



An
Bord
Pleanála

Inspector's Report 311497-21

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| Development | Mixed-use development comprising a residential development, hotel, office/enterprise space and enterprise units. |
| Location | Kilmore Road, Artane, Dublin 5. |
| Planning Authority | Dublin City Council |
| Planning Authority Reg. Ref. | 3115/21 |
| Applicant(s) | Eugene Carlyle |
| Type of Application | Permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party v. Decision |
| Appellant(s) | Eugene Carlyle |
| Observer(s) | (1) Maryfield / Artane Residents Association (2) Timber Mills Management Company Limited |
| Date of Site Inspection | 13 th June 2021 |

Inspector

Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 4,073 m² and forms part of Artane Business Park, which is located on the north-eastern side of the Kilmore Road, Artane, Dublin 5. The site is accessed directly off Kilmore Road via a shared entrance to the business park and is characterised by an area of surface car parking adjacent to the entrance / public road, with industrial / warehouse buildings located in the central and rear portions of the site. The site boundary adjoining Kilmore Road is characterised by a low wall with metal railings above.
- 1.2. A crèche facility and a car repair business occupy the industrial / warehouse buildings towards the front of the site. A shared internal access road extends along the eastern site boundary and continues in a generally north-easterly direction through the business park. A 2-storey office building and further industrial / warehouse units, including a self-storage facility (Storebox), are located on the eastern side of this access road, opposite the subject site. The site is also adjoined by industrial buildings to the rear. The adjoining site to the east of Artane Business Park accommodates the Timber Mills development, which is primarily characterised by 3-storey apartment / duplex blocks, with a 4-storey mixed-use block located to the front of the site, proximate to Kilmore Road.
- 1.3. The subject site is also adjoined by existing industrial / warehouse buildings and an ESB sub-station within Butterly Business Park to the west. A petrol station with a retail unit and a 3-storey apartment complex (Newlands Court) are located further to the west fronting onto Kilmore Road. Artane Castle Shopping Centre is located on the opposite side of Kilmore Road, to the south-west of the subject site.

2.0 Proposed Development

- 2.1. Planning permission is sought for a mixed-use development comprising a build-to-rent (BTR) residential development, a hotel, office / enterprise space and enterprise units at a site circa 0.4073 ha located and accessed from Kilmore Road, Artane, Dublin 5, on the site of the old “Novum” building, part of the estate known as the Artane Business Park, located east of Butterly Business Park and west of the access roadway through the estate.

- 2.2. The development consists of the demolition of the existing single-storey building (circa 2,752 m²) and sections of boundary walls (some subject to agreement with adjoining landowners); the construction of two building blocks A & B (Block A to the south and Block B the north), defining and separated by an urban square. Block A (comprising of a hotel, enterprise units, BTR apartments with associated communal residential amenities, with 2 no. roof gardens; at 2nd floor podium level and 5th floor rooftop level) and Block B comprising of enterprise units, office/enterprise units, BTR apartments with associated communal residential amenities and roof garden; 5th floor rooftop level, further detailed below; with a total gross floor area of circa 10,323 m².
- 2.3. Block A is a 2, 5 and 7 storey building, it faces Kilmore Road (to the south), the access road (to the east), the boundary of Butterly Business Park (to the west) and is designed as two blocks linked by a 2-storey podium with landscaped roof garden. The southern part of Block A comprises a 77-bedroom hotel, including a ground floor restaurant (circa 187 m²) with associated external dining area and ground floor colonnade to the south-west, café/bar (circa 83 m²), 4 no. 1st floor meeting rooms (circa 210 m²), gym and business centre facilities (with shared usage by BTR residential units), 77 bedrooms over 2nd, 3rd, 4th, 5th and 6th floors, plant/services room at 7th floor (roof level), with solar panels at 7th and 5th floor roof levels and extensive green roof at 2nd floor, all with a gross floor area of 3,950 m².
- 2.4. The northern part of Block A also includes a 2-storey podium with roof garden, ground floor colonnade to 3 no. ground floor enterprise units with gross floor area of 194 m², refuse areas, bicycle parking, a one-way vehicular and a pedestrian route under the block from the urban square, turning to link to the eastern access road, with car parking at ground and 1st floors, with associated car lift access from urban square, 20 no. apartments BTR over 2nd, 3rd and 4th floors (8 no. 1 bed units; 12 no. 2 bed units), all with balconies or terraces facing north, south and west, 2nd floor associated community room (circa 37 m²), and external landscaped semi-private deck area, (circa 457 m²), fifth floor community room (circa 18 m²) and landscaped rooftop garden area, circa 267 m², and extensive green roof, all with a gross floor area of 3,330 m².
- 2.5. Block B includes ground floor colonnade to 2 no. ground floor enterprise units (circa 323 m²), refuse areas, secure bicycle parking, BTR concierge/reception, 1st floor

office / enterprise unit (circa 471 m²), BTR common room (circa 85 m²), 21 no. apartments over 2nd, 3rd and 4th floors (9 no. 1 bed units; 12 no. 2 bed units), all with balconies or terraces facing north, south and west; 5th floor community room (circa 18 m²) and landscaped rooftop garden area, circa 267 m², and extensive green roof, all with a gross floor area of 3,043 m².

- 2.6. The development includes 4 no. refuse stores, 3 no. bicycle stores, 100 no. cycle parking spaces, 48 no. car parking spaces, including 3 no. car club parking spaces, 2 no. set down area for hotel, 1 no. loading bay, 2 no. car lift waiting spaces, community amenity open space at 2nd floor podium level to Block A (circa 457 m²), and at roof level / 5th floor of Blocks A and B (circa 534 m²), boundary treatments and all associated site works including sustainable urban drainage systems, green roof systems, waste management areas, roof plant, associated hard and soft landscaping, and all other associated site excavation, infrastructural and site development works above ground including boundary treatments and associated site servicing (foul and surface water drainage and water supply). Access to the scheme will be via Kilmore Road.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission issued on 31st August 2021 for 2 no. reasons as follows:

(1) Having regard to the location of the site within an area zoned Z6 in the Dublin City Development Plan 2016-2022, where the objective is to provide for the creation and protection of enterprise and facilitate opportunities for employment, it is considered that the proportion and quantum of residential development proposed as part of the mixed-use development envisaged in this application, would not be sufficiently subsidiary to employment generation uses and would, therefore, contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily of particular areas for the purpose of employment/enterprise, and would conflict with the objective to develop the area as an employment centre in accordance with the strategic direction set down in section

14.8.6 of the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

(2) By reason of the close proximity of the development to adjoining third party sites, it is considered that the proposed development would unduly diminish neighbouring development potential and thus, the consolidated and comprehensive development of the area. The proposed development would, therefore, be contrary to the land use zoning objective for the site and adjoining area and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. Dublin City Council's Planning Officer noted that the recent occupation of some vacant units in Artane Business Park provide relatively low-density employment uses, which would keep the site 'ticking over' pending a more comprehensive and sustainable long-term use / development. The Planning Officer considered that the proposed development would substantially and permanently reduce the area for enterprise / employment type development.

