An Bord Pleanála

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

Inspector's Report ABP-311302-21

Strategic Housing Development	Demolition of some existing structures on site, 671 Built to Rent apartments, créche and associated site works.
Location	Milltown Park, Sandford Road, Dublin 6. (www.sandfordplanning.ie).
Planning Authority	Dublin City Council.
Applicant	Sandford Living Limited.
Prescribed Bodies	1. Irish Water 2. National Transport Authority 3. Minister of Culture, Heritage and the Gaeltacht 4. An Taisce - the National Trust for Ireland 5. Heritage Council

6. An Chomhairle Ealaíon
7. Failte Ireland

Observer(s)

1. Adrienne Candy
2. Aine Ryan
3. Aisling O' Grady
4. Al Byrnes
5. Andrea Scott
6. Andrew O'Hanlon
7. Angela Bourke
8. Anna Hickey
9. Annabelle del Re
10. Anne Byrne
11. Anne FitzGerald
12. Anne Iremonger
13. Anne Mandal
14. Aoife Lucey
15. Aoife McCarthy
16. Assumpta and Francis Creedon
17. Barbara Young
18. Bernard Keville
19. Bernard Sawier
20. Bo Liu
21. Brenna Clarke
22. Brian and Sally Ann Littlemore
23. Brian Buggy
24. Brian Duffner and family
25. Carl Brady and Carol Flanagan
26. Catherine Behan

27. Catherine Molloy
28. Cherryfield Avenue Upper Residents Association
29. Chris Andrews
30. Christine Moran
31. Christine O Connor
32. Ciaran and Ann Fahy
33. Ciaran Doyle
34. Claire Baxter and Donal Brick
35. Claire O Connor
36. Clodagh Dillon
37. Colette Donlon
38. Colm Byrne
39. Conleth Flood
40. Damien O Reilly
41. Danile Katz
42. Darina McCarthy
43. Dartmouth Square Environment Group
44. David Brophy
45. David Colbert
46. David Flynn
47. David McParland and Anne-Marie Casey
48. David Sugrue
49. Declan Ó Maoileanaigh
50. Dermot Murphy
51. Diarmuid Ó Gráda
52. Don and Maura Thornhill
53. Eimer and Michael Lucey

54. Elizabeth Hedigan
55. Emer Cunningham
56. Emma Murphy
57. Eoin McCullough
58. Executive Management CLG
59. Fatima Bolster
60. Fergal Cahill
61. Finian Carey
62. Finín O'Driscoll and Muireann Crowley
63. Fiona Kelly
64. Fionnuala McGrath
65. Fionuala Sherwin
66. Garret Lacey
67. Garrett O'Neill
68. George and Janet Walsh
69. Grace Shevlin
70. Gwenola Ollivier
71. Harry McGee
72. Helene Molloy
73. Hellen Jakobsen
74. Hugh Tyrrell
75. Ian Murphy
76. Iseult Beatty
77. Ivana Bacik
78. Jane Dillon
79. Janet Gallagher
80. Jenny Burns
81. Jerome White
82. Jim O Callaghan

83. Joan and Carroll Kelly
84. John and Agnes O Keeffe
85. John and Gwenda McInerney
86. John Barry
87. Johnny and Jane Babb
88. June Molloy
89. Keith Feighery
90. Kevin Wong
91. Lianping Chen
92. Linda O Nolan
93. Lisa Sheils
94. Local Residents on Sandford and Eglinton Road
95. Lochlann O Connor
96. Louis McHugh and Clare Doherty
97. Lucinda Moore Fox
98. Maeve and Padraic O Regan
99. Maeve Fitzpatrick
100. Maeve P Dunn
101. Máire de Búrca
102. Maire Houlihan
103. Marcus Horgan
104. Margaret Harrington
105. Maria Soden
106. Marian Flynn
107. Marie Tobin
108. Marty Hodgins
109. Mary Bowen
110. Mary Lane
111. Mary O Keeffe

112. Maura McMahon
113. Maureen Smith
114. Michael Hastings
115. Michele Allen
116. Milltown Residents Association
117. Niamh and Andrew O Neill
118. Niamh Vainberg
119. Nicola Mac Kenzie
120. Nikita Vainberg
121. Norwood Park Residents Association
122. Nuala Naughton
123. Olivia O'Reilly
124. Orla Gregory
125. Orla Kearney
126. Padraig Hogan
127. Paul and Evelyn Kinney
128. Paul Murphy
129. Pauline King
130. Peter and Marie Prost
131. Peter Casey and Others
132. Peter Jones
133. Philomena Harte
134. Phyllis Dawson
135. Poland Wong
136. Pradeep and Gráinne Govender
137. Rachel Clarke
138. Rachel Gray
139. Ranelagh Village Improvement Group

140. Ray Clarke
141. Richview Residents Association
142. Rob O'Boyle
143. Robert Flood
144. Robert Kiely
145. Eglinton Residents Association
146. Robin Mandal
147. Rodney O'Rourke
148. Ronan McKenna
149. Roseanne Dillon
150. Sara Cummins
151. Sarah Brophy
152. Sarah Wong
153. Shane O'Leary
154. Shay Madden
155. Sile Sheehy
156. Simone O'Connor
157. Sinead Egan
158. Stephanie Joy
159. Susan Cooney
160. Susan Flood
161. Susan Iremonger
162. The Trustees of Milltown Park
163. TJ O'Keeffe
164. Tom and Helen Bittel
165. Tony Nugent
166. Una Donnelly
167. Vanessa Langheld
168. Yvonne Cooney
169. Zita O'Reilly

Date of Site Inspection	24 and 30 November 2021.
Inspector	Stephen Rhys Thomas.

Contents

1.0 Introduction

1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application was made by Sandford Living Limited and received by the Board on 6 September 2021.

2.0 Site Location and Description

2.1. The subject site is located at Milltown Park, southeast of Ranelagh Village, bounded by Sandford Road to the north and Milltown Road to the southeast. The lands, comprising 4.26 hectare, form part of a larger block of institutional lands. The subject site extends to 4.74 hectare to include works on the public road. The site is bounded to the north and west by two-storey housing in Norwood Park and Cherryfield Avenue Lower respectively. The wider area is characterised by mature housing stock of a detached, semi-detached and terraced character, and apartment blocks. The Milltown Road is a wide sweeping road with footpaths on both sides and wide grass margins in the vicinity of the site entrance. The Sandford Road is again a wide road, with cycle lanes and footpaths on both sides of the road.

2.2. The roadside boundaries are generally comprised of high stone and render walls, that restrict views into the site. The eastern and northern edges of the site are comprised of mature trees and woodland. The western edge of the site is provided with lower level planting and trees. The southern part of the site is currently occupied by a number of structures, including the 18th C Milltown Park House and associated extensions of varying age and form, a Chapel Building (1860's) and Tabor House (1875). None of these properties are identified on the record of protected structures. There are a number of protected structures to the north and east of the site on Sandford Road and Clonskeagh Road.

2.3. The site is accessed via an existing entrance from Sandford Road, ornate vehicle and pedestrian gates mark this opening. The remainder of the institutional lands to the south are accessed via a more recently constructed entrance on Milltown Road. Internal access between the subject site and these lands has been closed off.

3.0 Proposed Strategic Housing Development

3.1. The proposed development on a total site of 4.74 hectares will consist of 671 residential units in 9 separate blocks, ranging in height from 2 to 10 storeys, the detail is as follows:

Parameter	Site Proposal
Application Site	4.26 hectares (4.74 inclusive of roads works)
Number of Units	671 units (all apartments), comprising: 604 Build to Rent units 67 Build to sell units
Density	157 units per hectare (net)
Dual Aspect	343 apartment units (51%)
Other Uses	Crèche – 400 sqm (80 child spaces) Block F
Public Open Space	1.48 Hectares – 35% of the site
Communal / Semi-Private Space	5,875 sqm (open space - courtyards)
Tenant Amenity Space	1,248 sqm (internal tenant amenity space), lounges, reading rooms, residents club, co-working space, gym, games room, kitchen, garden room, multi purpose space and a meeting room. Facilities include lobbies, concierge and mail rooms.
Height	2-10 storeys
Parking	344 car parking spaces 697 resident bicycle spaces
Vehicular Access	Via a new vehicular entrance from Milltown Road. Limited vehicular access from an existing entrance on Sandford Road.

Part V	67 (at Block D and part of Block F)

3.2. Housing Mix

Unit Type	Studio	1 bed	2 bed	3 bed	Total
Apartments	99	271	274	27	671
% of Total	**15%**	**40%**	**41%**	**4%**	**100%**

1. Apartments

Build to rent apartments (BTR) include:

- Block A1, 5 to 10 storeys – 94 units;
- Block A2, 6 to 8 storeys (including part double height at ground floor level) - 140 units;
- Block B, 3 to 7 storeys - 91 units;
- Block C, 2 to 8 storeys (including part double height at ground floor level) - 163 units;
- Block F, 5 to 7 storeys – 92 units;
- Refurbished Tabor House and chapel (4 storeys including lower ground floor level) - 24 units.

Build to sell apartments include:

- Block D, 3 to 5 storeys - 39 units;
- Block E, 3 storeys - 28 units.

2. Créche within Block F (400 sq m) with outdoor play area;

3. Communal internal amenities (c. 1,248.8 sq m) and facilities (c. 158.3 sq m) throughout the residential blocks, Tabor House and the converted Chapel building

including co-working space, gym, lounges, reading rooms, games room, multi-purpose space, concierge, mail rooms and staff facilities.

4. A 2.4 metre high boundary wall across the site from east to west (towards the southern boundary) by the demolition of a portion of the red brick link building that lies within the subject site towards the south-western boundary (36.4 sq m). The existing Link Building is the subject of a separate application for permission (DCC Reg. Ref. No. 3866/20).

5. Main vehicular access from Milltown Road, upgrade the existing access from Sandford Road for deliveries, emergency vehicles and taxis; new pedestrian access points; pedestrian/bicycle connections through the site; 344 car parking spaces, 697 bicycle parking;

6. Hard and soft landscaping including public open space and communal open space (including upper level communal terraces in Block A1, Block B and Block C);

Works on Milltown Road and Sandford Road to facilitate access to the development including improvements to pedestrian facilities on an area of c. 0.16 hectares.

7. Surface water drainage network outfall on Eglinton Road (approximately 200 metres from the Sandford Road / Eglinton Road junction), with these works incorporating an area of c. 0.32 hectares.

8. Demolition of 4,883.9 sq m of existing structures on site including Milltown Park House (880 sq m); Milltown Park House Rear Extension (2,031 sq m); the Finlay Wing (622 sq m); the Archive (1,240 sq m); the link building between Tabor House and Milltown Park House rear extension to the front of the Chapel (74.5 sq m); and 36.4 sq m of the 'red brick link building' (single storey over basement) towards the south-western boundary;

4.0 Planning History

4.1. The Site

Relevant and recent applications include:

4.1.1. PA ref. Reg. Ref. **3866/20** ABP Ref. **PL29S.311552** - Demolition of 83.7 sq m of the red brick link and construction of 2.4 metre high boundary wall. Alterations to structure and all ancillary works. Appeal case is due to be decided by 15/02/2022.

4.1.2. PA ref. Reg. Ref. **2673/16** ABP Ref. **PL29S.246869** - Extension of duration for temporary accommodation on the Society of Jesus Lands.

4.1.3. PA ref. **4333/15** Permission for demolition of the existing boundary wall and sliding gate at the side entrance to Milltown Park on Milltown Road, and its replacement with a new boundary wall and set back entrance. This entrance provides access to the remaining Jesuit lands and is located to the south of the proposed entrance to the subject development.

4.1.4. PA ref. Reg. Ref. **3044/13** ABP Ref. **PL29S.242764** – 'Temporary School Accommodation'. Subject to an extension of duration and further extension of duration.

5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre-application consultation with representatives from An Bord Pleanála, the applicants and the planning authority took place on the 23 October 2020 and a Notice of Pre-Application Consultation Opinion issued within the required period, reference number ABP-307977-20. An Bord Pleanála issued notification that, it was of the opinion, the documents submitted with the request to enter into consultations, constituted a reasonable basis for an application for strategic housing development.

5.2. The prospective applicant was advised that the following specific information was required with any application for permission:

1. A map to an appropriate scale, of land uses across the entire Z15 land use zoning at Milltown Park.
2. Describe how the proposed extent and layout of public open space meets the specific requirements of the Z15 land use zoning objective, including the

treatment of the proposed Public Plaza and access road from Sandford Road as public open space, as well as measures to improve public access to, and interaction with, the proposed public open space.

3. In terms of height and design strategy, the applicant should demonstrate that the design strategy for the site as it relates to height provides the optimal architectural solution for this location within the city and should submit a rationale/justification for the heights, focussing in particular on Block A1. Details of alternative studies or design approaches should be considered.

5.3. Finally, a list of authorities that should be notified in the event of the making of an application were advised to the applicant and included:

1. Irish Water
2. National Transport Authority
3. Minister of Culture, Heritage and the Gaeltacht
4. An Taisce - the National Trust for Ireland
5. Heritage Council
6. An Chomhairle Ealaíon
7. Failte Ireland

5.4. **Applicant's Statement**

5.4.1. Subsequent to the consultation under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board's opinion was that the documentation submitted would constitute a reasonable basis for an application for strategic housing development. Therefore, a statement in accordance with article 297(3) of the Planning and Development (Strategic Housing Development) Regulations 2017, is not required.

5.5. **Applicant's Material Contravention Statement**

5.5.1. A Material Contravention Statement has been prepared that sets out the rationale as to why the development could be permitted even when the proposal would represent a material contravention of the Dublin City Development Plan 2016-2022 in terms of the following objectives:

1. Building Height with reference to Chapter 16 of the Development Plan;
2. Dwelling Mix, Location of the Proposed Build-to-Rent Unit and Build-to-Rent Legal Covenant with reference to Section 16.10.1 of the Development Plan;
3. Tabor House (existing historic building) areas with reference to Section 16.10.1 of the Development Plan;
4. Number of units provided per core with reference to Section 16.10 of the Development Plan;
5. Daylight/Sunlight with reference to Section 16.10.1 of the Development Plan;
6. Private Open Space in Some Build-to-Rent Units with reference to Section 16.10 of the Development Plan;
7. Studio Apartment Floor Areas / Apartment Rooms Sizes / Apartment Widths with reference to Section 16.10 of the Development Plan;
8. Ratio of Glazing with reference to Section 16.10.1 of the Development Plan
9. Taking-in-Charge with reference to Section 16.9/Policy QH15 of the Development Plan;
10. Bedrooms Facing onto Deck with reference to Section 16.10.1 of the Development Plan

1. Building Height

The applicant states that the Dublin City Development Plan 2016-2022 defines the location of the subject site as the 'Outer City'. The Development Plan prescribes a maximum height of 16 metres for developments in the Outer City for residential and commercial development. The proposed development at up to 32 metres, exceeds the maximum height prescribed by the Development Plan. Specific Planning Policy Requirements ("SPPR") in the Guidelines (Apartment and Height guidelines) are relevant to the assessment of this proposed development. In particular, there is a conflict between the provisions of the Development Plan which provide for a maximum height of 16 metres, and SPPR 3A of the Height Guidelines.

Despite the proposed increase in height, the Landscape Visual Impact Assessment and Daylight/Sunlight Analysis demonstrates that the subject scheme will not have a significant material impact on the residential amenity of existing surrounding

dwellings. The height proposed can be absorbed into the natural and built environment due to the generous setbacks provided from sensitive boundaries and the layout of the development has been thoroughly considered and greater heights are provided away from neighbouring dwellings. The heights provided in the scheme are appropriate having regard to the requirements in National level policy to achieve compact growth, in addition to the careful modulation of height throughout the site, which responds to the surrounding context of each individual block.

The following nine items relate to section 16 Development Standards of the Dublin City Development Plan

2. Dwelling Mix, Build-to-Rent Unit

The applicant notes that in relation to dwelling mix, Section 16.10.1 of the Development Plan sets out the following: 'Each apartment development shall contain:

• A maximum of 25%-30% one-bedroom units

• A minimum of 15% three- or more bedroom units'

This section of the Development Plan further states that: 'The above mix of units will not apply to managed 'build-to-let' apartment schemes for mobile workers where 42-50% of the total units may be in the form of one-bed or studio units'. The proposed development will provide 671 apartments comprising 604 Build-to-Rent units and 67 Build-to-Sell units. The Build-to-Sell element of the scheme accords with the dwelling mix limitations set out in the Development Plan as follows: 15% studios, 40% one bedroom units, 41% two bedroom units and 4% three bedroom units. The Build-to-Sell element complies with SPPR 1 of the Apartment Guidelines. However, the maximum standard for studios and one bedroom units set out in the Development Plan, the applicant considers that this could materially contravene Development Plan policy. The applicant notes that SPPR8(i) of the Apartment Guidelines states that there are no restrictions on dwelling mix and all other requirements of the Guidelines shall apply, unless specified otherwise.

3. Tabor House (existing historic building)

The applicant states that all of the new build apartments meet or exceed standards, however the 14 studio units in Tabor House are slightly below the floor area requirements. This is acceptable because section 6.9 of the Apartment Guidelines allow for a degree of flexibility when re-using older buildings. Section 16.10 of the City Development Plan also allows for flexibility. The 14 studio units within Tabor House, range in area from 34.6 to 35.5 sq m, which is only slightly below the Apartment Guidelines, 2020 standard of 37 sq m and Development Plan (Section 16.10) standard of 40 sq m. Though the floor areas fall below standard, is acceptable as the studio units retain the existing footprint of the building, which is a positive intervention and reuse of a historic building.

4. Number of units per core

Section 16.10 of the Development Plan sets out that there shall be a maximum of 8 units per core per floor. The proposed scheme includes between 6 and 17 units per lift core, in the case of the latter the Apartment Guidelines allow for this under BTR and SPPR8(v). Blocks D and E of the scheme are below the 12 units per core requirement set out in SPPR6. Therefore, the proposed development could be considered to materially contravene the specific policy of the Development Plan in relation to the units per core, it is in accordance with national guidelines.

5. Daylight/Sunlight

The City Development Plan (section 16.10.1 Residential Quality Standards – Apartments refers) and the Apartment Guidelines refer to Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011). The Apartment Guidelines notes that any shortfalls in daylight provisions must be identified. The daylight/sunlight report demonstrates the units that do not fully meet the daylight requirements. As part of a compensatory design solution for the rooms that do not meet the recommended minimum average daylight factor, the proposed development includes communal amenity areas, all of which have been assessed and will have adequate levels of daylight. In addition, the following measures are proposed:

- Balcony space, some of which exceed the minimum requirement.
- Windows that face public open space in the development.

• Larger apartment floor areas, some of which are 10% larger (or more) of the minimum required standards.

The scheme will achieve wider planning objectives such as sustainably densifying lands in a central and/or accessible urban location and the development will secure comprehensive urban regeneration and will provide an effective urban design and streetscape solution at the site, by providing a large quantum of public and communal open space and internal communal amenity space and permeable links through the site, which will benefit both the future residents and the community.

6. Private Open Space in Some Build-to-Rent Units

Section 16.10 of the Development Plan sets out that private open space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels. The Development Plan also sets out that where the applicant cannot meet all of the requirements (e.g. private open space), a rationale for any alternative, compensatory design measures should be set out. Not all units have their own private amenity space, 79 units are BTR and include 18 units within Tabor House. Under the Apartment Guidelines, flexibility is allowed in relation to Build-to-Rent units and there is a significant quantum of high-quality amenities and facilities provided in lieu. This has been included in this Material Contravention Statement on a precautionary basis.

7. Studio Apartment Floor Areas / Apartment Rooms Sizes / Apartment Widths

Section 16.10 of the Development Plan sets out that the floor area of studio units should be 40 sq m, the Apartment Guidelines states 37 sqm is the minimum, with flexibility for BTR and historic structures. Furthermore, Section 16.10 of the Development Plan sets out that the minimum living/dining/bedroom floor widths of studio bedrooms should be 5 No. metres. Appendix 1 of the Apartment Guidelines, 2020 sets out that the width should be 4 No. metres. Therefore, a target of 4 metres for the width of studios has been incorporated into the scheme, which is in accordance with the Apartment Guidelines, 2020 but not the Development Plan standard. Some units will not meet the Development Plan standards in relation to aggregate room areas and/or widths in some cases, however this flexibility is allowed under the Apartment Guidelines, 2020.

8. Ratio of Glazing

Section 16.10.1 of the Development Plan sets out that: 'Glazing to all habitable rooms should not be less than 20% of the floor area of the room.' The proposed development provides 81.4% (546 units) of the units are provided with 20% (or more) glazing, 18.6% (125 units) of the units are below the 20% target. The level of non-compliance should not be considered a material contravention and it is clear that the majority of the proposed units have met the target of 20% glazing. The units that do not meet the 20% target are provided with 16% or 17% glazing, which therefore represents only a slight deviation from the 20% target.

9. Taking-in-Charge and Section 16.9/Policy QH15 of the Development Plan

Section 16.9 and Policy QH15 of the Development Plan require that roads and services must be designed and built to taking-in-charge standards. In relation to the proposed development, there are some minor deviations proposed in relation to taking-in-charge standards, such as surface finishes. This should not be considered a material contravention of the plan and a condition would be accepted.

10. Bedrooms Facing onto Deck

Development Plan, Section 16.10.1 – Block Configuration refers to bedrooms and deck access. With reference to bedrooms facing a deck access and the development plan, it may be acceptable if design issues can be addressed. The gantry access has been designed to ensure privacy, entrance threshold to the upper level units are designed with recessed own doors and bedroom windows to create a semi-private setback margin. A planter box will double as seat provides for a simple defensible space zone and enhances privacy.

6.0 Relevant Planning Policy

6.1. National Policy

6.1.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').

- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme
- The Regulation of Commercial Institutional Investment in Housing May 2021 Guidelines for Planning Authorities

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018.
- Architectural Heritage Protection – Guidelines for Planning Authorities (DEHLG) and Shaping the Future – Case Studies in Adaptation and Reuse in Historic Urban Environments (DAHG) 2012.

6.1.2. **Housing for All - a New Housing Plan for Ireland** (September 2021)

A multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs.

The overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price
- built to a high standard and in the right place
- offering a high quality of life

6.1.3. **Project Ireland 2040 - National Planning Framework**

National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

The National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which:

National Policy Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs. Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites. Objective 3b seeks to deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprint.

National Policy 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.

National Policy Objective 33 - Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-base regeneration and increased building heights.

National Policy Objective 27 seeks 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.

National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

6.1.4. **Rebuilding Ireland – Action Plan for Housing and Homelessness 2016**

Pillar 4: Improve the Rental Sector. The key objective is to address obstacles to greater private rented sector deliver and improving the supply of units at affordable rents. Key actions include encouraging the "build to rent" sector.

6.2. **Regional Policy**

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

MASP Housing and Regeneration policy object RPO 5.4 states that "Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments' Guidelines, and 'Urban Development and Building Heights Guidelines for Planning Authorities"

RPO 5.5 goes on to identify that "Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns"

RPO 3.3: Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for new Apartments Guidelines' and the 'Urban Development and Building Heights Guidelines for Planning Authorities'.

RPO 4.3 seeks to "support the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects."

Section 5.3 identifies guiding principles for development of the metropolitan area, which include:

Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

6.3. **Local Policy**

Dublin City Development Plan 2016 – 2022

The subject lands and adjoining lands to the south are zoned Z15: To protect and provide for institutional and community uses.

These lands are described as playing an important role in the achievement of a more compact city in that they contribute to the creation of vibrant neighbourhoods and a sustainable well-connected city through the provision of such infrastructure as schools, hospitals and open space.

With any development proposal on these lands, consideration should be given to their potential to contribute to the development of a strategic green network and to the delivery of housing in the city. In addition, development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards in Section 16.10 (standards for residential accommodation) in relation to aspect, natural lighting, sunlight, layout and private open space, and in Section 14.7 in relation to the avoidance of abrupt transitions of scale between zonings.

Where there is an existing institutional and/or community use, any proposed development for 'open for consideration' uses on part of the landholding, shall be required to demonstrate

- how the proposal accords and assists in securing the aims of the zoning objective;
- how it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses;
- how it secures the retention of existing functional open space e.g. playing fields;
- the manner in which the nature and scale of the proposal integrates with the surrounding lands.

A masterplan may assist in demonstrating how the requirements of this paragraph may be satisfied.

In considering whether there is no longer a need for the existing institutional use and a material contravention or variation to the development plan is proposed, the planning authority shall consult with the owner/ operator of the existing institutional and community uses and any relevant statutory provider. A masterplan is required in these circumstances.

The masterplan, which may necessitate a variation, shall set out a clear vision for the lands, to provide for the identification of 25% of the lands for open space and/or community. The masterplan must incorporate landscape features which retain the essential open character of the lands zoned Z15. It must also ensure that the space will be provided in a manner designed to facilitate potential for future public use and protect existing sporting and recreational facilities which are available predominantly for community use.

The 25% public open space shall not be split up, unless site characteristics dictate otherwise, and shall comprise mainly of soft landscaping suitable for recreational and amenity purposes and should contribute to, and create linkages with, the strategic green network.

Adjoining lands to the north and northeast are zoned Z2, To protect and / or improve the amenities of residential conservation area.

Residential conservation areas are noted to have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

There are a number of protected Structures on adjoining sites to the north and east of the site.

Policy SC13, promotes sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, are appropriate to their context, and which are supported by a full range of community infrastructure.

