



An
Bord
Pleanála

Inspector's Report ABP 312225-21

Development	Construction of 10 storey apartment building with 44 units and all associated site works.
Location	Site at the junction of Appian Way and Leeson Street Upper, Dublin 6 (adjacent to No. 1 Leeson Street Village and the Mitchel House Apartments).
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3562/21
Applicant(s)	RGRE J & R Valerys Limited.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	RGRE J & R Valerys Limited.
Observer(s)	Courtney House Management CLG Upper Leeson Street Area Residents Association

Mitchel House Management Company.

Leeson Village Management Company.

Aidan and Christian Cavey.

Philip Crowe.

Diane Balding.

James Collins.

Date of Site Inspection

25th November 2022

Inspector

Brendan Coyne

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1.0 Site Location and Description

1.1. This is a corner site (0.092 hectares) located on the southern side of Leeson Street Upper (R138) and the eastern side of Appian Way in Dublin 6. The site is currently vacant and overgrown with mature deciduous trees and vegetation. The site's roadside boundary is defined by a stone wall and railing, with hoarding to its front. The site is bound to the southeast by a terrace of 3-storey dwellings with the gated residential development known as Leeson Village. The southwestern boundary adjoins the estate grounds of a 4-storey apartment complex containing two residential blocks named Mitchel House (closest to the site) and Courtney House. Car parking spaces, a refuse store and an internal access road serving Mitchel House are located along the southwestern boundary of the appeal site. Mitchel House and Courtney House are four storeys high, with their fourth floors recessed. Opposite the site, to the north and northeast along Leeson Street Upper, are terraces of two-storey over basement-level dwellings (Protected Structures). Opposite the site, to the northwest, along Leeson Street Upper, is a row of two-storey over-basement dwellings (Protected Structures). These Protected Structures along Leeson Street Upper date from the 1840s and are characterised by long gardens/car parking forecourts to their front. Historical maps show that the appeal site originally comprised a large garden to the front of 3 no. dwellings (now demolished) fronting Leeson St. Upper, similar to and aligning with the existing dwellings Nos. 58 and 59 Leeson St. Upper to the north-west. A Dublin Bus stop is located directly opposite the site and approximately 55 meters to the northeast along Leeson St. Upper on the same roadside, and another Dublin Bus stop is located directly in front of Courtney House along Appian Way. Along the northern side of Appian Way, there is limited pay and display on-street parking. Ranelagh Village is c. 620m to the southwest, Donnybrook Village is c. 970m to the southeast, and a parade of shops is situated c. 500m to the southeast. The topography of the site is relatively flat.

2.0 Proposed Development

- 2.1.1. Permission is sought for the following, as described in the public notices;
- Construction of 44 no. 'Build-to-Rent' apartment units over 10 no. storeys with a dwelling mix of 29 studio and 15 one-bed units,

- Guest suite with 2 No. visitor rooms at lower ground (basement) level,
- Provision of private open space in the form of balconies or terraces to all individual units to all elevations,
- Landscaped garden on the northern corner of the site at ground floor level,
- Provision of outdoor communal terraces and a residential amenity area at the ninth-floor level,
- Provision of 66 no. bicycle parking spaces, including 16 no. visitor spaces externally and 50 no. spaces within a dedicated bicycle storage room at ground floor level,
- Pedestrian and cyclist access is provided to the north-east of the site via Leeson Street Upper and the southwest via Mitchel House,
- Other ancillary residential amenities including a reception, parcel lockers, management facilities and bin storage,
- Provision of a switchroom and substation at ground floor level along the north-eastern elevation, plant at roof level, photovoltaic panels, hard and soft landscaping, bin storage and all associated works and infrastructure to facilitate the development.

2.1.2. The proposed residential development is a “Build to Rent” scheme in accordance with Specific Planning Policies 7 and 8 as set out in the Sustainable Urban Housing: Design Standards for New Apartments.

2.1.3. **Documentation submitted:**

2.1.4. Along with the standard drawings and information, the application includes (inter alia) the following:

- Accessibility Statement
- Appropriate Assessment Screening Report
- Arboricultural Assessment
- Architectural Design Report, Housing Quality Assessment and Schedule of Accommodation
- Architectural Heritage Impact Assessment
- Building Life Cycle Report

- Daylight and Sunlight Assessment
- Internal Daylight, Sunlight and Overshadowing Report
- Ecological Impact Assessment Report
- EIA Screening Report
- Engineering Services Report
- Landscape Design and Assessment Statement
- Landscape Plans
- Mechanical and Electrical Services Installation
- Method Statement
- Operational Waste Management Plan
- Outline Construction Management Plan
- Proposed Management Strategy Report
- Residential Travel Plan
- Site Specific Flood Risk Assessment
- Telecommunications Assessment
- Townscape and Visual Impact Assessment
- Tree Protection Plan and Tree Retention and Removal Plan.
- Verified Views and CGIs
- Wind Microclimate Assessment Report

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council REFUSED permission for the proposed development. The reasons for refusal were as follows;

1. Having regard to the excessive height, scale and density on a small visually prominent site, it is considered that the proposed development would constitute overdevelopment of the site given its plot ratio and density, and would have an unreasonable overbearing, visually dominant effect on adjoining sites. The

proposed development with its unjustifiable height and density fails to integrate or be compatible with the streetscape along both Appian Way and Leeson Street Upper and as a result, would seriously injure the visual amenities of the streetscape and would have an adverse impact on the character of the area and is therefore contrary to Section 16.2.1.1 of the Dublin City Development Plan 2016-2022. The proposed development would, therefore, by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity, would be contrary to the provisions of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. The development is located on a heavily trafficked road which is a Quality Bus Corridor and planned Bus Connects route and in an area where there is limited on street car-parking available. The service access proposals are considered inadequate to facilitate the development, and no drop-off provision within the site is proposed. No car parking provision (accessible, visitor and car-share parking all omitted) within the site is proposed. As a result the development would generate overspill parking, drop-offs and servicing activity onto the adjacent Leeson Street Upper and footpaths thereby causing an obstruction to pedestrians, cyclists, bus services and other road users resulting in traffic safety hazard. The development is considered contrary to the Dublin City Development Plan Section 16.38 and the Design Standards for New Apartments, Section 4.23, and would endanger public safety by reason of traffic hazard. The development would therefore be contrary to the proper planning and sustainable development of the area, and would set an undesirable precedent for similar developments in the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The basis for the Planning Authority's decision includes the following:

- The proposed development is for 44 Build to Rent (BTR) apartments in a 10-storey over basement level building on the corner of Appian Way and Lesson Street Upper.

- The proposal provides for 29 no. studio units and 15 no. 1 bed units.
- The Plot Ratio is 2.96. For Z1 zoned lands, a Plot Ratio of 0.5 – 2.0 is recommended.
- The site coverage is 40.9%. For Z1 zoned lands, a site coverage of 45-60% is recommended.
- The proposed density is 488 units per hectare.
- The proposal does not provide any parking.
- Parking Area 1 in Dublin City requires 1 no. space per dwelling.
- 66 no. bicycle parking spaces are proposed.
- The site contains several trees of varying quality along its boundaries and overgrown vegetation.
- An existing wall and railings form the boundary of the site.
- The proposed development will entail clearing the site in order to build on it.

3.2.1.1. **Height**

- The proposed apartment building will be 34m high.
- The Urban Development and Building Heights Guidelines supersede the Development Plan 2016-2022 Height Strategy and do not support blanket height limits.
- The Building Heights Guidelines encourage urban growth upwards rather than outwards.
- The Applicant acknowledges that the proposal exceeds the Development Plan 'Outer City' height restrictions of 16m but considers it a visually important key site.
- The Planning Authority does not consider the site a landmark site due to its location along a historic streetscape.
- The justification for additional height is deemed insufficient.
- During the pre-planning stage, the Applicant was made aware of the Planning Authority's concerns about the scale and height of the proposal.

- Concerns were raised during pre-planning about the site's visual prominence and the development dominating the streetscape.
- The proposal, if allowed, would set a precedent for buildings of this scale in other locations.
- The building towers over the surrounding buildings and does little to integrate with the neighbouring properties.
- The following viewpoints have a significant streetscape impact, according to the Townscape and Visual Impact Assessment: Viewpoint 3 at Wellington Place, Viewpoint 9 on Appian Way, Viewpoint 10 on Leeson Street Upper looking south-east, Viewpoint 11 on Leeson Street Upper looking south, southwest, and Viewpoint 12 on Leeson Street Upper looking west.
- The proposal would not be in keeping with the streetscape.
- The Applicant has failed to provide sufficient justification for such an excessive overdevelopment of the site.

3.2.1.2. ***Residential Quality Standards***

- SPPR 8 of the Design Standards for New Apartments Guidelines permits deviation and/or flexibility on a number of the quantitative standards for Build to Rent developments (restrictions on dwelling mix; provision of private amenity space and storage space; reduced car parking; overall minimum floor area; and the maximum number of apartments per floor per core).
- For urban infill schemes, there is scope for Planning Authorities to exercise discretion on a case-by-case basis. However, this is subject to achieving an overall appropriate quality of development.
- The floor areas of the proposed development are as follows:
 - 29 studio units (66%) - 40sq.m – 48sq.m
 - 15 one-bedroom apartments (34%) - 49sqm - 58sqm
- As a Build to Rent development, the requirement as per SPPR3 of the Ministerial Guidelines for more than 50% of the units to exceed the minimum floor area by 10% does not apply. The scheme complies with this requirement.

- The scheme provides for 59% dual aspect units.

3.2.1.3. **Mix of Residential Units**

- SPPR8 of the Ministerial Guidelines sets out that the dwelling mix requirement under SPPR1 and SPPR2 does not apply to Build-To-Rent developments. As such, the proposal complies with the dwelling mix requirements.
- The mix is 66% studio units and 34% 1-bed units.

3.2.1.4. **Aspect, Natural Lighting, Ventilation and Sunlight Penetration**

- The relevant guidance for the assessment of appropriate access to daylight and sunlight is Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011), as noted in 16.10.1 of the Development Plan. These guidelines also refer to BS 8206-2:2008 – ‘Lighting for Buildings Part 2: Code of Practice for Day lighting’.
- It appears that all the apartments have a floor-to-ceiling height of 2.7 metres or over.
- The 'Daylight and Sunlight Assessment' report notes that a studio on level 01 with a southerly aspect falls short of BRE recommended levels due to the massing of 1-3 Lesson Village to the south-east. This room receives 19% of the annual probable sunlight hours, while BRE recommends 25%. In the winter, the room receives just below the recommended level 5%.
- A review of the Daylight and Sunlight Assessment reveals in relation to the 6th floor, ADF for room 699 is 1.3 for a living, kitchen, and dining area, and room 702 is 1.2 for a living room, though the plans do not identify the room numbers.
- A review of the Daylight and Sunlight Assessment reveals, on page 12, that in relation to the sixth floor, ADF Room 699 is rated at 1.3 for a living, kitchen, and dining area, and Room 702 is rated at 1.2 for a living room. However, the plans do not identify the room numbers.
- The Daylight and Sunlight Assessment applies the same methodology to the Probable Sunlight Hours (PSH), demonstrating that the rooms meet the APSH and WPSH.

- According to Table 2 of the Daylight and Sunlight Assessment, the ground-floor studio units comply with the ADF and NSL, but not the APSH.
- At ground floor level, the results show compliance with ADF, NSL and APSH, but two rooms are below the WPSH. The same rooms further up the building also tend not to comply.
- The Daylight and Sunlight Assessment evaluates the communal open spaces' overshadowing.
- The report notes that the BRE recommends 2+ hours of sunlight on the 21st of March for at least 50% of the open space.
- The report depicts the various communal open spaces, noting that Area 1 is the ground-level garden with a 96% rate, Area 2 is the courtyard on the lower ground floor with a 0% rate, Area 3 is the western roof terrace with a 52% rate, and Area 4 in the eastern roof terrace with a 69% rate, giving a total combined area of 78%.
- Two diagrams depict the sun exposure on the ground on the 21st March and the 21st of June.
- Unlike daylight, access to sunlight depends on the aspect.
- As per Section 3.17 and SPPR4 of the Ministerial Guidelines, apartment schemes on greenfield or standalone brownfield sites must have a minimum of 50% dual-aspect apartments.
- Where site constraints or design requirements necessitate the provision of appropriate street frontages, a minimum of 33% is still required on central or accessible sites.
- On especially small infill sites or renovation projects, the Planning Authority may exercise additional discretion.
- High-quality residential amenities ensure a quality residential development. Any deviation from this objective requires high design quality elsewhere.

3.2.1.5. ***Block Configuration***

- The project consists of a rectangular block with elevations primarily facing Appian Way and Leeson Street Upper.

- The building is designed around a central staircase and lift core to maximise the number of dual-aspect units.
- The building provides corner balconies with views on both sides.
- The building's southern elevation is stepped at level 07, facing Mitchel House. This reduces the building's impact on the boundary.

3.2.1.6. ***Entrance Lobbies, Circulation and Safety***

- The proposal includes a good-sized lobby with a security desk and a residence lounge, accessible via a ramp from Leeson Street Upper.
- The lobby provides access to a 50-space bike storage area on the ground floor.
- The Applicant's Planning Report notes that this bike rack provides security, has a two-tiered rack system, and has space for cargo bikes and bikes with modifications for those with special needs.
- Residents will have access to tools and equipment for maintaining and repairing their bicycles in a secure locker and an emergency repair kit at reception.
- Visitors to the building can park their bicycles in the landscaped area along Leeson Street. These have enough room for cargo or modified bikes.

3.2.1.7. ***Internal Space Configuration for Apartments***

- Throughout the development, the proposed room sizes, widths, and aggregate bedroom and living areas meet or exceed the required standards.
- The Housing Quality Assessment includes a detailed schedule.

3.2.1.8. ***Storage***

- Storage facilities are provided to the required standards, i.e., 3 sq.m for studio and one-bed apartments.

3.2.1.9. ***Private Open Space***

- The requirement for private open space (as per both the Ministerial Guidelines and the Development Plan) is 4 sq.m. for studio units, 5 sq.m. for one-bedroom apartments.
- All the units have balconies, with the basement units having terrace areas.
- The balconies on the ground floor and above are designed to be integral to the form of the building, recessed into corners to maximise their utility to the residents.
- Floor-to-ceiling windows let in maximum natural light to interiors.
- The Sunlight and Daylight Report raises concerns about basement terraces' access to natural light.

3.2.1.10. ***Communal Open Space***

- The communal open space is calculated as 4sq.m. for studio units and 5 sq.m. for 1-bed units, requiring a total of 191sq.m.
- The application includes a 172 sq.m. landscaped garden on the ground floor.
- The proposal provides a shared covered terrace area of 67 sq.m and a shared terrace area of 62 sq.m. on the 9th floor.
- According to the submitted Landscaping Plan Report, the scheme's landscape proposal aims to create an attractive and functional landscape environment for residents that is sympathetic to its surrounding context and functional in terms of layout and space provision.
- The Landscaping Plan Report notes that landscape design aims to create a setting for the architecture within a garden, similar to the surrounding properties of Appian Way and Leeson Street Upper, which have a formal setting with a garden space surrounded by trees.
- The perimeter railing will be retained, with a new opening onto the street adjacent to the substation structure.
- A gentle sloping pathway leads toward the entrance lobby from Leeson Street Upper, with an open lawn area to the right-hand side and attractive seasonal planting along the building approach.
- A new hedgerow is proposed inside the roadside railing.

- Existing trees along the street frontage are to be retained, with arboricultural techniques such as ivy removal and localised pruning used to improve their health.
- The roof-level terrace, which adjoins the internal amenity space, will allow residents to enjoy the outdoors.
- The Landscape Report describes how the juxtaposition of internal and external spaces creates an appealing, contemporary environment.
- The ground plan includes composite decking, a raised planter, and a bench.
- Seasonal hardy plants will provide pollinators with nectar year-round.
- The Landscape Plan includes suggestions for bat boxes, bird boxes, and insect hotels.
- A green roof habitat is proposed for the substation roof, which the Applicant says will provide a natural habitat for birds, insects, and bats.
- The Landscape Plan proposes vertical greening, a wire trellis system attached to the west-facing boundary wall and ESB façade, allowing climbing plant species to grow across the façade, creating a lush green habitat and flowering backdrop to the entrance area.
- The Landscape Plan includes a lighting strategy.

3.2.1.11. **Public Open Space**

- The proposal does not provide any public open space.
- Due to site constraints, the Applicant proposes no public open space.
- The Applicant requests a condition requiring a financial contribution in lieu of open space, per Section 14.3.4 of the Development Plan.
- The Applicant notes that Herbert Park and Ranelagh Gardens are within walking distance of the proposed development.
- Communal external space is provided for the use of the residents.

3.2.1.12. **Communal Facilities**

- On the 9th floor, 2 no. 105 sq.m. multipurpose amenity spaces are proposed, which connect to the external terrace.
- According to the Applicant, the terrace will provide uninterrupted views of the surrounding area.
- The western amenity space will include a kitchen and a large terrace with views of the city. This space can be reserved through the building management company for private events, resident classes, events, or activities. It also has a motorised awning built into a pergola, allowing it to be used in all weather conditions.
- On the ground floor, a foyer/reception area and a parcel collection area of 95.6 sq.m. are proposed.
- The proposal provides a guest suite at the basement level, consisting of two visitor rooms that residents can book for visiting family or friends. The Applicant considers this beneficial because most of the units are single-occupant units.

3.2.1.13. ***Design for Management and Maintenance***

- Applications for apartment schemes are required to include an assessment of long-term operating and maintenance costs, as well as a demonstration of measures included in the scheme to reduce residents' ongoing maintenance costs, as required by the City Development Plan.
- A Building Life Cycle Report was submitted with the application. The report is divided into two sections.
- The first section focuses on long-term operating and maintenance costs, while the second focuses on energy performance and carbon emissions.
- The Building Life Cycle Report states that the Applicant will be attempting to obtain a BREEM Excellent rating. Details on how they intend to accomplish this, as well as information on the building and its functionality, are included.
- The Building Life Cycle Report includes sections on Waste Management, Transportation, and Active Travel and Car-Free Transportation for Residents.

3.2.1.14. ***Overshadowing and Loss of Daylight***

- The Applicant has submitted a “Daylight and Sunlight Assessment Report”.
- The report states that the pertinent properties relevant for daylight and sunlight assessment are Nos. 59, 85 and 84 Leeson Street Upper, Nos. 1, 2 and 3 Leeson Village and Mitchel House.
- According to the study's findings, the detailed analysis took into account 40 windows serving 23 rooms, with five of the seven properties assessed fully adhering to BRE criteria for daylight and sunlight assessments.
- The Daylight and Sunlight Assessment Report notes that five windows in two different properties do not meet BRE criteria for the VSC daylight methodology.
- Both properties, No. 3 Leeson Village and the top-floor apartment in Mitchel House, have minor impacts but retain good VSC values for an urban environment.
- According to the Applicant’s Planning Report, all windows that do not meet the BRE recommendations are in double or triple-aspect rooms, with four facing north.
- Regarding overshadowing, the report concludes that all private gardens adjacent to neighbouring properties along Leeson Street Upper, Leeson Village, and public amenity spaces surrounding the proposed development site will comfortably meet BRE criteria because their values will not change by more than 20%.