3.2.3. Overall, it was considered that the residential portion of the proposal would be marginally subsidiary to the commercial mix of uses, with the commercial floorspace considered too reliant on the presence of a hotel, with a minor portion only of enterprise / employment floorspace. As such, it was considered that the proposed development would be contrary to the Z6 land use zoning objective of the site.

3.2.4. The Planning Officer noted that it would be preferable if Artane Business Park was redeveloped as a single scheme, with the current proposal considered somewhat unilateral and piecemeal in nature.

3.2.5. The Planning Officer noted that the proposed development is set back from the western site boundary by between 900 mm and 3 m, with concerns arising in relation to these separation distances should the adjoining site be developed for residential purposes. The Planning Officer also considered that the potential of the proposed development to impact negatively on the development potential of the lands on the eastern side of the access road by way of overlooking had not been considered. It was also noted that the proximity of the Timber Mills site to Artane Business Park

should not be regarded as a positive precedent for the proposed development and its relationship to its neighbouring lands.

3.3. Other Technical Reports

3.3.1. **Engineering Department – Drainage Division:** No objection to the proposed development subject to conditions.

3.3.2. **City Archaeologist:** Suitable conditions identified in the event planning permission is granted for the proposed development.

3.3.3. **Transportation Planning Division:** Recommends that Further Information be requested in relation to 5 no. items as summarised below:

3.3.4. Item No. 1

(a): Demonstrate that the proposed site access and junction design layout has the ability to safely accommodate the subject development in addition to the existing uses of adjoining units using the site access and internal access road and associated vehicular traffic movements.

(b) Submit sightlines and swept path analysis for the modified site access junction layout.

(c) Incorporate measures on public lands to demonstrate pedestrian prioritisation and enhance pedestrian crossing safety at the entrance, including dropped kerbs, contrasting materials, signing, road marking, etc to ensure that vehicles entering and leaving the development are aware that pedestrians and cyclists have priority across the site entrance and that vehicles must yield right-of-way.

(d) Assess the impact of the existing car park east of the existing entrance to the front of the 'Storebox' building and the associated vehicle manoeuvres across the site entrance and internal access road.

(e) A minimum 2.2 m public footpath should be incorporated along the southern boundary of the site adjoining Kilmore Road. All footpaths within the scheme should be a minimum of 2.0 m in width, including those to the rear of set-down areas.

(f) The Stage 1 RSA should be revised to consider the proposed modified junction.

(g) Provide a comprehensive site plan showing the proposed development in the context of the existing adjoining buildings and car parking areas.

3.3.5. Item No. 2

- (a) The applicant is requested to submit an increased quantum of parking for the residential component of the proposed development.
- (b) The applicant is requested to submit a Car Parking Strategy to outline details of car park management, parking bay allocation and visitor parking. This division does not support the sale of car parking spaces with any use, in particular residential units. Spaces should be managed separately to any units/use and managed on a permit basis reviewed frequently.
- (c) Provide dedicated motorcycle parking to development plan standards.
- (d) Increase the residential bicycle parking quantum to align with the Design Standards for New Apartments provision requirements of minimum one cycle parking space per bedroom. Revised drawings required.
- (e) Provide dedicated parking for cargo bikes.
- (f) Consider the incorporation of additional measures to support a reduced car parking residential and hotel development and promote alternative sustainable transport modes.

3.3.6. Item No. 3

The applicant is requested to address concerns regarding a number of potential conflicts within the proposed set-down and loading areas, including:

- (a) Conflict between vehicles entering and egressing the car lift and vehicles egressing the set-down area south of Block B.
- (b) Demonstrate the ability of buses/coaches to set-down and submit a revised swept path analysis for coaches entering, egressing and circulating within the site.
- (c) Conflict between long wheelbase vehicles (HGVs/refuse trucks/coaches) and parked vehicles, cycle parking stands and structural components of the development as demonstrated in the swept path analysis drawings.
- (d) Demonstrate with auto-tracking that service/delivery/emergency vehicles can successfully enter/egress the set-down and loading bays while another vehicle is stationary in the adjoining bay.

3.3.7. **Item No. 4**

Submit an Outline Servicing and Operations Plan.

3.3.8. **Item No. 5**

(a) The applicant is requested to outline lands, if any, that are proposed to be taken in charge.

(b) Submit a letter from the relevant landowner confirming the applicant has legal right of way on the internal access road.

3.3.9. **Environmental Health Officer:** A Construction Management Plan must be submitted prior to commencement of development confirming air and noise pollution mitigation measures that must be in place on site throughout the construction works.

3.4. **Prescribed Bodies**

3.4.1. **Irish Water:** None received.

3.4.2. **Dublin Airport Authority (DAA):** Requests that a condition be attached to any grant of permission requiring the developer to agree any proposals for crane operations in advance of construction with DAA and the IAA.

3.4.3. **Irish Aviation Authority (IAA):** Two reports were received from the IAA, one of which is dated 4th August 2021, with the second report being undated. The 1st report required more detail from the applicant regarding the elevation of the proposed buildings and cranes during construction. The second report notes that, in the event planning permission is granted, the application should be conditioned to provide at least 30 days advance notification to DAA/Dublin Airport and the IAA's Air Navigation Service Provider (IAA-ANSP) with regard to the erection of any cranes on site.

3.5. **Third Party Observations**

3.5.1. A total of 13 no. third-party observations were made on the application by: (1) Maryfield Artane Residents Association c/o Maureen McMahon, 87 Ardcollum Avenue, Artane, Dublin 5, (2) Gerta Nestorowicz and Tomasz Michalski, Apartment 60 Timber Mills, Kilmore Road, Dublin 5, (3) Peter Kilcullen, Apartment 16, Block C Timber Mills, Kilmore Road, Artane, Dublin 5, (4) Kiaran O'Malley + Co. Ltd. on behalf of Timber Mill Management Company Limited, 15 Adelaide Street, Dún Laoghaire, Co. Dublin, (5) Derek Brazil, Apartment 83, Block A, Timber Mills, Artane,

Dublin 5, (6) Michael Grange, 85 Ardcollum Avenue, Artane, Dublin 5, (7) Helen Hutton, 118 Timber Mills, Kilmore Road, Artane, Dublin 5, (8) Luciano Forte, Apartment 117 The Timber Mills, Artane, Dublin 5, (9) Ann Higgins, 84 Timber Mills, Artane, Dublin 5 and Angela Leahy, 87 Timber Mills, Artane, Dublin 5, (10) Aidan Curran, 57 Timber Mill, Artane, Dublin 5, (11) Stephen Feeley, 143 Timber Mill, Kilmore Road, Artane, Dublin 5, (12) McDonnell Dixon Partnership on behalf of Xestra Asset Management, 132 Baggot Street Lower, Dublin 2, and (13) Geraldine Cashman, 2 Dollymount Park, Clontarf, Dublin 3.