Chapter 4 defines Mid-rise buildings as up to 50m and taller buildings as being above 50m. Policy SC16, recognises the low-rise nature of the city, and the potential and need for taller buildings in a limited number of locations.

Chapter 5 sets out policies for quality housing.

QH6 encourages attractive mixed-use sustainable neighbourhoods containing a variety of housing types and tenures.

QH7 promotes sustainable urban densities throughout the city, having regard to the need for high standards of urban design and architecture and integration with the character of the surrounding area.

QH8 promotes the development of vacant or under-utilised infill sites and higher density proposals which respect the design and character of the area.

QH17 supports the provision of purpose-built, managed high-quality private rented accommodation with a long-term horizon.

Section 16.7.1 notes that a co-ordinated approach shall be taken to the potential positioning of higher building forms across the city to create clusters, where appropriate, and prevent visual clutter or negative disruption of the city skyline.

Section 16.7.2 indicates that the site is located within an area identified as Low-Rise Rest of City, where a 16m limit on building height applies.

Section 16.10 identifies Standards for Residential Accommodation.

An indicative site coverage of 50% is identified for Z15 lands.

7.0 Observer Submissions

7.1. 169 submissions were received and relate to a number of common issues that include: that the proposed development is a material contravention of the City Development Plan in a number of areas. Proposed buildings are too tall and density is too great, all of which is out of character with the area. A large population will lead to traffic congestion, oversubscribed public transport services and local amenities will not be able to accommodate such growth. Some submissions supported residential development but not at the scale and density proposed, preferring conventional family sized homes instead. Some legal issues are also raised, as well as the thoroughness of the EIAR. A small proportion of the observations support the development of the lands for residential purposes, they look forward to the scale of development and the opportunities an alternative range of housing units will offer. The content of the submissions received can be summarised follows:

7.1.1. National Policy and Development Plan

The proposed development goes against national policy on delivering houses at the right location. The development will not integrate well with the existing environment and does not meet the performance criteria of siting taller buildings in such locations.

The proposed development will materially contravene the Development Plan with respect to height, density, loss of residential amenity, dwelling mix and provision of BTR, number of units per lift core, daylight/sunlight, floor areas, private open space, ratio of glazing, taking in charge and bedrooms facing decks.

Z15 zoning should be for institutional uses, schools, hospitals, clinics, residential is only open for consideration. Other developments of a similar type have been refused

permission on Z15 lands and better developments at lower density have been permitted. The proposed development materially contravenes the land use zoning and so the Board cannot grant permission.

The proposed development takes no account of the wider lands and a coordinated approach to development of the area.

7.1.2. Density

The development is at a density out of character with the area, it is too high. Ranelagh will lose its village character.

7.1.3. Scale and design

The abrupt transition and overall scale of the development is out of character with the area, in particular blocks A1, D and E are excessive and intrusive. Local property has not been taken in to account as requested by Dublin City Planners. Block A, at 10 storeys will create a gateway feature at the junction of Milltown and Sandford Road, this will be completely out of character with the historic nature of the area.

The visual impact of the development on the area will be excessive and impact upon Z2 zoned land and local protected structures.

The height of the buildings proposed could block mobile phone and television signals.

A better selection of materials would be preferred, a high number of render finishes are not respectful to the area.

The boundary treatment to Sandford Road will be extremely important.

Verified View 8 (VV8) presents a distorted view and the removal of all the trees proposed has not been included in this representation.

Other housing schemes are mentioned as better examples of fitting higher density development in urban locations, Accordia, Cambridge and Goldsmith Street, Norwich.

The proposed development does not integrate or present a streetscape with Sandford Road or Milltown Road.

7.1.4. Residential amenity

Some detailed concerns around sunlight/daylight impacts with those properties recognising that the figures returned by the applicant's study show. Block E presents the most serious problems for residents along Cherryfield Avenue.

Rooftop gardens will result in overlooking and loss of privacy to existing residents nearby. 3 and 6 storey blocks are located just 20 metres from the rear of properties, this will remove light, be overbearing and privacy lost. Even though a separation distance of up to 20 metres has been provided, the proposed buildings will have a negative impact upon outlook, especially with tree removal.

Houses along Cherryfield Avenue have two storey returns with upper floor windows and no account has been taken of these in the separation distances proposed.

In terms of loss of light and the survey techniques used by the applicant, no actual properties were visited to assess the impact from the development, nor were any requests to visit houses made by the applicant.

Bin storage units are located very close to rea gardens and will become a nuisance, noise, smell and vermin.

The removal of trees along the boundaries will impact upon the privacy of back gardens and the rear elevations of houses along Cherryfield Avenue and Norwood Park.

The residential amenity afforded to future occupants is poor, with small apartments, lack of balconies and a high proportion of single aspect units.

The boundary treatments proposed to existing house is not robust, a more permanent boundary treatment is required.

7.1.5. Housing Mix

There is a need for family homes in the area and the provision of so many studio/one bed and two bed units will not meet this need. A Housing Need and Demand Assessment (HNDA) has not been prepared and so the dwelling mix proposed cannot be proven as acceptable.

The provision of build to rent will not attract families to the area.

The proportion of build to rent units should be reduced, but not removed altogether.

The provision of so many units will not address the problem of existing apartment units lying empty and the high cost of renting.

7.1.6. Access

The lands were always open to the public to walk through and attend education and fitness classes and should remain so.

7.1.7. Green Space and Amenity

Z15 lands require 25% public open space and this has not been provided, there is a need for playing pitches in the area. The loss of the millennium walk would be bad for those who currently use it.

The proposed development will provide no social or cultural amenity spaces.

The loss of historically important buildings and structures will impact the heritage value of the area.

The public open space layout does not accord with the requirements of the development plan to provide 25% open space in a single block.

Antisocial behaviour will occur in the open spaces planned, especially north of Block D and the rear of Norwood Park.

7.1.8. Loss of Trees and Grassland

There are 404 trees (most healthy and of good quality) on the site and 283 are to be removed, this is too many and more trees should be retained. The loss of so many trees will reduce the availability of clean air. Some areas of the site should have been classified as woodland, these are to be lost and so too will the wildlife associated with it, the Tree Survey submitted is criticised on these grounds. The loss of a larger area of grassland will have an impact on local flora and fauna.

7.1.9. Wildlife

The loss of such a green space will result in the loss of wildlife, mammals (including bats, a protected species), insets and birds.

The applicant's Bat Survey is criticised, and it cannot be concluded with certainty that there will be no or little impact to Bats or Bat Roosts.

The site could be used for grazing by Brent Goose, as evidenced elsewhere in the area, the wider impact of cumulative habitat loss should be assessed by the Board. The lands are close to high tide roosting sites for bird species of Dublin Bay SPAs.

The mitigation measures proposed, such as bat boxes and insect hotels is not enough to cancel out the wildlife that will be lost because of the development proposed.

7.1.10. Built Heritage

The loss of so many buildings is not necessary and will impact negatively on the character of the area.

There are conservation areas and protected structures in the vicinity of the site and the scale and design of the proposed development does not take account of these structures. Milltown Park is the remnant of a demesne landscape and this is not recognised in the material presented by the applicant and the design fails to take account of this ancient landscape. The example of Gowrie House and its landscape features is posited as an example where the Board previously refused permission, PL06D.247920 refers.

The 1930s Library building will be demolished, and this is a shame. A proper assessment of the heritage value and retention of more buildings is required.

7.1.11. School, Crèche, Leisure

There is a lack of schools in the area and the proposed development will put pressure on school places.

The use of the créche should be restricted to occupants of the scheme, and not encourage the traffic that outside users would create. The proposed créche is not large enough to cater for the predicted population, does not enough have enough outdoor play space and not enough car parking.

There is a lack of sports grounds in the locality and the proposed development will not provide any meaningful play or kickabout space.

7.1.12. Traffic

The traffic assessment does not take in to account the increased traffic flows. There is already traffic congestion in the area, the proposed development will make matters

worse. Increased traffic problems bring bus transport to a standstill because there are no functioning bus lanes.

Roads and footpaths are too narrow in the area, especially along Milltown Road, the proposed development includes no improvements to these existing facilities, the design principles of DMURS and the National Cycle Manual have not been applied.

The vehicular access point should be well designed to ensure the safety of a high number of pedestrian and cyclists, at busy school times. Crossing such busy roads as a pedestrian is a lengthy process now and will be made worse by the proposed development.

The proposed development will attract visitors and there is a shortage of visitor car spaces on site and so there will be ad-hoc overspill parking in the existing residential streets. The provision of over 300 car parking spaces will attract cars and more traffic. There are not enough car parking spaces and conversely there are too many.

The use of Cherryfield Avenue, even for pedestrian traffic is not welcomed, use of Sandford Close makes more sense

Local public transport is oversubscribed, the Luas is often full at Cowper, Beechwood and Ranelagh stations and buses get stuck in traffic.

A new cycleway to the city centre will run along the boundary of the site, but no account has been taken of this in the design of the development.

7.1.13. Flood Risk

Norwood Park floods regularly at the junction with Sandford Road, the loss of so much open green space may remove surface water retention and lead to more flood events.

The planned 300mm drainage pipe along Sandford Road is not large enough to cope with rainfall events and flooding will result.

7.1.14. Services - Infrastructure

Water pressure is already low and will be made worse by the development of more homes. The applicant does not comply with Regulation 297(2)(d), there is no confirmation form Irish Water that connection to services is feasible.

The existing sewerage system is 100 years old and cannot take the extra demands placed upon it.

7.1.15. Construction Activity

Fearful that construction operations will damage property, especially older houses. The lengthy period of construction (34 months) will bring a heavy toll on those living in the area.

7.1.16. SHD Process

Critical of the SHD process and lack of community engagement. The volume of material prepared by the applicant has made proper assessment of the proposal impossible in the timeframe involved.

Site notices were not in the right place, some should be located along Eglinton Road/Belmont Avenue, they were not.

7.1.17. Environmental Impact Assessment Report

The EIAR is deficient as it does not consider appropriately the impact upon Bats, cumulative impacts have not been fully considered and public participation is therefore limited. The timing and sequence of public notices and availability of documents was out of sync and affected full participation. The EIAR is full of inaccuracies and contradictions, false information and irrelevant facts.

7.1.18. Legal Issues

Questions have been raised whether the Board could grant permission when certain regulations have not been followed, the EIAR has precluded full public participation and the development contravenes the land use zoning, amongst other things.

The proposed masterplan for the entire lands, impinges on third party land and impacts on the development potential of these lands. The masterplan exercise has not been assessed in the context of SEA.

7.1.19. Other issues

Loss in property value because of the development as it is proposed.

7.1.20. Some submissions have been accompanied by detailed contrary assessments with regard to Tree Surveys, Ecological Reports and Legal Viewpoints. Observations are also accompanied by annotated plans and drawings, together with photographs from

rear windows and gardens showing the common boundary with the development site.

8.0 Planning Authority Submission

8.1. The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 1 November 2021. The report states the nature of the proposed development, the site location and description, planning history, submissions received and details the relevant Development Plan policies and objectives. A summary of the views of elected members as expressed at the South Central Area Committee on 4 October 2021 is appended to the Chief Executive's Report and summarised below.

None of the elected members supported the application and there were many concerns expressed in relation to all aspects of the development and the material submitted by the applicant. The concerns and criticisms of the proposed development mirror all of those expressed by observers in relation to the height, scale and density proposed and how it will impact upon residential amenity. Issues including the material contravention of the development plan, traffic/transport, schools, dwelling mix/build to rent, public open space, wildlife, local drainage and built heritage were all raised as being undesirable. Finally, the SHD process is criticised and if granted further adjustments and amendments are anticipated excluding third party involvement.

8.2. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) is summarised as follows.

Compliance with Zoning

The entire site is zoned for 'Z15 - Institutional and Community' in the Dublin City Development Plan 2016-2022, with a zoning objective to 'protect and provide for institutional and community uses'. The planning authority note the contents of the application documentation, such as the lack of a need for institutional uses on the site, the production of a masterplan for all the lands zoned Z15, the removal and replacement of trees, the provision of 34.9% of the site as open space and the sensitive design at the interface of the development with existing property. No

comment has been made by the planning authority in relation to compliance with the land use zoning or not.

Plot Ratio, Site Coverage and Density

Plot ratio standards for 'Z15' residential lands should be within a range of 0.5 to 2.5 and that the indicative site coverage should be around a maximum of 50%. The proposed development has a stated plot ratio of 1.29 which is within the plot ratio limitations prescribed by the Development Plan. The proposed site coverage of 23.4% is also acceptable in terms of the development plan standards.

The subject application proposes 671 units (604 Build-to-Rent and 67 Build-to-Sell units), on a site area of 4.3ha which equates to a gross residential density of 157.5 Units Per Hectare. The site is considered suitable for high density development given the location within walking distance to Luas and a number of bus routes. Such a density should respect the existing character, context and urban form of an area and seek to protect existing and future residential amenity.

Layout and Design

The layout of the scheme is described and no major criticisms are levelled against the overall design. The blocks have been laid out in the main to provide adequate separation distances between the development and existing residential development surrounding the site. In addition, internal separation distances of between 22 metres and 30 metres are proposed between the various blocks and a separation distance of 9.5 metres between Tabor House and Block B. The proximity of Block B to Tabor House and the need for adequate separation distances was originally highlighted by the planning authority. Overall, the planning authority is satisfied with the general layout and orientation of the 6 blocks. However, there are some concerns regarding the amount of daylight some of the apartments within the courtyard element (Blocks B and C) may receive.

Massing and Height

A description of each block in terms of massing and height is set out by the planning authority. The proposed development has a maximum height of 31.575m and therefore materially contravenes the provisions of the Dublin City Development Plan 2016-2022. The rationale for the distribution of scale across the site is noted. Overall

the planning authority consider that the proposal in relation to its height is considered acceptable. The Sandford Road, Milltown Road corner of the site is the most suitable for a taller structure without seriously impacting on the visual amenity of the area. Although the proposed residential blocks would be of greater height and mass than those in the immediate context, overall, it is considered that the height of the proposal can be successfully integrated into the area without causing undue harm to the visual amenities of the wider area.

Visual Amenity

In general, the approach to the distribution of that scale and massing, stepping the height down on boundaries and setting back the blocks adjacent to neighbouring dwellings, is considered appropriate. The quality of the architecture and palette of materials are of a good standard. The applicant's rationale for the materials chosen, in the Design Statement is reasonable. The variety in the scale and a consistency in the rhythm and proportions of the buildings is satisfactory, and make a positive contribution towards place-making in the area. Overall, it is considered that the scale and design of the buildings proposed may be successfully accommodated in this location.

Impact on adjoining residential amenity

The nearest residential areas that could potentially be affected by the proposal include Cherryfield Avenue Lower which lie to the west of the application site and properties in Norwood Park to the north of the site, both areas comprising mostly two storey dwellings. Regarding the potential impact on the properties that are likely to expect some kind of impact in terms of overlooking, overshadowing and overbearing appearance, the planning authority is satisfied that the separation distances are sufficient.

Residential standards new units

The dwelling mix complies with the Apartment Guidelines, however given the location of the site a considerable distance from the city centre, a higher proportion of 2-3 bed family units is preferred.

All floor areas are satisfactory, except for 4 studios positioned within the existing Tabor House. Storage is provided to an acceptable amount.

The subject scheme proposes 50% of the units as dual aspect, this is acceptable.

The submitted plans show minimum floor to ceiling heights of 2.7m at ground level and 2.55m above, exceeding the requirements of the Apartment Guidelines.

In accordance with the Apartments Guidelines 2018, the scheme provides a maximum of eight apartments per floor per core.

Out of the total scheme of 672 units, a total of 594 units have private balconies, 78 units have Juliet balconies and those in Tabor House have none. The requirements of the Apartment Guidelines are noted and so too is the quantum of communal and public amenity space.

The Landscape Plan and Report shows the 25% public open space requirement of the Z15 zoning pertaining to the lands, as follows:

• Public Park and Plaza Area 10,970 sq m (25.8% of the 42,547 sq m developable site area)

• Northern Woodland Glade: 3,328 sq m (7.8% of the developable site area)

• Boulevard between Blocks A and B providing a pedestrian and cycle connection between Milltown Road and Sandford Road: 550 sq m (1.2% of the developable site area)

The proposed development includes a stated 14,848 sq m of public open space, which equates to 34.9% of the subject site which is in excess of the standards prescribed by the Z15 zoning. The proposed communal open space exceeds the minimum communal amenity space standards. Overall, the proposed development provides a stated total of 7,123.8 sq m of internal and external communal space which is an average of 10.62 sq m per unit. The proposed internal communal areas are considered acceptable in principle.

A sufficient standard of daylight would be provided to the proposed apartment units when taken in conjunction with the alternative compensatory measures introduced into the scheme to offset the lower than recommended daylight levels.

Childcare Facilities

Initial calculations as to the need for childcare spaces generated by the development resulted in just 7 childcare spaces due to the high number of one and two bedroom apartments. The provision of a créche with 80 spaces is welcomed.

Landscaping/ Impact upon Existing Trees

A total of 397 trees were identified and assessed with the condition of the trees generally moderate to good with a relatively high spread within categories B and C, the direct impact of the proposed development will necessitate the removal of 283 trees. While the loss of trees is undesirable it is acknowledged that 238 large multi-stem and large shrubs are proposed to be planted.

It is proposed to retain a large section of the historical boundary wall adjacent to Milltown Road and Sandford Road while a section of wall along the north east corner of the site will be removed and replaced with an upstand wall with railing. It is noted that the proposed treatment to the North West boundary will consist of a 1.8m high timber fence with evergreen hedge planting to its base. It is noted that the existing neighbouring boundary will not be impacted.

Conservation

None of the structures on the site are included in the Record of Protected Structures. The two structures proposed for retention will collectively serve to uphold the character of the site and retain a tangible link to its historic use. The potential impact of works to boundary walls is minimised with two existing 19th century gates; a vehicular entrance on Sandford road and a metal pedestrian gate on Milltown road unaffected by the proposal and one new additional and sensitively designed pedestrian gate.

Social and Community Audit

The Social and Community Audit submitted with the application identifies that there is available capacity in the area for the demand generated by the scheme for both primary and post primary pupils. The planning authority notes the findings of the audit with regard to school facilities and available capacity.

Part V – Social housing

The applicant intends to provide 10% of units proposed, 67 units in total, 39 of which will be located in the entirety of Block D with the remaining units to be located within Block F.

Flood Risk

A Flood Risk Assessment was submitted, it is noted and no objections are raised subject to conditions.

Transport

Deficiencies in some design elements of the forecourt area are noted, technical requirements are outlined in relation to works in the public realm, traffic management during construction, mobility management plan, car/cycle parking and access arrangements and conditions are recommended to address these issues.

The topic of Appropriate Assessment and Environmental Impact Assessment Report is noted and these matters are for An Bord Pleanála to consider, as the competent authority.

The planning authority conclude that the proposed development is acceptable subject to 22 conditions some recommending modifications outlined above. Most conditions are standard and of a technical nature and some conditions that refer to bonds and contributions are also recommended.

8.3. **DCC Departmental Reports**

Archaeology: No objection is raised in relation to the proposal subject to compliance with suggested mitigation and monitoring set out within the EIAR.

Transportation Planning: Conditions recommended in the event that permission is granted.

Drainage Division: No objection subject to conditions.

Parks and Landscaping: Concerns regarding the application due to the failure of the proposals to comply with Development Plan zoning, standards, policies and objectives. The public and communal open space spatial distribution, the high loss of existing trees and the deficiencies in biodiversity assessment and impact are of significant concern. The report also recommends conditions in the event that permission is granted.

EHO: No objection subject to conditions.

Housing: Part V submission noted.

Waste Regulations Technical Officer: technical requirements outlined and requested.

Bonds and Contributions: Bonds in relation to units, payment in lieu of open space and section 48.

9.0 Prescribed Bodies

9.1. The list of prescribed bodies, which the applicant was advised to notify of the making the SHD application to ABP, issued with the section 6(7) Opinion and included the following:

1. Irish Water
2. National Transport Authority
3. Minister of Culture, Heritage and the Gaeltacht (DAU)
4. An Taisce - the National Trust for Ireland
5. Heritage Council
6. An Chomhairle Ealaíon
7. Failte Ireland.

9.2. The applicant notified the relevant prescribed bodies listed in the Board's section 6(7) opinion. The letters were sent on the 4 August 2021. A summary of those prescribed bodies that made a submission are included as follows:

Irish Water (IW) – There is available capacity in IW networks for the proposed development, technical and standard conditions are recommended if permission is granted.

Development Applications Unit (DAU) – the submission refers to nature conservation and archaeology as follows:

Nature Conservation – 70% of the existing trees on the site are to be felled. From a Nature Conservation perspective, because these trees are largely planted and/or of non-native species, their loss would not be seen as very significant. As well as the

habitat provided by trees, buildings to be demolished or renovated provide nesting opportunities and the timing of works should not coincide with the breeding season.

Given the large number of mature trees on the development site, the identification of more trees having the potential to harbour bat roosts would have been expected. Measures with regard to Bats are identified by the applicant and noted.

In relation to AA Screening and the requirement for an NIS. It is not accepted that any silt mobilised from the development site into the public surface water drainage system would settle there without reaching the River Dodder, but it is accepted that because of dilution factors and the distance of the development site from the Natura 2000 sites, no detrimental impacts on the latter are likely to result from pollution arising from the proposed development. The Department therefore accepts the conclusion of the Screening for AA report that the possibility of any significant impacts on any European sites arising from the proposed development can be excluded beyond a reasonable scientific doubt. However, water borne pollution could impact upon the biota of the River Dodder and so full implementation of the Preliminary Construction Management Plan is recommended. Technical conditions concerning the above are recommended.

Archaeology – a standard condition in line with mitigation measures outlined in the EIAR are recommended.

Department of Education – Z15 zoning assists with the delivery of educational facilities, the site was used in the past to house temporary school accommodation. The area is experiencing demographic growth in primary and post-primary level and there is limited expansion capacity at existing schools. To meet existing and projected need, permission should not be granted on suitably zoned land until more specific and detailed population and housing growth figures are available in the Dublin City Development Plan 2022-2028. Once figures are available future analysis will take place to identify suitable sites.

10.0 Oral Hearing Request

10.1. There is provision within the Act of 2016 to hold an Oral Hearing in respect of a SHD application, section 18 of the Act refers. However, as the intention of the legislation is to fast-track SHD applications, the holding of oral hearings will be the exception. The

legislation provides that An Bord Pleanála should have regard to the exceptional circumstances requiring the urgent delivery of housing and only hold a hearing where there is a compelling case for one.

10.2. The case made by the single observer that requested an oral hearing (Marcus Hogan) is based around the following issues: removal of trees, impact upon bats, traffic congestion requires a roundabout to be installed, the ten storey building should be reduced to eight, reduction or elimination of build to rent units in the scheme, and that there should be additional amenities for the public.

10.3. The subject matter of the request for an oral hearing replicates those concerns of most of the observations received in relation to the application. As far as these matters go, they all form part of the various elements of my assessment throughout this report and I find that the applicant has provided a sufficient amount of information to answer the questions I or the Board may have in relation to those matters raised in the oral hearing request. In addition, I note the thoroughness and detailed consideration provided by the planning authority, statutory consultees and other observers that allows me to be satisfied with all of the considerable amount of detailed material before me to allow for a reasoned decision to be made by the Board. I do not consider that there is a compelling case to hold a hearing and that the necessary information is held on the file.

11.0 Assessment

11.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses the proposed development in the context of the statutory development plan. My assessment also focuses on national policy, regional policy and the relevant section 28 guidelines. In addition, the assessment considers and addresses issues raised by the observations on file, the contents of the Chief Executives Report received from the planning authority and the submissions made by the statutory consultees, under relevant headings. The assessment is therefore arranged as follows:

- Principle of Development
- Material Contravention Statement
- Residential Amenity
- Townscape – Layout, landscape and overall design
- Traffic and Transport
- Infrastructure
- Other Matters

11.2. Principle of Development

11.2.1. The proposed development is located on lands zoned 'Objective Z15' in the Dublin City Development Plan 2019-2022, that seeks to 'protect and provide for institutional and community uses and to ensure the existing amenities are protected'.

11.2.2. Residential development is 'open for consideration' within this zoning objective, and the development plan states that with any development proposal on these lands, consideration should be given to their potential to contribute to the development of a strategic green network and to the delivery of housing in the city. The development of Z15 zoned lands is subject to the preparation of a masterplan and the provision of 25% of the lands for open space and/or community uses, which has the potential to form part of a strategic green network. It is stated that the 25% of the public open space shall not be split up, unless site characteristics dictate otherwise.

11.2.3. Section 14.8.14 of the Dublin City Development Plan further states that where there is an existing institutional and/or community use, the following is required to be demonstrated:

- How the proposal is in accordance with and assists in securing the aims of the zoning objective.
- How it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses.
- How it secures the retention of existing functional open space e.g school playing fields.
- The manner in which the nature and scale of the proposal integrates with the surrounding land uses.

11.2.4. The planning authority acknowledge that a masterplan has been submitted by the applicant and note that the proposal identifies 34.9% of the subject site area has been designated as public open space. The planning authority also note that the masterplan demonstrates that a future potential connection is facilitated to the remaining institutional lands to the south should this be eventually required. Some observers also note the masterplan submitted but argue that the entire site as it is bound by the redline boundary should also include institutional uses to comply with the zoning. The Department of Education are concerned that the loss of Z15 lands would inhibit the ability of the area to meet the demographic need for primary and secondary school places. In addition, The Trustees of Milltown Park, owners of a proportion of Z15 zoned lands in the area, alert the Board to the fact that they were not party to the preparation of the masterplan. It is their contention that the assumptions made by the masterplan would prejudice the future use or development potential of their lands.

