



An
Bord
Pleanála

Inspector's Report

ABP-311065-21

Development	Demolition of building, construction of 52 apartments, ESB substation and 3 Retail Units, 1 public house, all at ground floor level.
Location	Kestrel House, 157 Walkinstown Road, Dublin 12
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2782/21
Applicant(s)	Double E Investments Ltd
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party vs. Refusal
Appellant(s)	Double E Investments Ltd
Observer(s)	Eircom Limited Eoin Duff & others
Date of Site Inspection	10th February 2022
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located in the suburb of Walkinstown at a distance of c. 5km southwest of the city centre and c. 2km east of the M50. It has a stated area of 0.1226Ha and adjoins the north-eastern edge of the Walkinstown roundabout, which is a busy six-arm junction and the focal point of the Walkinstown neighbourhood. The roundabout also coincides with the administrative boundary between Dublin City Council (DCC) and South Dublin County Council, with the northern side (including the appeal site) being within the DCC area. The wider surrounding area to the northwest, northeast, and southeast is mainly comprised of low-density suburban housing, while the area to the west and southwest comprises warehousing and industrial uses, including Ballymount Industrial Estate and the Greenhills commercial area.
- 1.2. The appeal site is surrounded by roads on three sides, the main roads being Walkinstown Road to the west and Cromwellsfort Road/Walkinstown Roundabout to the south. Bunting Road to the east has lower traffic volumes and mainly serves a residential area. To the immediate north of the site is an Eircom Exchange building, followed by a veterinary centre and typical low-density housing. The sites adjoining the roundabout mainly accommodate small-scale commercial/retail businesses in a variety of styles, along with a limited number of dwellings. Many of existing businesses are housed in former dwellings. There is little in the form of purpose-built modern development, apart from a 3-storey building between Walkinstown Road and Walkinstown Avenue.
- 1.3. The site is occupied by a two-storey over basement building containing a large public house, restaurant, off-license and betting office. It has a stated floor area of 1612m². There is a poorly defined vehicular entrance off the Bunting Road at the southeast corner of the site, which provides access to the premises' car park at the south and southwest of the site. There is a separate small private car park area to the west of the site adjoining the Walkinstown Road. There is additional perpendicular off-street public parking and a taxi rank adjoining the eastern site boundary. There are continuous footpaths of varying width around the south, east and west site perimeter, which is delineated by a mixture of bollards, planting and kerbing.

2.0 Proposed Development

2.1. Planning permission is sought for a mixed-use development of 52 apartments, 3 retail units and public house. In summary, the proposed development is comprised of the following:

- Demolition of the existing public house (1612m²)
- Construction of a part 4, 6, 7 and 8-storey mixed-use development comprising:
 - 52 apartments, comprising 23 no. 1-bed units and 29 no. 2-bed units (access from Bunting Road), each with access to private amenity space and communal amenity space at 4th and 6th floor levels
 - 3 no. retail units at ground floor level with a total of 177.9m² (access from Walkinstown Road and Bunting Road)
 - Public House (383.8m²) at ground floor level (access from Walkinstown Road, Cromwellsfort Road, and Bunting Road).
- 99 internal ground floor bicycle spaces, including 1 accessible space and 2 cargo bicycle spaces
- 39 visitor bicycle spaces located externally
- Refuse storage, plant room and ESB Substation at Ground Floor
- Landscaping and site development works.

2.2. Foul water is to be connected to the existing 225mm diameter sewer running in a westerly direction along Cromwellsfort Road. A Blue Roof stormwater attenuation system is proposed at each of the three roof levels beneath extensive green roof areas, paving and decking. Surface water would be discharged to the existing surface water sewer system. Water will be supplied via a 150mm diameter mains to the east of the site. The external areas of the development will be served by existing fire hydrants together with additional hydrants in the new watermains.

2.3. Along with the standard drawings and information, the application included the following reports:

- Planning Report
- Utilities and Energy Sustainability Report

- Presentation and Verified Views
- Architectural Design Statement
- Daylight, Sunlight and Overshadowing Report
- Acoustic Design Statement
- Traffic & Transportation Statement
- Landscape and Visual Impact Assessment (LVIA)
- Construction & Demolition Waste Management Plan
- Engineering Services Report

2.4. The First Party appeal includes an 'Alternative Design Option' with amended drawings, images, and reports. In summary, the revisions involve the following:

- Omission of the top 2 floors to provide a 6-storey over basement development
- Reduction to 42 apartments (19 no. 1-bed and 23 no. 2-bed)
- Omission of taken-in-charge areas beneath the proposed balconies
- Retain existing basement to facilitate 16 no. car parking spaces to be accessed via a car lift
- Relocation of bin store and reduction in size of one retail unit.

2.5. The key figures for the proposed development can be summarised as follows:

	Original Proposal	Amended Option
Site Area	0.1226 ha	0.1226 ha
No. of apartments	52	42
Dual Aspect	30 units (57.7%)	22 (52.4%)
Residential Density	424 units per ha	342 units per ha
Commercial Uses	566 m ²	533 m ²
Gross Floor Area	5408 m ²	4502 m ²
Plot Ratio	1 : 4.4	1 : 3.7
Site Coverage	74%	74%

Building Height	8 storey (26.55m)	6 storey over basement (20.55m)
Car Parking	0 spaces	16 spaces
Bicycle parking	138 spaces (99 internal, 39 external visitors)	138 spaces (99 internal, 39 external visitors)
Ext. communal Space	381.6m ²	381.6m ²
Public Open Space	0	0

3.0 Planning Authority Decision

3.1. Decision

3.1.1. By Order dated 12th July 2021, Dublin City Council (DCC) issued notification of a decision to REFUSE permission for the following reasons:

1. The proposed development, at both town and streetscape level, fails to successfully integrate into the existing character of the area, given the height strategy pursued and the visual prominence of the site, resulting in a visually dominant and overbearing form of development when viewed from the public realm. The proposal would, therefore, be contrary to the Urban Development and Building Heights, Guidelines for Planning Authorities, published by the Department of Housing, Planning and Local Government in December 2018, and would be, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development by virtue of inadequate provision for servicing and car parking within the site would generate overspill parking and servicing activity onto the adjacent heavily trafficked public road network, namely Bunting Road, Walkinstown Road, Cromwellsfort Road and footpaths thereby causing an obstruction to pedestrians, cyclists, vehicles and other road users. The development is considered contrary to the Dublin City Development Plan Section 16.38 and the Design Standards for New Apartments, Section 4.23, and would endanger public

safety by reason of traffic hazard. The development would therefore be contrary to the proper planning and sustainable development of the area, and would set an undesirable precedent for similar developments in the area.

3. The proposed development, located on a heavily trafficked junction and road network, has not demonstrated that the location can accommodate a car free development based on proximity and accessibility criteria and without resulting in a negative impact on the surrounding local road network. The proposed development is considered contrary to the Dublin City Development Plan 2016 – 2022, in relation to Policy MT17, which requires developments to provide for sustainable levels of car parking and car storage in residential schemes, and Section 16.38 Car Parking Standards and Table 16.1. The proposed development is also considered contrary to the Sustainable Urban Housing: Design Standards for New Apartments (March 2018) Section Car Parking, paragraph 4.18 to 4.27. The development would therefore be contrary to the proper planning and sustainable development of the area, and would set an undesirable precedent for similar developments in the area.

4. Having regard to the Z3 Neighbourhood Centre zoning objective, the intensification of use on the site, the scale of the proposed building, inclusion of balconies oversailing the public footpath and the potential changes to pedestrian and cycling infrastructure near the proposed ground floor entrances to the public house associated with the BusConnects project, it is considered that the proposal would not provide adequate circulation space or public realm at the base of the building and would therefore be contrary to the City Development Plan 2016-22 and to the proper planning and sustainable development of the area.

5. Having regard to the location of the site on a heavily trafficked junction, to the lack of any assessment submitted in respect of air pollution and to the number of single aspect units facing public roads, it has not been demonstrated that the proposed development would provide an acceptable level of residential amenity for future occupiers in terms of air quality, contrary to the City Development Plan 2016-22 and to the proper planning and sustainable development of the area.

6. Having regard to the compromised quality of the proposed private amenity spaces in terms of noise intrusion, to the necessity of walls surrounding the communal amenity spaces to provide noise mitigation, to the lack of meaningful landscaping of these areas and restricted sunlight access, it is considered that the proposed development would fail to provide an adequate quality of amenity space to serve the proposed residential accommodation, contrary to the provisions of the Guidelines on Sustainable Urban Housing: Design Standards for New Apartments (2018), the policies of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report is consistent with the decision of the planning authority and can be summarised as follows:

- The demolition of the building and construction of a mixed-use development is acceptable in accordance with the Z3 zoning for the site, subject to the consideration of other relevant policy objectives.
- The proposed plot ratio (4.4) would be substantially above the indicative Development Plan standard (1.5 – 2.0). The site coverage (74%) would also be above the standard of 60%. Such high densities can be supported where a proposal relates successfully to its surroundings, provides good quality accommodation, protects neighbouring amenities, and is acceptable with regard to transport and environmental impacts.
- The maximum stated height (26.55m) exceeds the general height limit of 16m for residential development in the 'outer city'. An assessment against the provisions of the Urban Development and Building Height Guidelines 2018 outlines the following:
 - Overall, the site has good access to public transport services
 - The site has the capacity to accommodate increased building height subject to sensitive design. Based on the LVIA, the scale, massing and

prominence of the scheme would appear dominant and overbearing in its context. An acceptable height is achieved on the northern boundary.

- The development includes balconies that would over sail the footpath and would not provide an appropriate quantity or quality of circulation space or public realm, particularly having regard to the 'neighbourhood centre' zoning, forthcoming BusConnects proposals, and the need to facilitate walking and cycling.
 - With the exception of the blank northern elevation, the elevations are well articulated. The height of the building would also improve legibility in the area. However, this does not overcome concerns that the height, bulk and scale of the building is at significant variance with the existing streetscape/character and would be an incongruent addition.
 - The proposal would improve the mix of commercial uses in the area and would introduce apartments into an area predominantly consisting of residential dwellings.
 - An assessment of micro-climatic effects has not been considered and it is considered that an assessment of wind impacts would be required.
 - The presence of roof voids in the existing building has the potential to provide habitat for protected species. No surveys have been submitted and these are necessary to inform the decision-making process.
 - A submission from Eir highlights concerns about construction and obstruction impacts on the adjoining telecommunications exchange site. The application has not demonstrated that it would not have an unacceptable impact in this regard.
 - Overall, the proposal would not be in compliance with the criteria outlined in section 3.2 of the guidelines and would be unacceptable in terms of height.
- The proposed apartments meet the 'Apartment Guidelines' standards for mix, sizes, security and private amenity space.
 - The Daylight and Sunlight Assessment examines daylight (ADF) and concludes that all rooms tested would exceed the accepted standard for

kitchen/living/dining rooms (1.5% ADF). It is acknowledged that BS 8206-02 recommends a target of 2% for kitchens and the High Court judgement in *Atlantic Diamond Ltd V An Bord Pleanala* (2020 No. 712 JR) sets out that the higher 2% ADF value for kitchens should be applied to such combined living spaces. However, while some rooms have a minor shortfall on the 2% value, the tested rooms achieve a minimum of 1.83%; units on upper levels would be expected to achieve higher values; and therefore the overall scheme is considered acceptable.