3.5.2. A representation was also made on the application by Cllr. Alison Gilliland.

3.5.3. The issues which are raised can be summarised as follows: (1) significant existing traffic volumes on Kilmore Road, (2) additional demand on local infrastructure would result in considerable disruption to local residents, (3) excessive building height and scale, (4) negative impact on car parking and traffic congestion, (5) overlooking of adjoining residential properties, (6) overshadowing of ground floor apartments in Timber Mills complex and loss of daylight to 1st and 2nd floor apartments, (7) insufficient car parking provision, (8) no local demand for commercial units or hotel use, (9) negative construction impacts, (10) inadequate separation distances to Timber Mills development, (11) piecemeal development of a site which forms part of a larger block of Z6 and Z4 zoned lands, (12) proposal does not adequately provide for the creation and protection of employment opportunities as required under the Z6 land use zoning, (13) residential units would inhibit employment creation and enterprise development on the subject site and on adjoining lands, (14) BTR units not appropriate, (15) loss of local crèche/childcare facility, (16) regenerative development of the Artane Business Park is generally supported, (17) insufficient public open space, (18) residential use not permitted on Z7 zoned land, (19) future connection to former Butterly Business Park not supported by adjoining landowner, (19) planning application reg. ref. 2785/10 will not be implemented on the former Butterly Business Park site.

4.0 Planning History

- **Subject Site**

4.1. **Planning Authority Reg. Ref. 3574/06:** Planning permission granted on 19th December 2006 for a change of use from general commercial to crèche at unit no. 2, the Old Novum Building, Kilmore Road, Artane, Dublin 5 to include internal alterations, outdoor play area, car set down area, off-street parking and new signage.

4.2. **Planning Authority Reg. Ref. 2080/06:** Planning permission granted on 15th August 2006 for a change of use from general commercial to car service/auto repair work at unit no. 1 the Old Novum Building, Kilmore Road, Artane, Dublin 5 to include internal alterations, new pedestrian access, off-street parking and new signage.

- **Neighbouring Sites**

4.3. **Planning Authority Reg. Ref. 2785/10; ABP Ref. 29N.238307:** Planning permission (10 years) granted by An Bord Pleanála on 4th July 2012 for 178 no. residential units, a 81 no. bedroom hotel, retail uses, office/employment uses, a medical centre, a crèche, a multi-purpose community facility, basement and surface carparking, cycle parking, and public and communal open space.

4.4. This permission relates to the adjoining Butterly Business Park to the west of the subject site. This permission has not been implemented.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Land Use Zoning

5.2.1. The site is subject to land use zoning “Z6” (Employment / Enterprise) which has the objective “to provide for the creation and protection of enterprise and facilitate opportunities for employment creation”. Hotel and enterprise centre uses are permissible under this zoning objective, while office and residential uses are open for consideration.

5.2.2. Section 14.8.6 of the development plan notes that Z6 lands constitute an important land bank for employment uses in the city, which is strategically important to protect.

The permissible uses on these lands will be accommodated in primarily office-based industry and business technology parks, developed to a high environmental standard and incorporating a range of amenities, including crèche facilities, public open space, green networks and leisure facilities.

5.2.3. The incorporation of other uses, such as residential, recreation and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective, nor with the vitality and viability of nearby district centres.

5.2.4. Within the Z6 zoning, the following development principles shall apply:

- **Employment:** Any redevelopment proposals shall ensure that the employment element on site should be in excess of that on site prior to re-development in terms of the numbers employed and/or floorspace.
- **Uses:** To incorporate mixed uses in appropriate ratios. All such uses, including residential and retail, shall be subsidiary to employment-generating uses and shall not conflict with the primary aim of the zoning to provide for the employment requirements of the city.
- **Transport:** To maximise access to public transport connections and proposed public transport infrastructure.
- **Built Environment:** To create a distinct identity for individual areas with a high-quality, physical environment and coherent urban structure.
- **Landscape:** To exploit and integrate natural amenities, biodiversity considerations and emerging strategic green networks in the layout of emerging urban structures.

5.3. Housing

5.3.1. The housing policies of Dublin City Council are set out in chapter 5 of the development plan. Those policies which are relevant to this appeal case are identified below.

5.3.2. **Policy QH1:** To have regard to the DEHLG Guidelines on '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007), '*Delivering Homes Sustaining Communities –*

Statement on Housing Policy (2007), *'Sustainable Urban Housing: Design Standards for New Apartments'* (2015) and *'Sustainable Residential Development in Urban Areas'* and the accompanying *'Urban Design Manual: A Best Practice Guide'* (2009).

- 5.3.3. **Policy QH5:** To promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.
- 5.3.4. **Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 5.3.5. **Policy QH8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- 5.3.6. **Policy QH18:** To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.
- 5.3.7. **Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

5.4. **City Economy and Enterprise**

- 5.4.1. **Policy CEE1: (i)** To promote and enhance the role of Dublin as the national economic engine and driver of economic recovery and growth, with the city centre as its core economic generator.

(ii) To promote and enhance the city's competitiveness and to address deficits, to improve the business environment so that existing jobs are supported and employment generated, and to be creative and practical in its responses to current economic challenges and opportunities

5.5. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)

5.5.1. The proposed development includes 17 no. 1-bedroom/2-person units and 24 no. 2-bedroom/4-person units. The 1-bedroom units range in size from 53.7 m² – 57.1 m² and the 2-bedroom units range in size from 78.9 m² – 84.8 m².

5.5.2. The key development standards for apartment units in the context of this appeal case are summarised below:

- **Overall floor area:** 1-bedroom unit - 45 m²; 2-bedroom/4-person unit – 73 m². The majority of the units shall exceed the minimum floor area standards by 10%.
- **Unit Mix:** Max. 50% 1-bedroom units, with no requirement for 3-bedroom units.
- **Storage space:** 1-bedroom unit - 3 m²; 2-bedroom/4-person unit – 6 m². Storage for bulky items should also be provided outside individual apartment units.
- **Dual Aspect Ratio:** Minimum 50% dual aspect units; where single aspect apartments are provided, the number of south facing units should be maximised, with east and west facing units also acceptable.
- **Floor to Ceiling Height:** Min. of 2.4 m required, but 2.7 m encouraged.
- **Lift and Stair Cores;** Max. of 12 apartments per floor per core.
- **Private amenity space:** 1-bedroom unit - 5 m²; 2-bedroom/4-person unit – 7 m².
- **Communal amenity space:** 1-bedroom unit - 5 m²; 2-bedroom/4-person unit – 7 m².
- Private and communal amenity space may adjoin each other, but there should be a clear distinction, with an appropriate boundary treatment and/or a 'privacy strip' between the two. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.

- **Public open space:** No requirement identified under the Guidelines. Section 11.3.1 (iii) of the development plan requires that a minimum of 10% of the site area in new residential developments shall be provided as public open space.
- **Bicycle parking:** 1 cycle storage space per bedroom, with visitor parking required at a rate of 1 space per residential unit.

Car parking: In suburban/urban locations served by public transport or close to town centres or employment areas (intermediate urban locations), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum standard.

5.5.3. Provision shall be made for the **storage and collection of waste** materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/ lift core and designed for the projected level of waste generation and types and quantities of receptacles required.

5.5.4. The following specific provisions of the Guidelines apply to **Build-To-Rent (BTR) Housing Developments**.

5.5.5. **Specific Planning Policy Requirement 7:** BTR development must be:

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

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

(i) 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.