11.2.5. The applicant has prepared a Masterplan for all of the Z15 zoned lands that comprise the site, lands in the ownership of the Trustees of Milltown Park (Jesuit Lands) and Gonzaga College, section 3.0 of the Masterplan + Architectural Design statement refers. The Masterplan states that since 2009, the subject lands are no longer in active use by the Jesuit order. However, considering the continuing zoning objective and need for development on the lands to comply with the requirements in relation to Z15 zoning, the plan addresses the following:

- Clear Vision for the lands zoned Z15.
- Identification of 25% for Open Space/ Community Facilities.
- 25% should not be split up, unless the site characteristics dictate otherwise and shall comprise mainly of soft landscaping.
- Incorporate landscape features which retain the essential open character of the site.
- Open space designed in a manner to facilitate potential for 'Future public use'
- The 25% open space to contribute to and create linkages with the strategic green network or G.I (Green Infrastructure).

The Masterplan states that the Jesuit Community no longer has a need for the extensive lands they hold and have held in reserve any additional land they might need in the future. The school retains its use, sports grounds and room for expansion. In summary, across the entire Z15 zoned lands, open space amounts to 39.7%, facilities have been identified, landscape features retained, linkages and public use identified.

11.2.6. The Masterplan submitted, in my view, constitutes a masterplan for the purpose of the land use zoning, it addresses the contiguous Z15 zoned lands, and is adequate. The main existing community uses are being retained on the overall Z15 parcel of land, that is, the school to the east and the Jesuit Community to the south. The existing playing fields associated with the school will remain and will not be impacted upon. The applicant has clearly demonstrated that there is no longer a need for the existing institutional use on the site. The issues in terms of compliance with the requirement of 25% public open space and/or community use are met and are assessed further hereunder. I consider the principle of the proposed development to be appropriate at this location and generally in compliance with the zoning objective for the area, as set out in the operative Dublin City Development Plan.

11.2.7. The Department of Education have highlighted a concern that the loss of Z15 lands makes it more difficult to source suitable land in the area for educational purposes. They request that permission is not granted until more specific and detailed population and housing growth figures become available in the new City Development Plan. I note that the current Development Plan states that with

reference to Z15 lands, ongoing consultation is required when development of Z15 lands is being considered. I understand the desire of the Department of Education to urge the protection of Z15 lands in order to provide new school sites, but in the absence of firm data to suggest that there is an undersupply of school places in this specific area of the city, it would be difficult to refuse permission on this basis alone. In fact, the applicant has prepared a school demand study that concludes the proposed development would not significantly increase demand for school places already available in the area. I am satisfied that the applicant has demonstrated the retention of the main institutional and community uses on the remaining lands, including space for school expansion and the provision of new open space on the subject site. The matter of the location of new school sites in the South Dublin City area is not confined to Z15 lands, schools are permitted in principle and open for consideration on a variety of different land use zonings throughout the city.

11.2.8. Finally, In terms of the provision of residential uses on this site, I note the Council's Core Strategy with respect to housing. I note that some observers consider that the subject lands should not be used for residential development of the type proposed and that there are sufficient lands more appropriately zoned elsewhere. The core strategy states that the policies and objectives of the Plan promote intensification and consolidation of the city which will be achieved in a variety of ways including the encouragement of development at higher densities especially in public transport catchments. It is further noted that the policies underpin the creation of a compact city with mixed-use environments, sustainable neighbourhoods and green infrastructure. I am of the opinion that the subject development provides for the delivery of 671 units underpinning the development of a compact city, with good public transport options and with amenities and quality of life facilities associated with this urban area. The subject proposal is such a case where an institutional use for lands cannot be found by the previous owners and where the development of higher density residential development is entirely appropriate.

11.3. **Material Contravention Statement**

11.3.1. The applicant has prepared a material contravention statement that addresses the possibility that the proposed development could materially contravene the following ten aspects of the Dublin City Development Plan 2016-2022:

- Building Height
- Dwelling Mix, Location of the Proposed Build-to-Rent Unit and Build-to-Rent Legal Covenant
- Tabor House (existing historic building) floor areas
- Number of units provided per core
- Daylight/Sunlight
- Private Open Space in Some Build-to-Rent Units
- Studio Apartment Floor Areas / Apartment Rooms Sizes / Apartment Widths
- Ratio of Glazing
- Taking-in-Charge
- Bedrooms Facing onto a Deck

11.3.2. The applicant has advanced a very cautious approach as to what parts of the City Development Plan the proposed development could potentially contravene. The applicant's material contravention statement addresses no fewer than ten areas (inclusive of building height) of the statutory plan that could be breached. In broad terms, it is Chapter 16 *Development Standards: Design, Layout, Mix of Uses and Sustainable Design* and specifically section 16.10 - *Standards for Residential Accommodation*, that poses the most likely areas where differences lie, according to the applicant. The planning authority are silent on this approach but do not categorically state that each item raised by the applicant as a contravention is in fact a material contravention of the plan, other than building height. Observers have strong concerns about the height of the proposed scheme and specifically single it out as a material contravention of the statutory plan, but other aspects of the plan are seen as not in accordance rather than actual material contraventions of the plan.

11.3.3. The Dublin City Development Plan sets out a number of policies and objectives, some of which aim for the achievement of a quality built environment and the application of development standards plays an important role in ensuring successful and sustainable new developments. In this instance, Chapter 16 *Development Standards: Design, Layout, Mix of Uses and Sustainable Design* of the City Development Plan lays out the types of standards that should be applied when

assessing development proposals. For example, Dublin City Council acknowledges the intrinsic quality of Dublin as a low-rise city and it is policy that it should predominantly remain so. Hence, section 16.7 of the development plan sets out standards in relation to building height that would achieve this policy aim. The applicant has identified this policy aim and its link to standards and has stated that the proposed development would exceed the maximum heights intended for this area. The planning authority agree and so too do observers, critical of height at this location. This could be considered a material contravention of the plan and is assessed in detail later in this section of my report.

11.3.4. There are other standards that are loosely linked to the achievement of a quality built environment and residential amenity in general. With specific reference to the case in hand, section 16.10 *Standards for Residential Accommodation*, would directly apply. The development plan states that the provision and protection of residential amenities is a primary concern of Dublin City Council and section 16.10.1 refers to apartment development. In this context, the plan states that these standards for apartment developments are set out in the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2015). These apartment standards have been revised by new versions in 2018 and most recently in 2020, but are directly applicable to the proposed development. The City Development Plan acknowledges that where an applicant cannot fully meet all of the requirements set out in the 2015 Department Guidelines, this must be clearly identified and a rationale for any alternative, compensatory design solution set out. The planning authority also acknowledge this point and note that the Apartment Guidelines have been revised twice since the coming into force of the 2016 City Development Plan. With this in mind, I have approached the issues raised by the applicant in their Material Contravention Statement under the advice provided by the Development Plan when considering whether the proposed development materially contravenes the plan or not. In my assessment I have applied the flexibility extended by the statutory plan when applying the development standards and where they are not met I examine any alternative, compensatory design solutions advanced by the applicant.

11.3.5. In the following sections of my report, I address the ten items raised by the applicant as possible material contraventions of the City Development Plan. I address each of these elements in the following sections of my report.

11.3.6. **Building Height** – the applicant recognises that the proposal for apartment buildings of up to 32 metres could materially contravene the section 16.7 of the City Development Plan that outlines the building height strategy for the City Council area, "outer city" locations are limited to 16m building height (5 storeys residential). The proposed development comprises refurbished historic buildings and apartment blocks ranging in height from 2 to 10 storeys reaching a maximum height of 32 metres, and so according to the applicant this represents a height greater than the maximum height prescribed in the Development Plan. The applicant applies section 28 guidelines to rationalise the taller building elements proposed, specifically the development management criteria contained in section 3.2 of the Height Guidelines.

11.3.7. The planning authority note that the building heights proposed would contravene the City Development Plan, but support the heights proposed. Observers also note that the development plan would be contravened if the development were to be permitted. The planning authority state that they raise no significant issues to do with the heights proposed at this location but note that there are important residential amenity considerations to take into account. It is the issue of overshadowing, loss of light and privacy concerns that are raised by observers and this is directly related to the heights proposed, I deal with these particular concerns at the residential amenity section of my report. Observers are also concerned about the overall visual impact of the development and I address these issues in the townscape section of my report and within my assessment of environmental impact.

11.3.8. In terms of the form and scale of the development proposed I note that the Urban Development and Building Heights Guidelines link building height with achieving higher residential densities. This is clearly set out in a specific planning policy requirement (SPPR 4) as follows:

> *It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:*

1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines;

11.3.9. The Height Guidelines acknowledge the sensitivities associated with urban areas and that historic environments can be sensitive to large scale and tall buildings and careful consideration is necessary. In order to consider proposals in an integrated and informed way, an urban design statement addressing aspects of impact on the historic built environment should be submitted along with a specific design statement on the individual insertion or proposal from an architectural perspective addressing those items outlined above. The applicant has submitted a large number of drawings, documents and reports that respond to this call.

11.3.10. The Height Guidelines also state that development should include an effective mix of 2, 3 and 4-storey development which integrates well into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets. Based on this assumption the applicant makes the case that it is appropriate to contravene the development plan in line with national guidance. Nearly all local observers are not satisfied that it is appropriate to locate taller buildings on the site especially where they will impact upon residential amenities such as access to light and overshadowing, in addition to the visual impact to the existing environment that would surely result.

11.3.11. The building heights proposed by the applicant range from two to ten storeys. The taller ten storey element of Block A (A1) is located at the northern corner of the site at the junction of Sandford, Eglinton, Milltown and Clonskeagh Road. This is a significant junction that links a number of other urban villages such as Ranelagh, Milltown, Clonskeagh and Donnybrook. The applicant highlights that increased building height is a key factor in assisting modern placemaking and improving the overall quality of our urban environments. Height can also play a role in higher density developments by indicating important street junctions and public spaces which reinforces and contributes to a sense of place within a city. The balance of the apartment buildings that make up the development are between three and seven storeys and are separated out in to five distinct new build blocks. Block A is linear in

form and rises out of a parkland setting along Milltown Road. Blocks B and C are courtyard in form, inverted to catch south light and insulated from existing residential development to the north by a linear landscape buffer. Block D is a stepped standalone block at the southern portion of the site. Block E is a linear collection of three storey duplex blocks at the interface with Cherryfield Avenue Lower. Finally, Block F is a rotated 'L' shaped block at the southern tip of the site and set against the repurposed chapel and Tabor House.

11.3.12. I note that section 3.0 of the Building Height Guidelines sets out development management criteria in order to assess the appropriateness of taller buildings at a particular location. Section 3.1 of the Height Guidelines presents three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights. The Height Guidelines ask:

- 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? In my opinion the development proposals meets these parameters, 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.
- 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? Not in the case of the current Dublin City Development Plan, 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 Height Guidelines.
- Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align

with and support the objectives and policies of the National Planning Framework? It is my view that it cannot be demonstrated that implementation of the policies, which predate the Guidelines support the objectives and policies of the NPF.

11.3.13. Section 3.2 of the guidelines specifically refer to the proposal on hand. The following sections of my report assess the proposed development against these criteria as follows:

11.3.14. At the scale of the relevant city/town – the site is well served by pedestrian/cyclist connections to the wider area, mandatory and advisory cycle lanes run along both sides of Sandford Road, north of the site. There are footpaths along both sides of Milltown Road and a very wide grass margin on both sides of the road at the southern section of the site, but a more tighter plan at the junction of Sandford, Eglinton, Milltown and Clonskeagh Road. In the context of Milltown Road, I note that the Roads Section of the Council state that there are proposals to upgrade the Milltown Road and Sandford Road junction as part of the Clonskeagh to City Centre Cycle Route. Other layout changes and traffic signalling upgrades are also proposed as part of the Clonskeagh to City Centre Cycle Route scheme. In terms of public transport, the Beechwood Luas Stop is a 13min walk (1.1km) from the proposed development. The following bus routes 11, 44 and 61 are located adjacent to the site and offer a regular frequency of between 10 – 15mins. Access to Donnybrook Village and numerous high frequency bus services (5min frequency) is via Belmont Avenue, approximately 6 - 7min walk (550m) from the proposed development.

11.3.15. The taller elements of the scheme, up to eight with a peak of ten storeys are located at the northern and eastern side of the site. These areas abut Sandford Road and Milltown Road and incorporate significant landscape buffer areas and a parkland setting. There are buildings that are listed on the Council's Record of Protected Structures (RPS) located to the north and north east of the site. These listed buildings are fine examples of substantial residential properties that were built in the nineteenth century as Dublin expanded outwards. These properties are attractive remnants of an era of significant urban expansion and contribute uniquely to the historical suburban layers of the city. The height and massing of the development proposed has been specifically designed to sit in a parkland setting in order to absorb the scale of the buildings. A ten storey landmark building has been

proposed at a key urban junction and this is appropriate, given the separation distances involved to adjacent buildings listed on the RPS, I am satisfied that a genuine attempt has been made to respect the surroundings. The subject of residential amenity and visual impact is discussed further in sections of my report that refer to residential amenity and EIA.

11.3.16. In addition to buildings listed on the RPS there is an Architectural Conservation Area (ACA) further north along Belmont Avenue, again the separation distances are significant and photomontage analysis prepared by the applicant show no specific impacts that I can identify. Housing along Cherryfield Avenue Upper and Lower, Norwood Park and along Milltown/Sandford/Eglinton Road are all zoned Z2 – to protect and/or improve the amenities of residential conservation areas. I examine specific residential amenity concerns (overlooking, overbearing appearance and overshadowing) in greater detail under section 11.4 of my report, but the height strategy proposed at the margins of the site has been designed to protect and arguably improve wider residential amenity through the provision of new and publicly accessible urban spaces. The site is flat and more or less level with no challenging topography to deal with, but buildings have been graduated in height to meet residential development to the north and west. The proposed development will make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of nearby development.

11.3.17. At the scale of district/ neighbourhood/ street – a new street network will be developed, and an improved public realm will result from the scheme. In design terms the overall layout, scale and design of the apartment buildings will not result in long, uninterrupted walls of building in the form of slab blocks. Instead, the design of the apartment buildings has been broken up and materials are well selected and appropriate. The urban design of the entire scheme is well considered and there are no flood risk issues as demonstrated by the findings of the Flood Risk Assessment submitted with the application. Overall, the proposal makes a positive contribution to the improvement of legibility through the site and wider urban area. The proposal positively contributes to the mix of dwelling typologies available in the neighbourhood.

11.3.18. At the scale of the site/building - The form, massing and height of the taller elements have been designed to provide adequate levels of daylight and sunlight for future occupants and the design has been sensitively arranged to provide adequate levels of sunlight/daylight to existing neighbouring properties. This has been modelled and demonstrated in the Daylight/Sunlight and Overshadowing analysis carried out by the applicant in accordance with BRE/BS guidelines, this is examined in detail in the residential amenity sections of my report.

11.3.19. The applicant has prepared specific assessments to support the proposals for taller elements on the site. These assessments include: Masterplan and Architectural Design Statement, Landscape and Visual Impact Assessment, Daylight Sunlight and Overshadowing Assessment, Photomontage and CGI images, an EIAR and Telecommunications Report. There are no air navigation concerns in the area. I note that some observers have raised concerned about the potential loss of telecommunications channels as a result of the height of the proposed development. A Telecommunications Report prepared by the applicant states that this will not be the case and that the scheme allows for the retention of important Telecommunication Channels and the possibility to improve services in the future. Figure 6 of the applicant's report on telecommunications illustrates a 'Cell Identification Analysis', that shows the subject site and surrounding area with overlapping coverage. The source material for this analysis is taken from ComReg, the statutory body responsible for the regulation of the electronic communications sector (telecommunications, radio communications, broadcasting transmission and premium rate services) and the postal sector. Given that no adverse impact will result from the apartments as proposed, I am satisfied that this is not a material consideration such as would warrant a refusal or redesign of the proposed development.

11.3.20. I am satisfied that the location and design of the taller elements of the scheme, with some parts of up to ten storeys along Milltown Road and at the northern tip of the site are acceptable and accord with the requirements and imperative outlined by SPPR 3 of the Height Guidelines and crucially the wider strategic and national policy parameters set out in the National Planning Framework and section 28 guidelines. The height guidelines observe that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact

growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development. Furthermore, taller buildings will bring much needed additional housing and economic development to well-located urban areas, they can also assist in reinforcing and contributing to a sense of place within a city or town centre, such as indicating the main centres of activity, important street junctions, public spaces and transport interchanges. In this manner, increased building height is a key factor in assisting modern placemaking and improving the overall quality of our urban environments.

11.3.21. Given the foregoing, I conclude that the proposed development would materially contravene the City Development Plan in relation to height, as articulated by section 16.7, that outlines the building height strategy for the City Council area, "outer city" locations are limited to 16m building height (5 storeys residential). However, I am satisfied that the Board can grant permission in accordance with section 37(2)(b) of the Planning and Development Act 2000 (as amended), paragraphs (i) and (iii). In terms of section 37(2)(b)(i), the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and will provide a significant number of residential units (671) and deliver on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016 and the recently published government strategy Housing for All - a New Housing Plan for Ireland (September 2021). Also noted in relation to height the National Planning Framework that highlights National Policy Objectives (NPOs), as follows:

> National Policy 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.
>
> National Policy Objective 35 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing

buildings, infill development schemes, area or site-base regeneration and increased building heights.

11.3.22. This site is just such a case where, subject to performance criteria, taller buildings should be considered. I consider the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35. The proposed development is furthermore in compliance with the Urban Development and Building Height Guidelines in particular SPPR 3, which references section 3.2 Development Management Criteria. I have assessed the proposed development against the section 3.2 criteria of the guidelines in preceding sections above. Having regard to the provisions of Section 37(2)(b)(iii) of the 2000 Act, it is justified, in my opinion, to contravene the City Development Plan's blanket approach to building height restrictions.

11.3.23. **Dwelling Mix/Build-to-Rent Unit** - The applicant states that in terms of dwelling mix, Section 16.10.1 of the Development Plan sets out the following: 'Each apartment development shall contain:

• A maximum of 25%-30% one-bedroom units

• A minimum of 15% three- or more bedroom units'

This section of the Development Plan states that: 'The above mix of units will not apply to managed 'build-to-let' apartment schemes for mobile workers where 42-50% of the total units may be in the form of one-bed or studio units'. The proposed development will provide 671 apartments comprising 604 Build-to-Rent units and 67 Build-to-Sell units. Firstly, the Build-to-Sell element of the scheme accords with the dwelling mix limitations set out in the Development Plan and also complies with SPPR 1 of the Apartment Guidelines. In terms of the BTR component of the scheme, the exceedance of the maximum standard for studios and one bedroom units as set out in the Development Plan, is considered by the applicant to materially contravene Development Plan policy. The applicant notes that SPPR 8(i) of the Apartment Guidelines states that there are no restrictions on dwelling mix and all other requirements of the Guidelines shall apply, unless specified otherwise.

11.3.24. The planning authority do not definitively state that a material contravention of the development plan occurs but would prefer a lesser proportion of studio

apartments and more two and three bedroom units. Observers also do not agree with the high proportion of one bedroom apartments, and they see no provision of family sized units in order to provide a balance. Many observers also feel that a preponderance of one-bed and studio units 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.

11.3.25. It is relevant to state that the Apartment Guidelines put BTR developments to one side when it comes to dwelling mix, SPPR 8(i) refers. In relation to the balance of the development, SPPR 1 of the 2020 Apartment Guidelines looks for a greater mix of units particularly studio, one and two bed units; and that specified mixes in statutory plans should only follow a Housing Need and Demand Assessment (HNDA). An HNDA has not been prepared by the planning authority and so the proposed development includes the following dwelling mix:

Overall Development

Unit Type	Studio	1 bed	2 bed	3 bed	Total
Apartments	99	271	274	27	671
% of Total	15%	40%	41%	4%	100%

BTR Component

Unit Type	Studio	1 bed	2 bed	3 bed	Total
Apartments	88	262	242	12	604
% of Total	14.5%	43.5%	40%	2%	100%

Build to Sell component

Unit Type	Studio	1 bed	2 bed	3 bed	Total
Apartments	11	9	32	15	67
% of Total	16.5%	13.5%	48%	22%	100%

11.3.26. This is all in accordance with national policy. The planning authority do not oppose the unit mix proposed but would prefer less studio/one bed units and more three bedroom units. The planning authority do not state that the unit mix proposed would be a material contravention of the City Development Plan. Given the existing character of the area I note the 2020 Apartment Guidelines (in relation to the statutory planning framework) discusses the need to facilitate a mix of apartment types that better reflects household demand and formation, SPPR 1 refers:

> Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

11.3.27. In this regard I note no mention that a HNDA has been prepared to date. The proposed development would provide a greater mix of building heights and typologies or unit mix as sought by SPPR 4 of the Height Guidelines. In the context of this site the provision of apartment units between studio/one, two and three bedrooms in format is entirely acceptable. The Apartment Guidelines in relation to unit mix look to a more informed approach (HNDAs), the planning authority have stated a preference and I note that the statutory plan highlights dwelling mix standards. Section 16.10.1 of the Development Plan sets out the following: 'Each apartment development shall contain:

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

11.3.28. In addition, the statutory plan, with reference to BTR ('build-to-let') developments, states that between 42-50% of the total units may be in the form of one-bed or studio units. The development plan refines this standard by stating this provision only applies to long-term purpose-built managed schemes of over 50 units, developed under the 'build-to-let' model and located within 500 m (walking distance) of centres of employment or adjoining major employment sites. The subject site is

mostly located within the 500 metre walking distance of the Pembroke East (E and D) centres of employment, figure W of the Dublin City Development Plan 2016–2022: Appendices refers.

11.3.29. The proposed development exceeds these parameters set out in the plan with respect to BTR. In terms of the BTR component, up to 58% of units would comprise studio/one bedroom units and this would overtop the Development Plan standard to cap this characteristic of the sector to 50%. In this context just 8% (48 out of 604 units) of the total BTR component of the scheme would exceed the studio/one bed unit cap imposed by the development plan and I do not consider this to be a material consideration. In addition, I do not consider that the plan has been contravened with respect to a policy or objective and it is simply a standard that has been exceeded. In most other respects the apartment units proposed as BTR meet and exceed the standards set on in the development plan and the Apartment Guidelines. Moreover, this is acceptable in this instance because to protect the residential amenity of future occupants, apartment sizes are generous and communal facilities are well designed and located throughout the scheme. Finally, the proposed development will add greatly to the availability of studio and one bedroom apartments in a quarter of the city characterised by conventional housing stock comprising three and four bedroom houses. Finally, I note that this cap has been set without an HNDA and this would be contrary to SPPR 1 that states statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA).

11.3.30. It should be noted that throughout section 16.10.1 of the Development Plan, repeated reference is made to the Sustainable Urban Housing: Design Standards for New Apartments (2015). These were guidelines issued by the Department of Environment, Community and Local Government at the time and have been reviewed twice, the planning authority note this. The proposed development is broadly complaint with the apartment standards set by the development plan and is in accordance with the up-to-date Apartment Guidelines (2020), now in force.

11.3.31. I am satisfied that the proposed development is in line with the advice contained in the Apartment Guidelines and broadly accords with the design standards of the Development Plan to ensure an acceptable level of dwelling mix. It is my opinion that there is no material contravention of the City Development Plan in

relation to the mix of residential units, specifically the BTR component. The scheme's proposed dwelling mix and BTR format would be in accordance with the regional spatial and economic strategy for the area, guidelines under section 28 (specifically SPPR 1 of the Apartment Guidelines and SPPR 4 of the Height Guidelines) and relevant housing policy of the Government and broadly in accordance with the unit mix of the development plan.

11.3.32. **Tabor House (existing historic building)** - The applicant states that all of the new build apartments meet or exceed standards, however the 14 studio units in Tabor House are slightly below the floor area requirements. Section 6.9 of the Apartment Guidelines allow for a degree of flexibility when re-using older buildings and so too does section 16.10 of the City Development Plan. The 14 studio units within Tabor House, range in area from 34.6 to 35.5 sq m, which is only slightly below the Apartment Guidelines, 2020 standard of 37 sq m and Development Plan (Section 16.10) standard of 40 sq m. The applicant states that the floor areas fall below standard, this is acceptable as the studio units retain the existing footprint of the building, which is a positive intervention and reuse of a historic building. The planning authority note this aspect of the development and offer no opinion on whether a reduction in floor areas would materially contravene the plan. In my opinion there is no material contravention of the Development Plan in this respect because the plan expressly allows for flexibility if it achieves the effective usage of underutilised accommodation. Section 16.10 Standards for Residential Accommodation of the Development Plan states: while the minimum standards set within these sections will be sought in relation to refurbishment schemes it is acknowledged that this may not always be possible, particularly in relation to historic buildings.

11.3.33. The Apartment Guidelines also note departures from requirements, such as floor areas and as such planning authorities (including the Board) are requested to practically and flexibly apply the general requirements of the guidelines in relation to refurbishment schemes, particularly in historic buildings, where property owners must work with existing building fabric and dimensions. It is underlined that building standards provide a key reference point and planning authorities must prioritise the objective of more effective usage of existing underutilised accommodation and including empty buildings commensurate with these building standards

requirements. This is such a case and the proposal to re-use historic buildings to provide high quality living accommodation for a specific sector of the population will be achieved within the flexibility offered by the City Development Plan and section 28 guidelines. There is no material contravention of the plan with respect to floor area standards and the repurposed Chapel and Tabor House buildings.