- The Acoustic Design Statement outlines that the internal residential units could achieve adequate sound insulation. The private amenity spaces would not achieve the relevant standards due to the proximity to the public road. However, the communal roof terraces could achieve the relevant standards with the incorporation of perimeter walls of 2 – 2.3m height.
- Due to the proximity and aspect to the adjoining roads, concerns are raised about air quality. No assessment has been submitted with the application.
- While the communal amenity areas (381.6m²) exceed the development plan requirement (318m²), it is not considered that adequate quality would be provided due to concerns about boundary treatment, detailing, landscaping, and sunlight.
- The development would have no privacy or overbearing impacts on surrounding properties.
- The applicant's assessment satisfactorily demonstrates that there would be no unacceptable daylight/sunlight impacts on surrounding properties.
- Given the presence of the existing public house it is not considered that there would be any excessive noise or light impacts on surrounding properties.
- The concerns of the Transportation Planning Division are noted.
- Public open space has not been provided within the site and a financial contribution would be required in lieu if permitted.
- An audit of community and social infrastructure has not been submitted. A childcare facility would not be required.

- The report concludes that the proposal would result in unacceptable impacts on visual amenity, transport, pedestrians, telecommunications, and the amenity of future occupiers, while insufficient information has been submitted on air quality, wind, and ecology. It recommends to refuse permission and this forms the basis of the subsequent DCC decision.

3.2.2. Other Technical Reports

- **Drainage Division:** No objections subject to conditions.
- **Transport Planning Division:** The issues raised can be summarised as follows:
 - Concerns about the location of ground floor pedestrian access points and conflict with a heavily trafficked roundabout and crossing points proposed under Busconnects.
 - The existing road network presents a hostile pedestrian/cycling environment.
 - The mobility strategy is heavily dependent on existing public transport. The distance to the LUAS (18mins walk) may discourage its use. Planned improvements to public transport are noted, including Core Bus Corridor No. 9.
 - The proposed areas to be ‘taken in charge’ include oversailing balconies, outward opening doors, hard/soft landscaping and such areas are generally not ‘taken in charge’ by DCC.
 - Alterations to public taxi/parking spaces along Bunting Road are not agreed and the applicant needs to reconsider the implications of the BusConnects proposal and the overspill of landscaping, cycle parking and balconies on/above public land.
 - The application has not demonstrated that the intensified servicing and drop-off requirements can be accommodated without unacceptably impacting on public lands.
 - Apart from encroachment onto public lands, cycle parking proposals are generally welcomed.

- Concerns that zero parking/drop-off provision and the limitations of alternative transport modes and on-street parking capacity would lead to overspill parking and adverse impacts for the road network, pedestrians, bus operations and other users.
- Clarification is required on construction and demolition waste management proposals.
- Refusal is recommended in accordance with reason no.'s 2 & 3 of the DCC decision.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The Planner's report outlines that 57 no. third-party submissions were received. In summary, the following issues were raised:

- Excessive height, scale and overdevelopment of the site
- Visual amenity and the impact on the character of the area
- Inadequate standards of residential amenity for the occupants
- Inappropriate mix of house types, including lack of larger units
- Inadequate parking and associated overspill impacts
- Impacts on traffic congestion and safety
- Demands on local infrastructure, including water services, health, education
- Impacts on existing dwellings, including overshadowing, overlooking, noise, construction, value, light
- Lack of public transport facilities does not support zero parking
- Impact on transmissions from the Eir exchange facility
- Impacts on the adjoining footpath/road and substandard public realm
- Impacts on the ongoing redesign of the roundabout

- Inadequate proposals for servicing and deliveries
- Concerns about security and anti-social behaviour
- Inadequate proportion of non-residential uses
- The applicant's precedents are not relevant
- Negative impacts on existing neighbourhood facilities
- Air quality impacts
- Absence of consent to over sail 3rd party lands
- Fire safety and emergency access
- Loss of the existing pub as floorspace and a landmark
- Lack of biodiversity and green/natural spaces.

4.0 Planning History

Appeal Site

P.A. Reg. Ref. 2385/15: Permission granted for smoking shelter to the south side of the premises.

P.A. Reg. Ref. 2849/10: Permission granted for subdivision of existing pub and off-licence to provide separate ground floor betting office (67m²)

P.A. Reg. Ref. 2823/97: Retention permission granted for alterations and extensions to previously approved development.

P.A. Reg. Ref. 1013/96: Permission granted for change of use of automobile parts shop and newsagent to provide extended public house and associated changes.

Other relevant sites

ABP Ref 309658-21: On Ballymount Road Lower (c. 300m to the west of the appeal site) the Board granted an SHD application on 23rd June 2021 for the demolition of existing buildings and the construction of 171 no. apartments, creche and associated site works. The proposal included 2 blocks and a maximum height of 8 storeys.

5.0 Policy Context

5.1. National & Regional Policy / Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking
- NPO 27 promotes the integration of safe and convenient alternatives to the car into the design of communities.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location
- NPO 35 encourages increased residential density through a range of measures, including site-based regeneration and increased height.

5.1.2 The NPF also acknowledges that telecommunications networks play a crucial role in enabling social and economic activity.

5.1.3 Following the theme of 'compact urban growth' and NPO 13 of the NPF, the 2018 **Urban Development and Building Heights, Guidelines for Planning Authorities** (hereafter referred to as the 'Building Heights Guidelines') outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

- 5.1.4 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)** (hereafter referred to as the ‘Sustainable Residential Development Guidelines’) sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.
- 5.1.5 The 2020 **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities** (hereafter referred to as the ‘Apartment Guidelines’) sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.
- 5.1.6 The **Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)**, hereafter referred to as the Telecommunications Guidelines, set out the criteria for the assessment of telecommunications structures. The Guidelines highlight the importance of existing sites/structures in facilitating the co-location of antennae, which in urban areas is commonly on building rooftops. It states that optimum coverage is obtained where there is line of sight.
- 5.1.7 The **Regional Spatial and Economic Strategy (RSES)** for the Eastern and Midlands area (adopted June 2019) provides a framework for development at regional level. The appeal site has been included within the Dublin Metropolitan Area (MASP) and is therefore part of the area identified for ‘consolidation of Dublin City and suburbs’. The RSES identifies the nearby Naas Road/Ballymount areas as significant brownfield lands with the potential for residential development and more intensive employment/mixed uses.

5.2. **Development Plan**

- 5.2.1 The site is zoned ‘Z3 Neighbourhood Centres’ in the Dublin City Development Plan 2016-2022, the objective for which is ‘*To provide for and improve neighbourhood facilities*’. These are areas that provide local facilities such as small convenience shops, hairdressers, hardware etc. within a residential neighbourhood and range from the traditional parade of shops to neighbourhood centres.
- 5.2.2 Chapter 4 outlines the shape and structure of the City. Section 4.5.3.1 relates to urban density and promotes sustainable density, compact development, and the efficient use of urban land. Relevant policies can be summarised as follows:

SC13: Promotes sustainable densities, particularly in public transport corridors, which are appropriate to their context and supported by community infrastructure.

SC14: Promotes a variety of housing and apartment types to create a distinctive sense of place.

5.2.3 The plan provides for taller buildings in designated areas. Outside these designated areas and SDRAs it is otherwise policy to retain the remaining areas of the city to a maximum height of between 16m and 28m depending on location. Section 4.5.4.1 (Approach to Taller Buildings) outlines that the spatial approach to taller buildings in the city is in essence to protect the vast majority of the city as a low-rise city, including established residential areas and conservation areas within the historic core, while also recognising the potential and the need for taller buildings to deliver the core strategy. Section 16.7.2 includes height limits for 'low-rise' residential development in the 'inner city' and 'rail hubs' (up to 24m), and in the 'outer city' (up to 16m). Relevant policies can be summarised as follows:

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

SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, including the demonstration of sensitivity to the historic city centre.

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

5.2.4 Chapter 5 outlines the Council's approach to the provision of quality housing and encourages a good mix of house types and sizes with a satisfactory level of residential amenity for the existing and proposed residential properties.

5.2.5 Chapter 16 sets out detailed policies and standards in respect of development proposals within the city. Section 16.2 "Design, Principles & Standards" provides design principles outlining that development should respect and enhance its context. Sections 16.2.2.2 and 16.10.10 discuss infill development and highlight the

importance that such development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

5.3. Natural Heritage Designations

The Grand Canal Proposed Natural Heritage Area is located c. 2km north of the site. The nearest Natura 2000 site is the Glenasmole Valley SAC (Site Code 001209), c. 7km southwest of the site.

5.4. Preliminary Examination Screening for Environmental Impact Assessment

5.4.1. An Environmental Impact Assessment (EIA) Screening Report was not submitted with the application. With regard to EIA thresholds, Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.4.2. It is proposed to construct a mixed-use development containing 52 apartments, 3 retail units, and a public house. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.1226 ha and is located within an existing built-up area and is, therefore, well below the applicable threshold of 10 ha or 2 ha if the area is considered to be a ‘business district’.

5.4.3. The site is comprised of an existing building and artificial surfaces and is largely surrounded by suburban housing and commercial/industrial developments of varying scale. The introduction of mixed-use development will 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 outlined in Section 8.0 of this Report). There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).

5.4.4. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other development in the neighbourhood. It would not give rise to a risk of major accidents or 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 minimal.

5.4.5. 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 (as amended),
- The location of the site on lands that are zoned 'Z3 Neighbourhood Centres' 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 (as amended) and the mitigation measures proposed to avoid significant effects by reason of connectivity to any sensitive location,
- 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 (as amended),

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 (EIAR) or a determination in relation to the requirement for an

EIAR was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has appealed the decision of DCC to refuse permission. The grounds of appeal can be summarised under the following headings:

Amended Design Option

- The appeal requests that the Board considers the proposal as submitted to DCC but offers an amended design if the Board has concerns.
- The revisions involve the omission of the top 2 floors to provide a 6-storey over basement development with a reduced total of 42 apartments (19 no. 1-bed and 23 no. 2-bed).
- The areas previously proposed to be 'taken in charge' will now be under the management company ownership, thus the proposed balconies would no longer be over sailing lands to be 'taken in charge'.
- The existing basement would be retained to facilitate 15 no. car parking spaces and access to same would be facilitated by the relocation of the bin store and reduction in size of one retail unit.

Precedent

- The appeal suggests that similar permitted proposals at Clonliffe Road (P.A. Reg. Ref 2935/20, ABP Ref. 308193-20) and Donnybrook Road (P.A. Reg. Ref 3513/20, ABP Ref. 309720-21) are appropriate precedents for increased building height.

Compliance with the Development Plan

- The proposal is in accordance with the Z3 zoning objective for the site and policies to provide higher density development with good quality accommodation and a mix of uses.

- The higher plot ratio and site coverage is appropriate given that the proposal will provide increased density and activity, improved streetscape, and would be close to high-quality bus routes.
- The location and accessibility of the site in relation to surrounding transport services support the zero-parking approach as outlined in the applicant's Traffic and Transportation Statement.
- Bicycle parking spaces (138) would be well in excess of the required standards (68 spaces).
- The maximum building height of 16m has been superseded by the Urban Development and Building Height Guidelines (2018). The proposed part 8-storey (c.25m) building height would respond appropriately to its context and act as a landmark feature at this prominent site.

Compliance with National and Regional Policy/Guidance

- The proposal is consistent with NPF, RSES and NDP objectives to redevelop under-utilised land in close proximity to existing facilities and transport services.
- It would help to address the need for housing as outlined in national housing policy.
- The proposal would be consistent with the Sustainable Residential Development Guidelines recommendations (section 5.8) on appropriate locations for higher density.
- The proposal complies with the Apartment Guidelines in respect of floor areas, mix of units, dual aspect ratios, ceiling heights, lift/stair cores, and private amenity space.
- The design successfully addresses the criteria set out in the 'Urban Design Manual – A Best Practice Guide'.

Refusal Reason No. 1 – Failure to integrate with the character of the area

- The design is of a suitable scale and height to integrate with its context at this prominent location and has been designed to a high standard in accordance with the Building Height Guidelines.