5.5.7. The nature and extent of the resident services and amenities may be agreed by the project developer and the planning authority having regard to the scale, intended location and market for the proposed development. The developer will be required to provide an evidence basis that the proposed facilities are appropriate to the intended rental market.

5.5.8. **Specific Planning Policy Requirement 8:** For proposals that qualify as specific BTR development in accordance with SPPR 7:

(i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise.

(ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity.

(iii) 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 proximate 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.

(iv) 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 to BTR schemes.

(v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.

5.5.9. Part V requirements apply to BTR schemes.

5.6. **Urban Development and Building Heights Guidelines for Planning Authorities (2018)**

5.6.1. The Guidelines confirm that in suburban/edge locations, development should include an effective mix of 2, 3 and 4 storey developments which integrate well with existing and historical neighbourhoods. Developments of 4-storeys or more in height can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets.

5.7. **National Planning Framework (NPF)**

5.7.1. The NPF sets out objectives which aim to secure more compact and sustainable growth patterns in urban areas in the period to 2040.

5.7.2. **National Policy Objective 3b** seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

5.8. **Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region**

5.8.1. The purpose of the RSES is to support the implementation of the NPF by providing a long-term strategic planning and economic framework for the development of the region to 2031, including the promotion of compact growth and urban regeneration and sustainable settlement patterns. The RSES sets out a number of Regional Policy Objectives (RPO), with the following considered most relevant to the assessment of this appeal case:

5.8.2. **RPO 4.3:** 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.

5.9. **Natural Heritage Designations**

5.9.1. None.

5.10. EIA Screening

5.10.1. Class (10)(b) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

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

5.10.2. It is proposed to construct a mixed-use scheme of 10,323 m², including 41 no. apartment units which is significantly below the 500-unit threshold noted above. The site has an area of 0.4073 ha and is well below the applicable threshold of 10 ha. The introduction of this mixed-use scheme would have no adverse impact in environmental terms on surrounding land uses. The site has already been developed for warehousing / industrial purposes. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not like to have a significant effect on any European site. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other developments in this established outer suburban area. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal.

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

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal against the Planning Authority's Notification of the Decision to Refuse Permission has been lodged by Sheridan Woods Architects + Urban Planners in consultation with Curtains Consulting Ltd, Consulting Civil and Structural Engineers on behalf of the applicant. The grounds of appeal can be summarised as follows:

- The proposed hotel, office and enterprise uses are permissible on Z6 zoned lands, while residential uses are open for consideration. Thus, the proposed uses conform with the zoning objective, subject to their proportion and quantum and their compliance with the land use zoning development principles.
- The proposed residential use is subsidiary to the proposed commercial uses in accordance with development plan requirements.
- The existing crèche development on the site has 7 no. employees, with the remainder of the existing structure being vacant. This structure has limited capacity to generate any meaningful employment opportunities.
- The proposed development has the potential to generate employment for up to 154 persons, and as such, will ensure that the employment element on site exceeds the existing situation. As such, it is requested that the quantum of residential development is dismissed as a reason for refusal.
- The proposed development will significantly exceed the existing employment floorspace.
- Recent Dublin City Council decisions to permit low-density employment uses within the Artane Business Park, will result in the perpetuation of low-density employment uses, which is contrary to the zoning objective of the site.
- The proposed development represents an opportunity to redress the low-density employment within the business park and it should be permitted on the basis that it conforms with and fulfils the land use zoning employment objective of the site.

- The subject site has an area of 0.407 ha and accounts for 29% of the overall business park site. If the Board has concerns regarding the proposed quantum of employment uses, there is more than sufficient additional site area within the estate to further increase such uses.
- The regeneration of the subject site will enhance the potential and attractiveness of the business park for further redevelopment and regeneration.
- The hotel and enterprise uses will provide for the creation and protection of enterprise and will facilitate employment creation. The residential uses will complement the employment uses and enhance the mix of residential dwelling types in the area.
- A report has been prepared by Robert Colleran Property Consultants which provides an overview of the appropriateness and viability of the proposed hotel use on the site. The absence of hotels in the area also point to a demand for such a use.
- Should the Board have concerns in relation to the phasing of the commercial and residential uses, the applicant is willing to accept a condition requiring that the residential use cannot be occupied prior to the completion and operation of the proposed hotel use.
- Dublin City Council previously granted planning permission for a nursing home and homes for the elderly on the Smurfit Kappa site, which was subject to a Z6 land use zoning objective.
- The overall layout has been carefully designed to ensure that it does not undermine the development potential of the adjoining sites, while at the same time enabling the proposed development to progress as a stand-alone scheme in the short term.
- In the event the immediately adjoining site to the west within Butterly Business Park is developed in the future, modifications can be undertaken to the proposed development to ensure the development potential of this site is not inhibited and to avoid overlooking.

- These modifications include: (i) the omission of the proposed centrally located 1-bedroom units to the west and the provision of a lightwell in their place, (ii) reorientation of proposed bedrooms to the 2-bedroom units so that the bedrooms face the courtyards and lightwells, with obscure kitchen windows provided to the western elevation (Drawing No. ABP-005 submitted with the appeal refers). Should the Board consider granting permission in this instance, the applicant will accept a condition which requires the undertaking of these modifications.
- The design of the proposed development takes account of the development potential of Artane Business Park and its relationship with the Timber Mills site. The proposed building heights are sensitive to the adjoining building heights, with a 4-storey height maintained alongside the Timber Mills Kilmore Road frontage and matching 3-storey block parallel to the existing.
- The proposed development has been designed with bedrooms facing the access route, which provides ample flexibility with regard to the design of any future development on the opposite site.
- It is refuted that the proposal is unilateral and piecemeal, and that the development would unduly diminish neighbouring development potential and the consolidated and comprehensive development of the area.
- The issues which have been identified by the Transportation Division of Dublin City Council have been addressed by Curtins Consulting Engineers. It is confirmed that the existing junction and alignment with Kilmore Road will remain the same. Additional swept path analysis has been completed to demonstrate that the junctions can accommodate the required vehicles to service the proposed development. The existing access road surface will be improved and the proposed increase in the access road width improves access to the 'Storebox' premises. Increased frontage activity on the access road will have lower traffic speeds and increase driver awareness.
- Curtins Consulting Engineers also identify that sustainable transport links and clear evidence of significantly reduced car ownership in occupants of rental properties, supports the proposed level of car parking.