3.2.1.15. **Materials**

- According to the Applicant, the overall proposal will result in a building with lightness and ephemeral quality.
- According to the Architectural Design Report, the specific choice of materials is intended to reinforce the scheme's architectural aspirations. The most important of these are formal and material clarity and elegance, which will be sited within the area's verdant context and extensive tree planting.
- According to the Architectural Design Report, the selected colours make up a simple and restrained colour palette. These include white, light grey, silver, and dark grey. These colours are stated as being highly complementary to each other and will be the basis for a clear and strong aesthetic treatment.

- The Architectural Design Report states that the ground floor plinth is to be finished in a high-quality, smooth render and will be medium grey in colour.
- Glazing will be silver powder coated.
- The insulated wall elements are to be back-painted glass-clad insulated panels or similar in a light silver/grey.
- The horizontal bands and balconies are to be in a powder-coated gloss white finish.
- The building will appear lightweight in its current surroundings, but given its height, scale, and visual dominance, there are concerns about its ability to integrate with the streetscape.

3.2.1.16. ***Visual Impact of Development within the existing context.***

- There are serious concerns that the proposal will harm the environment and set a precedent for buildings that are out of proportion with their surroundings.
- The Department's Building Height Guidelines (2018) outline criteria for which additional height may be acceptable.
- The Planning Authority has serious concerns that the height of the proposed development is excessive.
- The Applicant has submitted a "Townscape and Visual Impact Assessment" report. A few of the perspectives presented in the report are concerning in terms of their impact on the streetscape.
- Viewpoints identified as significant include the following; Viewpoint 9 at Appian Way, Viewpoint 10 at Leeson Street Upper looking south-east, Viewpoint 11 at Leeson Street Upper looking south and southwest, and Viewpoint 12 – Leeson Street Upper looking west
- The Planning Authority considers that the impact would not be compatible with the streetscape, and the Applicant has failed to provide adequate justification for such an excessive overdevelopment.

3.2.1.17. ***Wind Microclimate Assessment Report***

- The report concludes that high-resolution CFD was used to assess the wind microclimate conditions for the proposed development.
- At ground level, there are no wind safety or distress exceedances anywhere in the site or surrounding area.
- The majority of balconies will be usable in their current configuration, provided that they are not used during peak wind speeds, as recommended by building management.
- In the study, two balconies at levels 8 and 9 on the southwestern corner of the development were subject to wind safety risks. The height of these balustrades has since been raised to 1.5m, which is expected to effectively mitigate the risk.
- The report notes that the western roof terrace is suitable for the intended use.
- The eastern roof terrace is recommended to be closed at times of peak wind speeds as there is a small region of distress.

3.2.1.18. ***ESB Substation***

- The Applicant proposes a substation on Leeson Street, adjacent to the proposed new entrance, to meet ESB access requirements.
- This location provides the ESB with 24-hour access, has minimal impact on the existing railing, and is as far away as possible from the busy Appian Way junction.
- The ESB substation will be clad in stone on its two prominent elevations.
- The flank adjacent to the entrance gate will be a green wall as part of a comprehensive landscaping proposal for the development.
- The roof will be covered in an intensive green roof (subject to ESB approval), encouraging biodiversity and fauna foraging habitats as detailed in the Ecological Report accompanying this application.

3.2.1.19. ***Flood Risk Analysis***

- A flood risk report has been submitted with the application
- The Council's Drainage Division requests further information.

3.2.1.20. **Part V**

- The Applicant states that as the subject site is less than 0.1 Ha, the proposed development is exempt from Part V social housing requirements, and an exemption application has been submitted.

3.2.1.21. **Transportation Issues:**

- The Transportation Planning Division report comments are noted.
- The site is located at the junction of Appian Way & Leeson Street Upper.
- Both Appian Way & Leeson Street Upper roads are heavily trafficked, and the junction is signalised.
- There is an existing bus service operating along Leeson Street Upper, which is a Quality Bus Corridor (QBC).
- The nearest Luas stop is located within 10 minutes' walking distance.
- The Residential Travel Plan notes access to shared mobility services within walking distance of the site.
- In terms of future public transport proposals, Leeson Street Upper is a proposed BusConnects' Core Bus corridor (CBC).
- BusConnects proposes cycle lanes and bus lanes extending from Morehampton Road to the south of the site to the city centre along Leeson Street Upper directly along the site's frontage.
- The Appian Way is an orbital route (S2) within the BusConnects proposals.
- Re. Access - the principal proposed access point to the development is a shared pedestrian and cycle entrance at Leeson Street Upper, adjacent to the proposed ESB substation.
- The proposed access point leads via a ramped pathway to the recessed building entrance to the foyer and residents' lounge area, where there will be a concierge facility.
- A second access is provided via Mitchel House and the existing right-of-way access linking to the Appian Way entrance.

- It is unclear how this pedestrian access will be managed in terms of providing a link to the proposed foyer and concierge facility for service, deliveries, and so on.
- There is no provision for vehicular access within the site.
- Based on the orientation of the proposed building and the location of the primary pedestrian entrance on Lesson Street Upper, it is reasonable to assume that most trips to and from the site will use this entrance.
- The concentration of activity on the Leeson Street Upper entrance would be problematic due to the constraints at this location, including proximity to the road junction.
- The Accessibility Statement suggests that set-down facilities could be provided at the vehicular entrance to adjoining Leeson Village. However, this is private access outside the Applicants' control.
- According to the submitted Residential Travel Plan, incoming vehicular traffic serving the proposed development will utilise the access via Mitchel House and its vehicular entrance along Appian Way.
- There is no service/delivery access link from the development's rear to the main entrance.
- There is no mention of a 'set-down' facility, collection or drop-off point.
- The automatic tracking of the proposed access route is noted, as well as the potential for parking conflicts. However, it is unclear from the submission how daily conflicts with existing parking would be resolved.
- The Accessibility Statement indicates that refuse bins will be stored on-site, with staff from the development transporting the bins from the storage area to the street along Appian Way before the scheduled collection time.
- The Residential Travel Plan mentions Appian Way kerbside collection. Clarification regarding the proposed refuse collection is required.
- Bins should not be temporarily stored on the public footpath.
- A temporary storage area accessible for direct refuse collection must be identified within the application site.

- The proposed ESB substation is located at the main entrance to the development on Upper Leeson Street.
- There is no provision for vehicle parking in proximity to the proposed substation, and none is publicly available in the vicinity.
- ESB access requirements need to be established. This should have regard to the potential impact on other road users and the local road network.
- A dishing of the footpath in this location would not be acceptable.
- The application fails to demonstrate how vehicular servicing of the development will work in practice via the existing Mitchell House access.
- It is reasonable to anticipate delivery vehicles such as bicycles, mopeds, cars, and light-duty trucks, with the possibility of multiple vehicles being present simultaneously. No provision for such vehicles has been made in the submitted plans, demonstrating how such servicing would work in practice.
- The Transportation Planning Division is concerned that most servicing, as well as resident collections and drop-offs, would occur on Leeson Street Upper and near the Appian Way junction, obstructing public transportation and public footpaths, cycle paths, and other road users.
- The Applicant failed to show that the proposed development would not impede pedestrians, cyclists, bus operations, and other road users along Leeson Street Upper.

3.2.1.22. ***Right of Way***

- Both planning permissions P.A. Refs. 2554/16 & 2282/08 (granted on appeal) were subject to a Condition requiring the widening of the existing vehicular access at Mitchel House to a width of 5 metres.
- Within the decision of An Bord Pleanála, the Inspector noted that it appears the Applicant is legally permitted to access the application site via the car park area adjacent to Mitchel House's north-eastern elevation.
- Concerns about the Applicant's right of way over the laneway have been raised. However, under Section 34(13) of the Planning and Development Act 2000 (as

amended), a person is not entitled solely by reason of a permit under this section to carry out any development. Consequently, questions regarding the extent of the Applicant's access rights are a legal and civil issue.

- The site is located in Parking Zone 2, Map J of the Dublin City Development Plan 2016 – 2022 and standards set out within Tables 16.1 and 16.2 are applicable.
- The minimum cycle parking standard, as per the Development Plan Table 16.2, is 1 no. space per unit.
- Cycle parking standards as per the Apartment Guidelines are 1 no. space per bedroom and 1 no. visitor space per 2 units.
- The proposal provides 50 no. two-tier cycle spaces, including 1 no. cargo/non-standard bike spaces located in a bike store at ground floor level.
- 16 no. Sheffield stands visitor cycle parking spaces are proposed adjacent to the Leeson Street Upper entrance.
- One of the visitor cycle parking spaces should be suitable for cargo cycle parking.
- The quantum of proposed cycle parking is considered acceptable.
- The maximum parking space allowed per unit, as specified by the Development Plan, is 1 no. space per unit.
- The application does not provide any resident parking.
- Given the location of the development and its proximity to multiple modes of public transport, non-provision of parking spaces for residents may be acceptable.
- The proposed development lacks drop-off, accessible parking, visitor parking, and car-sharing provisions.
- Given the lack of on-street parking capacity in the vicinity of the site, these omissions are cause for concern.
- The Applicant has not demonstrated that the proposed development would not negatively affect Leeson Street Upper, including bus operations, cyclists, pedestrians, and other users.
- The proposed development would have a negative impact on Leeson Street Upper and the surrounding area due to overspill parking.

- Section 16.38 of the Development Plan notes that it is necessary for proposed developments to adequately demonstrate that any lack of car parking on the site should not reasonably give rise to negative impacts on the amenities of surrounding properties or the immediate street once the development is occupied.

3.2.1.23. ***Construction Management Plan***

- An outline Construction Management Plan (CMP) has been submitted.
- A temporary construction access route from the south via Mitchel House is noted during the early construction phase.
- It appears that a delivery/materials staging area is proposed on the Appian Way footpath along the site boundary and that pedestrian traffic is to be rerouted.
- A CMP should be conditioned in the event of a grant of permission.
- Roadworks control must approve proposals for traffic management that include interventions on a public road, and appropriate licenses must be obtained if permission is granted.

3.2.1.24. ***Appropriate Assessment***

- A Stage 1 Appropriate Assessment Screening has been submitted.
- A full Appropriate Assessment of the proposed development is not required.

3.2.1.25. ***Ecological Impact Assessment***

- Comments noted from the Ecological Impact Assessment submitted.
- No significant ecological impacts would be likely outside the immediate vicinity of the proposed development.

3.2.2. **Other Technical Reports**

3.2.2.1. ***Roads Streets & Traffic Department Road Planning Division***

- Comments noted in Section 3.2.1.21 above.

- Refusal of Permission is recommended for the following reason;
 1. The development is located on a heavily trafficked road which is a Quality Bus Corridor and planned Bus Connects route, and in an area where there is limited on-street car parking available. The service access proposals are considered inadequate to facilitate the development, and no drop-off provision within the site is proposed. No car parking provision (accessible, visitor and car-share parking all omitted) within the site is proposed. As a result, the development would generate overspill parking, drop-offs and servicing activity onto the adjacent Leeson Street Upper and footpaths, thereby causing an obstruction to pedestrians, cyclists, bus services and other road users resulting in a traffic safety hazard. The development is considered contrary to the Dublin City Development Plan Section 16.38 and the Design Standards for New Apartments, Section 4.23, and would endanger public safety by reason of traffic hazard. The development would therefore be contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar developments in the area.

3.2.2.2. ***Drainage Division***

Further information is requested, including the following;

- The Applicant shall submit a revised Flood Risk Assessment further appraising the risk of pluvial flooding to the proposed development and, in particular, to the lower ground floor level, which includes highly vulnerable residential uses. The Applicant shall have regard to the pluvial flood maps prepared as part of the EU IVB Flood Resilient City Project, which indicate a potential risk of pluvial flooding in the area of the proposed development. The Applicant shall confirm that all flood risks to the development have been addressed through appropriate design. Where residual risks exist, proposals for their management shall be provided.
- A map of overland exceedance flow routes shall be provided.

- The Applicant shall outline how interception storage of at least 5mm of rainfall, as required by the Greater Dublin Regional Code of Practice for Drainage Works, is proposed to be achieved.

3.2.2.3. ***Environmental Health Report***

- No objections. Conditions recommended regarding noise control and air quality control during construction and the general phase.

4.0 **Planning History**

P.A. Ref. 2554/16 and **ABP Ref. PL29S.247070** Permission GRANTED ON APPEAL in Nov. 2016 (subject to conditions) for the construction of 16 no. residential dwelling units with a total gross floor area of 2,074.16 sq.m in a five-storey residential building (with a maximum building height of 16 metres) above a lower ground and basement level including the provision of a single level basement car park with vehicular access via a car lift on the ground floor of the south eastern elevation of the building providing for 13 no. private car parking spaces, 1 no. smart car space, 12 no. cycle parking spaces, water storage, plant and attenuation tank. 6 no. cycle parking spaces are also provided at ground level along the north east boundary. Vehicular access to the car lift entrance was to be provided via existing vehicular access to the Mitchel House apartments from Appian Way. The removal of a 3.2 metre section of boundary wall and railings along Leeson Street to facilitate the provision to the proposed development with entrance portal feature was also approved as part of the proposals.

P.A. Ref. 2282/08 and **ABP Ref. PL 29S 229720** Permission GRANTED ON APPEAL in Feb. 2009 (subject to conditions) for the construction of 9 no. residential dwelling units with a total gross floor area of 1,601sqm in a five storey residential building (with a maximum building height of 16.5 metres) above a lower ground and basement level. This approved scheme included the provision of a single level basement car park with vehicular access via a car lift on the ground floor of the south western elevation of the building providing for 10 no. private car parking spaces, 3 no. visitor car parking spaces, 13 no. cycle parking spaces, cold water storage, apartment storage and

refuse storage facilities. 5 no. cycle parking spaces are also provided at ground level on the site. Vehicular access to the car lift entrance was to be provided via the existing vehicular access to the Mitchel House apartments from Appian Way.

P.A. Ref. 3882/06 and ABP Ref. PL29S.222919 Permission REFUSED ON APPEAL in Nov. 2007 for the proposed construction of 17 no. residential dwelling units with a total gross floor area of 2,007 sqm in a six storey residential building (with a maximum parapet height of 18.35 metres and an overall maximum height with railings of 19.3 metres) with a set back at fourth floor level and a further set back at fifth floor penthouse level above lower ground and basement level. The reason for refusal

1. Having regard to the scale, bulk and extent of the proposed development and its proximity to site boundaries, it is considered that the proposed development of 17 apartments would constitute overdevelopment of this restricted site. Furthermore, the Board is not satisfied that the extent of the basement excavations footprint would not compromise the viability of a number of important trees (in particular, along Appian Way). The proposed development would, therefore, seriously injure the amenities of the area and of property in the vicinity and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the restricted nature of the vehicular access through the adjoining apartment development, it is considered that the proposed development of 17 apartments would unduly impact on the residential amenity of the adjoining apartment development by reason of traffic movements and resultant disturbance and congestion. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. Development Plan

The **Dublin City Council Development Plan 2022-2028** came into effect on the 14th December 2022 and is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is zoned 'Zone Z1: Sustainable Residential Neighbourhoods' with the objective 'To protect, provide and improve residential Amenities', as detailed on Map H.

Adjacent buildings to the north-west, north, and north-east along Leeson Street Upper are Protected Structures, located on lands zoned 'Z2: Residential Neighbourhoods (Conservation Areas)' with the objective 'To protect and/or improve the amenities of residential conservation areas'.

Section 5.5.7 Specific Housing Typologies - Build to Rent (BTR) and Shared Accommodation

Policy QHSN40 Build to Rent Accommodation - To facilitate the provision of Build to Rent (BTR) Accommodation in the following specific locations: Within 500 metre walking distance of significant employment locations, ♣ Within 500 metres of major public transport interchanges (e.g. Connolly Station, Tara Street Station and Heuston Station), and ♣ Within identified Strategic Development Regenerations Areas. There will be a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology. To ensure there are opportunities for a sustainable mix of tenure and long term sustainable communities, a minimum of 60% of units within a development must be designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, December 2020. There will be a presumption against the proliferation and over concentration of BTR development in any one area. In this regard, applications for BTR developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site to demonstrate: ♣ that the development would not result in the overconcentration of one housing tenure in a particular area and take into account the location of the proposed BTR. ♣ how the development supports housing need, particularly with regard to

tenure, unit size and accessibility with particular reference to the Dublin City Council Housing Need and Demand Assessment.

Policy QHSN41 Built to Rent Accommodation - To discourage BTR Accommodation schemes of less than 100 units due to the need to provide a critical mass of accommodation to provide a meaningful provision of communal facilities and services. Smaller BTR accommodation schemes with less than 100 units will only be considered in exceptional circumstances and where a detailed justification is provided.

Policy QHSN42 Built to Rent Accommodation - To foster community both within a BTR scheme and to encourage its integration into the existing community, the applicant will be requested to provide an evidenced based analysis that the proposed resident support facilities are appropriate to the intended rental market having regard to the scale and location of the proposal. The applicant must also demonstrate how the BTR scheme must contribute to the sustainable development of the broader community and neighbourhood.

Policy SMT1 To continue to promote modal shift from private car use towards increased use of more sustainable forms of transport such as active mobility and public transport, and to work with the National Transport Authority (NTA), Transport Infrastructure Ireland (TII) and other transport agencies in progressing an integrated set of transport objectives to achieve compact growth.

Chapter 14 Land Use Zoning -

14.3 Permissible, Non-Permissible Uses and Unzoned Lands

14.7.1 Sustainable Residential Neighbourhoods – Zone Z1

Chapter 15 Development Standards

Table 15-1: Thresholds for Planning Applications

15.3.1 Environmental Impact Assessment

15.3.2 Appropriate Assessment

15.4 Key Design Principles

15.5.2 Infill Development

15.5.4 Height

15.5.5 Density

15.5.6 Plot Ratio and Site Coverage

- 15.5.7 Materials and Finishes
- 15.5.8 Architectural Design Statements
- 15.6.9 Trees and Hedgerows
- 15.6.10 Tree Removal
- 15.9.8 Communal Amenity Space
- 15.9.9 Roof Terraces
- 15.9.12 Access and Services
- 15.9.13 Refuse Storage
- 15.9.15 Operational Management and Maintenance
- 15.9.16.1 Daylight and Sunlight
- 15.9.17 Separation Distances (Apartments)
- 15.9.18 Overlooking and Overbearance
- 15.10 Build to Rent Residential Developments (BTR)
- 15.6.12 Public Open Space and Recreation
- 15.10.1 Design Standards

Appendix 3 Achieving Sustainable Compact Growth Policy for Density and Building Height in the City

3.2 Density

Table 1: Density Ranges

Table 2: Indicative Plot Ratio and Site Coverage

4.0 The Compact City – How to Achieve Sustainable Height and Density?

Table 3: Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale

Appendix 5 Transport and Mobility: Technical Requirements

2.0 Development Management

2.3 Mobility Management and Travel Planning

2.4 Service Delivery and Access Strategy

2.5 Car Parking and Cycle Management

3.0 Cycle Parking Standards

3.1 Bicycle Parking Standards for Various Land Uses

4.0 Car Parking Standards

5.2. **Other Relevant Government Policy / Guidelines**

National Planning Framework – Project Ireland 2040

Housing for All - A new Housing Plan for Ireland,

Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019)

Urban Development and Building Height Guidelines for Planning Authorities (2020).