- The site is well served by public transport and other sustainable modes, including car-sharing facilities. It successfully integrates with the area and improves public realm, and is not affected by protected views, conservation areas, or visual sensitivities.
- The design responds well to the natural and built environment and makes a positive contribution to the neighbourhood. It is not monolithic and provides an appropriate mix of uses and unit types.
- The scheme is carefully modulated to maximise light for existing and proposed units and ensures a high standard of living which is appropriate at this site. The amended design option omits the top 2 floors and is significantly more in scale with the surrounding area.

Refusal Reason No.'s 2 & 3 – Car-parking and servicing

- The proposal within an urban village is highly accessible by existing and planned sustainable transport modes and is suitable for zero-parking.
- Nearby bus routes include no.'s 27, 9, 56A, 77A, 77N and 123, and the Blackhorse LUAS stop (2km away) provides further access to the city centre, Tallaght, and Heuston Station.
- BusConnects will introduce the high frequency D-Spine adjacent to the site and two other proximate city bound routes (No.'s 71 & 73).
- The applicant's Travel Plan promotes a modal shift to sustainable transport modes and supports the zero-parking approach.
- The amended design option proposes 15 no. spaces which would be in excess of any requirements.

Refusal Reason No. 4 – Circulation space and public realm

- The proposal would be a marked improvement on the existing built form on the site.
- The design will improve the interface with Bunting Road, including increased activity and passive surveillance, and will stimulate further development and regeneration.

- The amended design option proposes that areas previously proposed to be ‘taken in charge’ will now be under the management company ownership, thus the proposed balconies would no longer be over sailing the public footpath.

Refusal Reason No. 5 – Air quality

- The proposal provides a high quality of residential amenity and the DCC concerns regarding air quality are unsubstantiated.
- Concerns could have been resolved by the design team if given the opportunity to do so.
- While the junction is busy, it is not too dissimilar to many other junctions where residential units have been permitted and the proximity to public transport is considered to be optimal.

Refusal Reason No. 6 – Amenity space

- It is outright refuted that the private amenity spaces would be of compromised quality. Each unit will have a high-quality space and the appellant fails to comprehend how noise mitigation measures could be demerited and deemed as a reason for refusal.
- The proposed communal areas will provide high quality amenity areas that are accessible and usable by all residents.
- Public open space is not provided due to site constraints. Despite this, the scheme may ultimately improve public realm due to the vitality of ground floor uses.

6.2. Planning Authority Response

None.

6.3. Observations

Two observations on the first-party appeal were received. They are from Eoin Duff & others, 143 Walkinstown Road; and Eircom Ltd., trading as ‘eir’, City West Business Campus. The grounds of each observation can be summarised as follows:

Eoin Duff & others

- The submission relates to both the original and amended proposal and expresses full support for the DCC decision and the wide range of substantive reasons for refusal.
- The amended design option does not adequately address the reasons for refusal. It should not be considered or supported and should also lead to a refusal of permission.
- The revised car-parking proposals remain a significant under provision, raise significant issues not previously considered, and require access over lands that are not in the control/consent of the applicant.
- The applicant has not provided consent for the revised 'taken in charge' proposals affecting land outside the red line of the site boundary.
- The height, scale, mass and overbearing nature of the scheme will negatively impact on the residential amenities of surrounding residences, contrary to the zonings of these streets, and will set an undesirable precedent contrary to the Z3 zoning, the development plan and the Building Height Guidelines.
- The planning history of the site and other suggested precedents do not provide any basis to overturn the DCC decision.
- The proposed mix of uses is imbalanced towards an excessive proportion of residential uses, which is contrary to the Z3 zoning objective.
- The proposal constitutes overdevelopment of the site which fails to respect its context and is contrary to development plan policy QH8 and section 16.10.10.
- Inadequate car-parking will lead to overspill, traffic hazards and public safety concerns. The existing spaces to the east and west do not appear to be associated with the site and the applicant's assessment of maximum requirements does not include the retail/public house space.
- The application fails to identify how the commercial units will be serviced by deliveries due to the lack of drop-off/loading areas, or how the proposed basement access car lift will operate in terms of detailed drawings/information, traffic impact, sightlines, or maintenance.

- The excessive building height does not comply with the criteria set out in the Building Height Guidelines. It will not integrate into or enhance the character of the public realm and fails to respect its context.
- The proposal will result in unacceptable overlooking and overbearing impacts on the observer's property and others and would be seriously injurious to residential amenity.
- The visual impact will be a long term, profound negative impact and will result in a poor-quality pedestrian environment at a heavily trafficked junction.
- Noise concerns for the existing and proposed residents, as well as the robustness of the data in the Acoustic Design Statement and existing high level of background noise levels in the area.
- The Statement accepts that all external balconies are outside the desirable noise level criteria and does not adequately elaborate on compensatory spaces at 4th and 6th floors.
- The proposed 'noise wall' mitigation measures for the communal terraces have not been incorporated into the drawings/images and have been designed to mitigate traffic noise rather than impacts on existing properties. The areas may be subject to intensive use and noise which would compromise the amenity of existing residents.
- The appeal has not provided any air quality evidence that allow an overturning of the DCC decision.
- The application, including demolition of existing buildings, failed to include any ecological surveys or an Appropriate Assessment Screening Report. This represents a void in environmental information to make a fully informed decision.
- The proposal would result in a material and significant reduction in the value of the observer's property.
- The balconies on the western elevation continue to over sail the public footpath.

- The potential changes to pedestrian and cycling infrastructure associated with BusConnects near the proposed ground floor entrance would not provide adequate circulation space or public realm.

Eircom Ltd.

- The company owns the immediately adjoining property to the north and has outlined that it has no objection to the principle of the development subject to demonstration that the proposal will not interfere with the ongoing and interrupted operation of the telecoms exchange, which is of strategic importance to the *eir* telecommunications network.
- The DCC refusal did not reference the potential impact on the operation of the established telecommunications infrastructure of strategic importance.
- In the event that the Board upholds the refusal, the Board is requested to attach a reason stating that the adverse impact on strategic telecommunications infrastructure would materially contravene section 9.5.11 and policy SI29 of the Development Plan and would be contrary to the proper planning and sustainable development of the area. This would establish a precedent for the resolution of the issue in any future proposal on the site.
- If the Board is minded to grant permission, it is requested in advance of any grant to request the applicant to demonstrate that the construction or operation of the development would not adversely affect the strategic telecommunications infrastructure and amend the development if necessary following discussions with the operators.
- The existing exchange site (DN-4190) covers the area along Ballymount Road Lower, Greenhills Road, Saint Peter's Road, Cromwellsfort Road and Walkinstown Road, and *eir* is currently investigating improvements to this busy site. If the site is lost or obstructed, it is likely to adversely affect indoor coverage and high-speed mobile broadband in the area. The building houses both fixed and mobile network elements. It is one of the top 50 priority sites nationwide and provides telephone and broadband service to almost 10,000 residential customers and 1,500 business customers. Unrestricted access and external parking are vital to ensure continuity of service. The digital equipment is very

sensitive to vibration and major damage could be caused by extensive building/demolition works.

- Review of the applicant's construction proposals, including the Construction and Demolition Waste Management Plan (CDWMP), indicates the following inadequacies:
 - Lack of parking may result in indiscriminate parking and obstruction of access to the site.
 - No limits or mitigation/monitoring measures for dust or vibration impacts are included and this could adversely affect sensitive equipment
 - Clarification is required on surface water attenuation as any additional risk of deep excavation and the risk to the cable chamber from any future leak would need to be considered.
 - Several *eir* ducts would be vulnerable and would be likely to have access issues during construction.
 - Proposed foul and surface water drains pass under existing *eir* ducts at the junction of Cromwellsfort Road and Bunting Road, which requires further detail and assessment.
 - Site plans do not show the direct relationship between the existing and proposed development along the common boundary.
- The roof mounted antennae/equipment at DN-4190 relies on line-of-sight for coverage/capacity and would experience significantly reduced quality of service due to the obstruction posed by the development. Predicted coverage maps show a significant and detrimental impact, particularly to the south of the site.
- Rooftop equipment would be susceptible to damage from falling/thrown items from the adjoining rooftop terrace.
- Zero parking provision is unacceptable in Parking Zone 3 as the site could not reasonably be classified as a central or accessible location. Reliance on the private car would result in indiscriminate parking and would obstruct access and operational arrangements at DN-4190.

- It is clear that the DCC Planner's assessment that the potential adverse impacts of the proposed development on the existing telecommunications infrastructure have been considered and acknowledged, and that reservations in this regard remained in the assessment conclusion.

7.0 Assessment

7.1. Introduction

7.1.1. This case relates to a first-party appeal against the decision of DCC to refuse permission for the proposed mixed-use development. The appeal has included an 'amended design option', which is not an uncommon practice in the appeal process. The main effect of the amended proposal would be to reduce the overall height and scale of the proposal, which would normally not give rise to material considerations for third parties. The other material changes involve the addition of the vehicular access at the northeast site corner adjoining the Eircom property, as well as alterations to the public realm area. Both DCC and Eircom are active parties in this case and have had the opportunity to comment on the amended proposals. Accordingly, I am satisfied that adequate opportunity has been afforded for comment on the amended design and I have no objection to its consideration as part of the appeal.

7.1.2. Having inspected the site and examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal are as follows:

- The principle of development
- The quantum of development proposed
- The quality of residential amenity proposed
- Impacts on surrounding properties
- Daylight and Sunlight
- Traffic and Transportation

- Public Realm & Circulation
- Telecommunications
- Building height, scale and visual amenity

7.2. The principle of development

Demolition

- 7.2.1. The proposal involves the demolition of the existing public house building, which is not a protected structure or located in a conservation area. Notwithstanding this, I acknowledge that section 16.10.17 of the Development Plan supports the retention and reuse of older buildings of significance which are not protected and which area of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city. This building is relatively modern, and I do not consider that it is of any particular historic, architectural, cultural or artistic interest. And while it may function as a local landmark and a social focal point for the local community, I do not consider that it is of a particular character, interest or status that would warrant its retention in this case. Accordingly, I have no objection to the demolition of the existing building.

Zoning

- 7.2.2. The Development Plan outlines that the 'Z3 Neighbourhood Centre' zone can form a focal point for a neighbourhood and provide a limited range of services to the local population within 5 minutes walking distance. Neighbourhood centres provide an essential and sustainable amenity for residential areas, and it is important that they should be maintained and strengthened, where necessary. 'Residential' and 'shop (neighbourhood)' uses are 'Permissible Uses' within this zoning objective. A public house use is 'open to consideration'.
- 7.2.3. The proposed development would retain the existing commercial use on ground floor level. It would include a large public house space as a social focal point in place of the existing premises. It would also add to the diversity of the commercial offering through the introduction of retail uses along the eastern and western sides of the site, thereby increasing activity and vibrancy on the adjoining roads. I consider that

the appropriateness of further significant commercial floorspace on the upper floors would be questionable in this case and that the proposal for higher-density residential uses above ground floor level would be consistent with section 14.8.3 of the Development Plan. Accordingly, I consider that the proposal would maintain and strengthen the value of the existing neighbourhood centre and would be consistent with the objectives of the Z3 zone.

Conclusion

- 7.2.4. Having regard to the nature and extent of existing development on this prominent neighbourhood centre site, I have no objection in principle to the demolition of the existing building and the construction of a mixed-use development with small-scale commercial units on the ground floor and apartment units on the upper floors.

7.3 Quantum of development proposed

- 7.3.1. Consistent with national policy and guidance, the Development Plan seeks to encourage the redevelopment of underutilised lands in appropriate locations to achieve higher density sustainable development. Having regard to the prominent location of the appeal site, I consider that the current nature and extent of development is an underutilisation of the site and that such redevelopment proposals should be supported.
- 7.3.2. Section 2.5 of this report outlines the key quantum figures associated with the proposal. The original proposal for 52 apartments equates to a density of c. 424 units per hectare and a plot ratio of 4.4, while the amended proposal for 42 apartments equates to a density of c. 342 units and a plot ratio of 3.7. Site coverage remains the same in the two proposals at 74%. Therefore, both proposals exceed the Development Plan recommendations for Z3 zones relating to plot ratio (1.5 – 2.0) and site coverage (60%), albeit that the plan allows for such exceedances in certain circumstances depending on accessibility, the need for redevelopment, streetscape and existing site circumstances.
- 7.3.3. The 2009 guidelines on ‘Sustainable Residential Development’ recommend that increased densities (minimum 50 per hectare) should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station, with densities decreasing with distance from such nodes.