11.3.34. **Number of units per core** – In terms of apartment block configuration the City Development Plan sets a maximum of 8 units per core. The proposed scheme includes between 6 and 17 units per lift core, in the case of the latter the Apartment Guidelines allow for flexibility under BTR and SPPR 8(v). Build to sell apartment Blocks D and E of the scheme are below the 12 units per core requirement set out in SPPR 6. The applicant states that the proposed development could be considered to materially contravene the Development Plan in relation to the units per core, it is however, in accordance with national guidelines. I agree that the in numerical terms the proposal to serve multiple units by cores would exceed the development plan standard set out by section 1610.1 *Block Configuration*. With respect to standards set out in section 16.10.1 of the plan, I note that a degree of flexibility can be applied if an alternative, compensatory design solution has been set out. In this instance, the design of each floorplate has been to shorten corridor length and enable more units to be fed from a cost effective lift core. In addition, the design of blocks has been to maximise the number of dual aspect apartments, and this is achieved through less lift cores. Block E comprises no requirement for lift cores and Block D provides ten units per core, these are all build to sell units and a small proportion of the entire scheme, just 5%. The build to sell units comply with the requirement of the Apartment Guidelines to provide up to a maximum of 12 units per core and given that BTR formats can provide more units per core (SPPR8(v) of the Apartment Guidelines refer), these too are acceptable in the national context.

11.3.35. I am satisfied that the design standard of the development plan to limit apartment developments to 8 units per core has not been contravened because compensatory design measures have been used to ensure other residential amenity standards are met, such as dual aspect ratios. The proposed development is in accordance with the Apartment Guidelines, and this is noted by the planning authority.

11.3.36. **Daylight/Sunlight** – The City Development Plan states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011). The applicant sets out to demonstrate how the planned scheme meets or exceeds sunlight/daylight standards and where they do not, adequate measures are in place to compensate. I examine this matter in greater detail in the residential amenity section of my report. However, to address the question of whether the proposed development materially contravenes the development plan with respect to sunlight/daylight, I am guided by the wording used in the statutory plan. In this context, the statutory plan states that development shall be guided by the BRE guidelines. I find that the proposed development has been informed by the principles of the BRE best practice guidance and so there is no material contravention of the plan in this respect.

11.3.37. **Private Open Space in Some Build-to-Rent Units** - Section 16.10.1 of the Development Plan sets out that private open space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels. The Development Plan also sets out that where the applicant cannot meet all of the amenity space requirements (e.g. private open space), a rationale for any alternative, compensatory design measures should be set out. The applicant points out that not all units have their own private amenity space, 79 units are BTR and include 18 units within Tabor House. The applicant believes that the lack of private amenity space would contravene an objective of the plan to ensure that all residential units have access to a minimum of private amenity space. The development plan does not differentiate between build to sell or BTR, all residential units are treated the same in relation to private amenity space.

11.3.38. With respect to standards set out in section 16.10.1 of the plan, I note that a degree of flexibility can be applied if an alternative, compensatory design solution has been set out. In this instance a small proportion (11%) do not provide private amenity space, but do provide generous floor areas and easy access to high quality shared communal facilities.

11.3.39. The Apartment Guidelines differentiate between build to sell and BTR and state that there should be a flexible approach to private amenity space in terms of BTR schemes, SPPR 8(ii) refers. This is contingent on the provision of alternative,

compensatory communal support facilities and amenities within the development and this is the case with the subject proposal. In short, the lack of private amenity space for a tenth of the total units provided is more than compensated for by the provision of a Juliet balcony in most cases. For those 2.5% of units located within the refurbished Tabor House, there is a wide range of high quality and well located residential amenities and public open space easily accessed from units. Even though the proposed development would marginally deviate from the private amenity space standards of the Development Plan, it would meet the requirements of the Apartment Guidelines. In my opinion this deviation from the development plan apartment standards is not a material contravention of the development plan and neither do the planning authority.

11.3.40. **Studio Apartment Floor Areas / Apartment Rooms Sizes / Apartment Widths** - Section 16.10.1 of the Development Plan sets out that the floor area of studio units should be 40 sq m, the Apartment Guidelines states 37 sqm is the minimum, with flexibility for BTR and historic structures. Furthermore, Section 16.10.1 of the Development Plan sets out that the minimum living/dining/bedroom floor widths of studio bedrooms should be 5 metres. Appendix 1 of the Apartment Guidelines, 2020 sets out that the width should be 4 metres. A target of 4 metres for the width of studios has been incorporated into the scheme, which is in accordance with the Apartment Guidelines, 2020 but not the Development Plan standard. Some units will not meet the Development Plan standards in relation to aggregate room areas and/or widths in some cases, however this flexibility is allowed under the Apartment Guidelines, 2020. The planning authority note that the drawings should indicate principal dimensions of all rooms as well as the aggregate floor area of each room, but pass no further commentary. In this respect, the HQA submitted by the applicant details room areas in a tabular format and individual rooms on plan can be measured off manually. I agree that room dimensions could have been annotated on drawings, but this does not limit my ability to assess the application with respect to floor areas and the relevant standards.

11.3.41. On the whole I agree that the standards of the development plan with regard to studio floor areas, apartment room sizes and apartment widths, may not have been met in all cases. With respect to standards set out in section 16.10.1 of the plan, I note that a degree of flexibility can be applied if an alternative, compensatory

design solution has been set out. I note that all of the parameters with regards to floor areas meet or exceed the standards set out by the Apartment Guidelines. Even with respect to BTR where the requirement that the majority of all apartments in a scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes; has in fact been surpassed. I find that the proposed development is in accordance with SPPR 3 and SPPR 8 of the Apartment Guidelines. I can see no contravention of the plan in this respect.

11.3.42. **Ratio of Glazing** - Section 16.10.1 of the Development Plan sets out that: 'Glazing to all habitable rooms should not be less than 20% of the floor area of the room.' For the most part the development meets this standard, as follows: 81.4% (546 units) of the units are provided with 20% (or more) glazing, 18.6% (125 units) of the units are below the 20% target. Once again, I am guided by the wording used in the Development Plan that allows for flexibility, the plan states: glazing to all habitable rooms should not be less than 20% of the floor area of the room. In this instance development proposal should comply with this requirement, but where they do not, the scheme may be modified. I assess in detail aspects to do with sunlight/daylight and as a consequence glazing in the residential amenity section of my report. Suffice to say, that I am satisfied that the Development Plan allows flexibility in the design approach to glazing and no material contravention of the plan has occurred. Should the Board take a different view, I am satisfied that both the Height Guidelines and Apartment Guidelines allow for the compensatory measures designed into the scheme by the applicant.

11.3.43. **Taking-in-Charge** - Section 16.9 and Policy QH15 of the Development Plan require that roads and services must be designed and built to taking-in-charge standards. The applicant states that in relation to the proposed development, there are some minor deviations proposed in relation to taking-in-charge standards, such as surface finishes. A planning authority may decide to take-in-charge certain aspects of a development scheme that are publicly accessible, roads, footpaths and parks are an example of this. The planning authority will only take-in-charge elements of a scheme that are up to the standards that they consider to be acceptable. There is nothing stated in the Development Plan that dictates what types and form of materials are required in relation to roads for example, this is set out in a separate document - 'Policy for the Taking in-Charge of Residential Developments'. I

see nothing stated in the current plan that could be materially contravened, should the applicant decide to specify high quality finishes when easier to maintain materials are preferred by various sections of the Council, then so be it and the development may not be taking-in-charge. This is not a matter that warrants consideration under the subject matter of material contravention of the development plan.

11.3.44. **Bedrooms Facing onto Deck** – The applicant states that with reference to bedrooms facing a deck access and the development plan, it may be acceptable if design issues can be addressed. In this instance a gantry access has been designed to ensure privacy, entrance threshold to the upper level units are designed with recessed own doors and bedroom windows to create a semi-private setback margin. A planter box will double as seat provides for a simple defensible space zone and enhances privacy. In this instance the wording used in the development plan is key to understanding whether there is flexibility to offer something different to what is desired in the plan. Under the Block Configuration paragraph of section 16.10.1 of the development plan it states that in certain circumstances, deck access may be acceptable as long as bedrooms do not face out on to the deck and it is well proportioned and designed. In some cases, secondary bedrooms facing on to the deck may be acceptable if quality issues are satisfactorily addressed by careful design such as providing a semi-private external buffer zone.

11.3.45. With respect to standards set out in section 16.10.1 of the plan, I note that a degree of flexibility can be applied if an alternative, compensatory design solution has been set out. In this instance 56 one bedroom units will provide bedrooms that face onto a deck access, albeit with careful design measures to ensure adequate levels of privacy. The planning authority welcome gantry access as it results in better dual aspect ratios. In this instance even though the principal bedroom (only bedroom) will look out across a deck, such a feature has ben designed to ensure privacy thus meeting other design parameters of the plan. In my opinion the overriding result is better living accommodation with a favourable orientation, despite not meeting the development standard with regard to a principal bedroom facing a decked access.

11.3.46. The applicant has exercised extreme caution and advanced ten areas of their proposal that they think may materially contravene the City Development Plan. I

have examined each in turn and I conclude that the only objective of the Dublin City Development Plan that would be materially contravened is:

- Building Height – section 16.7.2 Height Limits

11.3.47. However, because the Dublin City Development Plan offers a degree of flexibility in its approach to ensuring high quality residential accommodation, the following residential amenity and public realm standards are not materially contravened by the proposed development:

- Dwelling Mix – Build to Rent – section 16.10.1 Mix of Residential Units
- Number of units provided per core - section 16.10.1 Block Configuration:
- Private Open Space in Some Build-to-Rent Units - section 16.10.1 Private Open Space
- Studio Apartment Floor Areas / Apartment Rooms Sizes / Apartment Widths - section 16.10.1 Internal Space Configuration for Apartments:
- Historic re-use - 16.10.17 Retention and Re-Use of Older Buildings of Significance which are not Protected and section 16.10 Residential Standards.
- Daylight/Sunlight - section 16.10.1 Aspect, Natural Lighting, Ventilation and Sunlight Penetration
- Ratio of Glazing - section 16.10.1 Aspect, Natural Lighting, Ventilation and Sunlight Penetration
- Taking-in-Charge – section 16.10.6 Taking-in-Charge of Residential Developments
- Bedrooms Facing onto Deck

11.3.48. The planning authority are supportive of the proposed development in terms of height and scale but would prefer less studio/one bed units. No definitive statement from the planning authority in relation to where their statutory plan is materially contravened is forthcoming apart from the issue of building height. As detailed above, I am satisfied that the proposed development would materially contravene the Dublin City Development Plan 2016-2022 in terms of building height alone. It is my opinion that the statutory plan is not materially contravened in relation

to dwelling mix, units per core, private amenity space, floor areas, re-use of historic buildings, daylight/sunlight, glazing ratio, taking-in-charge or bedrooms facing a deck.

Material Contravention – the process

11.3.49. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.

11.3.50. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.

11.3.51. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.

11.3.52. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows:

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

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

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

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

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

11.3.53. Should the Board be minded to invoke Article 37(2)(b) in relation to this current proposal, I consider that they can do so, having regard to the relevant criteria contained therein, and as set out below.

11.3.54. In relation to section 37(2)(b)(i), the matter of strategic or national importance, the current application has been lodged under the Strategic Housing legislation and comprises a significant amount of residential units (671) to meet the housing need of the area, and the proposal could therefore be considered to be strategic in nature. Given the site's location in an area close to existing residential, educational and employment/commercial development, the application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016. 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.

11.3.55. In relation to section 37(2)(b)(iii), at a national policy level I note the recent publication of the Housing for All - a New Housing Plan for Ireland (2021), Rebuilding Ireland and the National Planning Framework National Policy Objectives (NPOs) that seek appropriate residential density and building height at the right location. It would be acceptable in light of the national policy imperative to increase housing and in turn building height to exceed the height limitations of the Dublin City Development Plan in this instance. Consequently, NPO 13 requires 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. Likewise, NPO 33 prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location and NPO 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-base regeneration and increased building heights.

11.3.56. In terms of the regional planning guidelines for the area, I note that the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities and building height on appropriate sites within Dublin City and Suburbs and this often results in taller buildings. RPO 5.4 states that "Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments' Guidelines, and 'Urban Development and Building Heights Guidelines for Planning Authorities" Such a breach of the statutory plan is warranted given the necessity to meet housing demand and national policy in relation to housing delivery on serviced land. This is the right location for new housing in Dublin City at an appropriate height, the right quantum and at an efficient residential density.

11.3.57. I consider the proposed development in terms of building height, is an important element that leads to the delivery of housing, is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13, NPO 33 and NPO 35 and RSES RPO 5.4. The proposed development is furthermore in compliance with the Urban Development and Building Height Guidelines in particular SPPR 3, which references section 3.2 Development Management Criteria. I have assessed the proposed development against the section 3.2 criteria of the guidelines in preceding sections above.

11.3.58. Having regard to the provisions of Section 37(2)(b)(iii), it is justified, in my opinion, to contravene the Dublin City Development Plan 2016-2022 in relation to building height.

11.3.59. Section 37(2)(b) of the 2000 Act sets out four criteria, to allow the Board to consider permitting a development that poses a material contravention of the

operative plan other than in relation to the zoning of the land. Should the Board be minded to initiate the material contravention procedure, as it relates to Development Plan policies pertaining to building height, I consider that the provisions of Section 37(2)(b)(i) and (iii) have been met, and in this regard I consider that the Board could grant permission for the proposal.

11.3.60. I am of the opinion that given its zoning, the delivery of residential development on this well located and serviced site, in a compact form comprising well-designed, higher density units and taller buildings comprising apartments would be consistent with policies and intended outcomes of current Government policy. The site is considered to be located in an accessible location; it is within easy walking distance of public transport in an existing serviced area. The proposal seeks to widen the dwelling mix within the general area and would improve the extent to which it meets the various housing needs of the community. The principle of higher residential densities and taller buildings is considered acceptable. I consider that the proposal does not represent over-development of the site and is acceptable in principle on these lands.

11.4. **Residential Amenity**

11.4.1. As with any residential scheme, large or small, the residential amenities offered to future occupants and the preservation and protection of existing residential amenities is a primary planning consideration. In this context, I firstly assess the proposed development as it refers to future occupants, I apply the relevant standards as outlined in relevant section 28 guidelines, specifically the Sustainable Urban Housing: Design Standards for New Apartments (2020).

11.4.2. With respect to the residential amenity for future residents (proposed residential amenity standards), the planning authority have no concerns. However, a greater dwelling mix would have been preferred but the re-use of some existing buildings on the site is welcomed. Observers show no real concern for the residential amenity standards afforded to future occupants, but do criticise the large proportion of studio and one bedroom units in addition to a very strong opposition to a build to rent format. In terms of residential amenity, the vast weight of opposition from observers is reserved for how the development will impact their property and current levels of amenity. The applicant has submitted a variety of architectural drawings,

sunlight/daylight analysis, computer generated images and photomontages. I am satisfied that an appropriate level of information has been submitted to allow an assessment of issues to do with all aspects of residential amenity.

Residential Amenity – Future Occupants

11.4.3. The proposed development comprises 671 apartments in a build to rent (BTR) and build to sell format, and as such the Sustainable Urban Housing: Design Standards for New Apartments 2020 has a bearing on design and the minimum floor areas associated with the apartments. In this context, the guidelines set out Specific Planning Policy Requirements (SPPRs) that must be complied with. Conventional build to sell apartments must comply with a wide range of SPPRs, however, BTR schemes do not have to meet all Apartment Guideline requirements and have a different set of requirements in the interests of accelerating the delivery of new housing at a significantly greater scale than at present. The apartment blocks are set within existing institutional lands, two existing buildings are to be retained and re-purposed. Three blocks are located to the western side of the site and comprise three storey duplex units, Block E will be build to sell. Block D will be a three to five storey building located at the western side of the site and will be build to sell. An inverted 'U' shaped courtyard group of buildings, Block B and C, comprises a number of visually different blocks between two and eight storeys in height. Blocks B and C will be BTR. Block A (1 and 2) is a linear structure with a western wing at the northern tip, this building will range between five to ten storeys and houses the tallest element of the scheme. Block A is also BTR. Block F, Tabor House and Chapel are at the southern edge of the site and comprise four to seven storey structures, in a BTR format with the Chapel housing communal amenities.

11.4.4. Given that the proposed development offers both build to sell and BTR units I have separated my analysis in to two groups and assessed each against the respective requirements as set out in the Apartment Guidelines.

Build-to-rent (BTR)

11.4.5. Specific Planning Policy Requirement 7 (SPPR7) requires that the proposed development is advertised as such in public notices, this has been done by the applicant. SPPR7 requires restrictions in relation to ownership, operation and sale for a period of 15 years, this can be conditioned if permission is granted. The second

part of SPPR7 refers to detailed proposals for supporting communal and recreational amenities. These elements are split in to two categories, as follows:

(i) Resident 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) Resident 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.

11.4.6. The proposed development includes amenities in the form of lounges, reading rooms, residents club, co-working space, gym, games room, kitchen, garden room, multi purpose space and a meeting room. In terms of facilities, lobbies, concierge, mail rooms and staff facilities are provided. Laundry facilities are not provided because washing machines will be accommodated in every apartment. Page 117 of the applicant's Planning Report sets out a table showing floor areas and locations for all of these supporting facilities and amenities. A total of 1,248.8 sqm of internal floorspace is set aside for these supports and this works out at 2 sqm per BTR unit.

11.4.7. The proposed support facilities and amenities are well distributed throughout the overall scheme and mean that each future occupant would have easy access as required. In particular the re-use of the Chapel building for activities that would encourage interaction between future occupants is welcome and an intelligent re-working of a space that in the past would have been used as a meeting place for the previous owners. Outdoor spaces such as communal and public areas provided in the form of courtyards, roof terraces and the wider public open spaces are generously provided. I am satisfied that the quantum and quality of shared amenity space and facilities are of a satisfactory quality and will provide a comfortable living environment for future occupants, the requirements of SPPR 7 are met.

11.4.8. SPPR 8 relaxes certain requirements that build to sell apartments must meet, as follows:

- No restrictions on dwelling mix

- Flexibility in relation to storage, private amenity space and communal amenity space; on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development.
- Minimal or significantly reduced car parking provision and a strong central management regime to establish and operate shared mobility measures.
- The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply.
- The requirement for a maximum of 12 apartments per floor per core shall not apply, subject to overall design quality and compliance with building regulations.

11.4.9. The applicant states that the BTR element provides 88 studios, 262 one bed apartments, 242 two bed apartments and 12 three bed apartments. The planning authority have a preference for more three bedroom units and observers are wholeheartedly against build to rent especially when it comprises studio/one bed units. The common complaint is that such a preponderance of studio/one bedroom units will mean a transitory population that gives nothing to the community and provides less family homes. Build to rent is a relatively new form of tenure, not significantly different to conventional apartment letting agreements. However, build to rent tenure is secured by a highly developed management regime focused on residents. To quote the 2020 apartment guidelines – build to rent types of housing developments also have a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs here in Ireland. They can provide a viable long term housing solution to households where home-ownership may not be a priority, such people starting out on their careers and who frequently move between countries in the pursuance of career and skills development in the modern knowledge-based economy. Clearly, the guidelines see build to rent proposals as another form of accommodation opportunity for people who have specific needs and requirements not always provided for by the conventional rental sector. There are no restrictions on dwelling mix in BTR schemes, the proposed development is in accordance with the Apartment Guidelines, SPPR 8(i) is met.

11.4.10. The majority of the proposed BTR units meet and in some cases, exceed the standards set out in relation to storage and private amenity space. 79 studio/one bed units (including 10 studios and 8 one beds in Tabor House) will not be provided with a balcony. Instead, all but the units provided in Tabor House, will benefit form a Juliet balcony, instead of a full balcony. Only the 14 units in Tabor House will not receive dedicated storage space. However, internal and external amenity space is provided in the following measure: 14,848 sq m of public open space 5,875 sq m of communal open space and upper level terraces and internal communal amenity spaces of 1,248.8 sq m. Resident's amenities in the form of lounges, reading rooms, co-working spaces, gyms, games rooms and multipurpose rooms have been provided and amount to over 1,248 sqm. Facilities include, concierge, mail rooms, lobbies and staff facilities and these amount to 158 sqm. I am satisfied that an adequate level of shared communal amenity space has been provided for those units not provided with areas of private amenity space.

11.4.11. I am satisfied that adequate amounts of storage has been provided for most apartments and I accept that the re-purposing of an historic building can lead to certain design constraints. If needs must, some dedicated storage space could be assigned from the former Chapel building next door and this can be dealt within a management agreement. Given the flexibility in terms of storage space, private amenity space and provision of shared amenity space for residents, I find that SPPR 8(ii) is met. I am satisfied that the overall quality of the facilities provided are satisfactory and that residents will enjoy an enhanced overall standard of amenity.

11.4.12. The site is located in a central and accessible urban location and so reduced car parking is proposed (ratio of 0.50 per unit throughout the entire development). In addition, a mobility management plan sets targets to achieve sustainable travel patterns. This is acceptable, I find that SPPR 8(iii) is met.

11.4.13. The applicant states that the majority of apartments meet the minimum floor standards, and in some cases exceed the minimum floor area by 10%, this is not a criterion of BTR. The applicant also states that 14 studios positioned within the existing Tabor House do not meet the required floor area, as an existing historic building studios ranging in size from 34.6 sq m to 35.5 sq m would be acceptable.

11.4.14. The applicant has submitted a Schedule of Areas and Housing Quality Assessment. In summary, of all the apartment units proposed, it is stated that 373 units are larger than the 10% over minimum required by the guidelines, this amounts to 56% of the total number of units proposed. All other units meet or exceed the guideline floor areas. I note and accept that the studio units located within the historic fabric of Tabor House are just below standard, such a departure from standards is allowed for, section 6.9 of the Apartment Guidelines refers. I have interrogated the schedule of floor areas presented by the applicant and found these figures to be accurate. The proposal therefore meets the requirements of SPPR 8(iv) and in addition meets the requirements of SPPR 3 (Minimum Floor Areas).

11.4.15. Finally, SPPR 8(v) relaxes the requirement for a maximum of 12 apartments per floor per core, subject to overall design quality and compliance with building regulations. The applicant shows that most blocks provide up to 12 units per core, block F provides up to 17 units per core. Block F includes a créche at ground floor level, 92 BTR units and is based around a 'T' shaped floorplan. From a viability point of view it makes sense to have a single lift core at the centre of the block.

11.4.16. The proposed BTR component of the planned scheme meets the requirements of SPPR 7 and 8. The remaining SPPRs associated with all apartments (BTR and build to sell) still apply. The remaining portion of my assessment with regard to BTR includes those SPPRs that apply, as follows:

11.4.17. Dual Aspect Ratios (SPPR 4) – BTR units account for 604 units in the proposed development, the Schedule of Accommodation submitted by the applicant shows that 287 (47.5%) of these units are dual aspect. SPPR 4(i) requires that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in. The proposed development is located at an accessible urban location and this is demonstrated by the Transport and Traffic Assessment and confirmed by the initiatives contained within the Mobility Management Plan. Road, footpath and cycle networks are located alongside the site, bus routes pass along Milltown and Sandford Road and the Luas Green line is located about a 15 minute walk away to the east of the site. I note that Block B has a low incidence of dual aspect, 38 out of 91 units (31%), but given that none face north and the outlook is to either an inner

courtyard or linear open space, I am satisfied that this ratio is acceptable. Finally, I note that the reconfiguration of Tabor House results in a dual aspect ratio of 33%, this is acceptable given the constraints of re-purposing an historic structure. SPPR 4(i) and (ii) are adequately met.

11.4.18. Floor to ceiling heights (SPPR 5) – the floor to ceiling heights in the new build apartment blocks range from 2.7 metres at ground floor level, and 2.5 metres on the upper levels which exceeds the minimum requirement of 2.4 metres. Tabor House provides substantially greater floor to ceiling heights, given its generous original design proportions and floor to ceiling heights range from 3.0 metres at garden level to 3.7 metres on the first floor, upper floors are up to 3.5 metres, this is acceptable for a building refurbishment scheme. SPPR 5 is adequately met.

Conventional apartments – build to sell

11.4.19. Of the 671 apartment units proposed, 67 units are to be conventional apartment units for sale, as follows:

- Block D, 3 to 5 storeys - 39 units;
- Block E, 3 storeys - 28 units.

11.4.20. The applicant states that all of the apartments exceed the minimum area standard. The applicant has also submitted a Schedule of Accommodation and Housing Quality Assessment as an appendix to the Architectural Design Statement, that outlines a full schedule of apartment sizes, that indicates proposed floor areas and required minima. The planning report that accompanies the application, states that the proposed residential units meet or exceed the minimum standards for apartment sizes and that all units are above minimum floor standards and many exceed these standards significantly.

11.4.21. In summary, of the apartment units that are build to sell, almost all units are greater than 10% of the required minimum, with the exception of studio units that marginally exceed the 37 sqm minimum, SPPR 3 and 4 are met. The number of studio/one bed units is no greater than 50%, SPPR 1 and 2 are met. Block D provides a dual aspect ratio of 51% and duplex Block E is 100% dual aspect, SPPR 4 is met. All units balcony/patio areas meet the minimum requirements of both the Development Plan and Apartment Guidelines. The applicant states that this has

been achieved in all cases and this has been demonstrated in the Housing Quality Assessment (HQA) for apartments submitted with the application. I have interrogated the schedule of floor areas presented by the applicant and found these figures to be accurate. I am satisfied that the dual aspect design advanced by the applicant is acceptable and will provide satisfactory apartment units with adequate outlook and private amenity spaces are of a satisfactory size.

