface water runoff and emissions to water.
- 8.4.10. While I acknowledge that in addition to the sites considered in the screening above, the appellant screened in North Bull Island SPA (Site Code: 004006) and North Dublin Bay SAC (Site Code: 000206) for the purposes of AA, with respect to potential changes in water quality arising from the construction phase of the proposed development, I am satisfied that this may have been out of an abundance of caution and that there is no likelihood that pollutants arising from the proposed

development, either during construction or operation phases, could reach European sites in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

In-combination Impacts

- 8.4.11. This project is taking place within the context of greater levels of construction development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased volumes to the Ringsend WWTP.
- 8.4.12. The expansion of the city is catered for through land use planning by the various Planning Authorities in the Dublin area, including the Dublin City Development Plan 2016-2022. The Development Plan has been subject to AA by the Planning Authority, who concluded that its implementation would not result in significant adverse effects on the integrity of any European sites. The proposal would not generate significant demands on the existing municipal sewers for foul water and surface water. While this project would marginally add to the loadings to the municipal sewer, evidence shows that negative effects to European sites are not arising. Furthermore, I note that upgrade works have commenced on the Ringsend WWTP extension permitted under ABP – PL.29N.YA0010 and the facility is currently operating under the EPA licencing regime that was subject to AA Screening.
- 8.4.13. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence.

AA Screening Conclusion

- 8.4.14. The significant distance between the proposed development site and any European sites, and the very weak and indirect ecological pathways are such that the proposal would not result in any likely changes to the European sites that comprise part of the Natura 2000 network in Dublin Bay.
- 8.4.15. The proposed development was considered in light of the requirements of Section 177U of the Act. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects,

would not have a significant effect on European sites, including European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC) in view of the sites' Conservation Objectives, and Appropriate Assessment is not, therefore, required.

- 8.4.16. The possibility of significant effects on other European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process.

9.0 Recommendation

- 9.1. I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below in the draft Board Order.

10.0 Reasons and Considerations

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

- a) The policies and objectives of the Dublin City Development Plan 2016-2022;
- b) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- c) The National Planning Framework, Project Ireland 2040, which identifies the importance of compact growth;
- d) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- e) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020;
- f) The provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;

- g) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- h) The pattern of existing and permitted development in the area;
- i) The provisions of Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development that materially contravenes a Development Plan;
- j) The submissions and observations received;
- k) The report of the Planning Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the appellant's Appropriate Assessment documentation and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required. In particular, the Board agreed with and adopted the Planning Inspector's assessment and conclusion that a Stage 2 Appropriate Assessment was not required notwithstanding the submission of a Natura Impact Statement by the applicant for permission, which proceeded on the basis that a Stage 2 Appropriate Assessment was required.

Conclusions on Proper Planning and Sustainable Development

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

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

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

- the proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase the delivery of housing set out in the Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment. Accordingly, the provisions set out under section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, are applicable;
- it is considered that permission for the proposed development should be granted having regard to national policy as set out in the Project Ireland 2040

National Planning Framework, in particular Objectives 13 and 35, the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018, in particular Specific Planning Policy Requirement 3(a) and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020, in particular Specific Planning Policy Requirement 8. Accordingly, the provisions set out under section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, are applicable .

- since adoption of the Dublin City Development Plan 2016-2022, the Board has approved a 22m-high building at the Bonnington hotel on Swords Road (ABP-306721-20), which is approximately 1km to the southwest of the appeal site, as well as a 40m-high building at the Omni Park Shopping Centre (ABP-307011-20) and a 24m-high building at Swiss Cottage (ABP-306987-20) both approximately 1.2km to the northwest of the appeal site in Santry. The proposed development is continuing on that pattern of development. Accordingly, the provisions set out under section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, are applicable with respect to the proposed building heights.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 1st day of July 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In

default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) the height of block A, which fronts onto the slip road to Beaumont Road, shall be reduced to a maximum of six storeys. This shall be achieved by the omission of the top two floors in this block;
 - (b) revised elevation details breaking up the appearance of the northwest gable ends of blocks A and B facing Ellenfield Road;
 - (c) direct ramped access from the public street to the secure and sheltered basement level cycle parking facility;
 - (d) the omission of car parking spaces nos.1, 2, 39 and 40 identified on drawing no.20-048 P005.

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

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

3. Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

4. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a build-to-rent scheme. Any proposed amendment or deviation from the build-to-rent model, as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

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

Reason: In the interest of visual amenity.

6. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission. Access to sedum roofs shall be for maintenance purposes only.

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

7. Proposals for a development name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme. No advertisements or marketing signage relating to the

name of the development shall be erected until the developer has obtained the Planning Authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

8. Prior to the occupation of the development, a Mobility Management Strategy (travel plan), including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns, shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents and staff employed in the development and to reduce and regulate the extent of parking. The interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Street Interim Advice Note – Covid Pandemic Response May 2020. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during the Covid-19 pandemic.

9. The Mobility Management Strategy shall incorporate a car parking management strategy for the development, which shall address the management and assignment of car spaces to residents over time and shall include a strategy for any car-share parking. Car parking spaces shall not be utilised for any other purpose and shall be assigned and managed in a separate capacity via leasing or permit arrangements, unless the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and in the interest of encouraging the use of sustainable modes of transport.

10. A minimum of 10% of all car parking spaces should be provided with electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date.

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

11. Prior to commencement of development, the developer shall enter into water and / or waste water connection agreement(s) with Irish Water. All development is to be carried out in compliance with Irish Water standards codes and practices.

Reason: In the interest of public health.

12. a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.
- c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.
- d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the fuel interceptors shall be submitted to and agreed in writing with the Planning Authority prior to the occupation of proposed apartments and shall be implemented in accordance with that agreement.

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

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

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

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

The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs that die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the apartments are made available for occupation.

Reason: In the interest of residential and visual amenity

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally-constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

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

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

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

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

Reason: In the interest of nature conservation.

19. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

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

disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

21. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) A Construction Traffic Management Plan providing details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings -

Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.

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

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

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

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

- 23.** Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and

been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

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

25. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable

indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Colm McLoughlin
Senior Planning Inspector

2nd December 2021