- 7.3.4. SPPR 1 of the 2018 Building Height Guidelines supports increased building height and density through statutory plans in locations with good transport accessibility and prohibits blanket numerical limitations on building height. It is also stated that suburban/edge locations can accommodate 4-storeys or more in appropriate circumstances, and SPPR 4 requires that development in such areas must secure the minimum densities set out in the 2009 guidelines and a greater mix of building heights and typologies.
- 7.3.5. Section 2 of the Apartment Guidelines outlines the types of location that may be suitable for apartment development. It describes 'central and/or accessible urban locations' as being generally suitable for large-scale higher-density development that may wholly comprise apartments. Subject to further consideration and assessment, such sites would include those that are:
- within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
 - within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas);
 - within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services
- 7.3.6. The appeal site is located within the designated neighbourhood centre at Walkinstown which provides a range of local services. It is also within 200m walking distance of numerous bus routes (Services 27, 77A, 77N, 56A, and 9) which converge at the Walkinstown Roundabout. Route 27 has stops within 50m of the site and links Ringsend with Tallaght via the city at a frequency of 10 mins, while Route 9 has stops within 120m and links Charlestown with Limekiln Avenue via the city at a frequency of c. 12 mins. Furthermore, the appeal site adjoins or is in close proximity to proposed Bus Connects routes, including Spine routes D2, D4, D5, and F3, and Radial Route 71 and 73.
- 7.3.7. The site is c. 1.4 km from a Luas stop at Kylemore Road (Red Line) that offers direct connections to Dublin City, Tallaght Town Centre, Heuston Station and to employment destinations such as St. James Hospital and the National Children's Hospital (under construction). In addition, the Ballymount / Nass Road areas are

within 1500m walk from the appeal site and comprise a significant employment location that is targeted for further intensive employment uses in the RSES.

- 7.3.8. On the basis of the foregoing, I consider that the site is within a 'Central and/or Accessible Urban Location' based on the criteria set out in the Apartment Guidelines. Given the site's strategic location within the M50 corridor, its proximity to high frequency bus and Luas services, employment opportunities, as well as higher order urban services and facilities, I consider that the site can sustainably support higher density apartment development. Higher densities would be appropriate at this location given the need to deliver sufficient housing units within the MASP area, and the need to ensure efficient use of land and maximum use of existing and future public transport infrastructure. That being said, the proposed densities range from 424 units per ha (original proposal) to 342 units per ha (amended design option), which is significantly higher than existing and permitted development in the area. Accordingly, the suitability of the proposed quantum of development requires further assessment on the basis of the various issues discussed throughout this report, including visual amenity, residential amenity, and traffic/transport impacts.

7.4. The quality of residential amenity proposed

Mix of Units

- 7.4.1. The original application for 52 apartments proposes 23 no. 1-beds and 29 no. 2-beds, while the amended option for 42 no. apartments includes 19 no. 1-beds and 23 no. 2-beds. SPPR 1 of the Apartment Guidelines states that developments may include up to 50% 1-bed units, while SPPR 2 allows for further flexibility in this regard for schemes on urban infill sites of less than 0.25ha where less than 50 units are proposed. Both the original and amended proposals in this case have less than 50% 1-bed units and, therefore, I am satisfied that this complies with SPPR 1 and I have no objection to the proposed mix of units.

Floor Areas & ceiling height

- 7.4.2. All proposed units exceed the minimum overall apartment floor areas as set out in Appendix 1 of the Apartment Guidelines. Section 3.8 of the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1,

2 or 3 bedroom unit types, by a minimum of 10%. Having reviewed the proposed areas, I note that 29 (or 56%) of the 52 units originally proposed would exceed this 10% target, while 23 (or 55%) of the 42 units in the amended design option would exceed the target.

- 7.4.3. I have also reviewed the other requirements of Appendix 1 of the Apartment Guidelines for living/kitchen/dining areas, bedrooms and storage. I am satisfied that the quantitative areas required for the individual units are satisfactorily provided in this case. The proposed units would also be provided with private amenity spaces which comply with the minimum area requirements. The spaces are at least 1.5m deep and are suitably accessed off the main living areas. The proposed ceiling heights are 2.4m in all cases, which meets the requirement for above-ground floor units.

Aspect

- 7.4.4. SPPR 4 of the Apartment Guidelines outlines that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations such as this. The original proposal includes 30 (or 57%) dual-aspect units, with none of the single-aspect units facing north. The amended scheme includes 22 (or 52%) dual-aspect units, again with none of the single-aspect units facing north. Accordingly, I consider that the proportion of dual-aspect units significantly exceeds the 33% requirement as per SPPR 4 (i) and I have no objection in this regard.

Lift and Stair Cores

- 7.4.5. The application proposes a maximum of 10 apartments per floor, which would be served by a main stair core and lift. This complies with the maximum allowable 12 apartments per floor per stair/lift core as per SPPR 6 of the Guidelines.

Communal Open Space

- 7.4.6. In accordance with Appendix 1 of the Apartment Guidelines, the original proposal requires a total communal open space area of 318m², while the amended option would require 256m². However, section 4.12 allows for a relaxation of communal space in part or whole on urban infill sites of up to 0.25ha. Both proposals would significantly exceed these requirements by providing a total of 380m² laid out over two roof terraces at 213m² and 167m². Both terraces would be surrounded by a

planted perimeter. I note that the planning authority raised some concerns about the detail and impact of the planting. However, I feel that such landscaped areas should be considered as an integral part of the space provided. The planting would help to provide a screen around the space, and I am satisfied that the specifics of planting and boundary treatment could be satisfactorily agreed by condition.

7.4.7. In addition to the quantitative requirements, the Apartment Guidelines highlight the importance of providing well-designed communal outdoor space that is accessible, secure and usable. Section 4.11 allows for the provision of roof gardens subject to accessibility and safety. In this case the proposed terraces would be accessible to all residents. And unlike typical roof terraces, the proposed spaces would not occupy the top roof level of the building and would be passively overlooked by adjoining apartments to the south.

7.4.8. For schemes of 25+ units with two or more bedrooms, the Guidelines recommend that small play spaces (about 85 – 100 sq. metres) be provided for the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. While the amended design option includes only 23 no. 2-bed units, the original proposal includes 29 no. 2-bed units, which marginally exceeds the threshold for the provision of such facilities. I am satisfied that the overall communal space proposed significantly exceeds the requirements of Appendix 1 of the Guidelines and that play facilities can be easily facilitated and agreed in detail through a condition of any permission.

Communal Facilities

7.4.9. Access to the proposed apartments is via a central ground floor location off Bunting Road. The entrance would be appropriately lit and overlooked by the public realm. Internal circulation areas are appropriate in scale and width and are easily legible.

7.4.10. Both proposals include a separate bin store for the public house (15m²) and the remaining residential/retail uses (33.4m², reduced to 30.4m² in the amended design). This ground floor facility is accessible to each apartment stair/lift core and has been designed with reference to Appendix 10 of the Development Plan and the projected level of waste generation and types and quantities of receptacles required. I am

satisfied that the facility is of an adequate capacity and design to address the criteria set out in section 4.8 and 4.9 of the Apartment Guidelines.

7.4.11. The *Planning Guidelines for Childcare Facilities* (2001) recommend the provision of one child-care facility (equivalent to a minimum of 20 child places) for every 75 dwelling units. Section 4.7 of the Apartment Guidelines outline that one-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms. Having regard to the maximum no. of units proposed (52) and the maximum no. of 2-bed units proposed (29), I am satisfied that childcare facilities are not required in this case.

7.4.12. I note the provisions of the section 16.10.4 of the Development Plan regarding a social/community infrastructure audit for proposals in excess of 50+ units or 5,000m². The proposed development would be only marginally above these thresholds, and it includes commercial units which could contribute to the infrastructure in the area. Furthermore, the appeal site is located within an existing neighbourhood centre serving the mature residential area of Walkinstown, which already has a wide range social infrastructure including primary and secondary schools, sports and recreation facilities and medical facilities. The site is also proximate to amenities in the wider city area including third level institutions, hospitals, and retail facilities in Tallaght and the City Centre. Therefore, having regard to the central location of the site, the limited scale of the proposal, and the good range of other services already provided in the area, I am satisfied that no further communal/social facilities would be required as part of the development.

Public Open Space

7.4.13. In addition to the foregoing, the Development Plan requires a provision of 10% of the site area as accessible public open space, or otherwise a payment in lieu of such provision. The applicant has accepted that no public space is provided and argues that the scheme will ultimately improve the public realm. Given the central location and constrained nature of the site bound by roads on three sides, I consider that the provision of significant on-site public open space is not feasible in this case. I also note that there are several public open spaces within reasonable proximity of the site. I consider that a financial payment in lieu would be acceptable, and I note that

the DCC Development Contribution Scheme already covers the requirement for a contribution of €4,000 per unit in such cases. Accordingly, section 48 (2)(c) of the Act need not apply.

Noise and Air Quality

- 7.4.14. The application includes an Acoustic Design Statement prepared by Amplitude Acoustics to assess road noise intrusion on the proposed development. Existing traffic noise at the site was measured and a noise model was developed while taking into account the lower traffic volumes due to Covid-19 restrictions and predicted future traffic growth. The assessment is based on the criteria set out in BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'; ProPG: Planning and Noise, Professional Practice Guidance on Planning & Noise, New Residential Development (May 2017); and the Dublin Agglomeration Environmental Noise Action Plan December 2018 – July 2023.
- 7.4.15. The results indicate very high noise levels surrounding the site, particularly to the south and west facades of the proposed building. The applicant's report includes mitigation measures for the internal noise levels in the form of construction details. Subject to implementation of these measures, it is predicted that the internal noise levels for the whole development will comply with the recommendations of BS 8233 and ProPG.
- 7.4.16. The report accepts that all external balcony spaces would be outside the 'desirable external amenity levels'. The south and west side balconies are most exposed, experiencing levels in the range of 70-75dB L_{day} ($L_{Aeq, 16hr}$), whereas such areas should ideally be in the range of 50-55dB L_{day} ($L_{Aeq, 16hr}$). However, both BS8233 and ProPG recognise that desirable external amenity areas are not always achievable; that other external amenity spaces should be considered; that development should be designed to achieve the lowest practicable noise levels; and that development should not be prohibited on this basis.
- 7.4.17. In order to offset the high noise levels in the balcony areas, the applicant highlights access to the roof terraces as a suitable alternative. Although these areas are predicted to be slightly above the recommended noise levels, noise walls (2 – 2.2m high) will be provided around the perimeter to ensure compliance with recommended levels. I acknowledge that this would be a reasonable alternative arrangement to

comply with the recommendations of BS8233 and ProPG. However, given that the roof terrace perimeter walls are already 1.5m in height and the noise levels only slightly exceed the recommended levels, I do not consider that the increased height to 2-2.2m is necessarily warranted. Compliance with BS8233 and ProPG is not mandatory, and I consider that the increased wall height would detract somewhat from the overall quality of the spaces. On balance, I consider that wall heights should be retained notwithstanding that the noise levels slightly exceed recommendations. I also note that the proposed development would be within a reasonable walking distance of other public external amenity areas at Beechfield Park, Walkinstown Avenue Park, and Walkinstown Green, and that proximity to such spaces is a relevant noise mitigation factor as recommended by the ProPG guidance.