- Notwithstanding the foregoing, the applicant is willing to propose an option which omits an enterprise unit at ground floor level to provide an additional 8 car parking spaces, 2 motorcycle parking spaces and 24 bicycle parking spaces. The design has also been modified to provide a dedicated bike repair centre and bike rental scheme for hotel guests and residents of the BTR units.
- The concerns regarding conflicts between access to the car lifts and the loading bays have been clarified with swept path analysis drawings, with supporting measures to be agreed at detailed design phase.
- Coach access to the hotel is not anticipated. In the event such access is required, it can be accommodated with temporary blocking of the access by staff for a maximum of 10 minutes.
- It is not anticipated that the development will be taken in charge.
- The proposed development complies with the Apartment Design Guidelines with respect to unit mix, dual aspect ratio, apartment sizes, private open space and ancillary support services.
- While children's play space has not been provided, the proposed open space can readily accommodate same if deemed appropriate.
- There is no requirement to provide a childcare facility under the Apartment Design Guidelines. The area is well served by 4 no. existing facilities proximate to the application site.
- No public open space is proposed but the applicant is willing to accept a condition requiring a financial contribution in lieu of same.
- No adverse impacts are anticipated in relation to micro-climate and solar glare / dazzle. The applicant is willing to accept a condition requiring the undertaking of a study in relation to these matters if deemed appropriate.
- Noise and disturbance from the operation of car parking will be a key consideration in the detailed design of the development. The applicant is willing to accept a condition to address this matter by way of compliance if deemed necessary.

- It is requested that An Bord Pleanála grant planning permission for the proposed development on the basis that it provides a balanced mix of uses that conform with the Z6 land use zoning objective, has the potential to significantly increase the employment potential of the site and the employment floorspace, while also providing residential accommodation to create a sustainable, mixed-use community.

6.1.2. The appeal submission includes: (i) a copy of the Planning Authority's decision (Appendix A), (ii) a copy of the Planning Officer's report and the report of the Transportation Planning Division of Dublin City Council (Appendix B), revised planning drawings and swept path analysis drawings (Appendix C), (iii) correspondence from Fiona Murray Solicitor (Appendix F) which confirms that a right of way over the access is in existence and is registered on the applicant's title at the property, (iv) commentary from the applicant on the Notification of the Decision to Refuse Permission (also annotated as Appendix F), and (v) a copy of the Architectural Design Statement, Planning Report and Landscape Planning Report which accompanied the application.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. A total of 2 no. observations have been made on the appeal by: (1) Kiaran O'Malley + Co. Ltd. Town Planning Consultants on behalf of Timber Mills Management Company, 15 Adelaide Street, Dún Laoghaire, Co. Dublin, and (2) Maryfield / Artane Residents Association, c/o Maureen McMahon, 87 Ardcollum Avenue, Artane, Dublin 5.

6.3.2. The issues which are raised can be summarised as follows: (1) large volumes of existing traffic, (2) existing local infrastructure would not cope with additional demand, (3) excessive building height, (4) overlooking, overshadowing and loss of light to adjoining Timber Mills development, (5) insufficient car parking will result in overflow parking in Timber Mills, (6) insufficient separation distances, (7) piecemeal development, (8) non-compliance with Z6 land use zoning objective, (9) build-to-rent

units would inhibit employment creation and enterprise development on the subject site and adjoining lands, (10) sufficient residentially zoned land is available elsewhere in the city.

7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Compliance with Land Use Zoning Objective
- Impact on Development Potential of Adjoining Lands
- Traffic / Access / Parking
- Impact on Neighbouring Residential Developments
- Compliance with Development Management Standards
- Development Height / Form / Scale
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

7.3. **Compliance with Land Use Zoning Objective**

7.3.1. Refusal reason no. 1 of the Planning Authority's Notification of the Decision to Refuse Permission was based on the proposed quantum of residential development, which it was considered, would not be sufficiently subsidiary to the employment generating uses, and as such, would materially contravene a development objective indicated in the development plan for the zoning of land and would conflict with the objective to develop the area as an employment centre in accordance with the strategic direction of section 14.8.6 of the plan.

7.3.2. In response to the foregoing, the applicant's agent submits that the proposed residential use is subsidiary to the proposed commercial uses in accordance with development plan requirements and that the proposed development will significantly exceed the existing employment floorspace. It is noted that the existing crèche facility employs 7 staff members, with the remainder of the existing structure being vacant and having limited capacity to generate any meaningful employment opportunities. It is stated that the proposed development has the potential to

generate employment for 154 no. persons, ensuring that the existing employment figures are exceeded. The applicant's agent also submits that the subject site accounts for 29% of the overall business park and should the Board have concerns regarding the proposed quantum of employment uses, there is more than sufficient additional site area to increase same. It is requested that the quantum of residential development be dismissed as a refusal reason by An Bord Pleanála.

- 7.3.3. The stated gross floor area of the proposed development as set out on the planning application form is 3,642 m² residential use and 5,034 m² commercial use, with the latter including the hotel, enterprise/office units and bin/bicycle storage. The total floor area of the proposed development is 10,323 m². Dublin City Council's Planning Officer determined that the residential uses accounted for 42% of all the new floor area, with the commercial floorspace accounting for 58% and primarily including the hotel and associated uses. The enterprise/office uses were noted to account for just 11.4% of the proposed floor area.
- 7.3.4. The appeal submission discusses the appropriate method to calculate the ratio of residential and commercial floorspace, with the applicant's agent suggesting that a higher commercial floorspace figure of 6,400 m² should be used. This includes 1,366 m² of supporting service space, the majority of which is accounted for by car parking (1,266 m²). Based on this higher figure, the commercial and service floorspace would account for 61% of the total, while the residential use would account for 35%.
- 7.3.5. In my opinion, the supporting service space which has been included in the applicant's calculations cannot reasonably be considered an enterprise / employment generating use. As such, I consider the commercial and residential land uses should be calculated as a percentage of the total proposed gross floor area (10,323 m²). Based on the foregoing, the residential uses would account for 35% of the proposed development, while the commercial uses would account for 49%.
- 7.3.6. The primary objective for Z6 zoned land is "to provide for the creation and protection of enterprise and facilitate opportunities for employment creation". The development plan notes that these lands constitute an important land bank for employment uses in the city, which is strategically important to protect. The plan envisages that the permissible uses on Z6 zoned land will be primarily accommodated in office-based industry and business and technology parks. Other uses, such as residential, will be

at an appropriate ratio where subsidiary to the main employment generating uses and they shall not conflict with the primary aim of the zoning to provide for the employment requirements of the city.

- 7.3.7. In my opinion, the proposed development does not accord with the primary objective to develop Z6 zoned lands for enterprise/employment generating uses given that the hotel use accounts for the majority of the commercial floorspace and having regard to the quantum of residential development which is proposed. I do not accept the argument made by the applicant's agent that there are sufficient lands to facilitate employment uses elsewhere within the business park, as it suggests that other landowners would be subject to more 'restrictive' requirements in relation to land use mix compared with the applicant. In my opinion, there is no development plan provision which would enable the proposed development to be adjudicated on this basis.
- 7.3.8. While I acknowledge that the business park currently accommodates low grade uses, is significantly underutilised and is suitable for redevelopment, I consider that this application in isolation, would facilitate the piecemeal redevelopment of the overall site. As such, I agree that the proposed development would materially contravene the Z6 zoning objective, and as such, would be contrary to development plan provisions and the proper planning and sustainable development of the area. I agree with the Planning Authority's assessment in this regard, and I recommend that planning permission be refused on this basis.

