



An
Bord
Pleanála

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

Inspector's Report ABP-311168-21

Strategic Housing Development

Construction of 227 no. build-to-rent
apartments and associated site works.

Location

31-34 Abbey Street Upper, 42-51
Great Strand Street and bounded by
Byrnes Lane, Dublin 1
(www.abbeystreetshd.ie)

Planning Authority

Dublin City Council

Applicant

Balark Trading GP Limited

Prescribed Bodies

1. Irish Water
2. An Taisce-the National Trust for
Ireland
3. Transport Infrastructure Ireland
4. National Transport Authority
5. Transdev Ireland-LUAS Operator

6. Commission for Railway Regulation
7. Minister for Housing, Local Government and Heritage (Built Heritage)
8. The Heritage Council
9. Dublin City Childcare Committee

Observer(s)

7 submissions received

An Taisce

Frank McDonald

Inland Fisheries Ireland

Irish Water

Nial Ring

Transport Infrastructure Ireland

Patrick Coyne

Date of Site Inspection

10th November 2021

Inspector

Lorraine Dockery

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject site, which has a stated area of 0.35 hectares is located in Dublin city centre and extends through from 31- 34 Abbey Street Upper and 42-51 Great Strand Street. Buildings on site have previously been demolished and it is currently undeveloped and overgrown. It is stated in the submitted documentation that the basement has been partly excavated as part of the previous grant of permission on the site (3172/18). The site in its current state detracts significantly from the streetscape at this location.
- 2.2. To the west of the subject site along Abbey Street is the Chapter House building, which is a six storey office building with retail on the ground floor and office uses above. Immediately to the east along Abbey Street, construction works are on-going for a hostel development. The site has approximately 27m frontage along Abbey Street. The frontage along the south of the site, onto Great Strand Street, is approximately 70 metres in length. At this frontage, the site is bound to the east by an existing single storey building and to the west by a five-storey building which extends to the corner of the millennium walkway.
- 2.3. A public lane from the west, Byrnes Lane, connects with the site. The LUAS line runs in front of the site along its Abbey Street frontage.

3.0 Proposed Strategic Housing Development

- 3.1. The proposal, as per the submitted public notices, comprises a build-to-rent mixed use development on a site of 0.3507 hectares at 31-34 Abbey Street Upper, 42-51 Great Strand Street and bounded by Byrnes Lane, Dublin 1. The proposal comprising 227 no. apartment units in 2 no. blocks, together with one no. retail unit fronting onto Abbey Street Upper at ground floor level and one no. retail/café unit

fronting onto Great Strand Street, also at ground floor level, together with all associated site development works.

3.2. The following tables set out some of the key elements of the proposed scheme:

Table 1: Key Figures of Overall Development

Site Area	0.35 hectares
No. of residential units	227 BTR apartments
Other Uses	2 x Retail- 1526 m ² (Abbey St Upper) + 131m ² (Great Strand St)= 1657 m ² Residential Amenity Space- 627 m ²
Other Works	2 x ESB sub-stations All associated site development works
Demolition Works	N/A
Density	648 units/ha
Height	8-12 storeys (over basement)- 40 metres
Plot Ratio	5.64
Site Coverage	78%
Dual Aspect	33% (stated)
Public Open Space Provision	Public Plaza (350 m ²) in SW portion of site- access from Great Strand St
Communal Open Space Provision	1,596 m ² (located at 1 st , 8 th , 10 th and 11 th floors)
Part V	23 units in Block B - 15 x one-bed; 8 x two-bed
Parking	0 car parking spaces 400 bicycle spaces (294 BL/106 GL)
Access	Pedestrian access will be provided from Abbey Street Upper, Great Strand Street and the new public plaza and laneway at the east of the site. Vehicular access will be provided from Great Strand Street to accommodate service and maintenance access.

Table 2: Overall Unit Mix

	Studio	1 bed	2 bed	3 bed	Total
Apartments	17	152	58	-	227
As % of total	7.5%	67%	25.5%	-	100%

Table 3: Summary of Blocks

Block	Height*/ Uses
Block A	<p>North of site- fronts onto Abbey Street</p> <p>Upper</p> <p>12 storeys including setbacks at 9th, 10th and 11th floors</p> <p>70 apartments/ retail unit at GL</p> <p>44m² communal amenity roof garden</p>
Block B	<p>South of site- fronts onto Great Strand Street</p> <p>12 storeys with setbacks at 8th, 10th and 11th floors</p> <p>157 apartments/retail units at GL</p> <p>737m² communal amenity roof garden</p>

- 3.3. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that the proposed connections can be facilitated, subject to conditions. In addition, a Design Submission was included with the application, in which Irish Water state that they have no objections to the proposal, based on the information provided.
- 3.4. Drawing No. ASR-MCA-00-00-SH-A-1026 shows areas proposed to be taken in charge by the planning authority.
- 3.5. A Material Contravention Statement has been submitted in relation to the matter of height and this has been advertised in the public notices.

- 3.6. An 'Appropriate Assessment Screening Report' was submitted, which concludes that no likely significant impacts on Natura 2000 sites are predicted, either individually or in combination with other plans or projects.
- 3.7. An EIA Screening report was submitted with the application documentation, which concludes that that by virtue of its nature, size, and location, the subject project would not be likely to have significant impacts on the environment and thus EIA is not required. In addition, an Article 299B Statement has also been submitted.

4.0 Planning History

Subject site

ABP 305280-19 (Reg. Ref. 3232/19)

Permission GRANTED on appeal to amend the development permitted under DCC Reg. Ref. 3172/18 for a hotel (application refused by planning authority). The proposed development provides for the construction of 2 no. additional floors to the permitted hotel building fronting Abbey Street Upper (resulting in an 11 no. storey building) and extension of the 7th and 8th floor level to the north resulting in an additional 64 no. bedrooms and an overall hotel comprising 303 no. bedrooms and revisions to the facade of the hotel onto Abbey Street Upper. The proposed development also provides for the construction of 1 no. additional floor to the permitted aparthotel building fronting Great Strand Street (resulting in a 10 no. storey building) and extension of the 7th and 8th floors to the east resulting in an additional 21 no. bedrooms and an overall aparthotel comprising 277 no. bedrooms.

Reg. Ref. 3093/19

Permission GRANTED amend part of the development permitted under Reg. Ref. 3172/18, to provide for an increase in the permitted basement area providing for additional hotel storage space

Reg. Ref. 2997/19

Permission GRANTED for to amend part of the hotel development permitted under Reg. Ref. 3172/18 to replace permitted stairwell providing access to Byrne's Lane (from basement to eighth floor level) to now provide for an increase to the basement storage space and ground floor retail unit to provide a service access/escape and the provision of eight additional hotel bedrooms (one per floor from first to eighth floor level) resulting in an increase in the number of permitted hotel bedrooms from 239 to 247. Development also provides for associated revisions to the facade fronting Byrne's Lane to accommodate the hotel bedrooms and for revisions to the facade of the hotel fronting onto Abbey Street Upper

Relevant history on adjoining sites

ABP 305853 (Reg. Ref. 3804/19)

Permission GRANTED for demolition of the 3 storey commercial unit, modifications to a previously permitted development (DCC Reg. Ref. 2971/17/ABP Ref. PL29N.249037, DCC Reg. Ref. 2954/18) at 36-36 Abbey Street Upper and Abbey Cottages. The proposed development will result in the increase of the total number of rooms from 127 rooms to 151 rooms. The building will be an 11 storey over 2 basement levels.

Reg. Ref. 2479/20 Jervis Shopping centre on the opposite side of Abbey Street.

Permission GRANTED for the following (a) the addition of 24 build to rent residential units located at car park levels 3 and 4 on the Jervis Street and Abbey Street Upper frontages of the building and associated site works. (b) demolish existing retail floor area, storage and car parking area and construct a 6 storey building behind the Mary Street frontage, from first floor upper level to car park level 5 for use as a co-living development with 127 units. (c) construct 3 floors above the roof car park level 5A level for office use at Jervis Shopping Centre, bounded by Mary Street, Jervis Street and Abbey Street Upper, Dublin 1.

5.0 Section 5 Pre Application Consultation

A Section 5 pre application consultation took place via Microsoft Teams due to Covid-19 restrictions on the 08th April 2021. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance.

Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála (ABP-308984-20).

The prospective applicant was advised that the following specific information should be submitted with any application for permission:

1. Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is advised to address the following in the documents submitted:
 - a) Provide further justification in relation to the layout of the apartment units, having regard, inter alia, any proposed north facing single units and the overall level of sunlight/daylight into the apartments with reference to the BRE Guidance.
2. A Housing Quality Assessment which provides the details regarding the proposed apartments set out in the schedule of accommodation, as well as the calculations and tables required to demonstrate the compliance of those details with the various requirements of the 2020 Guidelines on Design Standards for New Apartments including its specific planning policy requirements (SPPR 7 & SPPR 8). The report shall detail the use of the residential support facilities and amenity areas used to offset the standards and/or compensatory measures proposed within the proposal, inter alia, the absence of private open space.
3. Drawings that details dual aspect ratios should be clearly laid out and be accompanied by a detailed design rationale report.
4. A report that specifically addresses the urban design rationale including the proposed materials and finishes of the frontages and public realm along the site at Abbey Street and Great Strand Street and from the proposed public plaza through to Byrnes Lane. Regard should be had to the requirement to provide high quality design and sustainable finishes and include details which

seek to create a distinctive character for the overall development. The documents should also have regard to the need to enhance the streetscape and enhance the footpath in the general area.

5. A landscaping plan of the proposed communal and public open space should:
 - clearly delineating communal and public areas,
 - include designated play facilities for a range of age groups,
 - detail the boundary treatment adjoining any open space,
 - include details for the design and management of the green wall adjoining the public plaza,
 - include a Specific Management Plan for all communal areas and the public plaza,
 - include proposals to enhance the biodiversity on the site, including, inter alia, opportunities for the site to be used by pollinators, birds and bats.
6. A site layout plan clearly indicating what areas are to be taken in charge by the Local Authority.
7. A Social and Community Audit.
8. A Service Management Plan detailing the servicing proposals for both the retail and residential proposals.
9. A Mobility Management Plan Strategy/ Residential Travel Plan detailing the management regime for the bicycle spaces. This plan should include a justification for any reduction in bicycle spaces.
10. Updated plans and particulars for the scale, number and type of bicycle parking proposed as per Recommendation No. 2 of the Transport Planning Division Report.

Applicant's Statement

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

A Material Contravention Statement was submitted with the application in relation to the matter of height. This matter shall be addressed further within the main planning assessment.

6.0 Relevant Planning Policy

National Planning Policy

The following list of section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Childcare Facilities – Guidelines for Planning Authorities
- Climate Action Plan
- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities

Other policy documents of note:

- National Planning Framework

Objective 4

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

Objective 13

In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These

standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

Objective 27

...to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

Objective 35

Increase residential density in settlement, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

- Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly
- Dublin Metropolitan Area Strategic Plan
- Housing For All

Local Planning Policy

The Dublin City Development Plan 2016-2022 is the operative City Development Plan.

Zoning:

The lands are zoned 'Objective Z5' which seeks: "To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity".

Chapter 2- Vision

- active promotion of the inner city as an attractive place for urban living, working and visiting;
- the delivery of housing regeneration projects,
- the emergence of spatial clusters of economic specialisms,
- public realm improvements and the strengthening of the retail core,

- all supported by multiple levels of public transport accessibility in the city centre.

Plot Ratio/ Site Coverage for Z5 land use

- Plot Ratio - 2.5-3.9
- Site Coverage - 90%

Section 16.2.2.2- Infill development

As such Dublin City Council will seek:

- To ensure that infill development respects and complements the prevailing scale, architectural quality and the degree of uniformity in the surrounding townscape
- In areas of varied cityscape of significant quality, infill development will demonstrate a positive response to context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area
- Within terraces or groups of buildings of unified design and significant quality, infill development will replicate and positively interpret the predominant design and architectural features of the group as a whole
- In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest and have regard to the form and materials of adjoining buildings, where these make a positive contribution to the area.

Chapter 5 Quality Housing

Chapter 11 Built Heritage and Culture

Lands to the south of great Strand Street are located within a Conservation Area and include a row of protected structures facing onto the Quays.

The following policies are noted:

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

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

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

Policy SN1: It is the policy of the Council to promote good urban neighbourhoods throughout the city which are well designed, safe and suitable for a variety of age groups and tenures, which are robust, adaptable, well served by local facilities and public transport, and which contribute to the structure and identity of the city, consistent with standards set out in this plan.

Policy SN2: It is the policy of the Council to promote neighbourhood developments which build on local character as expressed in historic activities, buildings, materials, housing types or local landscape in order to harmonise with and further develop the unique character of these places.

Policy QH1: To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in

Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009)

Policy QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

Policy QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

Policy QH17: To support the provision of purpose-built, managed high-quality private rented accommodation with a long-term horizon

Policy CEE22: To promote and facilitate the crucial economic and employment potential of regeneration areas in the city such as Dublin 1, 7 & 8

Policy CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

Policy CHC2: It is the policy of Dublin City Council to ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest
- b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances
- c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials
- d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure

- e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works
- f) Have regard to ecological considerations for example, protection of species such as bats.

Policy CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Height

Section 4.5.4- Taller Buildings as Part of the Urban Form and Spatial Structure of Dublin

Figure 39 *Building Height in Dublin Context* identifies four sites within the city as having potential for High Rise 50m+ buildings and 10 sites as having potential for Medium Rise (max 50m) buildings.

Section 16.7 Building Height in a Sustainable City

Section 16.7 Building Height

- Low Rise/Outer City- Maximum Height 16m/5 storeys for residential
- Within 500m of a DART station - Maximum height 24m/8 storeys for residential

Section 16.7.2 Assessment Criteria for Higher Buildings

All proposals for mid-rise and taller buildings must have regard to the assessment criteria for high buildings as set out below:

- Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas
- Effect on the historic environment at a city-wide and local level
- Relationship to transport infrastructure, particularly public transport provision
- Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for

- Contribution to public spaces and facilities, including the mix of uses
- Effect on the local environment, including micro-climate and general amenity considerations
- Contribution to permeability and legibility of the site and wider area
- Sufficient accompanying material to enable a proper assessment, including urban design study/masterplan, a 360 degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies
- Adoption of best practice guidance related to the sustainable design and construction of tall buildings
- Evaluation of providing a similar level of density in an alternative urban form.

Map J - Strategic Transport and Parking Areas

- Zone 1 - generally within an inner city location where transport corridors intersect, or that has significant interchange potential. The development is in close proximity to good public transport links. Car parking provision is restricted in Zone 1 on grounds of good public transport links
- Residential car parking standard of maximum 1 space /residential unit. No provision for retail supermarkets exceeding 1000sq.m GFA. Other Retail car parking standards of maximum 1 space per 350sq.m GFA. Cycle parking 1 space per unit for all zones.

Fig. 3 Making a Legible City- Key Spaces and Connections- Abbey Street is designated as a 'Link Street'.

Reimagining Dublin One Laneways (2018)

Dublin City Council commissioned a laneway improvement strategy, with its aim being to make "Dublin One" laneways safer. For this, a change in perception and image of laneways as places to live, work, socialise and to use as routes is essential.