11.4.22. Floor to ceiling height – the Planning Report that accompanies the application states the proposed scheme has ground floor, floor to ceiling heights of 2.7m with all upper floors at greater than 2.4m. I note that cross section drawings do not show annotated measurements on plan, but scaled off plan I can confirm that floor to ceiling heights are adequate. This is acceptable and in accordance with SPPR 5 of the guidelines.

11.4.23. Lift and stair cores – no more than 12 units are served by a lift/stair core and this is acceptable, SPPR 6 of the guidelines is met.

11.4.24. Internal storage space is provided for all apartments at a minimum of 3 sqm and over 8 sqm in other cases. Private amenity spaces exceed the minimum area required by the Apartment Guidelines (5 sqm for a one-bed, 7 sqm for a two-bed unit and 9 sqm for a three bed unit). The overall apartment design takes into account security considerations with good levels of passive surveillance and accessibility to communal areas and amenity space. Access to the communal courtyard areas at podium level is by means of stairs or ramp. The features that have been provided as part of the overall scheme comply with the advice set out in sections 3 and 4 of the Apartment Guidelines.

11.4.25. Building Lifecycle Report - I note that the Apartment Guidelines, under section 6.13, require the preparation of a building lifecycle report regarding the long-term management and maintenance of apartments. Such a report has been supplied with the planning application and details long term maintenance and running costs. In addition, the guidelines remind developers of their obligations under the Multi-Unit Developments Act 2011, with reference to the ongoing costs that concern maintenance and management of apartments. A condition requiring the constitution of an owners' management company should be attached to any grant of permission.

11.4.26. Overlooking/Privacy - The planning authority have not raised an issue in relation to the proximity of units and privacy concerns, observers have not raised issues in terms of the design of apartments. The overall layout comprises the retention of Tabor House and Chapel, around which six apartment blocks are arranged. Block A is 19 metres from Block B, at the closest point. Block E is set off Block C and a distance of over 17 metres is maintained across a street and surface parking. Block C is separated by 15 metres from Block D to the south, again across a street. These separation distances that range around 17 metres and set across a street and open spaces are acceptable in this emerging urban context. Just 9 metres will separate the southern tip of Block C with Block B, but I am satisfied that the opportunity for dual aspect at this location will outweigh any impacts felt from a loss of privacy. Overall and in an urban context a distance of 15 or 16 metres is acceptable from a privacy perspective and in the case of this scheme the intervening spaces are pedestrian footpaths and landscaped margins, I anticipate no loss or privacy or undue overlooking.

11.4.27. A decked form of access provides entry to a number of one bedroom units in Block C. The planning authority are concerned that such a form of access could compromise privacy. Local residents are also concerned that such an open walkway could promote overlooking of their propriety to the north. The applicant states that a semi-private buffer zone outside the bedroom windows is there to maintain sufficient privacy. In addition, I note that the main living space will be to the south and that this offers the opportunity for 56 units to be dual aspect. In terms of overlooking property to the north I note that over 40 metres and a significant landscape buffer will separate buildings, this is sufficient. I am satisfied that the decked access to these units is appropriate in this instance.

11.4.28. Given the urban setting and the opportunities for dual aspect that have been taken advantage of by the designer, I am satisfied that the proposal is acceptable and will not compromise residential amenity for future occupants.

Sunlight/Daylight Analysis – future occupants

11.4.29. Section 6.6 of the Apartment Guidelines and Section 3.2 criteria under the Building Height Guidelines (SPPR 3) refers to considerations on daylight and overshadowing. When taking into account sunlight and daylight analysis the

guidelines refer to the Building Research Establishments (BRE) and BS standards/criteria for daylight, sunlight and overshadowing. The applicant has submitted a Daylight and Sunlight Assessment Report prepared by 3D Design Bureau, according to the report, prior to the publication of the apartment guidelines in December 2020 a European Standard had been published EN 17037 Daylight in Buildings. EN 17037 is not referenced in the 2020 apartment guidelines and is not referenced in any planning guidance document issued by Irish planning authorities. The BRE Guidelines have not been withdrawn. The applicant states that until official guidance or instruction is published by a relevant authority on this matter, the applicant's sunlight/daylight consultants will continue to reference the BRE Guidelines in daylight and sunlight assessments.

11.4.30. The applicant chose to test all residential rooms across the lowest habitable floor of the proposed development. The rooms at ground level were studied across all blocks as the lowest floor is deemed to be the worst case scenario. All units were also studied at 1st floor level due to a difference in the floor to ceiling height which could result in a reduced level of daylight. I note that the applicant has highlighted the rationale for selectively applying ADF levels and states as follows:

> *The recommendations as per the BS 8206-2:2008 are as follows: 2% for kitchens; 1.5% for living rooms; and 1% for bedrooms. BS 8206-2:2008 also recommends that where a room serves more than one purpose, such as the modern day apartment design of the living/kitchen/dining (LKD) space, the minimum average daylight factor should be taken for the room with the highest value. An ADF target value of 1.5% could be considered appropriate for LKDs within this assessment. The rationale for this suggested departure from the recommended minimum ADF of 2%, is in recognition that the primary function of LKDs within apartment developments is typically that of a living space. Should full compliance for the higher target value be sought, design changes could be needed, such as the removal of balconies or a reduction of unit sizes. Such mitigation measures could reduce the quality of living within the proposed units to a greater degree than the improvements that would be gained with increased ADF values. It is difficult to achieve full compliance with the ADF target value of 2% while at the same time providing for compliance with other development management standards that contribute to residential amenity,*

including the provision of balconies to meet private open space requirements. It is relevant in this context to note that the primary living space in the context of LKDs is, in a high proportion of cases, is the living/dining area, rather than the kitchen areas. In recognition of the fact that the ADF target value of 2% has not been achieved in respect of ~15% of apartments, appropriate regard should be had to a number of compensatory design measures that have been provided.

11.4.31. In line with common industry approach, I note that units presented at the lower levels have been selected for analysis. Units are selected at the lower levels on the basis that they will receive the lowest levels of daylight due to their location, obstruction and position within the development. Another factor in unit selection is the layout of the apartment. Room depth and location of balconies also play an important role when it comes to daylight penetration within the room. Different types of rooms across the lower levels have been analysed, prioritizing the deep plan and more obstructed rooms. Where units at the lower level achieve the compliance benchmark, it is taken that the same unit type directly above will also achieve the compliance benchmark and therefore, no further modelling is required.

11.4.32. Figures on pages 85 to 157 (inclusive) of the applicant's report illustrate an example of room selection, within each block and their accompanying tables detail the findings of rooms tested. The proposed development consists of 671 units, which makes up approximately 1,585 habitable rooms. The ADF has been calculated for 599 rooms on the lowest habitable floors. Further assessment tested another 147 rooms bringing the total number of assessed rooms up to 746 with a reasonable assumptions being made that the remaining 839 rooms will achieve the recommended level of daylight. I find this to be an acceptable approach and methodology when dealing with a scheme of this scale.

11.4.33. The applicant's report concludes that of the vast majority rooms assessed exceed the minimum recommendations for the Average Daylight Factor and will be well daylit. Based upon the applicant's calculations,

- Taking the target value for LKDs to be 2%, the ADF value in 605 of the 746 no. habitable rooms that have been assessed meet or exceed their target values. The combination of these rooms plus the 839 remaining rooms that

have been inferred as meeting the ADF recommendations, give a compliance rate of circa 91%.

- If the target value for LKDs is considered to be 1.5%, the ADF value in 685 of the 746 habitable rooms that have been assessed meet or exceed their target values. The combination of these rooms plus the 839 rooms that have been inferred as meeting the ADF recommendations, give a compliance rate of circa 96%.

11.4.34. I note that the report carried out a secondary study on the LKDs that recorded an ADF value less than 1.5%, all of which are configured to have a kitchen that is completely internal with no window on the external facade. This study assessed the level of daylight within the living space of the LKD. The vast majority of assessed living spaces recorded an ADF above the recommended minimum of 1.5%. The kitchen area of these units may require additional electric lighting for parts of the day, but the future residents will have access to adequate levels of daylight in the main living space of the apartment.

11.4.35. The most problematic block from the perspective of sunlight/daylight and internal design and layout was Block B, for example unit BB.0106 returns an ADF of 0.95% for an LKD on level 01 (first floor). The applicant carried out a secondary study to establish how much of a reduction was being caused by the balconies that are present on this elevation. The units that did not achieve positive results were re-assessed without balconies, section 5.11 on page 157 of the sunlight/daylight report refers. This shows that the inclusion of balconies is a key factor in under-performing units.

11.4.36. With reference to section 6.7 of the Apartment Guidelines, the applicant points out that living rooms are prioritised by positioning adjacent to the external facade to avail of good daylight, views and ease of access to external private balcony amenity space. This benefits the usability and functionality of the space with the kitchen area located deeper in the plan which are considered 'non-habitable' spaces and not frequently used or enjoyed for comfort and relaxation. Furthermore, as part of a compensatory design solution for the rooms that do not meet the recommended minimum average daylight factor, the proposed development includes communal amenity areas, all of which have been assessed and will have adequate levels of

daylight. Lastly, the scheme has incorporated a number of localised compensatory design measures. The rooms that do not meet the ADF target have been provided with either some or all of the following compensatory measures:

- Balcony space, some of which exceed the minimum requirement
- Windows that face public open space in the development
- Larger Apartment floor areas, some of which are 10% larger (or more) of the minimum required standards.

11.4.37. It is based on the high compliance rate either at 2% or 1.5%, together with compensatory design measures, that the applicant is satisfied that an acceptable level of sunlight/daylight will be afforded to future occupants.

ADF - My Assessment

11.4.38. According to the applicant's report, the majority of apartments not only meet but exceed the ADF target set out. The report underlines that the BRE guide states:

> *"The advice given here is not mandatory and this document should not be seen as an instrument of planning policy. Its aim is to help rather than constrain the designer. Although it gives numerical guidelines these should be interpreted flexibly because natural lighting is only one of the many factors in site layout design."*

11.4.39. In this regard I also note that section 3.2 of the Building Height Guidelines allows for flexibility in the application of technical guidance if compensatory design solutions are clearly identified and set out. The applicant states that the kitchen areas will probably only be used for food preparation and that prolonged sitting will take place in the living room area, this together with good outdoor spaces and high quality urban design ensures the best available daylight rates. In terms of building design, the materials selected promote brightness and light and the glazing to wall ratio is to ensure maximum daylight.

11.4.40. In the preceding sections I have summarised the applicant's approach to assessment of the site in terms of daylight factors. The applicant has utilised the advisory technical guidance such as the BRE documents and this is useful to help determine the impacts of new developments, for future residents. 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 2011 document is referenced in the current Dublin City Development Plan 2016-2022, in addition to reference to same in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018 and Apartment Guidelines 2020. Whilst 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 & Building Heights Guidelines, Apartment Guidelines and the Dublin City Development Plan.

11.4.41. The BRE/BS documents are an aid to assist with the evaluation of the daylighting and sunlighting of new developments. In the context of proposed development and apartments in particular, daylighting is usually assessed by calculating the average daylight factor (ADF), a measure of the amount of daylight in proposed rooms, and it is this test that the applicant's assessment relies on for the proposed apartments. Recommended ADFs (as noted in the BRE/BS guidance documents) are noted as 1% for bedrooms, 1.5% for living/dining rooms and 2% for kitchens, and where the rooms are combined e.g., dining-kitchen room the higher value should be applied. As already noted, the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' describe recommended values to measure daylight, sunlight and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines state in paragraph 1.6 that:

"Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design."

11.4.42. Where daylight, as measured by the %ADF is below the target provided for in the technical guidance, the guidance allows for changes to the design (providing extra windows, roof lights or light pipes, or changing room layout) to meet the guidelines, and it is further noted that amenity features such as balconies which may reduce ADF should still be facilitated and their impact on ADF noted. I note that the Building Height Guidelines, similar to the approach taken in the BRE/BS documents,

also state that where a proposal may not be able to fully meet all the requirements of the daylight provisions, this can be acceptable, but that where the requirements are not met it must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, and justification for the proposal in this regard must also be set out. I am satisfied that the applicant has done this, and this is considered in my assessment below.

11.4.43. Finally, I note the evolving nature of technical guidance in relation to sunlight/daylight analysis from publications such as: UK code of practice for daylighting BS 8206-2:2008, Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and now a British Standard EN 17037:2018 published May 2019 that deals exclusively with the design for and provision of daylight within commercial buildings and residential dwellings. Ultimately, I point out that such technical advice provides the basis for design choices and the inclusion of compensatory design solutions. Such choices and opportunities to justify a design approach are also allowed for by section 28 guidance, such as the Building Height Guidelines.

11.4.44. In respect of new dwellings, the standards and guidelines recommend that for the main living spaces/living rooms a minimum average daylight factor of 1.5% is achieved, for bedrooms 1% and kitchens 2% (including 2% for shared kitchen/living spaces). The BS and BRE guidance allow for flexibility with regard to targets and do not dictate a mandatory requirement. The applicant illustrates very high compliance rates of 91% of rooms tested (2% ADF) and 96% (1.5% ADF). Based on a typical approach and common industry practice the applicant's Assessment has used the 2% ADF for living/kitchen/dining room in addition to minimum values of 1.0% for bedrooms and 1.5% for the Living room spaces and I agree with this approach. It is noteworthy that the compliance rates are high for both scenarios, this demonstrates a good levels of residential amenity in terms of daylight for future occupants.

11.4.45. The overall design of the apartments includes a kitchen area as an adjunct to living rooms. The report sets out a two-pronged approach to meeting compliance with BRE/BS guidelines. On one hand the applicant has selected the ADF assessment and target value of 2% for all the main living rooms because they contain a kitchen and this has resulted in 91% compliance rate. In addition, the applicant has applied the 1.5% value for ADF and this increases compliance to 96%.

In both scenarios the level of compliance is very high. As a result, nearly all of the habitable rooms across the floors tested achieve good results, above the minimum target.

11.4.46. Some LKDs in the courtyard blocks B and C scored levels of below 1.5% and this is related to room design, with kitchen areas located well back in the room but without seating, an example would be the eastern elevation of Block B at ground and first floors, one or two LKDs return a figure of below 1% and others range between 1 and 1.5%. I acknowledge the applicant's secondary study in relation to Block B that omits balcony projections and the finding that figures improved when balconies are removed. I also acknowledge the preference to provide private amenity spaces to the affected units and this is satisfactory.

11.4.47. In assessing ADFs within the apartments it is noted that not all apartment rooms were assessed. I am satisfied that this is the norm/accepted practice within the industry. In principle, I accept that that the ADF values improve with the higher the floor level due to increased access to the sky.

11.4.48. Of the 61 LKDs that fell below 1.5%, most only failed to reach the relevant value by a small amount. There were few LKDs that struggled to reach or significantly surpass 1%. These units are located on the lower floors of Block B and have quite deep and narrow plans, but each have an east or west orientation with good sized balconies. In addition, when combined with selected building materials to reflect light, large glazing areas with good orientation and outlook, I am satisfied that the compensatory design solutions advanced by the applicant are clearly described and adequate. In this context, I remind the Board that section 1.6 of the BRE 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' allows for flexibility in design as natural lighting is just one factor in overall building design and layout. I am therefore satisfied that the compensatory design measures proposed by the applicant (specially selected building materials to increase surface reflectance values, large glazed areas, importance of decent balcony space and orientation) more than compensates for the small number of units that score below the guideline standard outlined solely for a kitchen (ADF 2%).

11.4.49. With that in mind, I am also guided by section 3.2 of the Building Height Guidelines, and I am satisfied that good compensatory design solutions have been

proposed and clearly identified by the applicant in the drawings submitted with the application. These compensatory design solutions include:

- Balcony space, some of which exceed the minimum requirement
- Windows that face public open space in the development
- Larger Apartment floor areas, some of which are 10% larger (or more) than the minimum required standards. Smaller apartment sizes would result in higher ADF values but at the expense of poorer living conditions.

11.4.50. In addition, the applicant states that the kitchen areas are for preparing food and that sitting and dining areas are located closer to where light will penetrate sufficiently. In terms of meeting the objectives of good urban design the location and positioning of apartments ensures enlivened streets with good degrees of passive supervision and this is all clearly set out in the Architect's Design Statement. In my view the applicant has achieved tailored design choices that clearly show a balance between site specific constraints and the desirability of achieving wider planning objectives such as securing an effective urban design and streetscape solution. I see no advantage in omitting such a small number of units that do not meet the recommended % ADF target, when it is generally accepted as not being 100% achievable within apartment schemes, in particular for combined living room/kitchen areas. The Guidelines allow flexibility for this reason. I would also note that such omissions would significantly adjust the architectural design of the apartment blocks that have been directly conceived in response to achieving better urban design outcomes and undo careful compensatory design solutions such as large glazed sections, balcony areas and principal room orientation.

11.4.51. In terms of sunlight to amenity areas within the development I note that the majority of areas receive the requisite 2 hours of sunshine on March 21st with none receiving less, this is acceptable, figure 5.49 and table 5.50 refer. The BRE Guidelines recommend that for a garden or amenity appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on March 21st and this has been met in the proposed development.

Residential Amenity – Existing Properties

11.4.52. It is stated by the applicant that the proposed site layout has been designed to take account of existing property at the edges of the site. In particular, the existing homes at Cherryfield Avenue Upper and Lower, and Norwood Park have been picked out by the applicant for special attention when it comes to the possibility of negative impacts such as overshadowing, loss of privacy and overbearing appearance. According to the detailed Masterplan + Architectural Design Statement prepared by the applicant scaling down at the perimeter edge has meant a transition between the adjacent urban grain of Cherryfield Avenue & Hollybank Avenue. A significant distance of between 32 and 45 metres separates Block C from Norwood Park and distances greater than this separate other blocks from existing development to the north and east. The planning authority are satisfied that the proposed layout and position of blocks has satisfactorily protected existing residential amenity because of adequate separation distances achieved, there will be no overshadowing and overbearing impact. Observers on the other hand, strongly disagree with the applicant's contention that their homes will not be affected and many detailed and illustrated submissions have been prepared by residents of Cherryfield Avenue Upper and Lower, and Norwood Park.

11.4.53. Other observers with homes along Sandford Road, Eglinton Road, Clonskeagh Road (St James Terrace) and off Milltown Road, have all considered that overlooking, overshadowing and overbearing appearance will be impacts for them. However, given the separation distances involved, over 35 metres in all cases and across a wide road, their concerns are subordinate to homes to the immediate west and north. The occupants of homes further afield, along Sandford and Milltown Road, are more concerned with the overall visual and built heritage impact of the development and this is examined elsewhere in my report and as part of the EIA.

11.4.54. There are two residential areas that have yielded a high level of opposition to the proposed development: Cherryfield Avenue Upper and Lower, and Norwood Park. I will refer to them as Cherryfield and Norwood. Firstly, Cherryfield is a residential area that runs along a narrow cul-de-sac street comprising a variety of terraced housing that dates from the early 20th century. These houses are tightly packed along the street, with small front gardens and compact rear gardens. All of these houses were originally built with two storey rear returns with first floor windows and many of them have been extended further at ground level. All of which means

that rear gardens are greatly reduced in size and distance to the site boundaries are variable but much less than the 11 metres found in later suburban style houses. The rear gardens of all these properties are well insulated from the site by a thick belt of mature trees, further enhancing the secluded character currently enjoyed. On the other hand, Norwood is a later development of semi-detached houses set in large gardens and date from the mid twentieth century. Rear gardens are commodious and few homes in this cul-de-sac have been extended to the rear. As with Cherryfield, Norwood is sheltered from the development site by a thick belt of mature trees, described by some observers as a woodland.

11.4.55. All of the observations made by Cherryfield residents have a concern with the proximity of Block E, its three storey design and potential to overshadow, overlook and overbear their homes. The impact on access to daylight is also highlighted as problematic and I examine this issue separately. The inconsiderate and potentially nuisance inducing location of bin/bike stores was also criticised. The residents of Cherryfield are not satisfied with the location of Block E, the blocks are too close, too tall and unattractive to look at. The residents at the southern end of Cherryfield are also hesitant to welcome Block D, for all of the same reasons as above. The residents of Norwood are also critical of Block E and its bike/bin stores, but more strongly against Block C, its height, design and massing.

11.4.56. Taking Cherryfield first, the removal of trees from the western boundary of the site and the development of the lands for residential purposes will inevitably result in significant changes for those that reside along Cherryfield. The scale of the changes proposed is what concerns residents and they are against it. The applicant has proposed a layout at this interface that attempts to address issues of residential amenity for both future and existing residents. That is why Block E has been specifically designed in an attempt to respect its neighbours. In this regard Block E comprises three terraced blocks of duplex units that rise to three storeys (10.5 metres in height). The depth of rear gardens varies between 5 and 9 metres, the depth of rear gardens at Cherryfield amount to on average 6 or 7 metres once a two storey rear return is taken into account. These diminutive rear gardens result in first floor and above back-to-back separation distances of around 16 metres at the closest point and on average 18-20 metres elsewhere along the length of Block E. For comparison I note that the separation distances between the first-floor rear

windows of Hollybank Avenue Lower and Cherryfield Avenue Upper/Lower range from 11 metres at the northern end, up to 21 metres at the southern end. The terraced houses at Hollybank and Cherryfield are historic properties, set within a fine and attractive urban grain and with separation distances much closer than the subject proposal. The western elevation of Block E has been designed to eliminate overlooking, by virtue of a second floor metal clad pop out window with views deflected away from the rear of Cherryfield. A high level window lights the living/kitchen/dining room and thus avoids the potential for overlooking. I am satisfied that there will be no loss or privacy to the residents of Cherryfield from Block E as it is proposed.

11.4.57. In terms of Norwood, Block C will be located 32 metres or more away from the rear elevations of homes at Norwood, the intervening space will be occupied by trees that are to be retained and a linear park. The linear park will be overlooked by those apartments in Block C that face north. The northern elevation of Block D ranges in height from two storeys (above a podium) to eight storeys at its eastern end. In a similar context Block A (A1) is five storeys (16.7 metres) at its closest point (45 metres) to houses at Norwood. Given the separation distances involved and the intervening parkland space that includes mature trees to be retained, I anticipate no loss of privacy or overbearing appearance to the occupants of Norwood. I note that a roof terrace positioned behind a patterned glass balustrade is proposed atop the north western wing of Block A1. Residents of Norwood think that this may impact upon the privacy of their homes and gardens. I do not agree that a roof terrace positioned 60 metres away would have much of an impact. I am satisfied that combined with the considerable separation distance and the provision of a patterned glass balustrade as specified is adequate to preserve the privacy of existing residents and future residents who avail of this shared amenity space.

11.4.58. In terms of Block D and its proximity to the rear of houses at Cherryfield, a separation distance of over 20 metres is maintained and the west wing of Block D only rises to three storeys (almost 11 metres). The fourth and fifth floors of Block D are located over 40 metres away and rise to 16 metres. The western elevation of Block D includes conventional windows that face west across to the rear of Cherryfield. However, given the separation distance involved (over 20 metres) I anticipate no adverse loss of privacy.

11.4.59. The applicant has attempted to address the transition from the historical terraced house of Cherryfield with a new apartment block led urban form by the insertion of a three storey duplex block of 10.5 metres in height. Such a height is no more than a modern day two or three storey house with a pitched roof. The separation distances proposed are less than what is an arbitrary 22 metres, but I note that the Apartment Guidelines observe that there is a need for greater flexibility in this regard in order to achieve significantly increased apartment development in Ireland's cities. What this means in practice is buildings positioned closer together but better designed, this is such a case with the proposed scheme. I am satisfied that Block E has been designed to address issues of overlooking and overbearing appearance. As well as general concerns from observers about Block E and D, I note some particular criticisms attributed to units BE.0001, BE.0002, BE.0201 and BE.0101, that comprise the southern tail of Block E. This standalone block interacts no closer to Cherryfield than other units at the mid-point of Block E and provides a good urban design consequence for the proposed scheme by terminating the view along the main access street. Its massing and scale could be adjusted to better suit its location. I recommend the removal of this entire block, the minor portion of Block E (units BE.0001, BE.0002, BE.0201 and BE.0101) and its replacement by a two storey building on the same footings, subsequent to some future planning application.

11.4.60. In summary, I do not consider that the design, scale or location of Block E would result in an undue impact to the residential amenities of Cherryfield or Norwood. Even though separation distances are restricted, I am satisfied that the high quality design and careful selection of building materials will ensure that overlooking and overbearing appearance will not occur. In terms of Blocks A, C and D, the separation distances are more than 22 metres and much more in the case of Blocks A and C. Given the separation distances involved, I anticipate no adverse impacts to the residential amenity of existing residents from Blocks A, C or D.

11.4.61. Other observers at residential locations along Sandford Road, Clonskeagh Road and Milltown Road have cited similar issues of loss of privacy, overbearing appearance and overshadowing from the proposed development. However, I am not concerned that these issues will become a reality as the separation distances from existing to proposed residential units will extend from 35 metres upwards. Not only

will the separations distances from Blocks A and F be considerable, there is also a heavily landscaped and wooded parkland proposed together with an intervening road and footpath. I acknowledge that the outlook will change from existing residential units but specific issues over loss of privacy, immediately overbearing appearance or indeed overshadowing will not occur given the design and layout of the proposed scheme. Finally, The Trustees of Milltown Park anticipate some element of overlooking from Block F of their yet to be developed open lands. A claim that cannot stand as the lands overlooked are currently in open space use.