- 7.4.18. The planning authority has also raised concern that an air quality assessment has not been submitted to address the relationship between the proposed units and adjoining traffic. However, similar to the issues raised regarding noise assessment, I do not consider that there are reasonable grounds to refuse the proposed development on the basis of substandard air quality. This under-utilised site is located within a 'neighbourhood centre' and its redevelopment with upper floor residential units and external amenity spaces is considered appropriate in accordance with planning policy. It is certainly not ideal that the neighbourhood centre has developed around an environment where vehicular traffic dominates, which is not an uncommon feature in any case. However, in this case, I consider that the proper planning and sustainable development of adjoining land should not be prohibited as a result of existing air and noise levels from traffic. The approach should concentrate on improving the existing traffic environment and I am satisfied that this is progressing through initiatives such as BusConnects, which will promote sustainable forms of transport such as bus, walking and cycling. Accordingly, I do not consider that a refusal of permission would be warranted on the basis of the noise or air quality environment for the prospective residents.

Conclusion on quality and amenity value

- 7.4.19. The proposed development would provide an appropriate mix of units which would be sized and designed in accordance with the requirements of the Apartment Guidelines. Adequate private amenity space has been provided for each unit and

communal amenity space would significantly exceed the normal minimum requirements, notwithstanding that such normal requirements can be relaxed in part or whole in the case of small urban infill sites such as this. And while the site adjoins a challenging traffic environment with associated air and noise impacts, I do not consider that the appropriate redevelopment of the site as proposed should be prevented. Further assessment of development standards, including daylight/sunlight and traffic/transport issues, is outlined in later sections of this report.

7.5. Impacts on surrounding properties

- 7.5.1. It is contended by one of the observations (Eoin Duff & others) and in other submissions to the planning authority that the proposed development would give rise to adverse impacts on surrounding properties by reason of traffic congestion, overlooking, overshadowing, overbearing and other impacts. The questions of overshadowing and traffic/access will be dealt with separately in later sections of this report.

Overlooking

- 7.5.2. The appeal site is surrounded by a wide road network to the south, east, and west, which maintains separation distances of at least 25m from existing properties. Accordingly, I am satisfied that no overlooking issues arise in these directions.
- 7.5.3. To the north of the site is the Eir utility site and an adjoining veterinary centre, followed by residential properties along Bunting Road (c. 28m away) and Walkinstown Road (30+m away). There is therefore a significant separation distance from existing residential development, which is further obstructed by intervening development and vegetation. The proposed development does not include any north-facing balconies and the closest north-facing windows are setback at least 9m from the northern site boundary and would be significantly elevated. The external rooftop spaces are adequately screened by walls of 1.5m height. Accordingly, I am satisfied that the significant separation distances and obscured angles of vision between the proposed development and existing residences would ensure that no unacceptable overlooking or privacy impacts would occur for existing properties.

Overbearance

- 7.5.4. Overbearing impacts are mainly derived from the relationship between the height / scale of a development and its separation distance and orientation in relation to adjoining properties. In this regard, I do not consider that the rear/front of any of the neighbouring properties north of Cromwellsfort Road or east of Walkinstown Road face towards the proposed development. Accordingly, I do not consider that they would experience an overbearing impact.
- 7.5.5. The closest terrace of houses to the south (No. 6 – 16 Cromwellsfort Road) mainly faces the open route along Bunting Road. These properties would generally be at an angle to the proposed development and would still maintain a separation distance of c. 38m at the closest point. Furthermore, the properties would be separated from the proposed building by the busy traffic route of Cromwellsfort Road. In these circumstances I am satisfied that the proposed development (including the original proposal) would not have any unacceptable overbearing impacts.
- 7.5.6. Greater separation distances would apply for any properties along Ballymount Road and Walkinstown Avenue to the west. The properties directly west along Walkinstown Road are in commercial use, while dwellings further north on the western side of the road would have only an angled view of mainly the lower levels of the development. I do not consider that any unacceptable overbearing impacts would occur in these instances due to the separation distances and orientation of the existing properties.

Noise and Light pollution

- 7.5.7. The appeal site hosts existing commercial uses which are similar to many others at this location and there are larger commercial/industrial developments in the wider surrounding area. It also adjoins a busy roundabout junction serving six roads, which involves a significant degree of existing traffic noise and street lighting. The proposed development would not increase the extent of commercial floorspace or any associated noise/light pollution concerns. And while the additional residential development on site would involve an intensification of use and associated noise/light generation, I consider that the levels of noise and light would be acceptable having regard to the extent of established activity and development in the area and its neighbourhood centre zoning.

Construction Impacts

- 7.5.8. The temporary disturbance impacts associated with any urban construction project are generally common and unavoidable. Having regard to the need to facilitate the redevelopment of the site, I consider that any such temporary impacts would be acceptable and can be satisfactorily mitigated through the agreement of a construction management plan in accordance with standard practice.

Security

- 7.5.9. The proposal involves the provision of commercial and residential uses that are consistent with the neighbourhood centre zoning for the site and the established use of the appeal site and the surrounding area. The scheme has been designed to appropriately interface with the surrounding public roads and does not include any features that would be of concerns regarding security or anti-social behaviour. Accordingly, I have no reason to conclude that the proposed development would lead to any negative impacts in terms of the safety and security of the area.

Property values

- 7.5.10. I note the concerns raised in this case in respect of the devaluation of neighbouring property. However, having regard to the assessment outlined above, I am satisfied that the proposed development would not seriously injure the amenities of properties to such an extent that it would have any adverse effect on the value of property in the vicinity of the site.

Conclusion on impacts on surrounding residences

- 7.5.11. While daylight/sunlight and traffic/transport impacts will be outlined later in this report, the other potential impacts of the proposed development on the residential amenities of surrounding properties have been outlined above. I consider that the proposed development would be sufficiently distanced from existing properties to avoid any unacceptable overlooking or overbearing impacts. And while the proposed development would involve an intensification of activity and development at both construction and operational stages, I consider that the impacts would be acceptable having regard to the established character of the area and the need to facilitate the redevelopment of the site in accordance with local and national planning policies.

7.6. Daylight/Sunlight

Policy

- 7.6.1. Section 3.2 of the Urban Development and Building Height Guidelines (2018), states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.
- 7.6.2. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to these BRE or BS standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting
- 7.6.3. The Sustainable Residential Development Guidelines acknowledge that orientation of the dwelling and its internal layout can affect levels of daylight and sunlight and will influence not only the amenity of the occupants but the energy demand for heat and light. It states that the efficiency gains derived from passive solar layouts can be

enhanced by designing individual dwellings so that solar collection is maximised, i.e. when living rooms, dining rooms and main bedrooms have a southerly aspect. In relation to adjoining properties, it states that overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. It states that planning authorities should require that daylight and shadow projection diagrams be submitted in all such proposals and the recommendations of BRE or BS guidance *'should be followed in this regard'*

7.6.4. The Development Plan also highlights the value of daylight and sunlight and states that development *'shall be guided by the principles of'* the BRE Guide. It states that a sunlight/daylight analysis of the different units may be required and modifications to the scheme put in place where appropriate.

7.6.5. At the outset I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that *'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'*. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

Information & Assessment

7.6.6. The application includes a 'Daylight, Sunlight and Overshadowing Study' prepared by Integrated Environmental Solutions Limited. The report references the BRE guide 'Site Layout Planning for Daylight and Sunlight' and highlights that the recommendations should be interpreted flexibly as natural lighting is only one of many factors in site layout design. It is based on the proposal as originally submitted and I am satisfied that this larger proposal represents a worst-case scenario when compared to the smaller amended design option.

7.6.7. I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice

for daylighting). I acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK) but I consider that this updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party appeals/observations which have raised concerns in relation to daylight and sunlight

Daylight within the proposed apartments

- 7.6.8. Average Daylight Factor (ADF) is the ratio of total daylight flux incident on the working plane to the area of the working, expressed as a percentage of the outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky. The BRE and the BS guidance sets out minimum values for ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The BRE guide does not give any advice on the targets to be achieved within a combined living/dining/kitchen area. However, BS guidance outlines that where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and kitchen the minimum ADF should be 2%.
- 7.6.9. The applicant's study considers the predicted ADF to the proposed units using the recommended BRE values. However, noting that the BRE guide does not provide guidance for a space that is a living/kitchen space, it applies a target value of 1.5% for open plan spaces as the living areas have been treated as the main space in this context, rather than the higher 2% target for combined rooms including a kitchen as suggested by the BS guidance. The study assesses 25 rooms at first floor level, and I am satisfied that this represents a worst-case scenario as the upper floors would be expected to achieve higher levels.
- 7.6.10. The study shows that all bedrooms and living/dining/kitchen rooms exceed the ADF factors adopted for the study (i.e. 1% and 1.5% respectively) and concludes that the development as a whole would perform to the same high level. I note that 3 out of the 10 living/dining/kitchen areas would exceed the higher 2% ADF target. The other 7 living/dining/kitchen areas would be only marginally less than the 2% target, with 3

rooms exceeding 1.9% and the remainder being at least 1.79% (i.e. 90% of the recommended 2% value). Given that these results represent a worst-case scenario at 1st floor level, it is likely that the upper floors would exceed the 2% target for living/dining/kitchen areas, thereby ensuring that the vast majority of the development complies with the 2% target for living/dining/kitchen areas and the 1% target for bedrooms.

- 7.6.11. I consider that the higher 2% ADF is more appropriate in a traditional house layout, and that in apartment developments, it is a significant challenge for large open plan kitchen/living/dining rooms to achieve 2% ADF, and even more so when higher density and balconies are included. Often in urban schemes there are challenges in meeting the 2% ADF in all instances. To do so may unduly compromise the design/streetscape quality and an alternate 1.5% ADF target is generally considered to be more appropriate.
- 7.6.12. Having regard to the information outlined above I am satisfied that the vast majority of apartments are likely to comply with the ADF target of 2% for kitchen/living/dining rooms, and that all apartments would comply with the alternative ADF target of 1.5%. All proposed bedrooms would comply with the 1% ADF target. Despite the marginal non-compliance with the 2% target for 7 kitchen/living/dining units at first-floor level, I consider that the overall scheme as a whole would provide reasonable compliance with the BRE standards, particularly given that BRE standards allow for a flexible and reasonable alternative for ADFs and do not specifically stipulate standards for kitchen/living/dining areas.
- 7.6.13. I acknowledge that Section 3.2 of the Building Height Guidelines outlines that where a proposal may not be able to fully meet all the requirements of the BRE and BS daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the Board should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.
- 7.6.14. In this case it has been clearly identified that the proposal does not comply with the 2% ADF value for kitchen/living/dining areas. And while the applicant has not

referred to alternative, compensatory design solutions in specific response to Section 3.2 of the Building Height Guidelines, I consider that it is open to the Board to consider the overall quality of the scheme based on the information submitted. In this regard, I would highlight the absence of any single-aspect north-facing units and the high proportion of dual aspect units proposed (52% - 57%). Only 33% of units are normally required to be dual-aspect and even this 33% requirement can be relaxed on urban infill sites less than 0.25ha such as this. The scheme also includes communal open space area which significantly exceeds the normal requirements and, again, such requirements can be relaxed in part or whole on urban infill sites less than 0.25ha such as this. These factors provide compensation within the overall scheme for any marginal daylight shortfalls that may apply to individual units.