Section 4.5 of this report deals with Byrne's Lane. Byrne's Lane is 90 metres in length and has an average width of 5 metres. It is a pedestrianised cul-de sac which

begins at Jervis and runs eastwards across Millennium Walkway. Two gates separate Byrne's Lane into three parts. The western section is open to the public and ends at the crossing with Millennium Walkway. The strategy sets out short and medium term actions for Byrne's Lane. It also sets out proposals for the urban block on Abbey Street as follows:

Proposals - Short-term Action:

- Improve public lighting (DCC). • Re-erect drop bollards at Jervis Street entrance (DCC)
- Remove bollards at crossing with Millennium Walkway as these become redundant to prevent vehicular access (DCC)
- Instruct all adjacent premises to keep laneway free of waste bins, and enforce. (DCC)
- Facilitate art installations along inactive ground floor walls and air space, curated and managed by selected artists (DCC)
- We propose to create, an interesting, otherworldly place. This setting would allow visitors to enjoy a very different experience than the current bleak environment. Selected artists would change the scene in an agreed fashion. We perceive the fantastical approach as an appropriate test phase, which could easily be varied to curate Byrne's Lane with a different theme.

Medium-term Action

- Prescribe connectivity of Byrne's Lane during planning processes of proposed development for the urban block between Abbey Street Upper, Liffey Street Lower, Strand Street Great and the Millennium Walkway (DCC).
- Byrne's Lane's long-term vision is described in context with Abbey Cottages and the wider urban block along Abbey Street Upper (See section 4.6).

Section 4.6 Urban Block on Abbey Street Upper sets out proposals as follows:

Proposals: Long-term Action

- Make extension of Abbey Cottages through to Strand Street Great a planning condition (DCC)
- Make relocation of live ESB substation to accommodate Abbey Cottage extension a planning condition (DCC)

- Make extension of Byrne's Lane through to rear of Liffey Street Lower a planning condition (DCC)
- Start pre-planning dialogue to discuss favourable design solutions with focus on maximum permeability, footfall, commercial activity and hence safety (all adjoining property owners, DCC, Dublin Town).

Designated Sites

The site is located within the vicinity of the following European Designated sites:

Special Areas of Conservation (SAC)

- South Dublin Bay SAC (Site Code 000210), c.3.5km distant;
- North Dublin Bay SAC (Site Code 000206), c.5.5km distant;

Special Protection Areas (SPA)

- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), c.2.5km distant;
- North Bull Island SPA (Site Code 004006), c.5.5km distant;

7.0 Third Party Submissions

7.1 In total, 7 submissions were received, of which 4 no. of these were from prescribed bodies. The remaining submissions are from residents in the vicinity/other interested party, together with a local politician and the issues raised are similar in nature. The contents of the submissions received from prescribed bodies are further detailed below in section 9. All submissions have been taken into account in my assessment. Reference is made to more pertinent issues, which are expanded upon, within the main assessment:

- Build-to-rent nature of the development- precludes people from buying their own property; attracting transient population; impacts on local community; sustainability of surrounding neighbourhoods; impacts on social fabric
- Impacts of height and density on streetscape- soulless structure proposed, will detract from the streetscape and skyline of the this area of Dublin; scale, bulk and massing of development; limited number of viewpoints used in

photomontages; proposal constitutes haphazard development in absence of any coherent urban design strategy/plan

- Architectural Heritage- urban design of proposal in context of historic streets; overshadowing of existing Protected Structures in vicinity; visibility from Liffey quays which are designated as a conservation area; visual impacts on character and integrity of Liffey quays conservation area
- Residential Amenity- daylight and sunlight into internal courtyard; number of dual aspect units
- Size of units- no three bed units; anti-family
- Other matters- planning history of site; reasons for refusal in 308228-20 could be applied to this site; SHD process

8.0 Planning Authority Submission

8.1 In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dublin City Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 11th October 2021. The report may be summarised as follows:

Information Submitted by the Planning Authority

Details were submitted in relation to the site description, proposed development, planning history, observations/submissions, pre-application consultations, Central Area Committee meeting, zoning, ABP Opinion, policy context, City Development Plan 2016 and Reimagining Dublin One Laneways 2018, interdepartmental reports, supporting documentation submitted by applicants, planning assessment, appropriate assessment screening and EIS. A summary of representations received was outlined, together with a summary of comments from Area Committee Meeting.

Summary of Inter-Departmental Reports

Drainage Division:

No objections, subject to conditions

Transportation Planning Division:

No objections, subject to conditions.

Parks and Landscape Services:

No objections, subject to conditions

Housing & Community Services:

The applicant has previously engaged with the Housing Department in relation to the above development and are aware of the Part V obligations pertaining to this site if permission is granted.

City Archaeologist:

No objections, subject to conditions

Waste Regulation and Enforcement Unit:

No objections, subject to conditions

Environmental Health Officer:

No objection, subject to conditions

8.2 A thorough and comprehensive assessment of the proposal has been undertaken by the planning authority and reference has been made to same within the main body of my report. The assessment concludes as follows:

- The proposed development aims to make more efficient use of the site in accordance with national planning policy. The proposal will result in a more sustainable use of land in a city centre location, by infilling areas of underutilised street frontage, while also increasing the number of residential units within the city centre and pedestrian footfall.
- The proposed mix of uses accords with the Z5 zoning and provides for a dynamic mix of uses which shall enliven the streetscape.
- However, the Planning Authority has serious concerns in relation to the proposed height. There is substantial height already permitted on this site for a hotel and aparthotel and it is considered that the submitted visual impact assessment and daylight and sunlight assessment does not provide a justification for a further increase in height on this site.
- Having regard to the criteria set down in the Urban Development and Building Height Guidelines for Planning Authorities 2018, there is serious concern in

relation to the impact of the proposed additional height on the streetscape and surrounding context, the visual amenities of the area and the adjoining conservation area at the Liffey Quays. The proposal would therefore fail to integrate successfully with the existing streetscape and built environment.

- There is also concern in relation to the further overshadowing of Great Strand Street and Abbey Street Upper.
- As such it is considered that the proposed development would not meet the design tests within the Urban Development and Building Height Guidelines for Planning Authorities 2018.
- The Planning Authority would also have concern with the submitted Daylight and Sunlight Assessment, given that the proposed units comprise of combined kitchens and living rooms, it is considered that these rooms should be benchmarked against 2% ADF. The quantum of north facing, single aspect units is also of concern to the Planning Authority.
- In the event of An Bord Pleanála deciding to grant permission, recommended conditions have been attached

8.3 The report includes a summary of the views of relevant Elected Members, as expressed at the Central Area Committee meeting held via zoom due to Covid-19 restrictions on 09/09/2021 and are broadly summarised below:

- Members welcomed this infill residential development rather than an aparthotel or hostel as was previously proposed, which will increase footfall in the city centre and create a more vibrant city. However they had concerns in relation to the height proposed. Other concerns related to:
 - Design/layout/aspect
 - Mix of units
 - Build-to-rent model and tenure mix
 - Transportation planning and parking
 - Location of Part V units within one block
 - Public open space and amenities

- Energy efficiency ratings
- SHD process

9.0 Prescribed Bodies

9.1 The applicant was required to notify the following prescribed bodies prior to making the application:

1. Irish Water
2. Transport Infrastructure Ireland
3. Dublin City Childcare Committee
4. The Heritage Council
5. An Taisce- the National Trust for Ireland
6. Minister for Housing, Local Government and Heritage (Built Heritage)
7. National Transport Authority
8. Transdev- LUAS Operator
9. Commission for Railway Regulation

In total, four prescribed bodies have responded (including a response from the Inland Fisheries Ireland) and the following is a brief summary of the points raised. Reference to more pertinent issues are made within the main assessment.

Irish Water:

Based on the details provided by the applicant to Irish Water, as part of their Pre-Connection Enquiry, and on the capacity available in Irish Water networks, the following observations are made:

Wastewater:

Surface water from the proposed development must be discharged to a separate storm network.

Where a Section 16 Trade Licence is required, it is the responsibility of the applicant to obtain.

Water:

New 200mm main to be laid to connect the development to the existing 250mm HDPE main in Abbey Street Upper which will be funded by applicant and delivered by Irish Water. A bulk meter to be installed on this connection main and linked up to telemetry online system.

Design Acceptance:

The applicants have been issued a Statement of Design Acceptance for the development.

Recommended conditions attached.

Transport Infrastructure Ireland

Conditions recommended

An Taisce

Serious concern is expressed over the proposed build-to-rent model, coupled with smaller sized units- concerns regarding their prospect into the future.

Other concerns relate to scale, bulk and mass of development at this location; daylight/sunlight concerns; impacts on Liffey Quays conservation area and Protected Structures and spirit of Building Height Guidelines.

On account of the concerns outlined, it is recommended that the proposed development is refused permission.

In addition, a report was also received from Inland Fisheries Ireland and is summarised as follows:

Inland Fisheries Ireland

Proposed development located within catchment of the Liffey system. The Liffey supports a regionally significant population of Atlantic salmon, a species listed under Annex II and V of the EU Habitats Directive in addition to Brown trout, lamprey, eel and many other sensitive species. The river is tidal at the proposed development location and forms part of the Liffey estuary. Estuaries serve as a natural linkage for species such as salmon and sea trout migrating between freshwater and ocean environments, providing the necessary habitat for their transition. Previous surveys in the Dublin city area of the Liffey have recorded eel and river lamprey.

Notes that Ringsend WWTP is currently working at or beyond its design capacity and won't be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

Recommended conditions attached

10.0 Oral Hearing Request

10.1 There were no oral hearing requests in this instance.

11.0 Assessment

11.0.1 This assessment is divided into a Planning Assessment, an Appropriate Assessment Screening and an Environmental Impact Assessment Screening. In each assessment, where necessary, I refer to the issues raised by Prescribed Bodies and observers in submissions to the Board, together with the Chief Executive Report, in response to the application.

11.0.2 There is an inevitable overlap between the assessments, with matters raised sometimes falling within more than one of the assessments. In the interest of brevity, matters are not repeated but such overlaps are indicated in subsequent sections of the report.

11.1 Planning Assessment

11.1.1 I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Dublin City Development Plan 2016; relevant section 28 Ministerial guidelines; National Planning Framework; Dublin Metropolitan Area Strategic Plans; provisions of the Planning Acts, as amended and associated Regulations and the nearby designated sites. I have visited the site and its environs. In my mind, the main issues relating to this application are:

- Principle of Development/Objective Z5 Zoning/SHD Process
- Principle of Proposed Build-to-Rent (BTR) Development

- Design Approach/Density/Aspect/Open Space Provision/Permeability/Materials Strategy
- Building Height/Material Contravention
- Unit Mix/Floor Area and Material Contravention
- Visual Amenity and Architectural Heritage
- Impacts on Existing Residential Amenity
- Quality of Proposed Residential Development
- Traffic and Transportation
- Drainage and Flood Risk
- Other Matters

11.1.2 The attention of the Board is drawn to the fact that there is quite a protracted planning history on this site, which includes for an extant permission, ABP-305280-19, for the construction of two additional floors to a permitted hotel development (parent permission 3172/18). The maximum height permitted on site is 11 storeys, to a maximum of 34 metres (10 storeys to Great Strand Street). The permitted scheme in total proposed an aparthotel and hotel accessed from Great Strand Street and Abbey Street Upper respectively, providing a total of 476 no. hotel rooms, located around two central courtyard areas.

11.2 Principle of Development/Objective Z5 Zoning/SHD Process

Principle of Development

11.2.1 Having regard to the nature and scale of development proposed, namely an application for 227 residential units, together with other mixed uses including commercial/retail uses (stated to be 8.5% of overall development), all located on lands on which such development is permissible under the zoning objective, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

'Objective Z5- City Centre' zoning objective

- 11.2.2 The site is zoned 'Objective Z5- City Centre' which seeks: "to ensure existing environmental amenities are protected in the predominantly residential future use of these lands." In terms of proposed uses, it is noted that 'residential', 'restaurant' and 'shop(district)(neighbourhood)(major comparison)' are all 'Permissible Uses' under the zoning matrix, as set out in section 14.8.5 of the operative City Development Plan. The primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. I note that there is an extant permission for a hotel/aparthotel on this site. The proposed mixed-use development, which includes for residential and retail uses seeks to achieve this sustainable life and vibrancy and I welcome the proposed residential/retail uses at this location.
- 11.2.3 Section 2.2.3 of the operative City Development Plan states that for the inner city, the plan seeks to strengthen and consolidate the robust city-centre mixed-use zoning (Z5), with active promotion of the inner city as an attractive place for urban living, working and visiting; the delivery of housing regeneration projects, the emergence of spatial clusters of economic specialisms, public realm improvements and the strengthening of the retail core, all supported by multiple levels of public transport accessibility in the city centre. The proposed development of 227 no. residential units, together with the proposed retail offerings, public realm improvements and public open space provision accords with this vision.
- 11.2.4 The subject site is currently a vacant, brownfield site and the challenge posed by such vacant sites within the inner city, together with the impacts they have on the economy of the city is recognised within the operative City Development Plan (see section 6.5.4). The proposed development is considered to be an appropriate use of this underutilised, brownfield site and its appropriate redevelopment is welcomed in principle. The planning authority state that the proposed mix of uses accords with the Z5 zoning objective and provides for a dynamic mix of uses which shall enliven the streetscape.
- 11.2.5 Having regard to all of the above, I am of the opinion that the proposal accords with the zoning objective for the area, with 'residential' and 'retail' uses being permissible uses within the operative City Development Plan.

SHD Process

11.2.6 Some of the third parties have raised concerns with regards the strategic housing development process. An Bord Pleanála are obliged to implement the provisions of planning law, including the SHD process laid down in the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended), and related Regulations. They are also obliged under section 9 of that Act to have regard to, inter alia, the policies of the Government and the Minister, including guidelines issued to planning authorities and to the provisions of Development Plans.

11.3 Principle of Proposed Build-to-Rent (BTR) Development

11.3.1 I highlight to the Board that the principle of proposed build-to-rent development has been raised in the third party submissions received, including those received from Elected Members and An Taisce. The planning authority have not raised concerns in relation to this matter. They welcome increasing the number of residential units within the city centre and the increased pedestrian footfall.

Policy Context

11.3.2 The attention of the Board is drawn to the fact that this is a build-to-rent scheme. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 provides guidance on the build-to-rent (BTR) sector. It is noted that these guidelines have been recently updated in 2020. They define BTR as “purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord”. These schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity. In this regard, a Property Management Strategy Report has been submitted with the application.

11.3.3 I refer the Board to the provisions of Specific Planning Policy Requirement 7 which provides that:

BTR development must be:

- (a) Described in the public notices associated with a planning application specifically as a ‘Build-to-Rent’ housing development that unambiguously

categorises the project (or part thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period:

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

(i) Residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Residential Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

11.3.4 The statutory notices for the proposed residential development describe the scheme as build-to-rent. The proposal is accompanied by a proposed covenant or legal agreement, as required under SPPR 7(a)- see Appendix F of SHD application form. I recommend that if the Board is disposed towards a grant of permission, a condition in this regard be attached to any such grant.

11.3.5 In terms of resident support facilities and resident services and amenities, I note that a stated 627m² of such services and facilities are proposed within the basement and ground floors of Block B. These spaces are accessed via the internal cores in Block B or externally from Great Strand Street and the new plaza. They are additional to communal open space provision. A number of proposed uses include TV/games room, co-working spaces, residents' lounges, gym and laundry. I am satisfied in relation to the quantum and type of uses proposed. The planning authority have not raised concerns in this regard. If the Board is disposed towards a grant of

permission, I recommend that toilet/changing facilities be provided at basement level to the gym area. This matter could be adequately dealt with by means of condition.

11.3.6 SPPR 8 sets out proposals that qualify as specific BTR development in accordance with SPPR 7. In this regard, no restrictions on dwelling mix apply. The applicants have not addressed this matter in their Material Contravention Statement. I note that the proposal does not accord with the provisions of the operative City Development Plan in terms of unit mix and floor area. I shall deal with this matter below in section 11.6. It is noted that some of third party submissions received, including that from An Taisce raise concerns in relation to the proposed unit mix and a perceived lack of family friendly units. The planning authority note that there are no three-bed units proposed, which they consider to be regrettable and are of the opinion that the proposed development does not provide an adequate mix of units to cater for families. They do however acknowledge the provisions of SPPR 8 of the Design Standards for New Apartments (2020) in this regard. The matter will be dealt with further below in relation to material contravention.