11.4.62. Many observers at Cherryfield and Norwood are critical of the location of the bike/bin stores and anticipate high levels of nuisance from noise and odour. I agree that the location of bike/bin stores at the north and south ends of Block E are haphazard and appear as an afterthought. According to the applicant, the position of the bike/bin stores has been chosen to suit the future occupants and servicing requirements of the development. However, I think that a more suitable location could have been selected that did not impact upon neighbouring properties, the basement level of Block B/C for example. In the interests of preserving residential amenity, I recommend the relocation of these bike/bin stores to a more suitable and better integrated location within the site. The space leftover after the removal of the bike/bin stores can just as easily transfer to incidental open space at the southern end because of the design of units at blocks C and D. However, to the north, the elevation of Block E (units BE.G206 and BE0113) should be reconfigured to introduce a degree of passive overlooking of this new component of open space. If changes are made to the north elevation of Block E, I anticipate no adverse residential amenity impacts to residents at Norwood because the separation distances are in excess of 25 metres.

Sunlight/Daylight and Overshadowing – Impact for neighbouring residents

11.4.63. The Applicant has prepared a Daylight and Sunlight Assessment Report that makes an assessment of the impact of the development on the surrounding environment and properties, which includes VSC, APSH and sunlighting analysis. The effects were assessed in the context of no development and the planned development. The impact assessment that was carried out studied the potential levels of effect the surrounding existing properties would sustain should the

proposed development be built as proposed. Effect on daylight (VSC) to surrounding properties, in included the following:

- Rowan Hall / Cedar Hall
- Mount Sandford
- 1 St. James Terrace
- Loyola House, 87 Eglinton Road
- 132-138 Sandford Road
- 1-11 Norwood Park
- 28-35 Cherryfield Avenue Lower
- 1-20 Cherryfield Ave Upper

Effect on sunlight (APSH) to surrounding properties with windows facing within 90° of due south. The effect to the APSH (annual and winter) of the windows of the following neighbouring properties was assessed:

- Loyola House, 87 Eglinton Road
- 132-138 Sandford Road
- 1-11 Norwood Park
- 28-35 Cherryfield Avenue Lower
- 1-20 Cherryfield Ave Upper

Effect on sunlight to surrounding external amenity spaces such as gardens and public parks. The effect to sunlight in the rear gardens of the following neighbouring properties was assessed:

- 1-11 Norwood Park
- 28-35 Cherryfield Avenue Lower
- 1-20 Cherryfield Ave Upper

11.4.64. The locations of each of these properties is colour coded in figure 11 of the applicant's sunlight/daylight report. I am satisfied that the most sensitive locations

have been selected and this corresponds with the sunlight/daylight concerns raised by observers in relation to the potential for impacts from the proposed development.

11.4.65. The Sunlight/Daylight study breaks down the findings into the following: effect on VSC, APSH and effect on sunlight to gardens. Observers have interpreted these results and where profound impacts are found, are concerned that their residential amenity will be reduced because of the proposed development.

11.4.66. The applicant states that the effect on Vertical Sky Component (VSC), a measure of daylight, has been assessed for 315 windows across the surrounding properties. It is stated that the effect on 256 of these windows would be considered imperceptible, 33 not significant, 16 slight and 10 Moderate. According to the applicant this shows that 81.3% of the assessed windows comply with the criteria as set out in the BRE guidelines for impact to VSC and thus, the general level of effect can be considered imperceptible. All 10 windows that have shown a moderate level of effect to VSC are located on the Rowan Hall / Cedar Hall apartments, where balconies overhang and BRE makes allowances for such cases. I accept the data collected by the applicant and the definition of effects set out in section 2.2 of their report. From the data prepared by the applicant I can conclude that the VSC results for neighbouring property is acceptable and no single property would experience significant losses of VSC. I underline this point by referencing the Apartment Guidelines, Height Guidelines and the City Development Plan that state planning authorities should have regard to quantitative performance approaches to daylight provision. In this instance I can see that those quantifiable results in terms of VSC (daylight) are acceptable and this is because the overall site layout has been designed to step down or provide significant separation distances between proposed and existing property. This has been achieved and acceptable levels of daylight to existing properties is the result.

11.4.67. The applicant goes on to assess Annual Probable Sunlight Hours (APSH) and the effect of sunlight to existing gardens. The APSH study is broken into two parts, annual assessment and winter assessment. In the annual assessment, the effect on the APSH of 175 windows would be considered imperceptible, 2 not significant, 5 slight, 5 Moderate and 5 Significant. In the winter assessment, the effect on the APSH of 176 windows would be considered imperceptible, 1 Moderate, 2 Significant, 3 very significant and 10 Profound. These findings led the applicant to consider

further the impact on APSH after which the conclusion was that given the particular design features of Cherryfield Avenue, deep recesses and the abundance of foliage, such results were to be expected. Even the omission of Block E altogether did not yield improved results along Cherryfield Avenue. Whilst direct sunlight is not considered by the relevant guidelines as a critical factor to consider, it does provide pleasant living environments. In some instances an already poor situation concerning direct sunlight to some windows along Cherryfield will be made worse by the proposed development during the wintertime when the angle of the sun will be lower. It is noted however, that the removal of foliage in some locations will actually made matters somewhat better for some properties. In terms of the layout and design of the overall scheme and the importance placed by the applicant to ensure levels of residential amenity are preserved or improved I am satisfied that the APSH findings presented by the applicant are acceptable. I base this conclusion on the fact that given the site conditions, diminutive rear gardens, two storey rear returns and heavy tree cover at the boundary tot eh site, achieving higher sunlight levels along Cherryfield would be difficult. The proposed scheme sets three storey duplex blocks well off the shared boundary in an attempt not to make matters worse and I am satisfied this has been achieved.

11.4.68. The study also assessed the impact the proposed development would have on the levels of sunlight received in the rear gardens of 1-11 Norwood Park, 28-35 Cherryfield Avenue Lower and 1-20 Cherryfield Avenue Upper which all share a boundary with the proposed site. The BRE guidelines state that in order for a proposed development to have a noticeable effect on the amount of sunlight received in an existing garden or amenity area, the value needs to both drop below the stated target value of 50% and be reduced by more than 20% of the existing value. In this instance 76.9% of the assessed gardens have met the criteria for effect on sunlighting as set out in the BRE Guidelines. According to the applicant, the most significant level of effect recorded would occur in the read garden of number 7 Cherryfield Avenue Upper, the level of impact to this garden has been categorised as moderate. I can see that hourly renderings in the shadow study provided indicate that the proposed development will not cast any shadows into this garden after 11 o'clock at both the equinox and the summer solstice. Given that the majority of assessed gardens comply with the BRE recommendations, I consider that the

proposed development would not result in an undue level of overshadowing to the neighbouring properties and would achieve wider planning objectives to secure comprehensive urban development and an effective urban design and streetscape solution for the site.

Existing Residential Amenity Conclusion

11.4.69. The applicant has prepared a voluminous amount of material to support the proposed development. I note that observers do not object to perhaps some sort of residential development on these lands, but highlight that it is the impact from the overall design and scale that will be unacceptable to them. There will be no adverse residential amenity impacts to existing residents that neighbour the development site and this has been demonstrated by the applicant's sunlight/daylight report and other supporting material. In my overall assessment of the proposed scheme, I find that it succeeds in providing a step up of 3 and 6 -storey development which integrates well into the existing and historical neighbourhood and where taller buildings are proposed, full use is made of the existing parkland setting.

11.4.70. The applicant has proposed a design and layout that responds well to the particulars of the site and to what recent national planning guidelines seek in terms of residential development. I find that here will be no adverse impacts in terms of overlooking and loss of privacy and this is due to the separation distances involved and the urban context of the site. Neither does overbearing impact become a concern because along the site's northern and eastern boundary development has been designed to respect in terms of design or separation distances, that of existing property. Contextual elevations submitted with the application illustrate these points. The proposed layout and design of the development is acceptable without significant amendment. Other than an alternate position for bin/bike stores and a better design response to the southern portion of Block E, I am satisfied that the proposed development will be an asset to the area and sustainable extension to an already attractive urban area of the city.

11.5. Townscape – Layout, landscape and overall design

11.5.1. The applicant has prepared a comprehensive suite of material to describe and illustrate how the proposed development integrates with its surroundings and provides an overall benefit to the appearance of the area. This is presented by the

numerous drawings that detail the layout and design of the proposed development. Various CGI and photomontage images to illustrate how such an urban intervention at the scale envisaged achieves success. An EIAR that describes the environmental and visual impacts, such as they are, it quantifies then assesses the weight of the impacts to the area. The applicant concludes that the proposed development should be seen as a valuable contribution to the area from a visual amenity perspective and that the loss of private open parklands for the gain of new homes and new public realm should be embraced. Observers are not at all supportive of this approach and do not welcome the height and scale of development proposed. For many observers the intervention of such a different form of development will negatively impact upon the low rise character of the area. It is however noticeable, that a very minor cohort welcome the provision of new homes, residential choice and new accessible parkland.

11.5.2. Leaving aside the residential amenity concerns that I have already addressed in section 11.4 of my report, observers are against the proposed development on the following terms:

- The negative visual impact upon the character and built heritage of the area and the demolition of historical buildings is criticised.
- The loss of so many trees will impact wildlife and the resultant landscape design provides nothing for the existing community.

The planning authority are not similarly concerned about how the proposed development will impact the area. In most respects the planning authority support the proposed development in its current form and design. Their only significant concern is that planned public open spaces remain so and are not be closed off to the public at any time.

11.5.3. I have analysed in detail the material prepared by the applicant, specifically the Masterplan and Architectural Design Statement and its appendices. In terms of the historical context of the site and the studies prepared to illustrate what buildings offer viable re-purposing, I am satisfied that the best and most feasible buildings are retained and re-used, Tabor House and Chapel. Having visited the site and inspected the various buildings I come to the same conclusion as the applicant, and that is, for the most part the existing buildings have been adapted over time and

serve a singular purpose difficult to reconfigure. As an example, the Archive Building is an interesting and very specialised building but difficult to successfully repurpose. I am satisfied that the historical importance of the site has been well recorded and integrated into the finished design proposal. In terms of the wider character of the area, I note the location of protected structures in the vicinity and an ACA to the north. In this regard, I note the relevant sections of the EIAR that finds no adverse environmental impact to these structures.

11.5.4. From a visual perspective, I can understand that many observers are uncertain about how these lands will change and perhaps cannot see the positive impacts that might result. The proposed scheme is a development process that will completely change how these lands have operated and were visually presented in the past. Many trees will be removed, and new buildings erected, however, I am confident that the scale and design of the development will be an overall benefit to the townscape of the area. I refer the Board to the photomontage studies prepared by the applicant that demonstrate how the height and massing proposed has been well settled into the site. In particular, I reference section 3.4 Height Strategy of the applicant's design statement, that illustrates the choices and design iterations that were explored, culminating in the scheme now before the Board. I am confident that the scale, layout and design of the proposed scheme will be a positive and efficient addition to the area.

11.5.5. Another component of the scheme highly criticised by observers is the landscape design and the loss of so many trees. The planning authority are not critical of the landscape approach but insist that public access is a key objective for the site. This aspect of the proposal can be dealt with by condition.

11.5.6. The site is currently occupied by historic buildings, open grassland and mature woodland areas. The site is attractive in its own way, but not publicly accessible in its truest sense, despite the protestations of local observers. The applicant proposes to devote 34.9% (4,212 sqm) of the site to public open space, in the form of retained trees along the site's northern and eastern borders set amongst new parkland and amenities. These spaces are described as a combination of open lawn and woodland, passive/active recreation areas and play areas. A central open space will divide blocks B/C and A. Other open spaces, such as the historic forecourt to the front of Tabor House and other incidental areas like streets and footpaths have not

been included in this calculation. I note that lands zoned Z15, are required to provide for 25% of the lands for open space and/or community facilities, this has been met by the applicant on the subject lands. I note that some observers with legal interests in the overall Z15 lands have raised an issue about prejudicing their ability to develop their site in the future. Reference is made to the masterplan that did not have their input. I can see from the prosed development that in excess of 25% of the lands have been provided as open space, in fact up to 35% is open space. In my view the masterplan simply shows how the objectives of Z15 lands can be met. In this instance, the applicant has surpassed open space requirements and I am satisfied that this is acceptable and meet development objectives for the site.

11.5.7. I find the landscape design to be thorough and well thought out, with a combination of active and passive spaces. I note how the overall landscape design has exploited mature trees to their fullest by the creation of a wide buffer to the north of the site and a generous and well dimensioned space to the east along Milltown Road. Whilst the loss of 283 trees out of a total of 404 existing trees classified as moderate to good, may seem excessive. I am satisfied that the best and most well positioned trees will be retained (121 in total, mostly category A) and when combined with 238 large/multi stemmed tree, these will contribute significantly to how the proposed development will be successfully integrated. In addition, I am satisfied that impacts to local flora and fauna have been adequately addressed by the EIAR and appropriate mitigation measures proposed and integrated into the landscape design.

11.5.8. In overall terms, I am satisfied that the layout, scale and massing of the proposed development will be successfully integrated into the receiving environment. The proposed development will be a beneficial urban marker for the area and contribute significantly to the next phase of urban expansion at this place. I have already assessed the impact of taller buildings and found them to be acceptable on these lands, section 11.3 of my report refers. Given the information presented to me by the applicant, the planning authority, statutory consultees and taking into account the many observations made by local residents, I am satisfied that the combination of retained buildings, the effective use of a parkland landscape and the scale and massing of apartment buildings have all been successfully married to provide an attractive, accessible and efficient new urban quarter. I recommend no changes to the layout, scale or design of the proposed development.

11.6. **Traffic and Transport**

11.6.1. The proposed development of 671 apartments will gain vehicular access directly from a new vehicular main entrance from Milltown Road and a service entrance utilising the existing vehicular entrance from Sandford Road. Pedestrian and cycle access is available from these vehicular points and a new entrance near the junction with Milltown and Sandford Road, permeability through the site is to be provided. The planning authority are broadly satisfied with these access arrangements and recommend some technical adjustments should permission be granted.

11.6.2. The applicant proposes a total of 344 car parking spaces, 295 at basement level and 49 surface level. The planning authority acknowledge the below maximum quantum of car parking spaces for such a development and recommend that a robust car parking management strategy is implemented. Observers are very concerned about the existing car parking situation, and fear the consequences of overspill parking such as hindered access for emergency vehicles.

11.6.3. Observers note the walking distance to travel for access to the Luas, a service that it is claimed is already over subscribed. However, there are frequent and multiple bus services in the area, in addition to commercial and retail centres at Milltown, Ranelagh, Clonskeagh and Donnybrook. This site is configured for BTR and well located and so a reduced car parking can be contemplated if properly managed. In addition, I note that SPPR 8(iii) states that there shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures. This is such a case in this instance and adherence to a good and robust mobility management plan will be key to ensuing sustainable travel patterns associated with this development.

11.6.4. The proposed layout will plug into existing street, footpath and cycle infrastructure. On the northern and eastern side of the site, a technically simple connection to the street network is proposed at Milltown and Sandford Road. Observers have raised concerns that the proposed development will do little to improve the public realm along its boundary, better footpaths and cycle facilities being the main area of

concern. The planning authority also place an emphasis on plans to provide key cycling infrastructure in the area. The applicant acknowledges the current condition of the public realm along Milltown and Sandford Road, no major improvements along their lengths are proposed. However, at the junction off Sandford Road and Belmont Avenue where the secondary service vehicle entrance is proposed at the existing entrance to the lands, improvements to dropped kerbs and tactile surfaces are proposed. In addition, a new vehicular entrance and Toucan Crossing is proposed along Milltown Road and this will improve matters for pedestrians, the Roads Layout drawing submitted by the applicant provides a good overview (drawing number 190226-DBFL-RD-SP-DR-C-1001).

11.6.5. I am satisfied that the existing streets and footpaths in the area are entirely acceptable and accommodate current pedestrian flows. Public realm can always benefit from improvement and the proposed development achieves this; however, I acknowledge that at times conflicts between vulnerable road uses (pedestrians/cyclists) can occur at peak times. Observers show concern about this aspect of the pedestrian facilities in the area, around school commuting times for example. My own experience of Milltown and Sandford Road is that they are busy roads and the curved and wide geometry of Milltown Road promotes faster vehicle speeds. I anticipate that with the arrival of development and crucially a new vehicular entrance and Toucan Crossing will serve to moderate driver behaviour at this location. I also found that existing pedestrian crossing facilities are relatively poor along Milltown Road and pedestrian waiting times at the main junction of Milltown/Sandford/Eglinton/Clonskeagh Roads are excessively long. Therefore an additional crossing point mid-way along Milltown Road is welcomed, and in accordance with the principles of DMURS, where placing the vulnerable road users at the top of the road user hierarchy is key objective for good and safe urban environments.

11.6.6. The applicant has prepared a Traffic and Transport Assessment, neither the planning authority or observers raise any particular concern over its findings. I see no particular issues to query either, this is an urban site, plugging into streets and junctions that have been designed to accommodate development that has been planned for. I am satisfied that the existing road network can accommodate the quantum and BTR format of development proposed.

Traffic and Transport Conclusion

11.6.7. On balance, the proposed development is located at a well-served urban location close to a variety of amenities and facilities, such as schools, playing pitches and existing commercial/retail centres. Current public transport options are limited to frequent bus services in the immediate vicinity and high frequency bus services with defined bus corridors to the east. Improvements such as BusConnects are planned and the Luas Green Line is located to the west of the site. In addition, there are good cycle and pedestrian facilities in the area and the proposed development will add significant improvements to the public realm in this respect. It is inevitable that traffic in all forms will increase as more housing comes on stream. However, I am satisfied that most of the ingredients are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the implementation of the mobility management plan and car parking strategy to be submitted by the applicant.

11.7. **Infrastructure**

11.7.1. Drainage - The Infrastructure Design Report submitted with the application outlines in detail the surface water management strategy proposed for the site. In summary, there are existing surface water sewers close to the site. To facilitate the development approximately 160m of the existing drainage network along Eglinton Road will need to be replaced with a 300mm pipe. Surface water discharge rates from the proposed surface water drainage network will be controlled by a vortex flow control device (Hydrobrake or equivalent) and associated underground attenuation tanks (Stormtech Chambers or equivalent). Surface water discharge will also pass via a full retention fuel / oil separator (sized in accordance with permitted discharge rate from the site).

11.7.2. In addition, the applicant has prepared a site specific Flood Risk Assessment, the site is located in flood zone C. The FRA concludes that the development is considered to have the required level of flood protection. The development will not result in an increased flood risk to surrounding properties but will reduce flood risk.

11.7.3. I note the submission made by DAU with respect to surface water discharge and the potential for pollution risk to the Dodder river system and its biota. In this respect I note the submission by the applicant of a CEMP that includes standard measures to

deal with the construction phase of development. The site is some 200 metres from the river, the intervening space is taken up by existing urban development with hard surfaces and standard approaches to surface water management. I am satisfied that the measures proposed by the applicant in the documentation that accompanies this application and the EIAR are standard and accepted practice when developing an urban project of this scale and complexity

11.7.4. The planning authority concur with the surface water and flood risk strategy proposed by the applicant. Standard and technical conditions are recommended if permission is granted. I am satisfied that detailed aspects to do with surface water drainage can be managed by way of an appropriate condition.

11.7.5. Finally, the site can be facilitated by water services infrastructure and the planning authority and Irish Water have confirmed this. I note that observers have noted that there are infrastructural constraints in the area and fear that the proposed development will make matters worse. In this respect, IW have stated that the proposed water and wastewater connections for this development to connect to the Irish Water network is via existing infrastructure and feasible. I am satisfied that there are no significant water services issues that cannot be addressed by an appropriate condition.

11.8. **Other Matters**

11.8.1. Childcare facility - I note that observers have criticised the methodology used to select the scale of the childcare facility proposed. The applicant has prepared a Schools Demand and Childcare Facilities Assessment. The applicant states that although the existing childcare facilities in the locality could accommodate the childcare demand generated by the proposed development, a crèche will be provided within Block F of the development which will meet the childcare demand generated by the proposed development, as well as serve the wider community. The planning authority welcome the proposal to provide on-site childcare and I concur.

11.8.2. The proposed crèche is 400 sqm and will cater for 80 child places. The proposed scheme contains 45% studios and one bed units apartments of the overall development mix and these can be discounted in the calculation of the requirement for childcare spaces. I note that a submission has not been received from the County Childcare Committee and I am satisfied that the applicant's calculation in relation to

childcare spaces is reasoned, acceptable and in accordance with the Childcare Guidelines.

11.8.3. School Site – Observers have mentioned that the proposed development does not include a school site and reference shortfalls in primary and secondary places in the area. The Department of Education have made an observation that in order to accommodate a projected demographic need and to address the difficulty in acquiring new school sites that permission is not given until a study is complete.

11.8.4. I note the analysis prepared by the applicant that shows the prevalence of primary and secondary schools in the area, the applicant's Social Infrastructure Audit refers. Their analysis states adequate primary school places and a capacity of 35 post-primary school places available and that this would accommodate the scale and format of development proposed. However, the opinion of the Department of Education now suggest that projected demographic needs should be explored and determined. I find it difficult to recommend that permission is refused on this basis. The development proposed by the applicant is mostly one bedroom apartments and so the probable demand from these units is likely to be low in terms of school paces. The applicant has prepared an examination of the future demand and provision of primary and secondary school places in the wider area and this concludes that the proposed development does not generate the need for additional schools over and above that already provided in the area. Based on the findings of the applicant's Schools Demand and Childcare Facilities Assessment I am satisfied that that there is no requirement on the applicant to pause development in order to assess the provision of a school site on the subject lands and permission should not be refused on that basis.

11.8.5. Social and Affordable Housing – The applicant has submitted proposals for transfer of 10% of the proposed units to the planning authority, 67 units, Block D 39 units and Block F 28 units. The applicant's Part V proposals include:

- 23 – Studio Apartments
- 13 - 1 Bedroom Apartments
- 30 - 2 Bedroom Apartments
- 1 - 3 Bedroom Apartments

11.8.6. Units are distributed in two blocks throughout the scheme. The standard Part V requirement of 10% was applicable at the time that the application was lodged. With regard to the above I note the recent Housing for All Plan and the associated Affordable Housing Act 2021 which requires a contribution of 20% of land that is subject to planning permission, to the planning authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board elects to grant planning consent, a condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development.

11.8.7. The Regulation of Commercial Institutional Investment in Housing May 2021 Guidelines for Planning Authorities – The new guidelines are brief and concern the regulation of commercial institutional investment in certain housing developments. The purpose of the guidelines is to set out planning conditions to which planning authorities and An Bord Pleanála must have regard, in granting planning permission for new residential development including houses and/or duplex units. This is intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a manner that causes the displacement of individual purchasers and/or social and affordable housing including cost rental housing. The proposed development has been advertised as 'build-to-rent' and 'build to sell', it is a large scale apartment scheme but includes own-door duplex units envisaged for sale and the guidelines may be applicable in this regard. The Regulation of Commercial Institutional Investment in Housing Guidelines, enables planning authorities and An Bord Pleanála to attach planning conditions that a require a legal agreement controlling the occupation of units to individual purchasers, i.e. those not being a corporate entity, and, those eligible for the occupation of social and/or affordable housing, including cost rental housing. In the context of the current planning application that comprises a mixture of apartment units and duplex units it may be appropriate to attach the relevant condition advised by the recently published guidelines. The condition if attached, should only apply to duplex units and this should be stated in the wording of same.

11.8.8. Archaeology – The site is large and comprises a combination parkland and buildings. I note the submission made by the DAU with regard to the archaeological potential of the site and their recommendation that an appropriate condition be attached to ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest. I concur and recommend the attachment of a satisfactory condition.

11.8.9. Legal – some observers have raised very technical and legal criticisms to do with the material contravention procedure, Environmental Impact Assessment (EIA) and Appropriate Assessment (AA). I do not intend to counter the legal arguments presented in terms of law and I have already addressed EIAR and AA. Instead, I am entirely satisfied that throughout my assessment in relation to the statutory plan and the mechanism for a material contravention, EIA and AA; that all these matters are adequately dealt with and in accordance with the relevant legislation as it stands.

12.0 Environmental Impact Assessment

12.1. Environmental Impact Assessment Report

12.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project and should be read in conjunction with the planning assessment above. The development provides for 671 residential units, a childcare facility and residents amenities on a total site area of 4.74 ha. The site is located within the area of Dublin City Council. A number of the topics and issues raised by observers that concern environmentally related matters have already been addressed in the planning assessment above, however, where relevant I have cross-referenced between sections to avoid unnecessary repetition.

12.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

i) Construction of more than 500 dwelling units

iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

12.1.3. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district. It is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and within the scale of development (more than 500 units) to require an environmental impact assessment and so an EIAR has been submitted with this application.

12.1.4. The EIAR comprises a non-technical summary, a main volume and supporting appendices. A summary of the mitigation measures and monitoring described throughout the EIAR has been prepared and is presented at Chapter 20 Mitigation Measures and Monitoring. Table 1.1 and the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.

12.1.5. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

12.1.6. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions. I note that there are some concerns from observers

regarding the EIAR, for instance loss of trees/woodlands, wastewater capacity issues are not addressed, and some observers have raised issues concerning the sheer quantity of paperwork submitted. However, for the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information and this is demonstrated throughout my overall assessment.