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December, 2022)

Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

Urban Design Manual - A Best Practice Guide (2009)

Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE2011).

Design Manual for Urban Roads and Streets (2019).

BRE' Site Layout Planning for Daylight and Sunlight' (2nd edition)

BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

BS EN 17037:2018 'Daylight in Buildings'.

Housing for All Action Plan Update and Q3 Progress Report

5.3. **Natural Heritage Designations**

5.3.1. The nearest Natura 2000 European Sites to the appeal site are as follows:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approx. 2.3km northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approx. 1.3km north of the site.

- The Grand Canal Proposed Natural Heritage Area (Site Code: 002104) approx. 0.5km north-west of the site.

5.4. EIA Screening

- 5.4.1. The proposed development is not listed in Schedule 5 (Part 1 or Part 2) of the Planning and Development Regulations 2001 as amended, nor does the proposal meet the requirements for sub-threshold EIA as outlined in Section 103 of the Planning and Development Regulations 2001 as amended. No Environmental Impact Assessment (EIA) is therefore required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first-party appeal was received from John Spain Associates, Planning and Development Consultants representing the Applicant RGRE J & R Valery's Ltd. against the decision made by the Planning Authority to refuse permission for the proposed development.

- 6.1.1.1. Supporting documentation lodged with the appeal includes (inter alia) the following;

- Appeal Submission Report, prepared by John Spain Associates.
- Appeal Submission Document, prepared by CS Consulting Group (responding to reasons for refusal No. 2).
- Architectural Design Report and Drawings, prepared by Shay Cleary Architects.
- Report from AECOM Ireland Ltd. Providing comments re. Townscape and Visual Effects.
- Site Specific Flood Risk Assessment.
- Cover Letter and Bat Fauna Survey, prepared by Altemar Marine & Environmental Consultants.
- Letter from AXISENG Consulting Engineers re. the ESB substation.
- Operational Waste Management Plan, prepared by AWN Consulting.

- Letter from Orpen Franks Solicitors.
- Verified View and CGI Montages, prepared by 3D Design Bureau Ltd.
- Revised Drawings and Schedule.

6.1.2. The following is a summary of the grounds of appeal, relating to the reasons for refusal accordingly.

6.1.2.1. ***Re. Reason for Refusal No.1***

- The massing and scale of the proposed development have been carefully considered in response to the site and immediate context.
- The form of the building is reinforced by a clear palette of materials comprised of white powder-coated horizontal bands at each floor level and recessed rather than projecting balconies.
- The building form is articulated on the Appian Way frontage to present a more slender appearance when approached from the north-west along Leeson St.
- The materials and finish will deliver a simple and clarity of architecture and will give the building its distinct character.
- The proposed scale, height and layout of the development adequately address the existing residential properties in the area and provide an appropriate scale and use of the strategically located site.
- The site is located adjacent to a high frequency, high capacity bus route along Leeson Street, which is also proposed as a future BusConnects Corridor.
- At the bus stops adjacent to the site, there are currently 16 bus routes (within a five-minute walk) that all provide a high-frequency service, approximately every five minutes along the quality bus corridor, making the site suitable for a higher density of development.
- The proposed development is located at a prominent site on a key arterial route into Dublin City Centre.
- The proposed development's scale, massing, and appearance make it visually distinctive, creating a strong design response to this site.

- The response to the first reason for refusal is primarily contained in the response prepared by Shay Cleary Architects and Aecom.
- A comprehensive justification of the proposed development against the Development Management Criteria of the Urban Development and Building Height Guidelines was submitted with the application (Planning Report and supporting documents), in addition to the provisions of the National Planning Framework and Regional Economic Spatial Strategy for the Eastern and Midlands Regional Assembly.
- The City Council Planner's Report does not elaborate in detail on their concerns with respect to the height and density of the proposed development stating the "impact would not be in keeping with the streetscape and the applicant has failed to provide sufficient justification for such an excessive overdevelopment".
- Shay Cleary Architects' Appeal document describes the mixed nature of the surrounding area as well as the local significance of the site's location at the junction, as well as the architectural response to the context.
- As set out in the conclusions of the appeal document prepared by Aecom, "the 10 storey building will provide another layer of urban development and densification in line with development policies across Dublin city. It will tie together an architectural mix of buildings at this particular corner and provide a new strength and prominence in available views, which this corner area is currently lacking. While the additional height of the proposal, when compared to a low-rise alternative, is significant, its slender design and restrained architecture and colour scheme will provide a legible focal point in this particular setting. It will accentuate this corner in the locality, provide a memorable footprint in this quarter of the city, and tie together a mix of local modern and period architecture."
- Notwithstanding the difference in height between the subject development and its immediate surroundings, the subject site can carry a new modern element within the streetscape, which is complementary to the existing context and supported by Section 28 Guidelines and National Policy Objectives.
- Having regard to the assessment under Section 3.2 of the Urban Development and Building Height Guidelines submitted as part of the application, it is submitted that

the proposed development has had regard and responded to the planning policy framework.

- The provision of a 10 storeys residential development at this location is supported by the Building Height Guidelines, which encourage increased density and building heights.
- Section 16.2.1.1 of the Dublin City Council Development Plan 2016-2022 recognises the variety and evolution of the townscape in Dublin City, as relevant to the subject site.
- The proposal is a distinctive building, providing another layer to the evolving nature of the context.
- The Development Plan does not state that new buildings should mirror the existing streetscape but respond to the diversity and distinctiveness of Dublin as a capital city, which it is considered the proposal successfully achieves.

6.1.2.2. ***Re. Reasons for Refusal No.2***

- A detailed response to this reason for refusal is provided by Cronin Sutton Consulting Engineers, supported by Axis and Awn in their respective documents.
- A revised servicing strategy is proposed as part of this first-party appeal.
- A set down / drop off space is proposed within Mitchel House as is permissible under the right of way (refer to the letter from Orpen Franks), which allows access by large vans to service the site.
- Revisions to the ground floor layout are proposed to allow for direct access internally to the building from the southern side (Mitchell House), as shown on the drawings submitted with the application.
- Regarding access to the ESB substation, it was previously proposed to provide a dished kerb access to Lesson Street, which the City Council raised as a concern.
- The project Engineers have consulted ESB, and it has been determined that the dished kerb would not be required and therefore is no longer proposed.

- As set out in the Axis document, access to the substation by the ESB would be very infrequent, and the majority of any servicing requirements would not require the parking of a van at the substation on the footpath.

6.1.2.3. ***Items raised in Third Party Submissions and Dublin City Council Technical Reports.***

Re: SPPR1 of the Urban Development and Building Height Guidelines:

- The site is located in an area subject to a blanket height limit (outer city) within the policies of the Dublin City Development Plan.
- There is a blanket height limit of 16 metres for most areas outside of the 'inner city', including the subject site.
- Numerous decisions by Dublin City Council and An Bord Pleanála, granted permission for development in excess of the Development Plan provisions.
- The recently published Draft Dublin City Development Plan 2022-2028 removes blanket height restrictions in order to be compliant with the provisions of SPPR1.

Re. Classification of Location:

- Provisions for additional height applies to both city centre and suburban locations, as set out in Para. 1.11 of the Height Guidelines where the following is stated;

These guidelines therefore set out national planning policy that:

 - *Expand on the requirements of the National Planning Framework; and*
 - *Applies those requirements in setting out relevant planning criteria for considering increased building height in various locations but principally (a) urban and city-centre locations and (b) suburban and wider town locations.*
- Paragraph 3.1 of the Height Guidelines states that “There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility”.
- The site is located in an urban area with good public transport accessibility.
- The 2020 Apartment Guidelines provide criteria for determining the locational context of development sites.

- The subject site is located within a central and/or accessible urban location on a high-frequency bus route, 1.5 km from St. Stephen's Green.
- The Apartment Guidelines note that these locations are generally suitable for large-scale apartment development and higher-density developments. These locations are categorised as including the following:
 - *"Sites within walking distances (i.e. up to 15 minutes or 1,000-1500m), of principle city centres or significant employment locations, that may include hospitals and third level institutions;*
 - *Sites within reasonable walking distance (i.e. up to 15 minutes or 1,000-1,500m) to/from high capacity urban public transport stops (such as DART or Luas); and*
 - *Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 10 minute peak hour frequency) urban bus services."*
- The site is located a 10-minute walk from the South Georgian Core of Dublin City, a long-established office district and 10-15 minutes walking distance of Burlington Road, Pembroke Road and Shelbourne Road, which have many large office blocks such as Hume House, Burlington Plaza and Connaught House.
- The site is a 15–20-minute walk to the large-scale office centre at the former AIB Bank Centre, Merrion Road Ballsbridge.
- The proposed development is located along a bus transport corridor with 13 separate routes stopping at the bus stops immediately proximate to the site and 16 no. bus routes (within a 5-minute walk) with a very high frequency.
- The site is located along the proposed BusConnects corridor (Core Route No. 13 'Bray to City Centre').
- The site falls into the central and/or accessible urban locations category and is, therefore, suitable for high-density apartment developments.
- The Guidelines note that the scale and extent of the development should increase where the site is strategically located with high-frequency public transport and a good range of urban amenities.

- The proposed development is located adjoining a proposed BusConnects corridor, within a 3-minute walk of local shops and services on Upper Leeson Street, a 10-minute walking distance of significant employment locations within Dublin's South Georgian Core (Leeson Street Lower Fitzwilliam Place Adelaide Road), and an 8-minute walk from the centre of Ranelagh, which provides a range of services and amenities.
- The site well served by sporting amenities and schools.
- The site is serviced by high-frequency bus services.
- The site is suitable for increased heights and densities in accordance with the objectives of the Apartment Guidelines.

Re. Validation

- The fee paid with the application submission was for €65 per residential unit.
- Following submission, Dublin City Council contacted JSA as Agent seeking an additional payment of €65 for each of the guest rooms and €80 for miscellaneous works.
- The guest rooms and miscellaneous work are ancillary to the residential units; however, the request for an additional payment by the City Council was complied with. Therefore, on either basis, the full correct fee was paid.
- There is no clear provision for a fee for a guest room as part of a Build-to-Rent development.
- The Applicant complied with the interpretation of the City Council once contacted after having paid the application fee as part of the original submission.
- The amended Regulations no longer require a blue line to be shown on a layout plan.
- There is no requirement for a blue line to be shown on the location map in this instance, as there are no additional lands in the control of the Applicant adjoining or abutting the application site beyond that shown in red on both the site location map and site layout plan.

Re. Ecology

- The Ecological Impact Statement (EclA) submitted with the application refers to the Bat Survey undertaken. This is now submitted as part of the appeal for the information of the Board.

Re. Drainage

- A request for additional information was made by the Drainage Division of Dublin City Council with respect to certain drainage matters and the Flood Risk Assessment.
- These items have been responded to in the Cronin Sutton Consulting Appeal documents and the revised Site Specific Flood Risk Assessment submitted.

6.1.3. The Appeal Submission Document, prepared by CS (Cronin & Sutton Consulting Engineers) Consulting Group, responds to Reason for Refusal No. 2 and is summarised under the headings below accordingly:

6.1.3.1. *Re. Access Arrangements- Pedestrians and Cyclists*

- The Council's Transportation Planning Division report states that "the concentration of activity on the proposed Leeson Street Upper entrance is problematic".
- As shown in architectural drawing 2008-SCA-PL-LOO-DR-A-1101 (provided as Appendix A), revisions have been made to the ground floor layout of the proposed development, allowing convenient pedestrian and cyclist access to the interior of the development from the grounds of Mitchel House to the south.
- These design changes reduce reliance on the development's Leeson Street access.
- The existing footpath along the site's Leeson Street boundary is approx. 3.0m in width. This minimises the risk of pedestrian traffic at this location being obstructed by arrivals to or departures from the development.

6.1.3.2. *Re. Access Arrangements Vehicular Servicing*

- All vehicular servicing of the development, including passenger collection and set-down, will be conducted within the adjacent Mitchel House grounds, over which the Applicant has the right of way. This right of way entitles the Applicant to reconfigure parking in that area.
- Revised proposals have been submitted that include a dedicated set-down/servicing space within the Mitchel House grounds, in proximity to the pedestrian access at the development's southern boundary. This will reduce the potential for conflict between vehicular servicing of the proposed development and access to existing car parking at Mitchel House.
- Drawing APW-CSC- ZZ-XX-OR-C-0029 (provided within Appendix A) shows the swept path analysis for a 3.5T panel van accessing this space.
- The Council's Transportation Planning Division report identified concerns regarding refuse collection from the proposed development. These are addressed in the revised Operational Waste Management Plan prepared by Awn Consulting, submitted with the appeal.
- The Council's Transportation Planning Division (TPD) report expressed concern that "the proposed ESB substation is located at the main entrance to the development on Upper Leeson Street" and that "there is no provision for vehicle parking in proximity to the proposed substation". The TPD report notes that "ESB access requirements would need to be established, and this should have regard to the potential impact on other road users and the local road network".
- AXIS engineering consultants for the proposed development have contacted the ESB to establish servicing access requirements for the proposed substation, and ESB has responded that the design proposed is acceptable to the ESB.
- The proposed design does not include a dished kerb at this location.

6.1.3.3. ***Re. Parking Provision - Car Parking and Set-Down***

- Given the location of the development and its proximity to several public transport modes and its relatively small population, the proposed development is expected to generate minimal vehicular traffic.

- Incoming vehicular servicing (such as parcel deliveries) and passenger collection/set-down will be catered for by the proposed new set-down/delivery area on the grounds of Mitchel House.
- Minimal numbers of private car trips to the development are expected, as residents and visitors will be aware of the absence of on-site car parking.
- It shall be a condition of residents' tenancies that they are not entitled to park a car at the development itself or within the grounds of Mitchel House and that they are not entitled to on an-street parking permit.
- Residents and their visitors shall be supported in adopting sustainable travel modes by the implementation of a Residential Travel Plan, as previously submitted.
- Considerable pay-and-display on-street parking is available to visitors both along Appian Way, in the immediate vicinity of the site, and along Winton Road, within a 5-minute walk.

6.1.3.4. ***Re. Parking Provision - Bicycle Parking***

- The revised development layout proposal has addressed the Council's Transportation Planning Division requirements regarding visitor cycle parking, as shown on drawing 2008-SCA-PL-LOO-DR-A-1101.

6.1.3.5. ***Re. Dublin City Development Plan and Apartment Guidelines Sections referred to***

- In relation to Section 16.38 of the Development Plan, the proposed development does not include on-street parking along Leeson Street, nor is there any existing on-street parking that the proposed development might make use of.
- The proposed development is not likely to affect bus operations along Leeson St., nor shall it prejudice the future implementation of the BusConnects Core Bus Corridor no. 9 along this street.
- Regarding Section 4.23 of the Design Standards for New Apartments, an additional set-down/delivery space has been provided on the grounds of Mitchel House.

- Given the scale and location of the proposed development and the availability of existing on-street car parking nearby, it is not considered necessary or desirable to provide visitor car parking within the development site.
- As described in the submitted Residential Travel Plan, 3 no. bases for commercial car-sharing operators (GoCar and Yuko) are situated within a 5-minute walk of the site and a further 16 no. such bases are within a 10-minute walk.

6.1.3.6. ***Re. Dublin City Council Drainage Division Comments***

- The site borders an area which may be subject to pluvial flooding.
- The Strategic Flood Risk Assessment for the current Development Plan indicates that the site is located in a zone classified as low flood hazard.
- A review of the historical flood mapping incidences from the OPW does not indicate any history of flooding in the vicinity of the subject lands, nor does the Greater Dublin Strategic Drainage Study Hydraulic performance mapping indicate any surface flooding from the existing drainage network.
- The proposed development has living space below ground level. Therefore, there is a mechanism for which this area would be susceptible to pluvial flooding.
- Any potential flooding would require rainwater of such intensity and duration to cause surface flooding of sufficient depth to rise above the kerb level and expand to such a degree that flood waters would find their way into the lowest habitable level.
- The proposed level at the entrance into the development is 11.20m, rising to 11.50m.
- In practical terms, this would mean pluvial flood waters would have to rise to a level greater than 11.50m to allow water to drain into the lower studio apartments via the access steps.
- Given the site's low-risk location and the levels and flow directions of the adjoining road network, the potential for pluvial flood water affecting the lower-level units is deemed to be low.

- All other aspects of potential flooding to the site have been assessed under the Site Specific Flood Risk Assessment submitted with the original application.
- Oil potential flooding mechanisms have been considered, and appropriate measures assessed.
- The site area is 933 sq.m. Therefore, taking 5mm of rainfall over this area would require 4.66m³ of infiltration storage to be provided.
- The site's open space will be utilised to allow the 5mm infiltration storage to be provided.

6.1.3.7. ***Report from AECOM Ireland Ltd. providing comments re. Townscape and Visual Effects is summarised as follows.***

- The townscape and visual impact assessment accompanying the planning application recognises that the proposed development will transform the existing site and add a new style and scale of building to the townscape character of the area.
- Short and middle-distance views up to approximately 150-200m radius from the site, will experience the majority of visual change.
- These views include open vistas along Appian Way, Leeson Street Upper, Leeson Village and Wellington Place, where the full scale and height of the building can be recognised as well as from locations where partial views of the development are possible and clearly noticeable, such as along sections of Waterloo Lane, Waterloo Road, Morehampton Road, the open green at The Royal Hospital Donnybrook and from Leeson Park Avenue.
- The majority of Leeson Street Upper, adjacent to the proposed development site, is flanked by rows of protected residential period houses of attractive quality, design and scale.
- The existing mature street trees provide a high-quality townscape character in the vicinity of the proposed development.
- The site and immediately adjoining modern residential buildings, including the four-storey apartment blocks of Mitchel House and Courtney House along Appian Way

and the townhouse development at Leeson Village (off Lesson Street Upper), stand already in considerable architectural contrast to the otherwise homogenous rows of period houses.