7.4. Impact on Development Potential of Adjoining Lands

- 7.4.1. Refusal reason no. 2 of the Planning Authority's decision was based on the proximity of the proposed development to adjoining third party sites, which it was considered, would unduly diminish neighbouring development potential and the consolidated and comprehensive development of the area.
- 7.4.2. In responding to this refusal reason, the applicant's agent submits that the overall layout has been carefully designed to ensure it does not undermine the development potential of the adjoining sites. In the event the adjoining site to the west within Butterly Business Park is developed in the future, modifications are suggested to ensure the development potential of this site is not inhibited and to avoid overlooking. Drawings of the proposed modifications accompany the appeal

(Drawing Nos. ABP-001 and ABP-002). It is also submitted that the design of the proposal takes account of the development potential of Artane Business Park and its relationship to the Timber Mills site, with the proposed building heights being sensitive to those adjoining.

- 7.4.3. The planning application illustrates the proposed development in the context of the existing developments adjoining the site (Drawing No. PA-002), in the context of the permitted development to the west within Butterly Business Park (Planning Authority Reg. Ref. 2785/10; ABP Ref. 29N.238307) and in the context of a notional development scenario for the adjoining lands to the east within Artane Business Park (Drawing No. PA-003). The existing planning permission on the adjoining site to the west will shortly expire and I note that the site owners have confirmed they do not intend to implement this permission, that they do not wish to seek permission for a similar development in the future and they do not wish to establish any connections between the two sites.
- 7.4.4. The proposed set-back of the upper floors of Blocks A and B from the site boundaries above 1st floor level are not identified on the floor plan drawings. In reviewing the building footprint on the proposed ground and first floor plans (Drawing Nos. PA-004 and PA-005), I note that a set-back of approx. 2 m arises between the north-western elevation of Blocks A and B and the shared boundary with Butterly Business Park. Separation distances of between approx. 8.1 m and 9.2 m arise to the neighbouring industrial units on the eastern side of the internal access road within Artane Business Park, with a separation distance of 19 m arising between the proposed hotel and the 2-storey office building to the east, towards the front of the business park site. Separation distances of between 9.7 m and 25.8 m arise to the neighbouring industrial unit directly to the north / rear of the site.
- 7.4.5. The modifications which been suggested to the proposed development so that it does not inhibit the development potential of adjoining sites include: (i) the omission of the proposed centrally located 1-bedroom dwellings to the west and the provision of a lightwell in their place and (ii) the reorientation of the 2-bedroom units so that the bedrooms face the courtyard and lightwells and (iii) the provision of obscured kitchen windows facing west to ensure there is no overlooking of the adjoining development.

- 7.4.6. In my opinion, the set-back of the proposed development from the western site boundary is entirely insufficient and would have a negative impact on the future development potential of the adjoining lands. Given that the proposed development includes residential units on the upper floors of the blocks, any future development within this adjoining site would need to be significantly set-back from the shared boundary to avoid overshadowing and overlooking impacts on the residential units which are proposed under this appeal case. While I acknowledge the modifications which have been suggested to the proposed development in the appeal submission, in my opinion, these modifications are material and would warrant the readvertisement of the application to third parties and would be more appropriately considered under a revised planning application.
- 7.4.7. While increased separation distances arise to the adjoining land to the east within Artane Business Park, I also consider that the proposed development would have a negative impact on the development potential of these lands for the same reasons outlined above. While I acknowledge that reduced separation distances between blocks can be appropriate in an urban context, I consider that separation distances of between approx. 8 – 9 m are insufficient in this outer suburban context. I note the larger separation distances occurring to the neighbouring lands to the north within the business park, and as such, I do not consider that the proposal would have the same extent of impact on the development potential of these lands.
- 7.4.8. As such, I agree with the Planning Authority's assessment that the proposed development would have a negative impact on the development potential of adjoining lands, in particular to the east and west, and I consider that planning permission should be refused for the proposed development on this basis.

7.5. Traffic / Access / Parking

- 7.5.1. The planning application documentation includes a Traffic and Transport Assessment (TTA), a Residential / Office Interim Mobility Management Plan and a Hotel Interim Mobility Management Plan. The development will be accessed via Kilmore Road and vehicles will travel northwards along the internal access road, past the exit from the undercroft in Block A, towards the shared surface between Blocks A and B. From this location, vehicles turn left into the undercroft to access car parking

and then exit in a one-way arrangement southbound, where they turn right to exit back onto the internal access road.

- 7.5.2. The undercroft will accommodate 2 no. loading bays, 3 no. car club spaces, 2 no. delivery set down / car lift waiting spaces, 4 no. short-term hotel parking spaces and 13 no. general car parking spaces. Two car lifts are also located at undercroft level and provide access to 28 no. car parking spaces at 1st floor level. It is also proposed to provide 2 no. set-down spaces adjacent to the hotel entrance, parallel to the internal access road. A suggested parking allocation is identified in section 4.4.4 of the TTA although it is noted that this matter could be agreed by planning condition. The build-to-rent units have a low level of car parking provision, with just 8 no. spaces suggested for residential allocation.
- 7.5.3. It is proposed to provide 100 no. cycle parking spaces including 28 no. hoops at the hotel and in the undercroft, 22 no. cycle racks in a secure bike store at ground floor level of Block A and 50 no. cycle racks in a secure bike store at ground floor level of Block B.
- 7.5.4. The Transportation Planning Division of Dublin City Council identified concerns in relation to the proposed development layout design in the context of transportation planning, site access, circulation, residential parking, servicing and operations of the site itself and cumulatively with the adjacent site operations. A Request for Further Information was recommended in relation to the application as summarised in sections 3.3.4 – 3.3.8 of this report.
- 7.5.5. This request is considered in section 3.0 of the appeal submission, which states that the requested information has been addressed in a technical note prepared by Curtains Consulting Engineers and contained in Appendix D. A review of the appeal document confirms that this technical note has not been provided to the Board.
- 7.5.6. Notwithstanding the foregoing, a summary response of the technical note is included in the main body of the appeal document. It is stated that the existing junction and alignment with Kilmore Road will remain the same. Additional swept path analysis has been completed to demonstrate that the junction can accommodate the required vehicles to service the proposed development (Drawing Nos. 05001-P03, 05004-P02 and 05005-P01 refer). It is stated that the existing access road surface will be improved and the proposed increase in the access road width will improve access to

the adjoining Storebox premises to the east. Increased frontage activity on the access road will also lower traffic speeds and increase driver awareness.

7.5.7. The applicant has also proposed to omit a ground floor enterprise unit (unit no. 5 at the northern end of the scheme) to provide an additional 8 no. car parking spaces, 2 no. motorcycle spaces and 24 no. bicycle parking spaces within the site. A dedicated bike repair centre is also proposed, together with a bike rental scheme for hotel guests and residents of the BTR scheme. These amendments are illustrated on Drawing No. ABP-001 which accompanies the appeal (Suggested Modifications to Proposed Ground + First Floor Plans – For Consideration).

7.5.8. Given the extent of the Further Information which was requested by the Transportation Planning Division of Dublin City Council and having regard to the applicant's response as described above, I consider that insufficient information has been provided with the planning application and appeal regarding traffic, access and parking arrangements. In my opinion, it is not possible to determine if the requested additional information has been satisfactorily addressed by the applicant. Given the extent of the issues arising, in my opinion it would be inappropriate to address these matters by condition should the Board consider granting planning permission in this instance.