11.3.7 Under SPPR 8, flexibility also applies in relation to the provision of a proportion of the storage and private amenity spaces associated with individual units and in relation to the provision of all of the communal amenity space (as set out in Appendix 1 of aforementioned Apartment Guidelines), on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. The proposal in this instance seeks some relaxations in terms of private open space provision. Fourteen units do not have any private space provision- Juliette balconies are provided to these units. Additional compensatory communal open space is also provided. All units comply with the aforementioned Apartment Guidelines in terms of storage provision. I am satisfied in this regard.

Principle of Build-to-Rent (BTR) Units

11.3.8 I highlight to the Board that the principle of build-to-rent development has been raised in the third party submissions received, including those received from Elected Members and An Taisce. The planning authority have not raised concern in this regard and acknowledge national guidance in relation to build-to-rent development.

- 11.3.9 At the outset, I fully acknowledge the aforementioned national policy guidance with regards to the provision of BTR development and the need for same in certain areas, catering to those at different stages of the lifecycle; those where home ownership may not be a priority and those who have a preference/need for smaller units. Such build-to-rent units offer choice and flexibility to people and can provide viable long-term housing solutions. The Apartment Guidelines acknowledge that such schemes are larger-scale apartment developments that typically include several hundred units. I also note Policy QH17 of the operative City Dublin City Development Plan, which seeks to support the provision of purpose-built, managed high-quality private rented accommodation with a long-term horizon.
- 11.3.10 Having regard to the location of the site within the city centre, beside excellent public transport facilities, I am satisfied that the principle of a build-to-rent scheme is suitable and justifiable at this location.
- 11.3.11 The proposal will provide good quality rental units catering to individuals and two-person households in the main, within an inner city area which would benefit from increased residential development. The proposed development is well-designed, provides safe and adaptable units in an inner city area which is well served with local facilities and public transport. The public realm provision is an attractive feature of the proposed scheme. The proposed retail units will add to the facilities in the area. The proposal will add to the variety of housing types within the area. A coherent design rationale has been put forward and the proposal will add to the identity of the city. I am generally satisfied in this regard.
- 11.3.12 I acknowledge the concerns of many parties in relation to the use of the site for BTR. I again note that the Apartment Guidelines, which were recently updated in 2020, impose no restrictions in terms of quantum of BTR units and encourage large-scale BTR developments on such appropriate sites. I consider this to be an appropriate site for a BTR development.
- 11.3.13 I have considered the concerns raised in the submissions received in relation to the lack of community and creation of transient population. I don't agree that the proposal will necessarily attract a transient population and no evidence has been put forward in the submissions to validate these claims. If the Board is granting permission for the proposed development, a condition should be attached to any

such grant to reflect that this is a build-to-rent scheme, available for long-term rentals only.

Conclusion

11.3.14 To conclude this matter, I am of the opinion that a quality rental scheme, such as that proposed, would provide options for those where home ownership may not be a priority. Importantly current Government policy in relation to BTR units is noted, as set out in the recently updated Apartment Guidelines (2020). The locational context of the site is also noted. Having regard to all of the above, I consider that the principle of BTR on this inner city site is acceptable as it is consistent with policies and intended outcomes of current Government policy.

11.4 Design Approach/Density/Aspect/Open Space Provision/Permeability/Materials Strategy

Context

11.4.1 With respect to design and layout, I refer the Board to the submitted Design Statement, photomontages, together with detailed drawings for each block. A Housing Quality Assessment provides details about individual apartments. A coherent design strategy has been put forward for the subject site.

11.4.2 This is currently a vacant, brownfield site bound by Abbey Street Upper to the north and to the south by Great Strand Street. The LUAS line/Jervis stop is located adjacent to the NW corner of the site. The site to the east has planning permission for an 11 storey hostel development (permitted under 2928/19); currently under construction. The Millennium Walkway development is located to the west while Byrne's Lane traverses the Millennium Walkway development and terminates at the western edge of the site. The site currently adds little to the streetscape at this busy city centre location.

Design Approach

11.4.3 The proposal involves the construction of a mixed-use development, which includes for 227 residential apartments in two no. blocks, each 12 storeys in height. The percentage of non-residential uses is stated to be 8.5% of the overall development which includes for two no. retail units, together with tenant amenity facilities for future residents. Block A fronts onto Abbey Street and Block B fronts onto Great Strand

Street. A basement level is proposed under Block B and the blocks are connected at basement and ground floor levels with a landscaped courtyard separating the blocks at first floor level.

- 11.4.4 The planning authority state that the principle of residential development on this site is very welcome, particularly given the current housing crisis and the number of recently permitted hotel, aparthotel and hostel developments on nearby sites. The proposed high quality contemporary design and the use of quality materials such as brick is also considered positive and will contribute to the enhancement of the streetscape. The planning authority continues by stating that the proposal will result in a sustainable use of land in a city centre location, by infilling areas of underutilised street frontage, while also increasing the number of residential units within the city centre and pedestrian footfall. I would fully concur with this opinion.
- 11.4.5 A stated 350m² of public open space is proposed in the form of a public plaza, located to the SW of the site, with access from Great Strand Street. The applicants do not propose this plaza to be taken in charge. The planning authority have not raised concern in this regard.
- 11.4.6 Access is proposed from both Abbey Street Upper and Great Strand Street. There is also an entrance to the residential units in Block A from Byrne's Lane and an additional entrance to Block B from the east of the site through the proposed gated laneway.
- 11.4.7 Indicative plot ratio and site coverage standards are set out in the Dublin City Development Plan 2016-2022. Plot ratio standards for 'Objective Z5' lands range from 2.5 to 3.0 and site coverage standards for Z5 is 90%. The proposed scheme has a plot ratio of 6.02 and a stated site coverage of 79%. The planning authority states that under Section 16.5 of the Dublin City Development Plan, a higher plot ratio may be permitted in certain circumstances, including adjoining major public transport termini and corridors (where an appropriate mix of residential and commercial is provided), to facilitate comprehensive redevelopment in areas in need of urban renewal, to maintain existing streetscape profiles or where a site already has the benefit of a higher plot ratio. The planning authority do not express concern in relation to the plot ratio proposed. I consider that the proposal will result in the comprehensive redevelopment of this underutilised urban site and will be a

significant positive addition to the streetscape at this location. I am satisfied that the proposed plot ratio is acceptable in this instance and accords with Development Plan policy. Proposed site coverage is also considered acceptable.

- 11.4.8 I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. The proposal will bring a new population into the area, it will provide a number of additional retail/commercial offerings and will provide accessible public open space, all of which will be a positive for the wider community.

Density

- 11.4.9 A number of the third party submissions received, including those of the Elected Members, raise concern with regards the density proposed and consider that the proposal represents overdevelopment of the site in terms of density, scale, massing and height. The planning authority note that the NPF promotes higher density compact residential development on brownfield urban sites and in this context considers the density proposed to be appropriate.
- 11.4.10 Density at approximately 648 units/ha is considered appropriate for this urban location and in compliance with relevant section 28 ministerial guidelines. The site is considered to be located in a central and accessible location, in accordance with the 'Sustainable Urban Housing: Design Standards for New Apartments (2020)'. I note that the operative Dublin City Development Plan sets no actual upper density limit for any zoned lands, including lands with zoning 'Objective Z5', with each proposal to be assessed on its own merits. As stated, the subject site is located in a central and accessible location within Dublin city centre, immediately adjacent to the LUAS line and proximate to a range of public transport options. I therefore consider the site to be suitable for a higher density of development in accordance with the principles established in the National Planning Framework.
- 11.4.11 The provision of high-density residential development on the site is considered to be in accordance with the zoning objective pertaining to the site. The proposal is also considered to be in compliance with Policy QH7 of the operative City Development Plan, which seeks 'To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully

integrate with the character of the surrounding area'. The proposal will also aid in achieving housing targets set out within the core strategy of the operative City Development Plan.

11.4.12 I am of the opinion that given its zoning, the delivery of mixed-use development on this prime, underutilised site, in a compact form comprising well-designed, higher density units would be consistent with the zoning objective for the site and with the policies and intended outcomes of current Government policy, including the National Planning Framework, which seeks to increase densities in suitable locations. The site is considered to be located in a central and accessible location, proximate to excellent public transport, within the city centre. I therefore consider the proposed density to be acceptable.

Aspect

11.4.13 SPPR 4 of the aforementioned Sustainable Urban Housing Guidelines (2020) deals with the minimum number of dual aspect apartments that may be provided within any single apartment scheme and states that a minimum of 33% dual aspect units will be required in more central and accessible urban locations. As stated above, I consider this to be one such area, within a city centre location close to good public transport links and employment bases. The matter of aspect has been dealt with in section 4.7 of the submitted Design Statement and section 2.1.2 of the submitted 'Response to ABP Opinion'. It is stated that in total, 33% of the units proposed are dual aspect (74 units). The applicants state that the constrained nature of this city centre site and the requirement to achieve high density levels in line with national planning guidance has presented challenges in achieving figures for dual aspect units.

11.4.14 In this regard, the planning authority states that they have a concern with north facing single aspect units. The Apartment Guidelines state that north facing single aspect apartments may be considered where overlooking a significant amenity such as a park, garden or a water body or some amenity feature. This site does not overlook such a feature. However, I note its location within an inner urban area- an area that would benefit from a quality residential development such as that proposed. I also note the infill nature of the site and its orientation. While I note the concerns of the planning authority, I also acknowledge that the north facing, single

aspect one bed units within the scheme have been provided with additional floor areas to compensate for their orientation.

11.4.15 I am satisfied with the quantum of dual aspect units proposed. I acknowledge the constraints in delivering a high density development, on an infill site such as this in a city centre location. I consider this to be a central, accessible area, as defined in the aforementioned Sustainable Urban Housing Guidelines (2020). It is within a city centre location, in an area that would benefit from rejuvenation, close to excellent public transport facilities. It is my opinion that the positives that this development would bring in terms of streetscape enhancement and the provision of residential units within this area of the city would outweigh the negatives in terms of limited number of north facing, single aspect units. I note SPPR4 in this regard and consider the proposal to be in compliance with same. I am generally satisfied in this regard.

Open Space Provision

Context

11.4.16 It is noted that a Landscape Design Statement has been submitted with the application documentation. The documentation states that the landscape design has been planned in such a way so as to create a series of interlinking spaces for residents, community and for the wider Dublin neighbourhood. An outline landscape maintenance proposal is set out within the appendix of the Landscape Design Statement. The interface between the communal open space and public would be delineated by a railing and secure gate system. All proposed areas are detailed within the submitted documentation.

Public Open Space

11.4.17 Section 16.10.1 of the 2016 Dublin City Development Plan states that 10% of the site area should be provided for public open space in all residential schemes. The following is noted:

Table 4:

Site Development Area	Required POS (10%)	Proposed POS
0.35 ha (3500m ²)	350m ²	350m ² (10% of development area)

11.4.18 It is clear from the above, that the proposed development meets the Development Plan requirements in terms of quantum of public open space provision. A good quality plaza is proposed in the south-western portion of the site. Access to the plaza is from Great Strand Street and Byrne's Lane will directly adjoin its northern boundary. The applicants do not propose this plaza to be taken in charge by Dublin City Council. The planning authority notes that the quantum of public open space provision accords with the Development Plan standards and given that park areas are limited and less accessible in this area, the provision of a new public realm area is welcomed. Passive surveillance is good. I am satisfied in this regard.

11.4.19 The proposal includes for the gating of the proposed public plaza and this has been raised as a concern by third party parties. As the public open space will not be taken in charge, the planning authority recommends that its public use should be safeguarded through an appropriate condition. The Parks Division of the planning authority considers that further consideration is required to the closed gate appearance on the public open space as viewed from the adjacent streets. Collaboration with an artist could be considered for the design of the gates. I would agree with the planning authority in this regard and recommend that if the Board is disposed towards a grant of permission, this matter be dealt with by means of condition.

Communal Open Space

11.4.20 In terms of communal open space provision, I note that the aforementioned Apartment Guidelines require the following minimum standards:

Table 5:

Studio	4m ²
One-bed	5m ²
Two-bed (3 person)	6m ²
Two-bed (4 person)	7m ²
Three-bed	9m ²

11.4.21 Communal open space is proposed as follows:

Table 6:

	No.	Area Required (m ²)	Area Provided (m ²)
Studio	17	68	
One-bed	152	760	
Two-bed	58	406	
Total	227	1,234	1,596

11.4.22 In terms of communal open space provision, a courtyard is provided at first floor level as a fully accessible communal space for all residents and includes for two playground areas (90 m²). In addition, communal roof gardens are provided at 8th, 10th and 11th floors. Landscaping details have been included for all areas. I note that additional communal open space (68 m²) has been provided to compensate for those units that don't have access to private open space provision. Overall, I am satisfied with the quantum and quality of communal open space provided and am of the opinion that the public and communal open space is such that it will be an attractive place for future residents to reside. The applicant submitted a Wind and Microclimate Report which shows that the communal courtyard is well shielded and tree planting has positively mitigated any critical wind effects on this area. The roof terraces across the development are shielded by 1.8 metre high wind screening. It is also noted that the proposed development does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads or nearby buildings. The planning authority have not raised concerns in this regard. Communal open space provision is additional to the proposed internal tenant amenity spaces, which comprise a stated 627m². I am satisfied in this regard.

Private Open Space

11.4.23 Appendix 1 of Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020) sets out minimum private open space requirements for apartment developments as follows:

Table 7:

Studio	4m ²
One-bed	5m ²
Two-bed (3 person)	6m ²
Two-bed (4 person)	7m ²
Three-bed	9m ²

11.4.24 Private open space is provided to most of the proposed units within the scheme by means of projecting balconies, integrated balconies and winter gardens. In total, 14 units do not have accessible balconies, instead they have juliette balconies. The applicant states in the submitted documentation that these units do not have balconies so as to improve daylight/sunlight into the proposed development.

11.4.25 The planning authority note that of the 14 units without private open space, 8 of these units are north facing, single aspect studio units. All are within Block A fronting onto Abbey Street. The minimum size allowable under the Apartment Guidelines for such units is 37 sq. metres, the size proposed is 37.1 sq. metres. The planning authority has concern in relation to the residential amenity of these units. I shall deal with the matter of residential amenity below.

11.4.26 The BTR nature of the proposed development is noted and I refer the Board to SPPR 8(ii) of the aforementioned Apartment Guidelines in this regard which allows for flexibility in the provision of private open space amenity. All apartments have access to a range of communal facilities and amenities. It is noted that compensatory communal open space is provided (68m²). I am generally satisfied in this regard and consider the proposal to be in compliance with SPPR8(ii) of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020).

Permeability

11.4.27 It is noted that there is a pedestrian route to the SE of the site, from which an access to Block B is proposed. This route could potentially form a future pedestrian link through Abbey Cottages to Abbey Street, which is noted by the planning authority as being a proposed long term action of the Reimagining Dublin One Laneways

strategy, as set out in Section 4.6 of the document. This action seeks to extend Abbey Cottages through to Great Strand Street and relocate the ESB substation- it is stated in the strategy that this could be achieved through planning conditions. The proposed ground floor plans indicate that provision has been made for a route through to Abbey Cottages from Great Strand Street. It is noted that the existing ESB substation is outside the red line boundary of this subject site. It is also noted that there is a gate proposed on this route, with bicycle racks along the potential new route. While I acknowledge that it is not within the capability of the applicants to provide such a route, given that the sub-station is outside of their control, I note however that the applicant is not compromising the provision of such a route in the future by the proposals contained in this current application. The planning authority recommends that a condition be attached to any grant of permission in relation to the extension of this route through to Abbey Cottages in the event of the ESB substation being moved. While I note that the removal of the ESB substation is outside the control of the applicants, I too would welcome the extension/completion of this route from Abbey Cottages through to Great Strand Street, which would improve permeability within the area.