- This particular corner along Leeson Street Upper and Appian Way has been transformed by modern housing developments since the second half of the 20th Century.
- These developments stand in contrast to the adjacent terraces of period houses. They changed the overall period appearance of the historic townscape and introduced a modern layer of building styles, density and visual appearance at the time of their construction.
- The proposed development will add another layer of contemporary architecture, and in this case, 'verticality' as part of this progression.
- While the modern developments of the 20th Century remained similar in height to the period terraces, the proposed development will introduce a medium height building with 10 storeys over basement level.
- The introduction of medium-high buildings in the overall low-rise townscape of Dublin is not unusual and has been done in several other locations during the past decades.
- The closest building with 11 storeys above ground floor level is 'Ardoyne House', which is located on the western side of Herbert Park at approximately 560m distance from the proposed development.
- The introduction of a medium-high building at the site will introduce a new visual focus and approach to the site.
- The proposal will form a new urban edge at the corner of Appian Way banned Leeson St Upper.
- There is an “ongoing need to balance the often competing demands of a modern city in terms of consolidation and future growth with the need to protect its intrinsic character” as identified in the Draft Dublin City Development Plan 2022-2028 (Vol. 1, Section 11.3, Page 392).

- The Draft Dublin City Development Plan states further that along "with the principle of densification, will the requirement to consider greater height in appropriate locations. It is important to note however; that higher density does not necessarily equate to high rise buildings and plot ratio and site coverage all contribute to the density of a particular built form (refer to Vol. Section 4.5.4, Page 146)."
- As stated in the Townscape and Visual Impact Assessment accompanying the planning application, the proposed development will introduce a new focal point due to its height.
- The proposal will transform views within the locality, but it will not undermine the period character of adjoining areas due to existing modern buildings adjacent to the proposed development.
- The site is zoned for residential development.
- Any new building structure on the site will have a significant impact on the townscape character and alter the visual amenity in views along Leeson Street Upper and Appian Way, given its prominent corner location.
- The introduction of a built structure with contemporary architecture but similar in height to the neighbouring Mitchell House or period homes would also become a new point of focus and stand in contrast with the pre-dominantly period terraces along Leeson Street Upper.
- The proposed development will stand less in contrast with the modern residential developments of the 20th Century adjacent to the site.
- The entire cluster of modern developments, including Mitchell House, Courtney House and the townhouses at Lesson Village, stand in contrast to the adjoining period terraces in style and plot size. These developments have already changed the character of the area substantially.
- It is not unreasonable to claim that the "injury" to the visual amenity, as stated in the planning refusal, has already been done in the past.
- Considering the undeveloped corner of Appian Way/ Leeson Street Upper, the introduction of a new building structure will now complete the area of modern development at this corner.

- The current vegetation on the development site is only disguising an unsatisfactory corner setting in the overall townscape of the area.
- A new building would be able to complete this corner and tie together a gap in the built environment of this area.
- The general existing building height ranges between 3-4 storeys above ground floor level.
- The additional visual change due to the proposed 10-storey building, i.e. 6 storeys above the average existing building height, will be material, but the proposed building will integrate as much as any other building at this corner given the location.
- The proposed development will provide a better strength to the urban quality and visual amenity of the townscape than a low-rise building, which would be similarly prominent in close-distance views but fail to stand apart and detract from the various mix of adjoining architectural styles in the locality.
- By providing this strength due to its verticality, the proposal will integrate into the overall setting as it will tie it together.

6.2. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

6.3. Observations

6.3.1. Third-party observations were received from the following parties;

- Armstrong Planning Consultants on behalf of Upper Leeson Street Area Residents Association, care of Fiona Slevin, Chairperson, P.O. Box 8411, Ballsbridge, Dublin 4.
- Courtney House Management CLG, Courtney House, Appian Way, Dublin 6.
- Leeson Village Management Company, No. 10 Leeson Village, Upper Leeson St., Dublin 4.

- Mitchel House Management Company, representing the shareholders and tenants of Mitchel House, Appian Way in Dublin 6.
- Diane Balding of No. 19 Mitchel House, Appian Way, Dublin 6.
- Aidan and Christian Cavey, Upper Leeson Street, Dublin 4.
- James Collins of No. 26 Mitchel House, Appian Way, Dublin 6.
- Philip Crowe, No. 68 Upper Leeson Street, Dublin 4.

6.3.2. The issues raised are summarised as follows;

6.3.2.1. **Traffic and Parking**

- The proposed development would directly impact the residents of Mitchel House both during construction and after its completion.
- The swept path analysis in the appeal document (responding to reason No. 2) was based on a swept path analysis for the previous application, P.A. Ref. 2554/16. The dynamics of the subject application are entirely different.
- The drop-off zone will be heavily used and accommodate the traffic movements listed below.
 - Mitchel House residents park their cars on the building's northern side, near the proposed drop-off zone.
 - Moving vans for tenants moving in and out following development. Because the studio apartments are likely to be used for short-term rentals, there will be a high turnover of tenants in and out of the development and thereby moving vehicles.
 - Package delivery vans, often multiple times per week by each resident.
 - An Post will have to use parking spaces to drop off and deliver mail.
 - Service vans, such as plumbers and electricians, will use the drop-off zone to deliver materials and people.
 - Residents travelling by bike would have to pass through the drop-off zone.
 - Residents walking to and from the Ranelagh will likely pass through the drop-off zone.

- Taxis will frequently drop off and pick up tenants and visitors to the development, often late at night or early in the morning.
 - Emergency vehicles, such as ambulances and fire trucks. Questions are raised about whether there is adequate access for such vehicles.
 - Because the Mitchel House bin area is in the middle of the proposed drop-off zone, Mitchell House residents must take the same route as all other traffic to the bins.
- It is unclear where service vehicles, delivery vehicles, taxis, and emergency vehicles would set down or park.
 - The proposed development could potentially house more than 90 residents, which will generate additional traffic movements around Mitchel House.
 - The car park serving the Mitchel House apartment block is narrow and heavily used.
 - Heavy vehicles using the right of way to the proposed development through the car park serving the Mitchel House would significantly impact the residents of Mitchell House.
 - The number of travel movements to and from the drop-off zone will be significant, particularly in the morning and evening.
 - All potential traffic movements are in addition to the existing travel movements to and from Mitchell House and Courtney House, which all use the same entrance.
 - By establishing the proposed drop-off zone and significantly increasing traffic movements, the proposed development creates a thoroughfare around Mitchel House.
 - It is unavoidable that traffic will be backed up during peak hours, necessitating adequate space for two-way traffic.
 - The Swept Path Analysis submitted does not show the tight spaces around Mitchel House.
 - The removal of 4 no. parking spaces serving Mitchel House would impact local parking patterns.

- The Accessibility Statement prepared by MSA states that “there is an existing entrance at Leeson St. Upper (Leeson Village) next to the main entrance to the site which can be used as a casual setting down point by any visitor or occupant, taxi or taxi buses for set-down”.
- This reflects the restricted area on site, the lack of vehicular access to the site, and the constraints of the location on a busy junction.
- The entrance to Leeson Village is private property.
- Leeson Village Management Committee have not consented to the use of the Leeson Village entrance as a casual set-down point.
- Concerns that the private entrance to Leeson Village would be used as a default set-down spot unless the development includes a convenient set-down space adjacent to the entrance to the apartment complex.
- The Leeson Village entrance is located off a filter lane from Leeson St. Upper onto Appian Way. This road sees high traffic loads, particularly at peak hours.
- Any vehicle blocking access to the Leeson Village entrance will lead to congestion on Leeson St Upper when vehicles attempt access to Leeson Village.
- It is inappropriate that the safe access and egress to Leeson Village be compromised by the overdevelopment of the appeal site.
- Any vehicles setting down along Upper Leeson St and Appian Way would pose a hazard to the safe passage of pedestrians.
- The proposal does not include a waste collection plan for the proposed 44 units.
- The proposal would create traffic congestion on Leeson St, Upper and Appian Way.
- It is unlikely residents of the proposed development would not want close access to a car.

6.3.2.2. ***Building Height***

- The description of the proposal is misleading, whereby it comprises an 11-storey building (including a basement).

- The site consists of a small corner area close to numerous Protected Structures that together create a coherent streetscape.
- The proposed 10-storey building has a height of 34.4m (45.93m O.D.), including the lift overrun when viewed from Leeson St Upper.
- The proposed building is over three times the height of the adjacent terraces (Nos. 1-3 Leeson Village and 64-75 Upper Leeson Street).
- The proposal is at least three times the height of neighbouring buildings.
- The proposed development would dominate all views in the area and have a significant impact on the terraces of Protected Structures and their setting.
- The scale, form and height of the proposed development are out of character with surrounding buildings.
- No CGI is provided from the south to show the impact of the development on the established and historic urban and architectural character of the area.
- The proposal would be contrary to the Development Plan because the site is in the low-rise category, which limits building height to 24 m.
- Ardoyne House and the Aviva Stadium do not provide precedent for the proposal.
- The Building Height Strategy and policies in the Dublin City Council Development Plan 2016-2022 align with the Building Height Guidelines.
- The proposed development is inappropriate for the subject site based on the Building Height Guidelines locational classifications.
- The site should be categorised as a 'suburban/edge location (city and town)' as set out in the Building Height Guidelines under paras. 3.4-3.8.
- The grounds of appeal do not address the locational classifications set out in the Building Height Guidelines, which identify different locations where building heights are to be increased to different extents.
- Sections 3.4-3.8 of the Building Height Guidelines refer to 'suburban/edge location (city and town)' locations, stating that "development should include an effective mix of 2,3, and 4 storey development that integrates well into existing and historic neighborhoods" and that "four stories or more can be accommodated alongside existing larger buildings, trees and Parklands,... or along wider streets."

- The Applicant refers to The Apartment Guidelines, which are not directly related to the issue of national building height policy.
- The appeal site is not located within the canal ring and does not fall within a town or city centre, as defined in the Building Height Guidelines.
- It is not the intention of the Building Height Guidelines to promote a default minimum of six storeys in architecturally sensitive locations.
- The site is architecturally sensitive, being in close vicinity to many Protected Structures in the surrounding streetscape.
- The height of the proposed development would be visually incongruous and would not integrate with the wider streetscape, which comprises traditional two and three-storey houses.
- The height of the proposed development would not be in proportion to the streetscape and the height of existing buildings.
- The site does not serve as a gateway to the city and cannot be identified as such.
- Consideration should be given to Section 16.2.1.1 of the Development Plan, which states that the evaluation of proposals must consider existing rhythms, proportions, symmetries, solids-to-void relationships, degree of uniformity, and the composition of elevations, roofs, and building lines.
- The proposal does not present active street frontage.
- The proposal does not meet the development management criteria of Section 3.2 of the Building Height Guidelines, especially at the scale of the neighbourhood/street.
- The policies of the Draft Dublin City Council Development Plan, 2022-2028 regarding building height incorporate the policies and guidelines of the Building Height Guidelines.

6.3.2.3. ***Density and Plot Ratio***

- The density of the proposed development is excessive and represents overdevelopment of the site.

- The scale of the proposal is incongruous with existing neighbouring development.
- The density of the site is 478 units per hectare (or 763 units per hectare according to Section 5.136 of the Applicant's planning report).
- The plot ratio is 2.96, which is excessive considering the Development Plan requires a plot ratio standard of 0.5 to 2.0 for Z1 zoned lands.
- The site is located outside the canal ring (the outer limit of Dublin City Centre).
- It is debatable whether the site can be called an 'Intermediate Urban Location', as defined In the Apartment Guidelines, where appropriate development could include "higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly > 45 dwellings per hectare net) including: sites within or close to i.e. within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations".
- 478 units per hectare is vastly in excess of the upper limits normally associated with high-density development in 'intermediate urban locations'.
- The key policy criteria in relation to very high-density development are the quality of the design, the effects on its surroundings, and the quality of the residential amenity to be provided.
- Proposed compensatory measures for shared spaces are insufficient to make up for the lack/deficit of outdoor open space, small unit sizes, and a lack of 2 or 3-bed quality family units.
- The Applicant seeks to maximize the occupancy density in the building to accommodate the greatest number of working professionals.

6.3.2.4. ***Impact on Mitchel House and Courtney House***

- The new drop-off zone will lead to air and noise pollution in the Mitchel House apartments.
- Vehicles will drive closely past apartment windows and open vents.

- The proposal could devalue Mitchel House properties.
- Mitchel House management will face higher insurance costs because of increased risk levels.
- The current location of the Mitchel House bin area is significantly reduced by the new drop-off zone to the point that it is unusable.
- The proposal would lead to the loss of 4 no. car parking spaces. Mitchel House only has 27 car parking spaces serving 36 apartments. Therefore, any loss of parking would be detrimental.
- Using the right of way to serve the proposal would create traffic issues and conflict between the residents of Mitchel House and the proposed development and would endanger public safety.
- The absence of consent from Courtney House for the proposed vehicular access deems the application invalid.

6.3.2.5. ***Impact on Leeson Village***

- The proposed development's windows, balconies and terraces would overlook houses in Leeson village and other neighbouring properties.
- The defrosted glass on balconies would not ameliorate overlooking from the proposal.
- The Wind Microclimate Assessment reveals a decrease in the amenity and comfort of the private and public open spaces in Leeson Village, as well as an area along Appian Way that will be "uncomfortable" for cyclists and pedestrians during the winter months. It is unknown which design interventions have been implemented to mitigate these effects.

6.3.2.6. ***Legal Validity***

- Mitchell House management sought legal advice to test the legal validity for the new proposed drop-off zone by the Applicant.
- The management company's solicitor concluded that the introduction of a drop-off zone is a misuse of the right of way held by the Applicant and a breach of Clause

5 of the lease and would constitute an actionable trespass on the Mitchel House management title.

6.3.2.7. ***Impact on Residential Amenities***

- The proposed development would result in overlooking and loss of privacy of surrounding gardens to the south, north-west and south-east of the site.
- A large number of the apartments in the proposed development will have windows looking directly into the Mitchell House apartments, which will impact the privacy of residents.
- Many of the balconies and terraces will overlook private external space to the rear of Nos.1-3 Leeson Village and 64-69 Upper Leeson Street from up to 33m above ground level.
- The 'privacy' screen proposed for the southeast corner will be relatively ineffective in reducing overlooking.
- The height of the proposed new building at 34.4m, being more than double the recommended 16-metre height of the Dublin City Council Development Plan 2016-2022, will disproportionately impact the other top floor apartments in Mitchell house (apartment Nos. 3, 4 and 5).
- The proposed outdoor amenity space would create noise impact, particularly late at night.
- The appellant's daylight/sunlight assessment found that five windows within two separate properties would fall below the BRE criteria for VSC daylight methodology. This would create a significant negative impact on neighbouring residential amenities.
- The proposed development will result in the overshadowing of the rear private gardens to its east, south and west, given the proximity of these spaces and the height of the proposed development. This effect will be highly acute between September 21st and March 21st each year due to the low height of the sun at this northern latitude.

- The height of the proposed development (34.4m or 45.93m O.D.) is too high for the site, given its proximity to nearby residences.
- This proposed development would be most prominent when viewed from the south due to the width of the building from this vantage point.
- The proposal would be significant when viewed from the opposite side of Leeson Street Upper, where the existing residences would be confronted by a wide ten-story high facade bearing down on them and looming large on the site.
- The Applicant failed to conduct environmental or social impact assessments regarding the likely impacts (and proposed mitigation measures) associated with the generation and timing of noise, vibration, and dust during the construction phase of the project. Given the close proximity to other residential buildings, this poses grave concerns.

6.3.2.8. ***Quality of Accommodation***

- The design and layout of the proposed development would result in a proliferation of single-bedroom units and studios.
- The proposal would provide a substandard level of accommodation for future occupants.
- The proposed development provides 29 studios (66%) and 15 one-bed units (34%).
- The proposal would create a proliferation of one-bed units.
- Regarding the Daylight/Sunlight assessment submitted with the application, 12% of the proposed windows do not meet the BRE criteria for Vertical Sky Component (VSC) methodology.
- The four north-facing windows are indicative of a low-quality residential development.
- One of the 18 living rooms assessed does not provide a main window within 90 degrees of due south, thereby failing the BRE minimum recommended levels of APSH and WPSH.

- The proposed unit mix would materially contravene Section 16.10.1 of the Dublin City Development Plan, where a maximum of 25% to 30% of all one-bedroom units are allowed, and a minimum requirement of 15% of three or more bedroom units is required.
- The 100% proportion of one-bed units indicates an unsustainable form of development.
- While the Apartment Guidelines state that no restrictions on dwelling mix apply to Build-to-Rent schemes, it is argued that the Planning Authority must ultimately consider the scheme's overall sustainability in the context of Development Plan policy and national policy, both of which are concerned with the provision of sustainable development.
- New residential development should include a mix of dwelling types and good floor space standards.
- The quality design principles and standards outlined in the Quality Housing for Sustainable Communities (2007) and Sustainable Residential Developments in Urban Areas Guidelines (2009), and the Urban Design Manual 2009) are pertinent to achieving long-term sustainable development and must be considered in the context of the Apartment Guidelines as they have not been superseded by these guidelines and are of equivalent status.
- It is unclear how the proposal would accommodate buggies, wheelchair users or people requiring walking canes beyond the front door.

6.3.2.9. ***Urban Design***

- The proposed 10-storey building is unsuitable for this historic conservation area, which contains Protected Structures and period houses dating from the 1840's.
- The proposed development does not respond appropriately to its surrounding, as its height exceeds all development in the vicinity by a significant degree.
- The proposed ground-floor level would not have an active street front and would be set back from the street behind railings.

- The proposal would present mostly blank glass facades or blank wall facades on Appian Way, contributing nothing to the streetscape's urban design.
- At the human scale, the ground-floor and first-floor levels would not be in keeping with the surrounding streetscape and would be partially obscured by trees on Leeson Street. Above these levels, the 10-storey height of the proposal would be at variance with the streetscape and out of all proportion to human scale.
- The proposal lacks a gradual step up in height/modulation in relation to the adjacent buildings.
- The proposal's height would create an overbearing and overshadowing impact on adjacent property.
- The proposal's design was not carefully considered in terms of views or minimising loss of light.

6.3.2.10. ***Open Space***

- The proposal provides a small area of outdoor open space at ground level and a strip of balcony space at the ninth-floor level.
- While the proposal provides indoor communal space at the ninth-floor level, this cannot substitute for the lack of communal outdoor open space provision.
- Section 16.10.3 of the Development Plan requires that 10% of the site area (for apartment developments) be reserved for public open space. This is not achieved on the site and represents a material contravention of the Development Plan.
- The area of private open space at the ground floor level would be mostly unusable, being covered in trees and would merely serve as a setback from the noisy and busy primary N11 road.
- The communal terrace area is a small balcony strip located around the ninth floor that would overlook neighbouring property in all directions.