7.5.9. I also consider that the proposed omission of the enterprise unit to increase car, motorcycle and bicycle parking is a material alteration which would warrant the readvertisement of the application to third parties and which would be more appropriately considered under a revised planning application. I also note that the omission of this unit would further reduce the employment generating uses on the site.

7.6. Impact on Neighbouring Residential Developments

7.6.1. Several residents of the adjacent Timber Mills development made submissions on the planning application and raised concerns in relation to overlooking and overshadowing and the separation distances arising between the existing and proposed developments.

7.6.2. The Timber Mills scheme comprises a series of linear blocks of 3-4 storeys in height which adjoin and wrap around the eastern site boundary of Artane Business Park. The development is 4-storeys in height adjacent to Kilmore Road (Block D) and

includes commercial uses at ground floor level with residential above. The blocks to the rear are primarily 3-storeys in height and comprise apartments and own-door duplex units. A childcare facility is also located on the site to the rear of the 4-storey block.

- 7.6.3. This existing development has a limited set-back from the shared boundary with Artane Business Park, particularly Block B directly to the east of the subject site beyond the Storebox self-storage facility. The windows of the residential units in this block are orientated towards the subject site and wider business park. The development at the north-eastern end of the Timber Mills complex (Block A) comprises duplex units with rear gardens backing onto the shared boundary and a small number of units which are orientated in a north-south direction, rather than towards the subject site.
- 7.6.4. The separation distances between the proposed development and the Timber Mills are indicated on the "Proposed Site Plan in Existing Context" (Drawing No. PA-002). A separation distance of 42 m arises between the eastern elevation of the proposed hotel and the western elevation of the existing Block B. Although not annotated on the drawing, I note that a separation distance of approx. 36 m would arise between the proposed residential units in Block A and the western elevation of Block B in the Timber Mills. Stated separation distances of 38 m and 33.6 m would arise between the corner of proposed Block B and Blocks B and A respectively in the Timber Mills, increasing to 67.5 m between the rear corner of proposed Block B and the furthest unit in Block A of the Timber Mills to the north-east of the subject site.
- 7.7. I acknowledge that the proposed development would have an increased height compared to the Timber Mills, ranging from 7 storeys adjacent to Kilmore Road to 5-storeys in the central and rear portions of the site. However, I am satisfied that the separation distances arising would be acceptable and would result in no undue overlooking or overshadowing impacts on the existing development which would warrant a refusal of planning permission. I note that the applicant's Daylight and Sunlight Assessment also confirms that the proposed development would have no unacceptable impacts on this neighbouring development.

7.8. Compliance with Development Management Standards

- 7.8.1. The applicant's Architectural Design Statement contains a Housing Quality Assessment which demonstrates the scheme's compliance with the standards of the Apartment Design Guidelines. I note that all the proposed apartment units meet or exceed the required standards in relation to **internal floorspace, floor to ceiling heights** and **private amenity space**.
- 7.8.2. **Communal amenity space** is proposed by way of a landscaped terrace of 457 m² at 2nd floor level of Block A and by roof gardens of 267 m² to both Blocks A and B. The identified communal open space requirement in this instance is 253 m², and as such, the space provided significantly exceeds the minimum requirement. The applicant's Sunlight and Daylight Assessment confirms that 93% of the proposed amenity spaces will receive more than 2 hours of sunlight on 21st March, which exceeds the recommendations of the BRE Guidelines.
- 7.8.3. I note that the landscaped terrace within Block A directly adjoins the balcony spaces of the adjacent apartment units, and that a privacy buffer and screens would be appropriate to protect the amenity of the adjoining apartment units. This matter could be addressed by condition should the Board consider granting planning permission in this instance.
- 7.8.4. While Section 5.2.7 of the applicant's Planning Report states that this communal open space will also meet the development plan requirement for 10% of the site area to be provided as **public open space**, I consider that these areas cannot reasonably be categorised in this manner given that they form integral components of the proposed blocks. As such, I consider that a development contribution in lieu of public open space would be appropriate in the event the Board decides to grant planning permission for the proposed development.
- 7.8.5. A **separation distance** of approx. 23 m is proposed between the hotel accommodation and the residential units within Block A. A separation distance of approx. 21 m arises between the apartment units in Block A and the opposing units to the rear in Block B. In my opinion, these separation distances would be acceptable in the context of the redevelopment of a brownfield site within an urban area.

- 7.8.6. The applicant's Planning Report states that a **dual aspect ratio** of 88% has been achieved and that all the single-aspect units are south-facing and either overlook the proposed podium roof garden or the proposed urban square. The applicant's Daylight and Sunlight Assessment confirms that all rooms exceed the minimum recommendations for Average Daylight Factor and will be well lit.
- 7.8.7. In reviewing the floor plan drawings for the apartments, I note that the centrally located unit at each floor level on the northern elevation of Block A and Block B has a projecting window arrangement, with a limited aspect in an easterly and westerly direction. In my opinion, the relevant units (6 no.) cannot be reasonably categorised as dual-aspect, and as such, are north-facing single aspect. The Apartment Design Guidelines clarify that such units may be considered where they overlook a significant amenity such as a public park. This does not apply in this case, where the north-facing units in Block A would face the southern elevation of Block B, while the north-facing units in Block B would face the neighbouring industrial unit to the rear of the site.
- 7.8.8. Notwithstanding the overall percentage of dual aspect units which has been achieved, I consider that the site context is such that the proposed apartment units would generally have a poor aspect and standard of residential amenity by virtue of the site location and context, with the units being surrounded by commercial / industrial units on all sides, with limited amenity / green spaces provided at ground floor level. In my opinion, the development of the site for residential purposes as currently proposed, would not be consistent with the proper planning and sustainable development of the area and I consider that planning permission should be refused on this basis.
- 7.8.9. The proposed **communal residential facilities** include a concierge, community rooms, office and common room, in addition to a gym and business centre that is shared with the proposed hotel use. A Draft Operational Management Plan accompanies the application. I note that the Planning Authority did not raise any objections to the extent of the facilities proposed, subject to a recommendation that all internal communal rooms / spaces be provided with dedicated toilet facilities or have access to same.

7.9. Development Height / Form / Scale

7.9.1. The subject site is long and rectangular, extending between approx. 134 m and 145 m in depth, with a site frontage of approx. 28 m facing onto Kilmore Road. Block A is designed as two blocks linked by a 2-storey podium. The southern end of the block accommodates the proposed hotel use which has a height of 2 - 7 storeys (8-storeys including the roof top plant room). The 2-storey podium level links to the northern end of the block which is 5-storeys in height and will accommodate apartment units. Block B at the northern end of the site is also 5-storeys in height. The applicant's agent submits that the proposed development complies with the Building Height Guidelines, and specifically the development management criteria for increased building height as identified under SSPR 3.