Materials Strategy

11.4.28 Given the location of the site at a prominent location within the city centre, a quality development is crucial, in terms of colour, tone, texture and durability. The issue of materiality has been dealt with in section 3 of the submitted Design Statement. The matter of materiality has been well considered in the documentation and the primary material for the scheme is brick, of varying tones and textures, which seeks to reflect the materiality of the wider, established area. I am satisfied with the approach taken in this regard, which will add variety to the proposed scheme. I am satisfied that if the Board is disposed towards a grant of permission, that exact details relating to this matter could be adequately dealt with by way of condition.

Conclusion

11.4.29 To conclude this section, I am satisfied with the design approach proposed and consider that the proposal will provide for a quality scheme at this location. I am also satisfied with the density proposed, given the locational context of the site and current Government policy in this regard. The number of dual aspect units is also

considered acceptable. In terms of open space provision, a high quality proposal has been put forward in terms of public and communal open space provision. Details regarding access arrangements could be adequately dealt with by condition. In terms of private open space provision, I acknowledge that this is a BTR scheme and the provisions of SPPR 8(ii) of the aforementioned Apartment Guidelines are noted in this regard. I am generally satisfied in this regard.

11.5 Building Height/Material Contravention

Context

- 11.5.1 It is noted that an Architectural Design Statement has been submitted with the application documentation, together with a number of visualisations and photomontages. In addition, a Townscape Visual Impact Assessment has been submitted with the application documentation. The applicant has submitted a Material Contravention Statement with respect to the building height proposed and the application has been described in the public notices as a material contravention of the operative City Development Plan. The matters of building height and visual amenity are closely related and I refer the Board to the Visual Amenity and Architectural Heritage section below.
- 11.5.2 The current proposal in the context of that previously permitted on site under ABP-305280-19 is noted. In this regard, I note that the maximum height previously permitted on this overall site was circa 34 metres. The current application proposes a maximum height of approximately 40 metres (stated 40.3 metres to Abbey Street and 40.6 metres to Great Strand Street (excluding lift over-runs). In this current application, both blocks extend to twelve storeys in height. In the previous application, the block fronting Abbey Street was 11 storeys in height while that fronting Great Strand Street was 10 storeys in height.

Building Height

- 11.5.3 I have considered the third party submissions received which raise concerns with the height of the proposed development and its impacts on the streetscape and skyline at this location. The Elected Members, as contained in the Chief Executive Report, also raise concerns in this regard. Some of the submissions received state that the proposal is such that it would dominate the skyline and would be visible from various

points throughout the city, including the Liffey Quays Conservation Area and Ha'penny Bridge. Concerns regarding height are closely related to concerns regarding the scale, bulk and mass of the development proposed and its appropriateness at this location. The planning authority acknowledge that the SPPRs contained in the Urban Development and Building Height Guidelines take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes with SPPR1 prohibiting planning authorities providing for blanket numerical limitations on building height through their statutory plans. The planning authority have assessed the proposal under the criteria set out in aforementioned guidelines and note the extant permission on site and permissions granted in vicinity of site. While the planning authority welcome the principle of residential development on this site, they do express serious concern in relation to the proposed increase in height, scale and massing and the visual impact of the proposal in the context of the existing streetscape at Abbey Street Upper, Great Strand Street and also when viewed from the southern side of the Liffey Quays and the Ha'penny Bridge. Matters of visual impact are dealt with below. I highlight to the Board that this is the matter of greatest concerns raised in the planning authority Opinion and also in third party submissions received.

- 11.5.4 The proposal seeks to introduce two no. blocks onto the site, each extending to a maximum of 12 storeys in height (circa 40 metres). They are connected at basement and ground floor levels. The extant permission on site is noted. The proposed development is approximately 6 metres higher than the maximum height previously permitted on the site.
- 11.5.5 Section 16.7 of the operative Dublin City Development Plan deals with the issue of building height and acknowledges the intrinsic quality of Dublin as a low-rise city. There is also a recognised need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic, civic or historic importance. The proximity to the Liffey quays conservation area is acknowledged, although it is also acknowledged that the subject site is not located within this conservation area. I do however acknowledge that development outside of conservation areas can have impacts on their setting. Any potential impacts on such settings form part of this assessment.

- 11.5.6 Section 16.7.2 identifies building heights for the city and specifically refers to height limits for low-rise, mid-rise and taller development. It allows heights for residential developments in inner city lands, such as at the current subject site, to a maximum of 24m and commercial developments to a height of 28m. The Building Height in Dublin Context Map (Chapter 16, Fig. 39) identifies four locations across the city suitable for buildings of 50m+. Areas are also identified for Medium Rise (max. 50m). As stated above, the maximum height of the proposed development is circa 40 metres. Given its overall height, the proposed development is considered to be mid-rise, as per the parameters set out in the operative City Development Plan. The subject site is not identified for either High Rise or Medium Rise development within this context map.
- 11.5.7 I am of the opinion that both blocks materially contravene the operative City Development Plan in this regard, with both blocks being circa 40 metres in height (40.3m and 40.6m respectively). This is also the approach taken by the applicants within the submitted Material Contravention Statement and it is submitted that the contravention of Development Plan policy can be justified under section 37(2)(b)(ii) and (iii) of the Planning and Development Act 2000 (as amended). The planning authority have not specifically addressed the matter of material contravention in relation to building height. They have assessed the proposed height in the context of the Urban Development and Building Height Guidelines. They note that there is an extant permission on this subject site which provides for significant development onto both Great Strand Street and Abbey Street Upper. The most recent permission on this site (3232/19) provides for an 11-storey hotel building fronting Abbey Street Upper, and a ten-storey aparthotel building fronting Great Strand Street. The maximum height permitted was 34 metres. The site to the east, which has frontage onto Abbey Cottages, also has a recent grant of permission for a hostel development, extending to eleven storeys in height (3804/19).
- 11.5.8 The operative City Development Plan states that in all cases, proposals for taller buildings must respect their context and address the assessment criteria set out in Section 16.7 of the Plan. I have had regard to section 16.7 of the operative City Development Plan in assessing this proposal. I am also cognisant of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) which sets out the requirements for considering increased building height in various

locations but principally, inter alia, in urban and city centre locations and suburban and wider town locations. It recognises the need for our cities and towns to grow upwards, not just outwards. It is acknowledged that the operative City Development Plan Height Guidelines have been superseded by the Urban Building Height Guidelines. I am also cognisant of buildings height permitted within the immediate and wider area.

11.5.9 Section 3.1 of the Building Height Guidelines present three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights (note my response is under each question). I would be of the opinion that the heights proposed in this current application are not significantly higher than the prevailing height permitted in the wider area. The following is noted:

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

My Opinion: Yes – as noted and explained throughout this report by focussing development in key urban centres and supporting national strategic objectives to deliver compact growth in urban centres. The planning authority is also of the opinion that the site is suitable for a higher density of development in accordance with the principles established in the National Planning Framework.

- 2. Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?*

My Opinion: No - due to the blanket height limits applied in the Development Plan which predates the Guidelines and therefore has not taken clear account of the requirements set out in the Guidelines.

- 3. Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align*

with and support the objectives and policies of the National Planning Framework?

My Opinion: It cannot be demonstrated that implementation of the policies, which predate the Guidelines support the objectives and policies of the NPF.

11.5.10 In addition to the above, I have had particular regard to the development management criteria, as set out in section 3.2 of these Guidelines, in assessing this proposal. This states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant city/town; at the scale of district/neighbourhood/street; at the scale of site/building, in addition to specific assessments. I am of the opinion that this has been adequately demonstrated in the documentation before me and the proposal has the potential to make a positive contribution to this area. I note the following:

At the scale of city/town:

- Locational context of the site, being within Dublin inner city, proximate to a wide range of commercial, educational and employment facilities. The introduction of residential development on this inner city site is welcomed.
- Site is well served by public transport with the Jervis LUAS stop immediately adjacent. The nearest DART stations (Connolly and Pearse) are within walking distance of the site. The site is also proximate to a number of high frequency bus services. National rail and bus links can be easily accessed.
- A Townscape Visual Impact Assessment was submitted with the application documentation. I am satisfied that there will not be an unacceptable impact on the streetscape when viewed from locations within the north and south city areas, including the Ha'penny Bridge and Liffey Quays
- The heights proposed respond well to both the existing and permitted surrounding land uses including historic structures close to the site.
- Proposal will introduce new height, architectural expression and layouts into this inner city area. I am satisfied that the development proposal would successfully integrate into and enhance the character of the area.

- The proposed development will make a positive contribution to place-making by virtue of new streets, public spaces and the opening up of the site. The area of public open space will make a positive contribution to the wider area- an area lacking in such spaces.
- Quality contemporary design is proposed and the use of quality materials is noted.

At the **scale of district/neighbourhood and street:**

- The architectural standard proposed is such that that it provides a good response overall built environment and makes a positive contribution to the urban neighbourhood and streetscape at this location. It will become a positive addition to the skyline of Dublin.
- The proposal is not monolithic in nature. A coherent design and materials strategy is proposed. Quality materials are proposed.
- A mixed-use development is proposed, with the commercial offerings available to the wider community.
- The proposal will contribute to the vitality of the area and will be a positive addition to the streetscape at this location
- Improved permeability and legibility through the site will be a benefit for the wider community. Permeability is currently limited by the defensive nature of the site.
- The proposed public realm improvements and public open space provision (10% of site area) will be a positive for the wider community.

At the **scale of site/building:**

- Microclimate reports submitted demonstrate access to natural daylight, ventilation and views and minimise overshadowing and loss of light and has taken account of BRE documents.
- Adequate separation distances are proposed between buildings.
- The proposal will provide a good urban design solution for the site. Site specific impact assessments, included with the application, have been referred to throughout my report and I am generally satisfied in this regard.

Specific Assessments

- AA Screening concludes that the possibility may be excluded that the development will have a significant effect on any European sites.
- Telecommunication Report concludes that the proposal allows for the retention of important telecommunication channels, such as microwave links
- Wind and Microclimate Report concludes that the proposal does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings.

11.5.11 I am satisfied with the height proposed and I consider that the proposal does not represent over-development of the site. This is a brownfield site in an inner city location, close to excellent public transport links. I am of the opinion that the heights proposed are appropriate for this site, reflect the pattern of development recently granted within the wider area and that a suitable design rationale has been put forward in this regard. It has been acknowledged in both the operative City Development Plan and within section 28 guidelines, that although low rise in nature, certain areas of the city have the capacity to accommodate buildings of greater height. While this site has not been specifically identified, I note national guidance in this regard. Due to its locational context, I am of the opinion that it has the capacity to accommodate buildings of the height proposed without undue detriment to the character or setting of the city skyline. The proposal will not negatively impact on protected views within the city to such an extent as to warrant a refusal of permission.

11.5.12 Elements of the proposal will, without doubt, be visible from various vantage points within the city, both within the near distance and from further afield including from the Liffey quays and from the Ha'penny bridge. I don't consider this to be a negative. The city skyline is comprised of buildings and structures from many different eras, of differing heights and styles, sitting side by side, all adding to the character of the city. I acknowledge that some are more successful than others in contributing to the quality of the skyline. I am however generally satisfied that the proposal before me puts forward a quality architectural response to the site and its specific characteristics.

11.5.13 With regards the issue of precedent, I am aware that a grant of permission for this proposal may be cited as precedent for developments of similar height within the wider area. I am however cognisant of the policy with the operative City Development Plan, together with national guidance in this regard. While I consider that this subject site may have capacity for great height, over and above the current Development Plan parameters, given its locational and site context, I am of the opinion that every site within the city area does not have such capacity and that a grant of permission on this subject site does not set precedent on other sites in the vicinity. Every application is assessed on its own merits and the Urban Development and Building Height Guidelines (2018) give detailed guidance as to what sites may be considered as being appropriate for such higher elements.

Material Contravention in relation to Building Height

- 11.5.14 The attention of the Board is drawn to the fact that a Material Contravention Statement has been submitted with the application and the applicants have advertised same within their public notices, as required under the legislation. This Statement deals with the issue of building height.
- 11.5.15 In terms of building height and as outlined above, the City Development Plan Height Strategy identifies a building height cap of 24m for residential development and 28 metres for commercial development within inner city locations. The maximum building height proposed in this current application is circa 40m.
- 11.5.16 The applicants refer to the National Planning Framework, the Urban Development & Building Height Guidelines (2018), the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) and Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (June 2019) as justification for increased building heights. It is submitted by the applicants that it is evident that the policy of the Dublin City Development Plan which outlines a blanket height restriction at this location is in direct conflict with both certain objectives within the Development Plan itself and with objectives contained within national planning policy documents such as the National Planning Framework – 2040, Apartment Guidelines (2020), and Building Heights Guidelines (2018). It is further submitted by the applicants that the pattern of development in the area and permissions recently granted in the area by both Dublin City Council and, following

appeal, by An Bord Pleanála, also support the height of the development proposed within this application.

11.5.17 I acknowledge that the operative City Development Plan was published prior to the publication of these Guidelines. The applicants state, inter alia, that their rationale for increased residential height presents an important opportunity to reinvigorate an underutilised site, which occupies a strategic location in the centre of Dublin City. They are further of the opinion that the proposed height and scale of the subject development represents a welcome intervention by facilitating a significant quantum of apartment units to be provided at the heart of the city.

11.5.18 As stated above, I am of the opinion that this particular site can accommodate the increased height proposed and should not be subject to a 'blanket numerical limitation'. The design proposed has taken full account of its setting and I acknowledge that the number of units proposed will assist in achieving national policy objectives for significantly increased housing delivery in an urban area with ample amenities and facilities, within an area which benefits from good public transport accessibility. I am of the opinion that the subject site can accommodate increased heights over those prescribed in the Development Plan.

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

11.5.20 Under the Planning and Development Act 2000, it is open to the Board to grant permission for development that is considered to be a material contravention in four circumstances. These circumstances, outlined in Section 37(2)(b), are in the (i) national, strategic interest; (ii) conflicting objectives in the development plan or objectives are not clearly stated (iii) conflict with national/regional policy and section 28 guidelines; and (iv) the pattern of development and permissions granted in the vicinity since the adoption of the development plan.

11.5.21 I am of the opinion that a grant of permission that would materially contravene section 16.7.2 of the Dublin City Development Plan 2016-2022, which applies to the

site, would be justified in accordance with sections 37(2)(b)(i)(iii) and (iv) of the Planning and Development Act 2000, as amended, on the following basis.

11.5.22 In relation to section 37(2)(b)(i), I note that the current application, which is for 227 build-to-rent residential units in a mixed-use development, has been lodged under the strategic housing legislation and is considered to be strategic in nature. I also note that the subject site is located within the inner city on lands zoned 'Objective Z5' which seeks 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. The inner city is identified as a regeneration area within the operative City Development Plan. I note the potential of the proposal to contribute to the achievement of the Government policy to increase the delivery of housing from its current under supply set out in Rebuilding Ireland- Action Plan for Housing and Homelessness, issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban location close to public transport and centres of employment. The newly published 'Housing for All' is also noted in this regard. I am of the opinion that the strategic importance of the delivery of housing units to address housing shortages in the principal urban areas is established in the national, regional and local planning policy context.