6.3.2.11. ***Trees***

- The proposal would result in a significant loss of mature trees from the site in an area with a low proportion of soft landscaping relative to the built form of the surrounding streets and a lack of public parks/ green space.
- It is an objective of the Dublin City Tree Strategy that trees should be a material consideration in the determination of planning applications, and one of the four key aims of the strategy is to protect trees.
- Section 16.10.2 of the Development Plan requires that "All public open spaces shall be of a high quality" and that "existing features, such as mature trees, shall be retained and enhanced by the open space provided."
- The extent of the removal of good-quality trees on the site is contrary to the aims and objectives of the Dublin City Tree Strategy and Development Plan.

6.3.2.12. ***Groundwater and Drainage Issues***

- The Flood Risk Assessment submitted with the appeal does not address the question if groundwater levels will be impacted by the proposed 10-storey building on a relatively small footprint. This assessment should address the impact of increased groundwater levels on neighbouring properties.
- Instances of groundwater flooding have been experienced by Mitchel House and Courtney House in their basements. There are concerns that increased groundwater levels will only amplify this.
- Water pressure is an ongoing issue in the area. The proposal would further deteriorate water pressure in the area.

6.3.2.13. ***Geotechnical Investigations***

- The proposed development has a significantly higher density and heavier load on foundations than the development previously permitted by Dublin City Council under P.A. Ref. 2554/16.
- The Applicant has failed to include any ground investigation reports on the geotechnical parameters at the site, with reference to soil, overburden (glacial till) or bedrock, and hydrogeological conditions.

- Given the scale of the proposed development, site investigations are warranted to determine loading capacity, depth to groundwater, and the presence of karst features (e.g., cavities) in the underlying limestone bedrock.
- No site investigation has been undertaken to assess the presence of unknown potential hazards beneath the site (including radon).

6.3.2.14. ***Deficiencies in Drawings***

- The Applicant has not outlined any land within their ownership in blue on the drawings, as required by the Planning Regulations.
- If the Applicant does not own the site, then a letter of consent should have been submitted. This was not included in the application.
- The planning application form submitted with this application states that the Applicant is the owner of the lands, so it is contended the blue line should have been shown on the drawings.
- The drawings submitted do not meet the requirements of the Planning Regulations and should not have been validated by the Council. The application is invalid on this basis alone.
- On the Proposed Site Layout Plan and other section and elevation drawings, the Applicant has failed to colour the railing and stone wall, which is to be retained, refurbished and restored in a different colour.
- The submission of 'typical' drawings for floors 01-06 is unsatisfactory and not in accordance with Planning Regulations. Reference made to Case Law Sweetman v An Bord Pleanála, Ireland and the Attorney General and Bord na Mona Powergen Ltd., which requires the submission of plans and particulars, not typical drawings.
- The drawings submitted are not to scale, as stated.

6.3.2.15. ***Appropriate Assessment Screening and Biodiversity Considerations.***

- The AA Screening has not considered the effect of maintaining habitats on the site and compensating for any losses by establishing new habitats/homes for birds onsite.

- The Applicant has failed to consider the impact of the proposed Urban Greening on Natura 2000 sites and, more particularly, on the qualifying species, particularly birds, which may be attracted to the Applicant's proposed ecological compensatory measures onsite.
- The proposed development includes a large number of windows and glass panes. The Applicant has not considered the potential effects of glint and glare from such a structure on birds.
- In cases where glass windows are a significant feature of a building and where a landscaping plan incorporates a lot of vegetation, this can result in vegetation such as bushes or trees reflecting onto the glass, which a bird cannot distinguish between while in flight.
- The Architectural Design report includes several images of the finished design. Most notable is the image prior to Section 3.14, which shows the finished design in the wider context, with onsite and neighbouring greenery (the Urban Greening) being fully reflected on all levels such that even to a person's eye, there are full reflections of trees and bushes visible on the glass windows.
- Consideration should be given to the risk posed to birds from glint, glare and reflection and the interplay of this with the provision of compensatory measures proposed onsite (bird boxes, tree retention, etc.), particularly with relevance to qualifying species for Natura 2000.
- Details on surveys completed by the Applicant are insufficient for the proposed design to be adequately informed by the existing baseline ecology of the area and its significance.
- No survey has been carried out to ascertain the current bird assemblage on the site in each season.
- The receptor sensitivity for birds cannot be understood on the basis of the studies completed.
- While a bat survey is stated to have occurred in August 2021, no appendix has been included that details the survey and its adequacy.

- Concerns that the bat survey report stresses that no "definitive" bat roosts were identified". This suggests there are roosts, and further surveys would be warranted, particularly given the site contains a large number of ivy-covered trees.
- The Ecological Impact Assessment Report (EclA) report details that 6 of the 26 existing trees will be retained on site and that these remaining 6 trees will need remedial works to fit the design. The proposed remedial works include the removal of ivy on trees to allow more light penetration. However, this would be contrary to the protection of bat habitats.
- The EclA outlines that while 6 trees are proposed to be retained, 3 of these should be removed to allow the other 3 to mature. It is unclear if it is proposed to keep 6 or 3 trees from the data presented.
- The Applicant is proposing to prune two trees near the proposed ESB substation on Leeson St. Upper. However, these trees are located within the Site. Consent for such pruning has not been provided.

6.3.2.16. ***Public Access, Health and Safety***

- The proposal is a Build-To-Rent development where turnover and the volume of cyclists will be high.
- Concerns regarding a potential conflict between cars and cyclists accessing the proposed development along the right of way through Mitchel House.
- The Applicant has submitted a detailed swept path analysis of how a car manoeuvres out of the spaces along the right of way. No consideration has been given to cyclists.
- Under previous application P.A. Ref. 3882/06, the Council's Traffic Planning Division requested additional information on how the aisle clearance width between Mitchel House and the parking bays (i.e. the right-of-way area) was too narrow for two-way traffic and that an existing ramp and steps protrude onto this clearance width, thereby further restricting traffic movements at this point.

- While the two-way traffic noted under P.A. Ref. 3882/06 was vehicular traffic, it is contended that bikes should have been assessed by the Applicant, knowing there has been a history of concern around the aisle width of the right of way.

6.3.2.17. ***Emergency Site Access***

- The Applicant has overlooked essential health and safety concerns.
- Concerns regarding access arrangements to allow for emergency vehicles to access the site should there be a need, in particular fire services.
- There appears to be only a small possible access point for a fire truck between vehicle parking space Nos. 20 and 21 to get onto the application site.
- There may be space on the eastern side of car space No. 24 by the bike access, but this is not clear from the drawings.
- Gated patios at ground level would restrict the movement of emergency vehicles.
- A fire truck could not easily access the proposed development from Leeson St. Upper by reason of the secure fence and concrete wall with a narrow electric gate for pedestrian access bordering the site.
- If a fire were to break out on the site, the design of the proposal would make it extremely difficult for emergency services to gain access and begin fire suppression.
- The proposal provides only a single staircase internally.
- A fire safety assessment should have been submitted with the application.
- This report should have looked at the site access and right of way across Mitchel House to ascertain if its design represents a significant health and safety hazard.
- The Applicant states in Architectural Statement that prior to the submission of the planning application, issues including means of escape, fire brigade access and fire-fighting facilities were reviewed and considered. However, these are not detailed in the documents submitted with the application.

6.4. Further Responses

None

7.0 Assessment

7.1.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues in this appeal are the reasons for refusal as cited by the Planning Authority. Furthermore, having regard to the recently enacted Dublin City Council 2022-2028 and relevant policies therein, I also consider other issues that should be addressed, including the principle of the proposed Build to Rent residential development, daylight and sunlight, overlooking, overshadowing and Appropriate Assessment. These issues are addressed under the following headings;

- Principle of the proposed Build to Rent development,
- Building Height, Scale and Density,
- Internal Daylight and Sunlight to Proposed Residential Units,
- Daylight and Sunlight to Existing Neighbouring Buildings,
- Overshadowing,
- Overlooking,
- Public Open Space,
- Roads, Access and Parking Issues, and
- Appropriate Assessment.

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The issues for consideration are addressed below accordingly.

7.2. Principle of the proposed Build to Rent development

7.2.1. The site, which has a stated area of 0.0928 hectares, is located on a prominent corner site on the southern side of Leeson Street Upper (R138) on a junction with Appian Way. The proposed development comprises the construction of a 10-storey over basement level residential building consisting of 44 no. Build-to-Rent apartments and studio units and a guest suite with two visitor rooms. The dwelling mix consists of 29 no. studio units and 15 no. one-bed apartment units.

7.2.2. Under the Dublin City Council Development Plan 2022-2028, the site is zoned 'Zone Z1: Sustainable Residential Neighbourhoods' with the objective 'To protect, provide and improve residential amenities', as detailed on Development Plan Map H. Adjacent lands to the northwest, north and southeast along Leeson Street Upper are zoned 'Z2: Residential Neighbourhoods (Conservation Areas)' with the objective 'To protect and/or improve the amenities of residential conservation areas'. Adjoining lands to the east and south-west are zoned 'Zone Z1: Sustainable Residential Neighbourhoods'.

7.2.3. The use class 'Build-to-Rent Residential' is 'open for consideration' under Z1 zoned lands, as detailed in Section 14.7.1 of the Dublin City Council Development Plan 2022-2028. With this regard, Section 15.10 of the Development Plan 2022-2028 refers to 'Build to Rent Residential' and states that "*Dublin City Council will consider 'Built to Rent' developments in specific locations as follows:*

- *Within 500 metre walking distance of significant employment locations.*
- *Within 500m of major public transport interchanges (e.g. Connolly Station, Tara Street Station and Heuston Station), and within identified Strategic Development Regenerations Areas.*

7.2.4. Regarding the scale and quantum of Build to Rent residential developments (BTR), Section 15.10 of the Development Plan states that;

There will be a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology. To ensure a sustainable mix of tenure and long-term sustainable communities, a minimum of 60% of standard designed apartments will be required in such instances.

Please refer to section 5.5.7 of this City Development Plan – Policy QHSN40.

7.2.5. Furthermore, the Development Plan states that;

Whilst BTR is considered to be an integral part in achieving an appropriate mix of housing in the right locations, there will be a presumption against the proliferation and over concentration of Build to Rent development in any one area (refer to Section 5.5.7 of Chapter 5 Quality Housing and Sustainable Neighbourhoods). Applications for “Build to Rent” developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site to demonstrate:

- *that the development would not result in the over concentration of one housing tenure in a particular area.*
- *how the development supports housing need, particularly with regard to tenure, unit size and accessibility with particular reference to the Dublin City Council Housing Need and Demand Assessment.*

7.2.6. Policy QHSN40 which refers to Build to Rent Accommodation requires the following;

To facilitate the provision of Build to Rent (BTR) Accommodation in the following specific locations:

- *Within 500 metre walking distance of significant employment locations,*
- *Within 500 metres of major public transport interchanges (e.g. Connolly Station, Tara Street Station and Heuston Station), and*
- *Within identified Strategic Development Regenerations Areas.*

There will be a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology.

To ensure there are opportunities for a sustainable mix of tenure and long term sustainable communities, a minimum of 60% of units within a development must be designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, December 2020.

There will be a presumption against the proliferation and over concentration of BTR development in any one area. In this regard, applications for BTR developments should be accompanied by an assessment of other permitted

and proposed BTR developments within a 1km radius of the site to demonstrate:

- *that the development would not result in the overconcentration of one housing tenure in a particular area and take into account the location of the proposed BTR.*
- *how the development supports housing need, particularly with regard to tenure, unit size and accessibility with particular reference to the Dublin City Council Housing Need and Demand Assessment.*

7.2.7. Policy QHSN41 seeks the following;

To discourage BTR Accommodation schemes of less than 100 units due to the need to provide a critical mass of accommodation to provide a meaningful provision of communal facilities and services. Smaller BTR accommodation schemes with less than 100 units will only be considered in exceptional circumstances and where a detailed justification is provided.

Policy QHSN42 seeks to:

To foster community both within a BTR scheme and to encourage its integration into the existing community, the applicant will be requested to provide an evidenced based analysis that the proposed resident support facilities are appropriate to the intended rental market having regard to the scale and location of the proposal. The applicant must also demonstrate how the BTR scheme must contribute to the sustainable development of the broader community and neighbourhood.

7.2.8. The Planning Report and supporting documentation submitted with the application provide a justification for the proposed Build to Rent development against the development management criteria of the Urban Development and Building Height Guidelines (2018), which are summarised as follows;

- Built-to-rent housing positively affects the residential market by increasing typologies and market choices.
- It provides housing for highly skilled workers at the beginning of their careers when home ownership is not feasible.

- BTR developments are owned and managed by a single entity as a long-term commercial rental enterprise.
- Individual units are not sold or subleased separately.
- The operator must ensure that the proposed development is owned and operated by an institution for 15 years and that no residential units are sold or rented during that time.
- The proposed development will operate for at least 15 years under Build-to-Rent management.
- If approved, the applicant will sign a 15-year covenant.
- The planning application includes a covenant draft (Appendix 1 of the Planning Report).
- As detailed in the submitted Property Management Strategy Report, management and concierge facilities will be on the lower ground level. This area will focus on tenant management and overall scheme management, emphasising security, bicycle parking and pedestrian access, waste marshalling, parcel deliveries, events management, and community and stakeholder engagement.
- Residents of the proposed development will have a concierge service. In addition, residents can contact the Management Team through a website/portal.
- Interior space will include a reception/foyer and parcel collection facility on the ground floor (95.6 m²) and two multipurpose amenity spaces on the ninth floor next to the communal terraces (104.5 sqm). Two common areas divide the floor. Each has a large lounge with a city-view terrace. The west-facing space has a kitchen and a large city-view terrace. This space can be reserved for private events, resident classes, events, and activities.
- Private amenity space includes a landscaped garden on the ground floor and two roof terrace outdoor spaces (301.9 sqm in total).
- The total internal amenity and service area is 589.71 sq.m.
- The proposed communal amenity space and local support facilities will ensure future residents are well served in terms of residential areas and everyday support services.

- The proposed development includes 44 no. units in total, with 29 studios (66%) and 15 one-bed units (34%). The proposal provides a variety of unit types.
- Each proposed unit exceeds the Apartment Guidelines storage requirements.
- The proposed development adjoins the Leeson Street QBC, which offers frequent bus service to the city centre. The site is near the Luas and Dart, which provide high-quality public transport.
- The proposed units in the development range in size from 40.7 sq.m. to 57.8 sq.m.
- Although the development is 'Build-to-Rent', all the dwellings meet the Section 28 Apartment Guidelines unit size requirements.

7.2.9. The Grounds of Appeal Planning Report submitted elaborates on the justification for the proposed Build to Rent development, detailing the following;

- The site is 10 minutes from the South Georgian Core of Dublin City, a long-established office district, and 10-15 minutes from Burlington Road, Pembroke Road, and Shelbourne Road, which have many large office blocks.
- The site is a 15-minute walk from the former AIB Bank Centre in Ballsbridge.
- The proposed development is situated along a bus corridor with 13 routes stopping nearby and 16 routes within a 5-minute walk, with high frequency.
- The site is located along a proposed BusConnects corridor.

7.2.10. The Application is not accompanied by an assessment of other permitted BTR developments in the vicinity of the site to demonstrate that the proposed development would not over-concentrate Build to Rent tenure in the area. However, this is a requirement under Section 15.10 of the recently enacted Dublin City Council Development Plan 2022-2028, whereas it was not a requirement of the previous Dublin City Council Development Plan 2016-2022, under which the application was lodged and assessed by the Planning Authority. Furthermore, having regard to the context of the site and existing/permitted development in the surrounding area, I do not consider the proposal would result in an over-concentration of Build to Rent residential development at this location. As detailed in Section 5.1 of the Design Standards for New Apartments Guidelines (2022), Build to Rent housing developments '*have a potential role to play in providing choice and flexibility to people*

and in supporting economic growth and access to jobs in Ireland. They can provide a viable long-term housing solution to households where home ownership is not a priority, such as those starting out in their careers and frequently moving between countries in pursuit of career and skill development in the modern knowledge-based economy'. BTR housing can provide more choice and flexibility for people in terms of where they live and how long they stay. BTR housing can be an attractive option for people who are not ready to commit to buying a home or who may be more mobile and want the flexibility to move more easily. In addition, BTR housing can also support economic growth and access to jobs. Providing a stable and reliable source of rental housing can help to attract and retain a skilled workforce, which can, in turn, support economic development and job creation. BTR housing can also help to increase the overall supply of housing, which can help to address affordability issues and make it easier for people to access housing in areas with strong job markets.

7.2.11. Having regard to (i) the context of the site in close proximity to the city centre and high employment areas and (ii) its location adjoining a Quality Bus Corridor and proposed BusConnects Core Bus corridor and within walking distance of Luas light rail public transport at Ranelagh and Charlemont St., I am satisfied that the size of the proposed Build to Rent development (i.e., 44 no. units) is justified at this location. On this basis, I am satisfied that the proposed Build to Rent development is acceptable in principle at this location.

7.3. Building Height, Scale and Density

7.3.1. Development Plan Policy Context

7.3.2. The Planning Authority refused permission for the proposed development on the grounds that its excessive height, scale, and density on a small, visually prominent site would constitute overdevelopment and have an unreasonable overbearing, visually dominant effect on adjoining sites. The Planning Authority determined that the proposed development, with its unjustifiable height and density, fails to integrate or be compatible with the streetscape along both Appian Way and Leeson Street Upper, and as a result, would seriously harm the visual amenities of the streetscape and have an adverse impact on the character of the area, which would be contrary to Section

16.2.1.1 of the Dublin City Development Plan 2016-2022. The Applicant contests these grounds of appeal, as detailed in Section 6.1.2.1 above.

- 7.3.3. The proposed development comprises a 10-storey over basement level residential building. As detailed on the Section Drawings submitted, the proposed building has a flat roof with an overall height of 34.43m (45m AOD), as measured from ground level along Leeson Street Upper. The building presents a 7-storey high wing to its south-western side, with a height of c. 23m. (34.8m AOD) and setbacks to its side elevations. The neighbouring apartment block Mitchel House is four storeys high, with a setback at fourth floor level and an overall height of 11.9m (24.1m AOD). A separation distance of c. 10.3m would be maintained between the proposal and Mitchel House.
- 7.3.4. A 3-storey residential terrace in Leeson Village adjoins the site's south-eastern boundary. This residential terrace has a height of 10.3m (22.29m AOD). The proposal would maintain a separation distance of c. 1.2 m from the north-western side elevation of this residential terrace in Leeson Village.
- 7.3.5. To the north and northeast of the site, along Leeson Street Upper, are terraces of two-storey over basement-level dwellings, which are Protected Structures. Several tall mature deciduous trees are planted along the northern side of Leeson Street Upper, adjacent to the site. A row of two-storey over basement level dwellings (Protected Structures) is located adjacent to the northwest of the site, along Leeson Street Upper. Mature deciduous trees are planted along the front garden roadside boundaries of these dwellings. These Protected Structures are located on lands zoned 'Z2: Residential Neighbourhoods (Conservation Areas)' with the objective 'To protect and/or improve the amenities of residential conservation areas'.
- 7.3.6. Appendix 3 of the Dublin City Council Development Plan 2022-2028 sets out guidance regarding density and building height in the city in order to achieve sustainable compact growth. Thereunder, Section 4.1 identifies areas for increased height and density and states that;

'The general principle is to support increased height and higher density schemes in the city centre, Strategic Development Regeneration Areas, key urban villages, areas close to high frequency public transport and some other areas (as identified) considered as suitable for increased intensity of development.'