- 7.6.15. With specific reference to the 7 no. kitchen/living/dining spaces at first floor level which are marginally below the 2% ADF requirement, I note that the balcony areas serving 4 of these spaces (i.e. room refs 4, 11, 13 & 16) significantly exceed the minimum area requirements by providing 9m², 13m², 14m² and 25m² respectively. In the case of the remaining 3 units (i.e. units 0108, 0109, and 0110), I note that the kitchen/living/dining areas exceed the minimum floor area requirements by 13%. I am satisfied that these factors adequately compensate for the marginal shortfalls within these units as compared to the higher 2% ADF requirement.
- 7.6.16. Having regard to the proposed density and urban location of the site, I consider that the proposal contributes to wider planning aims such as the delivery of housing and regeneration of an underutilised brownfield site. I consider that the shortfalls would not be significant in number or magnitude and in redevelopment sites such as this full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. The ADF for rooms is only one measure of residential amenity and in my opinion the design team have maximised access to daylight and sunlight for all apartments and I am satisfied that all of the rooms within the apartments would receive adequate daylight. As such, the proposal complies with the daylight criteria as set out under Section 3.2 of the Building Height Guidelines and would provide a satisfactory level of amenity for future occupiers.

Sunlight to proposed amenity spaces

- 7.6.17. Section 5.3 of the applicant's report deals with sunlight to the proposed external amenity spaces on the 4th floor and 6th floor rooftops. It is based on BRE guidance that 50% of such areas should receive in excess of 2 hours sunlight on the 21st March. Images have been produced for the proposed amenity areas showing that 59% of the 4th floor space and 72% of the 6th floor space would comply with this standard. In total, 58% of the amenity area would comply with the standard.
- 7.6.18. In response to some of the planning authority concerns, I do not consider that the perimeter planting area should be excluded from the study areas. Landscaping is an integral part of an amenity space, and it should be included as part of the overall area irrespective of whether it is along the space perimeter or centrally placed. Furthermore, as previously discussed, I do not consider that an increased height of the perimeter walls is necessary as a noise mitigation measure. On this basis, the sunlight levels to the spaces would not be affected. Accordingly, I am satisfied that these amenity spaces will benefit from an adequate level of sunlight availability as per BRE recommendations.

Sunlight to existing amenity areas

- 7.6.19. The applicant's report follows the same BRE test to assess sunlight availability to existing amenity areas. The gardens of surrounding residential properties have been studied (i.e. 15-17 Cromwellsfort Road, 143-145 Bunting Road, and 162 Walkinstown Road). The analysis shows that the proposed development would have a minimal impact on the existing situation and that each space would achieve 2 hours sunshine for well in excess of 50% of the area on the 21st March. Accordingly, I have no objection in this regard.

Daylight to existing buildings

- 7.6.20. The BRE guide acknowledges that, in designing new development, it is important to safeguard the daylight to nearby buildings, and I note that the Development Plan also outlines the need to avoid excessive impacts on existing properties. The applicant's assessment contains a 'light from the sky' (VSC) analysis for the windows of surrounding properties. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a

structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight

7.6.21. The applicant's assessment considers the VSC impacts on surrounding residential properties at 6-16 Cromwellsfort Road, 143 & 145 Bunting Road, and 160 Walkinstown Road. A total of 35 windows were tested, all of which would retain a VSC in excess of 27% and 0.8 times their former value. Accordingly, I am satisfied that this complies with BRE recommendations, and I have no objection in this regard.

Conclusions on Daylight/Sunlight

7.6.22. In conclusion, I would again highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application. And while the Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the BRE and BS 8206-2: 2008 publications, where it has been identified that a proposal does not fully meet the requirements of the daylight provisions and a rationale for alternative, compensatory design solutions has been set out, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives.

7.6.23. I have considered the issues raised by 3rd parties in carrying out this daylight/sunlight assessment. However, as outlined above, I consider that the impacts of the proposed development on the availability of sunlight and daylight to existing properties would be in accordance with BRE recommendations and would not result in any unacceptable impacts.

7.6.24. The external amenity spaces within the proposed development would receive adequate sunlight. And while it is predicted that a minimal number of internal kitchen/living/dining spaces would be marginally below the higher ADF value of 2%, I am satisfied that alternative, compensatory design solutions would apply for both individual apartments and the overall scheme as a whole. Furthermore, I consider that the proposed standards are justified given the wider planning objective to facilitate the redevelopment of this prominent, under-utilised, accessible site.

7.7. Traffic and Transportation

- 7.7.1. The original proposal is supported by a Traffic and Transportation Statement (including a Preliminary Mobility Management Plan). Using TRICS output, it calculates that a typical apartment development of 52 units (with parking) would generate 13 PCUs (or less) 2-way trips during the peak hour AM and PM periods. However, it contends that the proposed development will not result in any noticeable changes to car traffic as no dedicated car-parking would be provided.
- 7.7.2. The site is located within parking Zone 3 as per the Development Plan, where a maximum provision of 1.5 spaces per dwelling applies, resulting in a maximum provision of 78 spaces. The applicant's report contends that the provision of any new spaces in this case is contrary to the principles of sustainability and points to the Apartment Guidelines provisions to remove requirements in certain circumstances where better mobility solutions exist. I note that the applicant's assessment has not accounted for car-parking requirements associated with the proposed commercial uses, which I calculate to amount to a maximum of c. 8 spaces.
- 7.7.3. The applicant's report also examines household car ownership in the surrounding area based on CSO data (2016). It shows that ownership rates vary from 60% to 80%, albeit that these areas represent larger suburban housing with free off-street parking. I note the applicant's alternative analysis at Dolphin House where car ownership per residence was at a significantly lower rate of 27%, albeit that this location is closer to a Luas stop (c. 10min walk). The CSO data analysis also highlights that 60-70% of locals use non-private car travel modes for the daily commute, with the majority using public transport, walking, cycling and other modes.
- 7.7.4. Based on the above information and the proximity of the site to existing/future bus routes and the LUAS (c. 18mins walk to Kylemore), the applicant proposes zero parking provision with generous cycle parking and states that the scheme will be marketed and managed as a 'reduced car-dependency' scheme.
- 7.7.5. In considering the proposal for zero car-parking I am conscious of NPO13 of the NPF and the Building Height Guidelines of 2018, which support a performance-driven approach towards land use and transportation. Section 4.19 of the Apartment Guidelines also states that in higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the

default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. This is particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such as rail and bus stations located in close proximity. In this regard, I have already concluded in section 7.3 of this report that the site is within a central and/or accessible urban location as described in the Apartment Guidelines. Section 4.27 of the Guidelines also outlines that car-parking provision may be relaxed on part or in whole on urban infill sites up to 0.25ha such as the appeal site. I have concluded that the appeal site would be consistent with these criteria.

- 7.7.6. Furthermore, I would highlight the particular circumstances of this appeal site being located within a suburban neighbourhood centre that is already dominated by excessive car traffic. In light of the recognised need for the redevelopment of the area, I would consider it inappropriate to encourage further car usage at this location. This applies to both the residential element of the development and the commercial uses which, in any event, serve a localised catchment that would be easily accessible by other modes and would be facilitated by local public parking (e.g. along the eastern site boundary). I have noted the amended design option including the provision of 16 no. spaces but I do not consider that this is necessary or appropriate.
- 7.7.7. Having regard to the above, I have no objection in principle to the absence of car parking within the proposed development. In such cases, the Apartment Guidelines states that it is necessary to ensure, where possible, the provision of an appropriate number of spaces for drop-off, servicing, visitors, and mobility impaired. Provision is also to be made for alternative mobility solutions including car-sharing and cycle facilities, and specific measures should demonstrate that enable car parking provision to be avoided.
- 7.7.8. I would highlight that the guidance is qualified by the phrase '*where possible*', which is relevant given that the appeal site is located within a challenging environment with limited opportunities to facilitate drop-off, servicing and other short-term parking requirements. The site is largely bounded to the west by a private car park which prevents public access. And on the southern section of the site, I do not consider that drop-off/servicing facilities would be appropriate adjoining the heavily trafficked roundabout and its associated junctions. This effectively leaves the eastern side of

the site along Bunting Road as the only feasible location, which is currently occupied by a 3-stand taxi rank and other public parking spaces. The matter is further complicated by the planned changes to the existing road/footpath layout as a result of BusConnects.

- 7.7.9. The applicant has proposed that the area to the east would be redesigned to provide 1 no. accessible space, 1 no. car-sharing space and 7 no. public parking spaces which would be used to facilitate bin collection and deliveries between 6am and 5pm. In response the planning authority has reported in the first instance that a letter of consent from DCC has not been furnished to facilitate these works and that any proposals would be subject to the agreement of the Traffic Advisor Group. And while it states that the facilitation of an accessible space and a car-sharing space may be acceptable, the loss of the taxi stands and the reallocation of parking spaces to set-down areas would not be acceptable. The planning authority also contends that the applicant has not accounted for the impacts of BusConnects which will reduce the existing on-street parking area.
- 7.7.10. I note that the planning authority is open to the accommodation of accessible and shared spaces within this area, and I would concur with their concerns about the loss of spaces for taxis and public parking to facilitate servicing between 6am and 5pm. This would be an unusually long daytime period to expect reservation for servicing purposes and I suspect that the 6am to 5pm period may have been annotated on the 'Landscape Masterplan' drawing in error. I note that the applicant's pre-planning discussions with the planning authority had been based on a reservation between 6am and 8am only, which would be more in keeping with established practice.
- 7.7.11. Ultimately, I accept that there are inherent challenges associated with servicing and drop-off as a result of the existing and planned road/footpath network surrounding the site. However, these short-term parking issues would exist irrespective of whether or not long-term underground parking was incorporated into the development. I also consider that it would be an inevitable issue for any redevelopment proposal of the site involving mixed commercial/residential uses, a concept which I have concluded is appropriate and desirable for the site. Accordingly, I do not consider that a refusal would be warranted on this basis. I am satisfied that there is ample scope to resolve the matter and that proposals relating

to servicing and short-term parking should be agreed with the planning authority by condition of any grant of permission.

7.7.12. With regard to cycle parking, Section 4.17 of the Apartment Guidelines recommends that spaces should generally be provided at a minimum of 1 space per bedroom and visitor spaces should be provided at a rate of 1 space per 2 units. On this basis, I calculate that the proposed apartments would require 81 no. spaces for residents and 26 no. spaces for visitors. The Development Plan also includes standards for public houses and shops (i.e. 3 spaces for total of 561m² @ 1 space per 200m²). The application proposes a total of 99 no. internal cycle spaces, including 1 accessible space and 2 cargo bicycle spaces, which significantly exceeds the requirement for 81 no. resident spaces. It also proposes 39 no. external visitors' spaces, which again significantly exceeds the total requirement of 29 no. spaces for visitors and commercial uses. The cumulative proposal for 138 spaces would exceed the cumulative requirement for 110 spaces.

7.7.13. I note that some of the external visitor cycle spaces appear to straddle the site boundary (red line) onto the adjoining public land. However, I consider that not all of these spaces are necessary and the layout of spaces can be redesigned and suitably accommodated wholly within the site boundary. In fact, the 39 'spaces' currently proposed are actually 39 'stands', which could accommodate 2 spaces per stand. Furthermore, there is an excess of 18 no. spaces in the internal bike store at ground floor level which could also be used to facilitate visitor spaces. Accordingly, I am satisfied that adequate cycle parking would be provided on the site for residents and visitors, subject to the agreement of details with the planning authority by condition.

7.7.14. The application is accompanied by a Residential Travel Plan (Mobility Management Plan) which includes measures to promote and improve the attractiveness of public transport, cycling, walking, car-sharing and flexible working. The availability and benefits of such measures will be communicated to new residents. A Travel Plan Coordinator will be appointed, and travel patterns will be monitored and surveyed. The Travel Plan outlines that modal-split targets will be determined based on ongoing surveys and a wide range of initiative are included to promote the implementation of the plan. I am satisfied that the implementation of the plan will

help to promote alternative sustainable mobility solutions in preference to reliance on private car transport.