11.5.23 In relation to section 37(2)(b)(iii), I note the Building Heights Guidelines for Planning Authorities (December 2018), which provides a policy basis for increased building heights at appropriate locations. Specific Planning Policy Requirement SPPR 1 of the Guidelines provide that planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development... and shall not provide for blanket numerical limitations on building height. This is considered to be both a regeneration site, a redevelopment site and also an infill site. While I note the height limits set out in section 16.7.2 of the operative City Development Plan, I am of the opinion that it could be argued that a blanket numerical limitation of 24m for residential development and 28m for commercial development applies to the area within the Dublin city administrative boundary, with certain, very limited areas identified for buildings of greater height. Policy set out in the operative City Development Plan acknowledges the intrinsic quality of Dublin as a low-rise city, which should predominantly remain so. Specific Planning Policy Requirement SPPR

3A of the Guidelines provide that permission can be granted where the height of a proposed development is not consistent with a statutory development plan in circumstances where the planning authority is satisfied that the performance criteria specified in the Guidelines are met. I have had regard to the aforementioned performance criteria (see above) and am satisfied that they are substantially being met in this instance.

11.5.24 The National Planning Framework – Ireland 2040 fully supports the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. This site is considered to be one such site. I note Objectives 13 and 35 of the NPF in this regard. Objective 13 states that ‘In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected’. Objective 35 promotes an ‘Increase residential density in settlement, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights’. As stated above, I consider this to be one such suitable site.

11.5.25 In relation to section 37(2)(b)(iv), I note the pattern of developments within the wider area in recent times, which include for a grant of permission by the planning authority for a 12 storey development at the nearby Jervis Shopping Centre (extending to approximately 44 metres in height)(Reg. Ref. 2479/20). I also note the extant permission on this subject site extends to a height of 11 storeys (34 metres)(ABP-305280-19), while the site immediately adjoining to the east has permission for heights up to 11 storeys (31 metres)(305853-19). I consider the height proposed in this current application to be broadly in line with this emerging pattern of development within the area. It is clear that this is an evolving area in terms of height, given its locational context and national policy guidance in this regard for such sites.

Conclusion

11.5.26 I consider that having regard to the above, there is sufficient justification for the Board to invoke their material contravention powers and grant the height as proposed in this current application. Thus, I am satisfied that the proposal can be granted with respect to section 37(b)(2)(i)(iii) and (iv) of the Planning and Development Act, due to the strategic nature of the development proposed, national guidance in this regard and the pattern of development and permissions granted in the vicinity since the adoption of the operative City Development Plan.

11.6 Unit Mix/Floor Area and Material Contravention

Unit Mix and Material Contravention

11.6.1 Some of the third party submissions received have raised concerns with regard the proposed unit mix, in particular the extent of one-bed and studio units, which they consider could lead to a more transient population within the area; which would not facilitate in the creation of sustainable communities and would not be suitable for the accommodation of families. The Elected Members have also raised concerns in this regard. As stated above, the planning authority note that there are no three-bed units proposed, which they consider to be regrettable and they are of the opinion that the proposed development does not provide an adequate mix of units to cater for families. They do however acknowledge the provisions of SPPR 8 of the Design Standards for New Apartments (2020) in this regard.

11.6.2 The proposed unit mix is as follows:

Table 8: Overall Unit Mix

	Studio	1 bed	2 bed	3 bed	Total
Apartments	17	152	58	-	227
As % of total	7.5%	67%	25.5%	-	100%

11.6.3 I note that studio and one-bed units comprise over 74% of the proposed residential mix with no three-bed units proposed.

11.6.4 Section 16.10.1 of the Dublin City Development Plan, Mix of Residential Units, states that each apartment development of 15 units or more shall contain:

- A maximum of 25-30% one-bedroom units.
- A minimum of 15% three- or more bedroom units.

11.6.5 As stated above, third parties have raised the matter of unit mix in the submissions received, as have Elected Members and the planning authority. I note that in other SHD applications, including build-to-rent applications, where non-compliance with section 16.10.1 of the operative Development Plan has arisen, the Board have referred to the material contravention of this aspect of the Plan in their Order.

11.6.6 I acknowledge Policy QH1 of the operative City Development Plan which seeks 'to have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009)'. I also acknowledge the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (December 2020) which contains "Specific Planning Policy Requirements" in relation to build-to-rent developments, namely SPPR7 and SPPR8. Specifically, in relation to dwelling mix requirements for build-to-rent developments, I note SPPR8 (i), which I acknowledge takes precedence over any conflicting policies and objectives of Development Plans. SPPR8 (i) of the Apartment Guidelines states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise. The proposed development is in accordance with this requirement, however, it is my opinion that it would materially contravene the housing mix provisions of the operative City Development Plan and such contravention was not addressed in the applicant's material contravention statement. The submitted Statement deals only with the issue of building height. While the Statement of Consistency deals with the matter of unit mix in the context of SPPR8 (i), it does not address this matter in the context of section 16.10.1 of the operative City Development Plan.

11.6.7 I consider therefore that notwithstanding consistency with SPPR8 (i), consideration cannot be given to this material contravention of the provisions of the Development

Plan. Further, I do not consider that modification by condition would be an appropriate mechanism to resolve this matter, having regard to the material nature of modifications which would be required.

Floor Area and Material Contravention

11.6.8 Section 16.10.1 of the operative City Development Plan sets out minimum floorspace standards for apartments. In the case of studio apartments, the City Development Plan specifies a minimum floor area of 40 square metres. I note that the text of the Development Plan states that:

‘The minimum floor areas permissible are as per the Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities, as follows:

Minimum overall apartment floor area

- *Studio-type 40 sq.m*
- *1-bed 45 sq.m*
- *2-bed 73 sq.m*
- *3-bed 90 sq.m’.*

11.6.9 I acknowledge that the standards as contained within the aforementioned Apartment Guidelines have changed since the adoption of the operative Dublin City Development Plan. SPPR3 of the aforementioned ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (December 2020), which currently apply, set the minimum floor area for studio apartments at 37 square metres. There is a corresponding difference also in relation to minimum room width standards.

11.6.10 The nature of the BTR scheme and the provisions of SPPR8 in this regard are noted. I note that all studio units in the proposed scheme are 37sq.m or greater, which is in compliance with SPPR3 of the Design Standards for New Apartments. All other units are compliant with both SPPR 3 and the operative Development Plan which have the same minimum floor area standards for 1 and 2 bed apartments.

11.6.11 It is highlighted to the Board that some of the proposed studio units have a gross stated floor areas of 37.5m² and 37.1 m² and therefore do not meet the requirements of the operative Dublin City Development Plan in this regard (15 out of a total 17 studio units). The matter has not been dealt with in the submitted Material Contravention Statement. The shortfall in floor area is less than 3 m² for these studio units from what is prescribed in the operative City Development Plan. I would question whether this shortfall is material or not. I note that the planning authority did not state that they considered this matter to be a material contravention of the operative City Development Plan. It was not explicitly raised by third parties or Elected Members. It is a matter that did not excite local opposition. I acknowledge that the operative Dublin City Development Plan standards with regards to floorspace are at variance with the aforementioned Guidelines and that the provisions of these Guidelines take precedence over the operative Development Plan.

11.6.12 Notwithstanding the above, I am of the opinion that, in the absence of the matter being addressed in the submitted material contravention statement, the floor area of all studio units should comply with the standards set out in the operative City Development Plan, namely 40 square metres. I am therefore of the opinion that, if the Board is disposed towards a grant of permission, a condition should be attached to any such grant stipulating that storage lockers/spaces be provided at basement level for each of these studio units falling below 40m². These lockers shall be of a size such that, when their floor area is combined with that of the studio unit, a minimum 40 m² of floor area is provided to each studio unit. I am satisfied that this matter can be adequately dealt with by condition, if the Board is disposed towards a grant of permission.

Conclusion

11.6.13 Section 16.10.1 of the Dublin City Development Plan 2016-2022, which refers to Mix of Residential Units, states that each apartment development shall contain a maximum of 25 to 30% one-bedroom units and a minimum of 15% three or more bedroom units. The matter of unit mix has been raised by the third parties, Elected Members and the planning authority. Having regard to the range of residential units

proposed within the development, it is considered that the proposed development would materially contravene this provision of the Plan.

11.6.14 Section 16.10.1 of the Dublin City Development Plan 2016-2022, which refers to Floor Areas, states that the minimum overall apartment floor area for studio-type units is 40 square metres. Having regard to the floor area of the majority of the proposed studio units within the development, it could be considered that the proposed development materially contravenes this provision of the Plan. However, if the Board is disposed towards a grant of permission, I am satisfied that this matter could be adequately addressed by means of condition by the provision of storage lockers at basement level to each of the impacted studio units, which, when combined with the floor area of the studio unit would meet the 40 m² standard as set out in the operative City Development Plan.

11.6.15 Notwithstanding the BTR nature of the development proposed and compliance with SPPRs relating to same, the statutory requirements relating to the submission of a material contravention statement have not been complied with by the applicant in respect of these matters. I am of the opinion that the matter of floor area can be adequately addressed by means of condition. The matter of unit mix cannot be adequately dealt with by means of condition, without making material alterations to the proposed scheme. Accordingly, I am of the opinion that it is not open to the Board to grant permission in circumstances where the application is in material contravention of the Development Plan and where the statutory requirements referred to above have not been complied with.

11.7 Visual Amenity and Architectural Heritage

11.7.1 The submissions of third parties and the planning authority are noted in this regard. Many of the third parties raise concerns regarding impacts of the proposal on visual amenities and concerns regarding the visibility of the proposal on the city skyline. In terms of concerns in relation to architectural heritage, concerns regarding the impact (primarily visual) of the proposal on the Liffey quays conservation area and Protected Structures within the city have been raised. The planning authority has raised

concerns in relation to the height proposed (as dealt with above), particularly when viewed from the Ha'penny Bridge and the Liffey Quays.

11.7.2 This section is closely linked to the preceding section 'Building Height/Material Contravention' and I refer the Board to same.

11.7.3 A Townscape Visual Impact Assessment, Landscape Design Statement, Architectural Heritage Impact Assessment and photomontages have been submitted with the application. The submitted documentation shows the proposed development in the context of the existing surrounding area. A total of 11 viewpoints have been selected for the purposes of the visual impact assessment. One of the submissions stated that an inadequate number of viewpoints were contained in the VIA. I would not agree with this assertion and I am satisfied with the number of viewpoints contained therein, which shows the proposed development in the context of locations within the north and south city area. A rationale for the proposed height has been outlined in the submitted documentation and this is set out above. The applicants contend that overall, the proposed development is an appropriate contribution to the built fabric of the north inner city and will not result in any significant townscape or visual impacts.

11.7.4 The proposal, will without doubt, have impacts on views within the surrounding context and it will be visible from various vantage points across the city. Having examined the documentation before me, including verified photomontages, I am of the opinion that the massing, scale and height of the proposed development is generally considered acceptable. Impacts on views are noted. I note Figure 4 Key Views and Prospects (Indicative) as contained in the operative City Development Plan. I also note Policy SC7 in this regard, which seeks 'to protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence'. I am satisfied that the proposal is generally in compliance with this policy and that impacts on views would not be so great as to warrant a refusal of permission.

11.7.5 I note that there are no Protected Structures within the site, nor on adjacent sites. There are three Protected Structures on the northern side of Abbey Street. A number of properties along Ormond Quay are designated as Protected Structures, although I note that sites to the rear of many of these have been redeveloped over

time. Given the location of the site, it is noted that there are many Protected Structures within the wider area. No buildings on or adjacent to the subject site are included in the NIAH, although I do note that three structures are included on Abbey Street (on the northern side of the street, not opposite the proposed development site). In terms of conservation areas, I note that the subject site is not located within an architectural conservation area, not any other form of conservation area. There is no conservation area adjacent. The Liffey quays conservation area is nearest to the subject site.

11.7.6 In terms of architectural heritage, I acknowledge that elements of the proposal will be visible from the Liffey quays conservation area and from the Ha'penny Bridge and other locations within the north and south city. It will also be visible when viewed in the context of existing Protected Structures/historic structures. However, I do not necessarily consider this to be a negative, provided that the proposed additions are a quality intervention that sits comfortably with these historic structures. I am of the opinion that the proposed development is in compliance with Development Plan policy in relation to protection of Protected Structures and conservation areas including Policy CHC1, CHC2 and Policy CHC4.

11.7.7 I have examined all the documentation before me and I acknowledge that the proposal will result in a change in outlook as the site changes from its current brownfield nature to a site accommodating development of the nature and scale proposed. As the site is developed, it will become more visually prominent than is currently the case. Without doubt, there will be significant long term impacts on the streetscape context of the area. This is somewhat inevitable when dealing with a development of the height and scale proposed. In this instance, I consider it to be a positive. The site is located a short distance from one of the main shopping areas in the city and experiences significant footfall, due partly to its location relative to the LUAS and also it is on a direct route through from Capel Street to O'Connell Street (Abbey Street being identified as a link street within the operative City Development Plan). The site currently detracts significantly from the streetscape at both its Abbey Street and Great Strand Street frontages. That is not to say that a development of inappropriate height, scale or massing should be permitted in the area, however a quality development of appropriate height, massing and scale will aid in the rejuvenation of the area in line with national and local policy guidance. This is an

area under much needed rejuvenation. This is evidenced in the quantum of development currently underway, including in the immediate vicinity of the site.

11.7.8 The skyline is an ever evolving entity within a thriving, ever evolving city. What is of primary importance to me is that these new interventions provide a quality addition to the skyline of the city. I have inspected the site and viewed it from a variety of locations across the north and south city area. I have also reviewed all the documentation on the file. I am of the opinion that while undoubtedly visible, the proposal would not have such a detrimental impact on the character and setting of key landmarks and views within the city, as to warrant a refusal of permission. I acknowledge that the character of the area will be altered- again not necessarily a negative. I note some of the submissions received raise concerns that visual impacts will be high. I consider the transition in scale to be acceptable in this instance having regard to the mixed character of the area. The height of recently permitted development within the area is also noted. It is partly the mix of heights, architectural expression and uses that give the city centre its character. I have no doubt that the proposed development will add to this existing character, bringing a new dimension to this area of the city.

11.7.9 I am satisfied that the proposed development will not impact negatively on the character or setting of historic structures/landmarks/streets; will add visual interest; will make a positive contribution to the skyline and will improve legibility within this city area and that its height, scale and massing is acceptable in townscape and visual terms.

11.7.10 Section 16.7.2 of the operative City Development Plan sets out assessment criteria for high buildings and this has been detailed above. Policies relating to architectural excellence include Policy SC17, SC25 and SC26. I am generally satisfied with the standard of architectural quality put forward in this instance and consider the proposal to be generally in compliance with these aforementioned policies. As has been stated above, I am also satisfied with the building height proposed on this site. I am of the opinion that the proposal will make a positive contribution to the urban character of the city and will result in streetscape improvements within this area. The proposal will positively contribute to the city's built environment. Having regard to all of the above, I am not unduly concerned with regards the matter of visual impacts.

11.7.11 In terms of architectural heritage, having assessed the proposal, I am of the opinion that generally the design, layout, height and orientation of the proposed blocks are such that they will not unduly impact on the built heritage, historic setting and/or streetscape character of the surrounding areas to such an extent as to warrant a refusal of permission. I am cognisant of impacts on important landmarks within the city including, inter alia, the Liffey Quays and Ha'penny Bridge and I acknowledge the concerns expressed by the planning authority and third parties in this regard. I am of the opinion that a balance needs to be achieved in such instances between developing lands to an appropriate scale in compliance with national policy guidance whilst at the same time protecting the character and setting of the city centre area and the historic structures located therein. Given that this is the heart of the north inner city district, any development should respect the important landmarks in the vicinity and should positively add to both the streetscape and skyline at this location. However notwithstanding this, it is my opinion that the city should also be allowed to develop, to grow and to adapt, so as to cater for the needs of its citizens going forward. I am satisfied that this balance has been achieved in this instance.