7.9.2. In my opinion, the proposed 7-storey hotel would represent an abrupt transition in scale in the streetscape along Kilmore Road (see CGIs included in the applicant's Architectural Design Statement) having regard to the height of the existing developments adjoining the subject site. While I consider that the proposed building height range could be considered in principle at this location in the interests of the efficient redevelopment of a brownfield site, I further consider that the development of the subject site in isolation from the remainder of the business park and the resulting building height, form and scale, would have an unacceptable negative impact on the development potential of adjoining lands as previously discussed.

7.10. Appropriate Assessment

- Screening

7.10.1. I have reviewed the applicant's AA screening report and the screening assessment of the Planning Authority, both of which conclude that an AA of the proposed development is not required. The subject site is not located within or directly adjacent to any European site, and as such, there is no potential for **direct impacts** to occur. The closest European sites include:

- North Bull Island SPA (site code: 004006) located approx. 4 km to the east.
- North Dublin Bay SAC (site code: 000206) located approx. 4 km to the east.
- South Dublin Bay and River Tolka Estuary SPA (site code: 004024) located approx. 2.4 km to the south-east.

7.10.2. In considering the potential for **indirect impacts** to occur, I note that there is no hydrological connection between the subject site and the identified European sites and that it does not support any of the habitats or species which are qualifying interest for these European sites (see Appendix 1 of this report for details). Thus, there is no potential for indirect impacts, and as such, any potential **in-combination** impacts can be excluded.

7.10.3. In conclusion, in applying the source-pathway-receptor concept, and having regard to the nature and scale of the development, comprising a mixed-use scheme on a brownfield site in an established urban area, the availability of public water and wastewater services to facilitate the development, and the separation distances arising to the nearest Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

7.11. **Note**

7.11.1. The application has been advertised as a build-to-rent housing development in the statutory planning notices as required under SPPR 7 of the Apartment Design Guidelines. A draft legal covenant in relation to the long-term operation of the development as a build to rent scheme has not been provided as suggested in the applicant's planning report. However, I consider that this matter could reasonably be addressed by planning condition should the Board consider granting planning permission for the proposed development.

8.0 **Recommendation**

8.1. I recommend that planning permission be refused for the proposed development for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

- 9.1. Having regard to the Z6 land use zoning of the site, the objective of which is “to provide for the creation and protection of enterprise and facilitate opportunities for employment creation”, and the location of the site adjoining existing commercial / industrial land uses, it is considered that the proposed development, which contains a significant quantum of residential development, would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.
- 9.2. The proposed development, by reason of its proximity to the site boundaries and third-party lands, would have a detrimental impact on the development potential of the adjoining lands to the east and west. As such, the proposed development would be contrary to the land use zoning objective for the site and adjoining area, would depreciate the value of property in the area and would be contrary to the proper planning and sustainable development of the area.
- 9.3. The proposed development, by reason of the site configuration, context and setting, would offer a poor standard of amenity for future occupants of the proposed residential units by virtue of its proximity to the adjoining commercial / industrial uses to the north, east and west of the site and by the inclusion of north-facing, single-aspect units. The proposed development would, therefore, be contrary to the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” (2020) and the proper planning and sustainable development of the area.

Louise Treacy
Planning Inspector

19th August 2022

Appendix 1: Natura 200 Sites – Qualifying Interests & Conservation Objectives

| North Bull Island SPA (Site Code: 004006) | |
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| Qualifying Interests | <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p> |
| Conservation Objective(s) | <ul style="list-style-type: none"> - To maintain the favourable conservation condition of Light-bellied Brent Goose in North Bull Island SPA (A046) - To maintain the favourable conservation condition of Shelduck in North Bull Island SPA (A048) - To maintain the favourable conservation condition of Teal in North Bull Island SPA (A052) - To maintain the favourable conservation condition of Pintail in North Bull Island SPA (A054) - To maintain the favourable conservation condition of Shoveler in North Bull Island SPA (A056) - To maintain the favourable conservation condition of Oystercatcher in North Bull Island SPA (A130) - To maintain the favourable conservation condition of Golden Plover in North Bull Island SPA (A140) |

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| | <ul style="list-style-type: none"> - To maintain the favourable conservation condition of Grey Plover in North Bull Island SPA (A141) - To maintain the favourable conservation condition of Knot in North Bull Island SPA (A143) - To maintain the favourable conservation condition of Sanderling in North Bull Island SPA (A144) - To maintain the favourable conservation condition of Dunlin in North Bull Island SPA (A149) - To maintain the favourable conservation condition of Black-tailed Godwit in North Bull Island SPA (A156) - To maintain the favourable conservation condition of Bar-tailed Godwit in North Bull Island SPA (A157) - To maintain the favourable conservation condition of Curlew in North Bull Island SPA (A160) - To maintain the favourable conservation condition of Redshank in North Bull Island SPA (A162) - To maintain the favourable conservation condition of Turnstone in North Bull Island SPA (A169) - To maintain the favourable conservation condition of Black-headed Gull in North Bull Island SPA (A179) - To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it (A999) |
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| North Dublin Bay SAC (Site Code: 000206) | |
| Qualifying Interests | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p> |

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| Conservation Objective(s) | <ul style="list-style-type: none"> - To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in North Dublin Bay SAC (1140) - To restore the favourable conservation condition of Annual vegetation of drift lines in North Dublin Bay SAC (1210) - To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in North Dublin Bay SAC (1310) - To maintain the favourable conservation condition of Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) in North Dublin Bay SAC (1330) - To maintain the favourable conservation condition of Mediterranean salt meadows (<i>Juncetalia maritimi</i>) in North Dublin Bay SAC (1410) - To restore the favourable conservation condition of Embryonic shifting dunes in North Dublin Bay SAC (2110) - To restore the favourable conservation condition of Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ('white dunes') in North Dublin Bay SAC (2120) - To restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation ('grey dunes') in North Dublin Bay SAC (2130) - To restore the favourable conservation condition of Humid dune slacks in North Dublin Bay SAC (2190) - To maintain the favourable conservation condition of Petalwort in North Dublin Bay SAC (1395) |
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| South Dublin Bay and River Tolka Estuary SPA (site code: 004024) | |
| Qualifying Interests | <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> |

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| | <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p> |
| <p>Conservation Objective(s)</p> | <p>To maintain the favourable conservation condition of Light-bellied Brent Goose [A046]</p> <p>To maintain the favourable conservation condition of Oystercatcher [A130]</p> <p>To maintain the favourable conservation condition of Ringed Plover [A137]</p> <p>To maintain the favourable conservation condition of Knot [A143]</p> <p>To maintain the favourable conservation condition of Sanderling [A144]</p> <p>To maintain the favourable conservation condition of Dunlin [A149]</p> <p>To maintain the favourable conservation condition of Bar-tailed Godwit [A157]</p> <p>To maintain the favourable conservation condition of Redshank [A162]</p> <p>To maintain the favourable conservation condition of Black-headed Gull [A179]</p> <p>To maintain the favourable conservation condition of Roseate Tern [A192]</p> |

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| | <p>To maintain the favourable conservation condition of Common Tern [A193]</p> <p>To maintain the favourable conservation condition of Arctic Tern [A194]</p> <p>To maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it [A999]</p> |
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