7.7.15. In conclusion, I acknowledge the concerns raised by the planning authority and observers regarding the absence of car-parking and potential overspill effects on the surrounding road/footpath network. However, I do not consider it appropriate to encourage further parking and private car traffic movements at this location. I am satisfied that the scheme would be designed and marketed as a 'car-free' development, and it is not reasonable to expect that it would attract car-dependant residents. There are suitable and sufficient alternative mobility solutions in this central/accessible location, and I am satisfied that appropriate cycle-parking, set-down and servicing arrangements can be provided subject to agreement with the planning authority by condition. I also consider that any temporary traffic impacts at construction stage could be satisfactorily addressed through the agreement of a construction traffic management plan by condition. Accordingly, I do not consider that the proposed development would have any unacceptable impacts on the safety and free flow of traffic or the movements of pedestrians, cyclists and other vulnerable road users.

7.8. Public Realm & Circulation

7.8.1. Refusal reason no. 4 of the DCC decision cites an inadequate provision of circulation space or public realm at the base of the building. It is based on concerns about the scale/intensification of the building; the inclusion of balconies, doors, street furniture, and landscaping within or above the existing/proposed public realm; and potential changes to cycling/pedestrian infrastructure near the proposed ground floor entrances to the public house.

7.8.2. The appeal includes revised proposals in this regard. The area previously proposed for 'taking in charge' would be retracted and would become the responsibility of the developer and management company. It states the entrances and services to the east and west of the building have been setback from the public realm so as to minimise disruption. The appeal also confirms that all cycle parking and landscaping would be proposed within the site boundary and that no balconies would over sail the public footpath.

- 7.8.3. The appeal has demonstrated the relationship between the proposed development and the surrounding public realm, both under the current situation and the Bus Connects layout. It contends that the proposed ground floor entrances are sufficiently distanced from the proposed pedestrian/cyclist crossing points to the south and west of the site. In this regard I note that the commercial entrances to the west would be setback significantly from the crossing points and would be separated by a strip of the private car park. The main public house entrance is proposed to the south of the building. Again, I consider that it is adequately setback from the public realm, and I note that it does not align with the proposed crossing point to the south, thereby preventing any direct conflict with the crossing point.
- 7.8.4. Overall, I consider that the proposed building provides an adequate setback from the existing and proposed road network, particularly along the more significant stretches to the east and west of the site. I acknowledge that the building setback reduces to a localised apex at its southern end, but I am satisfied that adequate space would remain to facilitate effective circulation. I estimate that a minimum width of c.3m would be maintained at the apex of the angled southern building line, which would be reduced to c. 2.5m under the current indicative Bus Connects proposals. Again, I would highlight that this narrower southern element is limited, and the building setback is generally much greater. It is important to achieve a balance between building setbacks for circulation and the need to create an appropriate streetscape, and I consider that any further setback of the building would militate against the creation of a strong, active urban edge.
- 7.8.5. The proposal would facilitate a significant quantum of space between the proposed building and the road network. And while the space would consist of a combination of private and public property, I am satisfied that it would effectively function as a 'public' space that would significantly improve the public realm at this prominent location. Detailed proposals in this regard, including access, street furniture, landscaping, circulation and management can be satisfactorily agreed by condition.
- 7.8.6. I acknowledge that the final design for the 'BusConnects' project has yet to be completed, but I consider that the proposed development has taken reasonable steps to ensure its accommodation and I am satisfied that any likely amendments to the final design would be facilitated.

- 7.8.7. Separate to the question of impacts on public property, I note that the proposed development bounds onto the private car park property to the west. It relies on this property for access/exit purposes and some of the proposed balconies would over sail this property. The applicant's legal interest in the adjoining property is not clear. However, I note that the existing access arrangements to the pub and betting office are similar to those proposed and the legal interest of the applicant to carry out the development has not been queried by any other purported owner. Ultimately, this would be a matter to be resolved between the relevant parties, having regard to the provisions of c. 34(13) of the Planning and Development Act 2000 (as amended).
- 7.8.8. Having regard to the above, I am satisfied that, subject to the agreement of details by conditions, the proposed development would facilitate an adequate quantity and quality of public realm space and would not adversely impact on pedestrian and cyclist circulation at this location.

7.9. Telecommunications

- 7.9.1. The 3rd Party observation from Eircom Ltd. has raised concerns about the location and scale of the proposed development as it relates to the existing exchange site to the north, which is stated to be of strategic importance to their network. It is one of the top 50 priority sites nationwide and provides telephone and broadband service to almost 10,000 residential customers and 1,500 business customers. It outlines the potential interference with the ongoing operation and coverage offered at this location as a result of damage/obstruction impacts at construction and operation stage.
- 7.9.2. In this regard I note that Policy SI29 of the Development Plan encourages and facilitates telecommunications infrastructure as a means of improving economic competitiveness and contributing to sustainable movement by reducing the need to travel. The Telecommunications Guidelines also highlight the importance of such existing rooftop sites in urban areas in facilitating the co-location of future antennae and the importance of maintaining lines of sight. Furthermore, the criteria outlined in section 3.2 of the Building Height Guidelines states that to support some proposals, specific assessments may be required to demonstrate that the proposal allows for the retention of important telecommunication channels, such as microwave links.

- 7.9.3. This issue was originally raised by Eircom Ltd in their submission to DCC and the DCC planner's report concluded that the proposal would result in unacceptable telecommunications impacts, albeit that the issue was not specifically cited in the reasons for refusal. I acknowledge that the appeal has mainly concentrated on the reasons for refusal, while also specifically responding to some aspects of the DCC reports. However, the appeal does not address the impacts of the development on telecommunications channels.
- 7.9.4. Given the significant building height increase proposed in comparison to the lower-level rooftop equipment on the existing Eir exchange site to the north, it would appear self-evident that there would be an obstruction to operational coverage. Furthermore, Eircom Ltd has carried out a coverage study to assess the impact of the development compared to existing coverage levels. This is a field in which Eircom have clear expertise and the study appears to follow the standard methodology for such cases. It demonstrates that there would be a loss of indoor coverage over a significant area to the south, east and west of the proposed development, an area which I estimate to include 300+ properties consisting of a mix of residential, commercial and industrial uses.
- 7.9.5. I consider this to be a significant and unacceptable impact which would not be in accordance with Policy SI29 of the Development Plan or section 3.2 of the Building Height Guidelines. I would advise the Board that the Eircom observation was not circulated to the applicant for comment in accordance with section 131 of the Act. Therefore, the Board may wish to consider the matter a **new issue** in the context of the appeal, or may wish to request further information from the applicant on the matter under section 132 of the Act. In any such case, I would advise that the applicant should be requested to submit the following:
- An assessment of the impact of the development at operational stage on the retention of important telecommunication channels, such as microwave links
 - An assessment of the impact of the development at construction stage on existing telecommunications infrastructure, to include impacts relating to dust, vibration, surface water attenuation and drainage, excavation, access and maintenance, and boundary treatment

- Detailed mitigation measures to address the potential impacts identified at construction and operational stage
- Written agreement from the relevant operator / landowner in respect of any mitigation measures which would affect third party ownership.

7.10. Building Height, Scale and Visual Amenity

- 7.10.1. I have previously outlined Development Plan policy in relation to building height in the city. In particular, I note that section 16.7.2 of the Plan includes height limits for 'low-rise' residential development in the 'inner city' (up to 24m), 'rail hubs' (up to 24m) and the 'outer city' (up to 16m). The appeal site is not located within the 'inner city' and is not within a 'rail hub' as defined in the plan i.e. '*within 500m of existing and proposed Luas, mainline, DART, DART underground and Metro station*'. Accordingly, the site is within the 'outer city' where a residential height of up to 16m applies.
- 7.10.2. In terms of national policy, the '*Urban Development and Building Heights Guidelines*' promotes Development Plan policy which supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. Section 3 of the Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights.
- 7.10.3. In this regard I would generally concur that the proposal assists in securing the NPF objectives of focusing development in key urban centres and fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres. In this case the proposed development is not in line with building height policy of the development plan in force. The DCC Development Plan 2016-2022 pre-dates the Guidelines and, therefore, it must be considered whether the implementation of the pre-existing policies and objectives of the plan align with and support the objectives and policies of the NPF.

7.10.4. SPPR 3 of the Building Height Guidelines sets out that where a planning authority concurs that an application complies with the criteria outlined in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters, the planning authority may approve such development even where specific objectives of the relevant development plan may indicate otherwise. The proposal must therefore be assessed against the criteria outlined in Section 3.2 of the Guidelines, which sets out the criteria that a development proposal must satisfy at various scales.

7.10.5. *At the scale of the city/town*, I have concluded that the site is within a central/accessible location on several existing bus routes with high frequency and capacity. The site is within reasonable proximity to the Kylemore Luas stop and there are taxi and car-sharing opportunities in the area. Furthermore, the bus services and walking/cycling infrastructure will be improved by the Bus Connects project. I am, therefore, satisfied that the site is well served by public transport with high capacity, frequent services and good links to other modes of public transport.

7.10.6. In terms of integration with the character and public realm of the area, I note that the site is not located within an architecturally or culturally sensitive area and the topography of the area is generally flat and unremarkable. The applicant's Architectural Design Statement highlights the prominent nature of this neighbourhood centre site and the opportunity to provide a unique identify with a carefully modulated building that could stimulate further regeneration. It aims to create an active urban edge at street level while offering significant public realm enhancements.

7.10.7. The site is not within any significant views or vistas, but it includes a Landscape and Visual Impact Assessment (LVIA) prepared by Cunnane Stratton Reynolds (landscape architects and planners). It is supported by existing photographs and proposed photomontages prepared by 3D Design Bureau. The LVIA assesses the existing environment and identifies the following values:

Conservation values (which are valued and sensitive)

- Character of established residential areas to the north, east and west
- Crumlin Village ACA

Enhancement Values (capacity to accommodate change)

- Poor architectural quality and visual amenity in the current context
- Policies promoting change in the area
- Scale of the urban space requiring significant built intervention
- National policy requiring flexibility in the accommodation of taller buildings.

7.10.8. The LVIA classifies the landscape sensitivity as being low-medium, which I would concur with. It states that the construction stage effects would be low/slight and adverse, but temporary. At operational stage, it states that the effects on the immediate setting and industrial area to the west would be of medium magnitude and medium to beneficial importance. The operational impacts in the wider context are predicted to be of low magnitude and low to neutral importance. Having regard to the height and scale of the proposed development and the existing landscape context, I would concur with this assessment and would have no objection to the proposal on grounds of landscape impact.

7.10.9. The applicant's visual impact assessment is based on 10 selected viewpoints. In terms of the city/town scale, I note that viewpoints V9 and V10 provide the widest context for assessment. These views are taken from existing parks with a medium-high sensitivity. I acknowledge that the upper levels of the development would be partly visible from these viewpoints, but I consider that it would have limited presence in the view and would not change its character. I agree with the LVIA conclusion that the view would maintain its landscape quality and that the qualitative impact of the development would be neutral.

7.10.10. Viewpoints V4, V5, V7 and V8 are taken from the approach roads to the site at a distance of c. 150 to 250 metres. I consider that these views are generally of low/medium sensitivity and are mainly dominated by the existing low-rise residential development. I accept that the height and scale of the proposed development would have a significant visual impact at these viewpoints and would become the dominant feature in the vicinity above the existing ridge levels. However, I consider that the proposal would gradually step down in height to integrate with existing development and that the maximum 8-storey height can be accommodated at this junction of significant scale. The impact would provide improved definition, focus and legibility for the neighbourhood centre at the termination of these approach views.