11.7.12 The appropriate redevelopment of this site is to be welcomed and is in line with national policy for such sites. I have considered the submissions received from third parties in this regard, together with the submission from the planning authority and An Taisce. Having regard to all of the above, I am generally satisfied in this regard.

11.8 Impacts on Existing Residential Amenity

Context

11.8.1 Concerns regarding impacts on amenity have not been put forward in the observer submissions received. The planning authority note that the VSC analysis for adjoining buildings on Upper Abbey Street, Liffey Street and Great Strand Street used the previously granted permission as the base case for assessment. The results indicate that most of the adjoining buildings would experience a minor impact from the proposed increase in height. However buildings on Great Strand Street would experience a moderate to significant impact. It is also noted that the baseline VSC for many of the tested windows is already low. The planning authority have not raised issue in this regard.

- 11.8.2 A number of documents have been submitted which show the proposed development in the context of existing/permitted in the area including architectural drawings, photomontages/CGIs and architectural design statement. A Daylight and Sunlight Analysis has also been submitted.
- 11.8.3 In terms of impacts on the amenity of existing/permitted development in the area, I acknowledge at the outset that there will be a change in outlook as the site moves from its brownfield nature to that accommodating a high density development, such as that proposed. This is not necessarily a negative. I am cognisant of the relationship of the proposed development to neighbouring properties, both existing and permitted but not yet constructed. In my opinion, any impacts are in line with what might be expected in an area such as this, and therefore are considered not to be excessively overbearing given this context. There is an acknowledged housing crisis. This is a serviceable site, on which residential and retail development are permissible uses. The site is located within an established city centre area, where there are good public transport links with ample services, facilities and employment in close proximity. I have no information before me to believe that the proposal if permitted would lead to the devaluation of property in the vicinity.

Daylight and Sunlight

- 11.8.4 In designing a new development, I acknowledge that it is important to safeguard the daylight to nearby buildings. I note that the frontage to Abbey Street is bound to the west by the existing Chapter House office building (six storeys) while the site to the east has a grant of permission for a hostel development (eleven storeys)(3804/19). It is anticipated that residential uses within the permitted hostel development would be short-stay in nature. The Abbey Street frontage faces the rear service yard of Marks and Spencer, while I note a number of four-storey over basement house (Protected Structures) on the northern side of Abbey Street facing Chapter House. Their current use is unclear but it would appear to me that they are currently not in residential use. In any event, the four-storey houses opposite Chapter House are, in the main, not immediately opposite the site and their daylight would already be impacted upon by the existing Chapter House. It is therefore acknowledged that currently there is limited residential development within the immediate environs of the Abbey Street frontage. In terms of Great Strand Street, this site is acknowledged to have a more extensive frontage and the street is

narrower in width. The site is bound to the east by a single storey building and to the west by an existing five-storey building, which is in office use. A seven-storey building is located opposite, together with a three-storey historic building, which adds to the streetscape at this location. Both these structures appear to be in residential use and I am of the opinion that these are the buildings with greatest potential to be impacted upon by the proposed development.

11.8.5 BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that 'appropriate and reasonable regard' is had to the BRE guidelines. However, it should be noted that the standards described in the BRE guidelines are discretionary and are not mandatory policy/criteria and this is reiterated in Paragraph 1.6 of the BRE Guidelines. Of particular note is that, while numerical guidelines are given with the guidance, these should be interpreted flexibility since natural lighting is only one of many factors in site layout design, with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers). The standards described in the guidelines are intended only to assist my assessment of the proposed development and its potential impacts. Therefore, while demonstration of compliance, or not, of a proposed development with the recommended BRE standards can assist my conclusion as to its appropriateness or quality, this does not dictate an assumption of acceptability or unacceptability.

11.8.6 I note that the criteria under section 3.2 of the Building Height Guidelines at the scale of site/building include the performance of the development in relation to minimising overshadowing and loss of light.

11.8.7 A 'Daylight and Sunlight Report' was submitted with the application. The VSC analysis for adjoining buildings used the previously granted permission as the base criteria for assessment. This is considered reasonable. I note that the submitted Report has been prepared in accordance BRE BR209 'Site Layout Planning for

Daylight and Sunlight: A Guide to Good Practice', 2nd Edition 2011 and with BS 8206-2: 2008 'Lighting for Buildings – Part 2: Code of Practice for Daylight' and by proxy, BS EN 17037. I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011). The latter document is referenced in the section 28 Ministerial Guidelines on Urban Development and Building Heights (2018). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines. I have carried out an inspection of the site and its environs.

Daylight

11.8.8 In relation to daylight, paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. BRE Guidelines recommend that neighbouring properties should retain a VSC (this assesses the level of skylight received) of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels and that electric lighting will be needed more of the time.

11.8.9 See below for properties analysed in the submitted report and impact classification:

Table 9:

Property	Impact Classification
123-126 Upper Abbey Street	Minor Impact
8-11 Liffey Street Lower	Minor Impact
18-21 Liffey Street Lower	Minor Impact/No Impact
24-38 Great Strand Street	Minor Impact/ Moderate Impact/ Significant Impact

11.8.10 All other buildings were determined to be either further away (and therefore would receive negligible impact) or have no windows facing the development. This is considered reasonable. I am satisfied that all relevant properties have been considered. The results confirm that access to daylight for existing surrounding buildings, when compared with the previously permitted baseline experience, will not be compromised as a result of the proposed development. The VSC results indicate that the proposed development will have a generally minor impact on the majority of the surrounding buildings. All buildings tested on Abbey Street Upper and Liffey Street Lower had a minor/no impact, in that the VSC was not less than 0.8 of its former value. In terms of properties analysed on Great Strand Street, it is noted that of the 29 windows analysed, there was 'No Impact' on 3/29; 'Minor Impact' on 17/29, 'Moderate Impact' on 6/29 and 'Significant Impact' on 3/29. In terms of the windows experiencing 'Moderate Impact' or 'Significant Impact', it is stated in the analysis that that base VSC are very low and that low levels of daylight would be received on this narrow city centre street in any event. In total, 10 properties fall below 0.8 times the former value. The three most impacted windows are those No. 86, 87 and 94 Great Strand Street which have 0.47, 0.49 and 0.48 the value of previously permitted respectively. I note these impacts. The planning authority have not raised concern in this regard. I am of the opinion that impacts on nearby properties are on balance acceptable, having regard to the impacts on the windows of these identified properties, to the existing open nature of the site, the narrowness of Great Strand Street and to the need to deliver wider planning aims, including the delivery of housing and the development of an underutilised, brownfield urban site.

Sunlight

11.8.11 The impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH). A target of 25% of total APSH and of 5% of total WPSH has been applied and is applied only to windows that face within 90 degrees of due south. The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed. Properties on Upper Abbey Street and Liffey Street Lower were assessed (74 windows in total). Of these 74 windows analysed, 61 windows experienced 'No Impact', with the remaining 13 experiencing 'Minor Impacts'. The windows experiencing 'Minor Impacts' were all

located along Liffey Street Lower and it is noted that these windows currently experience low levels of sunlight and don't meet the targets as existing. The planning authority have not raised concerns in this regard. In relation to the conclusions of the report, as relates to sunlight, I am satisfied that impacts of the development on sunlight levels to surrounding property will be generally minor, and are on balance, acceptable.

Overshadowing

11.8.12 In relation to overshadowing, I note that there are no relevant neighbouring amenity spaces in the immediate area. Assessment is therefore required in this regard.

Conclusion

11.8.13 Overall, I acknowledge that the proposed development would not meet BRE targets in all instances, however I do not consider there to be significant impact upon surrounding daylight and sunlight as a result. The level of impact is considered to be acceptable. In my opinion, and based upon the analysis presented, the proposed development does not significantly alter daylight/sunlight from those existing and this is considered acceptable. All properties along Upper Abbey Street will experience in excess of 0.8 times their former value with only minor impacts noted. Three properties along Great Strand Street will experience a 'Significant Impact' in relation to daylight, with values of less than 0.5 times their former value noted. In terms of impacts on sunlight, 61 out of 74 windows assessed experienced 'No Impact'. The proposed development is located on a brownfield site identified for development in a dense, inner city location comprising primarily non-residential uses. Having regard to the scale of development permitted or constructed in the wider area and to planning policy for densification of the urban area, I am of the opinion that the impact is consistent with emerging trends for development in the area and that the impact of the proposed development on existing buildings in proximity to the application site may be considered to be consistent with an emerging pattern of medium to high density development in the wider area. This is considered reasonable. While there will be some impacts on a small number of windows, on balance, the associated impacts, both individually and cumulatively are considered to be acceptable.

Overlooking and impacts on privacy

11.8.14 Given the locational context of the site, the orientation of existing and proposed development, together with the design rationale proposed, I consider that matters of overlooking would not be so great as to warrant a refusal of permission. Given the urban location of the site, a certain degree of overlooking is to be anticipated. I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission. This is an urban area and the overall scale of development reflects its location. The matter raised in the planning authority Opinion in relation to screening proposals for balconies could be adequately dealt with by means of condition, if the Board were disposed towards a grant of permission. The site is zoned for development with residential a permissible use and the principle of a dense scheme at this location, accords with national policy in this regard.

Noise/Dust

11.8.15 Given the nature of the development proposed, I do not anticipate noise levels to be excessive. I acknowledge that there may be some noise disruption during the course of construction works. Such disturbance or other construction related impacts is anticipated to be relatively short-lived in nature. A condition should be attached to any grant of permission regarding construction hours. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed. I note that an Outline Construction and Environmental Management Plan has been submitted with the application, which deals with the issues of noise and dust control, site management and site hoarding. As such, this plan is considered to assist in ensuring minimal disruption and appropriate construction practices for the duration of the project. I have no information before me to believe that the proposal will negatively impact on air quality. Construction related matters can be adequately dealt with by means of condition. However, if the Board is disposed towards a grant of permission, I recommend that a Construction Management Plan be submitted and agreed with the Planning Authority prior to the commencement of any works on site.

11.9 Quality of Proposed Residential Development

Context

- 11.9.1 This matter has not been explicitly raised as a concern in the third party submissions received. The planning authority have expressed some concerns in relation to lack of private open space to some units and the extent of three bed units proposed. Notwithstanding this, they do acknowledge the provisions of the national guidance in relation to BTR developments.

Floor to Ceiling Heights/Lift and Stair Cores

- 11.9.2 The proposal meets the requirements of SPPR5 of the aforementioned Apartment Guidelines 2020 in relation to floor to ceiling heights.
- 11.9.3 SPPR 8(v) of the Apartment Guidelines is noted which states that 'The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations'. Across the proposed development, the number of units per star core does not exceed 12 no.

Daylight and Sunlight to Proposed Residential Units

- 11.9.4 Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and/or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020

also state that planning authorities should have regard to these BRE or BS standards.

11.9.5 As before, I have considered the Daylight and Sunlight Report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' (2011). The latter document is referenced in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines.

Daylight

11.9.6 In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values for Average Daylight Factor (ADF) that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.

11.9.7 In relation to daylight, 490 rooms across the development were utilised for ADF- all apartments were tested.

11.9.8 The proposed units contain combined kitchen/living/dining layouts. I note that the applicants state in the submitted Daylight and Sunlight Report that a 1.5% ADF should be utilised for living/dining areas in apartment developments. As these are combined kitchen/living/dining rooms, the planning authority are of the opinion that the 2% ADF should have been utilised. I am of the opinion that the higher 2% ADF is

more appropriate in a traditional house layout, and that in apartment developments in such inner urban areas, 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, and to do so would unduly compromise the design/streetscape and that an alternate 1.5% ADF target is generally considered to be more appropriate. Data on the 2% target value has not been included in the assessment.

11.9.9 The applicants have not set out detailed tables for the results for the proposed units. Instead, a summary of results is set out in section 5.2 of the Daylight and Sunlight Report, while ADF results of full rooms are shown diagrammatically in the Appendix C. It would have been helpful to have the detailed results set out in tables for each of the individual rooms. I highlight this matter to the Board. Appendix C includes the daylight assessment to full rooms and provides raw data for same. The Board is referred.

11.9.10 The applicant has applied the 1.5% ADF value. Of the 490 rooms assessed, 90% of living/dining areas and bedrooms complied with the 1.5% value. As stated above, specific results have not been put forward when combined dining/living rooms are benchmarked against the 2.0% ADF.

11.9.11 The report continues by stating that an average ADF of above 3.5% would be provided for all living/dining spaces across the development with 50% of the living spaces achieving an ADF in excess of 3.5%. I am unclear as to how this is being achieved, given that 90% of living/dining and bedrooms meet the 1.5% target. The raw data clearly set out in tabular form would have been helpful in this regard.

11.9.12 While I acknowledge the fact that the proposed development has not been benchmarked against the 2% ADF target and the concerns of the planning authority in this regard, I note that while the recommended standards set out in the guidelines can assist my conclusion as to its appropriateness or quality, they do not dictate an assumption of acceptability. The applicant sets out design enhancements applied to maximise natural light availability and therefore internal environments, which include for maximising glazing; minimising/offsetting balcony structures; together with

increased glazing/floor heights. I would consider these to be alternative, compensatory design solutions.

11.9.13 Having regard to all of the above, I am of the opinion that all living/dining areas tested should receive adequate levels of daylight. 90% of units are stated to meet the 1.5% benchmark. In examining Appendix C, I note that some of the units examined are located on the lower floors, while some have balconies above the identified windows. I also note that as well as the factors referred to above, some of the rooms that achieve a relatively low ADF are also facing towards other blocks, which will serve to limit the level of daylight achieved to these rooms. Increased floor to ceiling heights are noted. In addition, I note that the applicant has endeavoured to maximise light into the apartments while also ensuring that the streetscape, architecture and private external amenity space are also provided for. I am satisfied that flexibility as to the target ADF is applicable, and that there is adequate justification in terms of use of an alternative target ADF of 1.5% for the open plan living/kitchen rooms. I therefore consider the deviation to 1.5% to be acceptable.

Sunlight

11.9.14 In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The APSH criteria involves an assessment of the level of sunlight that reaches the main living room window to determine the number of windows with an APSH level greater than 25% on an annual basis or 5% on a winter basis. The submitted assessment does not provide analysis in this regard. It is stated that this matter is dealt with in the submitted Architect Design Statement. While sunlight has been referred to within the Architect Design Statement, analysis of APSH and WPSH has not been addressed. I highlight this matter to the Board. However, I note that the Building Height Guidelines do not explicitly refer to sunlight in proposed accommodation. The Building Height Guidelines state in criteria 3.2 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'. Therefore, while daylight and overshadowing are explicitly referenced, there is no specific reference to sunlight, and reference is only to daylight, overshadowing or more generally 'light'.

While there is no analysis provided, I note the orientation of the site with many units in the proposed development facing south or west, with associated access to sunlight. In my opinion, it is likely that the inclusion of balcony areas will have a similar effect as set out above in relation to daylight. But given the orientation of blocks and the design rationale, I am satisfied that the acceptable levels of sunlight will be achieved to most living rooms in the proposed development, in recognition of BRE criteria.