The Building Height Guidelines note that general building heights of at least three to four storeys, coupled with appropriate density in locations outside what is defined as city centre, and which would include suburban areas, must be supported in principle at development plan level. The guidance also states that within the canal ring in Dublin, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights by the application of certain criteria.

In considering locations for greater height and density, all schemes must have regard to the local prevailing context within which they are situated. This is particularly important in the lower scaled suburban areas of the city where broader consideration must be given to potential impacts such as overshadowing and overlooking, as well as the visual, functional, environmental and cumulative impacts of increased building height.

As a general rule, the development of innovative, mixed use development that includes buildings of between 5 and 8 storeys, including family apartments and duplexes is promoted in the key areas identified below. Greater heights may be considered in certain circumstances depending on the site's location and context and subject to assessment against the performance based criteria set out in Table 3.

7.3.7. Key Areas referred to above include Public Transport Corridors, where the following is stated;

There is recognised scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors including:

- *Bus connects/QBC's*
- *Luas*
- *Metrolink*
- *DART*

Development proposals will primarily be determined by reference to the proximity of new public transport infrastructure and to the area character.

Locations for intensification must have reasonable access to the nearest public transport stop. In line with national guidance, higher densities will be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the plan. Highest densities will be promoted at key public transport interchanges or nodes.

The capacity of public transport will also be taken into consideration in considering appropriate densities and must be demonstrated by the applicant, particularly where such public transport infrastructure is in the pipeline and not yet developed.

Where a proposal for increased height and density is planned adjacent to proposed public transport infrastructure, the applicant must consider appropriate phasing and sequencing of development to ensure that an appropriate scale and intensity of development, coupled with adequate social and physical infrastructure, is delivered in tandem with the delivery of such public transport infrastructure.

It is acknowledged that many sites along such transport corridors are smaller infill sites. Particular regard must be had to ensure that proposals are of a coherent scale and provide a sustainable and viable extension to the existing urban fabric.

Appendix 3 - Table 3 of the Development Plan sets out 'Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale Objective'. The proposed development is assessed against these Performance-Based Criteria further below.

7.3.8. Density

7.3.9. The appeal site has a stated area 928 sq.m. (0.092 hectares), and the proposed development comprises 44 no. 'Build-to-Rent' apartment and studio units. This would result in a density of c. 478 units per hectare.

7.3.10. Appendix 3, Section 3.2 - Table 1 of the Dublin City Council Development Plan 2022-2028 sets out density ranges which will be supported for locations including City Centre and Canal Belt (100-250 units per hectare), SDRA ((100-250 uph), Key Urban Village (60-150 uph) and Outer Suburbs (60-120 uph). Density ranges are not

provided for locations along Public Transport Corridors. I note, however, that Section 3.2 states that *'There will be a general presumption against schemes in excess of 300 units per hectare'*.

7.3.11. With this regard, Section 1.20 of the Urban Development and Building Height Guidelines (2018) states that

'A key objective of the NPF is therefore to see that greatly increased levels of residential development in our urban centres and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels'.

Section 1.21 of the Building Height Guidelines states that

'increasing prevailing building heights therefore 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'. Section 2.3 states that *'While achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability'*.

7.3.12. The National Planning Framework (NPF) addresses 'making stronger urban places' and sets out a range of objectives to support the creation of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place. National Policy Objective 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-based regeneration and increased building heights'*.

7.3.13. Having regard to (i) the location of the proposed development is close to proximity to the city centre and areas of high employment, (ii) its location adjoining a quality bus corridor (QBC) and proposed BusConnects Core Bus corridor and within walking distance of Luas light rail stops at Ranelagh and Charlemont St., and (iii) the vacant and underutilised nature of the site, I am satisfied that the density of the proposed development accords the aforementioned policies and objectives of the National

Planning Framework referred to above and the Urban Development and Building Height Guidelines (2018). I acknowledge that the density of the proposed development at 478 units per hectare significantly exceeds the net density range (units per hectare) for all areas in Dublin City, as detailed in Appendix 3, Section 3.2 of the Development Plan. However, the Development Plan allows for schemes in excess of 300 units per hectare in exceptional circumstances where a compelling architectural and urban design rationale has been presented. Furthermore, Section 4.5 of the National Planning Framework promotes flexibility on density to leverage the value of land in urban cores to provide homes aimed at first-time buyers. It is my view that the promotion of higher density at this location would provide a variety of housing tenure, increase vibrancy and vitality, and provide increased efficiency and sustainability in the use of public infrastructure in the area. Furthermore, the provision of higher density at this location would support and maximise the use of public transport, thereby reducing transport-related emissions in accordance with the Climate Action Plan 2021. On this basis, I consider the density of the proposed development accords with the 'Strategic Approach' to density, as set out in Appendix 3, Section 3.2 of the Dublin City Council 2022-2028. An evaluation of the justification for the density against the Development Plan's Performance-Based Criteria, as required under Appendix 3, Section 4.1 - Table 3, is provided further below.

7.3.14. Plot Ratio

7.3.15. The Development Plan states how Plot Ratio and site coverage can be used as part of a suite of measures to ensure higher density schemes are appropriately developed to a high standard. Plot Ratio is determined by dividing the gross floor area of the building (excluding the basement) by the site area. Given that the gross internal floor area of the proposed structure (excluding the basement level) is c. 2,601 sq.m. and the stated site area is 928 sq.m., the plot ratio of the proposed development is 2.8. Appendix 3, Table 2 of the Development Plan sets out indicative plot ratio standards for different areas of the city. Having regard to the 'Z1' zoning objective of the site, it is my view that the site falls within the category 'Residential Area', which requires a Plot Ratio standard of 1.0-2.5. On this basis, the Plot Ratio of the proposed development at 2.8 does not strictly accord with the plot ratio standards required under Table 2, Appendix 3 of the Development Plan. The Development Plan sets out certain

circumstances in which higher plot ratios may be permitted. Having regard to the context of the site, which adjoins a major public transport corridor and facilitates the comprehensive re-development of a vacant, under-utilised site at a prominent location in close proximity to the city centre and areas of high employment, I am satisfied that the plot ratio of the proposal is acceptable in this instance.

7.3.16. Site Coverage

7.3.17. The Development Plan states how site coverage is a control for the purpose of preventing the adverse effects of overdevelopment. Appendix 3, Table 2 of the Development Plan sets out indicative site coverage standards for different areas of the city and requires an Indicative Site Coverage of 45-60% for Residential Areas. Site coverage is determined by dividing the total area of ground covered by buildings by the total ground area within the site curtilage. Given that the total area of ground covered by the building at ground level is c.385 sq.m. and the stated site area is 928 sq.m., the site coverage is c.41.5%. This accords with the Site Coverage standards required under Table 2, Appendix 3 of the Development Plan.

7.3.18. Proximity to Public Transport

7.3.19. As detailed above, Appendix 3, Section 4.1 of the Dublin City Council Development Plan 2022-2028 identifies key locations for increased height and density. The appeal site is a key location along a public transport corridor by reason that the site adjoins a Quality Bus Corridor and a proposed BusConnects core bus corridor along Leeson Street Upper, as detailed on Development Plan Map J. The site is located 800m from the nearest Luas stop at Ranelagh (c. 10 min. walk) and c. 1.1km from Charlemont St. Luas stop (c. 13 min walk).

7.3.20. The Residential Travel Plan submitted details that bus stops within five minutes' walking distance of the site are served by 16 no. Dublin Bus routes, 1 no. Bus Eireann route (and variant), and 1 no. route operated by Aircoach, Matthews Coach, Finnegan Bray, and Go-Ahead Ireland, respectively. Further details are provided of 7 no. other bus stops located within a 10-minute walk of the site on Burlington Road. The Residential Travel Plan establishes that bus services are frequent within a five-minute walking distance of the site. However, the Residential Travel Plan does not detail the capacity of bus services, as required under Section 4.1 (Appendix 3) of the

Development Plan. Likewise, the Residential Travel Plan provides details on the frequency of the Luas light rail green line at Ranelagh Stop with a stated peak interval of 3-4 mins. However, details are not provided of the capacity of the Luas light rail service. In the interest of evidence-based decision-making and in accordance with the requirements of Section 4.1 (Appendix 3) of the Dublin City Council Development Plan, this information should be provided. The Board may wish to consider requesting further information regarding this issue. Notwithstanding this, I am satisfied that the location of the proposed development adjoining a major public transport corridor along Lesson St. Upper and the quantum and frequency of public transport services in the area justifies the scope for height intensification and the provision of higher densities at this location, in accordance with Appendix 3, Section 4.1 of the Development Plan.

7.3.21. Performance Based Criteria

7.3.22. Appendix 3, Section 4.1 requires that *'All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3.* Therefore, the proposal is assessed hereunder against the ten performance criteria in evaluating proposals for enhanced height, density, and scale, as required under Appendix 3, Section 4.1 of the Development Plan. In addition, this assessment takes into account the guidelines and specific planning policy requirements (SPPRs) contained in the *Urban Development Building Heights Guidelines* (2018), the *Sustainable Urban Housing: Design Standards for New Apartments* (Dec. 2022), the 12 Urban Design criteria in Chapter 3 of the *Sustainable Residential Development in Urban Areas* (2009) and its companion *Urban Design Manual* (2009).

Objective 1. To promote development with a sense of place and character.

7.3.23. The site of the proposed development adjoins a Residential Neighbourhood Conservation Area, which is characterised by rows of two-storey over basement level red brick houses along Leeson Street Upper. These houses are Protected Structures dating from the 1840s, characterised by long gardens/parking forecourts to their front. As detailed in the Architectural Heritage Impact Assessment submitted, these Protected Structures provide good examples of early Victorian architecture and contribute to an attractive streetscape. They have not been rated or valued by the

National Inventory of Architectural Heritage (NIAH), as the inventory for Dublin City has yet to be completed in the area. According to the Architectural Heritage Impact Assessment, if the surrounding Victorian terraces of Protected Structures were included in the NIAH, they would be rated of regional importance for reasons of architectural, historical, and artistic interest.

- 7.3.24. Adjoining lands to the south-west along Appian Way contain 2 no. four-storey apartment buildings, Mitchel House and Courtney House, which date from the 1960s. Adjoining land to the south-east contains a terrace of 3 no. three-storey houses within Leeson Village. These adjoining developments are located on land zoned 'Zone Z1: Sustainable Residential Neighbourhoods' with the objective 'To protect, provide and improve residential Amenities'.
- 7.3.25. The height of the proposed development at 34.43m (45m AOD) is more than three times the height (334% higher) of the adjoining 3-storey residential development in Leeson Village, which has a height of 10.3m. The proposal is c. 2.8 times higher (289% higher) than the neighbouring 4-storey Mitchel House, which has a height of 11.9m. The proposal provides a seven-storey wing to the south-west (facing Mitchel House) with a height of c. 23m. (34.8m AOD) and setbacks to its north-western and south-eastern side elevations.
- 7.3.26. The form of the proposal is relatively slender compared to Mitchel House, with a width of 23.5m (facing Leeson St, Upper) and a depth of 16.25m (facing Appian Way). Mitchel House has a width of c. 43m, and No. 1-3 Leeson Village has a width of c. 19m. The design treatment of the proposal incorporates recessed cantilevered corner balconies, with glazed balustrades softening the building's corner edges. The uppermost 9th floor (10th storey level) is set back behind the main building lines providing an external amenity terrace with glass balustrade surrounds. The specified elevation finishes are stated as white, grey, and silver. Elevation features include glass panel rain screens, obscured glazing to bathroom window opens and floor-to-ceiling glazing to habitable rooms. Narrow projecting bands demarcate each floor level and become the cantilevered balcony plane at each corner.
- 7.3.27. Having regard to (i) the prominent corner location of the site, (ii) the vacant, overgrown, and underutilised nature of the site, (iii) the existing side gabled elevations of Mitchel House and No.1 Leeson Village presenting to this prominent corner junction and (iv)

the architectural design, form and massing of the proposal, it is my view that the proposed development would promote a sense of place and character at this location. The proposed 10-storey building would not only create a visually striking landmark, but also serve to enhance the character of the currently vacant and unkempt site. In addition, the modern design of the building would reflect the contemporary era while still respecting the architectural and historical context of the adjacent residential Conservation area. In addition to its aesthetic contributions, the building would also foster a sense of community through its communal amenity spaces and outdoor seating areas. These spaces would encourage residents and visitors to engage with the building and with each other. The high-density residential development of the site would generate activity and social interaction on the surrounding streetscape and help to revitalise the area and bring new life to the neighbourhood.

Objective 2. To provide appropriate legibility

7.3.28. The proposed 10-storey building would not only serve as a prominent and easily recognisable landmark, but also contribute to the overall navigation and connectivity of the area. Located on a prominent corner site, the building's height and distinctive architectural design would make it stand out in the urban landscape and be easily identifiable from the street. In addition, the use of a variety of materials on the exterior and their contrast with neighbouring buildings would further enhance the building's visual appeal and legibility. The inclusion of projecting bands on the elevations at each floor level would also help people understand the vertical organization of the building. The proposed development also offers convenient access for pedestrians and cyclists, with primary pedestrian access via Leeson Street Upper and alternate access primarily for cyclists via the internal access road serving Mitchel House.

Objective 3. To provide appropriate continuity and enclosure of streets and spaces

7.3.29. The proposed 10 storey building would provide a strong and defined presence on the prominent corner site, while also respecting and enhancing the existing character of the adjacent residential Conservation area. The layout, mass, and height of the proposed building would create a cohesive and visually appealing structure, while the proposed retention and refurbishment of the roadside boundary railing and stone wall

would add continuity and enclosure to the site. Additionally, the proposal to retain some existing trees along Leeson Street Upper and plant new trees along the roadside boundary would not only enhance the visual amenity and ecological value of the site but also provide screening for the development. This would help integrate the building into the surrounding area and ensure that it enhances rather than detracts from the adjacent residential Conservation area and its historical and architectural character.

Objective 4. To provide well connected, high quality and active public and communal spaces.

7.3.30. The proposed development would provide well-connected, high-quality, and active public and communal spaces that are easily accessible to pedestrians and cyclists. The primary entrance from Leeson Street Upper would provide convenient pedestrian access, while the alternate access primarily for cyclists via the internal access road serving Mitchel House and Courtney House would allow for convenient cycling access. While this alternate access may be circuitous and shared with third-party landowners, the applicant has demonstrated vehicular manoeuvrability for a 3.5T panel van, and the use of this right of way is a legal issue that falls outside the scope of the planning code. In addition, the development would be close to ample pay and display parking along Appian Way and nearby Winton Road for service and delivery vehicles, ensuring that the building is well-served and well-maintained.

Objective 5. To provide high quality, attractive and useable private spaces

7.3.31. As detailed under Section 3.14 of the Architectural Design Report, the private amenity space of the proposed studios and one-bedroom units exceed the private amenity space required under Appendix 1 of the Design Standards for New Apartments Guidelines (2022). I am of the view that the private amenity spaces provided are useable, high quality and attractive.

Objective 6. To promote mix of use and diversity of activities

7.3.32. The proposed Build to Rent residential development promotes a mix of uses and diversity of activities through the inclusion of communal amenity spaces at the top floor level and a resident's lounge at the ground floor level. The communal amenity space

at the top floor level provides two amenity spaces. The largest amenity space provides a communal lounge with an external terrace. The smaller amenity space provides a kitchen and dining area with an external terrace. The Applicant's Planning Report states that these spaces will be available for booking by residents for private events and classes, adding to the range of activities that can take place within the development. I am satisfied that the proposed communal amenity space would enable a diversity of activities and that the Build to Rent use of the development is consistent with the 'Z1 - Sustainable Residential Neighbourhoods' zoning objective of the site, which seeks 'To protect, provide and improve residential Amenities'.

Objective 7. To ensure high quality and environmentally sustainable buildings

7.3.33. The proposed development will incorporate photovoltaic panels on the roof of the structure to ensure a high-quality and environmentally sustainable building. According to the Building Life Cycle Report, a Building Energy Rating (BER) certificate will be provided for each apartment, indicating the energy performance and carbon emissions of each dwelling unit. The project aims to achieve a BER Rating of A2 for each apartment and will implement a range of passive and active energy and carbon emission reduction measures, as described in the Building Life Cycle Report. In addition, the developer will engage a BREEAM Assessor at an early stage to advise on the design of the building, with the goal of achieving a BREEAM Excellent rating. Overall, I am satisfied that these measures will ensure a high-quality, environmentally sustainable, and energy-efficient building.

Objective 8. To secure sustainable density, intensity at locations of high accessibility

7.3.34. The proposed high-density 10-storey Build to Rent residential building is well positioned to secure sustainable density and intensity due to its high accessibility. The site is conveniently located along a major public transport corridor, with 13 bus routes stopping nearby along the Quality Bus Corridor (QBC) and 16 bus routes providing frequent service within a 5-minute walk. Additionally, the site is located within 10 minutes' walk of both the Ranelagh and Donnybrook neighbourhood centres and is easily accessible by car, being located along the Regional Road (R138). Its proximity to the nearest Luas stop at Ranelagh, just 800m (10 minutes walk) away, and the Luas

stop at Charlemont St., just 1.1km (13 minutes walk) away, further enhances its accessibility. Overall, the accessibility of the site and its proximity to numerous and frequent public transport services make it suitable for a higher density of development.

Objective 9. To protect historic environments from insensitive development

7.3.35. As detailed above, the proposed development site is adjacent to a Residential Neighbourhood Conservation Area along Leeson St. Upper, which is lined with two-storey over basement red brick houses. These properties are Protected Structures dating from the 1840s and are characterised by long gardens/parking forecourts to their front. The Applicant has submitted an Architectural Heritage Impact Assessment of the proposed development. The report notes the following;

- There are no archaeological issues with the site, and there would be no direct impact on any structure or architectural or historic interest. The proposed building is tall in comparison to the adjacent housing, and while there is a visual impact, the proposal is a vertical structure that contrasts with the surrounding terraces.
- The site is located at an important intersection on Dublin's main road leading south from the city to Donnybrook village. It is a site that can support a tall structure.
- Leeson Street is a broad approach to the city with long views in both directions and surviving 19th-century brick and white rendered terraces set back behind trees and hedges.
- Unlike the 19th-century buildings and terraces, which were built in very different economic and social circumstances, there is a need for sustainable development in urban areas in the twentieth century.
- Since the twentieth century, technology has changed architecture, technology, and materials, in contrast to the past, when construction was consistent over a long period of time and change was gradual.
- The new urban environment is defined by new technology, social and economic changes, and a taller modern building in this tree-lined, wide entrance to the city should be acceptable.