12.2. **Vulnerability of Project to Major Accidents and/or Disaster**

12.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. The EIAR addresses this issue under Chapter 18 Risk Management, table 18.3 lists the major accidents and/or disasters reviewed. The EIAR states that the scheme design has considered the potential for flooding, road accidents or fire within the design methodology. The vulnerability of the proposed development to major accidents and/or disasters is not considered significant. Given the urban nature of the receiving environment and the proposed Project, it is considered that there is no linkage factor of a hazard which could trigger what would constitute major accidents and disasters. There are no Seveso Sites within close proximity or within statutory consultation distances of the Project Site. There is a cluster of Seveso Sites at Dublin Port and Ringsend (7 – 8 km linear distance), but none of these are within consultation distance of the proposed Project. The proposed Project is not likely to be affected by an accident at any Seveso Site in the wider area; and vice versa, nor is any Seveso Site likely to be affected by the proposed Project itself.

12.2.2. The vulnerability of the proposed Project to major accidents and / or disasters is not considered significant. The proposed development is primarily residential in nature and will not require large scale quantities of hazardous materials or fuels. I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

12.3. **Alternatives**

12.3.1. Article 5(1)(d) of the 2014 EIA Directive requires:

(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;

Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

12.3.2. Chapter 4 of volume I of the EIAR provides a description of the main levels of alternatives (do nothing, location, layout/designs). If nothing were done, the housing crisis in Dublin would continue, the lands would remain private and this scenario is regarded as socially suboptimal, with an opportunity cost of a loss of 671 proposed residential units. Considering that the lands in question are zoned for the a use that includes residential, and the fact that the environmental sensitivities of the Site are not such as to preclude development per se, this category of alternative is not considered relevant. The variety of different layouts are illustrated, showing 2D layouts and diagrams. Six design alternatives are presented, and the Option F design proposal is selected as the optimal layout. There are no alternative processes, having regard to the nature of the proposed Project as a SHD, for which the planning application is being submitted to An Bord Pleanála, this is not considered a relevant class of alternatives in this case.

12.3.3. The permissible and open for consideration uses on the site are prescribed by its zoning under the development plan. The alternatives that were considered were therefore largely restricted to variations in height, layout and building design. In the prevailing circumstances the overall approach of the applicant was reasonable, and the requirements of the directive in this regard have been met.

12.4. **Consultations**

12.4.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

12.5. **Likely Significant Direct and Indirect Effects**

12.5.1. The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;
- material assets, cultural heritage and the landscape; and
- the interaction between those factors

12.6. **Population and human health**

12.6.1. Population and Human Health is addressed in Chapter 5 of the EIAR. The methodology for assessment is described as well as the receiving environment. The assessment considers attributes and characteristics associated with population, community and residential settlement, economic activities and employment, community infrastructure and tourism and recreation. Recent economic and demographic trends are examined. The principal findings are that there is a significant opportunity to densify this area of Dublin with a mix of studio, 1, 2 and 3 bedroom units to achieve a balance between household sizes and dwelling sizes. The Build-to-Rent element of the scheme will address the lack of rental accommodation in the area and as such the scheme will cater for a wider cohort of persons. Human population and job opportunities will increase as a result of the proposal but also as Covid-19 restrictions ease, vaccine rollout increases and people return to work.

12.6.2. In terms of human health, the most likely impact will be the construction phase of the development and observers have concerns around construction phase traffic. However, given the control of activity on site by the developer, these can be avoided

through the use of management measures as set out in the EIAR and in the outline construction management plan submitted with the application, it outlines how the proposed works will be delivered safely and in a manner which minimises risk to human health, including that of Site personnel. The imposition of limits by conditions on any grant of permission will reinforce preservation of public health. Subject to these measures the main significant direct and indirect effects of the proposed development on the environment are addressed, it is concluded that the proposed development would not be likely to have significant adverse effects on human health.

12.6.3. Other aspects of the development such as soil and land, water, air quality, noise/vibration, transportation and waste may lead to effects on the local population. In terms of noise/vibration, the occupation of the development would not give rise to any noise or vibration that would be likely to have a significant effect on human health or the population, as it would be a residential scheme that formed part of the built-up area of the emerging city. The impact of additional traffic on the noise levels and character of the surrounding road network would be insignificant having regard to the existing traffic levels on roads in the vicinity and the very marginal increase that would occur as a result of the proposed development. This is demonstrated by the Traffic and Transportation Assessment and Mobility Management Plan devised for the scheme that encourages the use of more sustainable forms of transport such as walking and cycling.

12.6.4. Observers have raised issues about the lack of school places. However, the increased population, provision of new open spaces and the demand for such facilities may lead to a further increase in provision. A submission from the Department of Education states that they are concerned about the loss of appropriately zoned land especially in an area where population is growing. A proportion of the overall lands are currently in use as a secondary school and a second portion is in institutional use by the Jesuit Community (Trustees of Milltown Park). The Jesuit Community have indicated no requirements for additional lands, they have a sufficient supply for their projected needs. The provision of additional community infrastructure would further increase the positive effects of new facilities in the area for existing and new residents. I address the issue of schools and education under other matters in the main section of my report. New services such as meeting rooms, cafes/restaurants give the potential for more people to come

together, and this will further contribute to building the sense of place and community. However, pending the planning and delivery of these facilities in the future I am satisfied that the proposed development could proceed in their absence and that this would not result in a significant adverse impact.

12.6.5. I am satisfied that potential effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

12.7. **Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

12.7.1. Chapter 8 of the EIAR addresses biodiversity. The biodiversity chapter details the survey methodology of the assessment and fieldwork dates include the first ecological walkover survey on 03/12/2019 and summer months (20/05/2020, 15/06/2020 and 16/07/2020). Bird surveys were carried out 13/03/2020 and 23/03/2020 and during the winter months 2020/2021 including four visits on 30/11/2020, 17/12/2020, 07/01/2021 and 03/02/2021. Breeding bird surveys were carried out on 15/04/2021 and 18/05/2021. Bat emergence surveys and transect surveys were carried out at three occasions during the active bat season: 20/05/2020, 15/06/2020 and 16/07/2020. Aerial photographs and site maps assisted the habitat survey and these are categorised in table 8.6 and figure 8.7 of the EIAR. It is noted that an Appropriate Assessment Screening Report was prepared as a standalone document. As assessed in section 13 of my report, the proposed development was considered in the context of any site designated under Directive 92/43/EEC or Directive 2009/147/EC.

12.7.2. The habitat character of the site is mostly defined by buildings and artificial surfaces, amenity grassland and mixed broadleaved/conifer woodland with scattered trees and treelines. There were no signs of terrestrial mammal species protected under the Wildlife Act, 1976 and Wildlife (Amendment) Act, 2000, table 8.7 of the EIAR refers. Evidence of Fox was found on site and due to potential suitability of the proposed site for Badger, Hedgehog and Pygmy Shrew, the site has been valued as being of local ecological importance (higher value). No amphibians were present on site. The

ecological walkover of the site identified the site as being suitable as foraging and commuting habitat for bats as it provides open grassland and woodlands in an urban setting. It is also located close to the River Dodder which provide an important corridor for commuting and foraging bats. Table 8.8 identifies the locations where potential lies for bat roosts, though none found. The Development Applications Unit (DAU) of the Department of Culture, Heritage and the Gaeltacht under Conservation matters queried that given the large number of mature trees on the development site, the identification of more trees having the potential to harbour bat roosts would have been expected. Observers have criticised the EIAR with respect to protected species such as Bats and query the lack of bat roosts found on site. However, measures with regard to Bats are identified by the applicant and noted by the Department, no further action required.

12.7.3. The following non-native species were recorded within the site: Winter Heliotrope Petasites pyrenaicus, Snowberry Symphoricarpos albus, Butterfly-bush Buddleja davidii, Traveller's-joy Clematis vitalba, Three-cornered Garlic Allium triquetrum, Spanish Bluebell Hyacinthoides hispanica. The following invasive mammal was recorded: Grey Squirrel Sciurus carolinensis.

12.7.4. Section 8.9 of the EIAR describes the potential impact of the proposed development and table 8.14 provides a summary of construction impacts. Measures to minimise the impact of the development on habitats and biodiversity, includes the preparation of a preliminary Construction Environmental Management Plan (CEMP), for the construction phase of development, these include the measures outlined by the DAU in their submission. The proposed development would introduce areas of new planting, and the landscaping and planting proposals submitted with the proposed application are satisfactory in that context. Having regard to the foregoing, including the concerns raised by the observers, it is not likely that the proposed development would have significant effects on biodiversity. I have considered all of the written submissions made in relation to biodiversity. I am generally satisfied with regards the level of information before me in relation to biodiversity.

12.7.5. Given the present condition of the site, a combination of buildings with hard standing, amenity grassland and woodland/trees, I am satisfied that the development of the site and planned amenity planting and retention of high value trees and historic buildings provides greater benefits in terms of human health. I draw the Boards

attention to the AA section of my report (section 13) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

12.8. **Land, Soil and Geology**

12.8.1. Chapter 10 of the EIAR deals with land, soils and geology, and includes the findings of initial site investigations carried out during January and June 2020, as follows:

- 11 No. Trial Pits.
- 3 No. Infiltration Tests.
- 14 No. Window Samples.
- 13 No. Dynamic Probes.
- 16 No. Cable Percussion Boreholes (5 No. Rotary Cores).
- 9 No. Plate Bearing Tests.
- 1 No. TRL probes to determine CBR Value.
- 7 No. Groundwater monitoring wells.

12.8.2. According to on site investigations, depths to rock varies from 9.0m to 18.45m BGL. Groundwater was observed at 4 of 16 borehole locations at depths typically ranging from 2.5m to 3.0m BGL. Ground water measurements taken in June 2020 and October 2020 indicated ground water depths of 1.0m to 7.5m BGL. Infiltration tests were carried out at 3 locations. Test results indicate that soils are impermeable with no infiltration recorded (typical of the cohesive material observed during site investigations). Material sampled across the site is free of contamination and can be classified as non-hazardous. Review of GSI's online mapping service ("Quaternary Sediments") identify surficial geology in the vicinity of the site as "Till derived from limestones" which is consistent with the findings on site.

12.8.3. The construction phase of development will require the removal of the existing topsoil layer (0.2m to 0.4m thick topsoil layer), 40% of stripped topsoil will be reused on site (incorporated into landscaping of back gardens and public open spaces) the remainder will be used off site. Excavation of subsoil layers will be required in order to allow road construction, foundation excavation, basement excavation for underground carpark, drainage and utility installation and provision of underground

attenuation of surface water. The designed road levels and finished floor levels follow the natural topography of the site, therefore, minimising the need for cut / fill operations to enable development. Most excavated material will not be required on site and will be exported for use elsewhere. Importation of structural fill will be required beneath buildings and roadways.

12.8.4. Subsoil stripping and localised stockpiling of soil will be required during construction. It is estimated that c. 23,000 m3 of soils will be excavated to facilitate construction of the proposed Project, 13,000 m3 will remain on site and 10,000 m3 will be exported. It is estimated that c. 20,000 m3 of engineered fill material will be required to facilitate construction. Observers have raised issues with regard to the construction phase of the development, however, I am satisfied that an appropriate traffic management plan can address issues that would arise from the export and importation of such quantities of material. The proposed development would result in the loss of more than 4.2 Hectares of un-productive ground, zoned for uses that include residential purposes. Given the extent of such land that would remain available in the overall region, this is not considered to be a significant effect. The proposed development would not require substantial changes in the levels of site. It is therefore unlikely that the proposed development would have significant effects with respect to soil.

12.8.5. I have considered all of the written submissions made in relation to geology and soils. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land and soils.

12.9. **Water**

12.9.1. Chapter 11 of the EIAR deals with Water and Hydrology. The proposed surface water drainage network is designed in accordance with SuDS (Sustainable Drainage Systems) principles, the site is divided into five drainage catchments and discharges to an existing 300mm diameter public surface water drain on Eglinton Road (east of the site) at a controlled greenfield runoff rate of 2.0 l/sec/ha. The proposed development's foul drainage network discharges to an existing 600mm diameter

combined sewer located on the Sandford Road north east of the site and an existing 375mm diameter combined sewer on the Milltown Road south of the site. An existing 9" diameter cast iron watermain runs along the Sandford Road to the north east and along the Milltown Road to the south east which will be used to service the development.

12.9.2. The site lies within the Liffey and Dublin Bay Catchment and Dodder River sub-catchment. The Dodder River is located approx. 500m southeast of the subject development site. The most recent quality data (2019) for the Dodder River indicates that it is 'Slightly polluted'. The Dodder catchment discharges to the Liffey Estuary Lower which has a Water Framework Directive (WFD) status (2013- 2018) of 'Good', and Dublin Bay has a WFD status of 'Good'. The Liffey Estuary Lower waterbody has a WFD risk score of 'At risk of not achieving good status' while the Dublin Bay waterbody has a WFD risk score of 'Not at risk'. The surface water quality data for the Liffey Estuary Lower and Dublin Bay (EPA, 2021) indicate that they are 'Unpolluted'. Under the 2015 'Trophic Status Assessment Scheme' classification of the EPA, 'Unpolluted' means there have been no breaches of the EPA's threshold values for nutrient enrichment, accelerated plant growth, or disturbance of the level of dissolved oxygen normally present. The GSI (2021) guidance presently classifies the bedrock aquifer vulnerability in the region of the subject site as 'Low' which indicates a general overburden depth potential of >10m. This shows that the aquifer is naturally protected by low permeability glacial clays.

Surface Water

12.9.3. It is proposed to discharge attenuated flows from the site to the existing drainage network to an existing 300mm diameter public surface water drain on Eglinton Road (east of the site) at a controlled greenfield runoff rate of 2.0 l/sec/ha. Surface water runoff from apartment roofs will be captured by green roof (sedum blanket or equivalent) prior to being routed to the piped surface water drainage network. Surface water runoff from the roofs of duplex units located along the western boundary will be routed to the proposed surface water pipe network via porous aggregates beneath permeable paved driveways (providing an additional element of attenuation). A drainage reservoir (drainage board) is to be provided on the podium slab over basement (for green areas and paved areas). Surface water runoff from the majority of the proposed development site's internal street network will be

directed to the proposed pipe network via tree pits or other SUDS features, including bio-retention areas.

12.9.4. A potential for an effect to arise during the construction of the proposed development from the emission of sediments or hydrocarbons to surface water is described in section 11.5 of the EIAR. The potential for such effects arises in projects that involve building on suburban infill sites. It is therefore commonplace. There are standard measures that are used to avoid such effects which are described in section 11.6 of the EIAR. The efficacy of such measures is established in practice. Subject to the implementation of those measures, the construction of the proposed development would be unlikely to have significant effects on the quality of water.

Flood Risk Assessment

12.9.5. The application was accompanied by a Site Specific Flood Risk Assessment that determined the site was located in flood zone C. The proposed project was subject to Site Specific Flood Risk Assessment (SSFRA) in accordance with OPW Flood Risk Management Guidelines, and is included with the planning application as separate document. The SSFRA states that all residential properties are located in Flood Zone C and have the required level of flood protection up to and including the 100 year return event. Overland flow paths have been identified for pluvial flooding exceeding the capacity of the proposed surface water drainage network. The planning authority agree with the findings of the SSFRA, however, observers have identified local flood events at the entrance of Norwood Park. The mitigation measures to address residual flood risks include:

- Proposed drainage system to be maintained on a regular basis to reduce the risk of a blockage.
- During storm events exceeding the 1% AEP design capacity of the attenuation system, possible overland flow routing towards public roads located north and east of the site should not be blocked. At these locations, the site's boundaries should be permeable to facilitate flood routing onto Sandford Road and Milltown Road.

12.9.6. Should extreme pluvial flooding occur that exceeds the development's attenuation capacity (i.e. greater than 1%AEP), overland flow routes directed towards adjacent public roads are provided in order to protect the proposed development. It will be

important that off site drains are also adequately maintained and this falls outside the remit of this analysis.

Water Supply

12.9.7. The water supply for the proposed development would be from two 200mm diameter connections off the existing 9" water mains located along Sandford Road and Milltown Road. These connections will link within the site. An average daily domestic demand of approx. 274m³ has been calculated when the site is operational. Irish Water advises that a new connection from the public network is feasible.

Foul drainage

12.9.8. It is proposed to drain foul effluent from the proposed development to an existing 600mm diameter combined sewer located adjacent to the site's north eastern boundary (Sandford Road). An existing 375mm diameter combined sewer is also located adjacent to the site's south eastern boundary (Milltown Road) which outfalls to the 600mm diameter combined sewer in Sandford Road. The existing combined sewer network described above ultimately discharges to Ringsend Waste Water Treatment Plant. A daily foul discharge volume of approx. 302m³ has been calculated for the development when operational. I note that some observers have raised issues I relation to the capacity of the local network to absorb the development proposed. The EIAR does not illustrate any similar findings and in this respect Irish Water have confirmed that a new connection to the existing network is feasible without upgrade.

12.9.9. It can be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on water. With regard to cumulative impacts, no significant cumulative impacts on the water environment are anticipated.

12.9.10. I have considered all of the written submissions made in relation to water and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted, any issues of a technical nature can be addressed by condition as necessary.

12.10. **Air Quality and Climate**

12.10.1. Air Quality and Climate are outlined in chapter 12, noise and vibration are outlined in chapter 13 of the EIAR. Microclimatic factors such as wind are set out in chapters17. The proposed apartment units and open spaces would not accommodate activities that would cause emissions that would be likely to have significant effects on air quality, noise or vibration.

12.10.2. There is a potential for dust emissions to occur during construction, but standard means are proposed to mitigate this potential as set out in chapter 20 of the EIAR. They are likely to be effective. The EIAR accounts for the construction phase of the development and recommended measures to ensure air quality is protected. During the operational phase of the development, traffic volumes are modelled and no significant impact is envisaged. However, the development includes a créche that may include air handing units. I do not anticipate that any significant impacts would arise from these uses because standard conditions concerning noise and odour could be attached in the event of a grant of permission. It is therefore concluded that the proposed development is unlikely to have significant effects on air.

12.10.3. In terms of noise and vibration, this is most likely during the construction phase of development and the likelihood of noise and nuisance from this phase of activity. Impacts to the receiving environment during the construction phase will be mitigated by standard practices and it is not anticipated that the operational phase will result in any noise or vibration issues. Observers have raised the issue of vibration and the possible impacts upon the structural integrity of their property. I note that the EIAR addresses vibration standards in relation to two aspects: those dealing with cosmetic or structural damage to buildings and those dealing with human comfort. The main potential source of vibration during the construction programme is associated with piling activities and what methodology is to be used, foundations that do not require piling, bored piles or continuous flight auguring. Considering the low vibration levels at very close distances to augured piling rigs, vibration levels at the adjoining buildings are not expected to pose any significance in terms of cosmetic or structural damage to any of the protected structures in proximity to the development works or any of the other adjacent buildings. Continuous flight auguring follows a similar mechanism, i.e. no rapid acceleration of the tools in contact with the ground and rely on steady motion and therefore the vibration levels presented are representative of this method. All of these scenarios

can be managed by an appropriate condition to ensure construction activity is operated within required noise and vibration standards.

12.10.4. I have considered all of the written submissions made in relation to air quality and climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

12.11. **Landscape and visual impact assessment**

12.11.1. Chapter 9 outlines landscape and the visual impacts that would arise from the development. The environmental impacts from the proposed development are detailed in the EIAR, to avoid repetition and to be clear, I have assessed in detail the impact of the scale and height of the proposed development on the suburban environs of the site from an urban design and planning context in the planning assessment of my report. The EIAR states that the character of the site environs is mixed, with a distinct difference in townscape character between the Sandford Road area to the north, and the Milltown Road area to the south and east. The site does not include any protected structures. Nor is it covered by any Conservation Area (CA) or Architectural Conservation Area (ACA) designation. However, there are numerous protected structures in the immediate environs, and the Belmont Avenue/Mount Eden Road ACA extends to within 40m of the site on the opposite side of Sandford Road from the site's main entrance. There are no views or prospects identified for protection in the site's receiving environment. The site contains amenity grassland, mature trees and woodland area, it is proposed to remove 283 trees and retain 121 trees.

12.11.2. Observers have highlighted strong concerns about the negative visual impact of the development, particularly when compared to the existing scale of residential development in the vicinity. The scale and height of the proposed development is criticised and the loss of so many trees is seen as an environmental issue. The layout of the site and positioning of higher buildings towards Milltown Road and the junction with Sandford Road, together with landscaping proposals that incorporate many retained trees and objectives to create a new street network aim to minimise

the visual impact of the development. Section 9.5 sets out the potential impacts of the proposed development, some of which occur during the construction phase, but the longer lasting impacts endure. While the development would result in a moderately significant townscape impact, its potential effects on townscape character can be considered positive. Section 9.6 of the EIAR sets out in detail the various design measures used to ensure that the proposed development minimises or avoids potential adverse landscape and visual impacts upon the site and neighbouring residential areas.

12.11.3. The proposed development would change the site from an area of institutional parkland setting to a higher density apartment scheme with buildings of up to 10 storeys. This would significantly alter its character. The site will change from under used urban infill lands of good visual quality to a new urban quarter with all of the improvements to public realm that would be expected. The context of the area has not undergone change in the recent past, but apartment blocks have been constructed along Milltown Road to the east. The broad changes that would arise from the proposed development would not have a negative effect on the landscape such as it is. Three will be some long range views from surrounding roads and streets. The taller elements will have limited visual prominence when combined with overall massing and the degree of retained vegetation and new planting. Views from the centre of the development, taller elements will be seen as a consolidating features on what is otherwise an area with other buildings of similar height and this impact is seen as positive. The context is already urban. The broad changes that would arise from the proposed development would not have a negative effect on the landscape such as it is. However, the taller elements will be seen as a new feature on what is otherwise an area with no other buildings of such height and this impact is seen as positive.

12.11.4. I have considered all of the written submissions made in relation to landscape and visual impact and considered in detail the urban design and placemaking aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme. That is to say the position of taller elements in a parkland setting and away from neighbouring property. I am therefore satisfied that

the proposed development would have an acceptable direct, indirect and cumulative effects on the landscape and on visual impact.

12.12. **Material assets (waste management and site services)**

12.12.1. The material assets chapters of the EIAR primarily addresses the impact of the development on the construction phase and local infrastructure, chapters 14 and 16 refer. Material assets such as traffic and transportation are dealt with in chapter 15, and these chapters analysis the local road network and public transport infrastructure.

12.12.2. Observers have raised concerns in relation to the probable increase in traffic, car parking problems and the oversubscribed existing public transport networks (bus and light rail). From an environmental perspective the EIAR addresses these issues individually and I have addressed similar issues under the Traffic and Transport section of my report. The proposed development would not impact upon the operational capacity of road junctions, however, the construction phase would bring additional traffic into the area, this can be managed. Occupiers of the development would place additional demands on public transport and road infrastructure. But this should lead to increased investment in improvement and further provision. No significant impacts are anticipated.

12.12.3. In terms of waste management, the construction and operational phases have been considered, during construction a project specific C&D WMP has been prepared and for the operational phase of development a project specific OWMP has been prepared. In terms of material assets and built services, impacts are considered in relation to water supply, foul and surface wate drainage, gas and telecommunications and the electrical network. Some observers, are concerned that signals with regard to television and telephone will be interrupted because of the height of the buildings proposed. The EIAR states that demand from the proposed development during the operational phase is not predicted to impact on the existing power, gas and telecoms networks. In addition, the applicant has prepared a Telecommunications Report that sets out to provide a specific assessment that the proposal allows for the retention of important Telecommunication Channels such as microwave links, to satisfy the criteria of Section 3.2 of the Building Height Guidelines (2018). The report assesses what impact the proposed development may

have on the cellular phone network in the area. The report finds no interruption to signals and that the taller element of the scheme could facilitate telecoms infrastructure subject to planning consent at some time in the future.

12.12.4. Any impacts to material assets are seen as neutral, imperceptible and long-term. Cumulative impacts have been considered, including proposed development in the vicinity of the site. The result is stated to be a long term imperceptible negative cumulative impact on areas such as local traffic.

12.12.5. I am satisfied that while some cumulative effects may arise from the proposed development together with existing and permitted developments, these would be avoided, managed and mitigated by the measures which form part of the proposed development and through suitable conditions.

12.12.6. I have considered all of the written submissions made in relation to material assets such as the existing drainage network, traffic and transport. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transport or other material assets.

12.13. **Cultural Heritage, Archaeology and Architectural Heritage**

12.13.1. Chapter 6 of the EIAR describes and assesses Archaeology and Cultural Heritage, chapter 7 examines Architectural Heritage.

12.13.2. In terms of archaeological potential, desk-based study was supported by several field-based surveys that investigated the potential of the site to contain unrecorded archaeological material. Visual inspection of the site was undertaken on 29th July 2019. This involved a systematic, non-intrusive walkover survey. This survey assessed current land-use patterns, site topography, site access and the presence of any previously unrecorded sites of archaeological and cultural heritage interest. Archaeological geophysical survey was undertaken in November 2019. The magnetic gradiometer survey was undertaken to identify sub-surface magnetic anomalies indicative of buried areas of archaeological potential, the survey was undertaken under licence (19R0212) from the Department of Housing Local Government and Heritage (DHLGH) in consultation with the National Museum of

Ireland (NMI) (O'Hara 2019). Archaeological test excavation was undertaken at the site in December 2019 under licence 19E0709 from the DHLGH. The aim of the test trenching was to test geophysical anomalies and the general archaeological potential of the site. There was no clear archaeological potential identified in the field survey. No further archaeological potential was noted in the geophysical survey. After test excavation, numerous plough furrows, service trenches and drains were observed and interpreted as non-archaeological. It is concluded that there is moderate potential for the survival of buried archaeological remains at this large site. In this respect I note that the DAU have recommended a standard archaeological condition during construction. There is the potential that archaeologically enriched soils, features and deposits may survive subsurface. The chance discovery of isolated (stray) finds may also occur. Ground disturbance works associated with the proposed project will have a negative, moderate, permanent impact on any such remains that survive below ground.