Open Spaces

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

Conclusion

11.9.16 The Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution.

11.9.17 I would have preferred the information within this report to have been set-out in a tabular form, with a breakdown for each of the individual rooms analysed. I would have anticipated data in relation to the 2% target value to have been included in the analysis. Although not required in guidance, information regarding sunlight to proposed development would have aided in this assessment. Notwithstanding this, having regard to the information outlined above, as contained in the submitted Daylight and Sunlight Analysis, I note that the level of compliance with the alternative

ADF target of 1.5% for combined living/dining is 90%, which is considered to be reasonable compliance with the BRE standards. In particular, I note that these standards allow for a flexible and reasonable alternative for ADFs, and which in any event K/L/Ds are not specifically stipulated in the BRE guidance. I also note that SPPR3 allows compensatory proposals where non-compliance is proposed. A clear rationale for alternative and compensatory design solutions has been put forward. I note that having regard to the proposed density and urban location, that the identified shortfalls are not significant in number or magnitude. Regard is also had to the need to develop sites, such as this, at an appropriate density, and, therefore, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. It is my opinion that adequate justification for non-compliance exists, and that the design and associated design solutions are appropriate. It may also be noted that the ADF for rooms is only one measure of the residential amenity and in my opinion the design team have maximised access to daylight and sunlight for all apartments. While the concerns of the planning authority are acknowledged in this regard, I note that they are not recommending a refusal of permission in relation to this matter. I am generally satisfied that all of the rooms within the apartments would receive adequate light.

11.10 Traffic and Transportation

Context

11.10.1 It is noted that a number of transport related documents have been submitted with the application documentation including Traffic Report-Parking, Access and Mobility Issues and a Residential Travel Plan. SPPR 8(iii) of the Design Standards for New Apartments (2020) states that BTR schemes should have a strong central management regime to contribute to the capacity to establish and operate shared mobility measures. A mobility management strategy/Residential Travel Plan has been submitted with the application and the contents are noted and supported by the planning authority. I consider the contents of these reports to be reasonable and robust. This matter of traffic/transportation has not been raised as a concern in the third party submissions received. The planning authority state that they have no objection in principle to this element of the proposal, subject to conditions.

Proximity to LUAS line

11.10.2 The proximity of the proposed development to the existing LUAS line/stop is noted.

A report has been received from TII, which states that the applicant should ensure that there are no adverse impacts on LUAS operation and safety and have recommended conditions in this regard. This is considered reasonable and if the Board is disposed towards a grant of permission, this matter could be adequately dealt with by means of condition.

Car Parking

11.10.3 The subject site is located within Area 1 of Map J of the operative City Development Plan, with Table 16.1 detailing the maximum car parking standards permissible for a variety of uses. A maximum car parking provision of 1 no. space per residential unit is permissible. There is no provision for car parking as part of this proposed development.

11.10.4 The planning authority state that they have no objection in principle to the non-provision of parking having regard to the city centre location of the application site.

11.10.5 I am satisfied that given the nature of the development and the locational context of the site, proximate to excellent public transport facilities and within a city centre location, that the proposal is acceptable in terms of the non-provision of car parking spaces. I am of the view that the proposal is in line with Development Plan requirements and is appropriate for the location of the site. It is also considered to be in compliance with SPPR8(iii) of the Design Standards for New Apartments (2020).

Cycle Parking

11.10.6 In total, the proposal includes for 400 cycle spaces are proposed (294 no. spaces at basement level, 44 no. at ground level as short stay spaces and 62 no. spaces externally). The planning authority state that the principle of the bicycle parking is considered acceptable. However, they note some discrepancies in the location of the proposed spaces in the plaza area between the transport reports and the landscaping plan/ground floor plan. They are of the opinion that parking in this area should not impeded access for emergency services or for accessibility by all users through this plaza. I would concur with this opinion. This matter can be adequately dealt with by means of condition in the event of a grant of permission.

11.10.7 Further details are also required in relation to the travel co-ordinator (proposed within the Traffic Report) to manage and maintain the bicycle spaces and also details in relation to management measures to be implemented. Again, this matter could be adequately dealt with by means of condition, if the Board is disposed towards a grant of permission. I am generally satisfied in this regard. I also note that there are two Dublin Bikes stations located nearby, on Ormond Quay and Jervis Street.

Servicing

11.10.8 Details relating to the servicing requirements for both the residential and commercial elements of the proposed development are noted in the Traffic Report submitted. It is stated the large retail unit will utilise the proposed loading entrance on Great Strand Street whilst the smaller retail/café unit proposed will be serviced by the existing loading bay on Great Strand Street. The proposed schedule for delivery and servicing requirements to each of the retail spaces will be structured such that most of the deliveries will be targeted to occur during off-peak traffic periods. The planning authority have not raised concerns in this regard and state that the proposed servicing strategy is accepted in principle. I am also satisfied in this regard.

Proposed Works to public road

11.10.9 The planning authority state that any works to the public road, shall be subject to their agreement. This matter could be adequately dealt with by means of condition, if the event of planning permissions being granted for the proposed development.

Conclusion

11.10.10 To conclude, I am satisfied that the proposal is acceptable in terms of traffic and transportation matters, having regard to the extremely accessible location of the site and its proximity to quality public transport, together with section 28 ministerial guidelines which allow for reduced standards of parking at certain appropriate locations. The Transport Division of the planning authority have not expressed concerns in this regard. Conditions have been recommended and I am of the opinion that the matters raised by the planning authority in this regard could be adequately dealt with by means of condition. Transport Infrastructure Ireland have not raised concerns in this regard, subject to conditions. I concur with their opinion that the applicant should ensure that there are no adverse impacts on LUAS operation and safety. This matter could be adequately dealt with by means of

condition. Having regard to all of the above, I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

11.11 Drainage and Flood Risk

Drainage

11.11.1 In term of site services, new water supply and wastewater connections are proposed. As existing, there is an existing 800mm brick combined sewer that increases to a 1000mm brick combined sewer on Great Strand Street to the south of the site and a 750mm concrete surface water sewer on Liffey Street. It is proposed to discharge the surface water runoff from the site to the existing surface water sewer on Liffey Street Lower, which outfalls just south of this to the River Liffey. Surface water run-off from the roof will be collected in a gravity network and directed to an attenuation tank located under the ground floor. SuDS will be incorporated into the development and will include for green roofs. All rainwater falling on the site will now be attenuated and flows to the public sewer are estimated to drop from the existing unattenuated of 49.6l/s to the proposed 2 l/s. It is proposed to discharge the foul water from the site to the existing combined sewer south of the site. In terms of existing water supply, there is a 1900mm cast iron watermain that serves Great Strand Street south of the site.

11.12.1 An Irish Water CoF was submitted with the application, as required. It states that the proposed connections can be facilitated, subject to conditions. In addition, a Design Submission was included with the application, in which Irish Water state that they have no objections to the proposal. A submission received from Irish Water in response to this current application which recommends a number of conditions. This is considered acceptable.

11.12.2 A number of documents were submitted with the application which deal with the matter of drainage and flood risk, including, inter alia, a Civil Infrastructure Report, a Flood Risk Assessment and Basement Impact Assessment. The information contained within these documents appears reasonable and robust. The report of the Drainage Division of the planning authority, as contained in the Chief Executive Report, states that there is no objection to the proposal, subject to proposed conditions. Irish Water have no objection to the proposed development, subject to

conditions. The matter was not raised as an issue in the previous appeal on the site (ABP-305280-19). I am satisfied in this regard.

Flooding

11.12.3 The contents of the submitted Flood Risk Assessment and Basement Impact Assessment are noted. The proposed development is located on a defended site, within Flood Zone C and therefore the proposed development is deemed 'Appropriate' in accordance with OPW guidelines. The site has not been subject to flooding in recent history. I note that this is a serviced, appropriately zoned site at an urban location. The planning authority has raised no concerns in relation to this matter, subject to conditions, which includes a condition to minimise risk of basement flooding. Drainage or flooding were not raised as issues in the previous appeal on the site (ABP-305280-19).

11.12.4 Based on all of the information before me, including the guidance contained within the relevant Section 28 guidelines, I am satisfied that the site can be serviced adequately and that the proposed development will have no adverse effects on the surrounding area, subject to standard drainage conditions.

11.13 Other Matters

Childcare Facility

11.13.1 A Childcare Demand Audit has been submitted with the application, which concludes that of the 227 units proposed, only the 58 no. two-bedroom units within the development can reasonably accommodate families, which falls below the threshold for the provision of childcare as set out in the Childcare Guidelines. Therefore, the applicant considers that a purpose built facility at this location is not required. Furthermore, it is estimated that only 23 pre-school children are likely to occupy the development once completed. Of this pre-school population, only 6-11 children are expected to avail of a childcare facility. The childcare audit identified 24 operational childcare facilities within a 1 km radius of the site with an estimated 267 vacant childcare places (30% of total capacity) available to accommodate the demand generated by the subject development. The planning authority have not raised concern in this regard, except to state that the applicants' analysis of the need for childcare generated by this development further emphasises their opinion that the

proposed development does not provide an adequate mix of units to cater for families. Having regard to the information before me, I am satisfied with the non-provision of a childcare facility in this instance.

Community and Social Infrastructure Audit

11.13.2 In terms of the proposed development, I note that the proposed residential support facilities/tenant amenity facilities, together with private and communal open spaces will be for use solely for residents of the proposed development. This is considered reasonable. The public open space provision, together with retail/commercial offerings will be available to the wider public.

11.13.3 It is noted that a Community and Social Infrastructure Audit was submitted, as per Development Plan requirements. The information contained therein is noted. The report found that there is sufficient provision of existing social infrastructure in the vicinity to support the proposed development. The planning authority states that this audit demonstrates that there is ample existing provision of community, educational and social infrastructure in the surrounding area of the site. The planning authority continue by stating that on the basis of this audit there are no significant gaps in the existing social provision serving the catchment area, despite the limited number of nursing home facilities and special education schools within 1 km of the site. As I have stated above, this is an established part of Dublin city centre, in close proximity to established services and facilities including retail, educational, cultural, sporting and a wide range of employment generating uses. It is proximate to excellent public transport facilities. I have no information before me to believe that the existing social infrastructure in the area does not have capacity to absorb a development of the nature and scale proposed.

Part V

11.13.4 Twenty-three units are proposed to comply with Part V requirements, all located within Block B. I note the Part V details submitted, together with the report of the Housing Section of the planning authority submitted with the application in this regard. The planning authority have not expressed concerns in this regard and state that the applicant has previously engaged with the Housing Department in relation to

the above development and are aware of the Part V obligations pertaining to this site, if permission is granted. I note the provisions of the recently adopted Affordable Housing Act 2021 and revised provisions to Part V contained therein and the fact that this application was lodged prior to the enactment of that aforementioned legislation. I note that it is unclear from the submitted documentation as to when the subject lands were purchased (namely was it before or after September 1st 2015). I recommend that the matter of Part V be dealt with by means of condition, in the event of planning permission being granted for the proposed development. Details of compliance can be dealt with by the planning authority, or ABP, in case of disagreement. In any event, the applicant will be obliged to comply with these new requirements as amended. I have no issue in relation to this matter.

Plant/Machinery at Roof Level

11.13.4 A Telecommunications Report has been submitted with the application documentation and the contents of this report are noted. The proposal includes for the installation of 6 no. support poles, each rising 1 metre above the lift shaft over-run on Block B (3 poles on each of the north and south elevation). The infrastructure will be screened within cylindrical shrouds. If the Board is disposed towards a grant of permission, I recommend that a condition should be attached to any such grant stipulating that any additional plant/machinery at roof level be the subject of a separate application. This matter could be adequately dealt with by means of condition.

Archaeology

11.13.5 An Interim Archaeological Report was submitted with the application. The contents of which are noted. It states that a series of medieval revetments and related features along with the medieval precinct wall of St. Mary's Abbey were identified. Foundations of the Georgian terraces and associated rear plots were also uncovered. The site has been preserved by record in compliance with the statutory authorities. Additional excavation along the southern boundary of Byrne's Lane will be completed, to be agreed with the statutory authorities pursuant to the revised SHD. It is anticipated that this work will entail full archaeological excavation and

removal of features and deposits, to be followed by post excavation analysis and statutory reporting as per the conditions of the archaeological licence. On completion of all post excavation analysis, a final report will be submitted to the statutory authorities. A report was received from the City Archaeologist, as contained in the Chief Executive Opinion and its contents are noted. The City Archaeologist does not raise objection to the proposed development, subject to development. I am of the opinion that archaeological issues should be dealt with by means of condition, if the Board is disposed towards a grant of permission.

12.0 Appropriate Assessment Screening

12.1.1 An Appropriate Assessment Screening Report was submitted with the application. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified and sound scientific information and knowledge was used.

12.1.2 The AA Screening Report concludes that a Stage 2 Appropriate Assessment of the proposed development is not required as it can be excluded, on the basis of objective scientific information following screening under this Regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended, that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European site. The information contained within the submitted report is considered sufficient to allow me undertake an Appropriate Assessment screening of the proposed development. I am satisfied that the best scientific knowledge for the purpose of a screening test has been put forward in this instance.

12.1.3 The planning authority in their Chief Executive Report have not raised concern in relation to this matter. I also note the contents of the submission received from Inland Fisheries Ireland. I note that this matter was not considered an issue in the most recent grant of permission on this site.

Designated Sites and Zone of Impact

12.1.4 The subject site is not located within any Designated European site. Sites with potential of hydrological connection to the proposed development, are as follows:

Table 10:

Site Name and Code	Distance from Dev Site	Qualifying Interests/SCI Conservation Objectives
<p>South Dublin Bay SAC (Site Code 000210)</p>	<p>c.3.5km distant</p>	<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Annual vegetation of drift lines</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Embryonic shifting dunes</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>
<p>North Dublin Bay SAC (Site Code 000206)</p>	<p>c.5.5km distant</p>	<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Annual vegetation of drift lines</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows</p> <p>Mediterranean salt meadows</p> <p>Embryonic shifting dunes</p> <p>Shifting dunes along the shoreline with white dunes</p> <p>Fixed coastal dunes with grey dunes</p> <p>Humid dune slacks</p> <p>Petalwort</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I</p>

		habitat(s) and/or the Annex II species for which the SAC has been selected.
South Dublin Bay and River Tolka Estuary SPA (Site Code 004024),	c.2.5km distant	<p>Light-bellied Brent Goose</p> <p>Oystercatcher</p> <p>Ringed Plover</p> <p>Grey Plover</p> <p>Knot</p> <p>Sanderling</p> <p>Dunlin</p> <p>Bar-tailed Godwit</p> <p>Redshank</p> <p>Black-headed Gull</p> <p>Roseate Tern</p> <p>Common Tern</p> <p>Arctic Tern</p> <p>Wetlands & Waterbirds</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>
North Bull Island SPA (Site Code 004006),	c.5.5km distant	<p>Light-bellied Brent Goose</p> <p>Shelduck</p> <p>Teal</p> <p>Pintail</p> <p>Shoveler</p> <p>Oystercatcher</p> <p>Golden Plover</p> <p>Grey Plover</p> <p>Knot</p> <p>Sanderling</p> <p>Dunlin</p> <p>Black-tailed Godwit</p> <p>Bar-tailed Godwit</p> <p>Curlew</p> <p>Redshank</p> <p>Turnstone</p>

		Black-headed Gull Wetlands & Waterbirds <u>Conservation Objective:</u> To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.
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12.1.5 The AA Screening report states that no designated sites are within the potential zone of impact. The zone of impact was expanded to include designated sites within Dublin Bay. No potential impacts are foreseen on European sites beyond 10km as there is no direct pathways to these sites.

Qualifying Interests/Features of Interest

12.1.6 Qualifying Interests/Special Conservation Interests for which each European Site have been designated are outlined in Table 10 above and Table 1 of the AA Screening Report (pages 14-18 inclusive).

Conservation Objectives

12.1.7 The Conservation Objectives for the above sites are to maintain or restore the favourable conservation condition of each qualifying species/habitat for which the site has been selected.

Potential Direct/Indirect Impacts

12.1.8 The nearest designated site is 2.5km distant. The River Liffey is 84m from this site and it is noted that there is no direct link to the watercourse from this site.

12.1.9 The AA Screening Report states that there are no direct or indirect pathways to European sites from this development site during the construction phase.

12.1.10 It continues by stating that there are no direct pathways during the operational phase. During the operational phase, drainage on site will be connected to the public surface and foul water infrastructure.