7.3.36. Having reviewed the layout, form and design of the proposed development, it is my view that the proposal would not adversely impact the historic and architectural

character of the adjacent Residential Conservation Area. The vacant and overgrown nature of the site, as well as the absence of historic structures thereon, make it suitable for contemporary development. The relatively modern design of the neighbouring properties (i.e. Mitchel House, Courtney House and Leeson Village), along with the existing mature trees along the street and existing and proposed tree planting on the site, contribute to the compatibility of the proposed development with the surrounding area. The distance of the proposed development from adjacent Protected Structures and the width of Leeson Street Upper also help to mitigate any potential impact on the character and setting of these structures within the adjacent Residential Conservation Area. Overall, it is my view that the proposed development would not significantly injure the character and setting of the adjacent Residential Conservation Area.

Objective 10. To ensure appropriate management and maintenance

7.3.37. The Management Strategy submitted establishes the proposed development would be managed and maintained to a high standard. The revised Site Specific Flood Risk Assessment submitted with the appeal addresses issues raised by the Council's Drainage Division regarding flood risk to the lower ground floor (basement) level. This includes the provision of a stormwater attenuation system to address a 1 in 100-year extreme storm event, increased by 20% for predicted climate change values. The Applicant asserts that this will reduce the volume of stormwater leaving the site during extreme storms, which will reduce the pressure on the existing public drainage system. The site is not located in an area with an identified flood risk zone. Given the nature of the site and the proposed development, it is not considered necessary to investigate the issue of flooding any further. I am satisfied that the Applicant adequately addresses the issues raised by the Council's Drainage Planning Division. Any outstanding issues can be dealt with by way of Condition.

7.3.38. Having regard to the above, I am satisfied that the proposed development accords with the Development Management Criteria set out under Section 3.2 of the Urban Development and Building Height Guidelines (2018). The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport. While the proposal is located adjacent to 'Z2: Residential Neighbourhoods (Conservation Areas)', the site itself is zoned 'Zone Z1: Sustainable Residential Neighbourhoods' with the objective 'To protect, provide and improve residential

amenities'. Having regard to the context of the site, i.e. a vacant, overgrown site and the side gable elevations of Mitchel House and Leeson Village presenting towards this prominent junction, it is my view that the site has the capacity for a taller landmark building at this location. By reason of its context and location, I do not consider the proposal would adversely impact adjacent Protected Structures and the Residential Conservation Area in which they are located.

7.3.39. The Townscape and Visual Impact Assessment prepared by AECOM Ireland Ltd. assesses the impact of the proposed development on the area's townscape and visual amenities at the city, street/neighbourhood, and development site levels. The Applicant has submitted verified view montages prepared by 3D Design Bureau. The Townscape and Visual Impact Assessment acknowledges that the magnitude of the townscape effects is 'very high', and the resulting quality and significance is 'beneficial – very significant'. At street level up to c. 200m radius, the magnitude of the townscape effects is rated 'high', and the resulting quality and significance is 'beneficial – significant'. Beyond a 500m radius, in the wider city, the magnitude of the townscape effects is rated 'low-negligible', and the resulting quality and significance are deemed 'neutral – imperceptible. Having reviewed the drawings and verified view montages submitted, it is my view that the height and architectural design of the proposed development would make a positive contribution to place-making at this location. The high density and height of the proposed development would optimise the site for the provision of Build to Rent housing.

7.3.40. At the neighbourhood and street level, the proposal responds to its natural environment by retaining trees of value along Leeson St. Upper and the planting of new trees along the Appian Way roadside boundary. The proposal will improve the public realm by providing a new urban form at the corner of Appian Way and Leeson Street Upper, which provides passive surveillance of the street and strong visual interest at street level.

7.3.41. At the scale of the site, the form, massing and height of the proposal would not result in considerable overshadowing or direct overlooking of habitable rooms in the neighbouring property. These issues are dealt with further below accordingly. The Wind and Microclimate Report submitted confirms the proposed development would not create wind safety or microclimate issues at ground level. The western roof terrace is suitable for the intended use, and it is recommended that the eastern terrace be

closed at times of peak wind speeds. The balconies at levels 8 and 9 at the southwestern corner are raised to 1.5m to mitigate identified wind safety risk. A telecommunications report is submitted, making provisions to facilitate the diversion of telecommunication links where they are interrupted by the proposed development.

- 7.3.42. Having regard to the above, I am satisfied that the building height and density of the proposed development accord with the performance criteria set out in Table 4, Appendix 3 of the Dublin City Council Development Plan 2022-2028 and the Development Management Criteria set out under Section 3.2 of the Urban Development and Building Height Guidelines (2018). On this basis, I recommend that the proposed development should not be refused permission in relation to the Planning Authority's first reason for refusal.

7.4. Internal Daylight and Sunlight to Proposed Residential Units

- 7.4.1. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified, and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and/or an effective urban design and streetscape solution.
- 7.4.2. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (Dec. 2022) highlight the importance of the provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. Section 6.6 of the Guidelines

states that planning authorities should 'have regard to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context, when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision'. Section 6.7 states that 'where an applicant cannot fully meet these daylight provisions, this must be clearly identified, and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting, taking account of its assessment of specific. This may arise due to design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution'.

7.4.3. I have considered the Daylight, Sunlight and Overshadowing Analysis reports submitted by the Applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' (2011). The latter document is referenced in the Section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. I acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK). However, I consider that this updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party appeals/observations which have raised concerns in relation to daylight and sunlight

7.4.4. Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of the structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values for the Average Daylight Factor (ADF) that should be achieved. These are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the

kitchen is used as a dining area. If the layout means a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does, however, state that where a room serves a dual purpose, the higher ADF value should be applied.

- 7.4.5. Regarding Sunlight, Section 3.1.10 of the BRE 209 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' (2011) recommends that interiors where the occupants expect sunlight should receive at least one quarter (25%) of annual probable sunlight hours (APSH), including in the winter months between 21 September and 21 March at least 5% of APSH, referred to as winter probable sunlight hours (WPSH).
- 7.4.6. BR 209 describes the No Sky Line as "The outline on the working plane of the area from which no sky can be seen". Appendix C in BR 209 lays out, "If a significant area of the working plane (normally no more than 20%) lies beyond the no sky line (i.e., it receives no direct skylight), then the distribution of daylight in the room will look poor and supplementary electric lighting will be required".
- 7.4.7. In relation to Daylight, the Internal Daylight, Sunlight and Overshadowing Report submitted states that all habitable rooms were assessed for daylight quantum (Average Daylight Factor or ADF) and daylight distribution (No-Sky Line or NSL and Room Depth Criteria or RDC). For sunlight, all relevant living rooms were assessed for sunlight quantum (Annual Probable Sunlight Hours or APSH and Winter Probable Sunlight Hours or WPSH). Results and floor plans displaying reference points for each floor level are provided. According to the report, 59 rooms were assessed for daylight, and 18 living spaces were deemed suitable for sunlight evaluation. The assessment found the following;
- All 59 rooms meet or exceed their respective minimum recommended levels for ADF.
 - All 59 rooms exceed the BRE recommendation for NSL.
 - All applicable rooms have been designed with good proportions for daylighting and meet the BRE's RDC, and

- 17 (94%) of the 18 living rooms with the main window facing within 90" of due south meet or exceed the BRE minimum recommended levels of APSH and WPSH.

7.4.8. The results provide APSH and WPSH values for all habitable rooms. The Applicant asserts that, according to BRE, sunlight is most valued in living areas, that south-facing rooms receive the most sunlight, and that it is only necessary and practical to consider the adequacy of sunlight in living rooms with a main window within 90 degrees of due south.

7.4.9. The report identifies a studio on level 01 with a southerly aspect that falls short of the BRE recommended levels because its southerly window is obstructed by the massing of 1-3 Lesson Village to the south-east. The report states that this room would receive 19% of the BRE recommended 25% of annual probable sunlight hours. During the winter, the room's annual probable sunlight hours are slightly below the recommended level of 5%, at 4%. The Applicant contends that future occupants will have access to adequate natural light in this room due to the good ADF level achieved.

7.4.10. Regarding Daylight, each unit in the proposed development has a combined kitchen/living room/dining room layout. The BRE 2009 guidance recommends a minimum Average Daylight Factor (ADF) value of 2% for kitchens, 1.5% for living rooms, and 1% for bedrooms. All of the units exceed this standard. Similarly, each unit exceeds the BRE recommendation for No Sky Line.

7.4.11. Regarding Sunlight, the majority of the units applicable for sunlight assessment exceed BR 209 guidance, which refers to BS 8206-2 and recommends that interiors where the occupants expect sunlight should receive at least a quarter (25%) of Annual Probable Sunlight Hours (APSH) and at least 5% of APSH between 21 September and 21 March, also known as winter probable sunlight hours (WPSH). While 1 no. studio on level 01, identified as Ref. No. 8 falls short of the BRE recommended levels with an APSH of 19% and WPSH of 4%, I am satisfied that this room receives adequate daylight with an ADF value of 3.2 and NSL of 100%.

7.4.12. I acknowledge that Section 3.2 of the Building Height Guidelines outlines that *“where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord*

Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution". In this case, it has been clearly identified that 1 no. unit at level 01 falls short of the BRE recommended levels with an APSH of 19% and WPSH of 4%. However, I am satisfied that this room receives adequate daylight with an ADF value of 3.2 and NSL of 100%, which exceeds the BRE 2009 guidance minimum Average Daylight Factor (ADF) value. Furthermore, this studio is served with dual aspect floor-to-ceiling height windows which open onto a balcony, which provide compensation for the shortfall. I refer the Board to the BRE Guidelines which state in paragraph 1.6 that its target values are purely numerical and that different criteria may be used in special circumstances, such as in an area with high-rise buildings where a higher degree of obstruction may be unavoidable. In this context, I am satisfied that daylighting conditions in city locations would logically differ, and there would be a lower expectation for daylight levels than in less built-up areas. This is in consideration of the need for higher-density development in city locations and in light of the constrained context of the site and the height of the proposed development. As per Section 1.6 of the BRE Guide, "the advice given here is not mandatory and the guide 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 since natural lighting is only one of many factors in site layout design".

- 7.4.13. Having regard to the proposed density and urban location of the site, I consider that the proposal contributes to wider planning aims, such as the delivery of housing and the development of a vacant site. I consider that the shortfall would not be significant in number or magnitude, and in the redevelopment of sites such as this, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. The Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH) for rooms are only one measure of residential amenity, and in my opinion, the design team have maximised access to daylight and sunlight for all studios and apartments and I am satisfied that all of the rooms within the proposed development would receive adequate daylight. As such, I conclude that the proposal complies with the daylight criteria as set out under Section 3.2 of the

Building Height Guidelines and would provide a satisfactory level of amenity for future occupiers.

7.5. Daylight and Sunlight to Existing Neighbouring Buildings

- 7.5.1. The BRE guide acknowledges that, in designing new development, it is important to safeguard the daylight in nearby buildings. As per Appendix 16, Section 5 of the Development Plan, a daylight and sunlight assessment should be provided to assess the impact of the proposed development on surrounding properties and amenity areas outside the site boundary.
- 7.5.2. BRE guidance is provided for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. Tests that assist in assessing this potential impact, which follows one after the other if the one before is not met, are as noted in the BRE Guidelines as follows:
- (i) Is the separation distance greater than three times the height of the new building above the centre of the main window (being measured); (i.e. if 'no' test 2 required).
 - (ii) Does the new development subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (i.e. if 'yes' test 3 required).
 - (iii) Is the Vertical Sky Component (VSC) <27% for any main window? (i.e. if 'yes' test 4 required).
 - (iv) Is the VSC less than 0.8 the value of before? (i.e. if 'yes' test 5 required)
 - (v) In room, is area of working plan which can see the sky less than 0.8 the value of before ? (ie. if 'yes' daylighting is likely to be significantly affected)
- 7.5.3. The above noted tests/checklist are outlined in Figure 20 of the BRE Guidelines, and it should be noted that they are to be used as a general guide. The document states that all figures/targets are intended to aid designers in achieving maximum sunlight/daylight for future residents and to mitigate the worst of the potential impacts for existing residents. It is noted that there are likely to be instances where judgement and balance of considerations apply.

7.5.4. The Daylight and Sunlight report submitted identifies pertinent properties for daylight and sunlight and excludes specific properties on the basis they fully adhere to the numerical values set out within the BRE Guidelines (refer to Section 5.4 of the report). The remaining properties where changes in daylight and sunlight occur include Mitchel House and No. 3 Leeson Village, which are addressed below.

No. 3 Leeson Village

7.5.5. No. 3 Leeson Village is an end-of-terrace three-storey residential dwelling located to the east of the appeal site. The Daylight and Sunlight Assessment found there to be 10 no. windows serving three rooms which are relevant for assessment.

7.5.6. Regarding Daylight (VSC and NSL), the Daylight and Sunlight Assessment found that 9/10 (90%) of windows assessed demonstrate BRE compliance. The single window (W2/F01, coloured orange in Fig. 04) that falls short of BRE criteria does so marginally, experiencing a VSC alteration of 23.9% (against a BRE target value of 20%). The Assessment finds that this window falls below guidance primarily due to its orientation towards the development site. The report identifies from an external observation that this window serves a winter garden room which receives light from the south and east, as well as the west. Furthermore, the roof of the winter garden room appears to be fully glazed, meaning there will be no perceivable change in light condition to this room despite the small impact to the VSC of the west-facing window. The Assessment states that this is evidenced by the No Sky Line analysis for the property, which shows that all three rooms assessed (100%) demonstrate BRE compliance.

7.5.7. Regarding Sunlight (APSH), the Daylight and Sunlight Assessment identifies that there are 7 no. windows within 3 Leeson Village that face within 90° due south of the development site. When assessed against the Annual Probable Sunlight Hours (APSH) sunlight methodology, all seven (100%) windows will demonstrate BRE compliance.

7.5.8. Having regard to the foregoing and the context of the site, I consider that daylight and sunlight of neighbouring dwelling No. 3 Leeson Village and other dwellings within Leeson Village would not be significantly impacted.

Mitchel House

7.5.9. Mitchel House is a four-storey apartment building directly south of the proposed development, with its north-eastern side facade facing the appeal site. The Daylight

and Sunlight Assessment base its assessment on the floor plans for Mitchel House. The assessment identifies that there are seven windows serving two rooms which are relevant for assessment. The three lower south-facing windows on the north-eastern facade of the building are excluded, as the floor plans demonstrate that they serve circulation space.

- 7.5.10. Regarding Daylight (VSC and NSL), the Daylight and Sunlight Assessment found that when assessed against the Vertical Sky Component ('VSC') methodology for daylight, 3/7 (43%) windows demonstrate BRE compliance. The four windows (labelled W3/F03, W4/F03, W5/F03 and W6/F03) which fall short of BRE guidance experience VSC alterations of 42.9%. 45.7%. 46.9% and 41.5%, respectively, against a 20% target. All impacted windows are located on the north-eastern facade of the property, which faces directly onto the proposed development site, as highlighted in orange in Fig. 06 of the Assessment. The Daylight and Sunlight Assessment states that when assessed against the No Sky Line methodology for daylight, both rooms demonstrate BRE compliance because they are dual aspect. The Assessment identifies how NSL analysis accounts for light available from alternate sources, such as dual-aspect windows, and assesses the distribution of light within a room. The Assessment states that a negligible impact on the NSL value of these rooms indicates that any impact on the light in these rooms would be of minor significance.
- 7.5.11. Regarding Sunlight (APSH), the Daylight and Sunlight Assessment did not assess any windows within Mitchel House for sunlight assessment, as there are no windows within this property that face within 90 degrees due south of the appeal site.
- 7.5.12. Having regard to the foregoing, I consider that daylight and sunlight of residential units within neighbouring Mitchel House would not be significantly impacted. Accordingly, I am satisfied that this complies with BRE recommendations, and I have no objection in this regard.

7.6. Overshadowing

- 7.6.1. Section 6.0 of the submitted Daylight and Sunlight Report analyses the impact of the proposed development on the private gardens of adjacent residential properties along Leeson Street Upper and Leeson Village, as well as the public amenity spaces adjacent to the development site, as depicted in Figure 07 of the report.

- 7.6.2. Section 3.3.17 of the BRE Guidelines states that *'It is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on the 21st March. If, as a result of new development, an existing garden or amenity area does not meet the above and the area which can receive two hours of sun on the 21st March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. If a detailed calculation cannot be carried out, it is recommended that the centre of the area should receive at least two hours of sunlight on 21st March'*.
- 7.6.3. According to the overshadowing analysis, all private gardens adjoining the neighbouring properties along Leeson Street Upper, Leeson Village, and public amenity spaces surrounding the proposed development site will comfortably meet BRE criteria, as their values will not change by more than 20% from their current levels. Table 01 within the report provides a summary of the Sun Hours on Ground ('SHOG') results for
- 7.6.4. Having reviewed the overshadowing drawings in Appendix 5 of the report showing affected plan views of existing and proposed sun hours on the ground on the 21st March and the SHOG results presented, I am satisfied that the proposed development would have a minimal impact on the private gardens adjoining the neighbouring properties along Leeson Street Upper, Leeson Village, and public amenity spaces surrounding the proposed development. The analysis confirms that these spaces would not experience more than a 20% change from their existing values, as recommended by the BRE Guidelines. On this basis, I am satisfied that the proposed development would not adversely impact the amenity of neighbouring property by way of overshadowing

7.7. **Overlooking**

- 7.7.1. Several observations were received expressing concerns that the proposed development would result in overlooking neighbouring properties, including the private amenity space to the rear of Nos.1-3 Leeson Village, 64-69 Upper Leeson Street and the terrace/private amenity space of apartments in Mitchel House. The Planning Authority, in its assessment, raised no concerns regarding this issue.

7.7.2. Section 15.9.17 of the Development Plan refers to Separation Distances (Apartments) and states that;

Traditionally a minimum distance of 22m is required between opposing first floor windows. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. Separation distances between buildings will be assessed on a case by case basis.

In all instances where the minimum separation distances are not met, each development will be assessed on a case by case basis having regard to the specific site constraints and the ability to comply with other standards set out within this chapter in terms of residential quality and amenity’.

7.7.3. Section 15.9.18 refers to Overlooking and Overbearance and states that ‘Overlooking may be overcome by a variety of design tools, such as:

- *Building configurations (bulk and massing).*
- *Elevational design / window placement.*
- *Using oblique windows.*
- *Using architectural features.*
- *Landscape and boundary treatments*

7.7.4. Regarding the issue of overlooking, the Planning Report submitted with the application states that the proposed development has been designed to provide adequate separation distances and that privacy screens are provided on balconies adjacent to Leeson Village properties.