12.13.3. Chapter 7 assesses the architectural significance of the site and the environs. The site includes a collection of substantial buildings that date from the late18th century through to the mid-20th century to service the former occupants of the lands. The site is occupied by a large-scale institutional building range, which has been vacant since 2019. It is intended to retain two buildings: the chapel and a former residential building, Tabor House, both dating from the late 19th centuries. It is also intended to retain and modify extant early boundary walls onto Sandford and Milltown Roads, together with the entrance at Sandford Road. It is proposed to demolish all other structures on the site, these structures include: Milltown Park House, Finlay Wing, Archive Building and Linking Block. Table 7.3.1 of the EIAR outlines protected structures within the enclosing urban environment and their relationship with the subject development site.

12.13.4. Each building within the site is illustrated, classified and assessed for architectural significance. Those buildings to be removed are considered to be greatly changed over time and beyond effective retention and reuse. The chapel and Tabor House are considered to be worth saving and have been integrated into the overall design of the scheme. The impact of the proposed development for the Belmont Avenue/Mount Eden Road & Environs, Architectural Conservation Area (ACA) is examined in section 7.5.3 of the EIAR and impacts to protected structures

in the vicinity are outlined in section 7.5.4. Table 7.5.3 provides a summary of significant effects of the development on architectural heritage and table 7.9.1 describes predicted impacts on Protected Structures in immediate proximity to the applicant site. In terms of the structures on site that are to be re-used, the EIAR concludes that internal interventions are required to achieve new functions. All interventions proposed are carefully considered to reduce physical loss of characterful fabric, reducing negative impacts. Observers have highlighted the disappointment at so many buildings not be re-used, and others have strenuously objected to the development on the basis that listed buildings will be directly impacted upon. In terms of predicted impacts for protected structures in the vicinity of the site the proposal does not materially impact protected structures by way of encroachment or obtrusion. The development might be visible from the setting of protected structures at St. James's Terrace and on Sandford Road, but does not dominate their character. Views of the proposed scheme from the ACA are negligible. However, the benefits of an accessible parkland in proximity to the ACA will introduce a positive amenity.

12.13.5. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme. I therefore consider that the proposed development would have an acceptable level of direct or indirect impacts on architectural and cultural heritage.

12.14. **The interaction between the above factors**

12.14.1. Chapter 19 of the EIAR comprises a matrix (table 19.1) of significant interactions between each of the disciplines. All interactions between the various elements of the project were considered and assessed both individually and cumulatively within each chapter. Where necessary, mitigation was employed to ensure that no cumulative effects will arise as a result of the interaction of the various elements of the development with one another.

12.14.2. For example; the potential impact on land and soil interacts with that on air due to the need to control dust emissions during ground works and construction. The potential impact of the development on material assets interacts with that on the

population due to the provision of a substantial amount of housing for the population. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified. The various interactions were properly described in the EIAR, table 19.1 provides a summary of interactions, and have been considered in the course of this EIA.

12.15. **Cumulative Impacts**

12.15.1. The proposed development could occur in tandem with the development of other sites that are zoned in the area, including the completion of development in the vicinity, section 19.3 refers. Such development would be unlikely to differ from that envisaged under the city development plan and any local area plans which have been subject to Strategic Environment Assessment. The proposed development's scale may be limited by the provisions of those plans and its form and character would be similar to the development proposed in this application. The actual nature and scale of the proposed development is in keeping with the zoning of the site and the other provisions of the relevant plans. The proposed development is not likely to give rise to environmental effects that were not envisaged in the plans that were subject to SEA. It is therefore concluded that the cumulation of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

12.16. **Reasoned Conclusion on the Significant Effects**

12.16.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.

- A significant direct effect on land by the change in the use and appearance of a relatively large area of urban land from private parkland to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of some material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

12.16.2. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The assessments provided in all of the individual EIAR chapters are satisfactory, I am satisfied with the information provided to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

13.0 Appropriate Assessment

13.1. Introduction

13.1.1. This section of my report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The applicant has submitted an 'Screening for Appropriate Assessment' report, dated September 2021 and prepared by Senior Ecologist Patricia Byrne of JBA Consulting. 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. The information contained within this report is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development.

13.1.2. I have had regard to the submissions of observers in relation to the potential impacts on Natura 2000 sites. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

13.2. The Project and Its Characteristics

13.2.1. The detailed description of the proposed development can be found in section 2.0 of my report above.

13.3. Submissions and Observations

13.3.1. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 8, 9 and 10 above. Observers have highlighted the issue that loss of grassland may impact upon the grazing habits of wintering birds, Brent Goose is mentioned. Other wildlife issues related to flora and fauna not associated with designated sites are also mentioned as a concern.

13.3.2. The planning application have made no specific references to AA concerns. With specific reference to appropriate assessment matters, I note that Irish Water and the DAU all made detailed submissions. With reference to matters relating to biodiversity, ecology and Natura 2000 sites in particular, the submission received from the DAU states they do not accept that any silt mobilised from the development

site into the public surface water drainage system would settle there without reaching the River Dodder, but it does accept that because of dilution factors and the distance of the development site from Natura 2000 sites, no detrimental impacts on the latter are likely to result from pollution arising from the proposed development, NIS not necessary.

13.4. **The European Sites Likely to be Affected (Stage I Screening)**

13.4.1. A summary of European Sites that are considered to be within a zone of influence of the site is presented in the *Natura 2000 Sites* section of the applicant's AA Screening Report. The development site is not within or directly adjacent to any Natura 2000 site. The site is located in an area surrounded by existing urban development. The site comprises buildings, hardstanding, open grassland and woodland.

13.4.2. Natura 2000 sites were searched both within a 15km range of the proposed development and within a 15km radius of the Ringsend WWTP discharge location, which is the ultimate discharge of foul water produced on site. The Natura 2000 sites within the range are listed in Table 3-1 and their locations are shown in Figure 3-1 of the applicant's report. These are listed below with approximate distances to the application site indicated and figure 3.1 of the applicant's report shows the geographical spread of sites.

Natura 2000 sites within 15 km of the proposed site

Natura 2000 site	Site Code	Approximate distance from site (km)
South Dublin Bay and River Tolka Estuary SPA	004024	2.4
South Dublin Bay SAC	000210	2.4
North Bull Island SPA	004006	6.1
North Dublin Bay SAC	000206	6.1
Wicklow Mountains SAC	002122	9.1
Wicklow Mountains SPA	004040	9.4
Rockabill to Dalkey Island SAC	003000	10.2

Glenasmole Valley SAC	001209	10.4
Dalkey Islands SPA	004172	10.8
Howth Head SAC	000202	11.2
Baldoyle Bay SAC	000199	11.6
Baldoyle Bay SPA	004016	11.6
Knocksink Wood SAC	000725	11.8
Ballyman Glen SAC	000713	13.2
Howth Head Coast SPA	004113	13.5
Irelands Eye SPA	004117	14.8
Ireland's Eye SAC	002193	15
Malahide Estuary SAC	000205	15
Malahide Estuary SPA	004025	15.7

13.4.3. The site is not located within or directly adjacent to any Natura 2000 area (SAC or SPA), the site is located in an urban context and connected to the municipal waste and surface water system. There are no species or habitats of conservation significance within or in the immediate environs of the site and the site has a moderate biodiversity value comprising artificial surfaces, buildings, woodland and open grassland. The development has a potential impact pathway to European Sites within Dublin Bay via the combined surface water and foul water network. I consider that the water demand of the scheme is not significant and that impacts on any upstream water bodies (e.g. Poulaphouca Reservoir SPA) can be excluded at the preliminary stage.

13.4.4. The following Natura 2000 sites are hydrologically connected via the Dodder River system with the site, either directly or via a link to Ringsend WWTP and could potentially be impacted by the proposed project:

- South Dublin Bay and River Tolka Estuary SPA (004024)
- South Dublin Bay SAC (000210)

- North Bull Island SPA (004006)
- North Dublin Bay SAC (000206)
- Rockabill to Dalkey Island SAC (003000)
- Dalkey Islands SPA (004172)
- Howth Head Coast SPA (004113)

13.4.5. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, including observations on the application made by prescribed bodies and other observers, and I have also visited the site.

Table of European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	**Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)**
North Dublin Bay SAC (0206) To maintain or restore the favourable conservation condition of habitats as listed in Special Conservation Interests.	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]

North Bull Island SPA (4006) To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Turnstone (Arenaria interpres) [A169] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999]
South Dublin Bay and River Tolka Estuary SPA (4024) To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193]

	Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]
South Dublin Bay SAC (0210) To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide.	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]
Howth Head Coast SPA (4113) To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests.	Kittiwake (Rissa tridactyla) [A188]
Rockabill to Dalkey Island SAC (0300) To maintain the favourable conservation condition of Reefs and Harbour porpoise.	Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351]
Dalkey Islands SPA (4172) To maintain or restore the favourable conservation condition of the bird species.	Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194]

13.4.6. I note the Wintering Bird Survey prepared by the applicant. Wintering bird surveys carried out in 2020 and 2021 did not record any Brent Geese or other wintering birds

within the site. Brent Geese have a preference for short well maintained turf typical of parks and football pitches. The grassland was considered unsuitable foraging habitat due to grass being uncut. Significant effects on the remaining SAC and SPA sites are considered unlikely, due to the distance, dilution factor and the lack of hydrological connectivity or any other connectivity with the application site in all cases having consideration of those site's conservation objectives.

13.4.7. Arising from consideration of the applicant's AA Screening Report, the following is submitted:

Overview

- The subject site is not located on, in or near any designated European site.
- There was no evidence of any habitats or species with links to European sites recorded during field surveys or desk studies.
- There are no watercourses within or connected to the site.

Construction Phase

- There are substantial distances between the site and European sites and there is no direct pathway between the site and the European sites.
- Significant dilution and mixing of surface and sea water would occur with any contaminated waters and any pollutants would be further diluted upon reaching Dublin Bay.
- The construction period would be short (estimated to be 34 months), with no possibility of long-term impacts arising.

Operational Phase

- Surface water flows would be restricted in accordance with the requirements of the Greater Dublin Strategic Drainage Strategy.
- The site is within Flood Zone C and the development would not increase flood risk elsewhere.
- The foul drainage system would connect to the established public system and proposed arrangements are acceptable to Irish Water.

- Foul wastewater would be treated at Ringsend treatment plant prior to discharge to Dublin Bay, which operates under licence and has permission for upgrade works that are expected to be completed within five years.
- The peak discharge of foul waste is not significant in the context of the existing capacity at the treatment plant.
- There is no possibility of any direct, indirect or secondary impacts on any European site.

13.4.8. Surface water from the proposed development will pass through a range of SuDS including green roofs. Waters from green roofs and all other surface water will be attenuated in underground attenuation tanks across the site. All surface waters will pass through a hydrocarbon interceptor before discharge to the public surface water network on onwards to the River Dodder system.

13.4.9. These waters will ultimately drain to Dublin Bay. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any urban site in order to the protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of 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 an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. I consider that, even if the aforementioned best practice construction management measures were not in place, the possibility of significant effects on designated sites is unlikely given the nature and scale of the development, the intervening distance between the development and the designated sites and the resultant dilution factor with regard to the conservation objectives of the relevant designated sites and habitats and species involved. I therefore do not include these measures as 'mitigation measures' for the purposes of protecting Natura sites.

13.4.10. The good construction practices are required irrespective of the site's hydrological connection via the urban surface water drainage system to those Natura 2000 sites. There is nothing unique, particularly challenging or innovative about this urban development on a brownfield urban site, either at construction phase or

operational phase. It is therefore evident from the information before the Board that the proposed construction on the applicant's landholding would be not be likely to have a significant effect on the following sites:

- South Dublin Bay and River Tolka Estuary SPA (004024)
- South Dublin Bay SAC (000210)
- North Bull Island SPA (004006)
- North Dublin Bay SAC (000206)
- Rockabill to Dalkey Island SAC (003000)
- Dalkey Islands SPA (004172)
- Howth Head Coast SPA (004113)

The applicant concludes that Stage II AA is not required.

13.4.11. The potential for significant effects on the qualifying interests of the European sites listed above as a result of surface and foul waters generated during the construction and operational stage can be excluded. This conclusion is based on the fact that:

- During the construction stage surface water will be attenuated and part treated within the site and the nature of any discharges is temporary.
- Should a pollution event occur during the construction phase due to the accidental spillage or release of contaminants this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay due to the level of separation and the dilution arising from the volume of water between the sites.
- There will be a reduction in surface water run-off during the operational phase, relative to the existing situation, as surface water will be attenuated and part treated within the site.
- Foul waters will discharge to the existing foul water network and will travel to Ringsend WWTP for treatment prior to discharge to Dublin Bay; the Ringsend WWTP is required to operate under EPA licence and meet environmental standards, further upgrade is planned and the foul discharge from the

proposed development would equate to a very small percentage of the overall licenced discharge at

- Ringsend WWTP, and thus would not impact on the overall water quality within Dublin Bay.
- I would also note that the EPA in 2018 classified water quality in Dublin Bay as 'unpolluted'.

13.4.12. In combination or Cumulative Impacts - The potential for in combination impacts can also be excluded. I base my judgement on the following:

- Coastal waters in Dublin Bay are classed as 'Unpolluted' by the EPA;
- Sustainable development including SUDS for all new development is inherent in objectives of all development plans within the catchment of Ringsend WWTP;
- The Ringsend WWTP extension is likely to be completed in the short – medium term to ensure statutory compliance with the WFD. This is likely to maintain the 'Unpolluted' water quality status of coastal waters despite potential pressures from future development;

I conclude that the proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects. This conclusion is consistent with the appropriate assessment screening report submitted with the application.

13.4.13. The expansion of the Dublin city is catered for through land use planning by the various planning authorities in the Dublin area, including the Dublin City Development Plan 2016-2022 covering the location of the application site. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. While this project will marginally add to the loadings of the municipal sewer, evidence shows that negative effects to Natura 2000 sites are not arising. Furthermore, I note upgrade works have

commenced on the Ringsend Wastewater Treatment Plant (works extension permitted under ABP – PL.29N.YA0010) and the facility is currently operating under EPA licencing which was subject to AA Screening. Similarly, I note neither the planning authority nor the DAU raised AA concerns in relation to the proposed development.

13.4.14. In the context of in-combination effects, it is also noted that other permitted developments in the area have been subject to AA screening, with significant effects on European sites being excluded.

13.5. **AA Screening Conclusion:**

13.5.1. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on:

- South Dublin Bay and River Tolka Estuary SPA (004024)
- South Dublin Bay SAC (000210)
- North Bull Island SPA (004006)
- North Dublin Bay SAC (000206)
- Rockabill to Dalkey Island SAC (003000)
- Dalkey Islands SPA (004172)
- Howth Head Coast SPA (004113)

or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

14.0 Recommendation

14.1. Having regard to the above assessment, I recommend that section 9(4)(c) of the Act of 2016 be applied and that permission is GRANTED for the development as

proposed for the reasons and considerations and subject to the conditions set out below.

15.0 Reasons and Considerations

Having regard to the:

(a) the site's location on lands with a zoning objective which includes residential development being 'open for consideration', its location close to Dublin city centre within an established built-up area and the policies and objectives of the Dublin City Council Development Plan 2016 – 2022 and its various appendices;

(b) The policies and objectives contained in the Dublin City Council Development Plan 2016-2022;

(c) The provisions of Housing for All, A New Housing Plan for Ireland (September 2021),

(d) objectives 3a, 3b,11, 13 and 35 of the National Planning Framework;

(e) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;

(f) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

(g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013 (2019);

(h) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

(i) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

(j) 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government 2020;

(k) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;

(l) the nature, scale and design of the proposed development;

(m) the availability in the area of a wide range of educational, social, community and transport infrastructure,

(n) the pattern of existing and permitted development in the area,

(o) The Report of the Chief Executive of Dublin City Council received from the planning authority;

(p) the submissions and observations received;

(q) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2020

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 6th day of September 2021 by Sandford Living Limited, Riverside One, Sir John Rogerson's Quay, Dublin 2.

Proposed Development

The proposed development on a total site of 4.74 hectares will consist of 671 residential units in 9 separate blocks, ranging in height from 2 to 10 storeys, the detail is as follows:

Parameter	Site Proposal
Application Site	4.26 hectares (4.74 inclusive of roads works)
Number of Units	671 units (all apartments), comprising: 604 Build to Rent units 67 Build to sell units
Density	157 units per hectare (net)
Dual Aspect	343 apartment units (51%)
Other Uses	Crèche – 400 sqm (80 child spaces) Block F
Public Open Space	1.48 Hectares – 35% of the site
Communal / Semi-Private Space	5,875 sqm (open space - courtyards)
Tenant Amenity Space	1,248 sqm (internal tenant amenity space), lounges, reading rooms, residents club, co-working space, gym, games room, kitchen, garden room, multi purpose space and a meeting room. Facilities include lobbies, concierge and mail rooms.
Height	2-10 storeys
Parking	344 car parking spaces 697 resident bicycle spaces
Vehicular Access	Via a new vehicular entrance from Milltown Road. Limited vehicular access from an existing entrance on Sandford Road.

Part V	67 (at Block D and part of Block F)

16.1. Housing Mix

Unit Type	Studio	1 bed	2 bed	3 bed	Total
Apartments	99	271	274	27	671
% of Total	**15%**	**40%**	**41%**	**4%**	**100%**

1. Apartments

Build to rent apartments include:

- Block A1, 5 to 10 storeys – 94 units;
- Block A2, 6 to 8 storeys (including part double height at ground floor level) - 140 units;
- Block B, 3 to 7 storeys - 91 units;
- Block C, 2 to 8 storeys (including part double height at ground floor level) - 163 units;
- Block F, 5 to 7 storeys – 92 units;
- Refurbished Tabor House and chapel (4 storeys including lower ground floor level) - 24 units.

Build to sell apartments include:

- Block D, 3 to 5 storeys - 39 units;
- Block E, 3 storeys - 28 units.

2. Créche within Block F (400 sq m) with outdoor play area;

3. Communal internal amenities (c. 1,248.8 sq m) and facilities (c. 158.3 sq m) throughout the residential blocks, Tabor House and the converted Chapel building

including co-working space, gym, lounges, reading rooms, games room, multi-purpose space, concierge, mail rooms and staff facilities.

4. A 2.4 metre high boundary wall across the site from east to west (towards the southern boundary) by the demolition of a portion of the red brick link building that lies within the subject site towards the south-western boundary (36.4 sq m). The existing Link Building is the subject of a separate application for permission (DCC Reg. Ref. No. 3866/20).

5. Main vehicular access from Milltown Road, upgrade the existing access from Sandford Road for deliveries, emergency vehicles and taxis; new pedestrian access points; pedestrian/bicycle connections through the site; 344 car parking spaces, 697 bicycle parking;

6. Hard and soft landscaping including public open space and communal open space (including upper level communal terraces in Block A1, Block B and Block C);

Works on Milltown Road and Sandford Road to facilitate access to the development including improvements to pedestrian facilities on an area of c. 0.16 hectares.

7. Surface water drainage network outfall on Eglinton Road (approximately 200 metres from the Sandford Road / Eglinton Road junction), with these works incorporating an area of c. 0.32 hectares.

8. Demolition of 4,883.9 sq m of existing structures on site including Milltown Park House (880 sq m); Milltown Park House Rear Extension (2,031 sq m); the Finlay Wing (622 sq m); the Archive (1,240 sq m); the link building between Tabor House and Milltown Park House rear extension to the front of the Chapel (74.5 sq m); and 36.4 sq m of the 'red brick link building' (single storey over basement) towards the south-western boundary;

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

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

(a) the site's location on lands with a zoning objective which includes residential development being 'open for consideration', its location close to Dublin city centre within an established built-up area and the policies and objectives of the Dublin City Council Development Plan 2016 – 2022 and its various appendices;

(b) The policies and objectives contained in the Dublin City Council Development Plan 2016-2022;

(c) The provisions of Housing for All, A New Housing Plan for Ireland (September 2021),

(d) objectives 3a, 3b,11, 13 and 35 of the National Planning Framework;

(e) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;

(f) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

(g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013 (2019);

(h) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

(i) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

(j) 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government 2020;

(k) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;

(l) the nature, scale and design of the proposed development;

(m) the availability in the area of a wide range of educational, social, community and transport infrastructure,

(n) the pattern of existing and permitted development in the area,

(o) The Report of the Chief Executive of Dublin City Council received from the planning authority;

(p) the submissions and observations received;

(q) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated Natura 2000 Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and lack of a direct hydrological

pathway, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed, in compliance with s.172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account:

(a) The nature, scale and extent of the proposed development;

(b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application,

(c) The submissions from the applicant, planning authority, the observers, and the prescribed bodies in the course of the application; and

(d) The Planning Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

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

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of urban land from private parkland to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of some material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusion on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the planning authority.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Dublin City Development Plan 2016-2022 in relation to building height. The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the City Development Plan would be justified for the following reasons and consideration:

a) In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended): the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and comprises a significant amount of residential units (671) to meet the housing need of the area, and the proposal could therefore be considered to be strategic in nature. Given the

site's location in an area close to existing residential, educational and employment/commercial development, the application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016 and meets the overall objective of the Housing for All - a New Housing Plan for Ireland (September 2021).

b) In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended): The proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35, and is in compliance with the Urban Development and Building Height Guidelines, in particular SPPR3. In terms of the regional planning guidelines for the area, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs and this can result in taller buildings and RPO 5.4 that advises higher densities adherence to qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments' Guidelines, and 'Urban Development and Building Heights Guidelines for Planning Authorities"

17.0 **Conditions**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with the Planning Authority:

(a) the omission of the standalone duplex apartment block that comprises four units at the southern section of Block E (units BE.0001, BE.0002, BE.0201 and BE.0101) and their replacement with open space or for a use to be determined by a future planning application.

(b) The omission of the Bin and Bike Store buildings located to the north and south of Block E (two structures in total) and the relocation of these facilities to the basement level of Block B/C. The space vacated by the Bin and Bike Store buildings shall be replaced with open space.

(c) Units BE.G206 and BE.0113 shall be reconfigured to address and face across the new area of open space to the north of Block E as a consequence of (b) above. This will require internal modifications and a revised fenestration to the northern elevation.

Reason: In the interest of the residential amenity of existing and future occupants of the scheme.

3. The mitigation and monitoring measures outlined in Chapter 20 of the Environmental Impact Assessment Report (EIAR) submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

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

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

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

Reason: In the interests of orderly development and clarity.

6. The developer shall comply with all requirements of the planning authority in relation to roads, access, cycling infrastructure and parking arrangements. In particular:

(a) The roads and footpaths shall be constructed in accordance with the Council's standards for taking in charge.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

7. The streets that are constructed and/or completed on foot of this permission shall comply with the standards and specifications set out in of the Design Manual for Urban Roads and Streets (DMURS) issued in 2019. All streets shall be local streets as set out in section 3.2.1 of DMURS whose carriageway shall not exceed 5.5 metres in width. Where perpendicular parking is provided on those streets the additional width required for vehicles to manoeuvre shall be incorporated into the spaces in accordance with figure 4.82 of DMURS.

Reason: In the interests of road safety and to ensure that the streets in the authorised development facilitate movement by sustainable transport modes in accordance with the applicable standards set out in DMURS.

8. Details of any alterations to the road and pedestrian network serving the proposed development, including loading areas, footpaths, kerbs and access road to the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

9. All roads and footpaths shown connecting to adjoining lands shall be constructed up to the boundaries with no ransom strips remaining to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted and agreed with the Planning Authority.

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

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

Reason: In the interest of visual amenity.

11. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

12. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

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

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

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

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

16. a) Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

b) The Mobility Management Strategy shall incorporate a Car Parking Management Strategy for the overall development, which shall address the management and assignment of car spaces to residents and uses over time and shall include a strategy any car-share parking. Car parking spaces shall not be sold with units but shall be assigned and managed in a separate capacity via leasing or permit arrangements.

Reason: In the interest of encouraging the use of sustainable modes of transport, traffic and pedestrian safety.

17. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

18. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm

Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

19. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

20. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) and hedges and identified as 'to be retained' on landscape drawings, as submitted with the application, shall be carried

out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees and hedging which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the trees on the site.

22. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

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

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

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

Reason: In the interest of sustainable waste management.

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

a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

b) Location of areas for construction site offices and staff facilities;

c) Details of site security fencing and hoardings;

d) Details of on-site car parking facilities for site workers during the course of construction;

e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

f) Measures to obviate queuing of construction traffic on the adjoining road network;

g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

o) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times;

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

26. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive and 0800 to 1300 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

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

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

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

29. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To ensure the satisfactory completion and maintenance of this development.

30. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

31. Prior to the commencement of any duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts duplex units permitted, to first occupation by individual

purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

32. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions for Dublin City Council of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

33. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the

planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Stephen Rhys Thomas
Senior Planning Inspector

16 December 2021