12.1.11 In terms of indirect pathways during the operational phase, there is a potential surface water pathway from the site of the proposed development to Dublin Bay via the local surface water drainage network.

12.1.12 There will also be indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant during the operational phase.

Construction Stage

Assessment

12.1.13 As stated above, that there are no direct or indirect pathways to European sites from this development site during the construction phase. I also note the following:

- The nearest designated site of Dublin Bay (South Dublin Bay and River Tolka Estuary SPA) is c.2.5km from the proposed project site
- There is no possibility of long-term impacts arising as a result of the construction elements of the proposed project, given the nature and scale of the proposed project and its location in the centre of a busy city at a remove from the European sites.
- In terms of surface water drainage during construction, it is noted that surface water will discharge to 3 no. recharge wells located in the SE corner of the site where no basement is proposed. There will be no discharge of surface water to surface or foul water networks during the basement construction.
- There is no possibility of any other potential direct, indirect or secondary impacts on any European site during the construction phase.
- There will be no loss, fragmentation, disruption, disturbance or other change to any element of any European site as a result of the construction of the proposed project, and no interference with the key relationships that define the structure or function of any European site
- I note construction practices proposed. In my mind, measures contained therein are not mitigation measures but constitute a standard established approach to construction works on such lands. Their implementation would be necessary for a mixed-use development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission. Even if these measures were not in place, I am satisfied that any effects on designated

sites would not be significant given the nature and scale of development, separation distances involved and dilution effects.

12.1.14 I am of the opinion that this matter does not require further in-depth scientific examination.

Operational Phase

Assessment

12.1.15 As stated above, there will be indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant during the operational phase. There is also a potential surface water pathway from the site of the proposed development to Dublin Bay via the local surface water drainage network.

12.1.16 The following is noted:

- The location of the proposed development in the centre of an urban environment with no direct hydrological connections to the European site.
- The management of surface water for the proposed development has been designed to comply with the policies and guidelines outlined in the Greater Dublin Strategic Drainage Study (GDSDS) and with the requirements of planning authority.
- The proposed development is designed in accordance with the principles of Sustainable Urban Drainage Systems (SuDS).
- A Flood Risk Assessment concluded that the proposed project site falls within Flood Zone C and the proposed project is deemed 'Appropriate'
- There will be no operational impacts related to surface water management or flooding on European sites or otherwise, as a result of the proposed project.
- Neither the planning authority nor Irish Water have expressed any objections to the proposal, in this regard.

12.1.17 In terms of indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant, I note that:

- The new foul drainage system for the development will connect to the Irish Water network and IW have expressed no objections to the proposal, subject to conditions

- Foul wastewater discharge from the proposed project will be treated at the Irish Water Wastewater Treatment Plant at Ringsend prior to discharge to Dublin Bay. The Ringsend WWTP operates under licence from the EPA (Licence no. D0034-01) and received planning permission (ABP Reg. Ref.: 301798) in 2019 for upgrade works.
- Regardless of the status of the WWTP upgrade works, the peak discharge from the proposed project is not significant in the context of the existing capacity available at Ringsend.
- During the operational phase, drainage on site will be connected to the public infrastructure. Therefore, the significance of the impact of the proposed development, is imperceptible and is considered not to change in combination with the other projects.
- Irish Water have not expressed any objections to the proposal

12.1.18 I note the contents of the IFI submission received. It is noted that the River Liffey is not a Natura site and that species supported by the River Liffey are not Qualifying Interests for any of the designated sites within Dublin Bay. There is irrefutable evidence that construction measures detailed in the submitted documentation would be required in any similar development, irrespective of the designated site or otherwise. I am of the opinion that this matter does not require further in-depth scientific examination.

Bird Strike

12.1.19 In terms of the matter of bird strike, I note that the proposed project site is approximately 2.5km from the nearest SPA and the risk of collision is imperceptible. Birds tend to fly higher than the tallest obstruction in their flightpath and also to fly at a greater height between foraging sites. I note the city centre location of the subject site and the prevailing heights within the wider area. I am of the opinion that this matter does not require further in-depth scientific examination.

Conclusion

12.1.20 Given all of the information outlined above, it appears evident to me from the information available in this case that the proposed development would not be likely

to have a significant effect on any Natura 2000 site, whether directly or indirectly or individually or in combination with any other plan or project. It is therefore concluded that, on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not required.

13 Environmental Impact Assessment (EIA) Screening

13.1 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.)

13.2 The proposed development is for 227 residential units on a site c. 0.35 ha. The site is located within the administrative area of Dublin City Council and is within the business district. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended).

13.3 The criteria at schedule 7 to the Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The application is accompanied by an EIA Screening Report which includes the information required under Schedule 7A to the planning regulations. The Screening Report states that having regard to the broad scope and purpose of the EIA Directive, it is the applicants opinion that by virtue of its nature, size, and location, the subject project would not be likely to have significant impacts on the environment and thus EIA is not required. I am satisfied that the submitted

EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

13.4 I have assessed the proposed development having regard to the information above; to the Schedule 7A information and other information which accompanied the application, *inter alia*, Appropriate Assessment Screening, Article 299B Statement and landscape details and I have completed a screening assessment as set out in Appendix A.

13.5 The current proposal is an urban development project that would be in a business district. The proposal is for 227 residential units on a stated site area of 0.35 hectares. The nature and size of the proposed development is well below the applicable thresholds for EIA. The residential and retail uses would be similar to the predominant land uses in the area. The proposed development would be located on brownfield lands beside existing development. The site is not designated for the protection of a landscape. The proposed development is not likely to have a significant effect on any Natura 2000 site. This has been demonstrated by the submission of an Appropriate Assessment Screening Report that concludes that there will be no impacts upon the conservation objectives of the Natura sites identified.

13.6 The development would result in works on zoned lands. The proposed development is a plan-led development, which has been subjected to Strategic Environmental Assessment. The proposed development would be a mixed use, which is a predominant land use in the vicinity. The proposed development would use the municipal water and drainage services, upon which its effects would be marginal. The site is not located within a flood risk zone and the proposal will not increase the risk of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance or a risk of accidents. The former use of the site is noted. The potential for contaminated material to be encountered during excavation, with the potential for impacts on the environment with regard to land and soils, was considered and assessed in the submitted Outline Construction and Environmental Management Plan, and the proposal will not give rise to significant environmental impacts. The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in

the proposed Outline Construction and Environmental Management Plan (CEMP) are noted.

13.7 The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted development in proximity to the site, and demonstrate that, subject to the various construction and design related measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions and I have considered all information which accompanied the application including inter alia:

- Appropriate Assessment Screening Report, prepared by Altemar
- EIA Screening Report, prepared by Tom Phillips and Associates
- Outline Construction and Environmental Management Plan prepared by Barrett Mahony Consulting Engineers
- Flood Risk Assessment, prepared by Barrett Mahony Consulting Engineers
- Civil Engineering Infrastructure Report, prepared by Barrett Mahony Consulting Engineers
- Operational Waste Management Plan prepared by AWN Consulting
- Landscape Design Statement prepared by NMP Landscape Architects
- Building Lifecycle Report, prepared by Aramark
- Energy Analysis Report, prepared by IN2 Engineering
- Transport and Mobility Report prepared by Barrett Mahony Consulting Engineers

13.8 In addition, noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. An Energy Analysis Report

has been submitted with the application, which has been undertaken pursuant to the EU Energy Performance of Buildings Directive (Directive 2012/27/EU). A Flood Risk Assessment that addresses the potential for flooding, which was undertaken in response to the EU Floods Directive (Directive 2007/60/EC). An AA Screening Report in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) has been submitted with the application. An Outline Construction and Environmental Management Plan has been submitted which was undertaken having regard to the Directive (EU) 2018/850 on the landfill of waste. The EIA screening report prepared by the applicant has, under the relevant themed headings, considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR. I have had regard to all of the reports detailed above and I have taken them into account in this assessment, together with the SEA for the operative City Development Plan.

- 13.9 I have completed an EIA screening assessment as set out in Appendix A of this report.
- 13.10 I consider that the location of the proposed development is such that the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.
- 13.11 I am overall satisfied that the information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted.

- 13.12 A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

14 Conclusion and Recommendation

- 14.1 The proposed development is considered to be acceptable in principle on these 'Objective Z5' zoned lands, having regard to the mix of uses proposed and the surrounding pattern of development. The design and layout is generally considered acceptable and the proposal would deliver a satisfactory level of residential amenity to any future occupants. The proposed building height materially contravenes the provisions of the Dublin City Development Plan but is not regarded as unacceptable for this location, having regard to national guidance in this regard for the densification of urban areas. Redevelopment of this brownfield site is considered to be in accordance with local, regional and national policy promoting the consolidation of urban areas. The site is well served by existing public transport services and it is not considered that the development will give rise to negative impacts on traffic and transportation. Significant impacts on cultural heritage or ecology are not anticipated.
- 14.2 With regards the floor areas of some studio units, which fall below the 40 square metres set out in the operative City Development Plan, and the fact that the matter has not been addressed in the submitted material contravention statement, I am of the opinion that this could be adequately dealt with by means of condition, if the Board were disposed towards a grant of permission. I note, however, that the development would materially contravene the provisions of the Dublin City Development Plan 2016-2022 relating to the mix of residential units, which has not been addressed in the submitted material contravention statement. I am of the opinion that this matter could not be addressed by way of condition. The matter of unit mix has been raised as a concern in the submissions received.
- 14.3 It is therefore recommended that, in accordance with Section 9(4) of the Act, a decision to refuse planning permission be issued in this case.

Recommended Draft Board Order

Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 18th day of August 2021 by Balark Trading GP Limited care of Tom Phillips + Associates, Dublin 2.

Proposed Development:

Permission for a strategic housing development at this site of c. 0.35 hectares at Nos. 31-34 Abbey Street Upper, 42-51 Great Strand Street and bounded by Byrne's Lane, Dublin 1.

The development will consist of:

Construction of a build-to-rent residential development comprising 227 no. apartment units consisting of 17 no. studio units, 152 no. one bedroom units, and 58 no. two bedroom units. At ground floor level, 1 no. retail unit (1,526sqm) fronting onto Abbey Street Upper and 1 no. retail/café unit (131sqm) fronting onto Great Strand Street is proposed. The development is principally provided in 2 No. blocks separated by an internal landscaped courtyard at first floor level and connected at basement and ground floor levels. Block A, located to the north of the site, extends to 12 storeys in total with setbacks provided at 9th, 10th and 11th floor levels. Block B, located to the south of the site, extends to a maximum of 12 storeys at the south western corner of the site with setbacks at 8th, 10th and 11th floor levels.

The development also provides for hard and soft landscaping including the provision of a landscaped public plaza at the south western portion of the site facilitating future access to Byrne's Lane, a landscaped communal courtyard at first floor level, and landscaped communal roof terraces at the 11th floor roof level of Block A and at 8th,

10th and 11th floor roof levels of Block B. Private open space in the form of balconies and winter gardens are also proposed. Pedestrian access to the development will be provided from Abbey Street Upper, Great Strand Street, the new public plaza and the laneway located at the east of the site, vehicular access will be provided from Great Strand Street to accommodate service and maintenance access.

Additional proposed works include the provision of 2 no. ESB substations; residential amenity and support areas at basement and ground floor levels including building facility office, gym, laundry, co-working spaces, and social spaces; 400 No. cycle spaces (338 No. located internally at basement and ground floor levels and 62 No. provided externally); bin stores; public lighting; security gates; plant at basement, ground, first and roof levels including telecoms infrastructure at Block B roof level; site services; piped infrastructure and all other associated site excavation, infrastructural and site development works above and below ground.

Decision

REFUSE permission for the above proposed development for the reasons and considerations set out below.

Matters Considered

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

Reasons and Considerations

Section 16.10.1 of the Dublin City Development Plan 2016-2022, which refers to Mix of Residential Units, states that each apartment development shall contain a maximum of 25 to 30% one-bedroom units and a minimum of 15% three or more bedroom units. Having regard to the range of residential units proposed within the

development, it is considered that the proposed development would materially contravene this provision of the Plan.

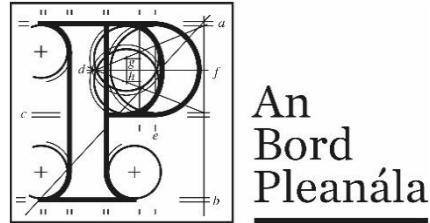
Notwithstanding Specific Planning Policy Requirement (SPPR) 8 of the Sustainable Urban Housing: Design Standards for New Apartments (December 2020) in relation to build-to-rent developments, the statutory requirements relating to the submission of a material contravention statement have not been complied with by the applicant in respect of this matter. Accordingly, it is not open to the Board to grant permission in circumstances where the application is in material contravention of the Development Plan and where the statutory requirements referred to above have not been complied with.

Lorraine Dockery

Senior Planning Inspector

November 19th, 2021

Appendix A: EIA Screening Form



EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-311168-21
Development Summary		Construction of 227 residential units, 2 no. retail units and associated site works.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Assessment and a Stage 1 AA Screening Report were submitted with the application

<p>2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</p>	<p>No</p>	
<p>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	<p>See Inspector's Report section 13.8 SEA undertaken in respect of the Dublin City Development Plan 2016-2022</p>

<p>B. EXAMINATION</p>	<p>Yes/ No/ Uncertain</p>	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</p>
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		Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of 227 residential units and 2 no. retail units on lands zoned for inner city uses in keeping with development in the vicinity.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposal includes the construction of an apartment/retail development which are not considered to be out of character with the pattern of development in the surrounding area.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially	Yes	Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a	No

<p>resources which are non-renewable or in short supply?</p>		<p>result of the development of the site are not regarded as significant in nature.</p>	
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
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<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters. The operational development will connect to mains services.</p>	<p>No</p>
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>

<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health.</p> <p>No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding.</p> <p>There are no Seveso/COMAH sites in the vicinity of this location.</p>	<p>No</p>

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in an increase in residential units of 227 no. units and an increase in 2 no. retail units which is considered commensurate with the development of an inner city zoned site within Dublin city centre</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>Stand alone development, with minor developments in the immediately surrounding area.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <p>1. European site (SAC/ SPA/ pSAC/ pSPA)</p> <p>2. NHA/ pNHA</p>	<p>No</p>	<p>An AA Screening Assessment has been undertaken which concluded no significant adverse impact on any European Sites.</p>	<p>No</p>

<p>3. Designated Nature Reserve</p> <p>4. Designated refuge for flora or fauna</p> <p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>			
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>No such uses on the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>The design and layout of the scheme considers all these built environment issues and mitigation measures are in place to address concerns.</p>	<p>No</p>

<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>	<p>There are no areas in the immediate vicinity which contain important resources.</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>There are no connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.</p>	
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion and the topography of the area is flat.</p>	<p>No</p>

<p>2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban road network.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>There is no existing sensitive land uses or substantial community uses which could be affected by the project.</p>	<p>No</p>

<p>3. Any other factors that should be considered which could lead to environmental impacts</p>			
<p>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</p>	<p>No</p>	<p>No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.</p>	<p>No</p>
<p>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</p>	<p>No</p>	<p>No trans boundary considerations arise</p>	<p>No</p>

3.3 Are there any other relevant considerations?	No		No
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C. CONCLUSION			
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required	
Real likelihood of significant effects on the environment.	No		

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity' in the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan;
- (c) The existing use on the site and pattern of development in surrounding area;
- (d) The planning history relating to the site
- (e) The availability of mains water and wastewater services to serve the proposed development,
- (f) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (g) 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),
- (h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Preliminary Construction and Environmental Management Plan (CEMP) .

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

Inspector: _____ **Lorraine Dockery**

Date: _____

END