- 7.10.11. Having regard to the above viewpoint assessments and the applicant's LVIA by a suitably qualified practitioner, I consider that it has been demonstrated that the proposed development will successfully integrate into the character and public realm of the area at the scale of the city/town. Viewpoints V1, V2, V3 and V6 are taken from the immediate surroundings of the site and Walkinstown Roundabout, and I consider that these views would be more appropriately assessed at the scale of the district / neighbourhood / street.
- 7.10.12. Section 3.2 of the Guidelines also refers to the potential for larger urban redevelopment sites to make positive contributions to place-making. Given the limited size of the subject site, it is not possible to incorporate new streets or public spaces. However, the proposal does use height to achieve increased density and the massing of the building provides a variety of scale which reduces significantly from the roundabout to the existing low-rise residential development to the north of the site. The proposed building line maintains a significant setback from the adjoining roads, thereby facilitating the potential for significant improvements on the existing public realm.
- 7.10.13. *At the scale of district/neighbourhood/street*, I have had regard to the more detailed design elements of the development and Viewpoints V1, V2, V3, and V6. I consider that these existing viewpoints are largely dominated by the roundabout and associated road/parking infrastructure. Surrounding development consists of a variety of commercial buildings (many formerly residential) with no coherent streetscape or sense of enclosure. The viewpoints are of low sensitivity, and I would acknowledge that there would be a high magnitude of change as a result of the proposed development. However, I consider that the impact would be beneficial by providing an improved edge and definition to the neighbourhood centre at the roundabout. The ground floor level would establish a coherent and interactive streetscape of commercial units which would improve the vitality and vibrancy of the area. Accordingly, I consider that the proposal responds well to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.
- 7.10.14. The massing of the proposed development ensures that the overall scale of the development is broken down through a variety of heights and building lines to create separate, identifiable forms. This is supplemented through the proposed palette of

materials, colours, and balconies which provide definition and articulation, horizontally and vertically. The proposal includes a blank 4-storey gable to the north, which is relatively minor in the overall context and appropriate given the potential for future development on the adjoining site. Accordingly, I consider that the proposal is not monolithic and that it incorporates well-considered materials / building fabric.

7.10.15. I consider the roundabout and its surrounding roads to be a key thoroughfare which is lacking in urban design definition and quality. The proposed development would significantly improve this context by providing a strong urban edge and by facilitating increased building height which would enhance the sense of scale and enclosure at this location. A flood-risk assessment has been included with the application to confirm that the site is within 'Flood Zone C' and that a Site-Specific Flood Risk Assessment is not required. I am satisfied that no further flood risk assessment is required.

7.10.16. I consider that the lack of definition at this key roundabout junction results in a lack of legibility. The proposed development would constitute a significant and striking insertion at this location which would establish a new sense of identity for the neighbourhood centre. It would establish a strong and coherent streetscape of commercial uses at ground floor level, as well as a significant, legible residential addition on the upper floors. Legibility would also be improved in the wider urban area, with the significant building height providing a focal point for the centre.

7.10.17. Compared to the predominant public house use on the site, the proposal would introduce a better range of smaller commercial units which would contribute to the mix of uses in the area. The social significance of the public house use would also be retained at this prominent location. In terms of the residential element, it should be noted that the wider area is dominated by larger 3/4-bedroom dwellings in terraced / semi-detached form. The proposal for smaller 1 and 2-bedroom apartments would therefore significantly improve the dwelling typologies available in the neighbourhood.

7.10.18. *At the scale of the site/building*, the Guidelines outline that the form, massing and height of the development should be carefully modulated so as to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. In section 7.6 of this report, I have outlined how appropriate and reasonable

regard has been taken of quantitative performance approaches to daylight provision in guides like the Building Research Establishment's '*Site Layout Planning for Daylight and Sunlight*' (2nd edition) or BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*'.

- 7.10.19. I consider that the impacts of the proposed development on the availability of sunlight and daylight to existing properties would be in accordance with BRE recommendations and would not result in any unacceptable impacts. The external amenity spaces within the proposed development would receive adequate sunlight. And while it is predicted that a minimal number of internal kitchen/living/dining spaces would be marginally below the higher ADF value of 2%, I am satisfied that alternative, compensatory design solutions would apply for both individual apartments and the overall scheme as a whole. Furthermore, I consider that the proposed standards are justified given the wider planning objectives that exist, including the need for the redevelopment of this under-utilised site and the need to improve the urban design context of the neighbourhood centre.
- 7.10.20. In relation to further *specific assessments*, section 3.2 of the Guidelines also states that to support proposals at some or all of these scales, specific assessments may be required.
- 7.10.21. With regard to micro-climatic effects, I consider that, although the building is significantly taller than the existing context of development, it is not an exceptionally tall building such as would be likely to give rise to an acceleration of wind speed or 'downdraft' effects. The proposed development is 4-6 storeys for a significant extent and only rises to 7-8 storeys at the southern apex of the development. The proposed roof gardens are also located on the northern side of the building and would be largely protected from the prevailing south-westerly winds. I have previously addressed air and noise issues in section 7.4 of this report and daylight/sunlight in section 7.6, and I am satisfied that no unacceptable impacts arise. Accordingly, I am satisfied that no further assessment of micro-climatic effects is required.
- 7.10.22. The site is located within an urban environment and does not contain any significant vegetation. The site is not in proximity to any sensitive bird and/or bat areas and I am satisfied that no further assessment of impacts on flight lines and/or collision is required. There are no designated sites within c. 2km of the appeal site or evidence

of ecological sensitivity on the site or in the surrounding area. Accordingly, I am satisfied that an Ecological Impact Assessment is not required. Furthermore, section 8 of this report outlines that Appropriate Assessment is not required.

- 7.10.23. The application includes an Architectural Design Statement which outlines the design strategy and its impact on the built environment. I am satisfied that there would be no unacceptable impacts in this regard.
- 7.10.24. The proposed building height (26.55m) is significantly below 45 metres, which is generally used as the threshold for potential obstacle to aircraft in accordance with the Irish Aviation Authority (Obstacles to Aircraft in Flight) Order (SI 215 of 2005). Accordingly, I am satisfied that an assessment in relation to the maintenance of safe air navigation is not necessary in this case.
- 7.10.25. However, as previously outlined in section 7.9 of this report, I consider that the proposal would have significant and unacceptable impacts on important telecommunications channels at this location. The applicant has submitted no assessment in this regard and, accordingly, has not included mitigation measures to address this obstruction of an increasingly important service.

Conclusion on height, scale and visual amenity

- 7.10.26. In assessing these issues, I have established that the proposed development is of a significantly greater height and scale than prevailing development, and also that the proposed height (26.55m) materially contravenes the Development Plan height limits for residential development in the outer city (16m).
- 7.10.27. Notwithstanding this, I am satisfied that, in principle, the proposed height and scale would be acceptable at this location and could be accommodated in accordance with the provisions of the Building Height Guidelines. I have noted the amended design option for a lower building height, but I do not consider that the amended is necessary in this case.
- 7.10.28. However, SPPR 3 (A) of the Guidelines requires that such cases set out how a proposal complies with the criteria outlined in section 3.2 of the Guidelines, and that the assessment of the planning authority concurs taking into account of the wider strategic and national policy parameters set out in the NPF and the Guidelines. In this regard, I do not consider that the applicant has demonstrated that the proposal

would facilitate the retention of important telecommunications channels and I consider that there would be significant and unacceptable obstruction of services at this location. Accordingly, I am not satisfied that the proposal complies with the provisions of SPPR 3 (A) of the Building Height Guidelines or that a grant of permission would be justified on this basis.

7.11 Planning Assessment Conclusion

- 7.11.1. I have concluded that the proposed development would be consistent with the zoning for the area and that the redevelopment of the site with higher density development would be consistent with local and national planning policy to promote compact development at this central and accessible location.
- 7.11.2. I acknowledge that the key figures for the proposed development (i.e. density, plot ratio, height etc) are significantly in excess of prevailing development. However, having regard to the particular context of the site, particularly the fact that the site is separated from surrounding development by wide roads on three sides and bounds onto a utility site to the north, I consider that this elevated quantum of development can be accommodated on the site in principle.
- 7.11.3. I am satisfied that the proposed development would provide a suitable standard of amenity for prospective occupants and would not seriously detract from the residential amenities of surrounding properties.
- 7.11.4. I accept that the design strategy would have transformational impacts on the existing environment, and that the transportation strategy does not include any on-site car-parking. However, having regard to the car-dominated nature of the existing environment, I consider that transformation should be encouraged at this location and that the proposed development would provide a stronger urban edge with a reduced dependency on private car transport. This would be an appropriate approach to the redevelopment of this designated neighbourhood centre.
- 7.11.5. However, while I am satisfied that the proposed development largely complies with the criteria outlined in the Building Height Guidelines, I do not consider that adequate assessment and/or mitigation has been included in respect of the retention of telecommunication channels. The proposal would not, therefore, comply with SPPR 3(A) and the criteria outlined in 3.2 of the Guidelines. As outlined in section 7.9.5 of

this report, the Board may wish to request further information on this matter. In the absence of such information and/or proposals, I do not consider that the Board can grant permission under SPPR 3(A).

- 7.11.6. I have considered the amended design option and I do not consider that the reduced building height or increased parking provision is necessary. Furthermore, the amended design does not satisfactorily address the telecommunications issue.

8.0. Appropriate Assessment

- 8.1. The nearest Natura 2000 site is the Glenasmole Valley SAC (Site Code 001209), c. 7km southwest of the site. There are several other Natura 2000 sites in the inner Dublin Bay area (c.8+kms to the east), including South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay SAC, North Bull Island SPA and North Dublin Bay SAC. The site is not, therefore, located within or adjoining any Natura 2000 Sites, and there are no direct pathways between the site and the Natura 2000 network.
- 8.2. Applying, the source-pathway-receptor method, I am satisfied that there is no potential for connectivity between the appeal site and the Glenasmole Valley SAC. Having carried out and reviewed AA Screening for other developments in the Dublin City area, I am aware that there are potential indirect connections to the Natura 2000 sites in Dublin Bay via watercourses and the wider drainage network. It is proposed to discharge surface water and foul water to the existing sewer systems at this location, which ultimately connect to Dublin Bay. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.
- 8.3. With regard to surface water, the development incorporates appropriate management measures to regulate discharge flows in terms of quantity and quality. There is also limited potential for surface water contamination during construction works but I am satisfied that best-practice construction management will satisfactorily address this matter. There would be significant separation distance and dilution capacity in the existing drainage network and receiving water environment and there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Accordingly, I am satisfied that there is no possibility of

significant impacts on European sites within Dublin Bay from surface water pressures from the development.

- 8.4. The wastewater emissions from the development would result in an increased loading on the Ringsend WWTP. However, having regard to the limited scale of the development and the associated discharges; the 'unpolluted' EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; and the capacity of the Ringsend WWTP; I am satisfied that there is no possibility that the additional wastewater loading resulting from the development will result in significant effects on European sites within Dublin Bay.
- 8.5 GSI Mapping indicates that the subsoil permeability is low and the groundwater vulnerability in the area is only moderate. Therefore, together with the significant separation distance from Natura 2000 sites, I am satisfied that any potential groundwater impacts can be excluded.
- 8.6 The potential for significant impacts such as displacement or disturbance due to loss or fragmentation of habitats or other disturbance is excluded due to the lack of suitable habitat for qualifying interests of Natura 2000 sites and the intervening distances between the appeal site and European sites.
- 8.7 I am satisfied that any proposals incorporated within the development, including surface water management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening. Having regard to the above preliminary examination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required

9.0 Recommendation

Having regard to the above, it is recommended that permission be refused based on the reasons and considerations outlined overleaf.

10.0 Reasons and Considerations

The proposed development would materially contravene the building height provisions of the Dublin City Development Plan 2016-2022, wherein a residential height limit of 16 metres applies to the 'Outer City'. Furthermore, the site adjoins an important telecommunications exchange site, and the application does not include adequate information to demonstrate that the proposal allows for the retention of important telecommunication channels. Accordingly, the Board is not satisfied that a material contravention of the Development Plan is justified in this instance, in that the proposed development fails to meet the criteria set out in Section 3.2 and Specific Planning Policy Requirement 3 (A) of the Urban Development and Building Height Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

Stephen Ward
Senior Planning Inspector

22nd February 2022