7.7.5. As detailed previously, the proposed development consists of a 10-storey residential building with a basement, with an overall height of 34.43m (45m AOD). In addition, the structure has a 7-storey wing to its south-western side with setbacks to the side elevations of this wing. The one-bedroom apartment units in this wing have a bedroom window facing Mitchel House on their southwestern elevations and a corner balcony and windows facing Appian Way on their north-western elevation. The one-bedroom apartment units in the southwest corner have habitable room windows and corner

balconies on their southwestern elevations facing Mitchel House. Window openings on the proposal's south-easterly elevation face the gable side elevation of No. 1 Leeson Village.

7.7.6. As stated previously, the proposal would maintain a separation distance of c. 1.2 m from the north-western side elevation of No. 1 Leeson Village and a separation distance of c. 10.3m – 15m from the side (northeast) elevation of Mitchel House. Dwellings Nos. 1-3 Leeson Village have private gardens to their rear/south-west. The neighbouring apartment block Mitchel House is four storeys high, with a setback at the fourth-floor level and an overall height of 11.9m (24.1m AOD). The Daylight and Sunlight report submitted provides floorplans of Mitchel House and indicates that the top/third floor (fourth storey) incorporates a balcony to its north-eastern side, facing towards the proposed development. Other lower windows on the north-eastern side façade of Mitchel House serve common circulation corridors and thereby are not of concern with regards to overlooking. The primary window opens of Mitchel House face towards the northwest (Appian Way) and southeast.

7.7.7. The floor plans of the proposal submitted detail that opaque glass screens would be provided to balconies at the south-eastern corner facing Leeson Village. The proposal's top floor (9th floor / 10th storey) external terrace is enclosed by glass balustrades. Given the height of the proposal and the setback of the building facade at the ninth-floor level, I believe that the resident amenity space and external terrace on the ninth floor would not provide a direct view of Leeson Village. The proposal is not located directly opposite habitable rooms in Leeson Village and therefore accords with Section 15.9.17 of the Development Plan. Notwithstanding this, in order to allay perceived concerns regarding overlooking from the balconies at the south-eastern corner facing Leeson Village, it is my view that in the event of a grant of permission, a Condition should be imposed requiring that the opaque glass screens provided to the side of these balconies (facing Leeson Village) should be 1.6m high.

7.7.8. It is evident from the Architectural Design Report that overlooking the private amenity terrace to the third floor (fourth storey) of apartments in Mitchel House would be possible. Notwithstanding this, the proposal strictly complies with Section 15.9.17 of the Development Plan whereby the proposal does not overlook opposing windows of habitable rooms serving Mitchel House. The balconies of the fourth-floor apartments in Mitchel House are accessed via doors on their north-eastern elevation. I

acknowledge that the external private amenity of these apartments would be overlooked by the proposed development. However, having regard to the separation distances that would be provided i.e. 10.3m from bedroom windows and 15m from balconies and the absence of habitable room windows on the north-eastern side elevation of Mitchel House, I do not consider the proposed development would adversely impact the residential amenity of residents of Mitchel House and should not be refused permission on this basis. The proposal would contribute to wider planning aims, including the delivery of housing and the development of vacant sites. Such development would be consistent with National Policy Objective 35 of the National Planning Framework, which seeks to increase residential density in settlements through a range of measures, including reductions in vacancy, infill development schemes and increased building heights.

7.8. Public Open Space

- 7.8.1. Section 15.8.6 of the Dublin City Council Development Plan 2022-2028 requires a provision of 10% of site areas on land zoned Z1 as accessible public open space, or otherwise a payment in lieu of such provision. The applicant confirms that no public open space is provided. Given the location, size and constrained nature of the site bound by roads on two sides, I consider that the provision of significant on-site public open space is not feasible in this case. I also note that there are several public open spaces within reasonable proximity of the site, including Ranelagh Gardens (700m), Dartmouth Square (800m), Herbert Park (900m) and the Grand Canal (700m). I consider that a financial payment in lieu would be acceptable, in accordance with Section 15.8.7 of the Development Plan. I note that the Dublin City Council Development Contribution Scheme 2020-2023 requires a financial contribution of €4,000 per unit in such cases (Section 10).

7.9. Roads, Access and Parking Issues

- 7.9.1. The Planning Authority refused permission for the proposed development on the grounds that it is located on a heavily trafficked Quality Bus Corridor and planned Bus Connects route with limited on-street parking. Furthermore, the Planning Authority considered the proposed service access inadequate to facilitate the development, and there is no drop-off provision within the appeal site. In addition, no parking, including

accessible, visitor or car-share parking, is proposed. On this basis, the Planning Authority reasoned the proposed development would cause over-spill parking, drop-offs, and service activity along Leeson Street Upper, thereby creating a traffic safety hazard by obstructing pedestrians, cyclists, bus services, and other road users. The Planning Authority considered that such development would be contrary to Section 16.38 of the Dublin City Council Development Plan 2016-2022 (re. car parking standards) and Section 4.23 of the Design Standards for New Apartments Guidelines 2022 (re. car parking in intermediate urban locations) and would endanger public safety by reason of traffic hazard.

- 7.9.2. The Applicant contests this reason for refusal as detailed in Section 6.1.2.2 above. Supporting documentation submitted with the application and appeal includes an Accessibility Statement, Residential Travel Plan, Swept Path Analysis, an Outline Construction Management Plan and a Proposed Management Strategy Report.
- 7.9.3. The Accessibility Statement submitted states that accessible car-parking is not applicable to the site. Regarding set-down provision, the Accessibility Statement states that the entrance to neighbouring Lesson Village can be used as a casual set-down point by visitors, occupants or taxis.
- 7.9.4. The submitted Residential Travel Plan provides an overview of the site location, existing site conditions, internal site layout, access for pedestrians and cyclists, vehicular servicing and waste collection. Details of public transport service in the vicinity, bicycle infrastructure, proposed network improvements, and car and bicycle parking provisions are provided. The Residential Travel Plan sets out specific targets and objectives, including measures to be implemented to establish an effective modal shift in transport to and from the proposed development. An implementation timeframe and details of monitoring and management measures are provided. Key information in the Residential Travel Plan includes the following:
- There is no parking provided for the proposed residential development.
 - 50 no. bicycle parking spaces shall be provided within a dedicated bicycle store and an additional 16 no. bicycle spaces will be located externally at ground level.
 - Incoming service/delivery vehicles of the development shall use the internal service road of the Mitchel House site, which adjoins the site to the south.

- The Applicant has a right of way extending from the Mitchel House access on Appian Way to the southern boundary of the appeal site.
- The municipal waste generated by the proposed development will be collected kerbside on Appian Way, in the same manner as residential properties currently located on this street.
- Refuse bins shall be transferred from the development's internal bin stores to a suitable kerbside location shortly before collection and promptly returned to the bin stores after collection.
- The swept path analysis submitted indicates that the existing right-of-way and development interface can accommodate vehicle movements.
- Details of Luas light rail and bus services in the area, including (inter alia) destinations, weekday services and intervals.
- Details of car clubs in the area.

7.9.5. The Residential Travel Plan provides a case for zero car parking on the site, with reference to the following:

- Dublin City Council Development Plan car parking standards.
- Recommendations in The Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities (2018).
- The presence of 3 car club vehicles within a 5-minute walk of the site and 16 shared vehicles within a 10-minute walk.
- The site is within a 5-minute walk of a bus stop that serves 5 no. Dublin Bus routes with a peak hour frequency of 10 minutes or less.
- The site is c.10 minutes' walk from the Ranelagh stop on the Luas Green Line.

7.9.6. Proposed mobility management measures in the Residential Travel Plan include the following;

- Put in place a formal Residential Travel Plan.
- Appoint a Residential Travel Plan Coordinator.
- Create an Access Map.

- Provide travel information to occupants through Sustainable Travel Welcome Packs and a travel hub website.
- Monitor the operation of the plan by occupants by carrying out travel surveys.
- Revise and update the plan as required.
- Identify safe walking and cycling routes.
- Provide secure and attractive cycle parking and ancillary facilities for cyclists and pedestrians.
- Provide information on locations of stops, routes, timetables, walking times to main public transport facilities, etc.
- Provide specific advice on multi-modal trip planning.

7.9.7. Regarding parking, Section 4.21 of the Sustainable Urban Housing: Design Standards for New Apartments (2022) refers to car parking in Central and/or Accessible Urban Locations and states that;

In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.

7.9.8. Appendix 5, Section 4.0 of the Dublin City Council Development Plan 2022-2028 sets out car parking standards, whereunder Table 2 sets out maximum car parking standards for various land uses. As detailed in Map J of the Development Plan, the site is located in Zone 2, which is identified as occurring alongside key public transport

corridors. Table 2 requires that residential development in Zone 2 provide a maximum of 1 no. car parking space per dwelling.

- 7.9.9. Section 2.3 refers to Mobility Management and states that *'Where a zero or reduced quantum of car parking is proposed for a residential development, a proactive mobility management strategy is essential at the early design stages to identify measures that will promote the use of sustainable modes within the development and ensure any associated infrastructure can be incorporated into the design. A Residential Travel Plan will be required to support the zero/ reduced provision of car parking to serve a development'*.
- 7.9.10. Section 2.5 states that *'Car parking ratios for new developments are dependent on a number of factors in order to deliver a sustainable community. In particular locations, active travel (walking and cycling) infrastructure and provisions to support active travel modes and access to operational high frequency public transport corridors within 10 minutes walking distances are all key components for reduced car parking provision. Other applicable factors include access to services and amenities located within walking distance, high quality shared mobility provision, and service vehicles access and strategy which all seek to minimise the impact on the public transport corridors and other users of the surrounding road network'*.
- 7.10. Section 4.0 states that *'A relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location. Applicants must set out a clear case satisfactorily demonstrating a reduction of parking need for the development based on the following criteria*
- *Locational suitability and advantages of the site.*
 - *Proximity to High Frequency Public Transport services (10 minutes' walk).*
 - *Walking and cycling accessibility/permeability and any improvement to same.*
 - *The range of services and sources of employment available within walking distance of the development.*
 - *Availability of shared mobility.*
 - *Impact on the amenities of surrounding properties or areas including overspill parking.*

- *Impact on traffic safety including obstruction of other road users.*
- *Robustness of Mobility Management Plan to support the development.*

7.10.1. Having regard to (i) the location of the site in Parking Zone 2 of the Dublin City Council Development Plan 2022-2028, (ii) its close proximity to high-quality public transport, including the adjoining QBC providing frequent Dublin Bus and other public bus services and the planned BusConnects spine along Leeson Street Upper as detailed on Development Plan Map J, (iii) high frequency and capacity Luas light rail service within a 10-15 min. walk at Ranelagh and Charlemont Street and (iv) the availability of GoCar car sharing at Leeson Park and Winton Road in Ranelagh, Waterloo Road and other carsharing options in the vicinity e.g. YUKO at Winton Road, it is my view that the non-provision car parking for the proposed BTR residential development would be acceptable in this instance and would accord with Section 4.21 of the Sustainable Urban Housing: Design Standards for New Apartments (2022) and Appendix 3, Section 4.0 of the Dublin City Council Development Plan 2022-2028. The absence of on-site parking for the proposed development would mitigate increased levels of traffic flows and congestion, prevent an increase in traffic collisions, have positive environmental effects, and promote the use of sustainable modes of transportation. Such development would be consistent with Policy SMT1, which seeks 'To continue to promote modal shift from private car use towards increased use of more sustainable forms of transport such as active mobility and public transport'.

7.10.2. Regarding service delivery and vehicular drop-off provision, Appendix 5, Section 2.4 of the Development Plan requires that '*for residential developments, details of access for service vehicles shall be considered at an early stage in the design process. Access for emergency vehicles, refuse collections and general servicing needs (i.e. domestic/household deliveries) shall be adequately demonstrated. Identifying the location of drop off/pick up areas for deliveries, in particular for car free developments which may be reliant on third-party services to meet their household requirements, shall also be considered early in the design process.*'

7.10.3. The site is located on the junction of Appian Way & Leeson Street Upper, which is a Regional Road (R138) and proposed BusConnects' Core Bus corridor. Both roads are heavily trafficked, and the junction is signalised. Adjoining the site, Leeson Street Upper has three lanes of traffic along its southern side in the direction of the city centre,

with the southernmost lane providing a left turn slip lane onto Appian Way. Adjoining the site, Leeson Village is a gated residential development with a recessed vehicular entrance along Leeson Street Upper. There is restricted pay and display on-street car parking along Appian Way opposite Mitchel House and Courtney House. On-street parking is also available along Winton Road, Leeson Park, Waterloo Road and other nearby streets. There is a drop-off bay / Dublin Bus stop located directly opposite the site along Leeson Street Upper. I acknowledge the Council's Transportation Planning Division report, which states that given the orientation of the proposed building and its main pedestrian entrance onto Lesson Street Upper, it is reasonable to assume that most drop-off trips generated by the development will focus on the proposed main entrance. On this basis, the Planning Authority refused permission for the proposed development on the grounds that it would cause overspill parking, drop-offs, and service activity along Leeson Street Upper, thereby creating a traffic safety hazard by obstructing pedestrians, cyclists, bus services, and other road users. Notwithstanding this, it is my view that any drop-off, service or visitor parking at the front of the site along Leeson Street Upper and Appian Way that interferes with the normal flow of traffic or obstructs or endangers others is a law enforcement issue governed by the Roads Traffic Acts (1961-2019), which is outside the planning code. Under these Acts, it is illegal to park on a footpath, across an entrance to a premises/driveway unless the owner has consented, 5 metres before or after any junction or 15 metres before or 5 metres after a pedestrian crossing or traffic lights. I am satisfied there is adequate available on-street parking in the vicinity of the site (albeit restricted pay and display parking) to accommodate drop-off, service and visitor parking serving the proposed development. Should overspill car parking become an issue, the Planning Authority could manage it by introducing restrictive measures on the surrounding public road.

7.10.4. The internal access road serving Mitchel House, over which the Applicant has a stated right-of-way, would provide limited access for service and emergency vehicles. The swept path analysis submitted demonstrates vehicular manoeuvrability for vans and cars accessing the site. The Council's Transportation Planning Division raised no road safety concerns regarding the use of this internal access road.

7.10.5. Having regard to the above, I am satisfied that the proposed development complies with Appendix 5, Section 4.0 of the Dublin City Council Development Plan 2022-2028 and Section 4.23 of the Design Standards for New Apartments Guidelines (2022) re.

car parking, and the proposed development would not endanger public safety by reason of traffic hazard. On this basis, I recommend that the proposed development should not be refused permission in relation to the Planning Authority's second reason for refusal.

7.11. Screening for Appropriate Assessment

7.12. The site is not located within or adjacent to any Natura 2000 site. The closest Natura 2000 sites are:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approx. 2.3km northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approx. 1.3km north of the site.

7.13. The Applicant has submitted an Appropriate Assessment Screening report for the proposed development, prepared by Altemar Marine and Environmental Consultancy.

7.14. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced settlement, and having regard to its separation distance from any European site, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that 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.

8.0 Recommendation

8.1. I recommend that permission be granted, subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

9.1.1. Having regard to the following;

- The site's location in a well-established urban area of Dublin City, in close proximity to the city's core and areas of high employment,

- The site's location adjoining a public transportation corridor,
- The policies and objectives of the Dublin City Council Development Plan 2022-2028,
- Project Ireland 2040 National Planning Framework and, in particular, National Policy Objectives 11, 13 and 35,
- Housing for All - A new Housing Plan for Ireland,
- Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region 2019 – 2031,
- Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH, 2022),
- The Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG, 2018),
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009) and accompanying Urban Design Manual: A Best Practice Guide (2009).
- Design Manual for Urban Roads and Streets (2019).
- The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water service infrastructure,
- The planning history of the site and surrounding area,
- The submissions and observations received,

it is considered that subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this accessible location, would be accessible in terms of urban design and height, would make a positive contribution to the legibility of the wider area and the urban neighbourhood and streetscape. The proposed Build to Rent development would contribute positively to the mix of housing tenure in the area and would not seriously injure the residential or visual amenities of the area or property in the vicinity, would not detract from the character and setting of Protected Structures, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 15th day of December, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The development hereby permitted shall be for 44 no. residential units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2022) and be used for long term rentals only. No portion of this development shall be used for short term lettings.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels of the proposed external cladding shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

4.	<p>The proposed development shall be amended as follows:</p> <p>(a) The opaque glass screens to the side of the balconies at the south-eastern corner facing Leeson Village shall be 1.6m high</p> <p>Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of residential amenity.</p>
5.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
6.	<p>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:</p> <p>(a) Location of the site and materials compound(s) including areas identified for the storage of construction refuse;</p> <p>(b) Location of areas for construction site offices and staff facilities;</p> <p>(c) Details of site security fencing and hoardings;</p> <p>(d) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>(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;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p>

	<p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(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;</p> <p>(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(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;</p> <p>(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(l) Means to ensure that surface water runoff is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>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.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
7.	<p>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.</p>

	Reason: In the interest of sustainable waste management.
8.	<p>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 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.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
9.	<p>The trees identified for retention as detailed on the Tree Strategy contained within the Landscape Design & Access Statement, the Tree Retention Plan and Removal Plan on drawing number C0133 L900, and the Aborticultural Assessment submitted to the Planning Authority on the 24th day of September 2019, shall remain insitu and to this end the tree protection measures outlined in the Aborticultural Assessment, shall be implemented at all times during the construction phase of the development.</p> <p>Reason: To ensure that the trees are safeguarded.</p>
10.	<p>The landscaping scheme shown on the Landscape Design & Access Statement and drawing numbers C0133 L400, C0133 L900 and AW002 submitted to the planning authority on the 24th day of September, 2019 shall be carried out in the first planting season following substantial completion of external construction works. Any planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or seriously diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar sizes and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400</p>

	<p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
12.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
13.	<p>Prior to commencement of development, the developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
14.	<p>Proposals for a name for the apartment block and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the apartment block name and apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name. Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
15.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>

16.	<p>Prior to the opening 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 car-pooling 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. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.</p> <p>Reason: In the interest of encouraging the use of sustainable modes of transport.</p>
17.	<p>Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development.</p> <p>Reason: In the interest of wildlife protection.</p>
18.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>
19.	<p>Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, 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.</p> <p>Reason: In the interests of proper planning and sustainable development of the area.</p>

20.	<p>Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.</p> <p>Reason: In the interests of orderly development and clarity.</p>
21.	<p>Prior to commencement of development, the developer 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.</p> <p>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.</p>
22.	<p>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.</p>

	<p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
23.	<p>The developer shall pay to the Planning Authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the shortfall in public open space. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> <p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
24.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the Authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be</p>

	<p>referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
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Brendan Coyne
Planning Inspector

22nd December 2022